



Sellersburg Board of Zoning Appeals Minutes

January 20, 2020

The minutes as written are not verbatim, but a summary of the meeting.

Call to Order:

Chairman Vincent C. Thacker, Jr. called the meeting of the Sellersburg Board of Zoning Appeals to order at 6:00pm at Sellersburg Town Hall, 316 East Utica St.

Roll Call:

Members present: Chairman Vincent Thacker, Jr., Vice-Chairman Francis Conroy and Member Dennis Amos. Member Charles Popp was absent. Also present Board Attorney, Jake Elder, Consultant, Shelly Wakefield and Secretary, Darla Stahl.

Approval of Minutes:

Motion to approve the November 18, 2019, minutes was made by Francis Conroy and seconded by Dennis Amos. Motion carried 3-0.

Elections of Officers:

The nomination of Vincent Thacker, Jr as Chairperson was made by Dennis Amos and seconded by Francis Conroy. Motion was made by Francis Conroy and seconded by Dennis Amos for nominations to be closed. Vote taken: 3-0.

The nomination of Francis Conroy as Vice-Chairperson was made by Dennis Amos and seconded by Vincent Thacker, Jr. Motion was made by Dennis Amos and seconded by Vincent Thacker, Jr for nominations to be closed. Vote taken: 3-0.

Unfinished Business:

Moving the starting time from 6:00 pm to 5:30 pm: Motion to table until next meeting made by Dennis Amos and seconded by Francis Conroy. Motion carried 3-0

2020 Meeting Dates: Motion to approve meeting dates for 2020 was made by Francis Conroy and seconded by Dennis Amos. Motion carried 3-0.

New Business:

Nothing at this time

Communications:

New member to the board will be appointed soon.



Sellersburg Board of Zoning Appeals Minutes

January 20, 2020

Reports:

Planning and Zoning:

Nothing at this time

Board Attorney:

Nothing at this time.

Consultant comments:

Nothing at this time.

Adjourn: Motion to adjourn @ 6:08 pm., made by Dennis Amos and seconded by Francis Conroy. Motion carried 3-0.

Vincent C. Thacker, Jr. Chairman

Francis A. Conroy, Vice Chairman

Dennis V. Amos, Member

Charles E. Popp, Member

Attest:



Sellersburg Board of Zoning Appeals Minutes

February 17, 2020

The minutes as written are not verbatim, but a summary of the meeting.

Call to Order:

Chairman Vincent C. Thacker, Jr. called the meeting of the Sellersburg Board of Zoning Appeals to order on February 17, 2020 at 6:10pm at the Sellersburg Town Hall, 316 East Utica St.

Roll Call:

Members present: Chairman Vincent Thacker, Jr., Vice-Chairman Francis Conroy, Member Dennis Amos and guest Mark Tolliver. Also present Board Attorney, Jake Elder, Consultant, Shelly Wakefield and Secretary, Darla Stahl.

Approval of Minutes:

Motion to approve the January 20, 2020, minutes was made by Francis Conroy and seconded by Dennis Amos. Motion carried 3-0.

Unfinished Business:

Moving the starting time from 6:00 pm to 5:30 pm: Motion to table until next meeting made by Francis Conroy and seconded by Dennis Amos. Motion carried 3-0

New Business:

Motion to modify and approve the new Rules of Procedures was made by Francis Conroy and seconded by Dennis Amos. Motion carried 3-0.

Communications:

Nothing at this time.

Reports:

Planning and Zoning:

Nothing at this time

Board Attorney:

Mr. Elder welcomed Mark Tolliver to the board and reminded him about the training sessions.



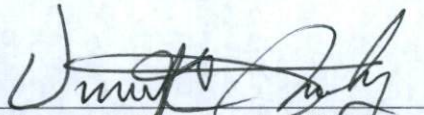
Sellersburg Board of Zoning Appeals Minutes

February 17, 2020

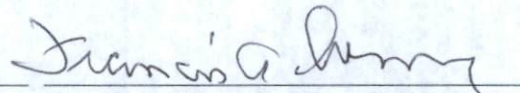
Consultant comments:

Nothing at this time.

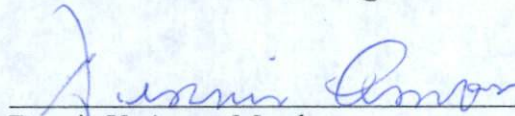
Adjourn: Motion to adjourn @ 6:22 pm., made by Dennis Amos and seconded by Francis Conroy. Motion carried 3-0.



Vincent C. Thacker, Jr. Chairman



Francis A. Conroy, Vice Chairman



Dennis V. Amos, Member


Member

Member

Attest:

RECEIVED
JUN 26 2020

SELLERSBURG CLERK
TREASURER OFFICE

at 12:00




Sellersburg Board of Zoning Appeals Minutes

JUNE 15, 2020

The minutes as written are not verbatim, but a summary of the meeting.

Call to Order:

Chairman Vincent C. Thacker, Jr. called the meeting of the Sellersburg Board of Zoning Appeals to order at 6:00pm at Sellersburg Town Hall, 316 East Utica St.

Roll Call:

Members present: Chairman Vincent Thacker, Jr., Dennis Amos, Francis Conroy, Mark Tolliver and Evan Brown. Also present Board Attorney, Jake Elder, Building Commissioner, Mike Beard, and Secretary, Darla Stahl. Consultant, Shelly Wakefield, was not present.

Before the meeting started Chairperson, Vincent Thacker, Jr. recognized Mr. Charles Popp as a former Board Member who recently passed away.

Chairperson, Vincent Thacker, Jr. introduced Mark Tolliver and Evan Brown as new members to the Board.

Approval of Minutes:

Motion to approve the February 17, 2020 minutes was made by Francis Conroy and seconded by Dennis Amos. Motion carried 3-0 with 2 abstentions.

Unfinished Business:

Moving the starting time from 6:00 pm to 5:30 pm: Taken off the Agenda at this time.

New Business:

Docket number: 2020-DV-06-001 - Request permit outdoor sales and to eliminate required screening for outdoor storage. Mr. John Campbell is sworn in. Jay C Foods is proposing to construct a vehicle fueling facility on property adjacent to the current Jay-C Food Store. Discussion held. Motion made by Francis Conroy:

- (1) That the approval will not be injurious to the public health, safety, morals and general welfare of the community. Motion made by Francis Conroy and seconded by Dennis Amos. Motion carries: 4-1.
- (2) That the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. Motion by Dennis Amos and seconded by Francis Conroy. Motion carries: 4-1.



Sellersburg Board of Zoning Appeals Minutes

JUNE 15, 2020

- (3) That the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. Motion by Francis Conroy and seconded by Mark Tolliver. Motion carries 5-0.
- (4) A motion to approve the following special condition was made by Mark Tolliver and seconded by Francis Conroy. Motion Carried. Yea 5 Nay 0.
 - a. Must obtain location improvement permit within 1 year.

Docket number: 2020-SE-06-001 - Special Exception to PUD Ordinance. Board Attorney Jake Elder explained to the Board that a special exception was required for fueling stations in the PUD Ordinance. The PUD Ordinance refers to the requirements in the Town's Zoning Ordinance but there are no requirements there. Still, the PUD ordinance requires a Special Exception. Discussion held.

- (1) That the proposed use at that particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or communities. Motion by Francis Conroy and seconded by Evan Brown. Motion carried. Yea 4 Nay 1.
- (2) That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, morals or general welfare of the person residing or working in the vicinity, or injurious to property value or improvements in the vicinity. Motion by Francis Conroy and seconded by Dennis Amos. Motion carried. Yea 3 Nay 2.
- (3) The proposed use will comply with regulations and conditions specified in the Ordinance for such use and with the stipulation and condition made a part of the authorization granted by the Board. Motion by Francis Conroy and seconded by Dennis Amos. Motion carried, Yea 4 Nay 1.
- (4) A motion to approve the following special conditions was made by Mark Tolliver and seconded by Evan Brown. Motion carried, Yea 5 Nay 0.
 - a. This approval only pertains to the current 5 fuel pumps.
 - b. Must obtain location improvement permit within 1 year.

Communications:

Nothing at this time.



Sellersburg Board of Zoning Appeals Minutes

JUNE 15, 2020

Reports:

Planning and Zoning:

Nothing at this time

Board Attorney:

Nothing at this time

Consultant comments:

Nothing at this time.

Adjourn: Motion to adjourn made by Mark Tolliver and seconded by Evan Brown. Motion carried, Yea 5 Nay 0. Meeting adjourned at 6:52 PM.

Vincent C. Thacker, Jr. Chairman

Francis A. Conroy, Vice Chairman

Dennis V. Amos, Member

Mark Tolliver, Member

Evan Brown, Member

Attest:

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Petition #: 2020-DV-06-001

Hearing Date: June 15, 2020

By Petitioner(s): Jay-C Food Stores, The Kroger Co., Howard Vogt

Concerning DEVELOPMENT STANDARDS Variance at the address of: 7603-7605 Hwy 311

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion Francis Conroy Second Dennis Amos

Yea 4 Nay 1 Abstain Pass/Fail-Yes/No YES

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion Dennis Amos Second Francis Conroy

Yea 4 Nay 1 Abstain Pass/Fail-Yes/No YES

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion Francis Conroy Second Mark Tolliver

Yea 4 Nay 1 Abstain Pass/Fail-Yes/No yes

4. Motion to approve any special conditions.

Motion Mark Tolliver Second Francis Conroy

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No YES

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # 2020-DV-06-001

Approved Denied

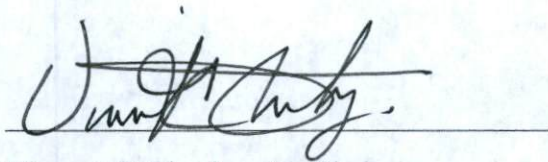
Special Conditions:

1. Must OBTAIN LOCATION IMPROVEMENT PERMIT WITHIN 1 YEAR.

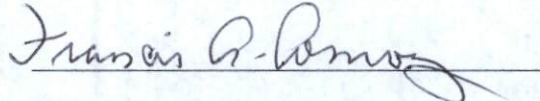
Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Signature Page – Petition # 2020-DV-06-001

Signed this 15th day of JUNE, 2020

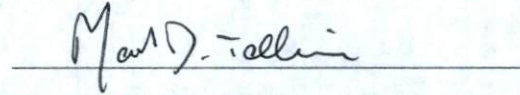


Vincent C. Thacker, Jr., Chairman



Francis A. Conroy, Vice-Chairman

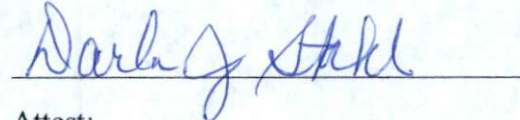
Dennis V. Amos, Member



Mark Tolliver, Member



Evan Brown, Member



Attest:



Town of Sellersburg
Board of Zoning Appeals
316 E Utica Street
Sellersburg, IN 47172

Docket Number: 2020-DV-06-001

Date: August 17, 2020

**Finding of Fact for Developmental Standards Variance
from the Town of Sellersburg Zoning Ordinance**

Developmental Variance is a request to permit outdoor storage in the front of the proposed building and not at the rear of the building as required by the Planned Unit Development Zoning District Ordinance Section 11, Outdoor Storage, Display and Sales, Section 11.6, Storage will not be behind the front façade of the main building and Section 11.7 Storage will not be screened from the public street or adjacent properties.

1.) The approval **will not** be injurious to the public health, safety, morals, and general welfare of the community because:

Outdoors sale area is limited to within the canopy area along side of the Kiosk (building) itself and generally used by public using the fueling pumps.

Motion made by Francis Conroy and seconded by Dennis Amos. Motion carried 4 to 1

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 because:

Very small in scope and size and secondary to the primary use and located in the vehicle use area.

Motion made by Dennis Amos and seconded by Francis Conroy. Motion carried 4 - 1

3.) The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property:

The sales area would have to be separated and enclosed behind the building and would not be safe for the public as it would not allow for line of sight safety.

Motion by Francis Conroy and seconded by Mark Tolliver. Motion carries 5-0.



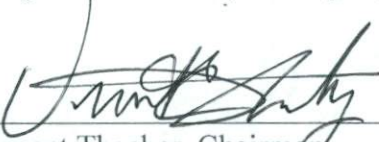
Town of Sellersburg
Board of Zoning Appeals
316 E Utica Street
Sellersburg, IN 47172

DECISION


IT IS THEREFORE the decision of the Sellersburg Board of Zoning Appeals that this Developmental Standards Variance Docket Number 2020-DV-06-001, is Approved; subject to the following condition(s):

(1.) Issuance of Improvement Location Permit within one (1) year of the Approval date the Finding of Facts.

Adopted this 17th day of August, 2020



Vincent Thacker, Chairman



Francis Conroy, Vice Chairman



Dennis Amos, Member



Evan Brown, Member



Mark Tolliver, Member

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Petition #: 2020-SE-06-001

Hearing Date: June 15, 2020

By Petitioner(s): Jay-C Food Stores, The Kroger Company, Howard Vogt

Concerning SPECIAL EXCEPTIONS at the address of: 7603-7605 Hwy 311

1. That the proposed use at that particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or communities.

Motion FRANCIS CONROY Second EVAN BROWN

Yea 4 Nay 1 Abstain Pass/Fail-Yes/No YES

2. That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, or general welfare of the person residing or working in the vicinity, or injurious to property value or improvements in the vicinity.

Motion FRANCIS CONROY Second DENNIS AMOS

Yea 3 Nay 2 Abstain Pass/Fail-Yes/No YES

3. The proposed use will comply with regulations and conditions specified in the Ordinance for such use and with the stipulation and condition made a part of the authorization granted by the Board.

Motion FRANCIS CONROY Second DENNIS AMOS

Yea 4 Nay 1 Abstain Pass/Fail-Yes/No YES

4. Motion to approve any special conditions.

Motion MARK TOLLIVER Second EVAN BROWN

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No YES

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # _____

Approved Denied


Special Conditions:

THIS APPROVAL ONLY PERTAINS TO THE CURRENT 5 FUEL PUMPS
MUST OBTAIN LOCATION IMPROVEMENT PERMIT WITHIN 1 YEAR

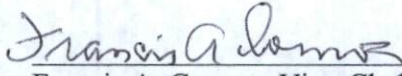
Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Signature Page – Petition # 2020-SE-06-001

Signed this 15th day of June, 2020

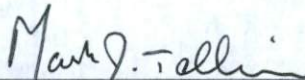


Vincent C. Thacker, Jr., Chairman

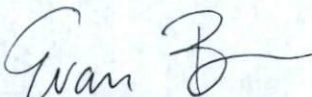


Francis A. Conroy, Vice-Chairman

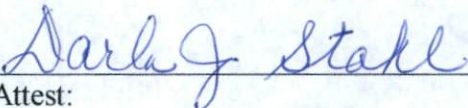
Dennis V. Amos, Member



Mark Tolliver, Member



Evan Brown, Member



Attest:



Town of Sellersburg
Board of Zoning Appeals
316 E Utica Street
Sellersburg, IN 47172

Docket Number: 2020-SE-06-002

Date: August 17, 2020

**Finding of Fact for Special Exception
from the Town of Sellersburg Zoning Ordinance**

The Board of may authorize under Section 3.6 Sellersburg Zoning Ordinance a Special Exception as defined herein, provided the evidence presented at the public hearing is such as to establish beyond a reasonable doubt:

- 1.) The approval **will not** be injurious to the public health, safety, morals, and general welfare of the community because: The proposed use at that particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or communities because:

Motion by Francis Conroy and seconded by Evan Brown. Motion carried 4 to 1.

- 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 because: That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, morals or general welfare of the person residing or working in the vicinity, or injurious to property value or improvements in the vicinity.

Motion by Francis Conroy and seconded by Dennis Amos. Motion carried 3 to 2.

- 3.) The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property because: The proposed use will comply with regulations and conditions specified in the Ordinance for such use and with the stipulation and condition made a part of the authorization granted by the Board.

Motion by Francis Conroy and seconded by Dennis Amos. Motion carried 4 to 1.



Sellersburg Board of Zoning Appeals Minutes

JULY 20, 2020

The minutes as written are not verbatim, but a summary of the meeting.

Call to Order:

Chairman Vincent C. Thacker, Jr. called the meeting of the Sellersburg Board of Zoning Appeals to order at 6:03pm at Sellersburg Town Hall, 316 East Utica St.

Roll Call:

Members present: Chairman Vincent Thacker, Jr., Dennis Amos, Francis Conroy, and Mark Tolliver, Evan Brown. Also present Board Attorney, Jake Elder, Building Commissioner, Mike Beard, Consultant, Shelly Wakefield, Mike Baird, and Secretary, Darla Stahl.

Due to the Covid-19 Consultant Shelly Wakefield addressed the public as to how the meeting would be conducted.

Approval of Minutes:

Motion to approve the June 15, 2020 minutes was made by Mark Tolliver and seconded by Evan Brown. Motion carried 5-0.

Unfinished Business:

A motion was made by Francis Conroy and seconded by Dennis Amos to table unfinished business Finding of Facts for 2020-DV-06-001 and 2020-SE-06-002 to the August 17, 2020 meeting.

New Business:

- **Petition 2020-UV-07-003** Brian & Laura Kehrer, Serenity Property LLC. Request for a Use Variance from the Planned Unit Development, Ordinance 2011-015, Section 17 Community Commercial Subarea Table to permit storage in Subarea Community Commercial on property located on northeast side of State Road 60 between State Road 60 and County Road 311.
- **Petition 2020-DV-07-004** Brian & Laura Kehrer, Serenity Property LLC, request for a Developmental Standards Variance to Section 5, Parking Standards, subsection 5.6 Ordinance 2011-015 Planned Unit Development to permit a gravel driving and parking surface and not provide the required hard surface on property located on northeast side of State Road 60 between State Road 60 and County Road 311.
- **Petition 2020-DV-005** Brian & Laura Kehrer, Serenity Property LLC, request for a Developmental Standards Variance to Section 2 Architectural Standards, Ordinance 2011-015 Planned Unit Development use of one type of exterior façade material of metal and to not provide an architectural variety of exterior façade materials on proposed 3-sided structures on property located on northeast side of State Road 60 between State Road 60 and County Road 311.



Sellersburg Board of Zoning Appeals Minutes

JULY 20, 2020

- **Petition 2020-DV-07-006** Brian & Laura Kehrer, Serenity Property LLC, request for a Developmental Standards Variance to Section 4, Landscape Standards, Subsection 4.9 Ordinance 2011-015 Planned Unit Development to permit the elimination of the required landscaping at the base of all building at a rate equal to 50% of the building perimeter excluding door on property located on northeast side of State Road 60 between State Road 60 and County Road 311.
- **Petition 2020-DV-07-007** Brian & Laura Kehrer, Serenity Property LLC, request for a Developmental Standards Variance to Section 12, Fence and Wall Subsection 12.4 Ordinance 2011-015 Planned Unit Development to permit installation of chain link fencing and not a fence of wood, decorative metal, textured masonry, stone, or synthetic materials on property located on northeast side of State Road 60 between State Road 60 and County Road 311.
- **Petition 2020-DV-07-008** Brian & Laura Kehrer, Serenity Property LLC, request for a Developmental Standards Variance to Section 5, subsection 5.7 Ordinance 2011-015 Planned Unit Development to permit parking and storage of recreational vehicles, boats, trailers, when only parking is to be solely for the parking of passenger automobiles or light trucks less than one (1) ton capacity on property located on northeast side of State Road 60 between State Road 60 and County Road 311.

- Public hearing opened at 6:09 pm.

Mr. Nathan Grimes, Brian & Laura Kehrer sworn in. Shelly ask Mr. Grimes for finding of facts. Mr. Grimes explained the Kehrer want to develop property for RV and Boat Storage. After Mr. Grimes and Mr. Kehrer went through the finding of facts, and discussion with board was held. Question form the public. Person did not give name. Chairperson Thacker request finding of facts in writing. . Public hearing closed at 6:43 pm. A motion was made by Francis Conroy and seconded by Mark Tolliver for the Petitions 2020-DV-07-002 through 2020-DV-07-007 tabled to the August 17, 2020 meeting. Motion carried 5-0.

- **Petition 2020-DV-07-009** Phillip Jones Minor Variance at Minor Subdivision Public Hearing opened by Mr. Thacker. Variance requested to divide two (2) lots to three (3) lots on County Line Road between Shagbark Tr. and Dovir Woods Dr. Chairperson Thacker request all present would wish to speak on this petition to stand. Board Chairperson administers the oath to swear to tell the truth. Mr. Nathan Grimes speaks for Mr. Jones. Mr. Grimes presents exhibit 1 and states it is planned to only build two (2) homes with the third possibly being built in the future. Finding of facts: Petitioner states private drive for each lot with 20 foot wide road. Discussion held.

Wyatt Cooper Dovir Woods Drive, Sellersburg, Indiana speaks. Ask how the property would be zoned and who will take care of sewage.

Tom Shallenburg 6003 Dovir Drive speaks. Addresses drainage. Question from Board member Dennis Amos: This is going to cause a drainage problem isn't it? Mr. Shallenburg, yes with the access road running against our property.

Kyle Wilson 8910 County Line Road. Feels there will be fire safety issues. Mr. Wilson is concern on the negative value of other properties. Drainage problems. Time is up.



Sellersburg Board of Zoning Appeals Minutes

JULY 20, 2020

A letter from neighbor opposing petition read into the record concerning drainage.

Petitioner addresses concerns: Undeveloped wooded area, Already zone. Drainage is a concern, will go through the Sellersburg Drainage Board for that.

Public hearing closed at 7:15 pm.

Board member Mark Tolliver ask why 3 lots known to be a water problem exist why would you want to build. Discussion held.

(1) Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community was made by Mark Tolliver and seconded by Evan Borwn. Motion carried 5 – 0

(2) Motion to determine that the variance will not have substantial adverse effect on the use and value of any neighboring or adjacent property owner to the property included in the variance was made by Mark Tolliver and seconded by Dennis Amos. Motion carried. 5 – 0

(3) Motion to determine that the need for the variance arises from some condition peculiar to the property involved made by Francis Conroy and seconded by Dennis Amos. Motion carried. Conditions: Come up with drainage plan. Documentation provided.

(4) Motion to approve Special conditions made by Francis Conroy and seconded by Dennis Amos. Motion carried 5-0

- Petition 2020-DV-07-010 & Petition 2020-DV-07-011 Jeff Parrish Variance at 215 Popp St. Board Chairperson administered the oath to Mr. Parrish. Public Hearing opened at 7:29 pm by Chairperson Mr. Thacker. The request is for a variance request minimum street frontage and lot area size. Shelly advises the Board of Mr. Parrish's request to build two (2) none performing lots. Mr. Parrish explained he would like to build on these two (2) lots which are 50 foot lots. Hearing closed at 7:32 pm.

(1) Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community made by Francis Conroy and seconded by Evan Brown. Motion carried 4-1

(2) Motion to determine that the variance will not have substantial adverse effect on the use and value of any neighboring or adjacent property owner to the property included in the variance was made by Francis Conroy and seconded by Evan Brown. Findings of Facts: Needs to be developed. Motion carried. 5-0.

(3) Motion to determine that the need for the variance arises from some condition peculiar to the property involved made by Mark Tolliver and seconded by Francis Conroy. Finding of Facts: Add to the improvement of neighborhood. Motion carried 5 -0.

(4) Motion to approve Special conditions of building location permit to be obtained within 1 year made by Francis Conroy and seconded by Dennis Amos. Motion carried 5-0



Sellersburg Board of Zoning Appeals Minutes

JULY 20, 2020

- **Petition 2020-DV-07-012** Anthony & Teri Westmoreland Variance for 12307 Hummingbird Way
Public hearing opened. Mr. John Kraft speaks for the petitioners, explaining the request if for a variance to build a swimming pool on their lot. Anthony Westmoreland speaks addressing the deck and cover of the pool. Letters from neighbors read into the record with no objections to the pool being built. Public meeting closed at 7:54 pm.
 - (1) Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community was made by Evan Brown and seconded by Francis Conroy. Safety improvement Motion carried 5 – 0
 - (2) Motion to determine that the variance will not have substantial adverse effect on the use and value of any neighboring or adjacent property owner to the property included in the variance was made by Evan Brown and seconded by Mark Tolliver. Motion carried. 5 – 0.
 - (3) Motion to determine that the need for the variance arises from some condition peculiar to the property involved made by Evan Brown and seconded by Mark Tolliver. Finding of Facts: Smallest lot. Motion carried 5 -0.
 - (4) Motion to approve Special conditions: Security must be addressed. Location improvement permit within (1) year. Mark Tolliver and seconded by Evan Brown. Motion carried 5-0
- **Petition 2020-DV-07-013** Joseph W Jr & Amanda K. Basham Autumn Ridge Subdivision
Public hearing opened The request for a variance Lot 23 Autumn Ridge for purposes of using property. Mr. Ronald Keller speaks for the Basham's. Letter read into the record. Gretchen Scott reads letter from neighbor that could not be at the meeting. Tom Trodd 2026 Autum Ridge Drive speaks. Mr. Keller speaks to issues.
Public hearing closed 8:30 pm.
 - (1) Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community was made by Mark Tolliver and seconded by Evan Brown. Motion carried 5 – 0
 - (2) Motion to determine that the variance will not have substantial adverse effect on the use and value of any neighboring or adjacent property owner to the property included in the variance was made by Mark Tolliver and seconded by Evan Brown. Motion carried. 5 – 0.
 - (3) Motion to determine that the need for the variance arises from some condition peculiar to the property involved made by Mark Tolliver and seconded by Evan Brown. Finding of Facts: Land locked. Motion carried 5 -0.
 - (4) Motion to approve Special conditions: .Maintain Lot 23 and Location improvement permit within (1) year. Mark Tollier and seconded by Evan Brown. Motion carried 5-0



Sellersburg Board of Zoning Appeals Minutes

JULY 20, 2020

Communications:

Reports:

Planning and Zoning:

Nothing at this time

Board Attorney:

Nothing at this time

Consultant comments:

Motion to table the Consultant's report to August 17, 2020 made by Francis Conroy and seconded by Dennis Amos. Motion carried 5 – 0.

Adjourn: Motion to adjourn @ 8:37 pm., made by Evan Brown and seconded by Francis Conroy. Motion carried 5-0

Vincent C. Thacker, Jr. Chairman

Francis A. Conroy, Vice Chairman

Dennis V. Amos, Member

Mark Tolliver, Member

Evan Brown, Member

Attest:

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Petition #: 2020-DV-07-009

Hearing Date: July 20, 2020

By Petitioner(s): Philip A Jones

Concerning DEVELOPMENT STANDARDS Variance at the address of: Ct. Line Rd Between Shagbark Tr and Dovir Woods

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion Mark Tullman Second Sean Brown

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No Yes

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion Mark Second Francis *Based on lot 51300 unimproved*

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No Yes

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion Francis Conroy Second Dennis Amos *MUST*

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No YES

4. Motion to approve any special conditions.

Motion Francis Second Dennis Amos

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No Yes

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # 2020-DV-07-009

Approved Denied

Special Conditions:

1. Must develop a drainage plan and have it approved-
2. LIP min 1 year
3. need final approval from NA Sewer-
4. Fire Department Approval

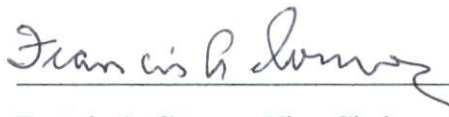
Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Signature Page – Petition # 2020-DV-07-009

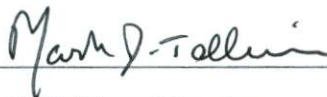
Signed this 20th day of July, 2020



Vincent C. Thacker, Jr., Chairman



Francis A. Conroy, Vice-Chairman



Mark Tolliver, Member



Evan Brown, Member



Attest:



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DATE:	7/13/2020
DOCKET NUMBER:	2020-DV-07- 008 009
APPLICANT:	Philip A. Jones
OWNER:	Terry L. & Melissa J. Farnsley
LOCATION OF SUBJECT PROPERTY OF VARIANCE	County Line Rd between Shagbark Tr. And Dovir Woods Dr.
LEGAL DESCRIPTION (Summary)	Metes & Bounds Description containing 2.3 ac
VARIANCE REQUESTED:	Section 1.23 and 2.2.3 - Subdivide 2.30 ac. into 3 lots, where two (2) lots will not be provided required street frontage.
CURRENT ZONING:	R-1 – Single Family
COUNCIL DISTRICT:	

Information:

Applicant is requesting a Developmental Standards Variance for a proposed 3-lot subdivision, where 2 lots of the proposed subdivision will not be provided with the required 60-feet of street frontage.

Sellersburg Zoning Ordinance Section 1.23 Street Frontage Required states: No lot shall contain any building or structure unless such lot abuts on a street or dedicated right-of-way for at least sixty (60) percent of the lot width prescribed for the district in which the lot is located.

Sellersburg Zoning Ordinance Section 2.2.3 Area states: Every lot upon which a structure is hereafter erected shall front onto a dedicated street or public right-of-way and shall conform to the following minimum lot area and width requirements

(1) Residential Use

(a) The lot area for residential uses shall be a minimum of seven thousand two hundred (7,200) square feet with a minimum width of sixty (60) feet; and there shall not be less than 7,200 square feet of lot area per dwelling unit (i.e., a maximum density of 6.05 dwelling units per acre of lot area).



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

The 2.3-acre property in question has frontage on County Line Road. Applicant proposes a three (3) parcels minor plat subdivision, where two (2) of the lot will not be provided with the required street frontage. The Applicant proposes access to a 25-foot ingress/egress easement from County Line Road along the southeast property lines of Tract 1 and Tract 2 to Tract 3, as access to Tracts 2 and 3.

Finding of Fact:

In accordance with the requirements set out in the Indiana Code (IC) the Board of Zoning Appeals will need to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5 states:

(a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (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; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

Applicant's Finding of Fact:

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

Applicant states: The variance request of this minor plat for three single family residential lots meets current R-1 zoning for this parcel except for frontage variance being requested for rear 2 lots. The adjoiners on all 3 sides are also single-family residences and these 0.75 acres lots are larger in area than most of his adjoiners. The rear 2 lots will be provided by an ingress/egress access and utility easement that will be a shared private easement and will be maintained by all 3 lots. The private easement will not be maintained or utilized by the public and will provide a safe essential access to the rear 2 properties in the minor plat. The 3 single-family residences will increase tax revenue on the parcel

Not a public Road - maintained by property owners
add framing

Staff: The applicant comments address the construction of structures and does not address the required criteria if the lack of providing the required street frontage for tracts 2 and 3 will or will not be injurious to the public health, safety, morals, and general welfare of the community.

The Board of Zoning Appeals will need to determine if the public health, safety, moral and general welfare of the community will not be injurious that two (2) proposed tracts will not be provided with street frontage and will the lack of street frontage cause a potential harm and what harm could befall.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

(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,

Applicant states: The use value of the area adjacent to this parcel will be increased in value by developing the undeveloped parcel of land. The character and size of the homes and lots intended to be constructed are larger than most of the adjoining parcels and homes.

Down Woods all single family
Staff: The Applicant has failed to address if the subject family properties (all three (3) proposed tracts) use and value will or will not be affected in a substantially adverse manner by the elimination of the required street frontage and access provided only by an easement maintained by the property owners.

The Applicant will need to address the required Finding of Fact during the public hearing.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant states: The variance request is due to the long narrow configuration of the lot. The lot is 132' wide and 760' deep or almost 6 times longer than the width. The only access to this parcel is from County Line Road.

Unusual long narrow lot causes issues
Staff: The Applicant has not addressed how the Zoning Ordinance terms will result in practical difficulties in the use of the property.

The 2.3 acres is zoned R-1, Single Family Residential and the Zoning Ordinance strict terms does not prevent the use of the property, as the existing parcel complies with the current zoning district developmental standards requirements.

The Applicant will need to address how the application of the terms (developmental standards) of the zoning ordinance will result in practicality in the use of the property.



Sellersburg Board of Zoning Appeals

STAFF REPORT
DEVELOPMENTAL STANDARDS VARIANCE

Site



Site

Zoning District



Agricultural

A

Urban UK

R-1

108

SHAGBARK TRL

DORIS CT

TWIN SPRING

R-1 Single Family Residential

**Town of Sellersburg, Indiana
Board of Zoning Appeals
Application for a Variance of Development Standards**

Applicant Information

Name: PHILIP A. JONES

Mailing Address: 3048 E. LOBO RIDGE

	Street	
NEW ALBANY	IN	47150

City	State	Zip
------	-------	-----

Email address: PHILIP@PRO4MANCE.COM Phone Number: 502-639-1834

Owner Information ("owner is not a tenant or contract buyer")

Name: TERRY L. & MELISSA J. FARNSLEY

Mailing Address: 201 LANCASTER WOODS

	Street	
NEW ALBANY	IN	47150

City	State	Zip
------	-------	-----

Email address: MFARNSLEY@NAFCS.ORG Phone Number: 502-648-9438

Property Information:

Address or location of the property subject to this application:

CO. LINE RD. BETWEEN SHAGBARK TR. AND DOVIR WOODS DR.

Street Numbers	Closest Cross Street
----------------	----------------------

Lot Size: 2.30

Current Use of Property: VACANT LOT

Describe the variance requested: PROPOSED MINOR PLAT OF THREE (3) LOTS. TWO (2) OF WHICH WILL NOT BE PROVIDED WITH REQUIRED 60-FEET OF ROAD FRONTAGE

Check Developmental Standards Variance Requested:

- | | | | |
|---|---|---|--|
| <input type="checkbox"/> Building Setback | <input type="checkbox"/> Building Height | <input type="checkbox"/> Lot Coverage | <input type="checkbox"/> Lot Width |
| <input type="checkbox"/> Lot Area | <input type="checkbox"/> Sight Visibility | <input type="checkbox"/> Entrance/Drive | <input type="checkbox"/> Landscaping |
| <input type="checkbox"/> Parking | <input type="checkbox"/> Loading Area | <input type="checkbox"/> Sign | <input type="checkbox"/> Exterior Lighting |

✓ Other: PROPOSED MINOR PLAT OF THREE (3) LOTS, TWO (2) OF WHICH WILL NOT BE PROVIDED W/THE REQUIRED (60) SIXTY FEET OF ROAD FRONTAGE.

**DEVELOPMENT STANDARDS VARIANCE CRITERIA
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

- (1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: SEE ATTACHED SHEET
-
- (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: SEE ATTACHED SHEET
-
- (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: SEE ATTACHED SHEET
-

Applicant's Signature

The information included in and with this application is completely true and correct to the best of my knowledge and belief.



Applicant Signature

6-9-2020
Date

Philip A. Jones
Printed Applicant Name

State of Indiana)
)SS
County of CLARK)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared PHILIP A. JONES, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

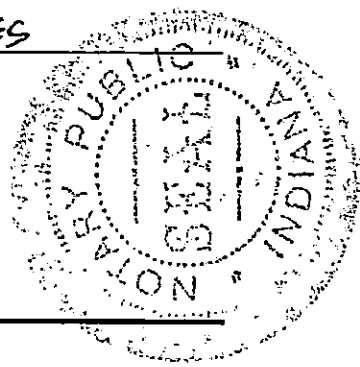
Witness my hand and Notarial Seal, this this 9th day of JUNE, 2020

My Commission Expires:
5/17/2026

Nathan R Grimes
Notary Public

Resident CLARK County, Indiana

NATHAN R. GRIMES
Printed Name



Office Use:

Date Completed Application Received: ___/___/___

Petition Application Fee of \$ _____ Received: ___/___/___

Docket Number: _____

Current Zoning Classification: _____

Zoning Ordinance Section applicable to variance application: _____

BZA Public Hearing Date: ___/___/___

Adjacent Property Owners Notified via Certificate of Mailing: ___/___/___

Legal Ad Published: ___/___/___

Verified Posting of Hearing Sign: ___/___/___

Public Notice Posted at Town Hall ___/___/___



RENAISSANCE DESIGN BUILD, INC.

INDIANA OFFICES
117 S Indiana Avenue
Sellersburg, IN 47172
Tel: 812-246-5897
Fax: 812-248-4320

rdbi@sbcglobal.net

KENTUCKY OFFICES
1012 S. Fourth Street
Louisville, KY 40203
Tel: 502-424-8373
Fax: 502-587-0931

www.renaissancedesignbuild.com



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

The variance request of this minor plat for three single family residential lots meets current R-1 zoning for this parcel except for frontage variance being requested for rear 2 lots. The adjoiners on all 3 sides are also single-family residences and these 0.75 acre lots are larger in area than most of his adjoiners. The acres to rear 2 lots will be provided by an ingress/egress access and utility easement that will be a shared private easement and will be maintained by all 3 lots. The private easement will not be maintained or utilized by the public and will provide a safe essential access to the rear 2 properties in the minor plat. The 3 single-family residences will increase tax revenue on the parcel.

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:

The use value of the area adjacent to this parcel will be increased in value by developing an undeveloped parcel of land. The character and size of the homes and lots intended to be constructed are larger than most of the adjoiners parcels and homes.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property:

The variance request is due to the long narrow configuration of the lot. The lot is 132' wide and 760' deep or almost 6 times longer than the width. The only access to this parcel is from County Line Road.



Town of Sellersburg
Board of Zoning Appeals
316 E Utica Street
Sellersburg, IN 47172

Docket Number: 2020-DV-07-009

Date: August 17, 2020

**Finding of Fact for Developmental Standards Variance
from the Town of Sellersburg Zoning Ordinance**

Developmental Standards Variance from Sections 1.23 and 2.2.3 of the Sellersburg Zoning Ordinance to for subdivision of land where the required road frontage will not be provided and permit access by a recorded access easement.

1.) The approval **will not** be injurious to the public health, safety, morals, and general welfare of the community because:

The lots are consistent for existing surrounding subdivision lot size.

Motion made by Mark Tolliver and Seconded by Evan Brown. Motion carried 5 - 0

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 because:

The lots are consistent for existing surrounding subdivision lot size.

Motion made by Francis Conroy and seconded by Dennis Amos. Motion carried 5 - 0

3.) The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property:

The properties length to width makes development of the property limited, and all proposed lots would be accessible by recorded easement.

Motion made by Francis Conroy and seconded by Dennis Amos. Motion carried 5 - 0

DECISION



Town of Sellersburg
Board of Zoning Appeals
316 E Utica Street
Sellersburg, IN 47172

IT IS THEREFORE the decision of the Sellersburg Board of Zoning Appeals that this Development Standards Variance Docket Number 2020-DV-07-009 is APPROVED; subject to the following conditions:

- (1.) The Approval of variance 2020-DV-07-009 is conditional upon the approval of the Sellersburg Plan Commission's approval of the proposed Minor Plat and access easement and said replat is recorded in the Clark County Recorder's Office, prior to the issuance of the required Improvement Location Permit.
- (2.) Submission of the required drainage for approval by the Town of Sellersburg, prior to construction of any Improvements
- (3.) One (1) year from the date approving these Finding of Facts an Improvement Location Permit shall be issued.

Adopted this 17th day of August, 2020

Vincent Thacker, Chairman

Francis Conroy, Vice Chairman

Dennis Amos, Member

Evan Brown, Member

Mark Tolliver, Member

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Petition #: 2020-DV-07-010

Hearing Date: July 20, 2020

By Petitioner(s): Jeff Parrish

Concerning DEVELOPMENT STANDARDS Variance at the address of: 215 Popp Avenue, Lot 11

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion Francis Second Mark

Yea 4 Nay 10 Abstain Pass/Fail-Yes/No Yes

Plotted for many years

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion Mark Second Francis

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No Yes

improve values of the property

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion Francis Second Dennis Amos

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No Yes

Plotted lot is small

4. Motion to approve any special conditions.

Motion _____ Second _____

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No Yes

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # 2020-DV-07-010

Approved Denied

Special Conditions:

1. LTP with 1 year

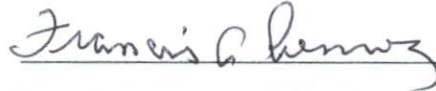
Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Signature Page – Petition # 2020-DV-07-010

Signed this 20th day of July, 2020



Vincent C. Thacker, Jr., Chairman



Francis A. Conroy, Vice-Chairman

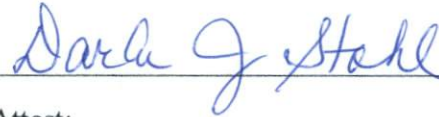


Mark Tolliver, Member

Dennis V. Amos, Member



Evan Brown, Member



Attest:



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DATE:	July 11, 2020
DOCKET NUMBER:	2020-DV-07- 009 010
APPLICANT:	Jeff Parrish
OWNER:	Jeff Parrish
ADDRESS OF SUBJECT PROPERTY OF VARIANCE	215 Popp Avenue
LEGAL DESCRIPTION (Lot 11, Dold-Popp Addition
VARIANCE REQUESTED:	Required lot width and lot area
CURRENT ZONING:	R-1 – Single Family Residential
COUNCIL DISTRICT:	Brad Amos – District 3

Information:

Applicant is requesting a Developmental Standards Variance from the required minimum lot width and lot area for property zoned R-1, Single Family Residential.

Sellersburg Zoning Ordinance Section 2.2.3 Area – states: Every lot upon which a structure is hereafter erected shall front onto a dedicated street or public right-of-way and shall conform to the following minimum lot area and width requirements.

(1) Residential Use

(a) The lot area for residential uses shall be a minimum of seven thousand two hundred (7,200) square feet with a minimum width of sixty (60) feet; and there shall not be less than 7,200 square feet of lot area per dwelling unit (i.e., a maximum density of 6.05 dwelling units per acre of lot area).

NOTE: Clark County GIS (Elevate) indicate a single family dwelling and Google Maps/Earth indicate a single family dwelling and accessory structure. Mr. Parrish's application state property is vacant.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

The subject property, Lot 11 Dold & Popp Addition was platted in 1888 with lot width of 50-feet x 140-feet for a lot area of 7,000 square feet. The Lot as platted is 10-feet deficient in width and 200 square feet deficient in lot area. By the Sellersburg Zoning Ordinance definition of a Nonconforming Lot, Lot 11 Dold & Popp Addition is a legal existing nonconforming lot.

In verbal discussion with Mr. Parrish, Mr. Parrish intends is to construct a single-family dwelling on lot 11 Dold-Popp Addition.

Finding of Fact:

In accordance with the requirements set out in the Indiana Code the Board of Zoning Appeals will need to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5 states:

(a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (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; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

Applicant's Finding of Fact:

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

Applicant states: These are existing lots. Been platted long time.

Staff: The Applicant has not provided supporting written information as to how the lot width less than 60-feet or lot area less than 7,200 square feet will not be injurious to the public health, safety, morals, and general welfare of the community.

The Board will need to consider if the lot width of 50-feet or lot area of 7,000 square feet will cause a potential harm to the town – why or why not and what harm could befall.

(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,

Applicant states: This is not going to affect value because lot on street are 50'.

Staff: Dold-Popp Addition as platted in 1888 lots on the East side of Popp Street are platted 50-feet in width and 140-feet in length for a lot area of 7,000 square feet. The recorded plat for Dold-Popp Addition supports the Applicant's states that all lots are 50-feet in width.

The Applicant did not address adjacent lots are of the same lot area. The Board should consider whether adjacent property will suffer any major negative impact and what impact adjacent property realistically expect.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant states: Yes, and further states: Because they were lots at 50-feet platted at 7,000 SF

Staff: The Applicant states the Zoning Ordinance result in the difficulty of his to use the lot. This is a legally existing non-conforming lot, as the subdivision was platted in 1888 which would have been the standard width and potentially same situation for lot area.

Site



Clark County GIS - Elevate

Site



Google Maps

Site

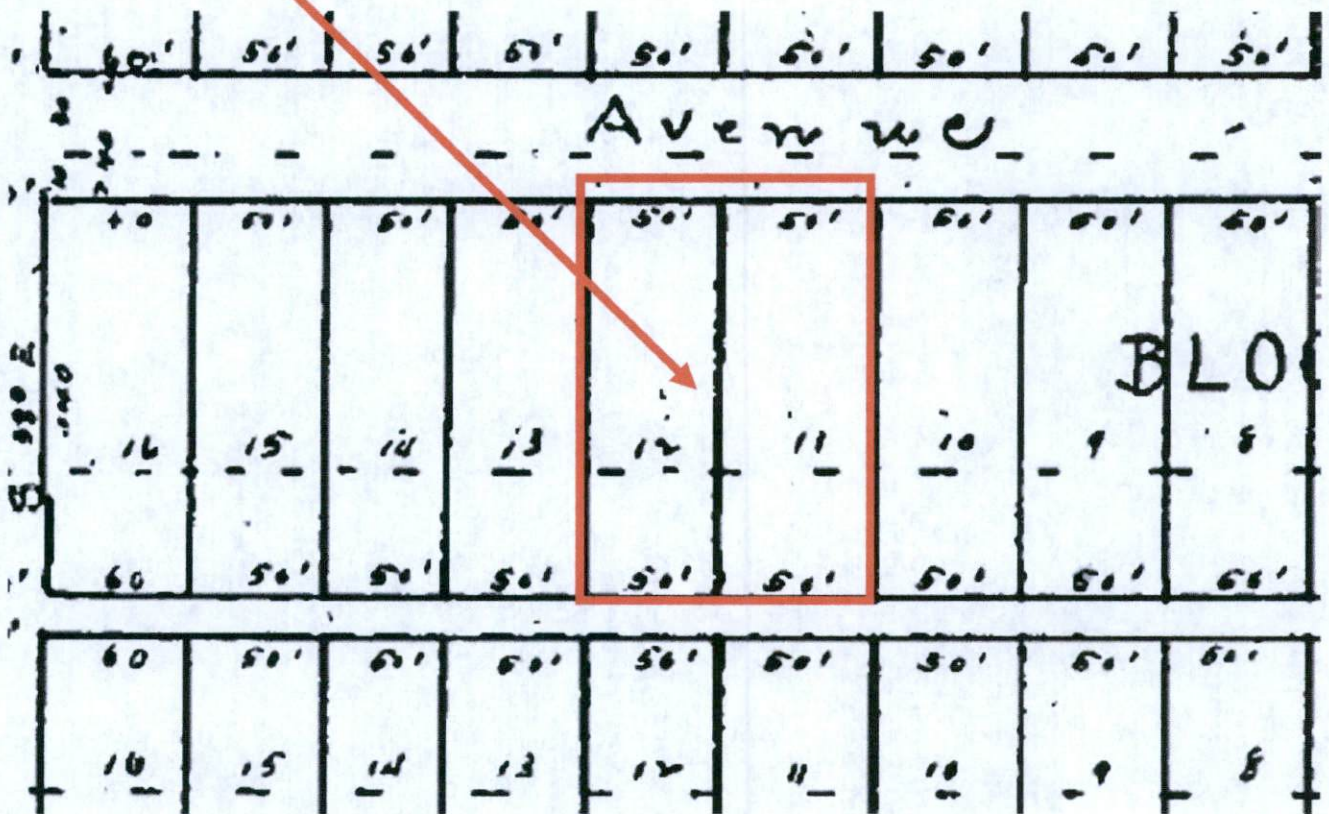


Image from Dold & Popp Addition Platt - 1888

**Town of Sellersburg, Indiana
Board of Zoning Appeals
Application for a Variance of Development Standards**

Applicant Information

Name: JEFF PARRISH

Mailing Address: 4818 UPPER RIVER RD
Street Number/P.O. Box Number Street

UTICA IN 47130
City State Zip

Email address: PARRIJE@ATTNET Phone Number: 1-502-295-1591

Owner Information ("owner is not a tenant or contract buyer")

Name: _____

Mailing Address: _____
Street Number/P.O. Box Number Street

City _____ State _____ Zip _____

Email address: _____ Phone Number: _____

Property Information:

Address or location of the property subject to this application:

215 POPP AVE DOLD AVE
Street Numbers Closest Cross Street

Lot Size: 100x140 @ LOTS 11, 12 EACH 50x140'

Current Use of Property: VACANT

Describe the variance requested: (1) LOT SIZE (2) NOT 60 wide

Check Developmental Standards Variance Requested:

- | | | | |
|---|---|--|---|
| <input type="checkbox"/> Building Setback | <input type="checkbox"/> Building Height | <input checked="" type="checkbox"/> Lot Coverage | <input checked="" type="checkbox"/> Lot Width |
| <input type="checkbox"/> Lot Area | <input type="checkbox"/> Sight Visibility | <input type="checkbox"/> Entrance/Drive | <input type="checkbox"/> Landscaping |
| <input type="checkbox"/> Parking | <input type="checkbox"/> Loading Area | <input type="checkbox"/> Sign | <input type="checkbox"/> Exterior Lighting |

Other: _____

**DEVELOPMENT STANDARDS VARIANCE CRITERIA
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

- (1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: THESE ARE EXISTING LOTS BEEN PLATTED LONG TIME
- (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: THIS NOT GOING TO AFFECT VALUE BECAUSE LOTS ON STREET ARE 50'
- (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: YES BECAUSE THEY WERE LOTS AT 50 FT. PLATTED AT 7000 SF

Applicant's Signature

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

Jeffrey E. Parrish
Applicant Signature

6/11/20
Date

JEFFREY E. PARRISH
Printed Applicant Name

Jeff Parrish

6/11/20

State of Indiana)
County of Clark)SS

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared JEFF PATRIST, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

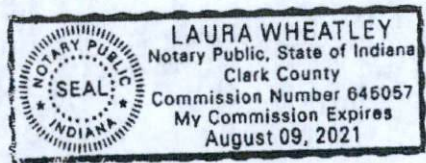
Witness my hand and Notarial Seal, this this 6th day of June, 2020

My Commission Expires:
08.09.2021

Laura Wheatley
Notary Public

Resident Clark County, Indiana

Laura Wheatley
Printed Name



Office Use:

Date Completed Application Received: 6 / 22 / 2020

Petition Application Fee of \$ _____ Received: ___ / ___ / ___

Docket Number: 2020-DV-07-009 (Lot 11)

Current Zoning Classification: R1

Zoning Ordinance Section applicable to variance application: 2.2.3 - Area - including lot lot width

BZA Public Hearing Date: 7 / 20 / 2020

Adjacent Property Owners Notified via Certificate of Mailing: ___ / ___ / ___

Legal Ad Published: ___ / ___ / ___

Verified Posting of Hearing Sign: ___ / ___ / ___

Public Notice Posted at Town Hall ___ / ___ / ___

Notary

AFFIDAVIT AND CONSENT OF PROPERTY OWNER
Application to the Sellersburg Board of Zoning Appeals

I, JEFF PARRISH, AFTER BEING DULY SWORN, DEPOSE
AND STATE THE FOLLOWING:

1. That I am the owner of real estate located at: 215 Popp Ave
2. That I have no objection to, and consent to the request(s) described in the application made to the Sellersburg Board of Zoning Appeals.

JEFFREY E PARRISH
Owner's Name (Printed)

[Handwritten Signature]
Owner's Signature

State of Indiana)
County of Clark)SS

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Jeff Parrish, and acknowledge the execution of the foregoing *Affidavit and Consent* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 18th day of June, 2020

My Commission Expires: 08.09.2021

Laura Wheatley
Notary Public

Resident Clark County, Indiana

Laura Wheatley
Printed Name



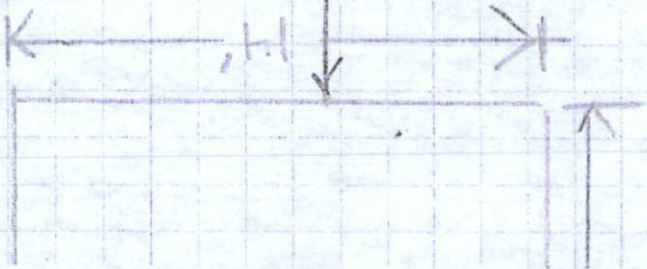
5901

1" = 50'
SITE PLAN
JEFF PARISH

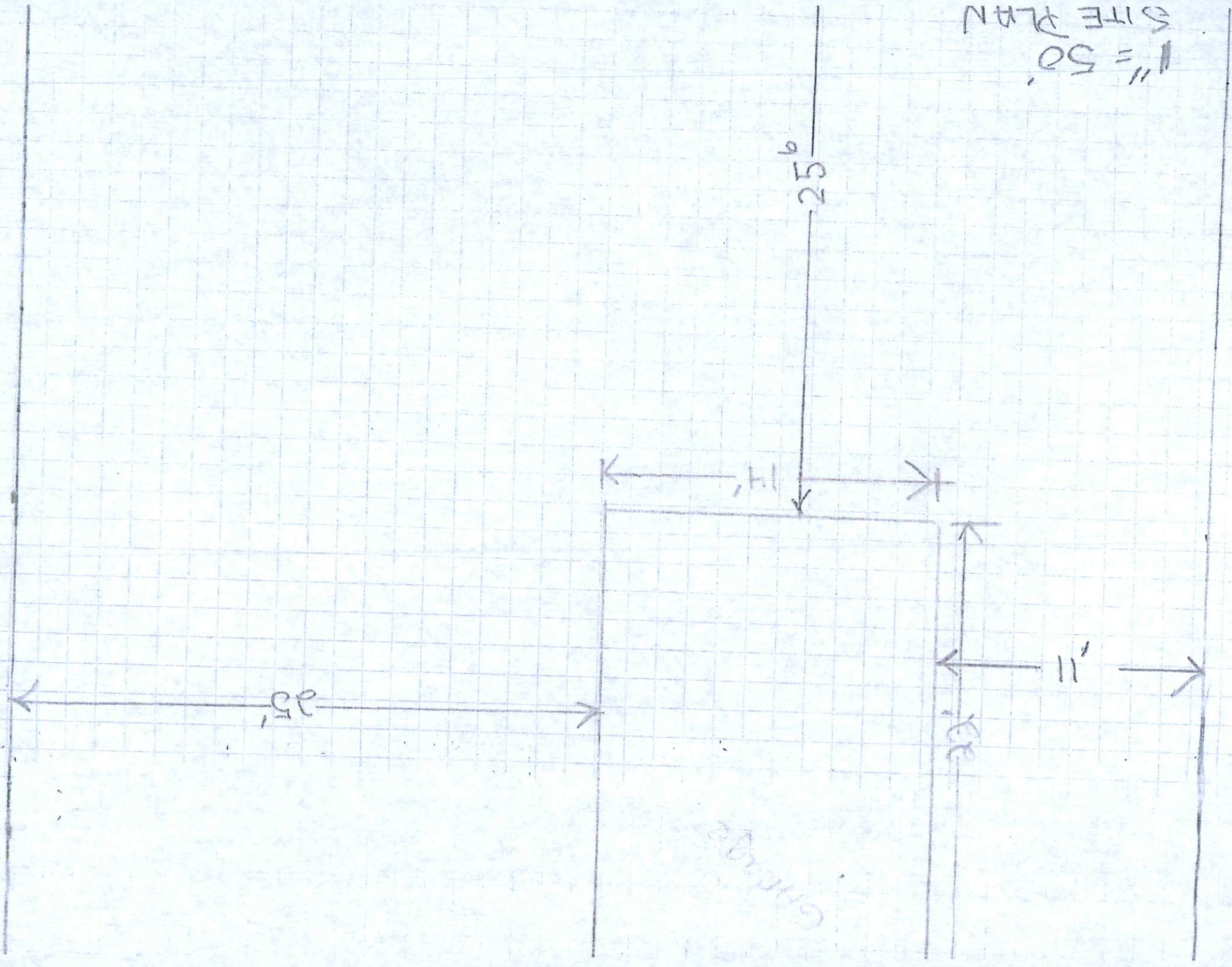
ALLEY

25'

14'



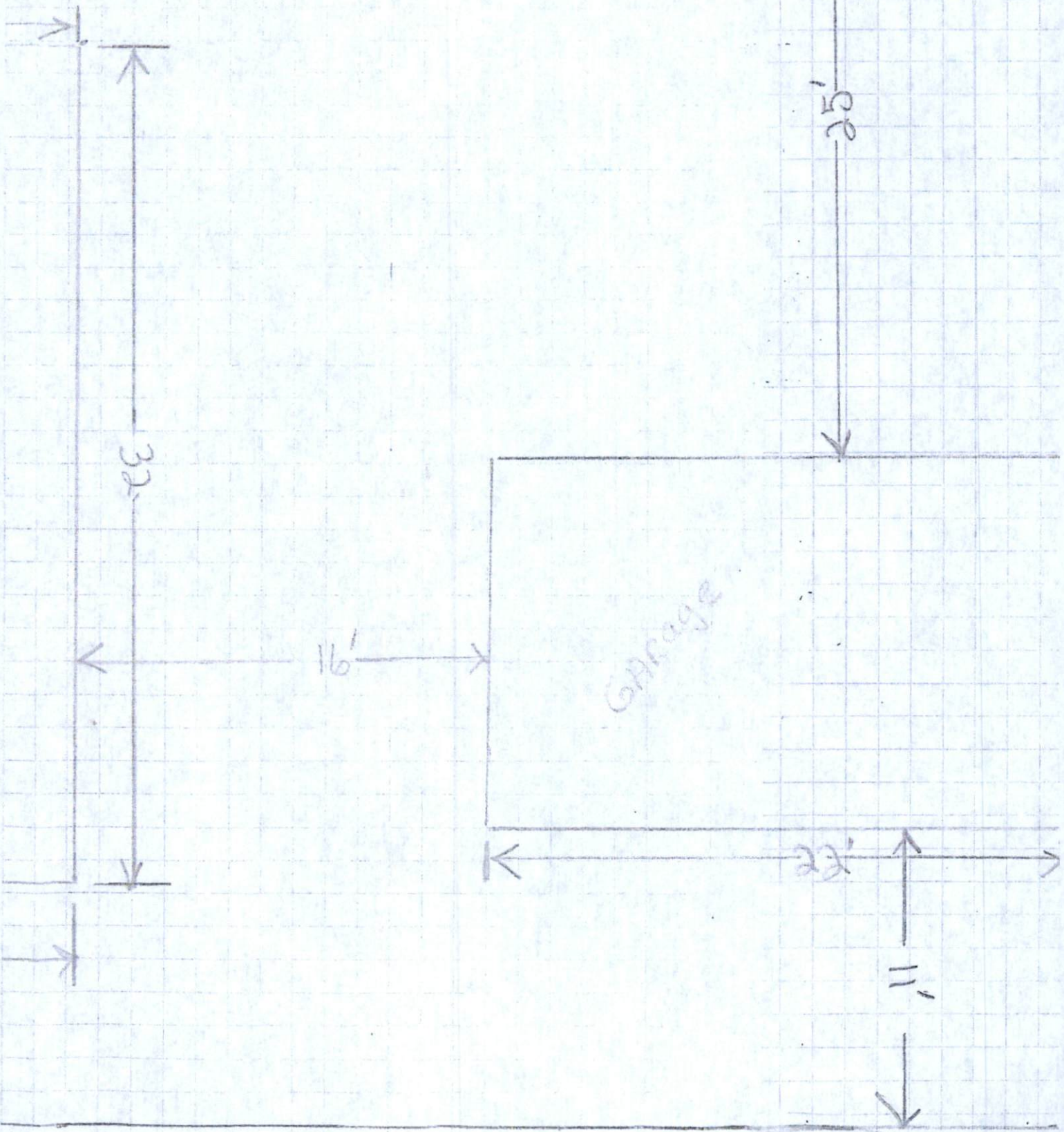
1" = 50'
SITE PLAN

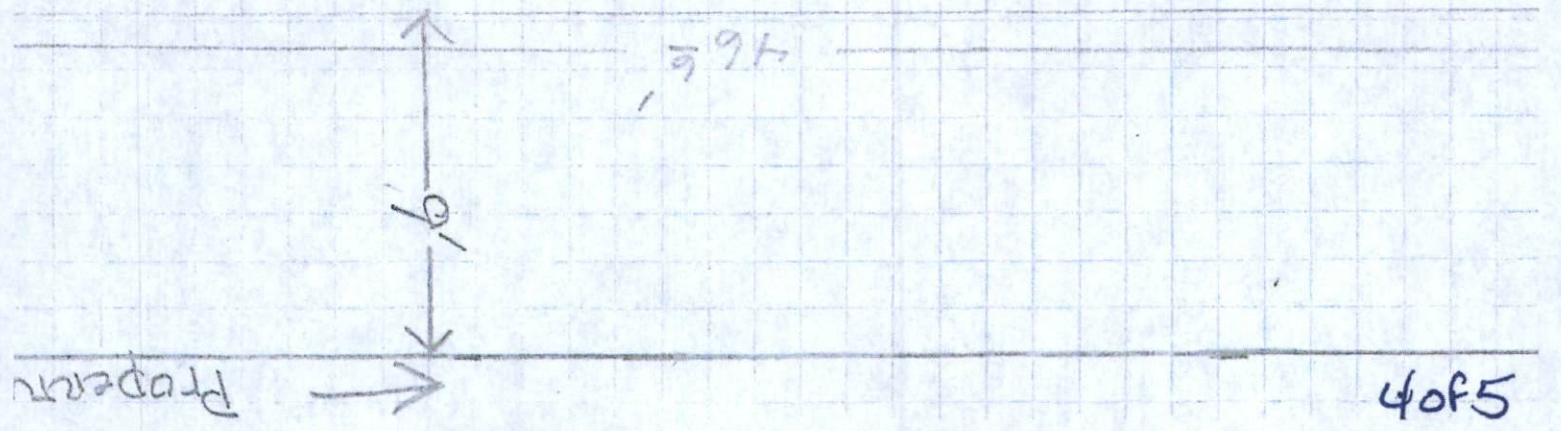
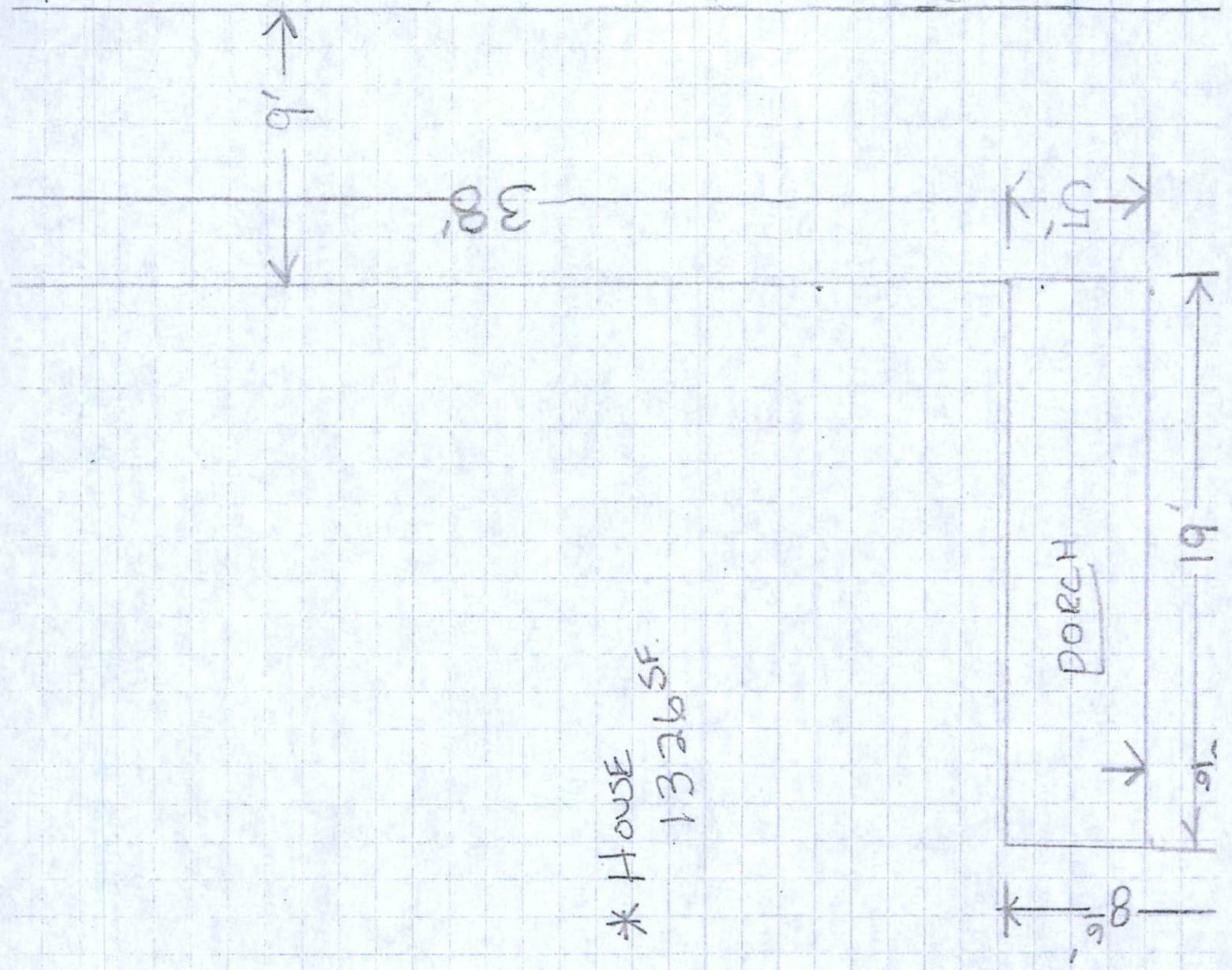


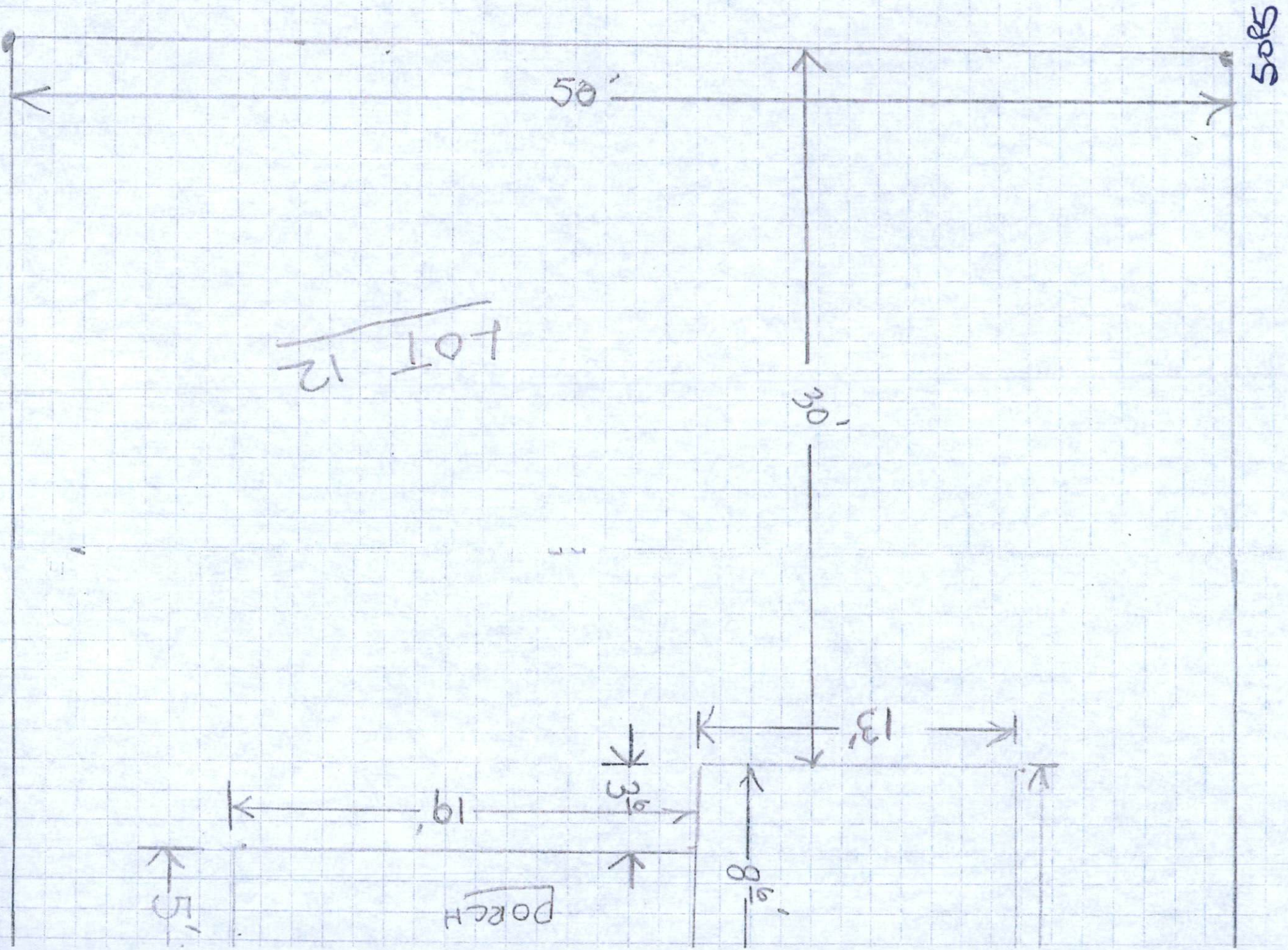
20h5

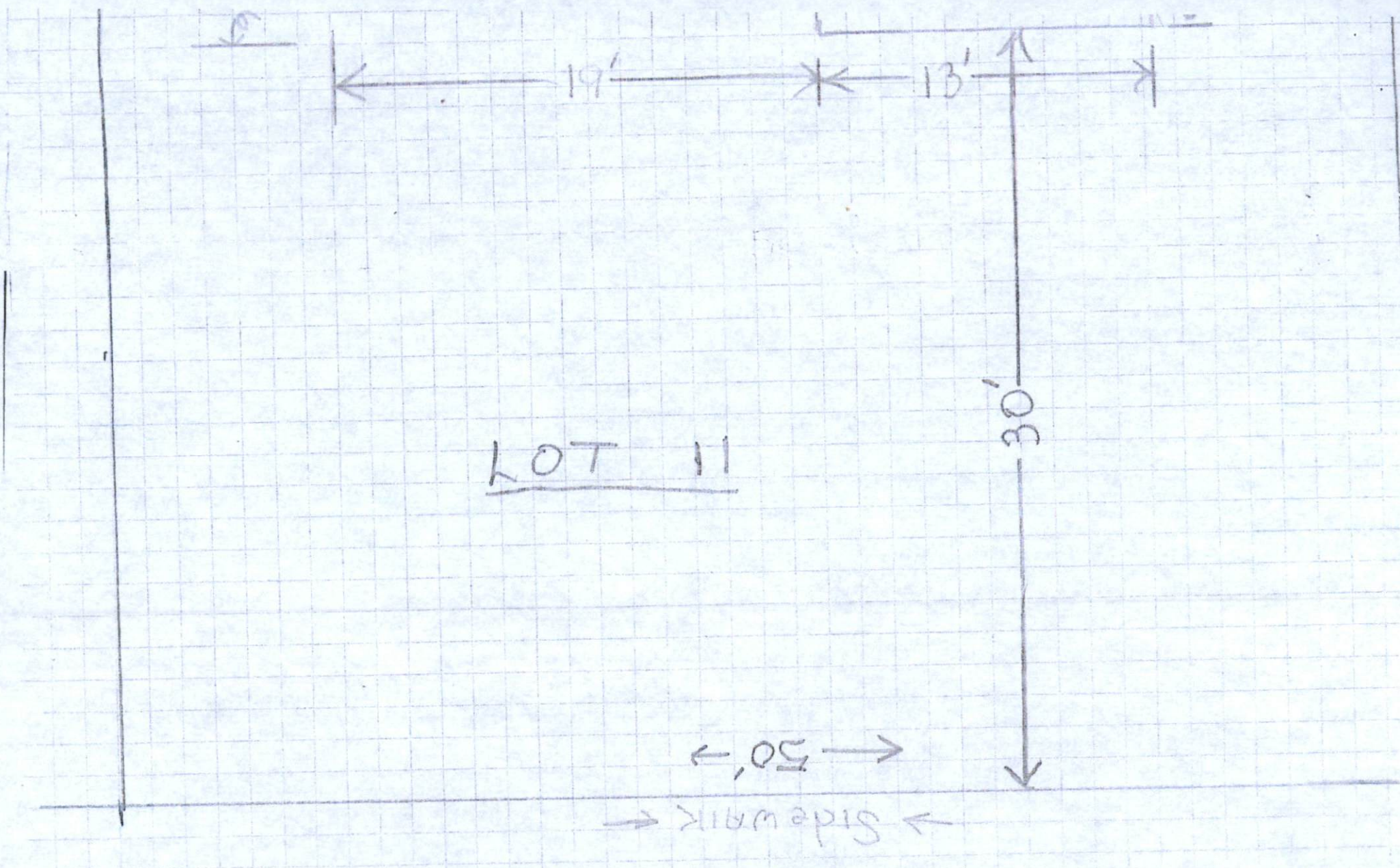
Garage

LINE 140' →









Set #2
1 of 5

Set #2
7 of 5

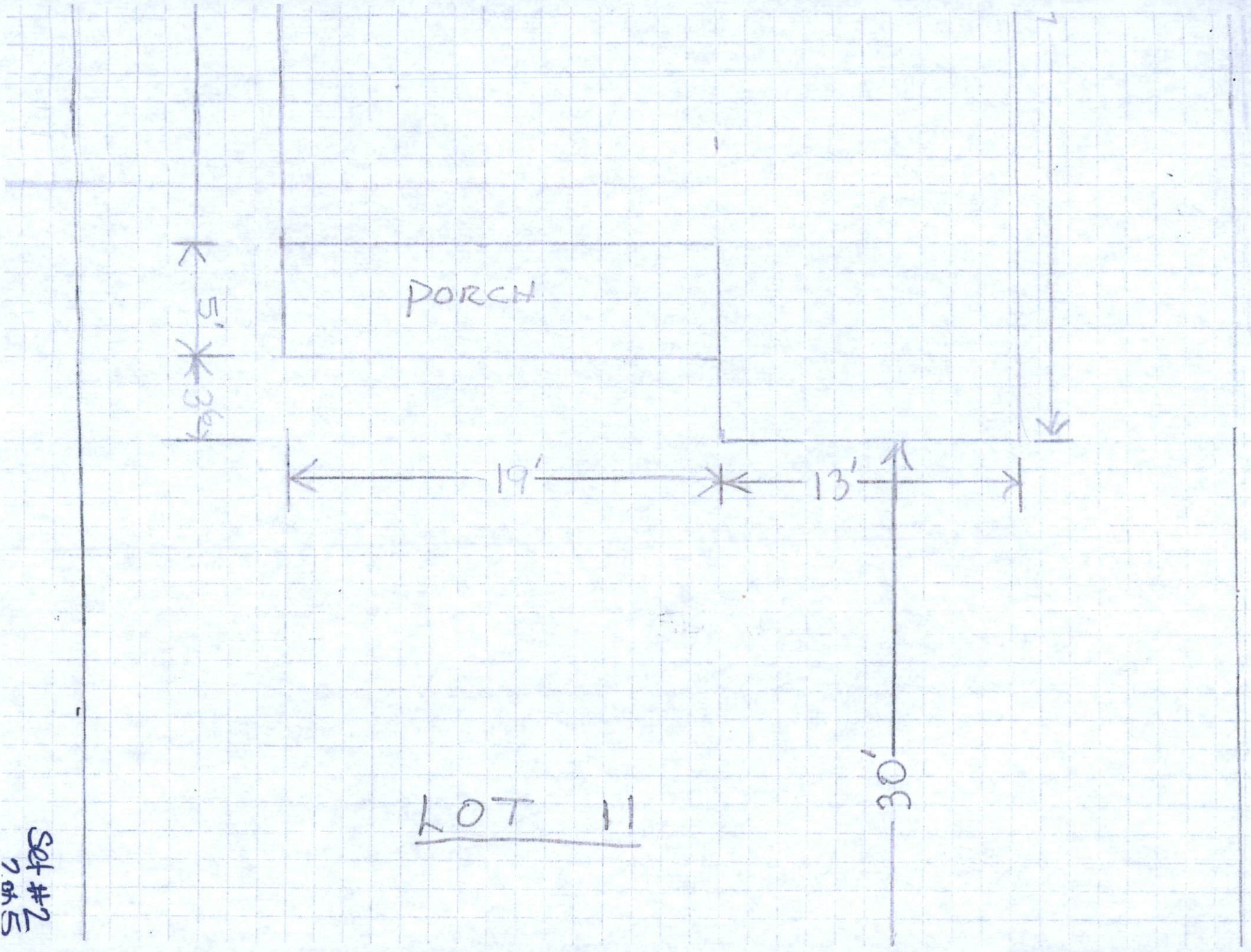
5'
3'

PORCH

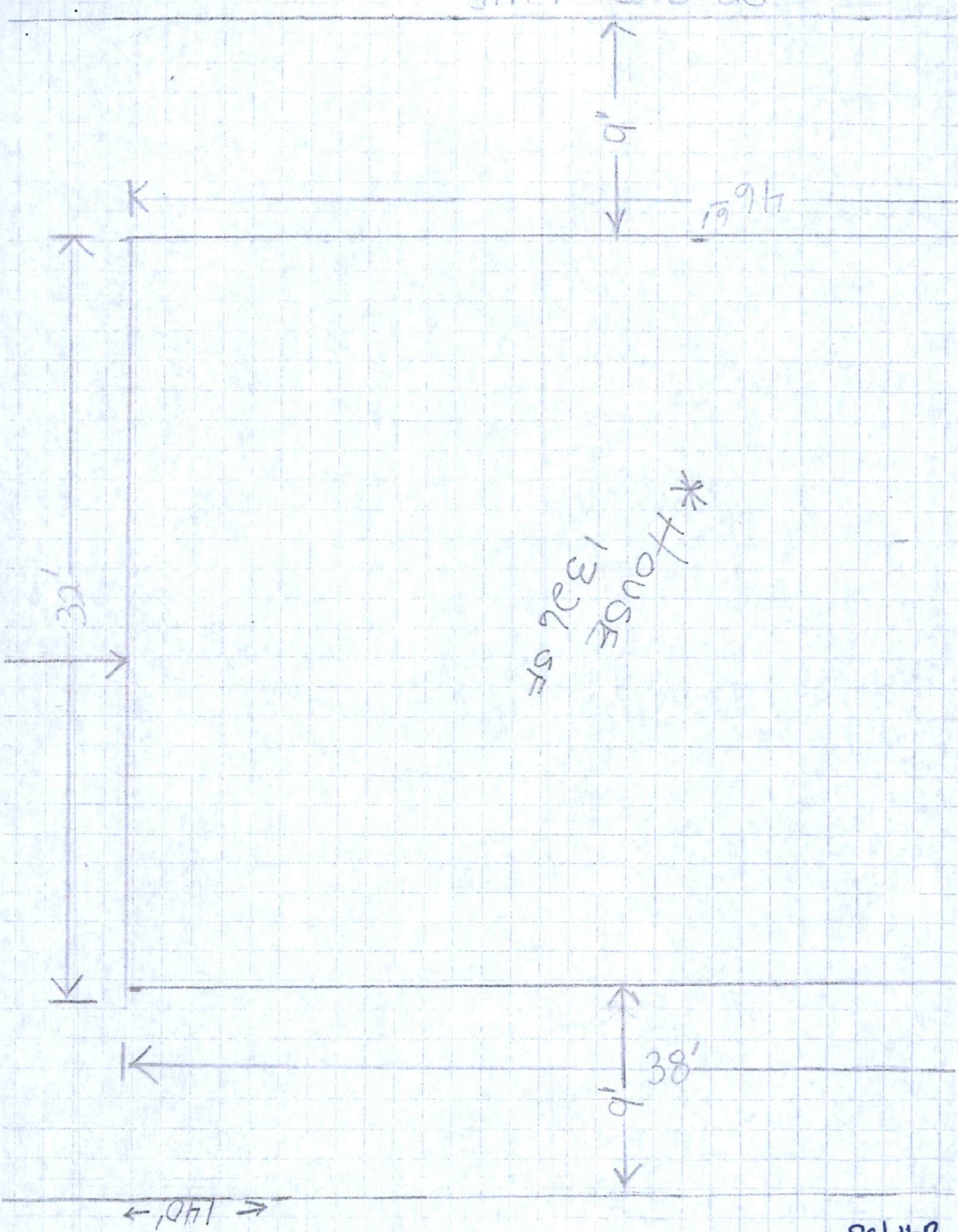
19' 13'

LOT 11

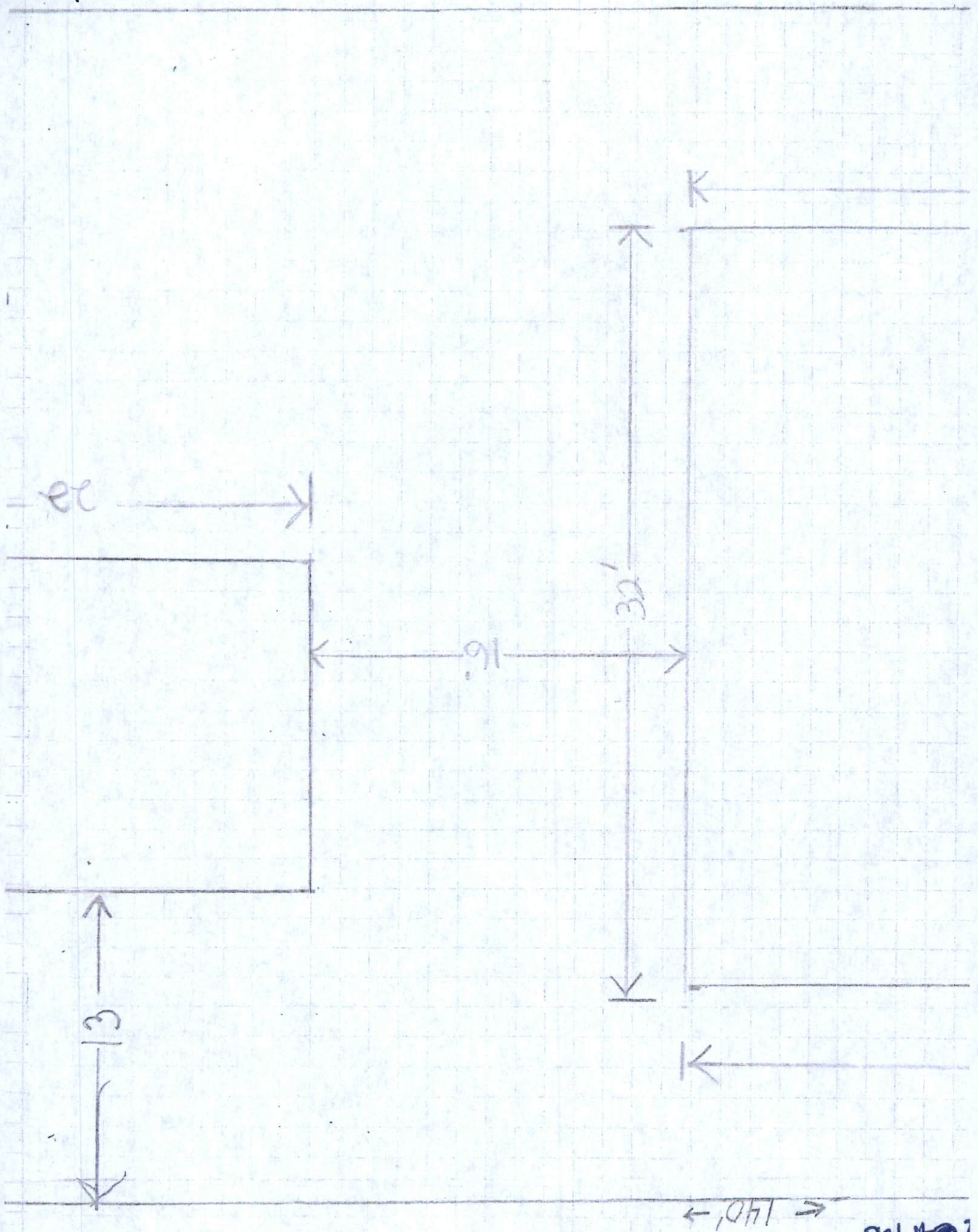
30'



DRY AREA 17116



Set #2
2005



Set #02
LINK

1" = 50'
JEFF PARRISH
SITE PLAN POND

25'

11'

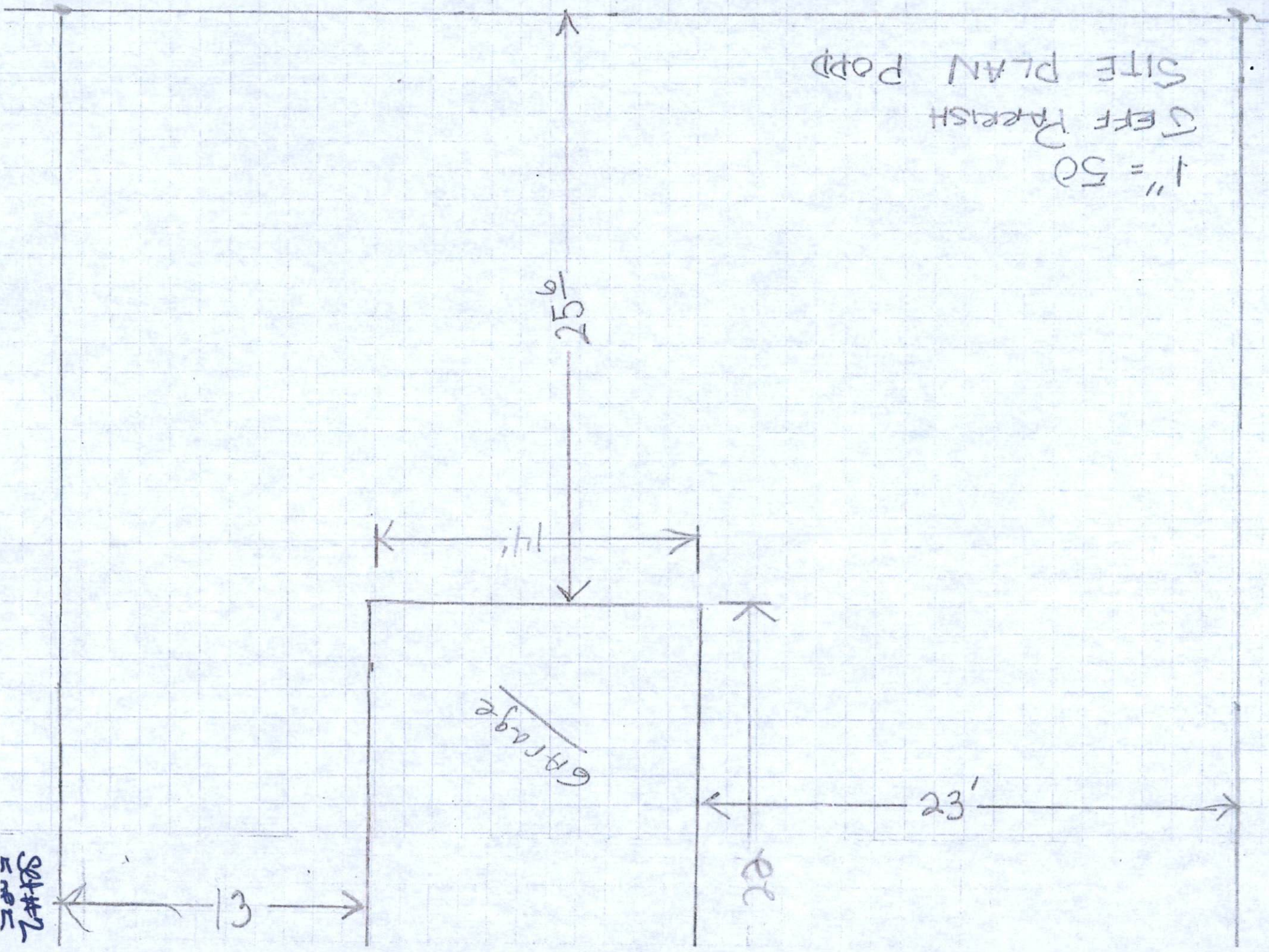
GARAGE

23'

ec

13

2#10s
2#10s





Town of Sellersburg
Board of Zoning Appeals
316 E Utica Street
Sellersburg, IN 47172

Docket Number: 2020-DV-07-010

Date: August 17, 2020

Finding of Fact for Developmental Standards Variance from the Town of Sellersburg Zoning Ordinance

Developmental Standards Variance from Section 2.2.3 of the Sellersburg Zoning Ordinance to permit development on Lot 11, Dold-Popp Addition without the required road frontage, lot wide and lot area.

1.) The approval **will not** be injurious to the public health, safety, morals, and general welfare of the community because:

Dold-Popp Addition was platted with size lot prior to the current ordinance and this is only way to develop.

Motion made by Francis Conroy and seconded by Evan Brown. Motion carried 4 - 1

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 because:

The proposed development will improve the neighborhood.

Motion made by Francis Conroy and seconded by Mark Brown. Motion carried 5 - 0

3.) The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property:

Property platted with small lots before adoption of current ordinance and the development would be an improvement to the neighborhood.

Motion made by Francis Conroy and seconded by Dennis Amos. Motion carried 5 -0

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

JAMIE
AS D11

Petition #: 2020-DV-07-011

Hearing Date: July 20, 2020

By Petitioner(s): Jeff Parrish

Concerning DEVELOPMENT STANDARDS Variance at the address of: 215 Popp Avenue Lot 12

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion Francis Conway Second Mark Tolliver

Yea 4 Nay 1 Abstain Pass/Fail-Yes/No yes

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion Mark Tolliver Second Francis Conway

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No yes

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion Francis Conway Second Dennis Amos

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No yes

4. Motion to approve any special conditions.

Motion _____ Second _____

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No YES

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # 2020-DV-07-011

Approved Denied

Special Conditions:

1. LIP within 1 year

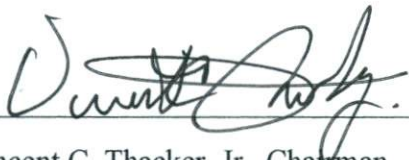
2020-DV-07-010 and 2020-DV-07-011

Consolidated into one vote

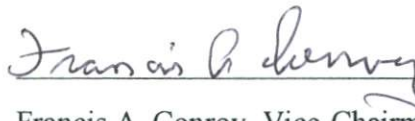
Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Signature Page – Petition # 2020-DV-07-011

Signed this 20th day of July, 2020



Vincent C. Thacker, Jr., Chairman



Francis A. Conroy, Vice-Chairman



Mark Tolliver, Member

Dennis V. Amos, Member



Evan Brown, Member



Attest:



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DATE:	July 11, 2020
DOCKET NUMBER:	2020-DV-07- 010 011
APPLICANT:	Jeff Parrish
OWNER:	Jeff Parrish
ADDRESS OF SUBJECT PROPERTY OF VARIANCE	215 Popp Avenue
LEGAL DESCRIPTION	Lot 12, Dold-Popp Addition
VARIANCE REQUESTED:	Required lot width and lot area
CURRENT ZONING:	R-1 – Single Family Residential
COUNCIL DISTRICT:	Brad Amos – District 3

Information:

Applicant is requesting a Developmental Standards Variance from the required minimum lot width and lot area for property zoned R-1, Single Family Residential.

Sellersburg Zoning Ordinance Section 2.2.3 Area – states: Every lot upon which a structure is hereafter erected shall front onto a dedicated street or public right-of-way and shall conform to the following minimum lot area and width requirements.

(1) Residential Use

(a) The lot area for residential uses shall be a minimum of seven thousand two hundred (7,200) square feet with a minimum width of sixty (60) feet; and there shall not be less than 7,200 square feet of lot area per dwelling unit (i.e., a maximum density of 6.05 dwelling units per acre of lot area.

NOTE: Clark County GIS (Elevate) indicate a single-family dwelling and Google Maps/Earth indicate a single family dwelling and accessory structure. Mr. Parrish's application state property is vacant.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

The subject property, Lot 12, Dold & Popp Addition was platted in 1888 with lot width of 50-feet x 140-feet for a lot area of 7,000 square feet. The Lot as platted is 10-feet deficient in width and 200 square feet deficient in lot area. By the Sellersburg Zoning Ordinance definition of a Nonconforming Lot, Lot 12 Dold & Popp Addition is a legal existing nonconforming lot.

In verbal discussion with Mr. Parrish, Mr. Parrish intends is to construct a single-family dwelling on lot 12 Dold-Popp Addition.

Finding of Fact:

In accordance with the requirements set out in the Indiana Code the Board of Zoning Appeals will need to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5 states:

(a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (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; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

Applicant's Finding of Fact:

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

Applicant states: These are existing lots. Been platted long time.

Staff: The Applicant has not provided supporting written information as to how the lot width less than 60-feet or lot area less than 7,200 square feet will not be injurious to the public health, safety, morals, and general welfare of the community.

The Board will need to consider if the lot width of 50-feet or lot area of 7,000 square feet will cause a potential harm to the town – why or why not and what harm could befall.

(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,

Applicant states: This is not going to affect value because lot on street are 50'.

Staff: Dold-Popp Addition as platted in 1888 lots on the East side of Popp Street are platted 50-feet in width and 140-feet in length for a lot area of 7,000 square feet. The recorded plat for Dold-Popp Addition supports the Applicant's states that all lots are 50-feet in width.

The Applicant did not address adjacent lots are of the same lot area. The Board should consider whether adjacent property will suffer any major negative impact and what impact adjacent property realistically expect.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant states: Yes, and further states: Because they were lots at 50-feet platted at 7,000 SF

Staff: The Applicant states the Zoning Ordinance result in the difficulty of his to use the lot. This is a legally exiting non-conforming lot, as the subdivision was platted in 1888 which would have been the standard width and potentially same situation for lot area.

Site



Clark County GIS - Elevate

Site



Google Maps

Site

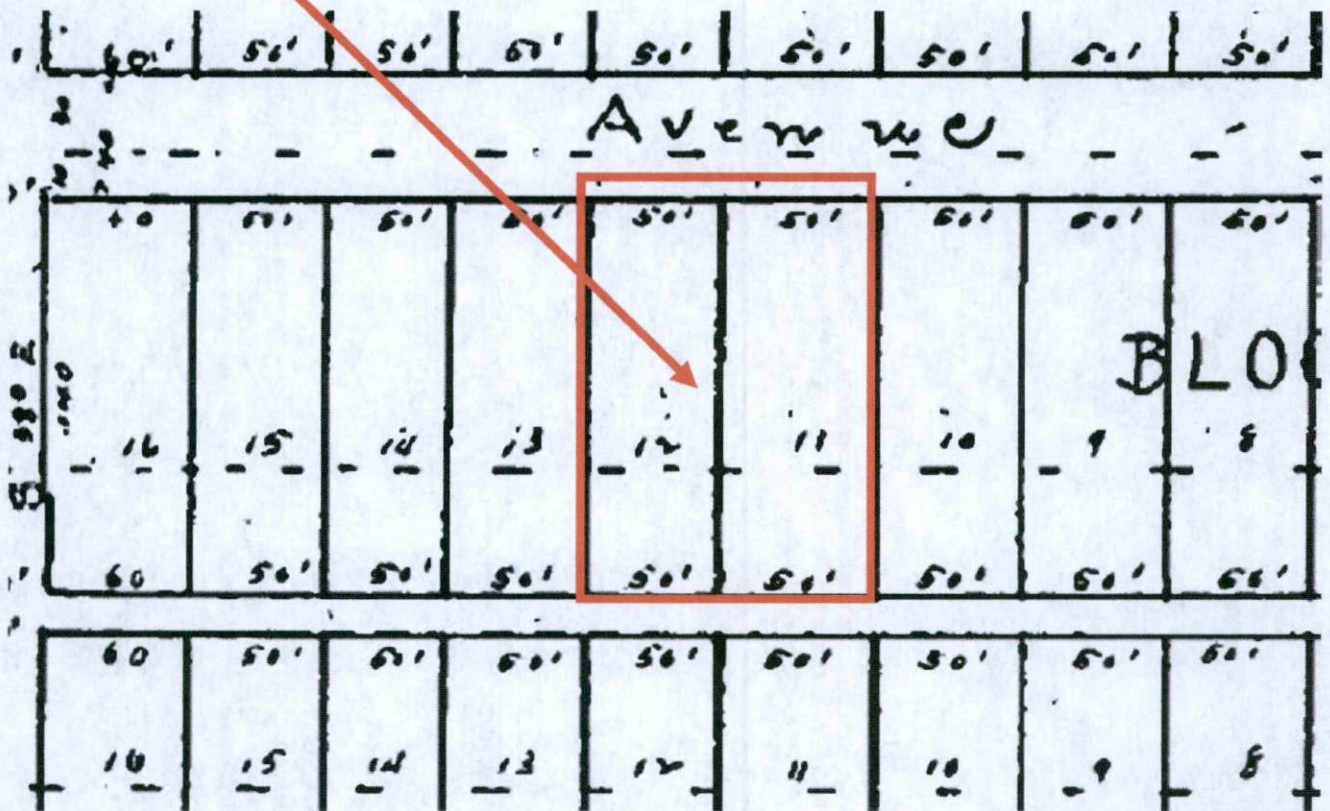


Image from Dold & Popp Addition Platt - 1888

Town of Sellersburg, Indiana
Board of Zoning Appeals
Application for a Variance of Development Standards

Applicant Information

Name: JEFF PARRISH

Mailing Address: 4818 UPPER RIVER RD
Street Number/P.O. Box Number Street

UTICA IN 47130
City State Zip

Email address: PARRISJE@ATTNET Phone Number: 1-502-295-1597

Owner Information ("owner is not a tenant or contract buyer")

Name: _____

Mailing Address: _____
Street Number/P.O. Box Number Street

City _____ State _____ Zip _____

Email address: _____ Phone Number: _____

Property Information:

Address or location of the property subject to this application:

215 POPP AVE DOLD AVE
Street Numbers Closest Cross Street

Lot Size: 100x140 @ LOTS 11, 12 EACH 50x140'

Current Use of Property: VACANT

Describe the variance requested: (1) LOT SIZE (2) NOT 60 wide

Check Developmental Standards Variance Requested:

- | | | | |
|---|---|--|---|
| <input type="checkbox"/> Building Setback | <input type="checkbox"/> Building Height | <input checked="" type="checkbox"/> Lot Coverage | <input checked="" type="checkbox"/> Lot Width |
| <input type="checkbox"/> Lot Area | <input type="checkbox"/> Sight Visibility | <input type="checkbox"/> Entrance/Drive | <input type="checkbox"/> Landscaping |
| <input type="checkbox"/> Parking | <input type="checkbox"/> Loading Area | <input type="checkbox"/> Sign | <input type="checkbox"/> Exterior Lighting |

Other: _____

**DEVELOPMENT STANDARDS VARIANCE CRITERIA
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

- (1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: THESE ARE 6X125 FT LOTS BEEN PLATTED LONG TIME
- (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: THIS NOT GOING TO AFFECT VALUE BECAUSE LOT ON STREET ARE 50'
- (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: YES BECAUSE THEY WERE LOTS AT 50 FT. PLATTED AT 7000 SF

Applicant's Signature

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

Jeffrey E. Parrish
Applicant Signature

5/21/20
Date

JEFFREY E. PARRISH
Printed Applicant Name

Jeff Parrish

6/10/20

State of Indiana)
County of Clark)SS

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared JEFF PATRIST, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

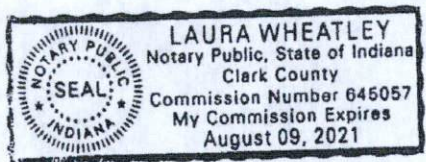
Witness my hand and Notarial Seal, this this 6th day of June, 2020

My Commission Expires:
08.09.2021

Laura Wheatley
Notary Public

Resident Clark County, Indiana

Laura Wheatley
Printed Name



Office Use:

Date Completed Application Received: 6 / 22 / 2020
Petition Application Fee of \$ _____ Received: ___/___/___
Docket Number: 2020-DV-07-010 (Lot 12)
Current Zoning Classification: R1
Zoning Ordinance Section applicable to variance application: 2.2.3 - Area - including lot lot width
BZA Public Hearing Date: 7 / 20 / 2020
Adjacent Property Owners Notified via Certificate of Mailing: ___/___/___
Legal Ad Published: ___/___/___
Verified Posting of Hearing Sign: ___/___/___
Public Notice Posted at Town Hall ___/___/___

Notary

AFFIDAVIT AND CONSENT OF PROPERTY OWNER
Application to the Sellersburg Board of Zoning Appeals

I, JEFF PARRISH, AFTER BEING DULY SWORN, DEPOSE
AND STATE THE FOLLOWING:

1. That I am the owner of real estate located at: 215 Popp Ave

2. That I have no objection to, and consent to the request(s) described in the application made to the Sellersburg Board of Zoning Appeals.

JEFFREY E PARRISH
Owner's Name (Printed)

Jeff E Parrish
Owner's Signature

State of Indiana)
County of Clark)SS

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Jeff Parrish, and acknowledge the execution of the foregoing *Affidavit and Consent* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 18th day of June, 2020

My Commission Expires:
08-09-2021

Laura Wheatley
Notary Public

Resident Clark County, Indiana

Laura Wheatley
Printed Name



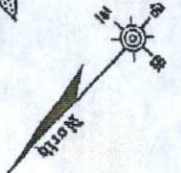
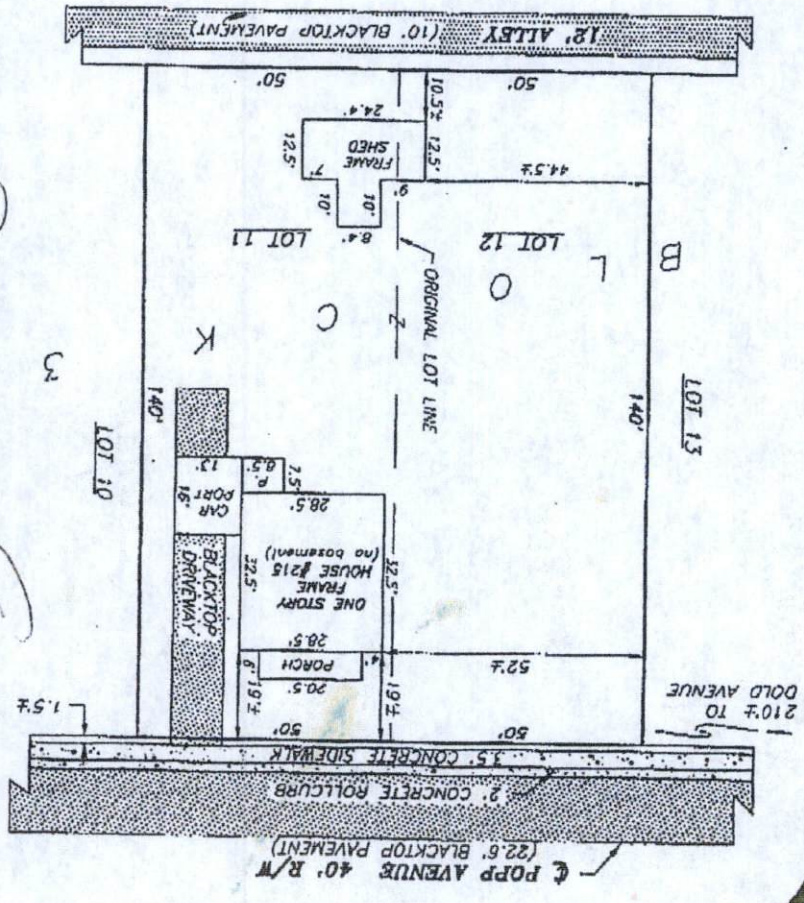
DRAWN BY: R.K.M.
 SCALE: 1" = 30 FEET
 DATE: 21 DECEMBER 1999
 JOB No. 15,435
 BLANKENBEKER & SON
 LAND SURVEYORS INC., P.C.
 422 NIGGS AVENUE P.O. BOX 157
 JEFFERSONVILLE, INDIANA 47131-0157
 TELEPHONE 818-282-4193
 FOR: VIRGIL BOLLY
 204 E. UTICA STREET
 SELLEBURG, IN 47172
 BUYER: MARY JANE SPENCER



I hereby declare that the real estate described hereon was inspected under my supervision on this date and that to the best of my knowledge and belief this report conforms with the requirements contained in sections 42 through 44 of BGS IAC 1-12 for a SURVEYOR LOCATION REPORT.
 The accuracy of the flood hazard statement shown on this report is subject to map scale uncertainty and to any other uncertainty in location or elevation on the referenced flood insurance rate map.
 If a more accurate survey is required a boundary survey must be ordered.
 Registered Land Surveyor No. 29800006
 Terry A. Kendall

THE PROPERTY SHOWN IS NOT LOCATED IN FLOOD ZONE A OR B ACCORDING TO FLOOD MAP NUMBER 180028 0001 B, DATED AUGUST 1, 1980.
 SURVEYORS LOCATION REPORT OF LOTS 11 AND 12 IN BLOCK 3 OF EDWARD DOLD AND MAGDALENA POPPS ADDITION TO SELLEBURG AS SHOWN IN PLAT BOOK 3, PAGE 70 OF THE CLARK COUNTY, INDIANA RECORDS AND BEING SITUATED AT 215 POPP AVENUE.

Parrish
 Jeff
 for
 Mary Bolly
 (copy)
 5-3-14
 Pickenill



SURVEYORS LOCATION REPORT (MORTGAGE INSPECTION)
 This report is designed for use by a title insurance company with confidential loan policies. NO CORNER MARKERS WERE SET and the location data herein is based on limited accuracy measurements therefore, no liability will be assumed for any use of this data for construction of new improvements, establishing boundaries or fences.

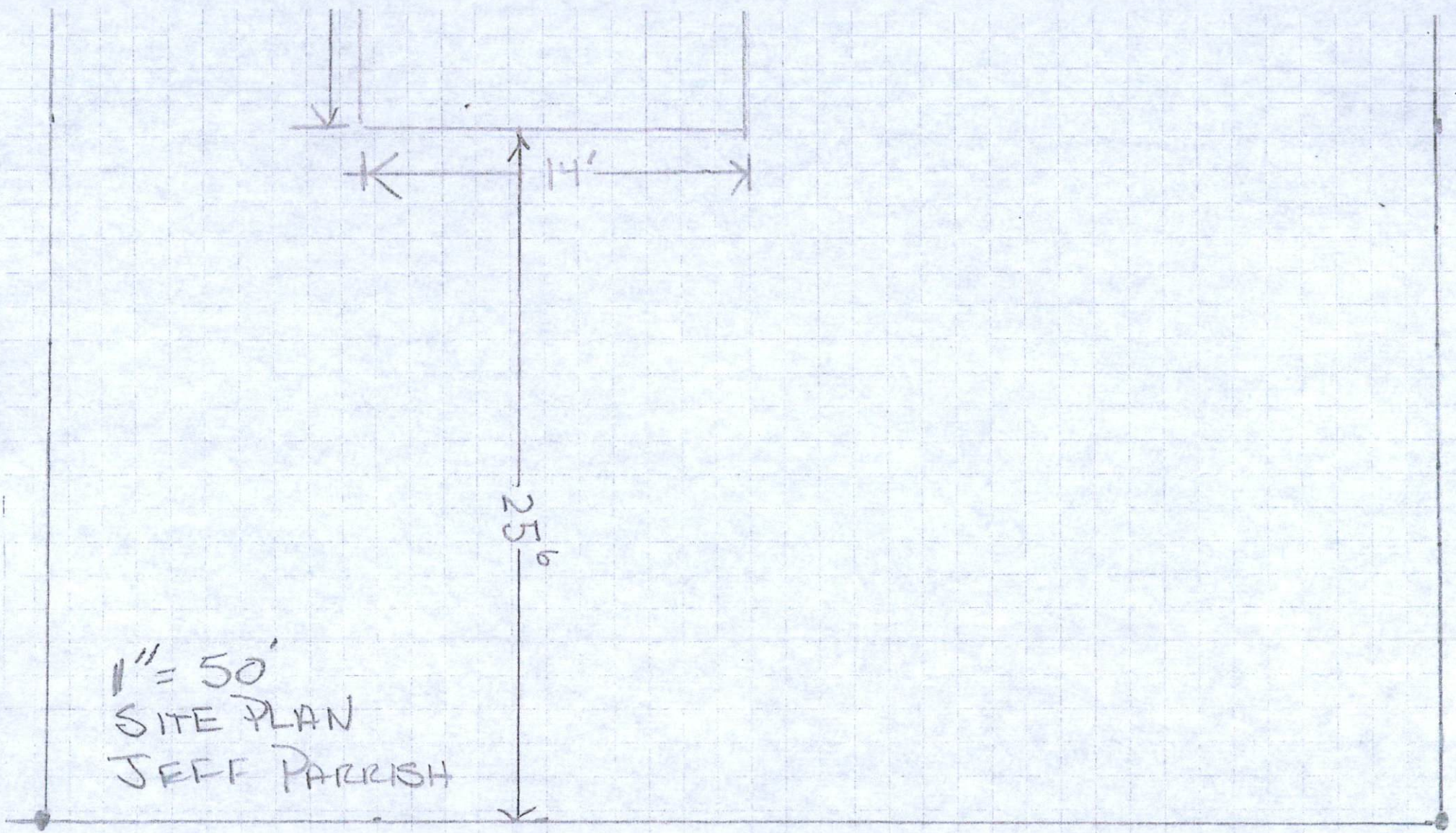
1065

1" = 50'
SITE PLAN
JEFF PARRISH

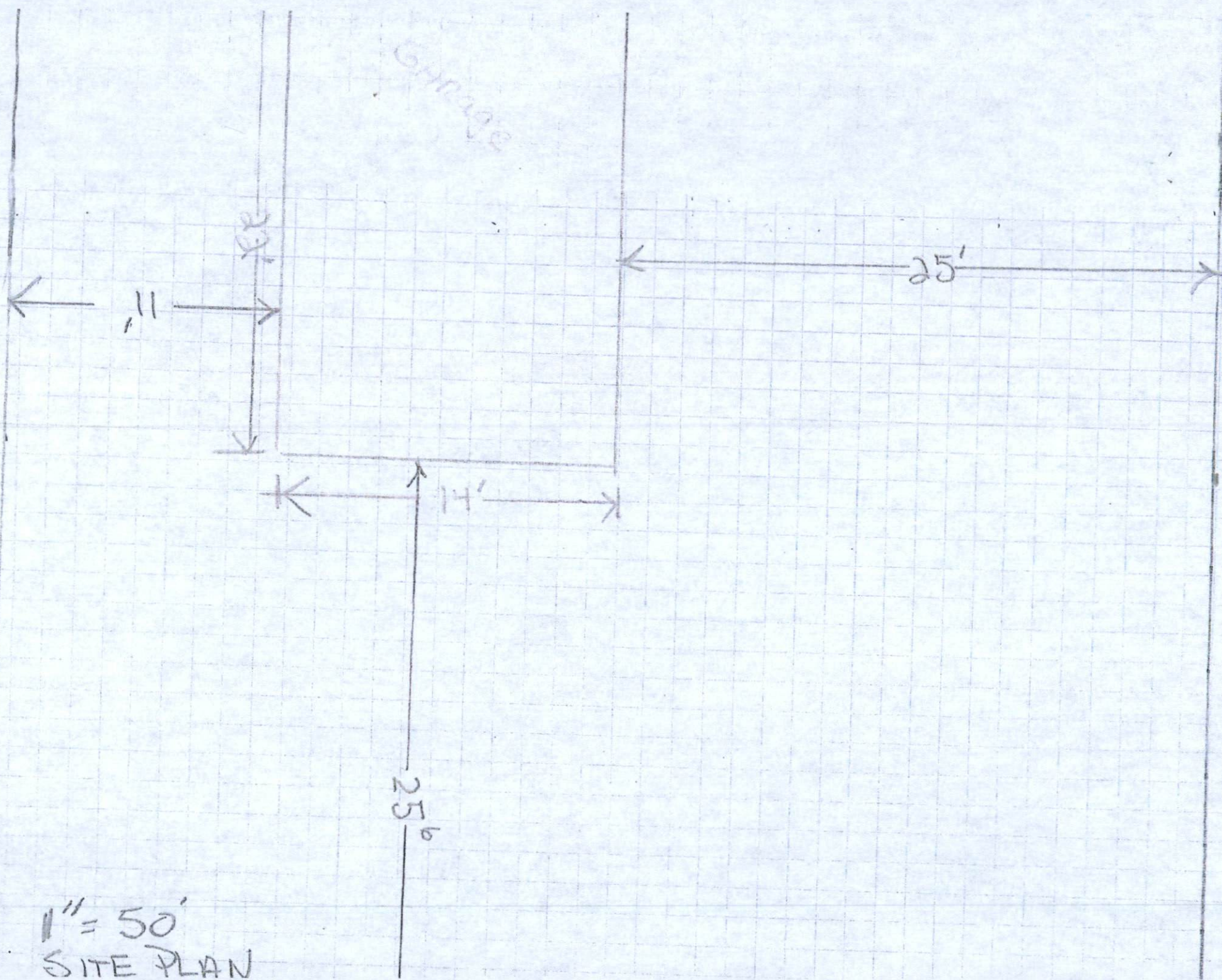
25'

ALLEY

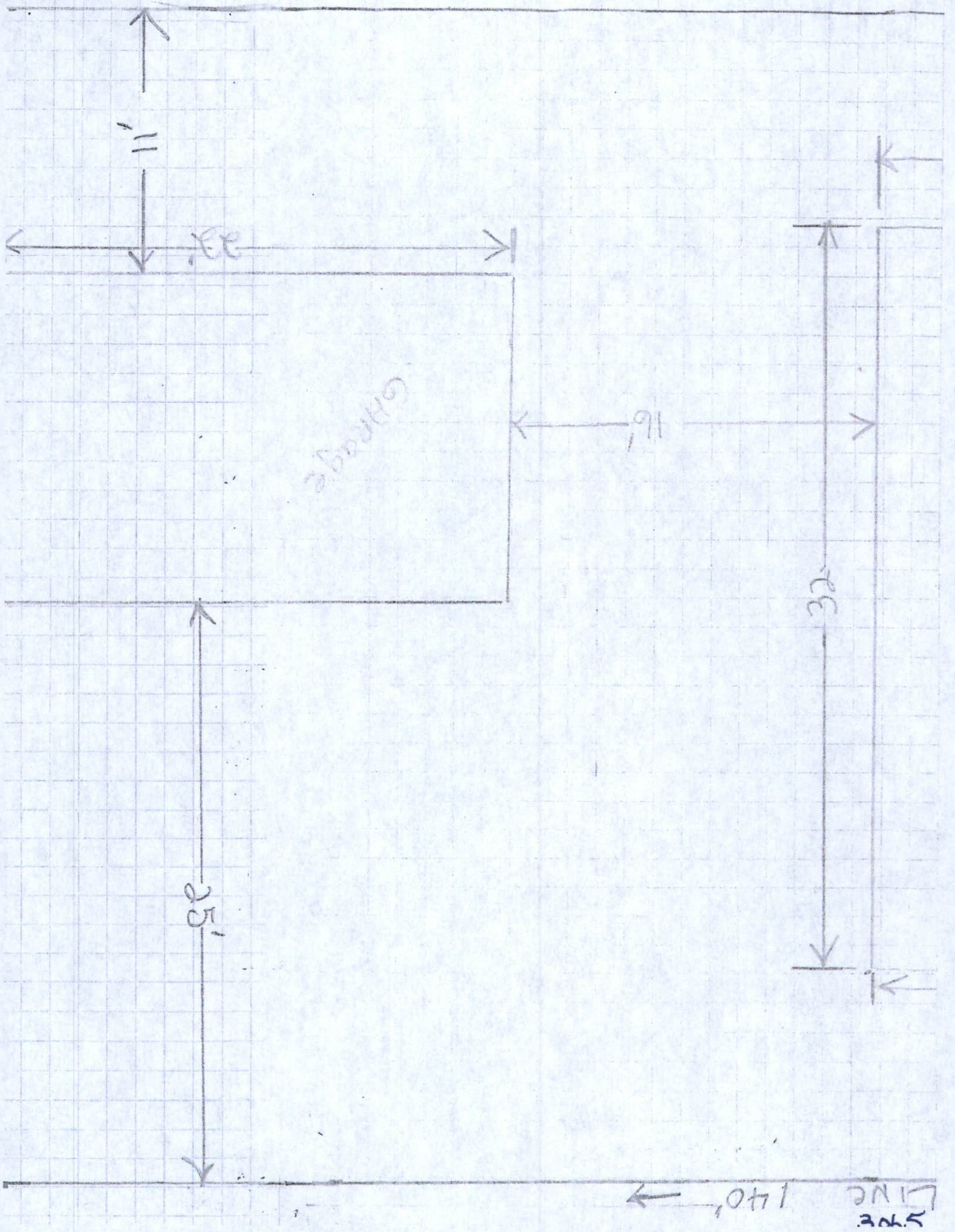
14'

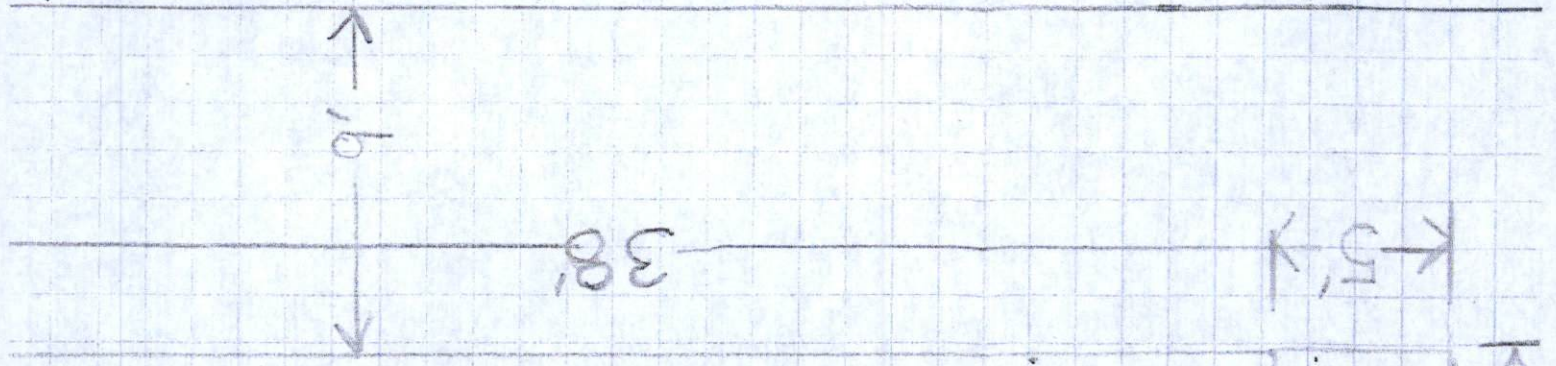


Garage

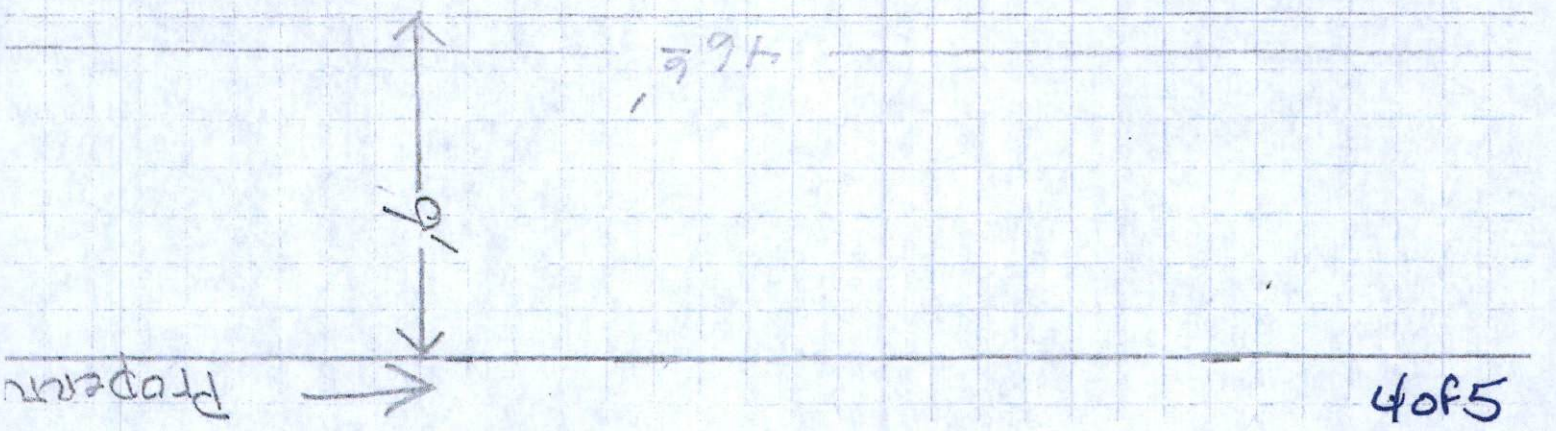
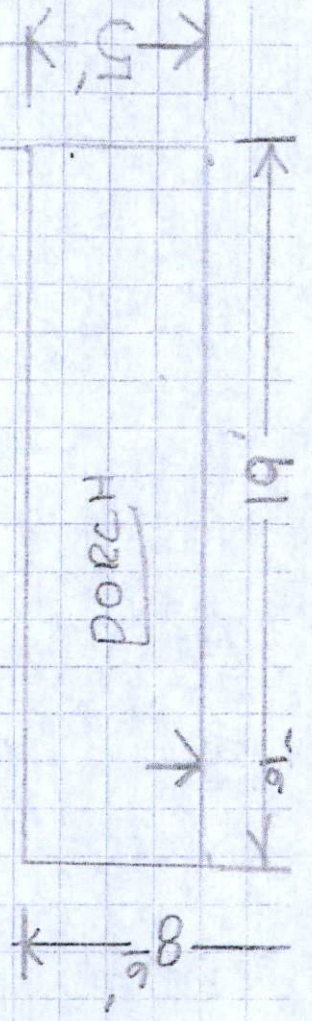


1" = 50'
SITE PLAN





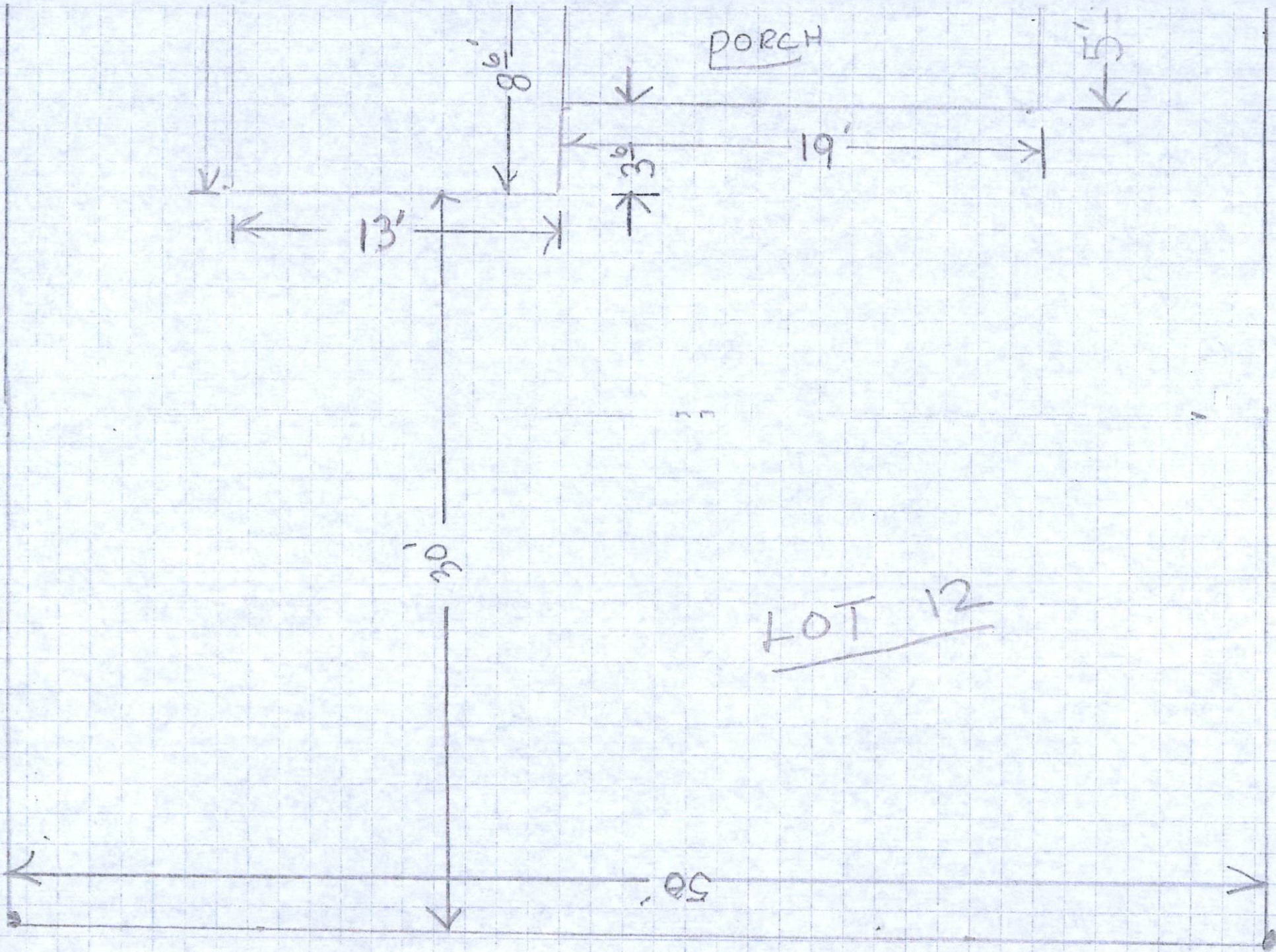
* House
1326 SF.



Property

5405

50'5"



LOT 12

PORCH

13'

19'

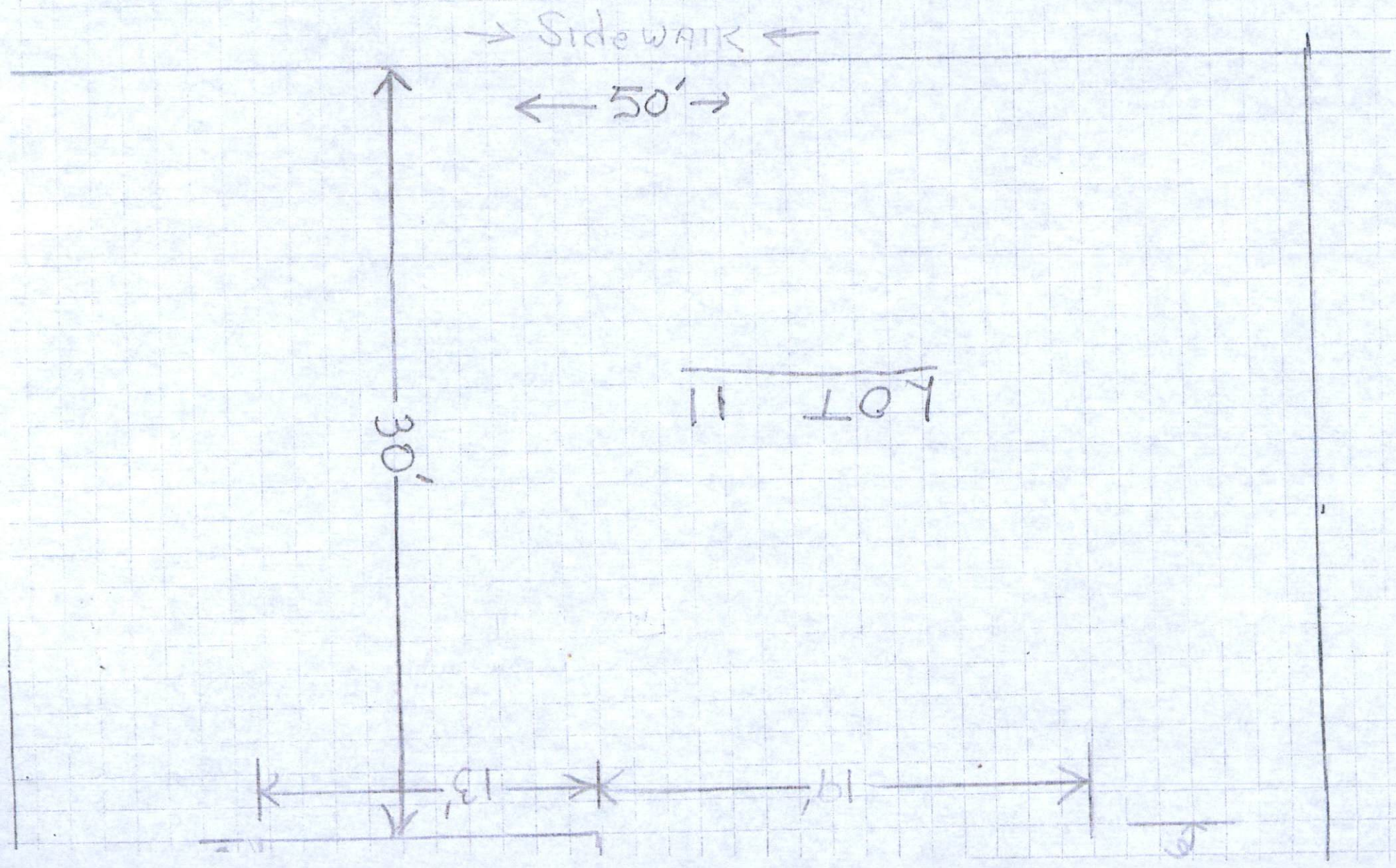
8'

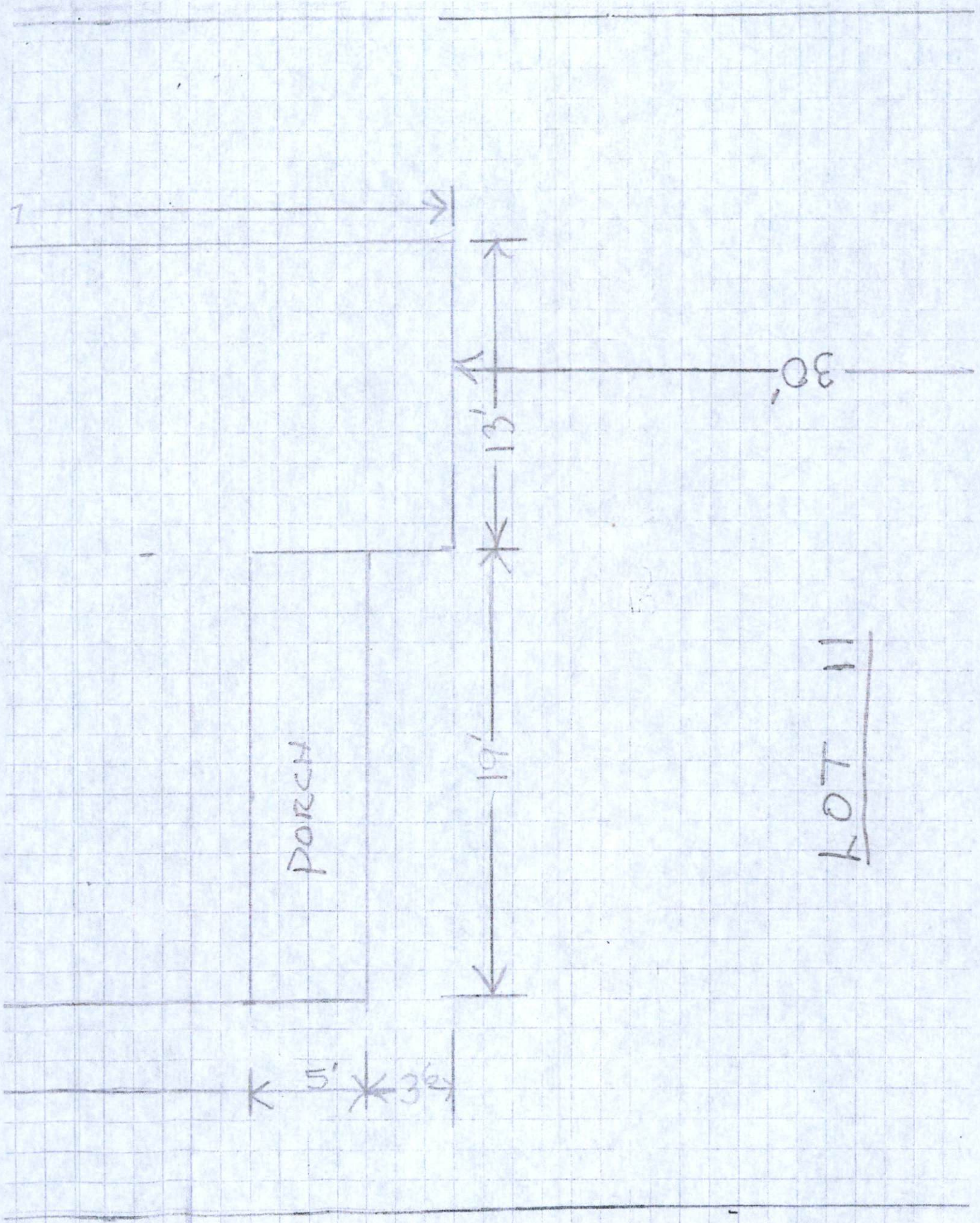
3'6"

30'

50'5"

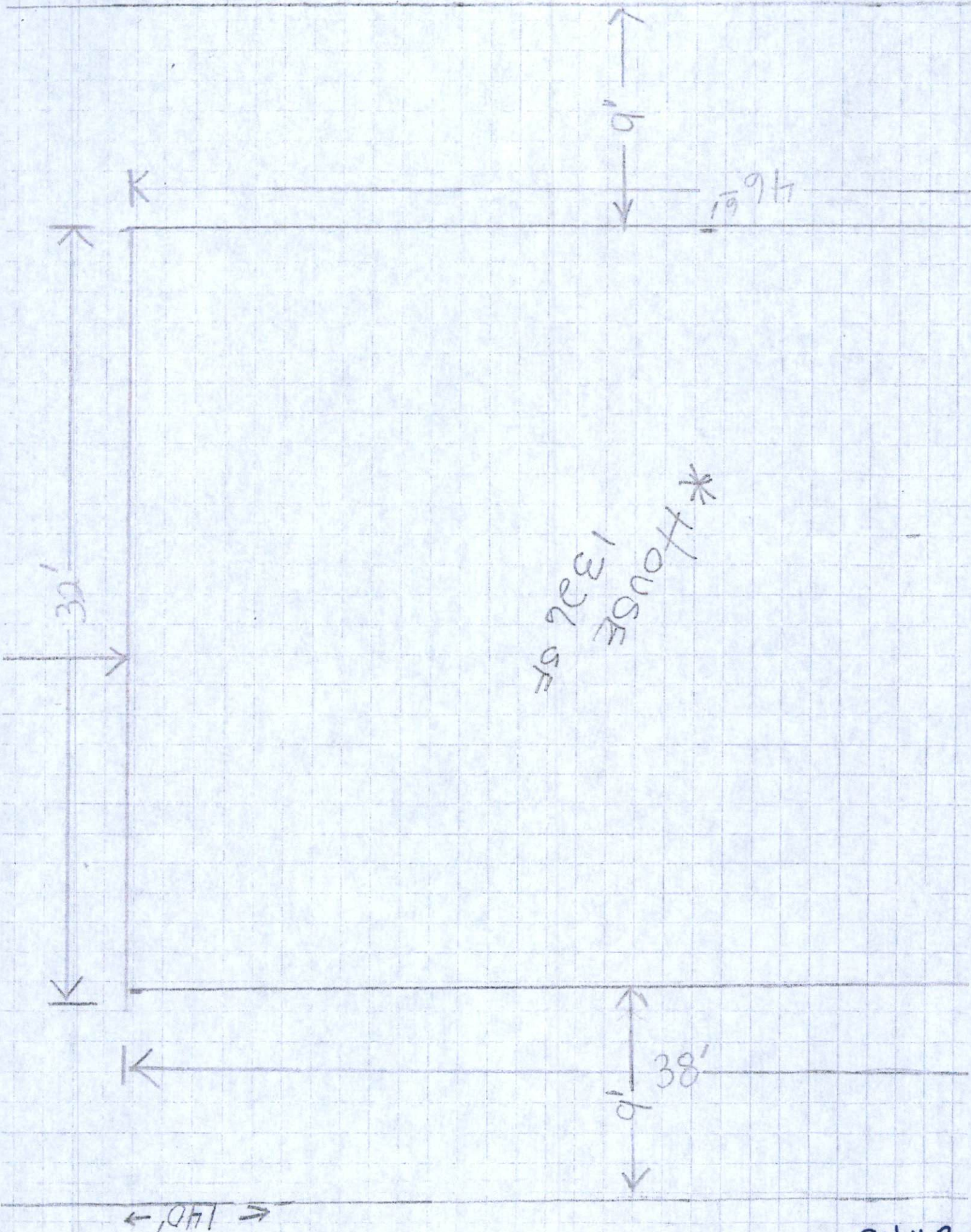
5'



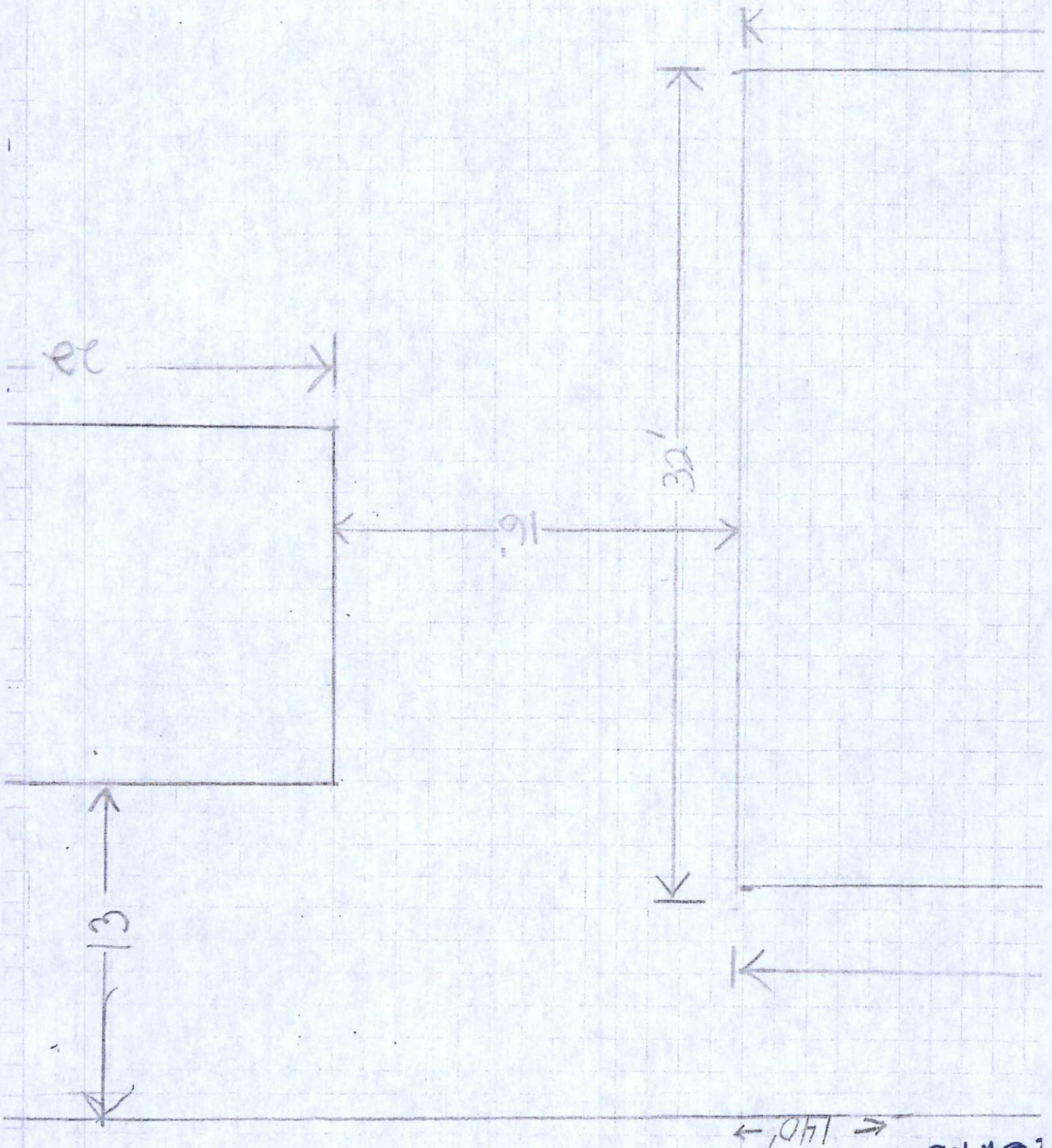


LOT 11

DRY WASH LINE

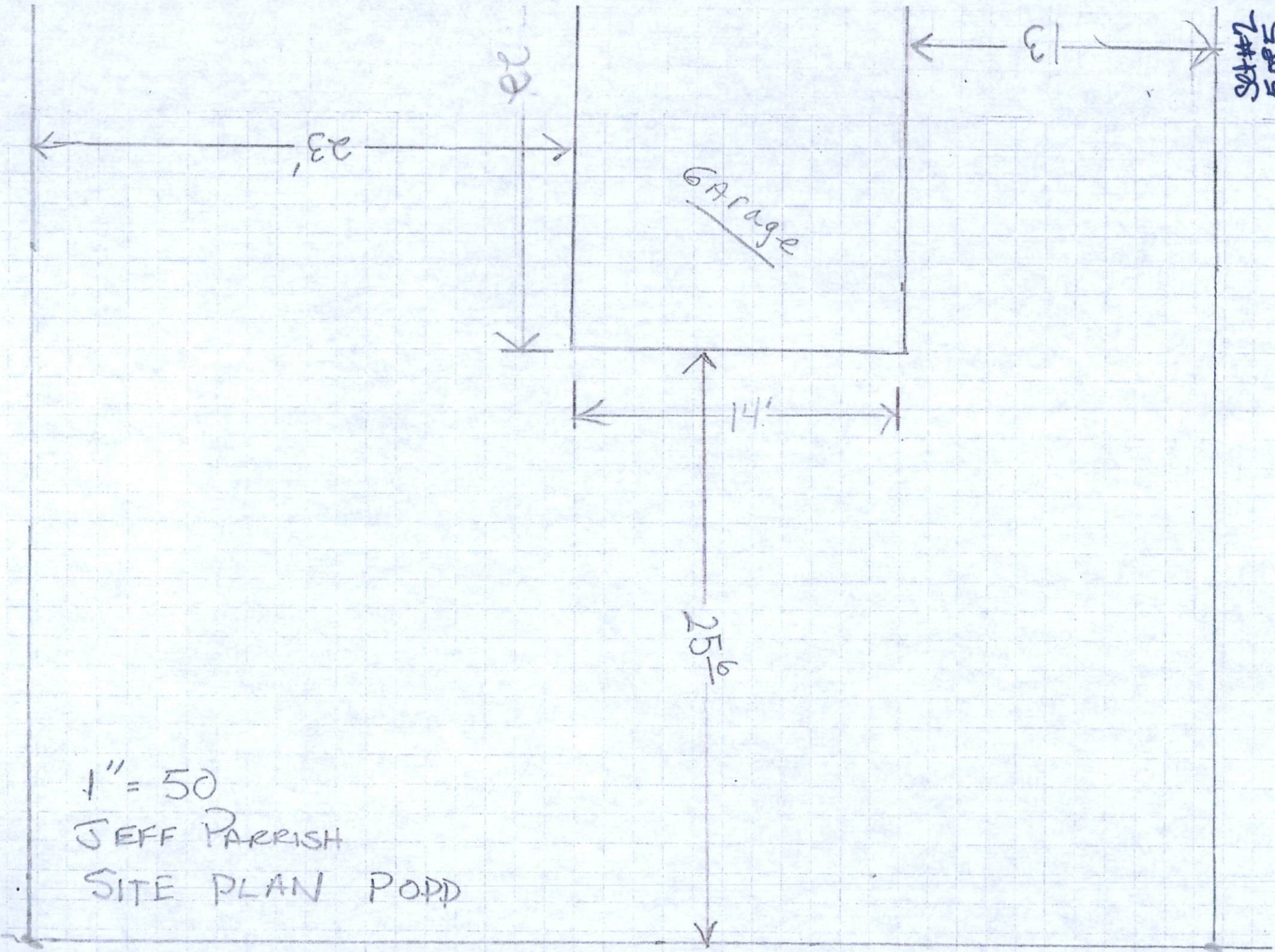


Set #2
2005



Set #02
L100K

JEFF PARRISH



1" = 50'

JEFF PARRISH

SITE PLAN POPD



Town of Sellersburg
Board of Zoning Appeals
316 E Utica Street
Sellersburg, IN 47172

Docket Number: 2020-DV-07-011

Date: August 17, 2020

Finding of Fact for Developmental Standards Variance from the Town of Sellersburg Zoning Ordinance

Developmental Standards Variance from Section 2.2.3 of the Sellersburg Zoning Ordinance to permit development on Lot 12, Dold-Popp Addition without the required road frontage, lot wide and lot area.

1.) The approval **will not** be injurious to the public health, safety, morals, and general welfare of the community because:

Dold-Popp Addition was platted with size lot prior to the current ordinance and this is only way to develop.

Motion made by Francis Conroy and seconded by Evan Brown. Motion carried 4 - 1

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 because:

The proposed development will improve the neighborhood.

Motion made by Francis Conroy and seconded by Mark Brown. Motion carried 5 - 0

3.) The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property:

Property platted with small lots before adoption of current ordinance and the development would be an improvement to the neighborhood.

Motion made by Francis Conroy and seconded by Dennis Amos. Motion carried 5 - 0

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Petition #: 2020-DV-07-012

Hearing Date: July 20, 2020

By Petitioner(s): Anthony & Keri Westmoreland

Concerning DEVELOPMENT STANDARDS Variance at the address of: 12307 Hummingbird Way

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion Evan Brown Second Francis Conroy *is safety improvement*

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No YES

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion Evan Brown Second Mark Joliver *clearly improve values*

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No YES

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion Evan Brown Second Mark Joliver *size of lot..*

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No YES

4. Motion to approve any special conditions.

Motion Mark Joliver Second Evan Brown

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No yes

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # 2020-DV-07-012

Approved Denied

Special Conditions:

- 1. Security Upgrades
- 2. LIP in 1 year

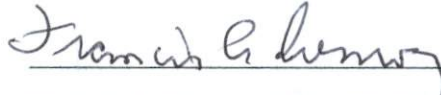
Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Signature Page – Petition # 2020-DV-07-012

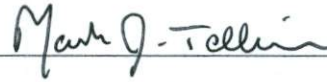
Signed this 20th day of July, 2020



Vincent C. Thacker, Jr., Chairman



Francis A. Conroy, Vice-Chairman



Mark Tolliver, Member



Evan Brown, Member



Attest:

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Findings of Facts

Petition # 2020-DV-07-012

This petition was approved or denied because:

Approval Findings of Fact: Motion By: _____

Seconded By: _____

Yea Nay Abstain Pass/Fail-Yes/No _____

Signed this _____ day of _____, _____

Vincent C. Thacker, Jr., Chairman

Francis A. Conroy, Vice-Chairman

Dennis V. Amos, Member

Mark Tolliver, Member

Evan Brown, Member

Attest:



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DATE:	7/11/2020
DOCKET NUMBER:	2020-DV-07 011 012
APPLICANT:	Anthony & Keri Westmoreland
OWNER:	Anthony & Keri Westmoreland
LOCATION OF SUBJECT PROPERTY OF VARIANCE	12307 Hummingbird Way
LEGAL DESCRIPTION (Lot 110, Covered Bridge Subdivision
VARIANCE REQUESTED:	Section 1.24 (1) Reduction in required swimming pool side yard setback 6-feet to 5-feet (2) Reduction is the required 10-foot setbacks main structure to the swimming pool
CURRENT ZONING:	R-1 – Single Family
COUNCIL DISTRICT:	Scott McVoy– District 1

Information:

Developmental Standard Variance 1 - Applicant is requesting a Developmental Standards Variance to reduce the required side yard setback of 6-feet to 5-feet for a swimming pool to a side yard property line

Developmental Standard Variance 2 – Applicant is requesting to a Developmental Standards Variance to reduce the required setback of 10-feet between the main structure (single family dwelling) to the swimming pool (accessory structure). The Applicant has not provided the requested distance reduction from the 10-feet required. The site plan submitted indicate a portion of the proposed swimming pool is to be provided with the required 10-foot setback.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

Sellersburg Zoning Ordinance:

Section 1.24 - Accessory Uses and Structures

(1) All accessory uses must meet the following requirements:

(c) All residential accessory structures and uses in a rear or side yard, not attached to or part of the main structure or use, shall be located at least five feet from any lot line, at least fifteen feet from any street line, at least ten feet from the main structure.

(f) A private swimming pool wall shall not be located closer than six (6) feet from a side or ten (10) from a rear property line.

Applicant submitted photos and additional information detailing “strategies” the Applicant wishes to employ in support of the reduction in the required 10-foot setback between the main (single family dwelling) and the swimming pool.

1. Applicant proposes adding a barrier to prevent the Applicant and Guest from jumping from the covered rear porch into the swimming pool and states the barrier “removal of the barrier is not possible”. The applicant has not provided how the barrier is to be installed to achieve a non-removal barrier. The Applicant state the barrier creates a 10-foot setback. A Barrier is a substitute for the required 10-feet setback.

2. Applicant states the roof with a 12/12 pitch would be blocked to prevent jumping from roof into swimming pool and further states the roof is not accessible from the interior of the dwelling. The Applicant states the roof may be access with a 20-foot step ladder.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

3. Applicant states swimming pools is to be provided with a fence and automatic swimming pool cover. The 2020 Indiana Residential Code Section R326.27.3 requires installation of a 4-foot fence surrounding the pool and deck or an automatic swimming pool cover, which complies with the required listed in Section R326.27.3. The 2020 Indiana Residential Code requirements are outside the authority of jurisdiction of the Board of Zoning Appeals and by statute is not permitted to be more restrictive or in conflict with the Rules (Codes) of the Indiana Fire Prevention and Building Safety Commission. If the Applicant chooses to install both a fence and automotive swimming pool cover is sole at the discretion of the Applicant, as the Applicant is only required to comply with either a fence or automatic swimming pool cover as set out in R326.27.3

Finding of Fact:

In accordance with the requirements set out in the Indiana Code (IC) the Board of Zoning Appeals will need to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5 states:

(a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (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; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

Applicant's Finding of Fact:

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

Applicant states: Employing all of the mitigation strategies (attached) will promote the highest achievable safety.

Staff: The applicant has not addressed the reduction of the required side yard setback from 6-feet to 5-feet will or will not be injurious to the public health, safety, morals and general welfare of the community.

The Board of Zoning Appeals will need to determine if the proposed barrier adequately addresses the reduction of the required 10-foot setback between main structure and swimming pool, as the Applicant has not provided a distance reduction in the Developmental Standards Variance request. As discussed above the fence and automatic swimming pool cover are outside the authority of the Board of Zoning Appeals.

(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,

Applicant states: The addition of a quality-built inground pool w/associated landscaping will add to property values.

Staff: The Applicant has not provided evidence to support that surrounding property values will or will not be adversely affected by the reduction of the required 6-foot side yard setback or 10 feet setback from the main structure and the swimming pool. The applicant will need to address the required Finding of Fact at the public hearing.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

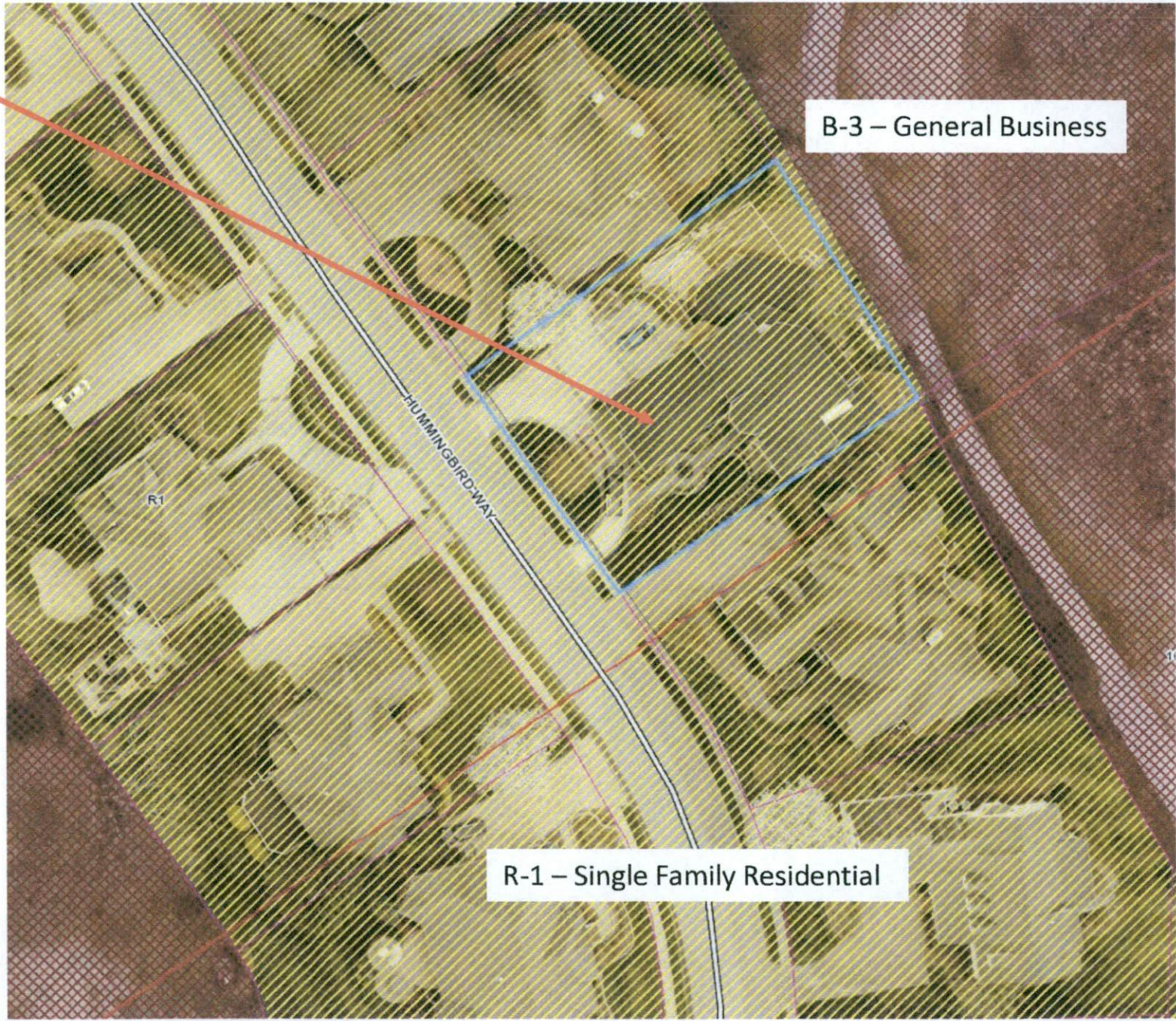
Applicant states: Applicant states: 10-foot setback from pool edge will not allow enough room to install a pool.

Staff: Applicant's response addresses construction of the pool. The Applicant has not address the strict application of the zoning ordinance will result in practical difficulties in the use of the property. The applicant will need to address the required Finding of Fact at the public hearing



Clark County GIS - Elevate

Site



B-3 – General Business

R-1

R-1 – Single Family Residential

**Town of Sellersburg, Indiana
Board of Zoning Appeals
Application for a Variance of Development Standards**

Applicant Information

Name: ANTHONY & KERI WESTMORELAND

Mailing Address: 12307 HUMMINGBIRD WAY
Street Number/P.O. Box Number Street

SELLERSBURG IN 47172
City State Zip

Email address: awestmoreland@twc.com Phone Number: 502-298-9085

Owner Information ("owner is not a tenant or contract buyer")

Name: - SAME -

Mailing Address: _____
Street Number/P.O. Box Number Street

City _____ State _____ Zip _____

Email address: _____ Phone Number: _____

Property Information:

Address or location of the property subject to this application:

12307 HUMMINGBIRD WAY BROGUEWAY CT.
Street Numbers Closest Cross Street

Lot Size: 140x97'

Current Use of Property: FAMILY RESIDENCE

Describe the variance requested: POOL SETBACK FROM PRINCIPLE STRUCTURE
OF 10' ALSO LOT COVERAGE

Check Developmental Standards Variance Requested:

- | | | | |
|---|---|--|--|
| <input type="checkbox"/> Building Setback | <input type="checkbox"/> Building Height | <input checked="" type="checkbox"/> Lot Coverage | <input type="checkbox"/> Lot Width |
| <input type="checkbox"/> Lot Area | <input type="checkbox"/> Sight Visibility | <input type="checkbox"/> Entrance/Drive | <input type="checkbox"/> Landscaping |
| <input type="checkbox"/> Parking | <input type="checkbox"/> Loading Area | <input type="checkbox"/> Sign | <input type="checkbox"/> Exterior Lighting |

Other: POOL SETBACK

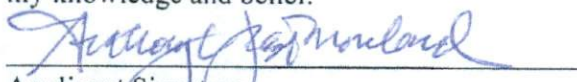
**DEVELOPMENT STANDARDS VARIANCE CRITERIA
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

- (1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: EMPLOYING ALL OF THE MITIGATION STRATEGIES (ATTACHED) WILL PROMOTE THE HIGHEST ACHIEVABLE SAFETY.
- (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: THE ADDITION OF A QUALITY-BUILT INGROUND POOL W/ ASSOCIATED LANDSCAPING WILL ADD TO PROPERTY VALUES
- (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: 10-FOOT SETBACK FROM POOL EDGE WILL NOT ALLOW ENOUGH ROOM TO INSTALL A POOL

Applicant's Signature

The information included in and with this application is completely true and correct to the best of my knowledge and belief.


Applicant Signature

5-16-20
Date

ANTHONY L WESTMORELAND
Printed Applicant Name

State of Indiana)
County of Floyd)SS

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Anthony Westmoreland, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 18th day of May, 2020

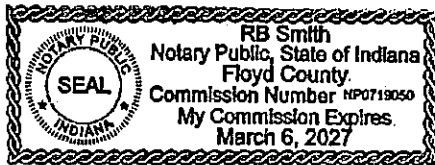
My Commission Expires:

3/6/2027

RB Smith
Notary Public

Resident Floyd County, Indiana

RB Smith
Printed Name



Office Use:

Date Completed Application Received: 6 / 03 / 2020

Petition Application Fee of \$ _____ Received: ___/___/___

Docket Number: 2020-DV-07-011

Current Zoning Classification: R1

Zoning Ordinance Section applicable to variance application: Sec. 1.24 Setback

BZA Public Hearing Date: 7 / 20 / 2020

Adjacent Property Owners Notified via Certificate of Mailing: ___/___/___

Legal Ad Published: ___/___/___

Verified Posting of Hearing Sign: ___/___/___

Public Notice Posted at Town Hall ___/___/___

AFFIDAVIT AND CONSENT OF PROPERTY OWNER
Application to the Sellersburg Board of Zoning Appeals

I, ANTHONY L. WESTMORELAND, AFTER BEING DULY SWORN, DEPOSE
AND STATE THE FOLLOWING:

1. That I am the owner of real estate located at: 12307 HUMMVEBIRD WAY
SELLERSBURG IN 47072
2. That I have no objection to, and consent to the request(s) described in the application
made to the Sellersburg Board of Zoning Appeals.

ANTHONY L. WESTMORELAND
Owner's Name (Printed)

Anthony Westmoreland
Owner's Signature

State of Indiana)
County of floyd)SS

Before me, the undersigned, a Notary Public in and for said County and State, personally
appeared Anthony Westmoreland, and acknowledge the execution of the
foregoing *Affidavit and Consent* as their free and voluntary act and deed for the uses and
purposes set forth therein.

Witness my hand and Notarial Seal, this this 19th day of May, 20 20

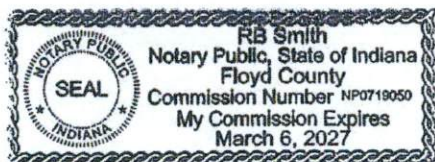
My Commission Expires:

3/6/2027

RB Smith
Notary Public

Resident floyd County, Indiana

RB Smith
Printed Name



Westmoreland Residence

May 16, 2020

Mr. Mike Beard
Building Commissioner
Town of Sellersburg

Dear Mike,

I would like to outline and give some detail to the strategies we plan to employ to promote the safe use of our pool at 12307 Hummingbird Way, Sellersburg (Covered Bridge).

1. Blocking deck access to prevent potential jumping off into pool below. Please see Attachment A. We plan to add permanent rigid lattice panels ABOVE the deck railing to prevent anyone from going over the railing. Removal of the panels will not be possible.
2. By accomplishing 1. above we can achieve our 10-foot required building setback from the pool edge. Please see Attachment B.
3. Blocking roof access to prevent potential jumping off into pool below. Please see Attachment C. There are currently no avenues to access the roof from inside the house. All windows in great room that adjoin the deck roof are fixed in place. They will not open. From the outside of the house, a 20-foot ladder would be required to climb up onto the roof. Even if someone were to obtain a 20-foot ladder and climb onto the roof, their ability to stand and walk on the roof is highly unlikely due to the steep, 12/12 pitch. As an illustration, when professional roofers installed the shingles on this roof, they all wore harnesses with ropes so they would not fall.
4. Fencing will surround the pool. Please see Attachment D. A 4-foot high metal fence will be installed along with 4-foot metal gates.
5. An automatic pool cover ~~with~~ will be installed. Please see Attachment E. An automatic pool cover will be installed to prevent entry when the pool is not in use. A security code will be required to operate and open the cover.
6. General security cameras and motion sensors will be employed to detect unauthorized access. Please see Attachment F. We will utilize technology in real time to our smart phones and tablets to be alerted to motion in and around the pool including the deck/ patio areas.

It is our family's hope that these strategies will satisfy everyone's concerns about pool safety at the Westmoreland residence. Also, should we ever sell the residence to another family, we feel that the permanent nature of the strategies will carry forward to them as well. Safety for all is a paramount concern for our family.

Thanks for taking the time to consider our plan. We wish for an approval to our request for pool setback variance. If any other requirements or suggestions are needed, please let us know.

Sincerely yours,

A handwritten signature in black ink, appearing to be a stylized 'A' followed by a horizontal line that ends in a small hook.

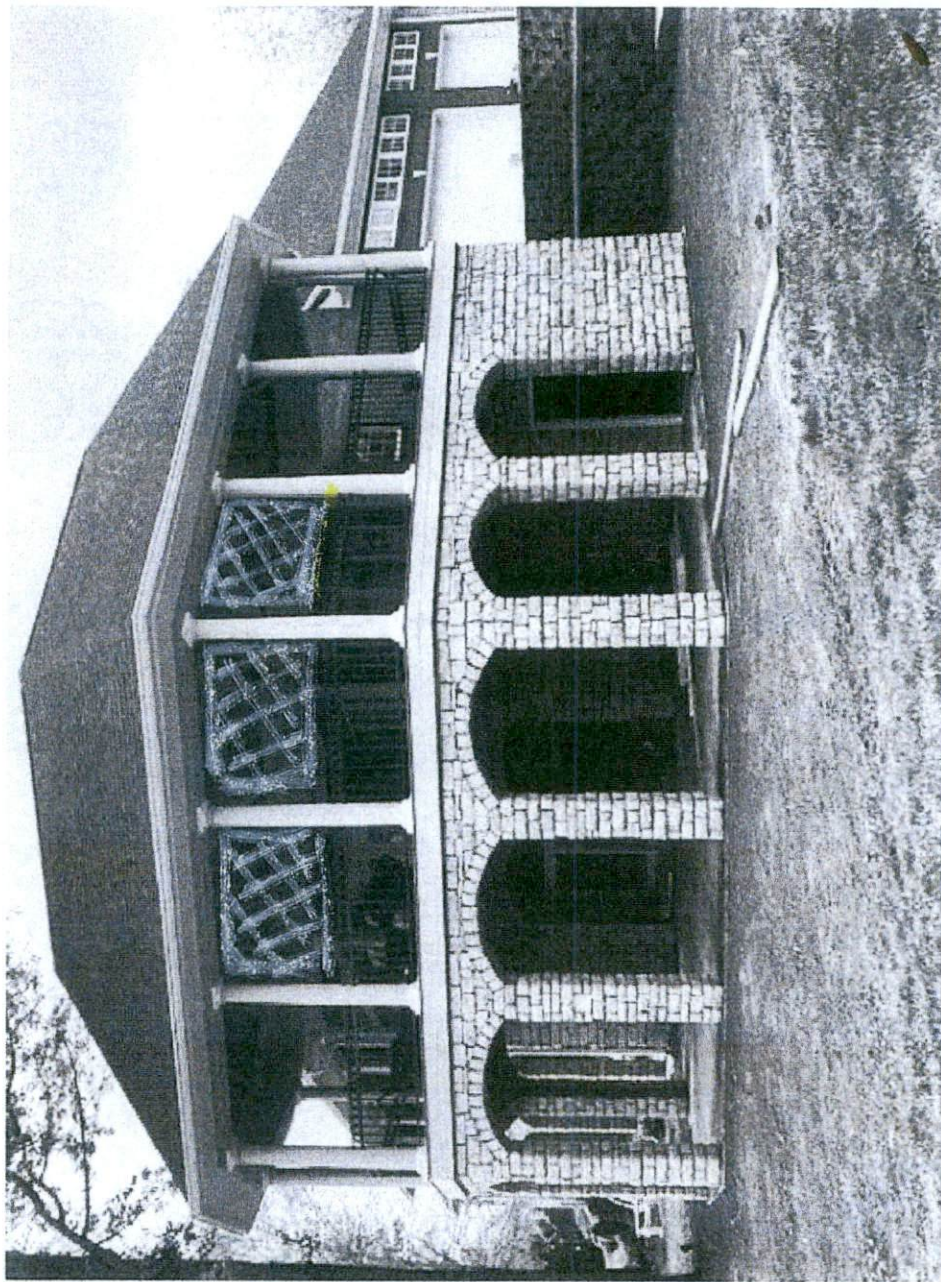
Anthony and Keri Westmoreland

502-298-9085



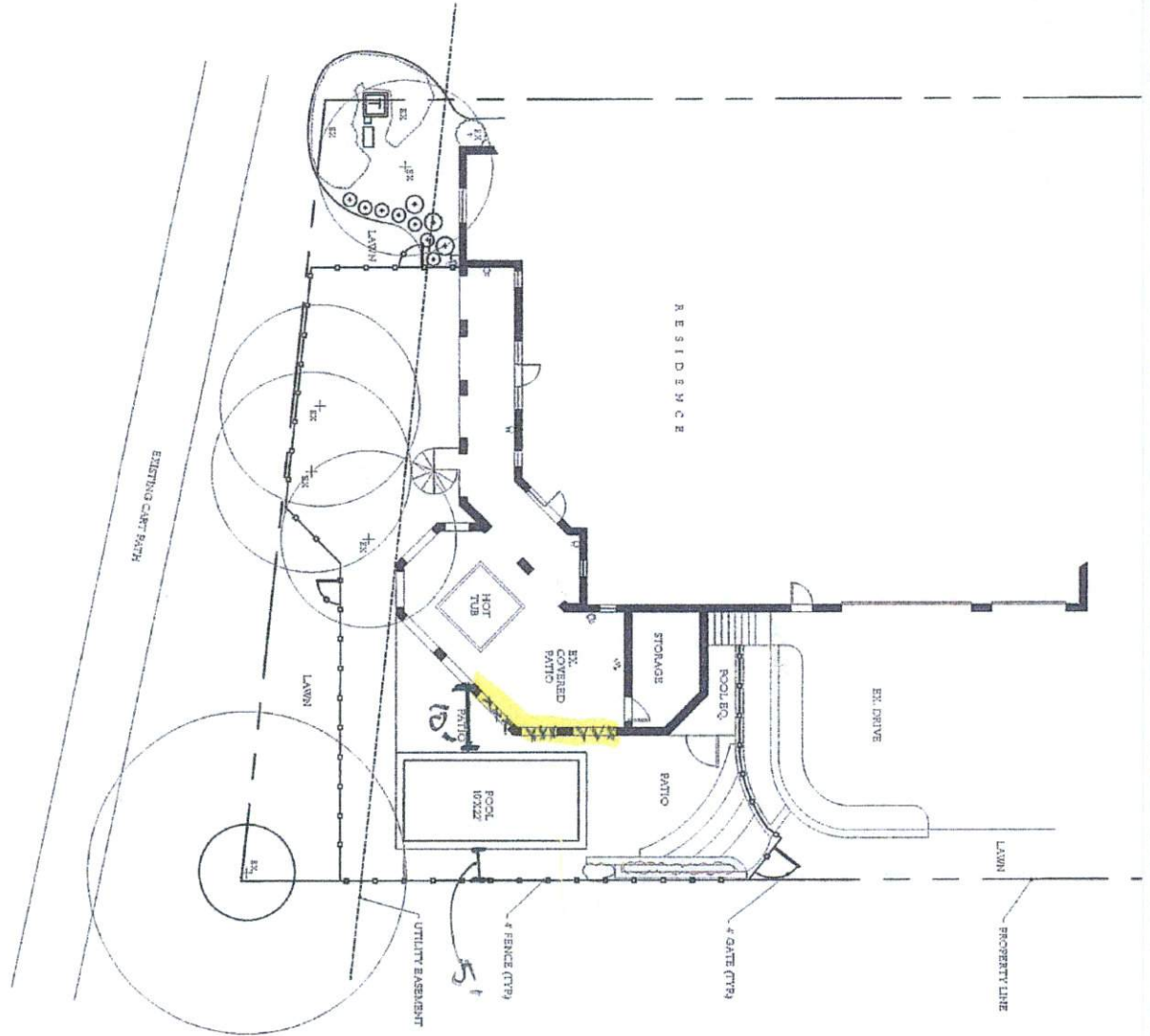
Attachment "A" inside

Attachment "A₂" outside



Attachment "B"

Attachment "B"



THIS PLAN IS THE PROPERTY OF MYERS+CO. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM. ANY REPRODUCTION OR TRANSMISSION OF THIS PLAN WITHOUT THE WRITTEN PERMISSION OF MYERS+CO. IS STRICTLY PROHIBITED. MYERS+CO. ACCEPTS NO LIABILITY FOR ANY DAMAGE, INCLUDING CONSEQUENTIAL DAMAGES, ARISING FROM THE USE OF THIS PLAN. THE USER OF THIS PLAN ASSUMES ALL LIABILITY FOR ANY DAMAGE, INCLUDING CONSEQUENTIAL DAMAGES, ARISING FROM THE USE OF THIS PLAN. THE USER OF THIS PLAN ASSUMES ALL LIABILITY FOR ANY DAMAGE, INCLUDING CONSEQUENTIAL DAMAGES, ARISING FROM THE USE OF THIS PLAN. THE USER OF THIS PLAN ASSUMES ALL LIABILITY FOR ANY DAMAGE, INCLUDING CONSEQUENTIAL DAMAGES, ARISING FROM THE USE OF THIS PLAN.



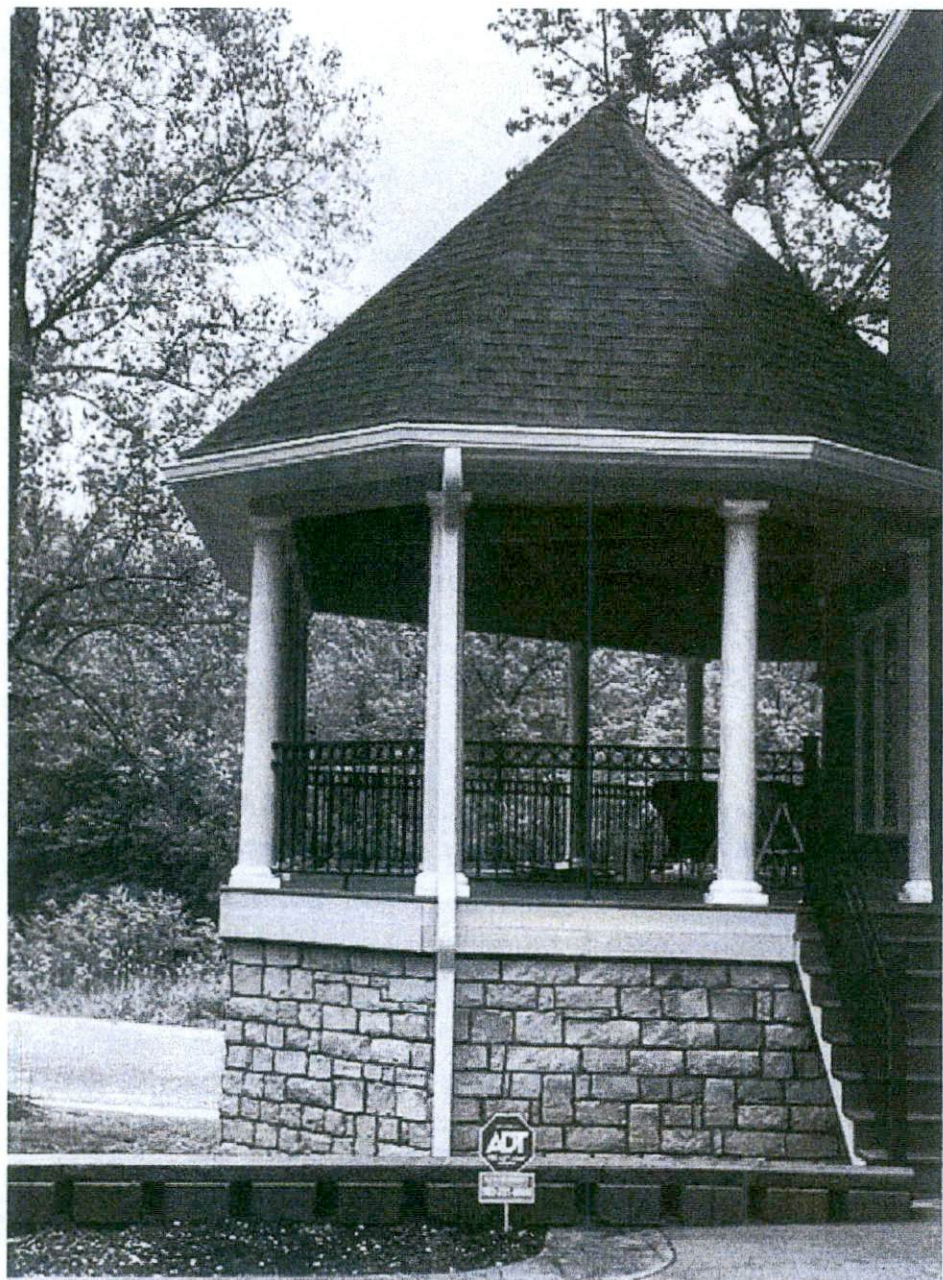
Rear Yard Hardscape Plan

Design Lead: [Name]
 Designer: [Name]
 Project Manager: [Name]
 Date: [Date]
 Revision: [Number]
 Drawn: [Name]

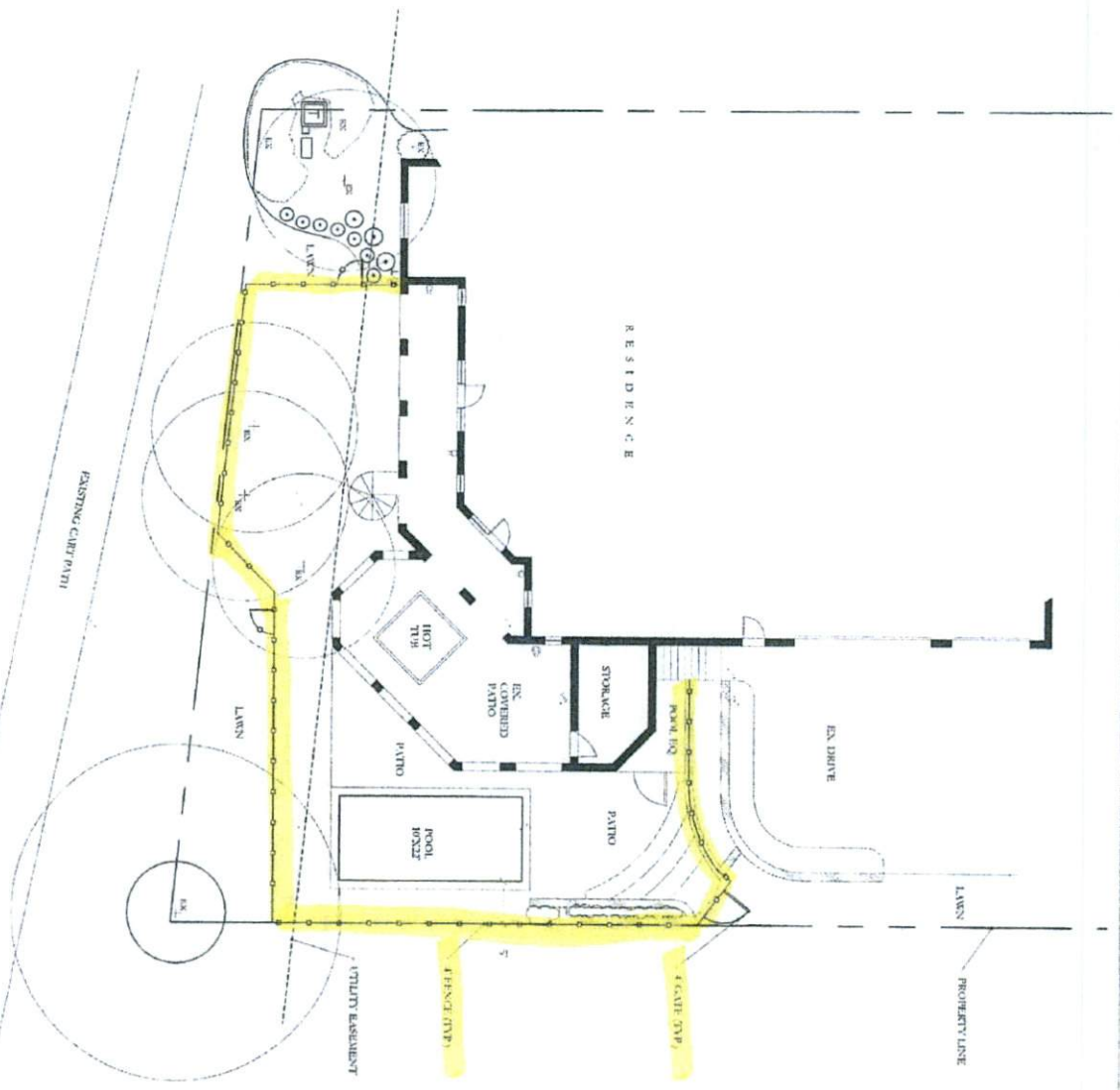
Westmoreland Residence
 12307 Hummingbird Way, Sellersburg, IN 47172



Attachment "C"



Attachment "D"



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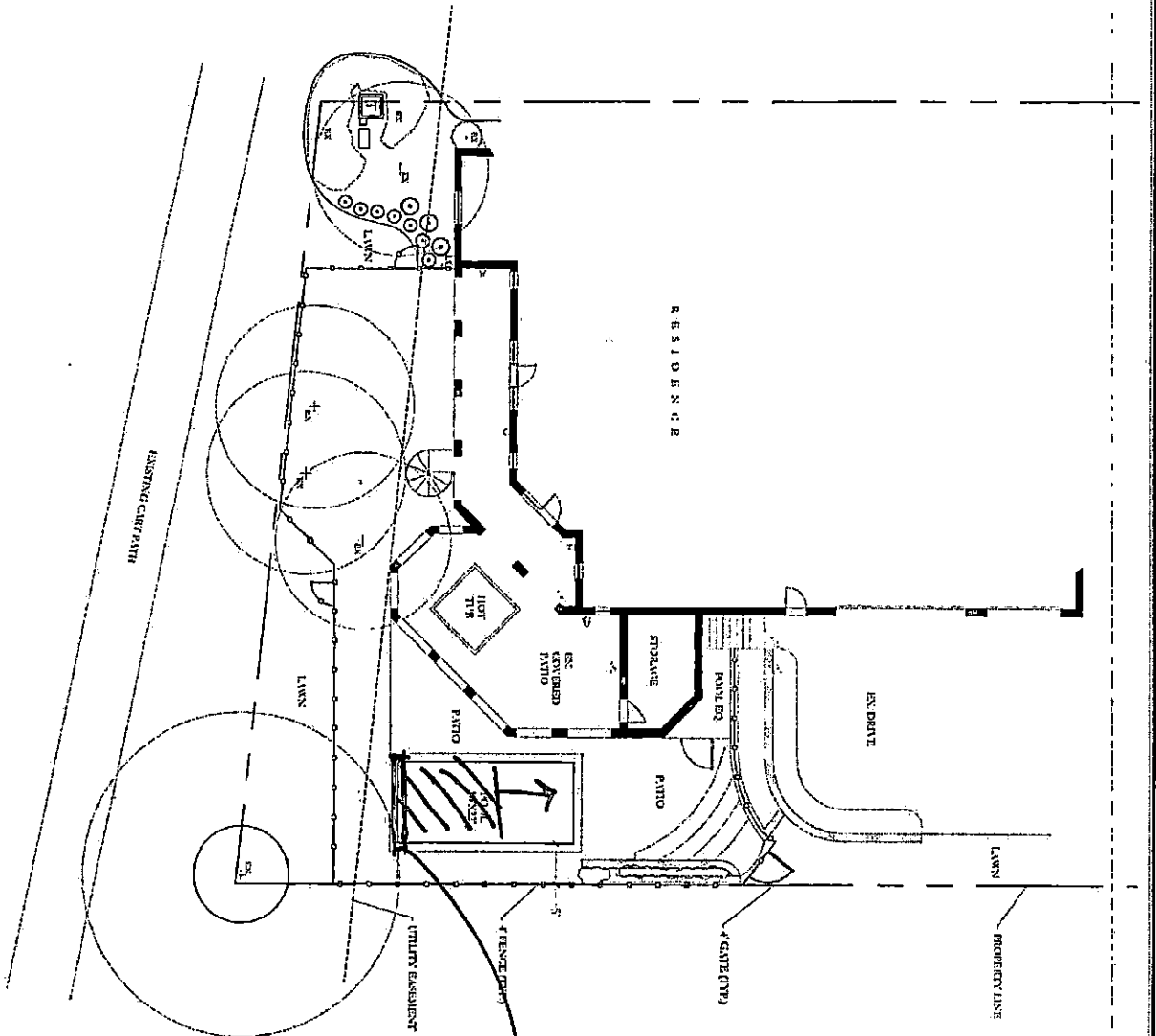
Rear Yard Hardscape Plan

Project Name	Westmoreland Residence
Client	12307 Hummingbird Way, Sellersburg, IN 47172
Architect	Myers+Co. Architects
Date	11/10/10
Scale	1" = 10'-0"

Westmoreland Residence
12307 Hummingbird Way, Sellersburg, IN 47172



Attachment "E"



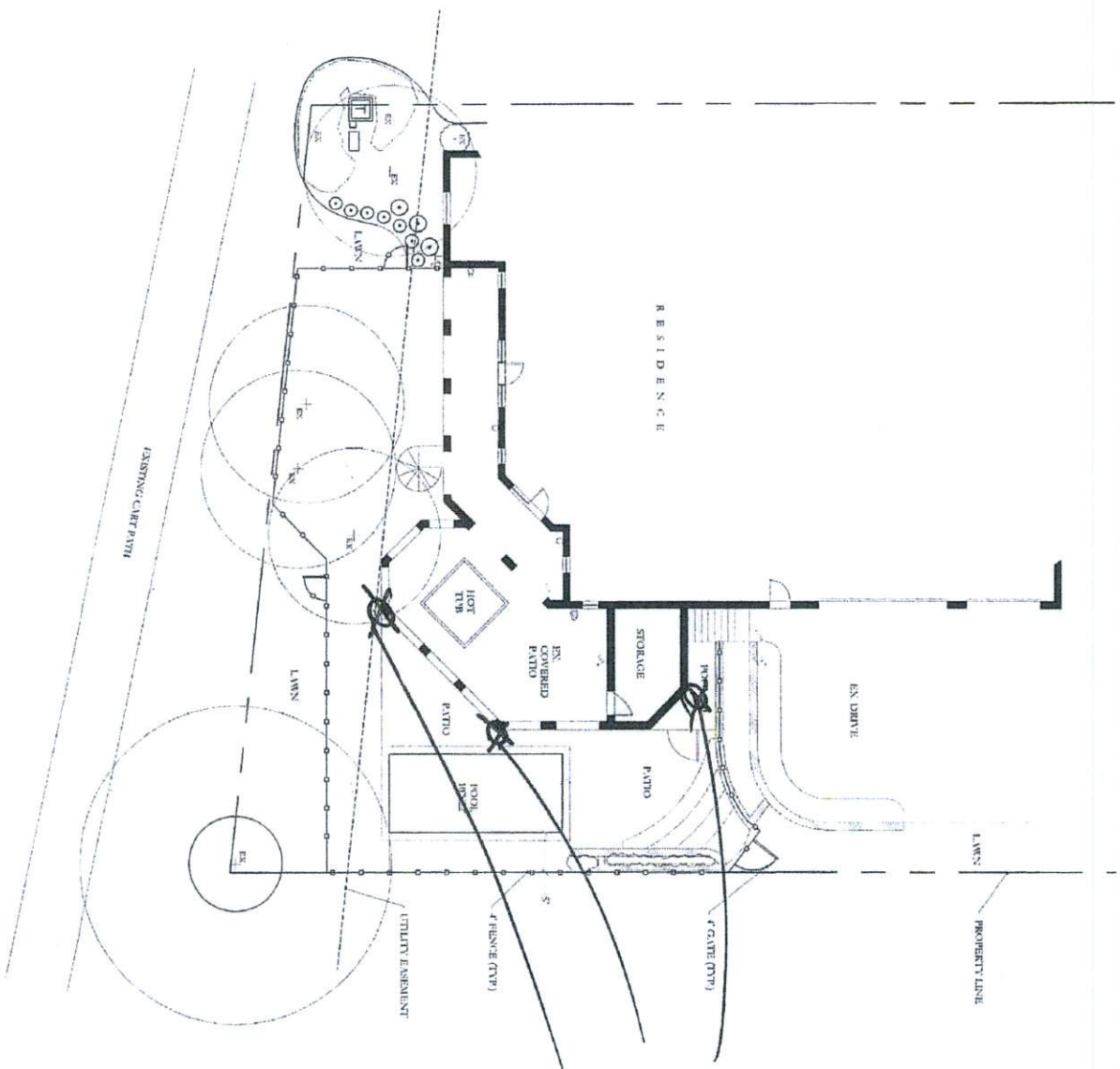
Automatic Pool Cover



THIS PLAN IS THE PROPERTY OF MYERS+CO. LANDSCAPE ARCHITECTURE. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. ANY REUSE OR MODIFICATION OF THIS PLAN WITHOUT THE WRITTEN CONSENT OF MYERS+CO. IS STRICTLY PROHIBITED. THE CLIENT AGREES TO HOLD MYERS+CO. HARMLESS FROM ANY AND ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING FROM OR RESULTING FROM THE USE OF THIS PLAN. THE CLIENT AGREES TO HOLD MYERS+CO. HARMLESS FROM ANY AND ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING FROM OR RESULTING FROM THE USE OF THIS PLAN. THE CLIENT AGREES TO HOLD MYERS+CO. HARMLESS FROM ANY AND ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING FROM OR RESULTING FROM THE USE OF THIS PLAN.

<p>1:10</p>	<p>Rear Yard Hardscape Plan</p>	<p>Westmoreland Residence 12307 Hummingbird Way, Sellersburg, IN 47172</p>	
-------------	--	---	--

Attachment F



Security
Cameras
&
Motion
Sensors



Rear Yard
Hardscape Plan

Drawn by	JML
Checked by	JML
Project Number	12307
Date	9/21/12
Scale	1"=4'-0"

Westmoreland Residence
12307 Hummingbird Way, Sellersburg, IN 47172



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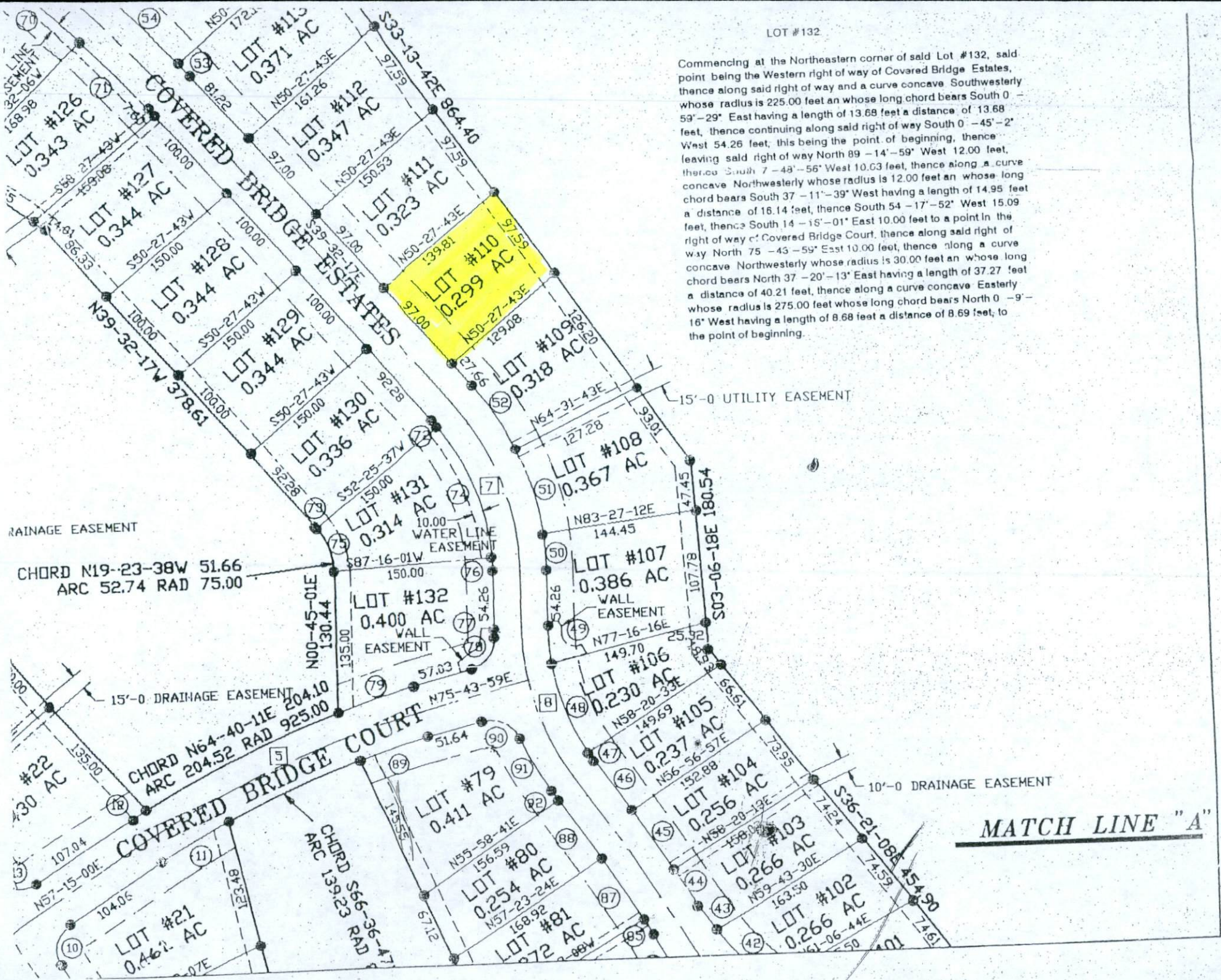


x Bill

Parcel Information

Parcel Number	10-45-16-500-150.000-043
Tax ID	45-00006-029-0
Owner Name	Westmoreland Anthony L & Keri Reilly

Commencing at the Northeastern corner of said Lot #132, said point being the Western right of way of Covered Bridge Estates, thence along said right of way and a curve concave Southwesterly whose radius is 225.00 feet an whose long chord bears South 0 - 59 - 29" East having a length of 13.68 feet a distance of 13.68 feet, thence continuing along said right of way South 0 - 45 - 2" West 54.26 feet, this being the point of beginning, thence leaving said right of way North 89 - 14 - 59" West 12.00 feet, thence South 7 - 48 - 56" West 10.63 feet, thence along a curve concave Northwesterly whose radius is 12.00 feet an whose long chord bears South 37 - 11 - 39" West having a length of 14.95 feet a distance of 16.14 feet, thence South 54 - 17 - 52" West 15.09 feet, thence South 14 - 15 - 01" East 10.00 feet to a point in the right of way of Covered Bridge Court, thence along said right of way North 75 - 45 - 59" East 10.00 feet, thence along a curve concave Northwesterly whose radius is 30.00 feet an whose long chord bears North 37 - 20 - 13" East having a length of 37.27 feet a distance of 40.21 feet, thence along a curve concave Easterly whose radius is 275.00 feet whose long chord bears North 0 - 9 - 16" West having a length of 8.68 feet a distance of 8.69 feet, to the point of beginning.



RAINAGE EASEMENT

CHORD N19-23-38W 51.66
 ARC 52.74 RAD 75.00

15'-0" DRAINAGE EASEMENT

CHORD N64-40-11E 204.10
 ARC 204.52 RAD 925.00

15'-0" UTILITY EASEMENT

10'-0" DRAINAGE EASEMENT

MATCH LINE "A"

**BEFORE THE BOARD OF ZONING APPEALS
SELLERSBURG, INDIANA
FINDINGS OF FACT
WESTMORELAND DEVELOPMENT STANDARDS VARIANCE
DOCKET 2020-DV-07-012**

This matter is before the Board of Zoning Appeals ("BZA") for the request of Anthony L. Westmoreland and Keri Westmoreland (collectively referred to as "Applicant") for a Development Standards Variance under Section 1.24(f) as it relates to ten (10') foot rear yard setbacks and 2.2.7 maximum lot coverage for the real estate located at 12307 Hummingbird Way, Sellersburg, Clark County, Indiana.

The statutory standards for a Development Standards Variance is determined by I.C. 36-7-4-918.5:

The Zoning Board shall approve a variance from Development Standards Variance provided the following:

- a. The approval will not be injurious to the public health, safety, morals and general welfare of the community; and
- 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; and
- c. The strict applications of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.

FINDINGS

1. The Applicant is the owner of that real estate located at 12307 Hummingbird Way, Sellersburg, Clark County, Indiana, also being known as Lot No. 110 of Covered Bridge Subdivision.

2. The lot of the Applicant is located in the Estate Section of Covered Bridge Subdivision, and Applicant has provided evidence at 0.299 acre, it is the smallest lot located within the Estate Section of Covered Bridge Subdivision.

3. The Applicant submitted their application for a Variance of Development Standards to the Town of Sellersburg BZA on June 3, 2020 for purposes of construction of a swimming pool on the lot.

4. All appropriate notices as required under the terms of the Sellersburg Zoning Ordinance were properly given.

5. The Applicant has provided necessary evidence that the approval will not be injurious to the public health, safety, morals and general welfare of the community as they have taken appropriate action for purposes of safety and this issue was addressed by the Applicant through added safety measures over and above the minimum¹. Neighbors immediately contiguous² to the Applicant support the request for the variance.

6. The Applicant has instituted specific safety measures, as provided in the evidence provided to the BZA at the hearing, in order to alleviate any issues with regard to those concerns of staff.

7. The use and the value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner, as those most closely located to the Applicant's lot have expressed, in writing, the granting of the variance for construction of the pool will not have any adverse effect upon their real estate and, in fact, will enhance the value of their real estate.

8. This enhancement of value is further supported by the written opinion of Indiana Real Estate Broker, Allison Uhl (RB16001536) and the granting of the variance for purposes of construction of the swimming pool will not have any adverse effects upon the surrounding real estate.

9. Those individuals most closely located to the requested variance are Larry W. Burke at 12305 Hummingbird Way and Clark A. Wright at 12309 Hummingbird Way in Sellersburg, Indiana.

10. The Applicant has provided the necessary evidence to reflect the application of the terms of the Zoning Ordinance will result in practical difficulties in the use of their property due to the size of the lot, as reflected in the evidence provided, most specifically, the small size and configuration of the lot, along with the size of the structure currently on the lot, and the same

¹ Blocking deck to keep possible jumping from deck into pool by additional construction measures on the deck. Fencing surrounding the pool and an automatic pool cover to double the safety. Security cameras with motion detection any access, including unauthorized access to the pool.

² Larry Burke and Clark A. Wright are contiguous to the Applicant.

operates as a practical difficulty as reflected in the evidence provided through the plat, the drawings provided by the Applicant and the GIS drawings applicable thereto.

11. No neighbors appeared to oppose the requested variance and all were given appropriate notice.

12. Based upon the evidence provided by the Applicant in the form of safety measures, valuation issues and the practical difficulties, the BZA should approve the Development Standards Variance submitted.

Upon a motion duly made and seconded, the request for the Development Standards Variance by Anthony L. and Keri Westmoreland, is hereby approved this 20th day of July, 2020.

Board of Zoning Appeals for Sellersburg, Indiana

By its Members:

VINCENT C. THACKER, JR.

DENNIS AMOS

FRANCIS CONROY

MARK TOLLIVER

EVAN BROWN

YOUR COPY

July 12, 2020

Sellersburg Board of Zoning Appeals,

I am writing in response to the letter I received from you regarding the application for a Developmental Standards Variance for a swimming pool to be built at 12307 Hummingbird Way, Sellersburg, IN, a residence in the Covered Bridge Golf Community. My home, 12305 Hummingbird Way, is located next door to the applicant.

I have discussed the plans for a swimming pool and the need for the variance as requested by the owner, Mr. Anthony Westmorland. He showed me how the pool will be situated on the lot and how safety concerns will be addressed.

Since Mr. Westmoreland purchased the house of interest he has made a number of improvements to the house and property. All of these changes have been done in a safe and high quality manner. The changes made thus far have resulted in improvement to the value of his home as well as that of the neighboring properties.

I am comfortable with the request he is making to the Sellersburg Board of Zoning Appeals and fully support a decision to grant the variance. If you have any questions about anything I have mentioned please don't hesitate to call me at 502-396-3735.

Regards,

Larry W. Burke

12305 Hummingbird Way
Sellersburg, IN 47172

YOUR COPY

July 12, 2020

Sellersburg Board of Zoning Appeals,

I am writing in response to the letter I received from you regarding the application for a Developmental Standards Variance for a swimming pool to be built at 12307 Hummingbird Way, Sellersburg, IN, a residence in the Covered Bridge Golf Community. My home, 12305 Hummingbird Way, is located next door to the applicant.

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Sellersburg Board of Zoning Appeals,

I am writing in response to the letter I received from you regarding the application for a Developmental Standards Variance for a swimming pool to be built at 12307 Hummingbird Way, Sellersburg, IN, a residence in the Covered Bridge Golf Community. My home, 12305 Hummingbird Way, is located next door to the applicant.

I have discussed the plans for a swimming pool and the need for the variance as requested by the owner, Mr. Anthony Westmorland. He showed me how the pool will be situated on the lot and how safety concerns will be addressed.

Since Mr. Westmoreland purchased the house of interest he has made a number of improvements to the house and property. All of these changes have been done in a safe and high quality manner. The changes made thus far have resulted in improvement to the value of his home as well as that of the neighboring properties.

I am comfortable with the request he is making to the Sellersburg Board of Zoning Appeals and fully support a decision to grant the variance. If you have any questions about anything I have mentioned please don't hesitate to call me at 502-396-3735.

Regards,

Larry W. Burke

12305 Hummingbird Way
Sellersburg, IN 47172

July 12, 2020

Sellersburg Board of Zoning Appeals,

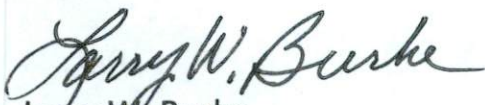
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Since Mr. Westmoreland purchased the house of interest he has made a number of improvements to the house and property. All of these changes have been done in a safe and high quality manner. The changes made thus far have resulted in improvement to the value of his home as well as that of the neighboring properties.

I am comfortable with the request he is making to the Sellersburg Board of Zoning Appeals and fully support a decision to grant the variance. If you have any questions about anything I have mentioned please don't hesitate to call me at 502-396-3735.

Regards,



Larry W. Burke

12305 Hummingbird Way
Sellersburg, IN 47172

BEFORE THE SELLERSBURG BOARD OF
ZONING APPEALS

AFFIDAVIT OF SUPPORT OF
DEVELOPMENT STANDARDS VARIANCE

COME(S) NOW Clark A. Wright, after being duly sworn upon his/her/their oath(s) and state(s):

1. I/we am/are (a) resident(s) of Covered Bridge and reside at 12307 Hummingbird Way, Sellersburg, IN 47172 ("Real Estate"), also being the owner of that Real Estate.

2. I have been provided a copy of the plans and application of Anthony Westmoreland and Keri Westmoreland (the "Westmorelands") for a development standards variance to construct an in-ground swimming pool on their real estate at 12307 Hummingbird Way, Sellersburg, Indiana 47172 ("Westmoreland Lot").

3. I have been also made aware of the statutory factors for the approval, and, with the safety precautions, to be written conditions for approval, I would agree the approval would not be injurious to the public, health, safety and general welfare of the community.

4. The construction of the in-ground pool and the approval of the development standards variance on the Westmoreland Lot will not have any adverse effects upon the value of my Real Estate, and will, more than likely, enhance the value of my/our Real Estate.

5. The size, configuration and shape of the Westmoreland Lot and the placement of the original housing structure appear, with the recent addition of a covered deck, to operate as a practical difficulty to the Westmorelands to construct the in-ground pool.

6. I/we support the passage of the development standards variance with the written conditions proposed by the Westmorelands, to run with the land and be enforceable on all future owners.

I/WE AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE FOREGOING REPRESENTATIONS ARE TRUE AND CORRECT TO THE BEST OF MY/OUR KNOWLEDGE AND BELIEF.

Dated this 20 day of July, 2015 - 2020

Clark A. Wright
SIGNATURE

CLARK A. WRIGHT
PRINTED NAME

WIDOWED
SIGNATURE

PRINTED NAME

July 20, 2020

Town of Sellersburg
Department of Planning and Zoning
316 E Utica St.
Sellersburg, IN 47172

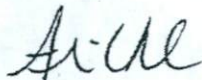
Dear Board Members,

My name is Allison Uhl and I am a real estate broker licensed in the State of Indiana. My license number is RB16001536 and I have been licensed in good standing for 4 years. My experience allows me to be familiar with Covered Bridge subdivision and the surrounding area.

I have reviewed the plans of Anthony and Keri Westmoreland that involve a pool addition. Based on my review of these plans, neighborhood home values will not be adversely affected. In fact, this enhancement should add to values.

If you have any questions about this matter, please do not hesitate to contact me via phone at 812-946-2254 or via email at allison@alurealty.com.

Sincerely,



Allison Uhl
Broker/ Co-Owner
Luxe Realty Group at eXp Realty





Town of Sellersburg
Board of Zoning Appeals
316 E Utica Street
Sellersburg, IN 47172

Docket Number: 2020-DV-07-012

Date: August 17, 2020

Finding of Fact for Developmental Standards Variance from the Town of Sellersburg Zoning Ordinance

Developmental Standards Variance from Section 1.24 of the Sellersburg Zoning Ordinance to reduce the required side yard setback from six (6) feet to five (5) feet and a reduction in the required setback between the proposed swimming pool at main structure at 12307 Hummingbird Way, Sellersburg, Indiana.

1.) The approval **will not** be injurious to the public health, safety, morals, and general welfare of the community because:

Installation safety improvements, fencing, lockable cover and non-removable barriers to be placed in opening of rear porch.

Motion made by Evan Brown and seconded by Francis Conroy. Motion carried 5 - 0

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 because:

Property value information submitted indicating increase in surrounding properties and subject property's value

Motion made by Evan Brown and seconded by Mark Tolliver. Motion carried 5 - 0

3.) The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property:

Platted lot is smaller than surrounding lots.

Motion made by Evan Brown and seconded by Mark Tolliver. Motion carried 5 - 0



Town of Sellersburg
Board of Zoning Appeals
316 E Utica Street
Sellersburg, IN 47172

DECISION

IT IS THEREFORE the decision of the Sellersburg Board of Zoning Appeals that this Development Standards Variance Docket Number 2020-DV-07-012 is APPROVED; subject to the following conditions:

- (1.) Security measures presented in the variance request to be installed.
- (2.) Not later than One (1) year from the date approving these Finding of Facts an Improvement Location Permit shall be issued.

Adopted this 17th day of August, 2020

Vincent Thacker, Chairman

Francis Conroy, Vice Chairman

Dennis Amos, Member

Evan Brown, Member

Mark Tolliver, Member



Sellersburg Board of Zoning Appeals Minutes

AUGUST 17, 2020

The minutes as written are not verbatim, but a summary of the meeting.

Call to Order:

Chairman Vincent C. Thacker, Jr. called the meeting of the Sellersburg Board of Zoning Appeals to order at 6:01 pm at Sellersburg Town Hall, 316 East Utica St.

Roll Call:

Members present: Chairman Vincent Thacker, Jr., Vice Chairman Francis Conroy and members Dennis Amos, Mark Tolliver, Evan Brown. Also present were Board Attorney, Jake Elder, Building Commissioner, Mike Beard, Consultant, Shelly Wakefield, and Secretary, Darla Stahl.

Approval of Minutes:

Motion to approve the July 20, 2020 minutes was made by Francis Conroy and seconded by Dennis Amos. Motion carried 5-0.

Unfinished Business:

- (a,b) Finding of Facts for 2020-DV-06-001 and 2020-SE-06-002 Jay-C Food Stores, The Kroger Company. A motion was made by Mark Tolliver and seconded by Evan Brown to accept finding of facts. Motion carried 5-0.
- (c) Finding of Facts for 2020DV-07-009 Philip A Jones (Applicant) Terry & Melissa Farnsley (owner). Motion made by Francis Conroy and seconded by Dennis Amos to accept finding of facts. Motion carried 5-0.
- (d) Finding of Facts for 2020-DV-07-010 Jeff Parrish. Motion made by Evan Brown and seconded by Francis Conroy to accept finding of facts. Motion carried 5-0.
- (e) Finding of Facts for 2020-DV-07-011 Jeff Parrish. Motion made by Mark Tolliver and seconded by Dennis Amos to accept finding of facts. Motion carried 5-0.
- (f) Finding of Facts for 2020DV-07-012 Anthony and Teri Westmoreland. Motion made by Evan Brown and seconded by Francis Conroy to accept finding of facts. Motion carried 5-0.
- (g) Finding of Facts for 2020DV-07-013 Joseph W. and Amanda Basham. Due to addition information needed a motion made by Evan Brown and seconded by Mark Tolliver to table until next meeting. Motion carried 5-0.
- (h) Finding of Facts for 2020-UV-07-003 Brian & Laura Kehrer, Serenity Property LLC (Applicant) Shelia Hardy, Nova Starr, LLC (owner). Use for Variance: Northeast side of Old HWY 60, East of Intersection SR 60. Public Meeting opened at 6:15 pm. Public who are to speak sworn in. Hearing

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Petition #: 2020-DV-07-013

Hearing Date: July 20, 2020

By Petitioner(s): Joseph & Amanda Basham

Concerning DEVELOPMENT STANDARDS Variance at the address of: Autumn Ridge Lot 23

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion MARK Johnson Second Evan Brown *Data shows increasing Value*

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No Yes

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion Motion Mark Johnson Second Evan Brown *SAME Reasoning*

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No Yes

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion Mark Johnson Second Evan Brown *LAND locked*

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No Yes

4. Motion to approve any special conditions.

Motion Francis Conroy Second Evan Brown

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No yes

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # 2020-DV-07-013

Approved Denied

Special Conditions:

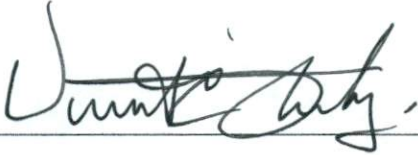
1 Reasonable conditions of Lot 23

2 LIP within 1 year

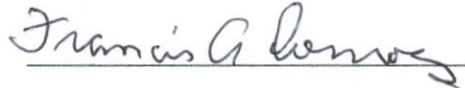
Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Signature Page – Petition # 2020-DV-07-013

Signed this 20th day of July, 2020



Vincent C. Thacker, Jr., Chairman



Francis A. Conroy, Vice-Chairman



Dennis V. Amos, Member



Mark Tolliver, Member



Evan Brown, Member



Attest:

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Findings of Facts

Petition # 2020-DV-07-013

This petition was approved or denied because:

Approval Findings of Fact: Motion By: _____

Seconded By: _____

Yea Nay Abstain Pass/Fail-Yes/No _____

Signed this _____ day of _____, _____

Vincent C. Thacker, Jr., Chairman

Francis A. Conroy, Vice-Chairman

Dennis V. Amos, Member

Mark Tolliver, Member

Evan Brown, Member

Attest:



Town of Sellersburg
Board of Zoning Appeals
316 E Utica Street
Sellersburg, IN 47172

Docket Number: 2020-DV-07-013

Date: September 21, 2020

**Finding of Fact for Developmental Standards Variance
from the Town of Sellersburg Zoning Ordinance**

Developmental Variance is a request to use an unimproved lot as the required street frontage for property without street frontage, property is landlocked.

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

Variance will not be injurious because of similar type of housing and lot will continue to remain vacant and there are additional vacant lots within the subdivision. – ag land with similar type housing. Lot will continue to remain vacant and there are other vacant lots and do seem to be injurious

Motion made by Mark Tolliver and seconded by Evan Brown. Motion carried 5 to 0.

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 because:

Variance will not be substantially affected adjacent property as this lot has been vacant for several years and there are other lots that are vacant and have not affected property values within the subdivision.

Motion made by Mark Tolliver and seconded by Evan Brown. Motion carried 5 to 0.

3.) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property:

The property is landlocked and unusable without street frontage, Variance will permit the use and development the property.

Motion made by Mark Tolliver and seconded by Evan Brown. Motion carried 5 to 0.




Town of Sellersburg
Board of Zoning Appeals
316 E Utica Street
Sellersburg, IN 47172

DECISION

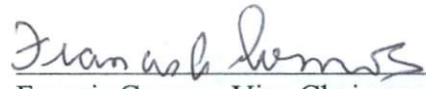
IT IS THEREFORE the decision of the Sellersburg Board of Zoning Appeals that this Developmental Standards Variance Docket Number 2020-DV-07-013, is Approved; subject to the following condition(s):

- (1.) Lot Twenty-three (23) to remain in its current condition as a vacant lot..
- (2). Issuance of Improvement Location Permit within one (1) year of the Approval date the Finding of Facts.

Adopted this 21st day of September, 2020



Vincent Thacker, Chairman



Francis Conroy, Vice Chairman

Dennis Amos, Member



Evan Brown, Member



Mark Tolliver, Member



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DATE:	July 11, 2020
DOCKET NUMBER:	2020-DV-07- 012 013
APPLICANT:	Joseph W. Jr. & Amanda K. Basham
OWNER:	Joseph W. Jr. & Amanda K. Basham
LOCATION OF SUBJECT PROPERTY OF VARIANCE	Autumn Ridge Dr; Perry Crossing
LEGAL DESCRIPTION (Autumn Ridge Lot 23 Gt 165 5.35 Ac
VARIANCE REQUESTED:	Build structure on 5.35-acres without required street frontage. Requesting Developmental Standards Variance to permit a separate platted lot to provide required street frontage.
CURRENT ZONING:	Lot 23: R-1 – Single Family Reside tail 5.35-acres: A - Agriculture
COUNCIL DISTRICT:	Scott McVoy – District 1

Information:

The Applicant is requesting a Developmental Standards Variance to permit the use of a an adjacent separate platted lot (Lot 23, Autumn Ridge Subdivision) to provide the required street frontage requested to construction a “structure” on the 5.35-acres, landlocked (no street frontage) tract of property. The Developmental Standards Variance application does not indicate the if the structure is a primary structurer or accessory structural.

The landlocked 5.35-acre tract is zoned Agricultural (A) and Agricultural zoned district requires a minimum lot width of 150-feet and minimum street frontage of 60-feet. The separate platted lot is zoned R-1, Single Family Residential.

Sellersburg Zoning Ordinance, Agricultural, Section 2.1.3 Minimum Lot Area states: (1) Every lot (whether for an agricultural, residential, or nonresidential use) on which a structure is hereinafter erected, shall front on a dedicated road, street, or



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

public right-of-way and shall have a minimum area of three (3) acres per dwelling unit (or per structure or per farm or business), a minimum lot width of one hundred (150) feet, and a minimum street frontage of sixty (60) feet. The maximum lot coverage for nonresidential uses shall not exceed twenty-five (25) percent and the maximum floor area ratio (i.e., ratio of gross floor area in structure to lot area) shall not exceed 0.5.

The 5.35-acre landlocked tract requires 60 feet minimum of the 150-feet of minimum lot width to front on a dedicated road, street or public right-of-way. The Applicant's Developmental Standards Variance is requesting that the street frontage of Lot 23, Autumn Wood Subdivision to satisfy the required 60-foot street frontage for the 5.35-acre landlocked property. Lot 23, Autumn Ridge Subdivision is platted with 129.08-foot street frontage.

The recorded plat of Autumn Ridge Subdivision for Lot 23 indicates a Storm Water Detention Easement 60-feet in width, depth of Storm Water Detention Easement not provided on recorded plat at the rear of Lot 23 (copy attached).

The platted property line between Lot 23 Autumn Wood Subdivision and the landlock 5.35-acre tract will remain, therefore the two (2) parcels will remain two (2) separate and independent parcels of land.

Finding of Fact:

In accordance with the requirements set out in the Indiana Code the Board of Zoning Appeals will need to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5 states:

(a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

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



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

- (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; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant's Finding of Fact:

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

Applicant states: The driveway to the 5.35 ac. will be across Lot 23, Autumn Ridge Subdivision, which has approx. 129 ft. of road frontage not cause a safety issue. The planned building planned will be in keeping with the Agricultural zoning of the 5.35 Ac. and create no moral issues

*Adequate Turn
Around*

Staff: Applicant's written findings of fact does not provide adequate information to determine if the lack of the required street frontage for the 5.35 acre lot with access across Lot 23 will be injurious to the public health, safety, morals and general welfare. Required street frontage allows access by emergency equipment and access to fire hydrants, among other access needs, that provide safety to the subject property and the adjacent properties. The applicant fails to address how the Lot 23, remain unimproved (no structure), will be maintained in a manner that will promote safety, morals and the general welfare of the community.

The Board of Zoning Appeals will need to consider if lack of the required street frontage provided by a separate lot will cause a potential harm to the town – why or why not and what harm could befall.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

(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,

Applicant states: The adjoining lots in Autumn Ridge will not be affected if there is only a driveway on Lot 23. The building will be of new construction materials and distant enough to have no adverse effect on the value of such lots.

Staff: The Applicant has not addressed if the use and value of adjacent properties values or the subject property (Lot 23) value will or will not be affected in a substantially adverse manner as the street frontage for a landlocked property.

The Board should consider whether adjacent property will suffer any major negative impact and what impact adjacent property realistically expect

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant states: The 5.35 ac. is zoned agricultural but is landlocked. The requirement for road frontage on is otherwise impractical except through said Lot 23. Requiring road frontage on the 5.35 ac. would make it a non-buildable tract. *LACKS Road Frontage*

Staff: Staff: The Applicants states "requirement for road frontage is otherwise impractical except through said Lot 23.

The Zoning Ordinance has not created the practical difficulties in the use of the property. The subdivision by metes and bounds of the property without complying with the requirements of the zoning district for required street frontage was created by the subdivider of the property.

If the 5.35-acres had been subdivided in compliance with the Sellersburg Subdivision Control Ordinance and the Sellersburg Zoning Ordinance, in effect at the time of the



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

subdivision of property landlocked property would not have been permitted to be created.

In accordance with the Sellersburg Subdivision Control Ordinance subdivision of property is permitted by mete and bound subdivision up to two (2) lots; however, when property is subdivided by metes and bound both tracts created are required to comply with the requirements of the properties zoning district. If the subdivision of land were 3 or more lots a Minor Plat Subdivision would have been required.

*Although it is not known when the 5.35-acre landlocked property was created/subdivided by metes and bounds; however, the Assessors Property card note states:
8/18/2011 General: 12-13 split 5.35 ac from parcel 2-21-003-0 (lg).*

5.25-Acre – landlocked (no street frontage)



Lot 23, Autumn Wood Subdivision

Site



Clark County GIS - Elevate

Agricultural (A) Zoning District



R-1 Single Family Residential Zoning District

**Town of Sellersburg, Indiana
Board of Zoning Appeals
Application for a Variance of Development Standards**

Applicant Information

Name: Joseph W. Basham, Jr. and Amanda K. Basham

Mailing Address: 2327 Buttercup Circle

Street Number/P.O. Box Number

Street

Sellersburg

Indiana

47172

City

State

Zip

Email address: _____

Phone Number: 502-777-9020

Owner Information ("owner is not a tenant or contract buyer")

Name: Joseph W. Basham, Jr. and Amanda K. Basham

Mailing Address: 2327 Buttercup Circle

Street Number/P.O. Box Number

Street

Sellersburg

Indiana

47172

City

State

Zip

Email address: _____

Phone Number: 502-777-9020

Property Information:

Address or location of the property subject to this application:

Vacant Land off Autumn Ridge Dr. Perry Crossing, Parcel #10-45-16-500-091.000-043

Street Numbers

Closest Cross Street

Lot Size: 5.35 AC

Current Use of Property: Agricultural

Describe the variance requested: No road frontage on tract where building to be located.

Applicants own Lot 23 in Autumn Ridge Sub, which will provide the access to the 5.35 Acres

Check Developmental Standards Variance Requested:

- | | | | |
|---|---|---|--|
| <input type="checkbox"/> Building Setback | <input type="checkbox"/> Building Height | <input type="checkbox"/> Lot Coverage | <input type="checkbox"/> Lot Width |
| <input type="checkbox"/> Lot Area | <input type="checkbox"/> Sight Visibility | <input type="checkbox"/> Entrance/Drive | <input type="checkbox"/> Landscaping |
| <input type="checkbox"/> Parking | <input type="checkbox"/> Loading Area | <input type="checkbox"/> Sign | <input type="checkbox"/> Exterior Lighting |

Other: Road Frontage

**DEVELOPMENT STANDARDS VARIANCE CRITERIA
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

- (1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: The driveway to the 5.35 Ac. will be across Lot 23, Autumn Ridge Subdivision, which has approx.

129 ft. of road frontage not cause a safety issue. The planned building planned will be in keeping with the Agricultural zoning of the 5.35 Ac. and create no moral issues.

- (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: The adjoining lots in Autumn Ridge will not be affected if there is

only a driveway on Lot 23. The building will be of new construction materials and distant enough to have no adverse affect on the value of such lots.

- (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: The 5.35 Ac is zoned agricultural but is landlocked. The requirement for road frontage on is

otherwise impractical except through said Lot 23. Requiring road frontage on the 5.35 Ac would make it a non-buildable tract.

Applicant's Signature

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

Joseph W. Basham Jr. Amanda K. Basham
Applicant Signature

6/26/20
Date

Joseph W. Basham, Jr. and Amanda K. Basham

Printed Applicant Name

State of Indiana)
County of Clark)SS

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Joseph W. Basham, Jr. and Amanda K. Basham, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 26th day of June, 2020

My Commission Expires:

R. D. Culler

Notary Public

Resident _____ County, Indiana

Printed Name



Ronald D. Culler, Notary Public
Resident of Floyd County
SEAL - State of Indiana
Commission Number: 669381
My Commission Expires: July 5, 2023

Office Use:

Date Completed Application Received: ___/___/___

Petition Application Fee of \$ _____ Received: ___/___/___

Docket Number: 2020-DV-07-012

Current Zoning Classification: A (Agriculture)

Zoning Ordinance Section applicable to variance application: Section 2.1.3 Minium Lot Area, including lot

BZA Public Hearing Date: 07 / 20 / 2020 width

Adjacent Property Owners Notified via Certificate of Mailing: ___/___/___

Legal Ad Published: ___/___/___

Verified Posting of Hearing Sign: ___/___/___

Public Notice Posted at Town Hall ___/___/___

AFFIDAVIT AND CONSENT OF PROPERTY OWNER
Application to the Sellersburg Board of Zoning Appeals

I, Joseph W. Basham, Jr. and Amanda K. Basham, AFTER BEING DULY SWORN, DEPOSE
AND STATE THE FOLLOWING:

1. That I am the owner of real estate located at: Vacant Land off Autumn Ridge Dr.
Parcel #10-45-16-500-091.000-043
2. That I have no objection to, and consent to the request(s) described in the application
made to the Sellersburg Board of Zoning Appeals.

Joseph W. Basham, Jr. and Amanda K. Basham

Owner's Name (Printed)

Joseph W. Basham, Jr. Amanda K. Basham
Owner's Signature

State of Indiana)
County of Clark)SS

Before me, the undersigned, a Notary Public in and for said County and State, personally
appeared Joseph W. Basham, Jr. and Amanda K. Basham, and acknowledge the execution of the
foregoing *Affidavit and Consent* as their free and voluntary act and deed for the uses and
purposes set forth therein.

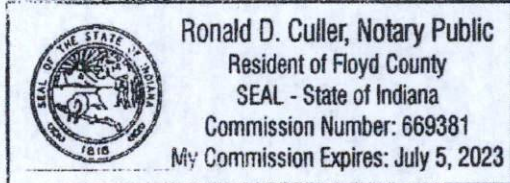
Witness my hand and Notarial Seal, this this 26th day of June, 2020

My Commission Expires:

R. D. Culler
Notary Public

Resident _____ County, Indiana

Printed Name



IN WITNESS WHEREOF, the Grantor has hereunto set its hand and seal, this 3 day of JUNE, 2011.

LENFERT & YOUNG, LLC

BY: [Signature] (SEAL)

BRIAN LENFERT
Printed Name/Member

STATE OF INDIANA)
COUNTY OF Clark) SS:

Before me, a Notary Public, in and for said County and State, personally appeared LENFERT & YOUNG, LLC, by and through its member, Brian Lenfert, and acknowledged the execution of the foregoing deed as its free and voluntary act and deed for the uses and purposes expressed therein.

WITNESS my hand and seal, this 3rd day of June, 2011.

[Signature]
NOTARY PUBLIC

My Commission Expires:
Sept. 24, 2016

Brenda K Ross
PRINTED NAME

Resident of Clark Co., Indiana

THIS INSTRUMENT PREPARED BY:
YOUNG, LIND, ENDRES & KRAFT
JOHN A. KRAFT, ATTORNEY

Bc2011 re; basham Autumn Ridge 23 deed

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

SUBJECT to all covenants, restrictions, reservations, easements, conditions and rights appearing of record; and subject to ant state of facts an accurate survey would show.

IN WITNESS WHEREOF, the Grantor has thereunto set her hand and seal on this 10th day of June, 2011.

Beverly Ann Basham
Beverly Ann Basham, Grantor

STATE OF INDIANA)
) SS:
COUNTY OF CLARK)

Before me, a Notary Public for said State and County, personally appeared Beverly Ann Basham, and executed the foregoing instrument on the 10th day of June, 2011.

My Commission Expires:

November 20, 2016

Mickey Weber
Notary Public: Mickey K. Weber
State of Indiana
County of Clark

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

Mickey Weber
Mickey K. Weber



This instrument prepared by:

MICKEY K. WEBER
ATTORNEY AT LAW
538 E. Court Avenue
Jeffersonville, Indiana 47130
(812) 280-7700

Shiley Holst
CLARK COUNTY RECORDER
Filed for Record as Presented
1 20602607
C2 Date 02/08/2008 Time 12:28:38

AUTUMN RIDGE SUBDIVISION

WILLOWS OF COVERED BRIDGE SECTION I

CERTIFICATE OF OWNERSHIP

PLAN COMMISSION CERTIFICATE

ROBERT LYNN COMPANY, INC.
P.O. BOX 200217
713 MOUNT Tabor Road, Suite #1
New Albany, IN 47150

THIS IS TO CERTIFY THAT THE UNDERSIGNED IS THE OWNER OF THE LAND SHOWN ON THIS PLAN AND HEREBY DEDICATES TO PUBLIC USE THE RIGHTS OF WAY AND EASEMENTS SHOWN ON THIS PLAN AND HEREBY ACKNOWLEDGES THE SAME TO BE AUTUMN RIDGE SUBDIVISION
LENFERT YOUNG, LLC

Brian Lenfert
BRIAN LENFERT, VENDOR

THIS IS TO CERTIFY THAT THE WITHIN PLAN WAS EXAMINED AND APPROVED BY THE CLARK COUNTY PLAN COMMISSION IN ACCORDANCE WITH I.C. PROVISIONS OF AN ORDINANCE ADOPTED DECEMBER 28, 1950, BY THE BOARD OF COUNTY COMMISSIONERS OF CLARK COUNTY, INDIANA, CREATING SAID PLAN COMMISSION AND AN ORDINANCE OF SAID BOARD OF COUNTY COMMISSIONERS ADOPTED JULY 2, 1951, AND AMENDED FEBRUARY 1, 2000 ENACTING REGULATIONS AND PROCEDURES RELATIVE TO THE SUBDIVISION AND PLATTING OF UNINCORPORATED AREAS WITHIN THE LIMITS OF CLARK COUNTY, INDIANA.

THIS DAY OF January
John A. Miller *Lawrence P. Boush*
PRESIDENT ATTORNEY

PROPERTY DEVELOPER:
LENFERT YOUNG, LLC.

CERTIFICATE OF REGISTERED LAND SURVEYOR



I, PAUL PRIMAVERA HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR LICENSED BY COMPULSION WITH THE STATE OF INDIANA AND THAT THIS PLAN CORRECTLY REPRESENTS A SURVEY COMPLETED BY ME IN 2006, AND THAT ALL MEASUREMENTS SHOWN HEREON ACCURATELY REFLECT THE LOCATION, USE AND MATERIALS AS ACCURATELY SHOWN AND THAT THERE HAS BEEN NO CHANGE FROM THE MATERIALS OF SURVEY RECEIVED BY THE SURVEY RECORDED IN THE CLARK COUNTY RECORDER OFFICE, ETC.

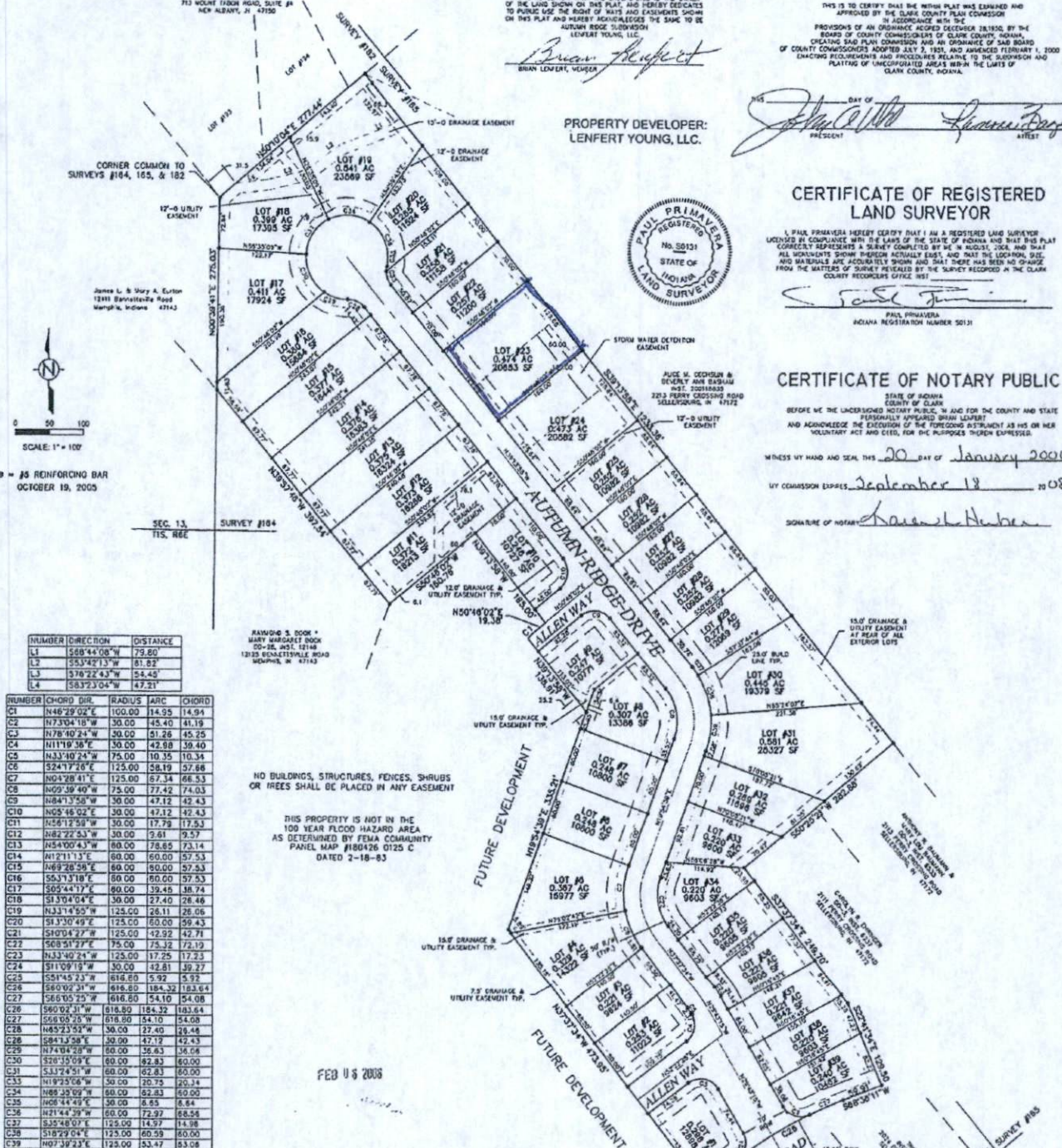
Paul Primavera
PAUL PRIMAVERA
INDIANA REGISTRATION NUMBER 50131

CERTIFICATE OF NOTARY PUBLIC

STATE OF INDIANA
COUNTY OF CLARK
BEFORE ME THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE PERSONALLY APPEARED BRIAN LENFERT AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT AS HIS OR HER VOLUNTARY ACT AND DEED, FOR THE PURPOSES THEREIN EXPRESSED.

WITNESS MY HAND AND SEAL THIS 20 DAY OF January 2006
MY COMMISSION EXPIRES September 18 2008

SIGNATURE OF NOTARY *Karen L. Huber*



NUMBER	DIRECTION	DISTANCE
L1	S68°44'08"W	79.20
L2	S53°42'13"W	81.82
L3	S78°22'43"W	54.45
L4	S83°23'04"W	47.21

NUMBER	CHORD DIR.	RADIUS	ARC	CHORD
C1	N46°29'02"E	100.00	14.95	14.94
C2	N73°04'18"W	30.00	45.40	41.19
C3	N78°40'24"W	30.00	51.26	45.25
C4	N111°19'36"E	30.00	42.68	39.40
C5	N33°40'24"W	75.00	10.35	10.34
C6	S24°17'26"E	125.00	58.19	57.88
C7	N04°28'41"E	125.00	67.34	66.53
C8	N02°59'40"W	75.00	17.42	17.03
C9	N84°13'58"W	30.00	47.12	42.43
C10	N05°46'02"E	30.00	47.12	42.43
C11	N56°12'58"W	30.00	17.78	17.53
C12	N82°22'33"W	30.00	9.61	9.57
C13	N54°00'43"W	80.00	78.65	73.14
C14	N121°11'1"E	60.00	60.00	57.53
C15	N68°28'58"E	60.00	60.00	57.53
C16	S53°13'18"E	60.00	60.00	57.53
C17	S05°44'17"E	60.00	39.46	38.74
C18	S13°04'04"E	30.00	27.40	26.46
C19	N33°45'55"W	125.00	26.11	26.06
C20	S13°30'49"E	125.00	63.00	69.43
C21	S10°04'22"W	125.00	42.92	42.71
C22	S08°13'27"E	75.00	75.32	72.19
C23	N33°40'24"W	125.00	17.25	17.23
C24	S11°09'19"W	30.00	42.81	39.27
C25	S55°43'37"E	616.80	5.92	5.92
C26	S80°02'31"W	616.80	184.32	183.64
C27	S66°05'25"W	616.80	54.10	54.08
C28	S60°02'31"W	616.80	184.32	183.64
C29	N74°04'28"W	60.00	36.63	36.04
C30	S78°35'09"E	60.00	62.83	60.00
C31	S33°21'55"W	60.00	62.83	60.00
C32	N18°23'08"W	60.00	20.73	20.24
C33	N88°25'09"E	60.00	62.83	60.00
C34	N08°14'43"E	30.00	6.65	6.64
C35	N21°44'39"W	60.00	72.37	68.54
C36	S34°48'07"E	125.00	14.95	14.98
C37	S18°29'04"E	125.00	60.59	60.00
C38	N07°39'23"E	125.00	63.47	63.08

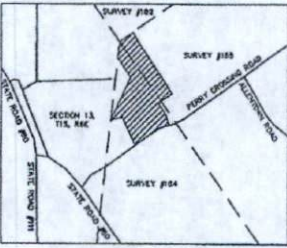
NO BUILDINGS, STRUCTURES, FENCES, SHRUBS OR TREES SHALL BE PLACED IN ANY EASEMENT

THIS PROPERTY IS NOT IN THE 100 YEAR FLOOD HAZARD AREA AS DETERMINED BY FEMA COMMUNITY PANEL MAP #180426 0125 C DATED 2-18-83

FEB 11 2008

LAND DESCRIPTION

Part of Surveys #164 and #165 of the Illinois Grant, Carr Township, Clark County, Indiana, more particularly described as follows:
Beginning at the corner common to Surveys #164, 165, and #182 of the Illinois Grant; thence along the line dividing Surveys #165 and #182 North 50° 10' 04" East 277.44 feet; thence South 39° 13' 55" East 1233.56 feet; thence South 50° 25' 21" West 262.86 feet; thence South 37° 37' 34" East 249.70 feet; thence South 22° 41' 34" East 129.50 feet; thence South 68° 38' 11" West 59.91 feet; thence along a tangent curve to the left (said curve having a radius of 818.80 feet, a chord bearing South 00° 02' 31" West, and a chord length of 153.84 feet) a distance of 184.32 feet; thence South 51° 28' 31" West 58.35 feet; thence North 37° 37' 34" West 473.95 feet; thence North 19° 54' 39" East 335.21 feet; thence North 39° 13' 58" West 138.91 feet; thence along a non-tangent curve concave Southeastwardly (said curve having a radius of 100.00 feet, a chord bearing North 48° 29' 02" East, and a chord length of 14.94 feet) a distance of 14.95 feet; thence North 50° 48' 02" East 19.30 feet; thence North 39° 13' 58" West 165.00 feet; thence South 50° 48' 02" West 160.78 feet; thence North 39° 57' 48" West 397.54 feet to the Westward line of said Survey #164; thence along said Westward line North 00° 39' 41" East 275.03 feet to the point of beginning, containing 14.495 Acres, more or less.



LOCATION MAP

See Affidavit - 200602607

RECORD BOOK _____ PAGE _____

14X31

Sales in Autumn Wood



10-45-16-500-091.000-043

Basham Joseph Jr & Amanda

PERRY CROSSING

100, Vacant Land

carr twp-town of sellersbur 1/2

General Information

Parcel Number 10-45-16-500-091.000-043
Local Parcel Number 45-00001-091-0
Tax ID:

Ownership

Basham Joseph Jr & Amanda
2327 Buttercup Cirle
Sellersburg, IN 47172

Transfer of Ownership

Table with columns: Date, Owner, Doc ID, Code, Book/Page, Adj Sale Price, V/I. Rows include transactions from 06/20/2011 to 08/23/2001.

Legal

Gt 165--5.35 Ac

Routing Number

Property Class 100
Vacant Land

Year: 2020

Location Information

County Clark
Township CARR TOWNSHIP
District 043 (Local 045)
School Corp 0940
Neighborhood 10025021
Section/Plat
Location Address (1) PERRY CROSSING SELLERSBURG, IN



Valuation Records (Work In Progress values are not certified values and are subject to change)

Table with columns: Assessment Year (2020-2016), Reason For Change, As Of Date, Valuation Method, Equalization Factor, Notice Required, Land, Land Res (1), Land Non Res (2), Land Non Res (3), Improvement, Imp Res (1), Imp Non Res (2), Imp Non Res (3), Total, Total Res (1), Total Non Res (2), Total Non Res (3).

Land Data (Standard Depth: Res 100', CI 100' Base Lot: Res 0' X 0', CI 0' X 0')

Table with columns: Land Type, Pricing Method, Soil ID, Act Front., Size, Factor, Rate, Adj. Rate, Ext. Value, Infl. %, Res Elig %, Market Factor, Value.

Zoning

Subdivision

Lot

Market Model N/A

Characteristics

Topography Flood Hazard
Public Utilities ERA
Streets or Roads TIF

Neighborhood Life Cycle Stage Static

Printed Thursday, March 26, 2020
Review Group

Data Source N/A Collector Appraiser

Notes

12/2/2016 GENERAL : REASSESSMENT NO CHANGE BL/KH
5/16/2013 GENERAL : 13-14 annex from parcel 02-21-1110
6/13/2012 GENERAL : REASSESSMENT -- (DS-LG) -- NO CHANGE PRC WASN'T PRINTED NEW PARCEL
8/18/2011 GENERAL : 12-13 split 5.35 ac from parcel 2-21-003-0 (lg)

Land Computations

Table with columns: Land Computations, Calculated Acreage, Actual Frontage, Developer Discount, Parcel Acreage, 81 Legal Drain NV, 82 Public Roads NV, 83 UT Towers NV, 9 Homesite, 91/92 Acres, Total Acres Farmland, Farmland Value, Measured Acreage, Avg Farmland Value/Acre, Value of Farmland, Classified Total, Farm / Classified Value, Homesite(s) Value, 91/92 Value, Supp. Page Land Value, CAP 1 Value, CAP 2 Value, CAP 3 Value, Total Value.

10-45-16-500-108.000-043

Basham Joseph W Jr & Amanda

AUTUMN RIDGE DR

500, Vacant - Platted Lot

Autumn Ridge (45)/100250 1/2

General Information

Parcel Number 10-45-16-500-108.000-043
Local Parcel Number 45-00012-016-0

Tax ID:

Routing Number

Property Class 500
Vacant - Platted Lot

Year: 2020

Location Information

County Clark
Township CARR TOWNSHIP
District 043 (Local 045)
School Corp 0940
Neighborhood 10025027
Section/Plat
Location Address (1) AUTUMN RIDGE DR SELLERSBURG, IN 47172

Zoning

Subdivision

Lot

Market Model N/A

Characteristics

Topography Level
Public Utilities ERA
Streets or Roads TIF
Neighborhood Life Cycle Stage Static

Printed Thursday, March 26, 2020
Review Group

Ownership

Basham Joseph W Jr & Amanda K
2327 Buttercup Circe
Sellersburg, IN 47172

Legal

AUTUMN RIDGE LOT 23 .47 AC

Transfer of Ownership

Table with columns: Date, Owner, Doc ID, Code, Book/Page, Adj Sale Price, V/I. Rows for 07/25/2011 and 02/06/2006.

Notes

10/20/2016 GENERAL : REASSESSMENT NO CHANGE BL/KH
6/4/2013 GENERAL : 13-14 annex from 02-56-0230
8/3/2012 : 12-13 PER KEN CHANGED MARKET FACTOR CODE (LG)
9/21/2010 : PER REASSESSMENT NO CHANGES
4/10/2006 : 06-07 TT VACATED FROM 02-21-01/02-20-23



Res

Valuation Records (Work In Progress values are not certified values and are subject to change)

Table with columns: Assessment Year (2020-2016), Reason For Change, As Of Date, Valuation Method, Equalization Factor, Notice Required, Land, Land Res (1-3), Improvement, Imp Res (1-3), Total, Total Res (1-3).

Land Data (Standard Depth: Res 150', CI 100' Base Lot: Res 70' X 150', CI 0' X 0')

Table with columns: Land Pricing Type, Soil Method ID, Act Front., Size, Factor, Rate, Adj. Rate, Ext. Value, Infl. %, Res Elig %, Market Factor, Value.

Land Computations

Table with columns: Computation Name, Value. Rows include Calculated Acreage, Actual Frontage, Developer Discount, Parcel Acreage, 81 Legal Drain NV, 82 Public Roads NV, 83 UT Towers NV, 9 Homesite, 91/92 Acres, Total Acres Farmland, Farmland Value, Measured Acreage, Avg Farmland Value/Acre, Value of Farmland, Classified Total, Farm / Classified Value, Homesite(s) Value, 91/92 Value, Supp. Page Land Value, CAP 1 Value, CAP 2 Value, CAP 3 Value, Total Value.

Data Source N/A

Collector

Appraiser

Mike Falbo
2041 Autumn Ridge Drive
Sellersburg, IN 47172

Sellersburg Board of Zoning Appeals,

I am a home owner in the Autumn Ridge Subdivision and I'm concerned about the intended use of Autumn Ridge lot 23 in violation of the Autumn Ridge covenants and restrictions.

Approval of this variance request would involve more than just placing a driveway on a residential lot. It could drastically change the use and value of the entire subdivision. If this variance is approved, it would also set a precedent that would make it very difficult to enforce our covenants and restrictions in the future.

If the subdivision lot is used as primary access to the 5.35 acre parcel behind it, the 5.35 acre parcel would essentially function as a lot within the subdivision except it could be used for anything that is permitted on agricultural land. One example could be agricultural equipment using subdivision roads to access the property. Some of the Autumn Ridge covenants and restrictions are written to specifically prohibit activity that is permitted on agricultural land. Other restrictions are in place to maintain the consistency, quality, and curb appeal of the subdivision. Ultimately, the covenants and restrictions were put in place to protect the property values of all residents within Autumn Ridge.

I don't believe the Development Standards Variance Criteria have been met in order for the BZA to approve this variance request because the use and value of the area adjacent to the property included in the variance WILL be affected in a substantially adverse manner. I would be more open to the variance request if there were some residential type restrictions attached to the 5.35 acre parcel by the variance. A variance without restrictions would allow the owners to change their plan for the property or sell the property with the variance attached. Neither case is good for the residents of Autumn Ridge.

Thank you for your consideration,

Mike Falbo

PETITION FOR CONDITIONS TO BE ATTACHED TO VARIANCE TO ORDINANCE

WHEREAS, Joe and Amanda Basham, hereinafter referred to as “the Owners,” purchased approximately 5.35 acres of ground from family members on June 10, 2011, hereinafter referred to as “the 5 Ac Parcel,”

WHEREAS, Autumn Ridge subdivision has “Restrictions and Protective Covenants” recorded by the Clark County Recorder as Instrument No. 200605197 on Mar 10, 2006 and amended and recorded by the Clark County Recorder as Instrument No 200606683 on Mar 31, 2006, and as may be amended by a future Homeowner’s Association, hereinafter collectively referred to as “the Covenants,”

WHEREAS, the lots in the subdivision were intended to have a single, single-family residential home as stated in Paragraph 1 of the Covenants “No lot shall be used except for private, single family residential purposes...”

WHEREAS, the Owners purchased Lot 23 in Autumn Ridge Subdivision on Jun 3, 2011 which is after the recording of the Covenants, and specifically the deed for Lot 23 is “subject to any and all easements, and/or restrictions of public record, which may apply...”

WHEREAS, the Owners have indicated at a neighborhood forum on the evening of July 8th, that they plan to construct a pole-barn first, followed by a single-family home on the 5 Ac Parcel in about three (3) years,

WHEREAS, at the same neighborhood forum, the Owners indicated that there are private agreements such that if the 5 Ac Parcel is ever sold, it will revert back to other family members,

WHEREAS, at the same neighborhood forum, the Owners indicated that they intend to provide all utilities for the residence on the 5 Ac Parcel from the Autumn Ridge Subdivision, thereby for all intents and purposes Lot 23 and the 5 Ac Parcel become one property,

WHEREAS, the Owners have owned Lot 23 and the 5 Ac Parcel for nine (9) years and have yet to build a home and in fact have built a home in another neighborhood circa 2015, and many things can happen in the next three years that may prevent the Owners from building the residence if only the pole-barn is constructed first,

WHEREAS, the Owners are requesting a variance of a Development Standard of the Sellersburg Zoning Ordinance, which requires a property to have 60 ft of frontage on a public street before a structure can be built on the property, to allow access to the landlocked 5 Ac Parcel through Lot 23 of an established subdivision, thereby having the potential to negatively impact surrounding property values because their use of Lot 23 to construct a driveway with no house does not conform to those of the surrounding properties,

WHEREAS, Indiana State Law allows conditions to be added to a variance submitted to an Indiana Board of Zoning Appeals,

In order to help mitigate and offset the negative impacts to the surrounding properties, we hereby request that the following conditions be attached to the variance:

1. All sections of the Covenants will continue to apply to Lot 23, except the requirement to construct a single-family residence on the lot. (See Section 1 of the attached Covenants, which stipulate that a single-family residence be constructed on the lot and Section 21 which requires

PETITION FOR CONDITIONS TO BE ATTACHED TO VARIANCE TO ORDINANCE

- the purchaser of a lot to begin construction within a year.) As specified in the covenants, no other structures will be built on the lot, including those of a temporary nature such as an outdoor shed.
2. The Owners will grade the lot and install a drainage system, if necessary, to prevent any standing water on the lot or flowing onto adjoining property other than the detention basin.
 3. The Owners will construct a concrete driveway, with a minimum width of 18', using current residential construction standards for thickness and reinforcing to prevent cracking induced by future construction traffic, from the back of the curb on Autumn Ridge Drive to the subdivision boundary with the 5 Ac Parcel to be consistent with all other driveways in the neighborhood. Note that all other driveways in the neighborhood are double-car driveways. The driveway may be constructed to a narrower width on the 5 Ac Parcel. The concrete driveway on Lot 23 must be in place before any construction is started on either the pole-barn or residence on the 5 Ac Parcel to minimize dirt and dust from being tracked onto Autumn Ridge Dr. During construction of the pole-barn or residence, any damage to the curb, Autumn Ridge Dr, the detention basin, or surrounding properties, must be repaired immediately.
 4. The Owners will maintain Lot 23 in accordance with the covenants including mowing, watering and the application of fertilizer and/or weed control to maintain a lawn-like surface relatively devoid of bare spots, Johnson grass, clover, dandelions, weeds, and other unsightly ground cover.
 5. The owners shall install and maintain planting material along the boundary between Lot 23 and the 5 Ac parcel to provide visual screening from the ground to a minimum 10-ft height. Preference should be to evergreens such as privet, Arborvitae or similar that provide a dense, year-round screen. Planting is to be in a "zig-zag," offset pattern with a minimum spacing and offset recommended for the chosen species by a horticulturist to maximize the density of the screening.
 6. Only one, single-family home and a single pole-barn (approx. 60'x40') shall be constructed on the 5 Ac Parcel. The residence shall meet or exceed the criteria described in the Covenants regarding size and construction materials to complement the character of the neighborhood. No other structures may be built on the 5 Ac Parcel. The 5 Ac Parcel will no longer be used for agricultural purposes such as raising crops (other than a family garden) or livestock. As indicated by the Owners, the quality of the pole-barn shall be similar to the attached photos.
 7. Restrictions shall be placed on both Lot 23 and the 5 Ac Parcel such that if either property is ever conveyed to parties other than the Owners, they must be simultaneously conveyed to the same parties, so that the 5 Ac Parcel does not become land-locked again. Additionally, the conditions that are incorporated into the variance shall be recorded on both Lot 23 and the 5 Ac Parcel.
 8. The owners may not store items, or otherwise use the pole-barn or home on the 5 Ac Parcel for any purpose, until the grading is performed, concrete drive constructed and repaired if necessary, the screening plants installed, and lawn established on Lot 23. All of these conditions in this paragraph shall be satisfied in order to receive a Certificate of Occupancy for either structure.
 9. The owners will abide by all laws, regulations, and ordinances of the City of Sellersburg, Clark County and the State of Indiana regarding construction activities and use of the land, in particular sweeping/watering Autumn Ridge Drive to prevent dust generation, construction noise, and applicable soil and erosion control provisions.



(8)
Brian Lenfert
3035 Shagbark
Gillsbrook IN 47122

Shirley Holot 8P
CLARK COUNTY RECORDER
Filed for Record as Presented
I 200605197 Page 1 of 8
C2 Date 03/10/2006 Time 15:58:11

RESTRICTIONS AND PROTECTIVE COVENANTS
AUTUMN RIDGE SUBDIVISION SECTION ONE
PLAT NO. 14, PAGE 31, OF THE CLARK COUNTY, INDIANA RECORDS

The undersigned, Lenfert & Young, LLC being the Developer and the sole owner of all of the lots in Autumn Ridge Subdivision, Plat No. 14, Page No. 31, of the Clark County, Indiana Records does hereby impose the following restrictions upon each lot within said Plat, and said restrictions are hereby declared to be covenants running with the land for the mutual benefit of all persons and corporations who may now or hereafter any vested interest, legal, or equitable, in any lot within said subdivision.

1. **PRIMARY USE RESTRICTIONS:** No lot shall be used except for private, single family residential purposes. No structure shall be erected, placed, or altered or permitted to remain on any lot except one (1) single family dwelling designed for the occupancy of one (1) family (including any domestic servants living on the premises), not to exceed two and one-half (2-1/2) stories in height, and which shall contain a private attached garage for the sole use of the owner and occupants of said lot.

2. **APPROVAL OF CONSTRUCTION AND LANDSCAPING PLANS:** No permitted improvements shall be erected, placed, or altered on any lot until the construction plans and building specifications and an elevation plan showing the following: a) grade elevation (including rear, front, and side elevations); b) location of the structure, fence, wall or improvements on said lot; c) the type of exterior material, including but not limited to roofing materials, and including the delivery of a sample of any building material, if requested; d) the location and size of the driveway; e) the placement, type and number of plantings shall have been approved in writing by the Developer.

No fence or sidewalk of any nature shall be built or erected in this development without prior written consent and/or approval of the Developer, which would specify material used and location. Developer or its assigns shall have full and final say concerning construction and/or erection of exterior fences or walls, any fences subject to submission for approval must be wrought iron or have the appearance of wrought iron. Developer may vary the established building lines in its sole discretion, when not in conflict with applicable Zoning Regulations.

In order to maintain uniformity and the quality of construction within the development, the Developer shall approve all general contractors completing residences in said development. The minimum requirement by said Developer shall be that the general contractor shall have been in business for a period of five (5) years, and must have constructed and/or supervised the construction of a minimum of twenty (20) homes.

Developer, in its discretion, reserves the right to waive the standards of experience, period of time in the construction business and/or the minimum number of homes built.

No permitted improvements shall be erected unless said residential structure has a roof pitch of not less than 6 inches vertical for every 12 inches horizontal for structures that are one story, and not less than 6 inches vertical for every 12 inches horizontal for structures more than one story. Developer reserves the right to require a higher roof pitch depending on the depth of the structure and its overall front elevation. Exceptions must be received in writing from the Developer.

After the construction of the residence, each lot owner shall grade, seed and straw front, side, and rear yards. Each lot owner shall thereafter keep and maintain the lot in good health and in a neat and attractive and well-kept condition satisfactory to the Developer. Each lot owner, excepting those lots owned by Developer, shall cause a concrete (or other material approved by Developer in its sole discretion) sidewalk to be constructed on the lot at the location determined and approved by Developer in accordance with specifications set by Developer and in accordance with all applicable governmental regulations/requirements, within thirty (30) days from completion of the residence or in the case of vacant lots within thirty (30) days from the completion of residences on fifty (50%) percent of the lots in the subdivision, as determined by Developer, whether or not the lot owner has begun construction on that particular lot in the Subdivision; and the Developer, its successors and/or assigns, hereby reserves a perpetual easement over and through such sidewalk area as constructed ("Sidewalk Easement"). Such sidewalk shall thereafter be maintained in good repair and condition by lot owner, regardless of whether the sidewalk is located on the lot or within a right of way and/or easement adjacent to the lot.

3. **BUILDING MATERIAL:** The exterior building materials of all structures shall extend to ground level and shall be either brick, stone, dri-vet or stucco, brick veneer or stone veneer, or a combination of the same. Developer recognizes, however, that the appearance of other building materials (such as wood, aluminum and vinyl siding) may be attractive and innovative, and reserves the right to approve in writing the use of other exterior building materials.

Each lot owner shall provide a driveway to said residence that shall be of a material, type and specification to be approved in writing by Developer.

4. **SET BACK AND REAR BUILDING LINES:** No structure shall be located on any lot nearer to the front lot line or the side street line than the minimum building setback lines shown on the recorded plat, or allowed by applicable ordinances, except bay windows and steps may project into said areas, and open porches may project also into said areas not more than six (6) feet. Any permitted structure or improvement erected behind the single family residence, which said structural improvement may include, but not be limited to a swimming pool, pool house, gazebo, tennis court, fence or wall, shall not block the view from a neighboring lot and the location and plan must be approved by the Developer, and be in accordance with these restrictions.

5. **MINIMUM FLOOR AREAS:** (a) The total finished ground floor area of a one (1)-story style shall be a minimum of 1,500 square feet. (b) The total finished floor area of a one and one-half (1-1/2) story shall be a minimum of 900 square feet on the ground floor. (c) The total finished floor area of a two (2) story home shall be a minimum of 750 square feet on the ground floor. (d) All bi-level homes shall have a minimum of 1,200 square feet. For purposes of determining square footage in the foregoing minimum requirements, finished basement areas, attached garages, open or screened porches shall not be included. No building, dwelling or structure may exceed two and one-half (2-1/2) stories. The Developer will determine acceptance of any non-conforming structure.

6. **CURB PROTECTION AND DAMAGE:** Any and all damage that occurs to the concrete curb in this subdivision after the lot fronting the curb area involved is optioned or sold and as a result of home construction or improvement must be repaired or replaced by the lot purchaser to the satisfaction of the Developer and without cost or expense to the Developer.

The lot owner or his building contractor shall protect the concrete curb from damage at all times by means applicable to each particular situation, which normally would be accomplished by means of a dirt or gravel bridging or overlay in the area where all construction deliveries and ingress and egress occurs.

7. **NUISANCES:** No noxious or offensive trade or activity shall be conducted on any lot, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

8. **VEHICLES:** No commercial vehicle, trailer, truck, motorcycle, camper trailer, camping vehicle or boat shall be parked or kept on any lot at any time unless housed in a garage or basement. No automobile, which is inoperable or unlicensed, shall be habitually or repeatedly parked or kept on any lot (except in a garage) or on any street on the development. No automobile, trailer, boat, truck or any other vehicle shall be parked on any street in the subdivision for a period in excess of twenty-four (24) hours in any on calendar year. No automobile shall habitually be parked on any street or public right-of-way.

9. **USE OF OTHER STRUCTURES:** No structure of a temporary character shall be permitted on any lot except temporary tool sheds or field offices used by a builder or the Developer, which shall be removed when the construction or development is completed.

No structure other than the main residence erected on any lot shall at any time be used as a residence, temporary or permanently. This provision shall not permit the erection of any additional structure on any lot in the subdivision, without the express consent, and at the sole discretion of the Developer.

10. **ANIMALS:** No animals including reptiles, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other household pets in this geographical area may be kept provided they are not kept, bred or maintained for any commercial or breeding purposes. All household pets, including dogs and cats, shall at all times be confined to the lot occupied by the owner of such pets or leashed and under the control of a responsible person.

10. **MAIL AND PAPER BOXES:** In an effort to establish uniformity in the subdivision, each lot owner is required to have a uniformly designed mail box and paper holder, with uniform numbers and/or letters, which may be specified by the Developer and which may be purchased directly from the Developer, a related entity or an independent third party vendor. No other mailboxes or paper holders, whether temporary or otherwise shall be permitted on any lot in the development.

11. **PROHIBITED STRUCTURES:** No outside clotheslines shall be erected or placed upon any lot in the subdivision. No antenna (except for standard, small television antenna) or microwave or other receivers or transmitters shall be erected or placed on any lot. Satellite dishes shall not exceed twenty-four (24) inches in diameter and all dishes are not allowed in the front and side yards of the lot.

No carports shall be constructed on any lot

No structure which may be permitted by these restrictions and protective covenants shall be installed or built on a lot in the subdivision without prior written consent granted by the Developer. In presenting plans for any permitted structure to the Developer, the owner must also submit the plans of the structure as it relates to location and materials to be used.

12. **DUTY TO MAINTAIN LOT:** It shall be the duty of each owner, from and after the date of purchase of said lot, to keep the grass on the lot properly cut, to keep free from weeds and trash, and to keep it otherwise neat and attractive in appearance. Should any owner fail to do so, then Developer may take such actions as it deems appropriate, including, but not limited to, mowing and/or contracting with a professional lawn treatment company, in order to make the lot neat and attractive, and the owners shall, upon demand, reimburse Developer or its agents performing said services, the expense incurred in doing so. The Developer shall be entitled to a lien on said lot and the improvements thereon to secure the repayment of any such amounts not paid upon demand. Such lien may be enforced by foreclosure against the lot and improvements thereon, but such lien shall be subordinate to any first mortgage lien thereof. The lien for the foregoing assessments shall attach at such time as a notice thereof is filed in the Office of the Recorder of Clark County, Indiana.

13. **SIGNS:** No sign for advertising or for any other purpose shall be displayed on any lot or on any building or a structure on any lot, except for one (1) sign advertising the sale or rent thereof, which shall not be greater in area than nine (9) square feet, except Developer shall have the right to erect larger signs when advertising the

subdivision, to place signs on lots designating lot number, and to place signs indicating the lot has been sold. This restriction shall not prohibit the placement of occupant name signs and the lot numbers as allowed, and may be required, by applicable zoning regulations. This also does not exclude advertising for Home Show or Home Expo.

14. **LEASES:** All leases or rental agreements for any of the houses in the subdivision shall be in writing and shall be for not less than twelve (12) month periods and shall be submitted to the Developer for their records and approval.

15. **DRAINAGE:** Drainage of each lot shall conform to the general drainage plan for the subdivision as more particularly set out in the plat.

No storm water drains, roof down spouts or groundwater shall be introduced into the sanitary sewage system.

16. **STORAGE AND DISPOSAL OF TRASH:** No rubbish, storage piles, trash, garbage or material shall be dumped or allowed to remain on a lot at any time except as may be necessary to facilitate its pick up and disposal. All such storage shall be screened from view and shall otherwise be subject to such rules and the Developer may enact regulations as from time to time. All containers and equipment for the storage of disposal of such materials shall be kept in a clean and sanitary condition.

17. **RESERVATION OF MAINTENANCE EASEMENT:** The Developer and any of its respective agents, employees and independent contractors shall have the right to enter upon the exteriors of any dwelling unit to the extent necessary for purposes of maintaining, repairing and replacing any improvement in, on, under or upon the common areas as herein provided or for performing any of the respective obligations herein provided. In any such case, the Developer and/or any of the respective agents, employees and independent contractors shall not be guilty of any trespass thereon.

18. **SOIL EROSION:** It is the responsibility of each lot owner to maintain erosion control prior to and during construction of a single family residence to prevent erosion slide into any road or curb improvements. Should an owner fail to take steps to prevent erosion, the Developer may take such actions as it deems appropriate to control the same and immediately, upon demand lot owner must reimburse Developer for any expenses incurred. The cost and expense incurred in so doing shall be a lien on said lot and may be foreclosed as set out in the restrictions herein under "Duty to Maintain Lot".

19. **LIEN RIGHTS:** Should a lot owner fail to pay the assessment created herein or stated in any of the paragraphs of these Restrictions and Protective Covenants, the Developer, its successors and/or assigns, shall be entitled to a lien in a like amount on the land affected thereby until fully paid, with interest and cost of collection, which shall include, but not be limited to reasonable attorney's fees.

20. **OWNER'S ASSOCIATION:** The Developer at his option may create a Subdivision Home Owners' Association, Incorporated, and Indiana Not for Profit

Corporation ("Association"). With establishment of such association, the Developer will file Articles of Incorporation with the Secretary of State of Indiana. The Developer shall and hereby reserves the right to, assign certain of its rights hereunder to the Association, such assignment to be effective upon the recording by Developer of an assignment and notice of creation of Association. Until such assignment and recordation thereof, all right of the Association as may have been set forth in the Restrictions and Protective Covenants shall run to the benefit of, and be exercised by, Developer. All lot owners within the Subdivision shall be members of an Association and shall have one vote per lot owned, provided that, so long as Developer owns any of the lots within the Subdivision, Developer shall have one vote for each lot owned, without regard to whether or not such lot is owned by Developer. Each lot owner, by acceptance of a deed thereto, shall automatically become a member of the Association, regardless of any other abilities, intentions or desires of such owner, and each lot owner agrees to abide by the rules, regulations, by-laws and to pay the fees and/or assessments of the Association.

21. **OBLIGATION TO CONTRACT OR RECONVEY:** Each lot owner shall, within one (1) year from the date of conveyance of a lot from Developer, commence in good faith the construction of a single family dwelling as contemplated by these Restrictions and Protective Covenants; provided, that should said construction not commence within the specified period of time, the Developer may elect to repurchase any and all lots on which construction has not commenced for the price of said lot/lots to the Developer by Warranty Deed. Failure of the Developer to elect to repurchase any lot on which construction has not commenced within the time provided herein shall not be deemed a waiver of the Developer's right to elect to repurchase in the future any or all such lots on which construction has not commenced within the time herein specified.

22. **COVENANTS AND RESTRICTIONS TO RUN WITH THE LAND:** These covenants and restrictions as herein stated, are to run with the land and shall be binding upon all parties claiming under them for a period of twenty-five (25) years from the date this document is recorded, after which time they shall automatically be extended for successive periods of ten (10) years, unless altered or amended under the provisions of this paragraph. The restrictions and covenants herein stated may be modified, amended or supplemented in whole or in part at any time if the owners of at least two-thirds (2/3) of the dwelling units and the Developer consent thereto, the consent of the Developer being required so long as the Developer owns any lot and/or dwelling unit. Any such modifications, amendment or supplement shall be effective only if expressed in a written instrument or instruments executed and acknowledged by each of the consenting owners and properly recorded in the Office of the Recorder of Clark County, Indiana.

LENFERT & YOUNG, LLC

By: Daniel H. Lenfert
Daniel H. Lenfert, Member

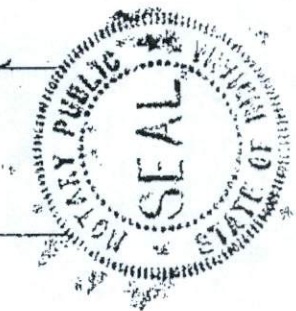
STATE OF INDIANA

COUNTY OF CLARK

Before me, the undersigned, a Notary Public in and for said County and State, this 10 day of March, 2006, came Lenfert & Young by Daniel H. Lenfert its member, for an on behalf of said company, and acknowledged the execution of the above and foregoing Restrictions.

Witness my hand and notarial seal.

Loren L. Nuber
Notary Public, Resident of
Clark County, Indiana



My commission expires:

9-18-2008

Loren L. Nuber
Printed Name

PREPARED BY: BRIAN LENFERT

Declaration

This form is to be signed by the preparer of a document and recorded with each document in accordance with IC 36-2-7.5-5(a).

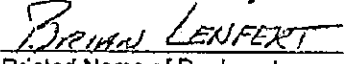
I, the undersigned preparer of the attached document, in accordance with IC 36-2-7.5, do hereby affirm under the penalties of perjury:

1. I have reviewed the attached document for the purpose of identifying and, to the extent permitted by law, redacting all Social Security numbers;
2. I have redacted, to the extent permitted by law, each Social Security number in the attached document.

I, the undersigned, affirm under the penalties of perjury, that the foregoing declarations are true.



Signature of Declarant



Printed Name of Declarant

- A) We the residents of Autumn Ridge Subdivision oppose the issue of a variance using Autumn Ridge Lot 23 as the primary access to agricultural land because using the lot would violate the published covenants and restrictions and could devalue our property.
- B) If the Town of Sellersburg ultimately decides to approve the variance, we believe that the following conditions should be attached to the agricultural land accessed in order to protect the use and value of properties within Autumn Ridge.
1. The Owners will construct a full concrete driveway, with a minimum width of 15', using current residential construction standards for thickness and reinforcing, from Autumn Ridge Drive throughout the 5 Ac Parcel to be consistent with all other driveways in the neighborhood. Note all other driveways in the neighborhood are double-car driveways.
 2. The owners shall install and maintain planting material along the boundary between Lot 23 and the 5 Ac parcel to provide visual screening from the ground to a minimum 10-ft height. Preference should be to evergreens such as privet, Arborvitae or similar that provide a dense, year-round screen.
 3. The owners will construct one, single-family home and a single pole-barn (approx. 60'x40'), with the home being constructed first, so as to maintain the residential intent of Autumn Ridge. The residence shall meet or exceed the criteria described in the Autumn Ridge Covenants regarding size and construction materials to complement the character of the neighborhood.
 4. The 5 Ac Parcel will no longer be used for agricultural purposes such as raising crops (other than a family garden) or livestock.

I, the undersigned have read and agree with paragraphs A) & B) & the four conditions on the previous page.

Name	Address	Phone	Comments
Traci & Mike Falbo	2041 Autumn Ridge	502 836 8222	
Troy & Erin Downs	2035 Autumn Ridge	859-333-6344	Option B: Restrictions 1-3 Chosen
Tami and Elias Chandarliis	2105 Allen way	812-946-0994	
Victor & Holly Rippe	2107 Allen Way	317-213-1060	
Ashley & Kurt Friday	2114 Allen Way	502-345-4734	
Dave & Celeste Grover	2113 Allen way	502 544 5031	
Doug & Courtney Seifried	2110 Allen way	812-503-9930	
Scott Shaver	2112 Allen Way	502-294-4915	Choose option B
Jesse Myers	2123 Allen Way	502-655-8223	option B 1-3
Kristina Smith	2126 Allen Way	502-693-7371	
Wesley & Jodie	2127 Allen Way	812-406-5508	
Michael Harris	2121 Allen way	502-533-6705	
Tiffany Trueblood Seib	2137 Allen way	502-299-9656	
Katie & Tony Krom	2139 Allen way Sellersburg, IN	502-530-7257	
Christy Brown	2138 Allen way Sellersburg, IN	812-599-9565	
Mathew & Angela Lamb	2101 Allen way Sellersburg, IN	812-430-6275	
Sharon & Harvey Hassfurter	2039 Autumn Ridge Drive	812-786-4176	Option B: 1, 2, 4
Michael & Allison Downs	2108 Allen way Sellersburg, IN 47172	502-797-7078	Paragraph B 1-4
Nick Lynn	2127 Allen Way	502-296-8353	
Mike Oplem	2128 Allen Way	(502) 773-6797	

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Petition #: 2020-UV-07-003

Hearing Date: July 20, 2020

By Petitioner(s): Brian & Laura Kehrer

Concerning USE Variance at the address of: Northeast side of Old HWY 60, East of Intersection SR 60

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion Francis Conroy *Doesn't lead itself to cause* Second Mark Tallman

Yea 4 Nay 1 Abstain Pass/Fail-Yes/No Yes

2. Motion to determine that the variance will ~~not~~ have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance. *The*

Motion Dennis Amos Second Mark Tallman

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No Yes *Constrained of 3rd rd*

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion Francis Conroy *The slope of property is detrimental to most use* Second Dennis Amos

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No No *Does for lack of second not*

4. Motion to determine that the strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.

Motion Francis Conroy Second Mark Tallman ~~Francis~~

Yea 4 Nay 1 Abstain Pass/Fail-Yes/No Yes

5. Motion that the approval does not interfere substantially with the Comprehensive Plan.

Motion Mark Tallman Second Dennis Amos *PUD put in place during current Comp Plan*

Yea 5 Nay 0 Abstain Pass/Fail-Yes/No YES

6. Motion to approve any special conditions. *Motion not required due to failure of Petition.*

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # _____

Approved Denied *Due to votes on # 2, 4 and 5*

Special Conditions:

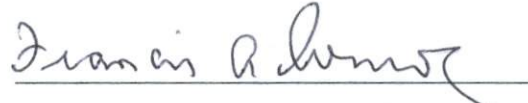
Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Signature Page – Petition # 2020-UV-07-003

Signed this 20 day of July, 2020



Vincent C. Thacker, Jr., Chairman



Francis A. Conroy, Vice-Chairman



Dennis V. Amos, Member



Mark Tolliver, Member



Evan Brown, Member

Attest:



Town of Sellersburg
Board of Zoning Appeals
316 E Utica Street
Sellersburg, IN 47172

Docket Number: 2020-UV-07-003

Date: September 21, 2020

Finding of Fact for Use Variance from the Town of Sellersburg Zoning Ordinance

Use Variance is a request to permit RV and Boat Storage Facility in an area zoned Community Commercial as set out in the TIFF/Planned Unit Development Ordinance, 2011-015, Section 17, Table 2.

1.) The approval **will not** be injurious to the public health, safety, morals, and general welfare of the community because:

The proposed use is not injurious and does not lend itself to be detrimental and their proposed safety of a fence.

Francis
Motion made by *Francis* Conroy and seconded by Mark Tolliver. Motion carried 4 to 1.

2.) The use and value of the area adjacent to the property included in the variance **will** be affected in a substantially adverse manner because:

Will have a negative impact on the adjacent properties value, as the adjacent property relies on rent from apartment and renting the apartment next to the proposed facility would be difficult to rent.

Motion made by Dennis Amos and seconded by Mark Tolliver. Motion carried 5 to 0

3.) The need for the variance does not arise from some condition peculiar to the property involved:

Layout of lot does not lend itself to prevent development under current zoning rules.

Motion made by Mark Tolliver and seconded by Dennis Amos. Motion carried 5 to 0

4.) The strict application of the terms of the zoning ordinance **will not** constitute an unnecessary hardship if applied to the property for which the variance is sought:

There is nothing preventing the property from being developed with all the various uses allowed.

Motion made by Francis Conroy and seconded by Mark Tolliver. Motion carried 4 to 1.



Sellersburg Board of Zoning Appeals

STAFF REPORT USE VARIANCE

DATE:	July 14, 2020
DOCKET NUMBER:	2020-UV-07-003
APPLICANT:	Brian & Laura Kehrer
OWNER:	Nova Starr LLC. Sheila Hardy
LOCATION OF SUBJECT PROPERTY OF VARIANCE:	Northeast side of Old HWY 60, East of the Intersection of SR 60
LEGAL DESCRIPTION (summary)	Metes & Bounds description – 5.374 acres more or less.
VARIANCE REQUEST:	Section 17 PUD Ordinance 2011-015 Permit RV & Boat Storage in Community Commercial of the Planned Unit Development Zoning District.
CURRENT ZONING:	PUD
COUNCIL DISTRICT:	
<p style="color: red;">Note: The maps in this Staff Report are applicable to the following Docket #: 2020-DV-07-004; 2020-DV-07-005; 2020-DV-07-006; 2020-DV-07-007; 2020-DV-07-008</p>	

Information:

The Applicant is requesting a Use Variance to permit an RV and Boat Storage Facility in Subarea Community Commercial of the Planned Unit Development (PUD) Zoning District. RV and Boat Storage Facilities are not a permitted use, as outlined in Section 17, Table 2 of the PUD, Subarea Community Commercial.



Sellersburg Board of Zoning Appeals

STAFF REPORT USE VARIANCE

Finding of Fact:

In accordance with the requirements set out in the Indiana Code (IC) the Board of Zoning Appeals will need to determine if the applicant has satisfied the requirements in IC 36-4-7-918.4

IC 36-7-4-918.4 (a) A board of zoning appeals shall approve or deny variances of use from the terms of the zoning ordinance. The board may impose reasonable conditions as a part of its approval. A variance may be approved under this section only upon determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (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;
- (3) the need for the variance arises from some condition peculiar to the property involved;
- (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; and
- (5) the approval does not interfere substantially with the comprehensive plan adopted under the 500 series of this chapter.



Sellersburg Board of Zoning Appeals

STAFF REPORT USE VARIANCE

Applicant's Finding of Fact:

The applicant provides the following as written finding of fact for the requested Use Variance. The Applicant's written Finding of Fact are written verbatim, as they appear on the Applicant's Use Variance Application.

(1) Will the variance provide safe conditions that will not be injurious to the public health, safety, morals, and general welfare of the community.

Applicant states: This will be a safe, secure and well managed facility. There is needed storage facilities for RV & Boat owners in community to secure there property.

Staff: The Applicant has not addressed the required finding of fact. The finding of fact criteria requires the applicant to providing evidence that the a non-permitted use, RV and Boat storage, in the Community Commercial Subarea of the PUD will not be injurious to the public health, safety, morals and general welfare of the community. *Similar use as warehouse use. Secured facility. Locked gate video.*

The Board will need to consider if the Use Variance is granted to permit the non-permitted use as to what could be the potential for harm to the Town and what harm could befall.

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

Applicant states: The allowed variance will provide the opportunity to develop the land and increase the commercial value of adjacent properties.

Staff: The Applicant has not addressed the required finding of fact as to how the permitting a non-permitted use will or will not affect the use and value of the subject property or adjacent properties value in a substantially adverse manner.

The Applicant will need to provide supporting evidence that a non-permitted use will or will not affect the value of the subject property or adjacent properties in a substantially adverse manner with quantifiable information.



Sellersburg Board of Zoning Appeals

STAFF REPORT USE VARIANCE

The Board will need to consider if neighboring property will suffer any major negative impact and what impacts can realistically be expected by permitting a non-permitted use.

(3) Does the need for the variance arise from some condition peculiar to the property involved.

Odd shaped property - which... low road frontage for sale for 10 years
Applicant states: The Use Variance is required according to PUD Guidelines for Community Commercial District for RV & Boat Storage Facilities (warehouses).

Staff: The Applicant has not addressed the required finding of fact that the need for the variance arises from some condition peculiar to the property.

The Applicant will need to provide information that there is a condition that is peculiar to the property.

The Board will need to determine if there is some unique problem with the site that makes the site unable to comply with the requirements of the PUD, Community Commercial Subarea

(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.

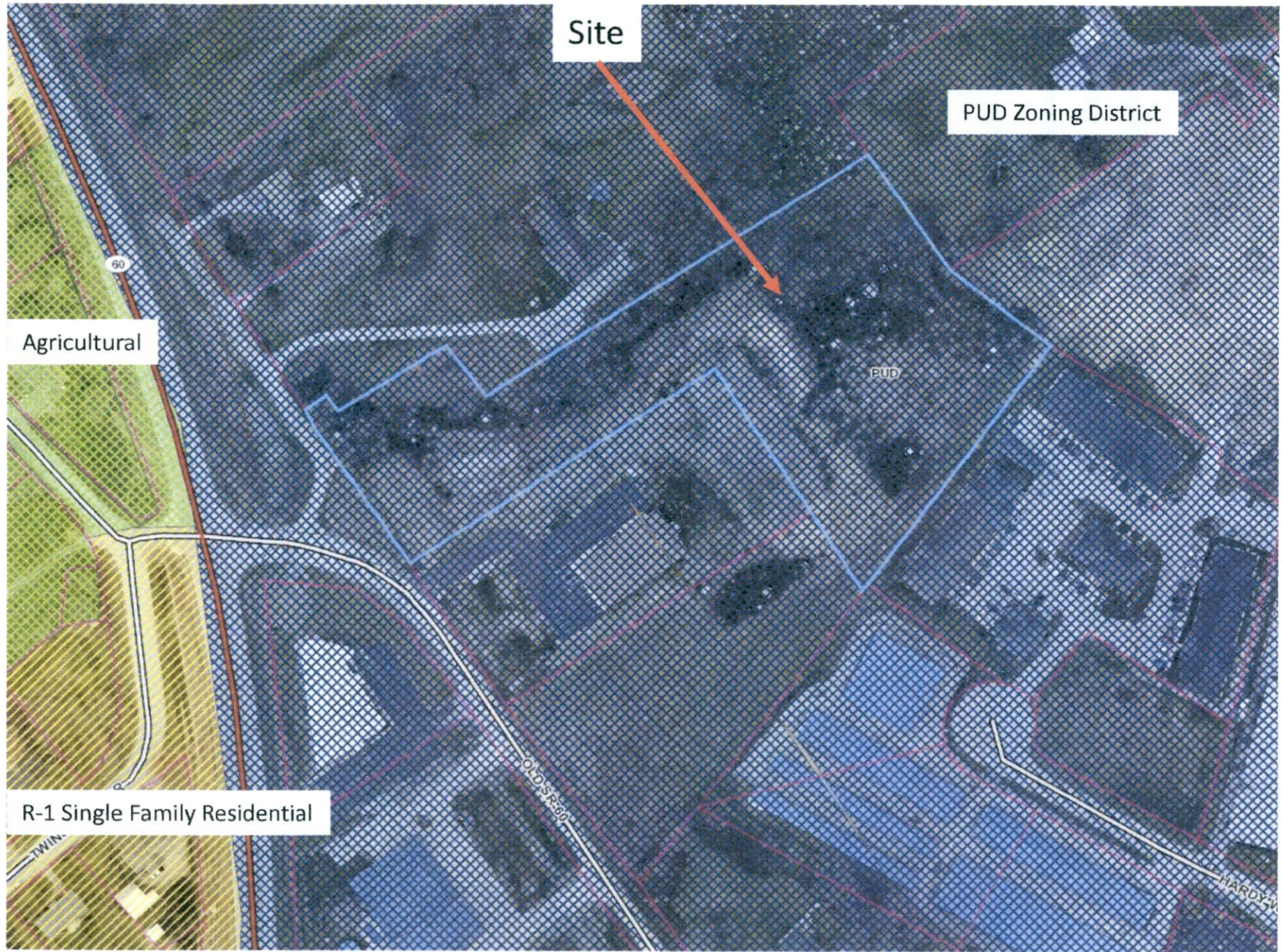
PUD is very strict. unusual site could only be used for
Applicant states: The Special Exception Variance requirement is a requirement of PUD Ordinance and property proposed use would not be allowed.

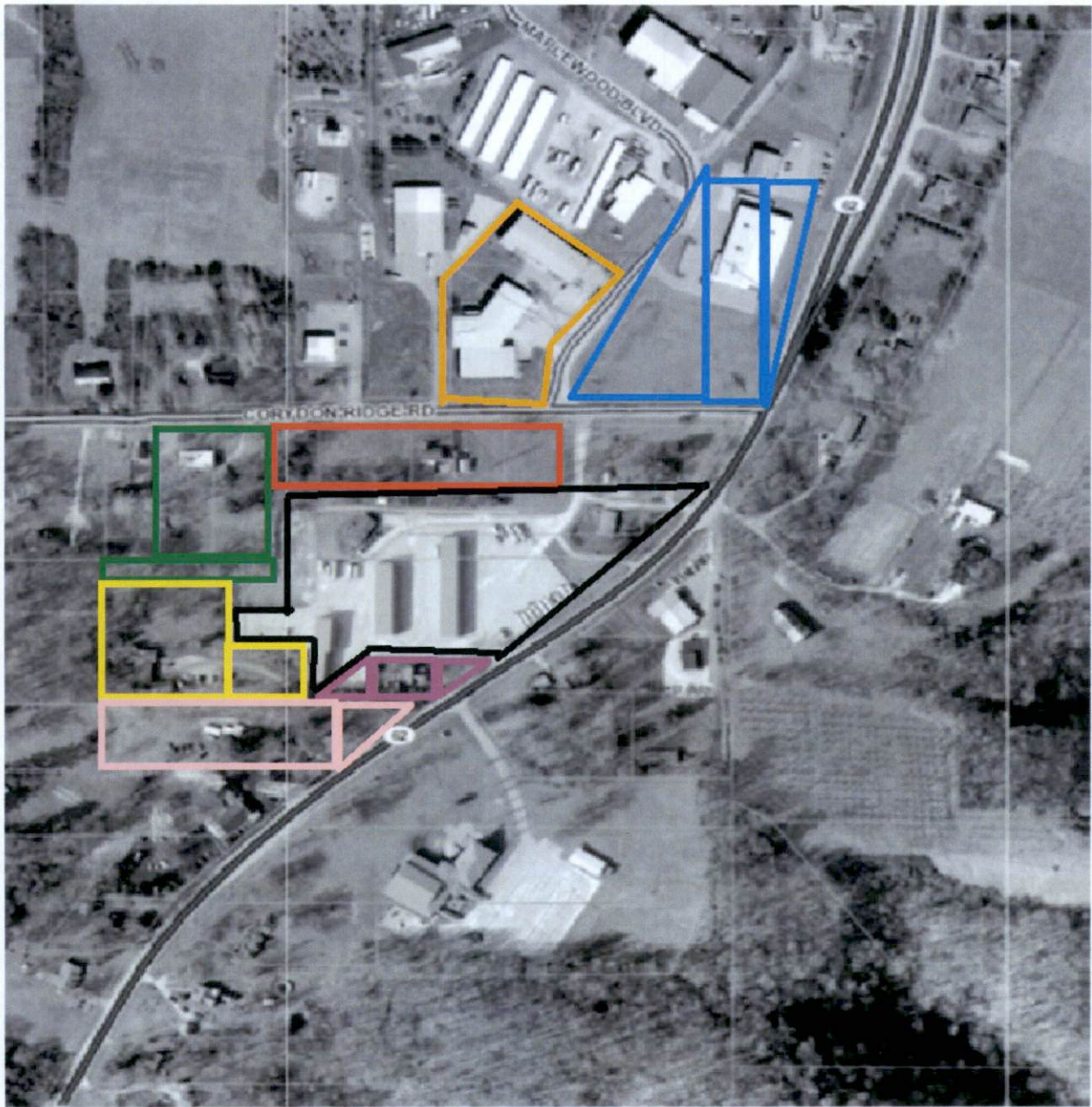
Staff: The Applicant has not addressed how the terms of the PUD Ordinance constitutes an unnecessary hardship applied to the property for which the variance is sought.

The Board needs to consider what it would be like if the property were developed complying with the permitted uses for Community Commercial Subarea and what would be the difficulties in developing in compliance with the requirements of the Community Commercial Subarea of the PUD.

Site







Orange – MRO Properties LLC located at 505 Maplewood Blvd.

Blue – S & A Patterson Prop. LLC located at 5681 Old Corydon Ridge Rd.

Red – Bridges, Evan located at 5601 Old Corydon Ridge Rd.

Green – Teigland, Garry located at 5681 Old Corydon Ridge Rd.

Pink – Eisert, Eric located at 5420 State Road 62

Yellow – Frostwood Division located at 5228 State Road 62

Purple – Kehrer, Brian located at 5224 State Road 62







Dear Sellersburg Building and Zoning,

I am writing on behalf of Serenity RV and Boat storage. I have rented a space for my RV at their Georgetown location for the past 2 1/2 years. My neighborhood does not allow for me to keep my RV at my house so I needed a safe place to store it when I wasn't using it. I have been very pleased with the owners of this business and the location of their current business. It always feels safe and secure and very well maintained. I like that it has a keypad entry and plenty of open space to pull in and out of my space. I know many friends that own campers, RV's and boats that have a need for storage but have had difficulty finding places near where they live. I am a prime example as I live in Jeffersonville and store my RV in Georgetown as there weren't any other RV storage places with availability when I needed a space. There is a great need for more storage places for RV's and boats in the Jeffersonville/Sellersburg area. I feel the owners of Serenity RV and Boat storage would provide a great service in that area! Please feel free to contact me if you need any further information.

Thank you,

Shanann Hays

3407 Tooten Hill Rd

Jeffersonville, IN 47130

502-741-6102

July 24, 2020

To: Sellersburg Building and Zoning

Ref: Serenity RV and Boat Storage /New Location- Sellersburg, IN

To Whom it May Concern:

I am writing this letter to advise you that we have used Serenity RV and Boat Storage for years now and it has come to our attention that they are wanting to build a second location in Sellersburg, Indiana. This would be ideal for us since we are currently taking our car trailer all the way to Floyds Knobs, Indiana. We love doing business with Brian and Lauren and they are truly looking out for their customers at all times by monitoring their property themselves. We have been there numerous times and seen them actually on-site working to keep the place clean, tidy and well maintained!!

We are surely hoping that they will get the necessary support they need from you to help them accomplish building another location to ensure they can handle all of their customers' needs. This surely helps us knowing that we don't have to leave our boats, trailers and motorhomes in unsecure areas that are dirty and unsafe! Means a lot to us to know they care about their customers enough to expand.

All the best to them in their new adventure!

Mr. & Mrs. Richard S Heineman

726 Spicewood Drive

Clarksville, Indiana 47129

Sellersburg Building and Zoning

To whom it may concern:

I am writing as a resident of Clark County and a tenant of Serenity RV and Boat Storage. I am aware of Serenity's application to expand their storage service to a new location in Sellersburg and wanted to let you know that granting a business permit for this new location would be a good investment for Sellersburg. I am a tenant of the Serenity Storage Unit at the Georgetown exit and have been very impressed with the professionalism and integrity of Brian and Lauren Kehrer. They are very responsive when called. They always keep the facility well lighted and secured. The facility is always clean and the area around the facility is always well groomed and free of tall weeds. They keep the rent competitive for the service they provide and do not try to price gouge you.

Having a storage facility for my RV allows me to keep from storing my RV in my neighborhood and inconveniencing my neighbors. Having to park an RV in the side yard or on the street can be a safety hazard and traffic problem at times. The Serenity facility allows adequate space out of sight of the public in a safe and secure area.

I believe allowing Serenity to provide this same excellent service in Sellersburg will allow its residents the same great service I am receiving. It is much closer to my home and I am sure I will be moving my RV to this new location if granted.

In closing, I ask that you please consider Brian and Lauren's request. I would be glad to answer any questions your board may have if needed.

Sincerely,

Todd Oetken

8035 Lakeside Quarry Dr

Jeffersonville IN 47130

502-553-7477



Commercial Real Estate Services
4206 Charlestown Rd, Ste 200
New Albany, IN 47150

July 30, 2020

To Whom It May Concern:

My name is Ray Neal, I am commercial real estate broker with Schuler Bauer Commercial Real Estate Services of New Albany, Indiana. I have been serving the Southern Indiana area as a commercial broker since 1996 and in Kentucky since 2001.

I have been asked to provide an assessment of the potential impact, either positive or negative a proposed Boat/Camper/RV storage facility on Old Hwy in Sellersburg may have on the local community. Since most immediate area business are oriented towards community service and convenience i.e., grocery, veterinary clinic, bank, restaurants, household storage units and apartments, etc. I feel the addition of this type of facility would not have a negative impact on the area. To the contrary with the number existing and proposed single family and multi-family dwellings in the surrounding areas I believe this type of facility would provide a lacking service in the community. Most subdivision and apartment complexes forbid outside storage on premises, area families with recreational vehicles and boats must seek storage facilities outside of the area. Therefore, I think a facility of this nature would provide a welcomed service to.

Sincerely,

A handwritten signature in cursive script that reads "Ray Neal". The signature is written in dark ink and is positioned above the typed name and title.

Ray Neal
Commercial Associate Broker
Schuler Bauer Commercial RES
4206 Charlestown Rd, Ste 200
New Albany, IN 47150

C: 502-553-0412
RayNeal@SchulerBauer.com

0 Old State Road 60, Sellersburg, Indiana 47172

History

Listing History from MLS

MLS#: 201604910
Expired

0 Old State Road 60 Sellersburg 47172

PropType: **LOTL**



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Expired	317	\$580,000	A->X	08/02/17	MatrixSystem
New Listing	0	\$580,000	->A	08/02/16	ADM8113

MLS#: 201604909
Expired

0 Old State Road 60 Sellersburg 47172

PropType: **Commercial**



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Expired	365	\$580,000	A->X	08/02/17	MatrixSystem
New Listing	0	\$580,000	->A	08/02/16	ADM8113

MLS#: 201604908
Expired

0 Old State Road 60 Sellersburg 47172

PropType: **LOTL**



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Expired	317	\$289,900	A->X	08/02/17	MatrixSystem
New Listing	0	\$289,900	->A	08/02/16	ADM8113

MLS#: 201604907
Expired

0 Old State Road 60 Sellersburg 47172

PropType: **Commercial**



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Expired	365	\$289,900	A->X	08/02/17	MatrixSystem
New Listing	0	\$289,900	->A	08/02/16	ADM8113

MLS#: 201505367
Expired

0 Old State Road 60 Sellersburg 47172

PropType: **LOTL**



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Expired	368	\$269,900	A->X	08/01/16	1
New Listing	0	\$269,900	->A	07/30/15	ADM8113

MLS#: 201505365
Expired

0 Old State Road 60 Sellersburg 47172

PropType: **Commercial**



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Expired	369	\$289,900	A->X	08/01/16	1
Price Increase	362	\$289,900	\$269,900->\$289,900	07/25/16	ADM8113
New Listing	0	\$269,900	->A	07/30/15	ADM8113

MLS#: 201505363
Expired

0 Old State Road 60 Sellersburg 47172

PropType: **LOTL**



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Expired	369	\$520,000	A->X	08/01/16	1
New Listing	0	\$520,000	->A	07/30/15	ADM8113

MLS#: 201505362
Expired

0 Old State Road 60 Sellersburg 47172

PropType: **Commercial**



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Expired	369	\$580,000	A->X	08/01/16	1
Price Increase	362	\$580,000	\$520,000->\$580,000	07/25/16	ADMS113
New Listing	0	\$520,000	->A	07/30/15	ADMS113

MLS#: 201204196
Complete Release

0 Old State Road 60 Sellersburg 47172

PropType: Commercial



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Complete Release	205	\$399,900	A->R	01/04/13	ADMS113
New Listing	0	\$399,900	->A	06/14/12	ADMS113

MLS#: 201203194
Complete Release

0 Old State Road 60 Sellersburg 47172

PropType: Commercial



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Complete Release	205	\$899,900	A->R	01/04/13	ADMS113
New Listing	0	\$899,900	->A	06/14/12	ADMS113

MLS#: 201103160
Expired

0 Old State Road 60 Sellersburg 47172

PropType: Commercial



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Expired	366	\$999,999	A->X	05/02/12	1
New Listing	0	\$999,999	->A	05/02/11	ADMS113

MLS#: 201103159
Expired

0 Old State Road 60 Sellersburg 47172

PropType: Commercial



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Expired	366	\$475,000	A->X	05/02/12	1
New Listing	0	\$475,000	->A	05/02/11	ADMS113

MLS#: 201003098
Expired

0 Old State Road 60 Sellersburg 47172

PropType: Commercial



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Expired	365	\$475,000	A->X	04/29/11	1
New Listing	0	\$475,000	->A	04/30/10	ADMS113

MLS#: 201003097
Expired

0 Old State Road 60 Sellersburg 47172

PropType: Commercial



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Expired	365	\$999,999	A->X	04/29/11	1
New Listing	0	\$999,999	->A	04/30/10	ADMS113

MLS#: 200902655
Expired

0 Old State Road 60 Sellersburg 47172

PropType: Commercial



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Expired	364	\$475,000	A->X	04/22/10	1
New Listing	0	\$475,000	->A	04/22/09	ADM2002

MLS#: 200902654 Expired



DOM Expired 364 \$1,120,000 A->X
Change Type New Listing 0 \$1,120,000 ->A
Price Change Details
Eff. Date Modified By
04/22/10 ADM9002
Property: Commercial

0 Old State Road 60 Sellersburg 42172

MLS#: 200803263 Expired



DOM Expired 365 \$1,120,000 A->X
Change Type New Listing 0 \$1,120,000 ->A
Price Change Details
Eff. Date Modified By
04/22/08 ADM8113
Property: Commercial

0 Old State Road 60 Sellersburg 42172

MLS#: 200802262 Expired



DOM Expired 365 \$475,000 A->X
Change Type New Listing 0 \$475,000 ->A
Price Change Details
Eff. Date Modified By
04/22/09 ADM8113
Property: Commercial

0 Old State Road 60 Sellersburg 42172

MLS#: 200709554 Expired



DOM Expired 179 \$1,120,000 A->X
Change Type New Listing 0 \$1,120,000 ->A
Price Change Details
Eff. Date Modified By
04/21/08 ADM8113
Property: Commercial

0 Old State Road 60 Sellersburg 42172

MLS#: 200703634 Expired



DOM Expired 183 \$475,000 A->X
Change Type New Listing 0 \$475,000 ->A
Price Change Details
Eff. Date Modified By
10/21/07 ADM8113
Property: Commercial

0 Old State Road 60 Sellersburg 42172

MLS#: 200703633 Expired



DOM Expired 183 \$1,120,000 A->X
Change Type New Listing 0 \$1,120,000 ->A
Price Change Details
Eff. Date Modified By
10/21/07 ADM8113
Property: Commercial

0 Old State Road 60 Sellersburg 42172

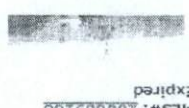
MLS#: 200609121 Expired



DOM Expired 182 \$475,000 A->X
Change Type New Listing 0 \$475,000 ->A
Price Change Details
Eff. Date Modified By
04/20/07 ADM8113
Property: Commercial

0 Old State Road 60 Sellersburg 42172

MLS#: 200609168 Expired



DOM Expired 182 \$1,120,000 A->X
Change Type New Listing 0 \$1,120,000 ->A
Price Change Details
Eff. Date Modified By
04/20/07 ADM8113
Property: Commercial

0 Old State Road 60 Sellersburg 42172



MLS#: 200603496
Expired

0 Old State Road 60 Sellersburg 47172

PropType: **Commercial**



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Expired	184	\$475,000	A->X	10/19/06	<u>1</u>
New Listing	0	\$475,000	->A	04/17/06	<u>ADM8113</u>

MLS#: 200603493
Expired

0 Old State Road 60 Sellersburg 47172

PropType: **Commercial**



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Expired	184	\$1,120,000	A->X	10/19/06	<u>1</u>
New Listing	0	\$1,120,000	->A	04/17/06	<u>ADM8113</u>

MLS#: 200508031
Expired

0 Old State Road 60 Sellersburg 47172

PropType: **Commercial**



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Expired	182	\$475,000	A->X	04/15/06	<u>1</u>
New Listing	0	\$475,000	->A	10/17/05	<u>ADM8113</u>

MLS#: 200508030
Expired

0 Old State Road 60 Sellersburg 47172

PropType: **Commercial**



Change Type	DOM	Price	Change Details	Eff. Date	Modified By
Expired	182	\$1,120,000	A->X	04/15/06	<u>1</u>
New Listing	0	\$1,120,000	->A	10/17/05	<u>ADM8113</u>



Sellersburg Board of Zoning Appeals

REVISED STAFF REPORT USE VARIANCE

DATE:	August 14, 2020 – REVISED
DOCKET NUMBER:	2020-UV-07-003
APPLICANT:	Brian & Laura Kehrer
OWNER:	Nova Starr LLC. Sheila Hardy
LOCATION OF SUBJECT PROPERTY OF VARIANCE:	Northeast side of Old HWY 60, East of the Intersection of SR 60
LEGAL DESCRIPTION (summary)	Metes & Bounds description – 5.374 acres more or less.
VARIANCE REQUEST:	Section 17 PUD Ordinance 2011-015 Permit RV & Boat Storage in Community Commercial of the Planned Unit Development Zoning District.
CURRENT ZONING:	PUD
COUNCIL DISTRICT:	

Applicability Planned Unit Development Zoning District

The standards in this plan area applicable to new primary and accessory structures construction requiring Development Plan Approval in the TIF District Planned Unit Development (PUD).

The Applicant has not submitted the required Development Plan for review by the Technical Review Committee. It was brought to the Applicant’s attention in the pre-conference video call that the required Development Plan has not been submitted and was informed the Development Plan submission and review were required to determine if the proposed development was in full compliance with the Planned Unit Development Zoning District Ordinance. The Applicant in pre-conference meeting declined to submit required Development Plan, due to expense and elected to pursue Developmental Standards Variances prior to the submission of the required Development Plan.

Planning Unit Development Zoning District Information

The Planning Unit Development Zoning District Ordinance states: “The following Development and Design Standards are intended to reflect the Town of



Sellersburg Board of Zoning Appeals

REVISED STAFF REPORT USE VARIANCE

Sellersburg's vision for new development within the boundaries of the district. The development concept by subarea intent is to provide a cohesive, master-planned community which encourages mixed-uses, and compact development in a walkable setting.

The purpose of the Community Commercial subarea is to encourage quality commercial/retail development that responds to the needs of current market conditions. This development is located along State Roads 60 and 311 and is more auto oriented. Below are additional features or principles for Community Commercial Subarea.

- Development adjacent to the intersection of S. R 311 and Enterprise Drive should incorporate a gate way in the district
- Creates a more pedestrian-friendly setting and ties into a multi-model transportation network rather than typical, auto-oriented commercial development

Information:

The Applicant is requesting a Use Variance to permit an RV and Boat Storage Facility in Subarea Community Commercial of the Planned Unit Development (PUD) Zoning District. RV and Boat Storage Facilities are not a permitted use, as outlined in Section 17, Table 2 of the PUD, Subarea Community Commercial.

Finding of Fact:

In accordance with the requirements set out in the Indiana Code (IC) the Board of Zoning Appeals will need to determine if the applicant has satisfied the requirements in IC 36-4-7-918.4

IC 36-7-4-918.4 (a) A board of zoning appeals shall approve or deny variances of use from the terms of the zoning ordinance. The board may impose reasonable conditions as a part of its approval. A variance may be approved under this section only upon determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use and value of the area adjacent to the property included in



Sellersburg Board of Zoning Appeals

REVISED STAFF REPORT USE VARIANCE

- the variance will not be affected in a substantially adverse manner;
- (3) the need for the variance arises from some condition peculiar to the property involved;
 - (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; and
 - (5) the approval does not interfere substantially with the comprehensive plan adopted under the 500 series of this chapter.

Applicant's Finding of Fact:

The applicant provides the following as written finding of fact for the requested Use Variance. The Applicant's written Finding of Fact are written verbatim, as they appear on the Applicant's Use Variance Application.

(1) Will the variance provide safe conditions that will not be injurious to the public health, safety, morals, and general welfare of the community.

Applicant states: This will be a safe, secure and well managed facility. There is needed storage facilities for RV & Boat owners in community to secure there property.

DUE TO THE LENGTH OF THE REVISED RESPONSES TO DECISION MAKING CRITERA AND THE POSSIBILITY OF INTRODUCING ERROR IN RE-TYPING RESPONSES, PLEASE SEE THE END OF THE STAFF REPORT FOR THE REVISED RESPONSES TO DECISION MAKING CRITERIA.

Staff - AUGUST 14, 2020 – In considering the Use Variance the Board will need to give consider if granting the Use Variance potentially cause harm to the Town and what harm can occur for the Town of Sellersburg.

Applicant states "warehouse" is not defined and considers the proposed development a warehouse. The Applicant further makes reference to the



Sellersburg Board of Zoning Appeals

REVISED STAFF REPORT USE VARIANCE

Parking Minimum Standards to infer that the RV and Boat Storage are permitted use because the minimum number of parking spaces required list "self-storage facilities".

The Planned Unit Development Zoning District Ordinance, Section 17, Community Commercial Subarea states: "This subarea contains uses that serve the entire Sellersburg community. A Uses in this category typically are of larger and include those found in Village Square, as well as those found in Table 2: Land Use, page 28."

As stated in Section 17, Land Uses permitted in Village Square and those found in Table 2, Land Use. No reference is made to use of Table 5, Minimum Parking Standards to determine permitted land use.

The Concept Plan for Community Commercial subarea states: The purpose of the Community Commercial subarea is to encourage quality commercial/retail development that responds to the needs of current market conditions. As indicated on the accompanying illustration, this development is located along State Roads 60 and 311 and is more auto oriented. Below are additional features or principles for the Community Commercial subarea.

- Development adjacent to the intersection of S. R. 311 and Enterprise Drive should incorporate a gateway into the TIF District.*
- Creates a more pedestrian-friendly setting and ties into a multi-modal transportation network rather than typical, auto oriented commercial development. Characteristic development in the Community Commercial subarea.*
- Anchored by a grocery store, new commercial development would focus on the needs of residents, IVY Tech students, and motorists/visitors.*



Sellersburg Board of Zoning Appeals

REVISED STAFF REPORT USE VARIANCE

Accompanying illustration



Characteristic development in the Community Commercial subarea

When Table 2, Land Use for Community Commercial is studied it becomes apparent that Community Commercial permitted uses are not manufacturing, or industrial related uses. Permit uses in Community Commercial are those uses generally associated with retail/wholesale sales, office, hotel/motels, parks/playground, cultural centers, theaters, restaurant (without drive-through).

JULY 14, 2020 - The Applicant has not addressed the required finding of fact. The finding of fact criteria requires the applicant to providing evidence that the a non-permitted use, RV and Boat storage, in the Community Commercial Subarea of the PUD will not be injurious to the public health, safety, morals and general welfare of the community. The Board will need to consider if the Use Variance is granted to permit the non-permitted use as to what could be the potential for harm to the Town and what harm could befall.



Sellersburg Board of Zoning Appeals

REVISED STAFF REPORT USE VARIANCE

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

Applicant states: The allowed variance will provide the opportunity to develop the land and increase the commercial value of adjacent properties.

DUE TO THE LENGTH OF THE REVISED RESPONSES TO DECISION MAKING CRITERIA AND THE POSSIBILITY OF INTRODUCING ERROR IN RE-TYPING RESPONSES, PLEASE SEE THE END OF THE STAFF REPORT FOR THE REVISED RESPONSES TO DECISION MAKING CRITERIA.

Staff - AUGUST 14, 2020 - The Board needs to consider will neighboring property suffer any major negative impact and what impact can realistically be expected to permit the development of a storage facility.

The Applicant compares the proposed development in Sellersburg, Indiana, located in a Planned Unit Development Zoning District to a facility in Georgetown, Indiana. Georgetown, Indiana is not Sellersburg, Indiana and the zoning ordinance for Georgetown, Indiana is not applicable in Sellersburg Indiana.

JULY 14, 2020 - The Applicant has not addressed the required finding of fact as to how the permitting a non-permitted use will or will not affect the use and value of the subject property or adjacent properties value in a substantially adverse manner.

The Applicant will need to provide supporting evidence that a non-permitted use will or will not affect the value of the subject property or adjacent properties in a substantially adverse manner with quantifiable information.

The Board will need to consider if neighboring property will suffer any major negative impact and what impacts can realistically be



Sellersburg Board of Zoning Appeals

REVISED STAFF REPORT USE VARIANCE

expected by permitting a non-permitted use.

(3) Does the need for the variance arises from some condition peculiar to the property involved.

Applicant states: The Use Variance is required according to PUD Guidelines for Community Commercial District for RV & Boat Storage Facilities (warehouses).

DUE TO THE LENGTH OF THE REVISED RESPONSES TO DECISION MAKING CRITERIA AND THE POSSIBILITY OF INTRODUCING ERROR IN RE-TYPING RESPONSES, PLEASE SEE THE END OF THE STAFF REPORT FOR THE REVISED RESPONSES TO DECISION MAKING CRITERIA.

Staff: AUGUST 14, 2020 – The Board will need to consider whether there is some unique problem with the site that makes it unable to comply with the Planned Unit Development Zoning District, Community Commercial Subarea.

The Applicant again refers to the Minimum Parking Standard Table for the uses. The decision-making criteria for the Use Variance asks does the need for the Use Variance arise from some condition peculiar to the property.

The Applicant makes a statement the small road frontage, elevation of the property and the shape of the property are deterrents of the property.

The landowner between March and May of 2020 did a metes and bound subdivision of the subject property. At the time of the metes and bounds subdivision the landowner could have subdivided the property to correct the items identified by the Applicant as deterrents.

The landowner's metes and bund subdivision create the conditions of



Sellersburg Board of Zoning Appeals

REVISED STAFF REPORT USE VARIANCE

the property, not the Planned Unit Development Zoning District Ordinance.

JULY 14, 2020 - The Applicant has not addressed the required finding of fact that the need for the variance arises from some condition peculiar to the property.

The Applicant will need to provide information that there is a condition that is peculiar to the property.

The Board will need to determine if there is some unique problem with the site that makes the site unable to comply with the requirements of the PUD, Community Commercial Subarea

(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.

Applicant states: The Special Exception Variance requirement is a requirement of PUD Ordinance and property proposed use would not be allowed.

DUE TO THE LENGTH OF THE REVISED RESPONSES TO DECISION MAKING CRITERIA AND THE POSSIBILITY OF INTRODUCING ERROR IN RE-TYPING RESPONSES, PLEASE SEE THE END OF THE STAFF REPORT FOR THE REVISED RESPONSES TO DECISION MAKING CRITERIA.

Staff: AUGUST 14, 2020 - When consider the Use Variance the Board should consider what it would like if the site were developed under the terms of the Planned Unit Development Zoning District Ordinance and what would be the difficulties to achieve compliance.

The Applicant again refers to the Minimum Parking Standard Table for the uses. The decision-making criteria for the Use ask does the need for the Use Variance arise from some condition peculiar to the



Sellersburg Board of Zoning Appeals

REVISED STAFF REPORT USE VARIANCE

property.

As stated in Section 17, Land Uses permit those in Land Uses permitted in Village Square and those found in Table 2, Land Use. No reference is made in the Planned Unit Development Zoning District Ordinance to use Table 5, Minimum Parking Standards to determine permitted land use.

The Applicant makes a statement the small road frontage, elevation of the property and the shape of the property are deterrents of the property.

As stated previously the landowner submitted the property by metes and bounds subdivision and irregularities with the property could have been corrected at the time of the metes and bounds subdivision.

JULY 14, 2020 - The Applicant has not addressed how the terms of the PUD Ordinance constitutes an unnecessary hardship applied to the property for which the variance is sought.

The Board needs to consider what it would be like if the property were developed complying with the permitted uses for Community Commercial Subarea and what would be the difficulties in developing in compliance with the requirements of the Community Commercial Subarea of the PUD.

(5) The approval does not interfere substantially with the comprehensive plan adopted by the Town of Sellersburg.

Applicant states: The proposed use fits with commercial guidelines of Comprehensive Plan in being located in areas of demand, safety concerns of public are considered in design and use will not create a large traffic demand on surrounding area.

DUE TO THE LENGTH OF THE REVISED RESPONSES TO DECISION MAKING CRITERIA AND THE POSSIBILITY OF



Sellersburg Board of Zoning Appeals

REVISED STAFF REPORT USE VARIANCE

INTRODUCING ERROR IN RE-TYPING RESPONSES, PLEASE SEE THE END OF THE STAFF REPORT FOR THE REVISED RESPONSES TO DECISION MAKING CRITERIA.

Staff: AUGUST 14, 2020 – The Board will need to consider whether there are any major conflicts with the Comprehensive Plan and if there are conflict what are they.

The Applicant states the proposed use complies with the Comprehensive Plan by providing buffering, screening and separation to mitigate any effect on surrounding properties.

No landscape plans prepared by a landscape professional or nurseryman experienced in landscape design and installation and care has been submitted to determine compliance with the Section 4. Landscape Standards. Therefore, the Applicant statement the proposed development complies with C-3 (page 60) of the Comprehensive Plan.

The Applicant further states the proposed development will be located within current vegetation and trees which will reduce the negative impact of the developing the property in compliance with Guideline L-3 of the Comprehensive Plan.

The proposed site plan submitted indicates clearing of the property of all vegetation and trees to accommodate the proposed developments structures and other improvements.

JULY 14, 2020 - The Applicant has not provided supporting information that the non-permitted use does not interfere substantially with the PUD Ordinance's intent and development.

The PUD Zoning District is a Comprehensive/Master Plan for the area within the PUD Zoning District. The PUD lays out the Town of Sellersburg's vision, desired growth and development within the PUD to be compatible with surround properties in appearance and character.



Sellersburg Board of Zoning Appeals

REVISED STAFF REPORT USE VARIANCE

The Applicant will need to provide supporting information based on the PUD Comprehensive/Master Plan for the intent and development vision for the PUD District that the proposed non-permitted use does not interfere substantially with the PUD's plan.

Revised Finding of Fact are too lengthy and the possibility of error was too great for manual reproduction into the individual Staff Report for each Docket Number. Please scroll to the highlighted Docket Number to match to the Staff Report's Docket Number.

(REVISED)

**USE VARIANCE CRITERIA
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

- (1) The approval of the variance will not be injurious to the public health, safety, morals, and general welfare of the community because:
 - The subject property is part of the Community Commercial Subarea, which according to Table 2 in the PUD Ordinance Warehouses are allowed with a special exception. Considering the term “Warehouses” is not defined and Table 5 of the PUD Ordinance lists “Self Storage Facility” under “Warehousing & Industrial Uses”, the proposed use of the subject property should be categorized as a Warehouse and be allowed with special conditions. The PUD Ordinance fails to provide what those special conditions may be.
 - The terms “self storage” or “outdoor storage” are mentioned multiple times in a positive manner within the PUD Ordinance, which creates an inference that the proposed use is allowed with the PUD and will not be injurious to the community.
 - The proposed development will include sufficient lighting, fencing and surveillance cameras that will prevent any harm to the public health, safety, and general welfare of the community.
 - The subject property is adjacent to another storage facility that is also in the Community Commercial Subarea of the PUD. According to the tax valuation, the adjacent facility was developed in or around 2012 and, to the best of Applicant’s knowledge, this facility has not caused any harm to the community. Also, based on the characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping, the Applicant’s proposed development will be much more concealed than the adjacent facility.
 - The Applicant submitted multiple letters from local residents that are in favor of the proposed development.
- (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 because:

- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
 - The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the adjacent property values have increased since the Applicant built the Georgetown facility.
 - Due to the characteristics of the subject property (elevation, surrounding trees and vegetation, etc.), the proposed fencing and landscaping, and the fact that there is a self-storage facility adjacent to the subject property, it is very likely this variance will be unnoticed by the community and have no affect on the use or value of the adjacent properties.
 - The adjacent facility can be used as evidence that the proposed development will not negatively affect the surrounding properties, as it has not negatively affected the properties immediately around it since it was developed approximately 8 years ago. In fact, the adjacent facility did not deter what is commonly known as the “Greenbriar Apartments” from being developed in 2019. According to Clark County records, the Greenbriar Apartments was valued at \$3,418,800.00 in March, 2020.
 - The Applicant submitted multiple letters from local residents that are in favor of the proposed development.
- (3) The need for the variance arises from some condition peculiar to the property involved because:
- The subject property is part of the Community Commercial Subarea, which according to Table 2 in the PUD Ordinance Warehouses are allowed with a special exception. Considering the term “Warehouses” is not defined and Table 5 of the PUD Ordinance lists “Self Storage Facility” under “Warehousing & Industrial Uses”, the proposed use of the subject property should be categorized as a Warehouse and be allowed with special conditions. The PUD Ordinance fails to provide what those special conditions may be.
 - The possible uses of the property and other developers are deterred from this property due to (1) the small amount of road frontage, (2) elevation of the property, (3) shape of the property, and (4) the fact the property is located adjacent to a self-storage facility and an apartment complex.

- Bearing in mind the subject property has been on the market for approximately 15 years (on and off), the inference can be made that the possible uses of the property are limited.
- (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 because:
- The subject property is part of the Community Commercial Subarea, which according to Table 2 in the PUD Ordinance Warehouses are allowed with a special exception. Considering the term “Warehouses” is not defined and Table 5 of the PUD Ordinance lists “Self Storage Facility” under “Warehousing & Industrial Uses”, the proposed use of the subject property should be categorized as a Warehouse and be allowed with special conditions. The PUD Ordinance fails to provide what those special conditions may be.
 - The possible uses of the property and other developers are deterred from this property due to (1) the small amount of road frontage, (2) elevation of the property, (3) shape of the property, and (4) the fact the property is located adjacent to a self-storage facility and an apartment complex.
 - Bearing in mind the subject property has been on the market for approximately 15 years (on and off), the inference can be made that the possible uses of the property are limited.
 - At the hearing, the property owner described the significant pecuniary loss she will suffer if the variance is not granted.
- (5) The approval does not interfere substantially with the comprehensive plan adopted under the 500 series of this chapter because:
- The overall Commercial Goal of the Comprehensive Plan is met as this development is providing supportive development that meets the service needs of Sellersburg’s residents.
 - The proposed use complies with C-1 (page 59) of the Comprehensive Plan by locating in an area that has demonstrated a sufficient support population.
 - Meets the intent of C-3 (page 60) of the Comprehensive Plan by providing buffering, screening and separation to mitigate any effect on surrounding properties.
 - The proposed development will be located within current vegetation and trees which will reduce the negative impact of the developing the property, in accordance with Guideline L-3 of the Comprehensive Plan.

- The intent of Guideline C-5 is attained by clustering commercial uses together.
- Guideline C-6 provides for commercial uses in or near residential areas where the commercial use does not create a nuisance. The Applicant has submitted sufficient evidence to show the proposed use will not create a nuisance for the area.

Applicant's Signature

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

F. Brad Benson

7-31-2020
Date

F. Brad Benson
APPLEGATE FIFER PULLIAM LLC
428 Meigs Avenue
Jeffersonville, IN 47130
(812)284-9499
Attorney for the Applicant

State of Indiana)
County of Clark)SS



SARA F. KOST
NOTARY PUBLIC
SEAL
FLOYD COUNTY, STATE OF INDIANA
MY COMMISSION EXPIRES JUNE 23, 2023
COMMISSION NO 689495

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared F. Brad Benson, and acknowledge the execution of the foregoing *Findings of Fact* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 31 day of July, 2020

My Commission Expires:
069495

Sara Kost
Notary Public

Resident Floyd County, Indiana

Sara Kost
Printed Name

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Petition #: 2020-DV-07-004

Hearing Date: July 20, 2020

By Petitioner(s): Brian & Laura Kehrer, Serenity Properties, LLC

Concerning DEVELOPMENT STANDARDS Variance at the address of: Northeast Side of Old HWY 60, East of SR 60

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

4. Motion to approve any special conditions.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # 2020-DV-07-004

Approved Denied

Special Conditions:

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Findings of Facts

Petition # 2020-DV-07-004

This petition was approved or denied because:

Approval Findings of Fact: Motion By: _____

Seconded By: _____

Yea Nay Abstain Pass/Fail-Yes/No _____

Signed this _____ day of _____, _____

Vincent C. Thacker, Jr., Chairman

Francis A. Conroy, Vice-Chairman

Dennis V. Amos, Member

Mark Tolliver, Member

Evan Brown, Member

Attest:



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DATE:	July 14, 2020
DOCKET NUMBER:	2020-DV-07-004
APPLICANT:	Brian & Laura Kehrer, Serenity Properties, LLC
OWNER:	Sheila Hardy, Nova Starr LLC
LOCATION OF SUBJECT PROPERTY OF VARIANCE	Northeast side of Old HWY 60, East of the Intersection of SR 60
LEGAL DESCRIPTION (Summary)	Metes & Bounds description – 5.374 acres more or less.
VARIANCE REQUESTED:	Permit parking area surface of “Gravel”.
CURRENT ZONING:	Planned Unit Development (PUD)
COUNCIL DISTRICT:	

Information:

The Applicant is requesting a Developmental Standards Variance to permit the use of gravel for the surface of a parking area. The Planned Unit Development Ordinance (2011-015) General Development Standards and Guidelines, Section 5, sub-section 5.6 requires a hard surface for parking areas.

Finding of Fact:

In accordance with the requirements set out in the Indiana Code the Board of Zoning Appeals will need to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5 states:

(a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (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; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

Applicant's Finding of Fact:

The applicant provides the following as written finding of fact for the requested Developmental Standards Variance. The Applicant's written Finding of Fact are written verbatim, as they appear on the Applicant's Use Variance Application.

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

Applicant states: A gravel driving & parking surface will have very low traffic movement and will be compacted for safety of public users.

Staff: The Applicant has not addressed the required finding of fact if the gravel parking surface will or will not be injurious to the public health, safety, morals and general welfare of the community. The Applicant will need to provide supporting information as to that a gravel surface parking area will or will not be injurious to the public health, safety, morals and general welfare.

The Sellersburg Zoning Ordinance as well as the PUD ordinance both require parking surfaces to be a hard surface, as a hard surface parking area creates curb appeal, and requires less maintenance. As this proposed facility is located in the PUD, Community Commercial Subarea, and the vision and intent of the PUD properties to be compatible with surround properties in appearance and character. The Board will need consider the potential harm the variance may create for the Town



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

(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,

Applicant states: The allowed variance will provide opportunity to develop the land & increase commercial values of adjacent property.

Staff: The Applicant has not addressed the required finding of fact that a gravel parking surface instead of the required hard surface will or will not affect the use and value of adjacent property in a substantially adverse manner. The Applicant will need support quantifiable information that a gravel parking surface will or will not affect the value of the subject property as well as surrounding properties in an adverse manner.

The Board will need to consider whether neighboring property will suffer any major negative impact from a gravel parking area and what impact could the neighbors realistically expect.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant states: The allowed variance makes the project financially possible to develop.

Staff: The Applicant has not addressed the required finding of fact if the terms of the zoning ordinance results in the practical difficulties in the use of the property.

The Board will need to consider what difficulties the Applicant would have developing the property in accordance with the PUD Ordinance standards. Cost is not a justification for a variance.

The PUD Ordinance, same as the Sellersburg Zoning Ordinance requirements of a hard surface parking areas does not prevent the use of the property.

Town of Sellersburg, Indiana
Board of Zoning Appeals
Application for a Variance of Development Standards

Applicant Information

Name: BRIAN & LAURA KEHRER, SERENITY PROPERTIES, LLC

Mailing Address: P.O. Box 376
Street Number/P.O. Box Number Street

FLOYDS KNOS IN 47119
City State Zip

Email address: bkehrer1@gmail.com Phone Number: 502-552-4225

Owner Information ("owner is not a tenant or contract buyer")

Name: SHEILA HARDY, NOVA STARR, LLC

Mailing Address: P.O. Box 383
Street Number/P.O. Box Number Street

CHARLESTOWN IN 47111
City State Zip

Email address: STARLIGHT16@AOL.COM Phone Number: 812-987-1501

Property Information:

Address or location of the property subject to this application:

Highway 60 & Old S.R. 60 (Parcel # 10-17-10-800-452,000-031)
Street Numbers Closest Cross Street (Key # 17-00057-0230)

Lot Size: 3.597 ACRES

Current Use of Property: UNDEVELOPED LAND

Describe the variance requested: ALLOW GRAVEL DRIVING & PARKING SURFACE IN RV & BOAT STORAGE FACILITY

Check Developmental Standards Variance Requested:

- | | | | |
|---|---|---|--|
| <input type="checkbox"/> Building Setback | <input type="checkbox"/> Building Height | <input type="checkbox"/> Lot Coverage | <input type="checkbox"/> Lot Width |
| <input type="checkbox"/> Lot Area | <input type="checkbox"/> Sight Visibility | <input type="checkbox"/> Entrance/Drive | <input type="checkbox"/> Landscaping |
| <input type="checkbox"/> Parking | <input type="checkbox"/> Loading Area | <input type="checkbox"/> Sign | <input type="checkbox"/> Exterior Lighting |

Other: ALLOW GRAVEL DRIVING & PARKING SURFACE IN RV & BOAT STORAGE FACILITY.

**DEVELOPMENT STANDARDS VARIANCE CRITERIA
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: A GRAVEL DRIVING & PARKING

SURFACE WILL HAVE VERY LOW TRAFFIC MOVEMENTS AND WILL BE COMPACTED FOR SAFETY OF PUBLIC USERS

(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: THE ALLOWED VARIANCE WILL

PROVIDE OPPORTUNITY TO DEVELOPE THE LAND & INCREASE COMMERCIAL VALUES OF ADJACENT PROPERTY

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: THE ALLOWED VARIANCE MAKES

THE PROJECT FINANCIALLY POSSIBLE TO DEVELOPE.

Applicant's Signature

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

Brian L. Keurer, Security Rmp. LLC
Applicant Signature President

5/29/2020
Date

BRIAN L. KEURER
Printed Applicant Name

State of Indiana)
)SS
County of CLARK)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared BRIAN L. KEHREK, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 20th day of MAY, 2020

My Commission Expires:

5/17/2020

Nathan R Grimes

Notary Public

Resident CLARK County, Indiana

NATHAN R. GRIMES

Printed Name



Office Use:

Date Completed Application Received: 06 / 08 / 2020

Petition Application Fee of \$ _____ Received: ___ / ___ / ___

Docket Number: 2020-DV-07-004

Current Zoning Classification: PUD

Zoning Ordinance Section applicable to variance application: Ord. 2011-015 - Gravel Drive/Parking area

BZA Public Hearing Date: 07 / 20 / 2020

Adjacent Property Owners Notified via Certificate of Mailing: ___ / ___ / ___

Legal Ad Published: ___ / ___ / ___

Verified Posting of Hearing Sign: ___ / ___ / ___

Public Notice Posted at Town Hall ___ / ___ / ___



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DATE:	August 12, 2020 - REVISED
DOCKET NUMBER:	2020-DV-07-004
APPLICANT:	Brian & Laura Kehrer, Serenity Properties, LLC
OWNER:	Sheila Hardy, Nova Starr LLC
LOCATION OF SUBJECT PROPERTY OF VARIANCE	Northeast side of Old HWY 60, East of the Intersection of SR 60
LEGAL DESCRIPTION (Summary)	Metes & Bounds description – 5.374 acres more or less.
VARIANCE REQUESTED:	Permit parking area surface of “Gravel”.
CURRENT ZONING:	Planned Unit Development (PUD)
COUNCIL DISTRICT:	

Planned Unit Development Zoning District Applicability

The standards in this plan area applicable to new primary and accessory structures construction requiring Development Plan Approval in the TIF District Planned Unit Development (PUD).

The Applicant has not submitted the required Development Plan for review by the Technical Review Committee. It was brought to the Applicant’s attention in the pre-conference video call that the required Development Plan has not been submitted and was informed the Development Plan submission and review were required to determine if the proposed development was in full compliance with the Planned Unit Development Zoning District Ordinance. The Applicant in pre-conference meeting declined to submit required Development Plan, due to expense and elected to pursue Developmental Standards Variances prior to the submission of the required Development Plan.

Planned Unit Development Zoning District Information

The Planned Unit Development Zoning District Ordinance states: “The following Development and Design Standards are intended to reflect the Town of Sellersburg’s vision for new development within the boundaries of the district.”



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

The development concept by subarea intent is to provide a cohesive, master-planned community which encourages mixed-uses and compact development in a walkable setting.

The purpose of the Community Commercial subarea is to encourage quality commercial/retail development that responds to the needs of current market conditions. This development is located along State Roads 60 and 311 and is more auto oriented. Below are additional features or principles for Community Commercial Subarea.

- Development adjacent to the intersection of S. R. 311 and Enterprise Drive should incorporate a gateway in the district.
- Creates a more pedestrian-friendly setting and ties into a multi-model transportation network rather than typical, auto-oriented commercial development.

Information

The Applicant is requesting a Developmental Standards Variance to permit the use of gravel for the surface of a parking area. The Planned Unit Development Ordinance (2011-015) General Development Standards and Guidelines, Section 5, sub-section 5.6 requires a hard surface for parking areas.

Finding of Fact:

In accordance with the requirements set out in the Indiana Code the Board of Zoning Appeals will need to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5 states:

(a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

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



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

- (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; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant's Finding of Fact:

The applicant provides the following as written finding of fact for the requested Developmental Standards Variance. The Applicant's written Finding of Fact are written verbatim, as they appear on the Applicant's Developmental Standards Variance Application:

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

Applicant states: A gravel driving & parking surface will have very low traffic movement and will be compacted for safety of public users.

DUE TO THE LENGTH OF THE REVISED RESPONSES TO DECISION MAKING CRITERIA AND THE POSSIBILITY OF INTRODUCING ERROR IN RE-TYPING RESPONSES, PLEASE SEE THE END OF THE STAFF REPORT FOR THE REVISED RESPONSES TO DECISION MAKING CRITERIA.

Staff: AUGUST 12, 2020 - Revised response states the applicant has a similar facility in Georgetown, Indiana. The facility located in Georgetown

Indiana is not located in a Planned Unit Development Zoning District, nor is the Zoning Ordinance for Georgetown Indiana applicable to the Town of Sellersburg.

The revised response state the "mini-warehouse" on adjacent property is similar to the proposed, and the parking and driving surface of the "mini-warehouse" facility is a hard surface, not gravel.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

Decision-making criteria will be the installation of gravel driving and parking surface to be injurious to the public health, safety, morals, and general welfare of the community. The Planned Unit Development Zoning District elevates development standards which includes elevating the parking and driving area to hard surface. The decision-making criteria is applicable to the community, what is the harm to the community by permitting gravel driving and parking surfaces in the Planned Unit Development Zoning District which elevates development standards for the community.

JULY 14, 2020 -The Applicant has not addressed the required finding of fact if the gravel parking surface will or will not be injurious to the public health, safety, morals and general welfare of the community. The Applicant will need to provide supporting information as to that a gravel surface parking area will or will not be injurious to the public health, safety, morals and general welfare.

The Sellersburg Zoning Ordinance as well as the PUD ordinance both require parking surfaces to be a hard surface, as a hard surface parking area creates curb appeal, and requires less maintenance. As this proposed facility is located in the PUD, Community Commercial Subarea, and the vision and intent of the PUD properties to be compatible with surrounding properties in appearance and character. The Board will need consider the potential harm the variance may create for the Town

(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:

Applicant states: The allowed variance will provide opportunity to develop the land & increase commercial values of adjacent property.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DUE TO THE LENGTH OF THE REVISED RESPONSES TO DECISION MAKING CRITERIA AND THE POSSIBILITY OF INTRODUCING ERROR IN RE-TYPING RESPONSES, PLEASE SEE THE END OF THE STAFF REPORT FOR THE REVISED RESPONSES TO DECISION MAKING CRITERIA.

Staff: AUGUST 12, 2020 -Revised response "A number of surrounding properties have gravel surfaces, not paved." The revise response does not provide information on the actual location of the surrounding properties without "not paved" surfaces or if those surrounding properties were established prior to the adoption of the Planned Unit Development Zoning District.

The revised response further states: "... proposed fencing and landscaping will conceal a portion of the property." The Applicant is seeking a variance to eliminate a portion of the landscaping requirements and a variance to install a fence which is not in compliance with the Planned Unit Development Zoning District. Therefore, it is unknow if the parking and driving surface will be concealed until the outcome of said variances have been determined by the Board of Zoning Appeals.

The facility located in Georgetown, Indiana is not Sellersburg, Indiana, and no supporting evidence was submitted that the property and uses surrounding the Georgetown Facility are the same property uses and values in Sellersburg, Indiana.

The Board will need to consider whether surrounding properties will suffer negative impact or be affected in a substantially adverse manner permitting a gravel parking and driving surface.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

JULY 14, 2020 - The Applicant has not addressed the required finding of fact that a gravel parking surface instead of the required hard surface will or will not affect the use and value of adjacent property in a substantially adverse manner. The Applicant will need support quantifiable information that a gravel parking surface will or will not affect the value of the subject property as well as surrounding properties in an adverse manner.

The Board will need to consider whether neighboring property will suffer any major negative impact from a gravel parking area and what impact could the neighbors realistically expect.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant states: The allowed variance makes the project financially possible to develop.

DUE TO THE LENGTH OF THE REVISED RESPONSES TO DECISION MAKING CRITERIA AND THE POSSIBILITY OF INTRODUCING ERROR IN RE-TYPING RESPONSES, PLEASE SEE THE END OF THE STAFF REPORT FOR THE REVISED RESPONSES TO DECISION MAKING CRITERIA.

Staff: AUGUST 12, 2020 - The Revised Response states that neither the Planned Unit Development Zoning District, nor the Sellersburg Zoning Ordinance defines hard surface and that "Gravel surfaces are not uncommon the proposed industrial use." In the Use Variance revised response, the applicant states the use "warehouse" and states the use is "storage facility", and in this Development Standards Variance request the Applicant states the use as "industrial use". Industrial uses are not permitted per the Planned Unit Development



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

Zoning District.

Sellersburg Zoning Ordinance Section §154.095 Off-Street Parking (C) (7) states: "Open parking lots shall be paved with a dust-proof or hard surface meeting the standards specification of the town." Gravel is not dust-proof.

The Planned Unit Development Zoning District as well as the Sellersburg Zoning Ordinance requires paved dustproof or hard surface parking and driving areas.

The Board will need to determine what difficulties the Applicant would have in developing the property according to the Planned Unit Development Zoning District Ordinance or the Sellersburg Zoning Ordinance.

JULYL 14, 2020 - The Applicant has not addressed the required finding of fact if the terms of the zoning ordinance results in the practical difficulties in the use of the property.

The Board will need to consider what difficulties the Applicant would have developing the property in accordance with the PUD Ordinance standards. Cost is not a justification for a variance.

The PUD Ordinance, same as the Sellersburg Zoning Ordinance requirements of a hard surface parking areas does not prevent the use of the property:



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE



Revised Finding of Fact are too lengthy and the possibility of error was too great for manual reproduction into the individual Staff Report for each Docket Number. Please scroll to the highlighted Docket Number to match to the Staff Report's Docket Number.

(Revised)

**DEVELOPMENT STANDARDS VARIANCE CRITERIA
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

A. Docket No. 2020-DV-07-004 and 2020-DV-07-008 – Variances of Section 5.6 of PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- The Applicant has operated a substantially similar facility in Georgetown, Indiana, since December of 2017. There have been no police or first responder runs to this property since it opened.
- The owner from which Applicant will acquire the property leases adjacent property that is accessed from CR 311 on which a substantially similar mini-warehouse facility is operated. This facility has not been injurious to public health, safety, morals, and general welfare of the community since it opened.
- The Applicant intends on having an asphalt entrance from Old State Road 60 to the gate to (a) create a curb appeal that is compatible with surrounding properties, (b) ensure those traveling on Old State Road 60 are not adversely affected in anyway, and (c) eliminate any risk of roadway erosion, as the location of the proposed entrance is the steepest part of the property.
- Due to the nature of the proposed use, it is estimated that traffic will be four (4) visits per day during the week and ten (10) visits per day during the weekend, and as a result of the limited traffic, the gravel of the surface of the storage units and areas will go unnoticed by the community at large.
- The gravel will be well maintained and compacted to reduce any noise or dust that may be caused by granting these variances. The Applicant will provide contact information to the Town and adopt and implement policies requiring watering of the gravel areas within one (1) hour following receipt of any dust complaints from the Town.

- The combination of the current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping are such that it is very likely these variances will be unnoticed by the community.
- The Applicant will adopt and comply with the drainage and erosion plan requirements to make certain these variances will not adversely affect the community.

(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 because:

- The asphalt entrance will create a curb appeal that is compatible to surrounding property.
- The current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping will conceal a portion of the property.
- A number of surrounding properties have gravel surfaces, not paved.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the assessed values of the adjacent properties have increased since the Applicant built the Georgetown facility.
- It is estimated that the average of customer visits to the facility will be four (4) visits per day during the week and ten (10) visits per day during the weekend, based on the Applicant's experience in operating its Georgetown facility.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

- Section 5.6 of the PUD Ordinance states as follows:

“Parking areas shall be hard surfaced and internally drained. Pervious pavement and individual pavers may be permitted.”

The term “hard surfaced” is not defined in the PUD Ordinance or Sellersburg Zoning Ordinance. Considering pervious pavement is not even explicitly allowed, the strict application of the PUD Ordinance creates practical difficulties for the Applicant by greatly limiting option for this property.

- Gravel surfaces are not uncommon in the proposed use industry.
- As a number of the surrounding properties have gravel surfaces, it would be inequitable and unjust to the Applicant if these variances were not granted.
- The portion of the property on which the proposed use will occur is almost totally shielded from public view as it wraps around the existing veterinary clinic to the rear of the existing apartment complex, the subject property sits at a much lower elevation than both the veterinary clinic and apartments, and the subject property is buffered from both the veterinary clinic and apartments by an existing earthen berm and heavy vegetation.
- The unusual shape of the subject property, in and of itself, creates a practical difficulty in its use.

B. Docket No. 2020-DV-07-005 – Variance of Section 2 of the PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- Section 2.2 of the PUD Ordinance allows a building to be constructed with metal.
- The side of the building facing Old State Road 60 (and closest to the entrance) will have more architectural variety to make it aesthetically pleasing from the nearest public road.
- The metal buildings will have a blue roof, tan sides and blue trim to create a curb appeal that is compatible with surrounding properties.
- The Applicant intends on using a 40-year metal to comply with Section 2.2 by using durable, high-quality material that will not be injurious to the community.

- Considering there are a number of buildings in the surrounding area that are either exclusively metal or majority metal, this variance will go unnoticed by the community.
- The combination of the current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping are such that it is very likely this variance will be unnoticed by the community.

(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 because:

- The design of the building closest to Old State Road 60 and overall color scheme of the buildings will create a curb appeal that is compatible to surrounding property.
- The current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping will conceal a portion of the property.
- A number of buildings in the surrounding area that are either exclusively metal or majority metal.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the adjacent property values have increased since the Applicant built the Georgetown facility.
- The location of the property is such that the development will not affect the use or value of adjacent owners. In fact, considering the property has been for sale for approximately 15 years, the value of surrounding properties will likely increase.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

- The proposed use of the property is boat and RV storage with buildings enclosed on 3 sides and open “bays” on one. Requiring different architectural material on all 4 sides of a building does not coincide with this proposed use/design or any other design in this industry.
- The intent of the PUD Ordinance is to encourage architectural variety and sustainable material that emphasize durability and diversity. The variance requested here does include architectural variety with building one and will be built with sustainable, durable materials. Thus, meeting the intent of the PUD Ordinance. With that being said, requiring different architectural on all 4 sides of every building would not only be uneconomical, but pointless considering the majority of the sides would only be viewable by those individuals who rent from the Applicant.

C. Docket No. 2020-DV-07-006 – Variance of Section 4 of the PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- The intent of Section 4 of the PUD Ordinance is to promote landscaping as it is not only visually appealing, but also serves to screen and buffer structures and uses, delineate separations, conserve energy, and moderate the effects of sun and wind. Although reduced, the proposed landscaping plan still meets all of those items. Thus, the variance will not cause any harm to the community.
- The combination of the current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping are such that it is very likely this variance will be unnoticed by the community. In fact, it is the Applicant’s opinion that even with the variance the proposed development will have more landscaping than a number of the surrounding properties.
- The required landscaping would actually inhibit circulation inside the property. Thus, the variance actually makes the property safer.

(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 because:

- The proposed plan includes landscape on the side closest to Old State Road 60 to ensure the property will have curb appeal that is compatible to surrounding property.
- The reduced landscaping will not substantially affect the adjacent property as there is still landscaping on majority of the property’s sides and the characteristics

of the property (elevation, surrounding trees and vegetation, etc.) will conceal a portion of the property.

- Between the characteristics of the property and the fence surrounding the property, the variance will go undetectable to all except for individuals who rent from the Applicant.
- Seeing as buildings in the immediate area of the property appear to lack sufficient landscaping and it is visually obvious that the proposed plan includes more landscaping than those buildings, this variance will not substantially affect the adjacent properties.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the adjacent property values have increased since the Applicant built the Georgetown facility.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

- The required landscaping amount does not coincide with this proposed use/design or any other design in this industry, as it negatively affects circulation in the property and would make it extremely difficult to maneuver items such as 30'-40' long RVs or boat trailers.

D. Docket No. 2020-DV-07-007 – Variance of Section 12 of the PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- The 6' tall fence in the frontyard will not affect the community as the PUD Ordinance allows for 4' in the front yard and the additional 2' would only be noticeable if it were missing since 6' is allowed on all other sides. If the PUD

Ordinance limitation was enforced, it would negatively affect the curb appeal of the property.

- The 6' tall fence in the front yard is more favorable for public health, safety, moral, and general welfare as the additional 2' will deter criminal activity even more. This will also increase the attractiveness of our property to residence of the community, as it would be a more secure facility.
- The chain link material is a commercial grade that will complement the proposed development and be compatible with the adjacent property's fence.

(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 because:

- This variance will not substantially affect the use or value of adjacent property as it will go overlooked due to the first building sitting back off Old State Road 60 the elevation of the property and surrounding trees and vegetation.
- Since 4' is allowed in the front yard already, the additional 2' will not affect the use or value of the adjacent properties.
- The chain link material is a commercial grade that will complement the proposed development and be compatible with the adjacent property's fence.
- The taller 6' fence in the front yard will create symmetry with the rest of the fence and is has better curb appeal.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the adjacent property values have increased since the Applicant built the Georgetown facility.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Petition #: 2020-DV-07-005

Hearing Date: July 20, 2020

By Petitioner(s): Brian & Laura Kehrer, Serenity Properties, LLC

Concerning DEVELOPMENT STANDARDS Variance at the address of: Northeast Side of Old HWY 60, East of SR 60

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

4. Motion to approve any special conditions.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # 2020-DV-07-005

Approved Denied

Special Conditions:

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Signature Page – Petition # 2020-DV-07-005

Signed this _____ day of _____, _____

Vincent C. Thacker, Jr., Chairman

Francis A. Conroy, Vice-Chairman

Dennis V. Amos, Member

Mark Tolliver, Member

Evan Brown, Member

Attest:



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DATE:	July 14, 2020
DOCKET NUMBER:	2020-DV-07-005
APPLICANT:	Brian & Laura Kehrer, Serenity Properties, LLC
OWNER:	Sheila Hardy, Nova Starr LLC
LOCATION OF SUBJECT PROPERTY OF VARIANCE	Northeast side of Old HWY 60, East of the Intersection of SR 60
LEGAL DESCRIPTION (Summary)	Metes & Bounds description – 5.374 acres more or less.
VARIANCE REQUESTED:	Permit exclusive use metal siding in lieu of variation of Architectural materials.
CURRENT ZONING:	Planned Unit Development (PUD)
COUNCIL DISTRICT:	

Information:

The Applicant is requesting a Developmental Standards Variance to permit the exclusive use of sheet metal siding in lieu of the required variation Architectural materials, such as: brick, EFIS, stone, wood, concrete, etc. The Planned Unit Development Ordinance (2011-015) General Development Standards and Guidelines, Section 2, Architectural/Building Standards states the intent is buildings with architectural variety and sustainable materials are encourage; structures that emphasize durability and diversity. Buildings are to have additional building mass or distinctive architectural elements to emphasize corners. The use of durable high-quality materials that convey a sense of permanence shall be used.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

Finding of Fact:

In accordance with the requirements set out in the Indiana Code (IC) the Board of Zoning Appeals will need to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5 states:

(a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (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; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant's Finding of Fact:

The applicant provides the following as written finding of fact for the requested Developmental Standards Variance. The Applicant's written Finding of Fact are written verbatim, as they appear on the Applicant's Use Variance Application.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

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

Applicant states: This request is based on aesthetic guidelines of PUD and will not affect public health, safety, morals and welfare.

Staff: The Applicant has not addressed the required finding of fact to not provide the required variation of building materials and permit only the exclusive use of sheet metal siding.

The Applicant will need to provide supporting information that the exclusive use of sheet metal siding will or will not be injurious to the public health, safety, morals and general welfare.

The proposed facility located in the PUD, Community Commercial Subarea, and the vision and intent of the properties located within the PUD are to be compatible with surround properties in appearance and character. The Board will need consider the potential harm the variance may create for the Town

(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,

Applicant states: The allowance of this request will not affect adjoining use or values and will allow for increased commercial values to adjoining properties.

Staff: The Applicant has not addressed the required finding of fact that the exclusive use of sheet metal siding will or will not affect the use and value of adjacent property or the subject property in a substantially adverse manner. Applicant appears to claim that the exclusive use of sheet metal siding will increase the value of adjoining property. The Applicant makes this claim without supporting or quantifiable information.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

The Board will need to consider whether neighboring property will suffer any major negative impact from a proposed structure exterior exclusively of sheet metal siding, and what impact could the neighbors realistically expect.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant states: For the 3 sided pole barn building s do not easily allow a variety of materials except for metal siding facades.

Staff: The Applicant has not addressed the required finding of fact if the terms of the PUD ordinance results in the practical difficulties in the use of the property. The Applicant provides no supporting information to support that the PUD Ordinance, Architectural/Building Standards result in the practical difficulty in the use of the property.

The Board will need to consider what difficulties the Applicant would have developing the property in accordance with the PUD Ordinance standards. Cost is not a justification for a variance.

Town of Sellersburg, Indiana
Board of Zoning Appeals
Application for a Variance of Development Standards

Applicant Information

Name: BRIAN & LAURA KEHRER, SERENITY PROPERTIES, LLC

Mailing Address: P.O. Box 376

Street Number/P.O. Box Number

Street

FLOYDS KNOBS

IN

47119

City

State

Zip

Email address: bkehrer1@gmail.com Phone Number: 502-552-4225

Owner Information ("owner is not a tenant or contract buyer")

Name: SHELIA HARDY, NOVA STARR, LLC

Mailing Address: P.O. Box 383

Street Number/P.O. Box Number

Street

CHARLESTOWN

IN

47111

City

State

Zip

Email address: STARLIGHT16@aol.com Phone Number: 812-987-1501

Property Information:

Address or location of the property subject to this application:

Highway 60 & Old S.R. 60 (Parcel # 10-17-10-800-452.000 - 031)

Street Numbers

Closest Cross Street

(Key # 17-00057-023-0)

Lot Size: 3.597 Acres

Current Use of Property: UNDEVELOPED LAND

Describe the variance requested: ALLOW A SINGLE MATERIAL OF METAL SIDING ON MOST FACADES OF THE BUILDING

Check Developmental Standards Variance Requested:

- | | | | |
|---|---|---|--|
| <input type="checkbox"/> Building Setback | <input type="checkbox"/> Building Height | <input type="checkbox"/> Lot Coverage | <input type="checkbox"/> Lot Width |
| <input type="checkbox"/> Lot Area | <input type="checkbox"/> Sight Visibility | <input type="checkbox"/> Entrance/Drive | <input type="checkbox"/> Landscaping |
| <input type="checkbox"/> Parking | <input type="checkbox"/> Loading Area | <input type="checkbox"/> Sign | <input type="checkbox"/> Exterior Lighting |

Other: ALLOW A SINGLE MATERIAL OF METAL SIDING ON MOST FACADES OF THE BUILDING

**DEVELOPMENT STANDARDS VARIANCE CRITERIA
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: THIS REQUEST IS BASED ON

AESTHETIC GUIDELINES OF FVD AND WILL NOT AFFECT PUBLIC HEALTH, SAFETY, MORALS & WELFARE.

(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: THE ALLOWANCE OF THIS

REQUEST WILL NOT AFFECT ADJOINERS USE OR VALUES AND WILL ALLOW FOR INCREASE OF COMMERCIAL VALUES TO

(3) The strict application of the terms of the zoning ordinance will result in practical ADJOINING difficulties in the use of the property: THE CONSTRUCTION METHODS PROPERTIES

FOR THE 3 SIDED POLE BARN BUILDINGS DO NOT EASILY ALLOW A VARIETY OF MATERIALS EXCEPT FOR METAL SIDING FACADES.

Applicant's Signature

The information included in and with this application is completely true and correct to the best of my knowledge and belief.


Applicant Signature

5-27-2020
Date

Brian Kehry
Printed Applicant Name

State of Indiana)
)SS
County of CLARK

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared BRIAN KEHEER, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 29th day of MAY, 2020

My Commission Expires:

5/17/2026

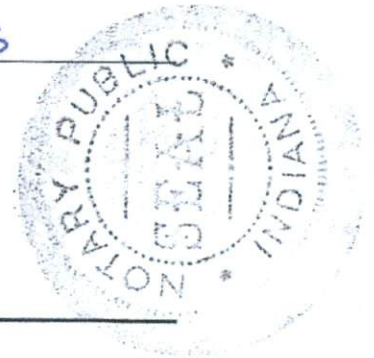
Nathan R. Grimes

Notary Public

Resident CLARK County, Indiana

NATHAN R. GRIMES

Printed Name



Office Use:

Date Completed Application Received: 06 / 08 / 2020

Petition Application Fee of \$ _____ Received: ___ / ___ / ___

Docket Number: 2020-DV-07-005

Current Zoning Classification: PUD

Zoning Ordinance Section applicable to variance application: Ord 2011-015 - Section 1 Arch req

BZA Public Hearing Date: 07 / 20 / 2020

Adjacent Property Owners Notified via Certificate of Mailing: ___ / ___ / ___

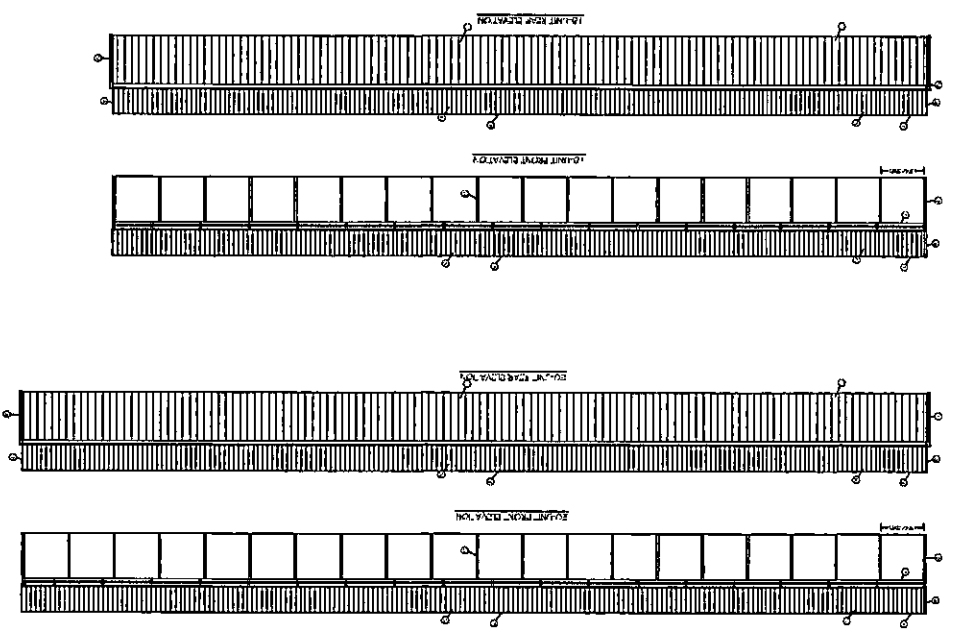
Legal Ad Published: ___ / ___ / ___

Verified Posting of Hearing Sign: ___ / ___ / ___

Public Notice Posted at Town Hall ___ / ___ / ___

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- LEGEND
- ① EXISTING
 - ② PROPOSED
 - ③ EXISTING WITH PROPOSED CHANGES
 - ④ EXISTING WITH PROPOSED DELETIONS
 - ⑤ EXISTING WITH PROPOSED ADDITIONS
 - ⑥ EXISTING WITH PROPOSED DELETIONS AND ADDITIONS
 - ⑦ EXISTING WITH PROPOSED CHANGES AND ADDITIONS
 - ⑧ EXISTING WITH PROPOSED CHANGES AND DELETIONS
 - ⑨ EXISTING WITH PROPOSED CHANGES, DELETIONS, AND ADDITIONS



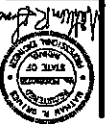
A2

DATE: MAY 25, 2010
 DRAWN BY: L. L. L. L.
 CHECKED BY: M. M. M. M.
 APPROVED BY: M. M. M. M.

ELEVATION PLAN
 SERENITY RV & BOAT STORAGE FACILITY
 STATE ROAD 60
 SELLENSBURG, IN 47172



RENAISSANCE DESIGN BUILD, INC.
 117 S. Indiana Avenue
 Sellersburg, IN 47172
 Tel: 812-246-5897 Fax: 812-246-4920
 www.renaissancebuild.com





Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DATE:	August 12, 2020 - REVISED
DOCKET NUMBER:	2020-DV-07-005
APPLICANT:	Brian & Laura Kehrer, Serenity Properties, LLC
OWNER:	Sheila Hardy, Nova Starr LLC
LOCATION OF SUBJECT PROPERTY OF VARIANCE	Northeast side of Old HWY 60, East of the Intersection of SR 60
LEGAL DESCRIPTION (Summary)	Metes & Bounds description – 5.374 acres more or less.
VARIANCE REQUESTED:	Permit exclusive use metal siding in lieu of variation of Architectural materials.
CURRENT ZONING:	Planned Unit Development (PUD)
COUNCIL DISTRICT:	

Applicability Planned Unit Development Zoning District

The standards in this plan area applicable to new primary and accessory structures construction requiring Development Plan Approval in the TIF District Planned Unit Development (PUD).

The Applicant has not submitted the required Development Plan for review by the Technical Review Committee. It was brought to the Applicant's attention in the pre-conference video call that the required Development Plan has not been submitted and was informed the Development Plan submission and review were required to determine if the proposed development was in full compliance with the Planned Unit Development Zoning District Ordinance. The Applicant in pre-conference meeting declined to submit required Development Plan due to expense and elected to pursue Developmental Standards Variances prior to the submission of the required Development Plan.

Planned Unit Development Zoning District Information

The Planned Unit Development Zoning District Ordinance states: "The following Development and Design Standards are intended to reflect the Town of Sellersburg's vision for new development within the boundaries of the district."



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

The development concept by subarea intent is to provide a cohesive, master-planned community which encourages mixed-uses and compact development in a walkable setting.

The purpose of the Community Commercial subarea is to encourage quality commercial/retail development that responds to the needs of current market conditions. This development is located along State Roads 60 and 311 and is more auto oriented. Below are additional features or principles for Community Commercial Subarea.

- Development adjacent to the intersection of S. R. 311 and Enterprise Drive should incorporate a gateway in the district
- Creates a more pedestrian-friendly setting and ties into a multi-modal transportation network rather than typical, auto-oriented commercial development.

Information:

The Applicant is requesting a Developmental Standards Variance to permit the exclusive use of sheet metal siding in lieu of the required variation Architectural materials, such as: brick, EFIS, stone, wood, concrete, etc. The Planned Unit Development Ordinance (2011-015) General Development Standards and Guidelines, Section 2, Architectural/Building Standards states the intent is buildings with architectural variety and sustainable materials are encourage; structures that emphasize durability and diversity. Buildings are to have additional building mass or distinctive architectural elements to emphasize corners. The use of durable high-quality materials that convey a sense of permanence shall be used.

Finding of Fact:

In accordance with the requirements set out in the Indiana Code (IC), the Board of Zoning Appeals will need to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5 states:

(a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (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; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant's Finding of Fact:

The applicant provides the following as written finding of fact for the requested Developmental Standards Variance. The Applicant's written Finding of Fact are written verbatim, as they appear on the Applicant's Use Variance Application.

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

Applicant states: This request is based on aesthetic guidelines of PUD and will not affect public health, safety, morals and welfare.

DUE TO THE LENGTH OF THE REVISED RESPONSES TO DECISION MAKING CRITERIA AND THE POSSIBILITY OF INTRODUCING ERROR IN RE-TYPING RESPONSES, PLEASE SEE THE END OF THE STAFF REPORT FOR THE REVISED RESPONSES TO DECISION MAKING CRITERIA.

Staff: AUGUST 13, 2020 -Please scroll to last page of the Staff Report for proposed development's building elevations.

The decision-making criteria is applicable to the community, what is the harm to the community by permitting the development of a site with several buildings where all building areal exclusively metal siding in the Planned Unit Development Zoning District which elevates development standards for the community.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

Revised response states "Section 2.2 of the PUD Ordinance allows a building to be constructed with metal." The Planned Unit Development Zoning District Ordinance Section 2 Architectural / Building Standards, Guidelines state the use of a single material on any façade is discouraged and the Applicant proposed construction plans indicates use of only a single material.

Applicant states "...will have more architectural variety to make it aesthetically pleasing...". No supportive information has been submitted detailing what additional architectural variety is to be provide. The submitted proposed construction plan for the exterior façade does not indicate architectural variety. Section 2.4 states facades shall be designed with cornices, parapets, or similar architectural elements to add appropriately scaled embellishment to the roofline.

Section 2.6 states the architectural style, materials, color, and design on the front elevation shall be applied to all elevation (façade) of the structure adjacent to a public street, primary internal drive, or residential zoning district (four-sided architecture). No information has been submitted as to the type of building material that will provide the architectural variety.

The Applicant references other structures in the area that are exclusively metal; however, the applicant has not provided information on the other structures in the area that are exclusively metal, nor, if those structure were constructed prior to the adoption of the Planned Unit Development Zoning District Ordinance.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

JULY 14, 2020The - Applicant has not addressed the required finding of fact to not provide the required variation of building materials and permit only the exclusive use of sheet metal siding.

The Applicant will need to provide supporting information that the exclusive use of sheet metal siding will or will not be injurious to the public health, safety, morals and general welfare.

The proposed facility located in the PUD, Community Commercial Subarea, and the vision and intent of the properties located within the PUD are to be compatible with surround properties in appearance and character. The Board will need consider the potential harm the variance may create for the Town

(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:

Applicant states: The allowance of this request will not affect ad joiners use or values and will allow for increased commercial values to adjoining properties.

DUE TO THE LENGTH OF THE REVISED RESPONSES TO DECISION MAKING CRITERA AND THE POSSIBILITY OF INTRODUCING ERROR IN RE-TYPING RESPONSES, PLEASE SEE THE END OF THE STAFF REPORT FOR THE REVISED RESPONSES TO DECISION MAKING CRITERIA.

Staff: AUGUST 13, 2020 – The Board will need to consider whether neighboring property will suffer any major negative impact from a proposed structure exterior consisting exclusively of sheet metal siding, and what impact the neighbors realistically could expect.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

Applicant states "... overall color scheme of the buildings will create curb appeal... "

The Applicant repeats several comments referencing surrounding property exclusively metal, comparing this property to the property in Georgetown.

No supporting evidence was submitted providing that the property and uses surrounding the Georgetown Facility are the same property uses and values in Sellersburg, Indiana.

The Board will need to consider whether surrounding properties will suffer negative impact or be affected in a substantially adverse manner permitting the use of a single type of building material of metal siding when the Guidelines for Section 2. specifically discourages use of a single material on any façade.

JULY 14, 2020 - The Applicant has not addressed the required finding of fact that the exclusive use of sheet metal siding will or will not affect the use and value of adjacent property or the subject property in a substantially adverse manner. Applicant appears to claim that the exclusive use of sheet metal siding will increase the value of adjoining property. The Applicant makes this claim without supporting or quantifiable information.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property:

Applicant states: For the 3-sided pole barn buildings do not easily allow a variety of materials except for metal siding facades.

DUE TO THE LENGTH OF THE REVISED RESPONSES TO DECISION MAKING CRITERIA AND THE POSSIBILITY OF INTRODUCING ERROR IN RE-TYPING RESPONSES, PLEASE SEE THE END OF THE STAFF REPORT FOR THE REVISED



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

RESPONSES TO DECISION MAKING CRITERIA.

Staff: AUGUST 13, 2020 – The Board will need to determine what difficulties the Applicant would have in developing the property according to the Planned Unit Development Zoning District Ordinance.

Applicant states the use of a single material of metal siding on all façade does not coincide with the use and design. The Planned Unit Development Zoning District Ordinance, guidelines expressly discourage use of a single material on any façades.

The Applicant states “requiring different architectural materials on all 4 side of a building does not coincide with the proposed use/design or any other design in this industry.”

In this statement the Applicant gives the impression the industry standard of metal siding should be good enough for Planned Unit Development Zoning District Ordinance which clearly outlines the Town’s desire to elevate the architectural aesthetic in the Planned Unit Development.

The Applicant has not provided supporting information to support the difficulty developing the property in accordance with the Planned Unit Development Zoning District Ordinance.

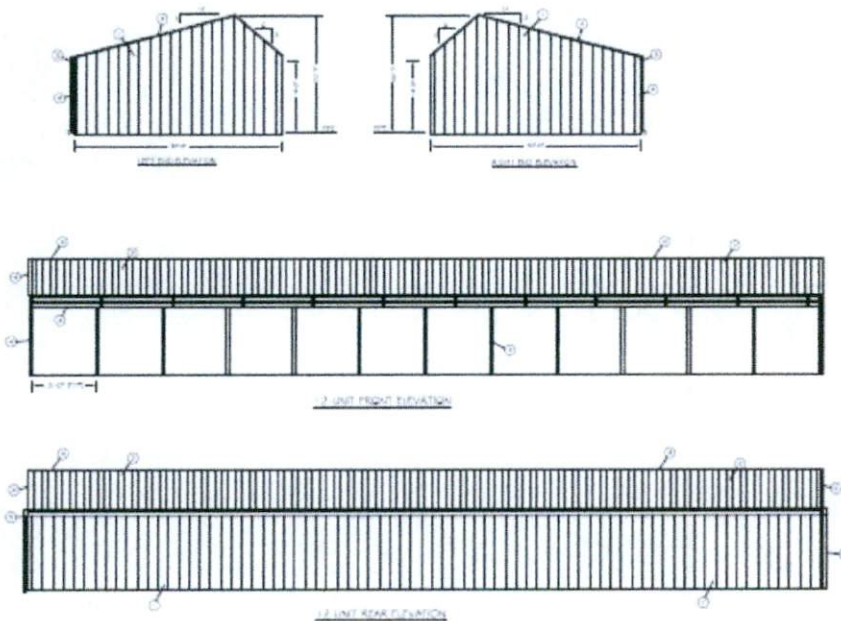
JULY 14, 2020 - The Applicant has not addressed the required finding of fact if the terms of the PUD ordinance results in the practical difficulties in the use of the property. The Applicant provides no supporting information to support that the PUD Ordinance, Architectural/Building Standards result in the practical difficulty in the use of the property.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

The Board will need to consider what difficulties the Applicant would have developing the property in accordance with the PUD Ordinance standards. Cost is not a justification for a variance.



Revised Finding of Fact are too lengthy and the possibility of error was too great for manual reproduction into the individual Staff Report for each Docket Number. Please scroll to the highlighted Docket Number to match to the Staff Report's Docket Number.

(Revised)

**DEVELOPMENT STANDARDS VARIANCE CRITERIA
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

A. Docket No. 2020-DV-07-004 and 2020-DV-07-008 – Variances of Section 5.6 of PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- The Applicant has operated a substantially similar facility in Georgetown, Indiana, since December of 2017. There have been no police or first responder runs to this property since it opened.
- The owner from which Applicant will acquire the property leases adjacent property that is accessed from CR 311 on which a substantially similar mini-warehouse facility is operated. This facility has not been injurious to public health, safety, morals, and general welfare of the community since it opened.
- The Applicant intends on having an asphalt entrance from Old State Road 60 to the gate to (a) create a curb appeal that is compatible with surrounding properties, (b) ensure those traveling on Old State Road 60 are not adversely affected in anyway, and (c) eliminate any risk of roadway erosion, as the location of the proposed entrance is the steepest part of the property.
- Due to the nature of the proposed use, it is estimated that traffic will be four (4) visits per day during the week and ten (10) visits per day during the weekend, and as a result of the limited traffic, the gravel of the surface of the storage units and areas will go unnoticed by the community at large.
- The gravel will be well maintained and compacted to reduce any noise or dust that may be caused by granting these variances. The Applicant will provide contact information to the Town and adopt and implement policies requiring watering of the gravel areas within one (1) hour following receipt of any dust complaints from the Town.

- The combination of the current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping are such that it is very likely these variances will be unnoticed by the community.
- The Applicant will adopt and comply with the drainage and erosion plan requirements to make certain these variances will not adversely affect the community.

(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 because:

- The asphalt entrance will create a curb appeal that is compatible to surrounding property.
- The current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping will conceal a portion of the property.
- A number of surrounding properties have gravel surfaces, not paved.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the assessed values of the adjacent properties have increased since the Applicant built the Georgetown facility.
- It is estimated that the average of customer visits to the facility will be four (4) visits per day during the week and ten (10) visits per day during the weekend, based on the Applicant's experience in operating its Georgetown facility.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

- Section 5.6 of the PUD Ordinance states as follows:

“Parking areas shall be hard surfaced and internally drained. Pervious pavement and individual pavers may be permitted.”

The term “hard surfaced” is not defined in the PUD Ordinance or Sellersburg Zoning Ordinance. Considering pervious pavement is not even explicitly allowed, the strict application of the PUD Ordinance creates practical difficulties for the Applicant by greatly limiting option for this property.

- Gravel surfaces are not uncommon in the proposed use industry.
- As a number of the surrounding properties have gravel surfaces, it would be inequitable and unjust to the Applicant if these variances were not granted.
- The portion of the property on which the proposed use will occur is almost totally shielded from public view as it wraps around the existing veterinary clinic to the rear of the existing apartment complex, the subject property sits at a much lower elevation than both the veterinary clinic and apartments, and the subject property is buffered from both the veterinary clinic and apartments by an existing earthen berm and heavy vegetation.
- The unusual shape of the subject property, in and of itself, creates a practical difficulty in its use.

B. Docket No. 2020-DV-07-005 – Variance of Section 2 of the PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- Section 2.2 of the PUD Ordinance allows a building to be constructed with metal.
- The side of the building facing Old State Road 60 (and closest to the entrance) will have more architectural variety to make it aesthetically pleasing from the nearest public road.
- The metal buildings will have a blue roof, tan sides and blue trim to create a curb appeal that is compatible with surrounding properties.
- The Applicant intends on using a 40-year metal to comply with Section 2.2 by using durable, high-quality material that will not be injurious to the community.

- Considering there are a number of buildings in the surrounding area that are either exclusively metal or majority metal, this variance will go unnoticed by the community.
- The combination of the current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping are such that it is very likely this variance will be unnoticed by the community.

(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 because:

- The design of the building closest to Old State Road 60 and overall color scheme of the buildings will create a curb appeal that is compatible to surrounding property.
- The current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping will conceal a portion of the property.
- A number of buildings in the surrounding area that are either exclusively metal or majority metal.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the adjacent property values have increased since the Applicant built the Georgetown facility.
- The location of the property is such that the development will not affect the use or value of adjacent owners. In fact, considering the property has been for sale for approximately 15 years, the value of surrounding properties will likely increase.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

- The proposed use of the property is boat and RV storage with buildings enclosed on 3 sides and open “bays” on one. Requiring different architectural material on all 4 sides of a building does not coincide with this proposed use/design or any other design in this industry.
- The intent of the PUD Ordinance is to encourage architectural variety and sustainable material that emphasize durability and diversity. The variance requested here does include architectural variety with building one and will be built with sustainable, durable materials. Thus, meeting the intent of the PUD Ordinance. With that being said, requiring different architectural on all 4 sides of every building would not only be uneconomical, but pointless considering the majority of the sides would only be viewable by those individuals who rent from the Applicant.

C. Docket No. 2020-DV-07-006 – Variance of Section 4 of the PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- The intent of Section 4 of the PUD Ordinance is to promote landscaping as it is not only visually appealing, but also serves to screen and buffer structures and uses, delineate separations, conserve energy, and moderate the effects of sun and wind. Although reduced, the proposed landscaping plan still meets all of those items. Thus, the variance will not cause any harm to the community.
- The combination of the current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping are such that it is very likely this variance will be unnoticed by the community. In fact, it is the Applicant’s opinion that even with the variance the proposed development will have more landscaping then a number of the surrounding properties.
- The required landscaping would actually inhibit circulation inside the property. Thus, the variance actually makes the property safer.

(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 because:

- The proposed plan includes landscape on the side closest to Old State Road 60 to ensure the property will have curb appeal that is compatible to surrounding property.
- The reduced landscaping will not substantially affect the adjacent property as there is still landscaping on majority of the property’s sides and the characteristics

Ordinance limitation was enforced, it would negatively affect the curb appeal of the property.

- The 6' tall fence in the front yard is more favorable for public health, safety, moral, and general welfare as the additional 2' will deter criminal activity even more. This will also increase the attractiveness of our property to residence of the community, as it would be a more secure facility.
- The chain link material is a commercial grade that will complement the proposed development and be compatible with the adjacent property's fence.

(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 because:

- This variance will not substantially affect the use or value of adjacent property as it will go overlooked due to the first building sitting back off Old State Road 60 the elevation of the property and surrounding trees and vegetation.
- Since 4' is allowed in the front yard already, the additional 2' will not affect the use or value of the adjacent properties.
- The chain link material is a commercial grade that will complement the proposed development and be compatible with the adjacent property's fence.
- The taller 6' fence in the front yard will create symmetry with the rest of the fence and is has better curb appeal.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the adjacent property values have increased since the Applicant built the Georgetown facility.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Petition #: 2020-DV-07-006

Hearing Date: July 20, 2020

By Petitioner(s): Brian & Laura Kehrer, Serenity Properties, LLC

Concerning DEVELOPMENT STANDARDS Variance at the address of: Northeast Side of Old HWY 60, East of SR 60

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

4. Motion to approve any special conditions.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # 2020-DV-07-006

Approved Denied

Special Conditions:

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Signature Page – Petition # 2020-DV-07-006

Signed this _____ day of _____, _____

Vincent C. Thacker, Jr., Chairman

Francis A. Conroy, Vice-Chairman

Dennis V. Amos, Member

Mark Tolliver, Member

Evan Brown, Member

Attest:



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DATE:	July 14, 2020
DOCKET NUMBER:	2020-DV-07-006
APPLICANT:	Brian & Laura Kehrer, Serenity Properties, LLC
OWNER:	Sheila Hardy, Nova Starr LLC
LOCATION OF SUBJECT PROPERTY OF VARIANCE	Northeast side of Old HWY 60, East of the Intersection of SR 60
LEGAL DESCRIPTION (Summary)	Metes & Bounds description – 5.374 acres more or less.
VARIANCE REQUESTED:	To eliminate require landscaping at all buildings.
CURRENT ZONING:	Planned Unit Development (PUD)
COUNCIL DISTRICT:	

Information:

The Applicant is requesting a Developmental Standards Variance to permit the elimination of required landscaping at the base of all building. The Planned Unit Development Ordinance (PUD) 2011-015, General Development Standards and Guidelines, Section 4, Landscaping Standards states landscaping is not only visually appealing, but also serves to screen and buffer structures and uses, delineate separations, conserve energy, and moderate the effects of sun and wind. Section 4.9 requires landscaping to be provided at the base all buildings at a rate equal to 50% of the building perimeter excluding doors. The Applicant's requires is to eliminate this required landscaping.

Applicant proposes to construct six (6) buildings of various dimensions. Buildings are proposed as 3 enclosed sides, the 4th side unenclosed, no doors. Section 4.9 permit the exclusion of doors.

The Applicant is requesting a variance to eliminate approximately 2,087-feet of required landscaping. The table below provides a breakdown of the required landscaping for each building.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

Applicant's Finding of Fact:

The applicant provides the following as written finding of fact for the requested Developmental Standards Variance. The Applicant's written Finding of Fact are written verbatim, as they appear on the Applicant's Use Variance Application.

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

Applicant states: This request is based on aesthetic landscaping requirement and would inhibit circulation inside RV & Boat Storage Facility.

Staff: The Applicant has not addressed the required finding of fact if the elimination of the required landscaping at the base of all buildings will be injurious to the health, safety, morals, and general welfare of the community.

The Applicant will need to provide supporting information that the elimination of approximately 2,087 feet of required landscaping will or will not be injurious to the public health, safety, morals and general welfare

The PUD Ordinance establishes minimum requirements to fulfil the Town's vision and intent of properties located in the PUD and to be compatible with surrounding properties in appearance and character. Elimination of required landscaping around the proposed buildings will not be in keeping with the aesthetically pleasing appearance the Town envisioned. The lack of building landscaping may prevent the proposed sheet metal buildings from blending with surrounding properties.

The Board will need to consider the potential harm to the Town vision and intent for properties in the PUD zoned district the variance may create by permitting the Applicant to eliminate the required landscaping at buildings.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

(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,

Applicant states: The approval of this variance will provide the opportunity to develop the land and increase commercial value of adjacent property.

Staff: The Applicant has failed to address the required finding of fact if the elimination of the required landscaping at building will or will not adversely affect the value of adjacent properties or the value of the subject property.

The Applicant appears to claim that the required landscaping at all building prevent the property from being developed, which is not what the finding of fact criteria seeking. The finding of fact criteria is seeking if neighboring property will suffer any major negative impact from the elimination of the required landscaping at the buildings.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant states: Many areas the landscaping requirement affect is circulation area for RV & Boat storage facility.

Staff: The Applicant has not provided sufficient information to address the finding of fact criteria that the PUD ordinance requirement for landscaping at buildings results in the practical difficulties in the use of the property.

The site plan submitted indicates the majority of available usable lot area is proposed to be six (6) building and proposed gravel drive/parking surface.

The Board will need to consider what difficulties the Applicant would have developing the property in accordance with the PUD Ordinance. Cost is not a justification for a variance.

Town of Sellersburg, Indiana
Board of Zoning Appeals
Application for a Variance of Development Standards

Applicant Information

Name: BRIAN & LAURA KEHRER, SERENITY PROPERTIES, LLC

Mailing Address: P.O. Box 376
Street Number/P.O. Box Number Street

FLOYDS KNOBS IN 47119
City State Zip

Email address: bkehrer1@gmail.com Phone Number: 502-552-4225

Owner Information ("owner is not a tenant or contract buyer")

Name: SHELIA HARDY, NOVA STARR, LLC

Mailing Address: P.O. Box 383
Street Number/P.O. Box Number Street

CHARLESTOWN IN 47111
City State Zip

Email address: STARLIGHT16@aol.com Phone Number: 812-987-1501

Property Information:

Address or location of the property subject to this application:

Highway 60 & Old S.R. 60 (Parcel # 10-17-10-800-452.000 - 031)
Street Numbers Closest Cross Street

Lot Size: 3.597 ACRES (KEY # 17-00057-023-0)

Current Use of Property: UNDEVELOPED LAND

Describe the variance requested: NOT INSTALL LANDSCAPING AT BASE OF ALL BUILDINGS AT A RATE EQUAL TO 50% OF THE

Check Developmental Standards Variance Requested: BUILDING PERIMETER EXCLUDING DOORS

- | | | | |
|---|---|---|--|
| <input type="checkbox"/> Building Setback | <input type="checkbox"/> Building Height | <input type="checkbox"/> Lot Coverage | <input type="checkbox"/> Lot Width |
| <input type="checkbox"/> Lot Area | <input type="checkbox"/> Sight Visibility | <input type="checkbox"/> Entrance/Drive | <input type="checkbox"/> Landscaping |
| <input type="checkbox"/> Parking | <input type="checkbox"/> Loading Area | <input type="checkbox"/> Sign | <input type="checkbox"/> Exterior Lighting |

Other: NOT INSTALL LANDSCAPING AT BASE OF ALL BUILDINGS AT A RATE EQUAL TO 50% OF THE BUILDING PERIMETER EXCLUDING DOORS.

**DEVELOPMENT STANDARDS VARIANCE CRITERIA
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

- (1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: THIS REQUEST IS BASED ON AESTHETIC LANDSCAPING REQUIREMENT AND WOULD INHIBIT CIRCULATION INSIDE RV & BOAT STORAGE FACILITY
- (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: THE APPROVAL OF THIS VARIANCE WILL PROVIDE THE OPPORTUNITY TO DEVELOPE THE LAND AND INCREASE COMMERCIAL VALUE OF ADJACENT PROPERTY
- (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: MANY AREAS THIS LANDSCAPING REQUIREMENT AFFECTS IS CIRCULATION AREAS FOR RV & BOAT STORAGE FACILITY

Applicant's Signature

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

Brian Kehan
Applicant Signature

5-29-2020
Date

Brian Kehan
Printed Applicant Name

State of Indiana)
)SS
County of CLARK

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared BRIAN KEHRER, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 29th day of MAY, 2020

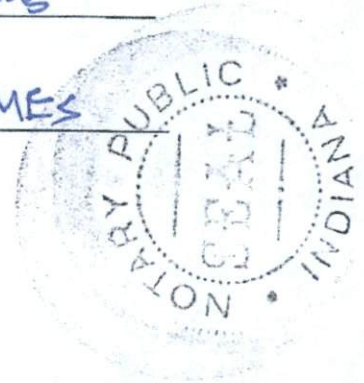
My Commission Expires:

5/17/2026

Nathan R Grimes
Notary Public

Resident CLARK County, Indiana

NATHAN R. GRIMES
Printed Name



Office Use:

Date Completed Application Received: 06 / 08 / 2020

Petition Application Fee of \$ _____ Received: ___ / ___ / ___

Docket Number: 2020-DV-07-006

Current Zoning Classification: PUD

Zoning Ordinance Section applicable to variance application: Ord 2011 - 015 - Landscaping

BZA Public Hearing Date: 07 / 20 / 2020

Adjacent Property Owners Notified via Certificate of Mailing: ___ / ___ / ___

Legal Ad Published: ___ / ___ / ___

Verified Posting of Hearing Sign: ___ / ___ / ___

Public Notice Posted at Town Hall ___ / ___ / ___



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DATE:	August 14, 2020 - Revised
DOCKET NUMBER:	2020-DV-07-006
APPLICANT:	Brian & Laura Kehrer, Serenity Properties, LLC
OWNER:	Sheila Hardy, Nova Starr, LLC
LOCATION OF SUBJECT PROPERTY OF VARIANCE	Northeast side of Old HWY 60, East of the Intersection of SR 60
LEGAL DESCRIPTION (Summary)	Metes & Bounds description – 5.374 acres more or less.
VARIANCE REQUESTED:	To eliminate require landscaping at all buildings.
CURRENT ZONING:	Planned Unit Development (PUD)
COUNCIL DISTRICT:	

Planned Unit Development Zoning District Information

The Planned Unit Development Zoning District Ordinance states: “The following Development and Design Standards are intended to reflect the Town of Sellersburg’s vision for new development within the boundaries of the district.

The development concept by subarea intent is to provide a cohesive, master-planned community which encourages mixed-uses and compact development in a walkable setting.

The purpose of the Community Commercial subarea is to encourage quality commercial/retail development that responds to the needs of current market conditions. This development is located along State Roads 60 and 311 and is more auto oriented. Below are additional features or principles for Community Commercial Subarea.

- Development adjacent to the intersection of S. R. 311 and Enterprise Drive should incorporate a gateway in the district.
- Creates a more pedestrian-friendly setting and ties into a multi-model transportation network rather than typical, auto-oriented commercial development.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

Applicability Planned Unit Development Zoning District Ordinance

The standards in this plan area applicable to new primary and accessory structures construction requiring Development Plan Approval in the TIF District Planned Unit Development (PUD).

The Applicant has not submitted the required Development Plan for review by the Technical Review Committee. It was brought to the Applicant's attention in the pre-conference video call that the required Development Plan has not been submitted and was informed the Development Plan submission and review were required to determine if the proposed development was in full compliance with the Planned Unit Development Zoning District Ordinance. The Applicant in pre-conference meeting declined to submit required Development Plan due to expense and elected to pursue Developmental Standards Variances prior to the submission of the required Development Plan.

Information:

The Applicant is requesting a Developmental Standards Variance to permit the elimination of required landscaping at the base of all buildings. The Planned Unit Development Ordinance (PUD) 2011-015, General Development Standards and Guidelines, Section 4, Landscaping Standards states landscaping is not only visually appealing, but also serves to screen and buffer structures and uses, delineate separations, conserve energy, and moderate the effects of sun and wind. Section 4.9 requires landscaping to be provided at the base of all buildings at a rate equal to 50% of the building perimeter excluding doors. The Applicant's request is to eliminate this required landscaping.

Applicant proposes to construct six (6) buildings of various dimensions. Buildings are proposed as 3 enclosed sides, the 4th side unenclosed, no doors. Section 4.9 permit the exclusion of doors.

The Applicant is requesting a variance to eliminate approximately 2,087 feet of required landscaping. The table below provides a breakdown of the required landscaping for each building.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

Building type as labeled on submitted site plan	40-feet x 240-feet, perimeter total 560-feet	Building Perimeter total	Approximate landscaping required
"A"	40-feet x 240-feet	560-feet	280-feet
"A"	25-feet x 247-feet	544-feet	272-feet.
"B"	40-feet x 167-feet	414-feet	207-feet
"C" times 2 bldgs.	40-feet x 208-fee (x 2)	992-feet (496 x 2)	496-feet (248 x 2)
"D" various width. Site plan indicate total length of 266-feet. Site plan does not provide length by various width, length is estimated at 133-feet for each width			
"D" 40-foot width	40-feet x 133-fee	346-feet	173-feet
"D" 30-foot width	30-feet x 133-feet	326-feet	163-feet

Finding of Fact:

In accordance with the requirements set out in the Indiana Code (IC), the Board of Zoning Appeals will need to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5 states:

(a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (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; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant's Finding of Fact:

The applicant provides the following as written finding of fact for the requested Developmental Standards Variance. The Applicant's written Finding of Fact are



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

written verbatim, as they appear on the Applicant's Use Variance Application.

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

Applicant states: This request is based on aesthetic landscaping requirement and would inhibit circulation inside RV & Boat Storage Facility.

DUE TO THE LENGTH OF THE REVISED RESPONSES TO DECISION MAKING CRITERIA AND THE POSSIBILITY OF INTRODUCING ERROR IN RE-TYPING RESPONSES, PLEASE SEE THE END OF THE STAFF REPORT FOR THE REVISED RESPONSES TO DECISION MAKING CRITERIA.

Staff: AUGUST 13, 2020 - The decision-making criteria is applicable to the community, what is the harm to the community by permitting the development of a site without the required landscaping at the base of all buildings in the Planned Unit Development Zoning District which elevates development standards for the community.

Applicant states that the characteristics of the property and proposed fencing and landscaping will cause the landscaping at the base of building to be unnoticed. The proposed fence mentioned above is a fence in which a developmental standards variance is pending before the Board of Zoning appeals.

JULY 14, 2020 - The Applicant has not addressed the required finding of fact if the elimination of the required landscaping at the base of all buildings will be injurious to the health, safety, morals, and general welfare of the community.

The Applicant will need to provide supporting information that the elimination of approximately 2,087 feet of required landscaping will or will not be injurious to the public health,



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

safety, morals and general welfare

The PUD Ordinance establishes minimum requirements to fulfill the Town's vision and intent of properties located in the PUD and to be compatible with surrounding properties in appearance and character. Elimination of required landscaping around the proposed buildings will not be in keeping with the aesthetically pleasing appearance the Town envisioned. The lack of building landscaping may prevent the proposed sheet metal buildings from blending with surrounding properties.

The Board will need to consider the potential harm to the Town vision and intent for properties in the PUD zoned district the variance may create by permitting the Applicant to eliminate the required landscaping at buildings.

(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,

Applicant states: The approval of this variance will provide the opportunity to develop the land and increase commercial value of adjacent property.

DUE TO THE LENGTH OF THE REVISED RESPONSES TO DECISION MAKING CRITERIA AND THE POSSIBILITY OF INTRODUCING ERROR IN RE-TYPING RESPONSES, PLEASE SEE THE END OF THE STAFF REPORT FOR THE REVISED RESPONSES TO DECISION MAKING CRITERIA.

Staff: AUGUST 14, 2020 - The Board will need to consider whether neighboring property will suffer any major negative impact by eliminating the required landscaping at the base of all buildings and what impact the neighbors could realistically expect.

The Applicant states "the proposed plan includes landscaping on the



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

side closest to Old State Road 60 to ensure the property will have curb appeal and that is compatible to surrounding property”.

No landscape plans prepared by a landscape professional or nurseryman experienced in landscape design, installation, and care has been submitted to determine compliance with the Section 4. Landscape Standards. As previously stated, the Applicant has not submitted a development plan citing the expense and elected to submit Developmental Standards Variance without the benefit of a Technical Review Committee’s comments.

Applicant states that buildings in the immediate area lack sufficient landscaping. The Applicant again compares the proposed project development to existing property which may have been developed prior to the proposed development. The requirement of landscaping at the base of all buildings is applicable to this development, and comparison to other properties without all the facts being provided as to date when those properties were developed is not applicable to the applicant’s request to eliminate the required landscaping.

JULY 14, 2020 - The Applicant has failed to address the required finding of fact if the elimination of the required landscaping at building will or will not adversely affect the value of adjacent properties or the value of the subject property.

The Applicant appears to claim that the required landscaping at all building prevent the property from being developed, which is not what the finding of fact criteria seeking. The finding of fact criteria is seeking if neighboring property will suffer any major negative impact from the elimination of the required landscaping at the buildings.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant states: Many areas the landscaping requirement affect is circulation area for RV & Boat storage facility.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DUE TO THE LENGTH OF THE REVISED RESPONSES TO DECISION MAKING CRITERIA AND THE POSSIBILITY OF INTRODUCING ERROR IN RE-TYPING RESPONSES, PLEASE SEE THE END OF THE STAFF REPORT FOR THE REVISED RESPONSES TO DECISION MAKING CRITERIA.

Staff: AUGUST 14, 2020 - The Board will need to determine what difficulties the Applicant would have in developing the property according to the landscaping requirements in the Planned Unit Development Zoning District Ordinance.

Applicant once again states that the landscaping does not coincide with the proposed use/design or another design in this industry. The Applicant is to provide decision-making responses as to how the Planned Unit Development Zoning District Ordinance results in the practical difficult in the use of the property. Other justifications or "typical industry" does not address how the Applicant cannot develop the property in accordance with the landscaping requirements for the Planned Unit Development Zoning District Ordinance.

JULY 14, 2020 - The Applicant has not provided sufficient information to address the finding of fact criteria that the PUD ordinance requirement for landscaping at buildings results in the practical difficulties in the use of the property.

The site plan submitted indicates the majority of available usable lot area is proposed to be six (6) building and proposed gravel drive/parking surface.

The Board will need to consider what difficulties the Applicant would have developing the property in accordance with the PUD Ordinance. Cost is not a justification for a variance.

Revised Finding of Fact are too lengthy and the possibility of error was too great for manual reproduction into the individual Staff Report for each Docket Number. Please scroll to the highlighted Docket Number to match to the Staff Report's Docket Number.

(Revised)

**DEVELOPMENT STANDARDS VARIANCE CRITERIA
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

A. Docket No. 2020-DV-07-004 and 2020-DV-07-008 – Variances of Section 5.6 of PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- The Applicant has operated a substantially similar facility in Georgetown, Indiana, since December of 2017. There have been no police or first responder runs to this property since it opened.
- The owner from which Applicant will acquire the property leases adjacent property that is accessed from CR 311 on which a substantially similar mini-warehouse facility is operated. This facility has not been injurious to public health, safety, morals, and general welfare of the community since it opened.
- The Applicant intends on having an asphalt entrance from Old State Road 60 to the gate to (a) create a curb appeal that is compatible with surrounding properties, (b) ensure those traveling on Old State Road 60 are not adversely affected in anyway, and (c) eliminate any risk of roadway erosion, as the location of the proposed entrance is the steepest part of the property.
- Due to the nature of the proposed use, it is estimated that traffic will be four (4) visits per day during the week and ten (10) visits per day during the weekend, and as a result of the limited traffic, the gravel of the surface of the storage units and areas will go unnoticed by the community at large.
- The gravel will be well maintained and compacted to reduce any noise or dust that may be caused by granting these variances. The Applicant will provide contact information to the Town and adopt and implement policies requiring watering of the gravel areas within one (1) hour following receipt of any dust complaints from the Town.

- The combination of the current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping are such that it is very likely these variances will be unnoticed by the community.
- The Applicant will adopt and comply with the drainage and erosion plan requirements to make certain these variances will not adversely affect the community.

(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 because:

- The asphalt entrance will create a curb appeal that is compatible to surrounding property.
- The current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping will conceal a portion of the property.
- A number of surrounding properties have gravel surfaces, not paved.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the assessed values of the adjacent properties have increased since the Applicant built the Georgetown facility.
- It is estimated that the average of customer visits to the facility will be four (4) visits per day during the week and ten (10) visits per day during the weekend, based on the Applicant's experience in operating its Georgetown facility.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

- Section 5.6 of the PUD Ordinance states as follows:

“Parking areas shall be hard surfaced and internally drained. Pervious pavement and individual pavers may be permitted.”

The term “hard surfaced” is not defined in the PUD Ordinance or Sellersburg Zoning Ordinance. Considering pervious pavement is not even explicitly allowed, the strict application of the PUD Ordinance creates practical difficulties for the Applicant by greatly limiting option for this property.

- Gravel surfaces are not uncommon in the proposed use industry.
- As a number of the surrounding properties have gravel surfaces, it would be inequitable and unjust to the Applicant if these variances were not granted.
- The portion of the property on which the proposed use will occur is almost totally shielded from public view as it wraps around the existing veterinary clinic to the rear of the existing apartment complex, the subject property sits at a much lower elevation than both the veterinary clinic and apartments, and the subject property is buffered from both the veterinary clinic and apartments by an existing earthen berm and heavy vegetation.
- The unusual shape of the subject property, in and of itself, creates a practical difficulty in its use.

B. Docket No. 2020-DV-07-005 – Variance of Section 2 of the PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- Section 2.2 of the PUD Ordinance allows a building to be constructed with metal.
- The side of the building facing Old State Road 60 (and closest to the entrance) will have more architectural variety to make it aesthetically pleasing from the nearest public road.
- The metal buildings will have a blue roof, tan sides and blue trim to create a curb appeal that is compatible with surrounding properties.
- The Applicant intends on using a 40-year metal to comply with Section 2.2 by using durable, high-quality material that will not be injurious to the community.

- Considering there are a number of buildings in the surrounding area that are either exclusively metal or majority metal, this variance will go unnoticed by the community.
- The combination of the current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping are such that it is very likely this variance will be unnoticed by the community.

(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 because:

- The design of the building closest to Old State Road 60 and overall color scheme of the buildings will create a curb appeal that is compatible to surrounding property.
- The current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping will conceal a portion of the property.
- A number of buildings in the surrounding area that are either exclusively metal or majority metal.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the adjacent property values have increased since the Applicant built the Georgetown facility.
- The location of the property is such that the development will not affect the use or value of adjacent owners. In fact, considering the property has been for sale for approximately 15 years, the value of surrounding properties will likely increase.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

- The proposed use of the property is boat and RV storage with buildings enclosed on 3 sides and open “bays” on one. Requiring different architectural material on all 4 sides of a building does not coincide with this proposed use/design or any other design in this industry.
- The intent of the PUD Ordinance is to encourage architectural variety and sustainable material that emphasize durability and diversity. The variance requested here does include architectural variety with building one and will be built with sustainable, durable materials. Thus, meeting the intent of the PUD Ordinance. With that being said, requiring different architectural on all 4 sides of every building would not only be uneconomical, but pointless considering the majority of the sides would only be viewable by those individuals who rent from the Applicant.

C. Docket No. 2020-DV-07-006 – Variance of Section 4 of the PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- The intent of Section 4 of the PUD Ordinance is to promote landscaping as it is not only visually appealing, but also serves to screen and buffer structures and uses, delineate separations, conserve energy, and moderate the effects of sun and wind. Although reduced, the proposed landscaping plan still meets all of those items. Thus, the variance will not cause any harm to the community.
- The combination of the current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping are such that it is very likely this variance will be unnoticed by the community. In fact, it is the Applicant’s opinion that even with the variance the proposed development will have more landscaping than a number of the surrounding properties.
- The required landscaping would actually inhibit circulation inside the property. Thus, the variance actually makes the property safer.

(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 because:

- The proposed plan includes landscape on the side closest to Old State Road 60 to ensure the property will have curb appeal that is compatible to surrounding property.
- The reduced landscaping will not substantially affect the adjacent property as there is still landscaping on majority of the property’s sides and the characteristics

of the property (elevation, surrounding trees and vegetation, etc.) will conceal a portion of the property.

- Between the characteristics of the property and the fence surrounding the property, the variance will go undetectable to all except for individuals who rent from the Applicant.
- Seeing as buildings in the immediate area of the property appear to lack sufficient landscaping and it is visually obvious that the proposed plan includes more landscaping than those buildings, this variance will not substantially affect the adjacent properties.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the adjacent property values have increased since the Applicant built the Georgetown facility.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

- The required landscaping amount does not coincide with this proposed use/design or any other design in this industry, as it negatively affects circulation in the property and would make it extremely difficult to maneuver items such as 30'-40' long RVs or boat trailers.

D. Docket No. 2020-DV-07-007 – Variance of Section 12 of the PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- The 6' tall fence in the frontyard will not affect the community as the PUD Ordinance allows for 4' in the front yard and the additional 2' would only be noticeable if it were missing since 6' is allowed on all other sides. If the PUD

Ordinance limitation was enforced, it would negatively affect the curb appeal of the property.

- The 6' tall fence in the front yard is more favorable for public health, safety, moral, and general welfare as the additional 2' will deter criminal activity even more. This will also increase the attractiveness of our property to residence of the community, as it would be a more secure facility.
- The chain link material is a commercial grade that will complement the proposed development and be compatible with the adjacent property's fence.

(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 because:

- This variance will not substantially affect the use or value of adjacent property as it will go overlooked due to the first building sitting back off Old State Road 60 the elevation of the property and surrounding trees and vegetation.
- Since 4' is allowed in the front yard already, the additional 2' will not affect the use or value of the adjacent properties.
- The chain link material is a commercial grade that will complement the proposed development and be compatible with the adjacent property's fence.
- The taller 6' fence in the front yard will create symmetry with the rest of the fence and is has better curb appeal.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the adjacent property values have increased since the Applicant built the Georgetown facility.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Petition #: 2020-DV-07-007

Hearing Date: July 20, 2020

By Petitioner(s): Brian & Laura Kehrer, Serenity Properties, LLC

Concerning DEVELOPMENT STANDARDS Variance at the address of: Northeast Side of Old HWY 60, East of SR 60

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

4. Motion to approve any special conditions.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # 2020-DV-07-007

Approved Denied

Special Conditions:

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Signature Page – Petition # 2020-DV-07-007

Signed this _____ day of _____, _____

Vincent C. Thacker, Jr., Chairman

Francis A. Conroy, Vice-Chairman

Dennis V. Amos, Member

Mark Tolliver, Member

Evan Brown, Member

Attest:



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DATE:	July 14, 2020
DOCKET NUMBER:	2020-DV-07-007
APPLICANT:	Brian & Laura Kehrer, Serenity Properties, LLC
OWNER:	Sheila Hardy, Nova Starr LLC
LOCATION OF SUBJECT PROPERTY OF VARIANCE	Northeast side of Old HWY 60, East of the Intersection of SR 60
LEGAL DESCRIPTION (Summary)	Metes & Bounds description – 5.374 acres more or less.
VARIANCE REQUESTED:	Permit installation of a fence of non-permitted materials in the side and rear yard. Permit installation of a fence exceeding 48-inches in the front yard and of non-permitted material
CURRENT ZONING:	Planned Unit Development (PUD)
COUNCIL DISTRICT:	

Information:

The Applicant is requesting a Developmental Standards Variance to permit chain link fence in lieu of a permitted fence material in the side and rear yard. In addition to permit a fence exceed 48-inches of non-permitted fence materials in the front yard, and is not 50-percent open

The Planned Unit Development Ordinance (PUD) 2011-015, General Development Standards and Guidelines, Section 12, Fence and Wall Standard, Section 12.4 Fences and walls shall be constructed of wood, decorative metal, textured masonry, stone, or synthetic materials styled to simulate natural materials. 12.5 Height Requirements (a) fences and walls permitted to be 6 feet at side and rear yards. (b) Decorative fences construction of high quality materials such as brick, stone, decorative block, metal or wood not exceeding forty-eight inches (48”) in height and may be located in any front yard, provided that they are a minimum of fifty percent (50%) open.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

Finding of Fact:

In accordance with the requirements set out in the Indiana Code (IC) the Board of Zoning Appeals will need to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5 states:

(a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (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; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant's Finding of Fact:

The applicant provides the following as written finding of fact for the requested Developmental Standards Variance. The Applicant's written Finding of Fact are written verbatim, as they appear on the Applicant's Use Variance Application.

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

Applicant states: A 6'tall fence provides safety & security for facility and also provides safety & security for public. Fence will be chain link.

Staff: The Applicant has not addressed the finding of fact that a fence of non-permitted material and a fence in excess of 48-inches in the front yard will or will not be injurious to the public health, safety, morals and general safety of the community.

The variance will need to providing supporting information that the request to permit fence of non-permitted material and a



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

fence of non-permitted materials and in excess of 48-inches in the front yard will or will not be injurious to the public, health, safety and general welfare of the community.

The PUD Ordinance establishes minimum requirements to develop property for properties located in the PUD and to be compatible with surrounding properties in appearance and character.

The Board will need to consider the potential harm to the Town to permit a fence of non-permitted materials and to exceed 48-inches in the front yard.

(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,

Applicant states: The 6' tall fence variance will provide the opportunity to develop the land and increase the commercial value to adjacent property.

Staff: The Applicant has failed to address the required finding of fact if a chain link fence, not a fence of wood, decorative metal, textured masonry, stone, or synthetic materials styled to simulate natural materials, and a fence in excess of 48-inches in the front yard will or will not affect adjacent property values, including the subject property in a substantially adverse manner.

A fence of wood, decorative metal, textured masonry, stone, or synthetic materials styled to simulate natural materials or a fence 48-inches or less does not prevent the development of the property as stated by the applicant.

The finding of fact criteria is seeking if neighboring property will suffer any major negative impact by permitting a fence not of wood, decorative metal, textured masonry, stone, or synthetic materials styled to simulate natural materials and fence exceeding 48-inches in the front yard.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant states: The 6'tall fence provides customers of facility with required security to protect their property in the facility and makes the project economically feasible to construct.

Staff: The Applicant failed to address the required finding of fact that the PUD Ordinance results in the practical difficulties in the use of the property.

Fences are not required to be installed by the PUD ordinance; however, if a fence is installed the PUD Ordinance establishes the minimum terms (requirements) in the type of material and height for a fence or wall.

The Board will need to consider what difficulties the Applicant would have developing the property in accordance with the PUD Ordinance. Cost is not a justification for a variance.

Town of Sellersburg, Indiana
Board of Zoning Appeals
Application for a Variance of Development Standards

Applicant Information

Name: BRIAN & LAURA KEHRER, SERENITY PROPERTIES, LLC

Mailing Address: P.O. Box 376
Street Number/P.O. Box Number Street

FLOYDS KNOBS IN 47119
City State Zip

Email address: bkehrer11@gmail.com Phone Number: 502-552-4225

Owner Information ("owner is not a tenant or contract buyer")

Name: STELLA HARDY, NOVA STARR, LLC

Mailing Address: P.O. Box 383
Street Number/P.O. Box Number Street

CHARLESTOWN IN 47111
City State Zip

Email address: STARLIGHT16@aol.com Phone Number: 812-987-1501

Property Information:

Address or location of the property subject to this application:

HIGHWAY 60 & OLD S.R. 60 (PARCEL # 10-17-10-900-452.000-031)
Street Numbers Closest Cross Street (KEY # 17-00057-023-0)

Lot Size: 3.597 ACRE

Current Use of Property: UNDEVELOPED LAND

Describe the variance requested: ALLOW 6' TALL SECURITY FENCE IN RV AND BOAT STORAGE FACILITY. FENCE WILL BE CHAIN LINK

Check Developmental Standards Variance Requested:

- | | | | |
|---|---|---|--|
| <input type="checkbox"/> Building Setback | <input type="checkbox"/> Building Height | <input type="checkbox"/> Lot Coverage | <input type="checkbox"/> Lot Width |
| <input type="checkbox"/> Lot Area | <input type="checkbox"/> Sight Visibility | <input type="checkbox"/> Entrance/Drive | <input type="checkbox"/> Landscaping |
| <input type="checkbox"/> Parking | <input type="checkbox"/> Loading Area | <input type="checkbox"/> Sign | <input type="checkbox"/> Exterior Lighting |

Other: ALLOW 6' TALL SECURITY FENCE IN RV & BOAT STORAGE FACILITY. FENCE WILL BE CHAIN LINK

**DEVELOPMENT STANDARDS VARIANCE CRITERIA
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: A 6' TALL FENCE PROVIDES

SAFETY & SECURITY FOR FACILITY AND ALSO PROVIDES SAFETY & SECURITY FOR PUBLIC. FENCE WILL BE CHAIN LINK.

(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: THE 6' TALL FENCE VARIANCE

WILL PROVIDE THE OPPORTUNITY TO DEVELOPE THE LAND AND INCREASE THE COMMERCIAL VALUE OF ADJACENT PROPERTY.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: THE 6' TALL FENCE PROVIDES

CUSTOMERS OF FACILITY WITH REQUIRED SECURITY TO PROTECT THEIR PROPERTY IN THE FACILITY AND MAKES THE PROJECT ECONOMICALLY FEASIBLE TO CONSTRUCT

Applicant's Signature

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

Brian L. Kehrer, Security Rep. LLC
Applicant Signature President

5/29/2020
Date

BRIAN L. KEHRER
Printed Applicant Name

State of Indiana)
)SS
County of CLARK)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared BRIAN L. KEHRER, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 29th day of MAY, 20 20

My Commission Expires:

5/17/2026

Nathan R Grimes

Notary Public

Resident CLARK County, Indiana

NATHAN R. GRIMES

Printed Name



Office Use:

Date Completed Application Received: 06 / 08 / 2020

Petition Application Fee of \$ _____ Received: ___ / ___ / ___

Docket Number: 2020-DV-07-007

Current Zoning Classification: PUD

Zoning Ordinance Section applicable to variance application: Ord 2011-015 - Fencing

BZA Public Hearing Date: 07 / 20 / 2020

Adjacent Property Owners Notified via Certificate of Mailing: ___ / ___ / ___

Legal Ad Published: ___ / ___ / ___

Verified Posting of Hearing Sign: ___ / ___ / ___

Public Notice Posted at Town Hall ___ / ___ / ___



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DATE:	August 14, 2020 - Revised
DOCKET NUMBER:	2020-DV-07-007
APPLICANT:	Brian & Laura Kehrer, Serenity Properties, LLC
OWNER:	Sheila Hardy, Nova Starr, LLC
LOCATION OF SUBJECT PROPERTY OF VARIANCE	Northeast side of Old HWY 60, East of the Intersection of SR 60
LEGAL DESCRIPTION (Summary)	Metes & Bounds description – 5.374 acres more or less.
VARIANCE REQUESTED:	Permit installation of a fence of non-permitted materials in the side and rear yard. Permit installation of a fence exceeding 48-inches in the front yard and of non-permitted material
CURRENT ZONING:	Planned Unit Development (PUD)
COUNCIL DISTRICT:	

Planned Unit Development Zoning District Information

The Planned Unit Development Zoning District Ordinance states: “The following Development and Design Standards are intended to reflect the Town of Sellersburg’s vision for new development within the boundaries of the district.

The development concept by subarea intent is to provide a cohesive, master-planned community which encourages mixed-uses and compact development in a walkable setting.

The purpose of the Community Commercial subarea is to encourage quality commercial/retail development that responds to the needs of current market conditions. This development is located along State Roads 60 and 311 and is more auto oriented. Below are additional features or principles for Community Commercial Subarea.

- Development adjacent to the intersection of S. R. 311 and Enterprise Drive should incorporate a gateway in the district.
- Creates a more pedestrian-friendly setting and ties into a multi-modal transportation network rather than typical, auto-oriented commercial



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

development.

Applicability Planned Unit Development Zoning District Ordinance

The standards in this plan area applicable to new primary and accessory structures construction requiring Development Plan Approval in the TIF District Planned Unit Development (PUD).

The Applicant has not submitted the required Development Plan for review by the Technical Review Committee. It was brought to the Applicant's attention in the pre-conference video call that the required Development Plan has not been submitted and was informed the Development Plan submission and review were required to determine if the proposed development was in full compliance with the Planned Unit Development Zoning District Ordinance. The Applicant in pre-conference meeting declined to submit required Development Plan due to expense and elected to pursue Developmental Standards Variances prior to the submission of the required Development Plan.

Information:

The Applicant is requesting a Developmental Standards Variance to permit a chain link fence in lieu of a permitted fence material in the side and rear yard. In addition to permit a fence exceeds 48-inches of non-permitted fence materials in the front yard and is not 50 percent (50%) open.

The Planned Unit Development Ordinance (PUD) 2011-015, General Development Standards and Guidelines, Section 12, Fence and Wall Standard, Section 12.4 Fences and walls shall be constructed of wood, decorative metal, textured masonry, stone, or synthetic materials styled to simulate natural materials. 12.5 Height Requirements (a) fences and walls permitted to be 6 feet at side and rear yards. (b) Decorative fences constructed of high quality materials such as brick, stone, decorative block, metal or wood not exceeding forty-eight inches (48") in height and may be located in any front yard, provided that they are a minimum of fifty percent (50%) open.

Finding of Fact:

In accordance with the requirements set out in the Indiana Code (IC), the Board of Zoning Appeals will need to determine if the applicant has satisfied the requirements



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

in IC 36-4-7-918.5.

IC 36-4-7-918.5 states:

(a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (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; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant's Finding of Fact:

The applicant provides the following as written finding of fact for the requested Developmental Standards Variance. The Applicant's written Finding of Fact are written verbatim, as they appear on the Applicant's Use Variance Application.

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

Applicant states: A 6'tall fence provides safety & security for facility and also provides safety & security for public. Fence will be chain link.

DUE TO THE LENGTH OF THE REVISED RESPONSES TO DECISION MAKING CRITERIA AND THE POSSIBILITY OF INTRODUCING ERROR IN RE-TYPING RESPONSES, PLEASE SEE THE END OF THE STAFF REPORT FOR THE REVISED RESPONSES TO DECISION MAKING CRITERIA.

Staff: AUGUT 14, 2020 - The decision-making criteria is applicable to the community, what is the harm to the community by permitting the development of a site with a 6-foot chain-link fence in the front yard in the Planned Unit Development Zoning



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

District which elevates development standards for the community.

Section 12.4 states Fences and walls shall be constructed of wood, decorative metal, textured masonry, stone, or synthetic materials styled to simulate natural materials.

Section 12.5 Height Requirement states: (a) Fences and walls shall not exceed six feet (6') in height in rear and side yards. (b) Decorative fences construction of high quality materials such as brick, stone, decorative block, metal or wood not exceeding forty-eight inches (48") in height and may not be located in any front yard, provided that they are a minimum of fifty percent (50%) open.

Applicant states "The 6' tall fence in the front yard will not affect the community as the PUD Ordinance allows for 4' in the front yard and the additional 2' would only be noticed be if it were missing since 6' is allowed on all sides."

A six-foot fence in the front yard limits persons entering and exiting the property from seeing on-coming traffic.

Again, the Applicant states the chain-link fence is compatible with surrounding property. The applicant has not submitted supportive information as to the compatible property, nor if those properties were developed prior to the adoption of the Planned Unit Development Zoning District.

JULY 14, 2020 - The Applicant has not addressed the finding of fact that a fence of non-permitted material and a fence in excess of 48-inches in the front yard will or will not be injurious to the public health, safety, morals and general safety of the community.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

The variance will need to providing supporting information that the request to permit fence of non-permitted material and a fence of non-permitted materials and in excess of 48-inches in the front yard will or will not be injurious to the public, health, safety and general welfare of the community.

The PUD Ordinance establishes minimum requirements to develop property for properties located in the PUD and to be compatible with surrounding properties in appearance and character.

The Board will need to consider the potential harm to the Town to permit a fence of non-permitted materials and to exceed 48-inches in the front yard.

(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,

Applicant states: The 6' tall fence variance will provide the opportunity to develop the land and increase the commercial value to adjacent property.

DUE TO THE LENGTH OF THE REVISED RESPONSES TO DECISION MAKING CRITERIA AND THE POSSIBILITY OF INTRODUCING ERROR IN RE-TYPING RESPONSES, PLEASE SEE THE END OF THE STAFF REPORT FOR THE REVISED RESPONSES TO DECISION MAKING CRITERIA.

Staff: AUGUST 14, 2020 - The Board will need to consider whether neighboring property will suffer any major negative impact of a chain-link fence 6-feet in height in the front yard and not the required 48-inches in height of decorative fencing material as listed above and what impact the neighbors could realistically expect.

The Applicant makes a comparison to residential values and fencing. The proposed development is not a residential development.

The Applicant again makes a comparison between the facility in



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

Georgetown, Indiana to the proposed facility in Sellersburg, Indiana. The comparison is not factual as Georgetown, Indiana zoning requirements are not the same as the Town of Sellersburg's zoning requirements. The fact of the variance is to be determined if the development of the property in Sellersburg Indiana will have a negative impact on surrounding properties values.

JULY 14, 2020 - The Applicant has failed to address the required finding of fact if a chain link fence, not a fence of wood, decorative metal, textured masonry, stone, or synthetic materials styled to simulate natural materials, and a fence in excess of 48-inches in the front yard will or will not affect adjacent property values, including the subject property in a substantially adverse manner.

A fence of wood, decorative metal, textured masonry, stone, or synthetic materials styled to simulate natural materials or a fence 48-inches or less does not prevent the development of the property as stated by the applicant.

The finding of fact criteria is seeking if neighboring property will suffer any major negative impact by permitting a fence not of wood, decorative metal, textured masonry, stone, or synthetic materials styled to simulate natural materials and fence exceeding 48-inches in the front yard.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant states: The 6'tall fence provides customers of facility with required security to protect their property in the facility and makes the project economically feasible to construct.

DUE TO THE LENGTH OF THE REVISED RESPONSES TO DECISION MAKING CRITERIA AND THE POSSIBILITY OF INTRODUCING ERROR IN RE-TYPING RESPONSES, PLEASE SEE THE END OF THE STAFF REPORT FOR THE REVISED



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

RESPONSES TO DECISION MAKING CRITERIA.

Staff: AUGUST 14, 2020 - The Board will need to determine what difficulties the Applicant would have in developing the property according to the Planned Unit Development Zoning District Ordinance.

The Applicant states: Although the PUD Ordinance does not require a fence, the proposed use requires a fence to provide customers of the facility with adequate security to protect their property.

The Applicant is correct a fence is not required; however, when a fence is installed the fence shall be installed in accordance with the requirements of the Planned Unit Development Zoning District Ordinance. The Applicant has not demonstrated practical difficulty in developing the property in compliance with the Planned Unit Development Zoning District Ordinance

JULY 14, 2020 - The Applicant failed to address the required finding of fact that the PUD Ordinance results in the practical difficulties in the use of the property.

Fences are not required to be installed by the PUD ordinance; however, if a fence is installed the PUD Ordinance establishes the minimum terms (requirements) in the type of material and height for a fence or wall.

The Board will need to consider what difficulties the Applicant would have developing the property in accordance with the PUD Ordinance. Cost is not a justification for a variance.

Revised Finding of Fact are too lengthy and the possibility of error was too great for manual reproduction into the individual Staff Report for each Docket Number. Please scroll to the highlighted Docket Number to match to the Staff Report's Docket Number.

(Revised)

**DEVELOPMENT STANDARDS VARIANCE CRITERIA
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

A. Docket No. 2020-DV-07-004 and 2020-DV-07-008 – Variances of Section 5.6 of PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- The Applicant has operated a substantially similar facility in Georgetown, Indiana, since December of 2017. There have been no police or first responder runs to this property since it opened.
- The owner from which Applicant will acquire the property leases adjacent property that is accessed from CR 311 on which a substantially similar mini-warehouse facility is operated. This facility has not been injurious to public health, safety, morals, and general welfare of the community since it opened.
- The Applicant intends on having an asphalt entrance from Old State Road 60 to the gate to (a) create a curb appeal that is compatible with surrounding properties, (b) ensure those traveling on Old State Road 60 are not adversely affected in anyway, and (c) eliminate any risk of roadway erosion, as the location of the proposed entrance is the steepest part of the property.
- Due to the nature of the proposed use, it is estimated that traffic will be four (4) visits per day during the week and ten (10) visits per day during the weekend, and as a result of the limited traffic, the gravel of the surface of the storage units and areas will go unnoticed by the community at large.
- The gravel will be well maintained and compacted to reduce any noise or dust that may be caused by granting these variances. The Applicant will provide contact information to the Town and adopt and implement policies requiring watering of the gravel areas within one (1) hour following receipt of any dust complaints from the Town.

- The combination of the current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping are such that it is very likely these variances will be unnoticed by the community.
- The Applicant will adopt and comply with the drainage and erosion plan requirements to make certain these variances will not adversely affect the community.

(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 because:

- The asphalt entrance will create a curb appeal that is compatible to surrounding property.
- The current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping will conceal a portion of the property.
- A number of surrounding properties have gravel surfaces, not paved.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the assessed values of the adjacent properties have increased since the Applicant built the Georgetown facility.
- It is estimated that the average of customer visits to the facility will be four (4) visits per day during the week and ten (10) visits per day during the weekend, based on the Applicant's experience in operating its Georgetown facility.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

- Section 5.6 of the PUD Ordinance states as follows:

“Parking areas shall be hard surfaced and internally drained. Pervious pavement and individual pavers may be permitted.”

The term “hard surfaced” is not defined in the PUD Ordinance or Sellersburg Zoning Ordinance. Considering pervious pavement is not even explicitly allowed, the strict application of the PUD Ordinance creates practical difficulties for the Applicant by greatly limiting option for this property.

- Gravel surfaces are not uncommon in the proposed use industry.
- As a number of the surrounding properties have gravel surfaces, it would be inequitable and unjust to the Applicant if these variances were not granted.
- The portion of the property on which the proposed use will occur is almost totally shielded from public view as it wraps around the existing veterinary clinic to the rear of the existing apartment complex, the subject property sits at a much lower elevation than both the veterinary clinic and apartments, and the subject property is buffered from both the veterinary clinic and apartments by an existing earthen berm and heavy vegetation.
- The unusual shape of the subject property, in and of itself, creates a practical difficulty in its use.

B. Docket No. 2020-DV-07-005 – Variance of Section 2 of the PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- Section 2.2 of the PUD Ordinance allows a building to be constructed with metal.
- The side of the building facing Old State Road 60 (and closest to the entrance) will have more architectural variety to make it aesthetically pleasing from the nearest public road.
- The metal buildings will have a blue roof, tan sides and blue trim to create a curb appeal that is compatible with surrounding properties.
- The Applicant intends on using a 40-year metal to comply with Section 2.2 by using durable, high-quality material that will not be injurious to the community.

- Considering there are a number of buildings in the surrounding area that are either exclusively metal or majority metal, this variance will go unnoticed by the community.
- The combination of the current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping are such that it is very likely this variance will be unnoticed by the community.

(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 because:

- The design of the building closest to Old State Road 60 and overall color scheme of the buildings will create a curb appeal that is compatible to surrounding property.
- The current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping will conceal a portion of the property.
- A number of buildings in the surrounding area that are either exclusively metal or majority metal.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the adjacent property values have increased since the Applicant built the Georgetown facility.
- The location of the property is such that the development will not affect the use or value of adjacent owners. In fact, considering the property has been for sale for approximately 15 years, the value of surrounding properties will likely increase.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

- The proposed use of the property is boat and RV storage with buildings enclosed on 3 sides and open “bays” on one. Requiring different architectural material on all 4 sides of a building does not coincide with this proposed use/design or any other design in this industry.
- The intent of the PUD Ordinance is to encourage architectural variety and sustainable material that emphasize durability and diversity. The variance requested here does include architectural variety with building one and will be built with sustainable, durable materials. Thus, meeting the intent of the PUD Ordinance. With that being said, requiring different architectural on all 4 sides of every building would not only be uneconomical, but pointless considering the majority of the sides would only be viewable by those individuals who rent from the Applicant.

C. Docket No. 2020-DV-07-006 – Variance of Section 4 of the PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- The intent of Section 4 of the PUD Ordinance is to promote landscaping as it is not only visually appealing, but also serves to screen and buffer structures and uses, delineate separations, conserve energy, and moderate the effects of sun and wind. Although reduced, the proposed landscaping plan still meets all of those items. Thus, the variance will not cause any harm to the community.
- The combination of the current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping are such that it is very likely this variance will be unnoticed by the community. In fact, it is the Applicant’s opinion that even with the variance the proposed development will have more landscaping than a number of the surrounding properties.
- The required landscaping would actually inhibit circulation inside the property. Thus, the variance actually makes the property safer.

(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 because:

- The proposed plan includes landscape on the side closest to Old State Road 60 to ensure the property will have curb appeal that is compatible to surrounding property.
- The reduced landscaping will not substantially affect the adjacent property as there is still landscaping on majority of the property’s sides and the characteristics

of the property (elevation, surrounding trees and vegetation, etc.) will conceal a portion of the property.

- Between the characteristics of the property and the fence surrounding the property, the variance will go undetectable to all except for individuals who rent from the Applicant.
- Seeing as buildings in the immediate area of the property appear to lack sufficient landscaping and it is visually obvious that the proposed plan includes more landscaping than those buildings, this variance will not substantially affect the adjacent properties.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the adjacent property values have increased since the Applicant built the Georgetown facility.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

- The required landscaping amount does not coincide with this proposed use/design or any other design in this industry, as it negatively affects circulation in the property and would make it extremely difficult to maneuver items such as 30'-40' long RVs or boat trailers.

D. Docket No. 2020-DV-07-007 – Variance of Section 12 of the PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- The 6' tall fence in the frontyard will not affect the community as the PUD Ordinance allows for 4' in the front yard and the additional 2' would only be noticeable if it were missing since 6' is allowed on all other sides. If the PUD

Ordinance limitation was enforced, it would negatively affect the curb appeal of the property.

- The 6' tall fence in the front yard is more favorable for public health, safety, moral, and general welfare as the additional 2' will deter criminal activity even more. This will also increase the attractiveness of our property to residence of the community, as it would be a more secure facility.
- The chain link material is a commercial grade that will complement the proposed development and be compatible with the adjacent property's fence.

(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 because:

- This variance will not substantially affect the use or value of adjacent property as it will go overlooked due to the first building sitting back off Old State Road 60 the elevation of the property and surrounding trees and vegetation.
- Since 4' is allowed in the front yard already, the additional 2' will not affect the use or value of the adjacent properties.
- The chain link material is a commercial grade that will complement the proposed development and be compatible with the adjacent property's fence.
- The taller 6' fence in the front yard will create symmetry with the rest of the fence and is has better curb appeal.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the adjacent property values have increased since the Applicant built the Georgetown facility.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Petition #: 2020-DV-07-008

Hearing Date: July 20, 2020

By Petitioner(s): Brian & Laura Kehrer, Serenity Properties, LLC

Concerning DEVELOPMENT STANDARDS Variance at the address of: Northeast Side of Old HWY 60, East of SR 60

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

4. Motion to approve any special conditions.

Motion _____ Second _____

Yea Nay Abstain Pass/Fail-Yes/No _____

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # 2020-DV-07-008

Approved Denied

Special Conditions:

Sellersburg Board Of Zoning Appeals
316 East Utica Street
Sellersburg, Indiana 47172

Signature Page – Petition # 2020-DV-07-008

Signed this _____ day of _____, _____

Vincent C. Thacker, Jr., Chairman

Francis A. Conroy, Vice-Chairman

Dennis V. Amos, Member

Mark Tolliver, Member

Evan Brown, Member

Attest:



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DATE:	July 14, 2020
DOCKET NUMBER:	2020-DV-07-008
APPLICANT:	Brian & Laura Kehrer, Serenity Properties, LLC
OWNER:	Sheila Hardy, Nova Starr LLC
LOCATION OF SUBJECT PROPERTY OF VARIANCE	Northeast side of Old HWY 60, East of the Intersection of SR 60
LEGAL DESCRIPTION (Summary)	Metes & Bounds description – 5.374 acres more or less.
VARIANCE REQUESTED:	Permit off-street parking in open gravel area
CURRENT ZONING:	Planned Unit Development (PUD)
COUNCIL DISTRICT:	

Information:

The Applicant is requesting a Developmental Standards Variance to permit parking of off-street parking in open gravel area.

The Planned Unit Development Ordinance (PUD) 2011-015, General Development Standards and Guidelines, Section 5, sub-section 5.6 requires a hard surface for parking areas.

Developmental Standards Variance application 2020-DV-07-004 is a request for permit parking area and drives of gravel and not the required hard surface.

Developmental Standards Variance Application 2020-DV-07-008 is a request to permit off-street parking in open gravel areas.

2020-DV-07-004 and 2020-DV-07-008 are a request for Developmental Standards from the same Section 5.6 of the Planned Unit Development Ordinance.

As a Developmental Standards Variance has been submitted for identical Sections of the PUD Ordinance, No Staff Report will be provided for 2020-DV-07-008.

**Town of Sellersburg, Indiana
Board of Zoning Appeals
Application for a Variance of Development Standards**

Applicant Information

Name: BRIAN & LAURA KEHRER, SERENITY PROPERTIES, LLC

Mailing Address: P.O. Box 376
Street Number/P.O. Box Number Street

FLOYDS KNOBS IN 47119
City State Zip

Email address: bkehrer1@gmail.com Phone Number: 502-552-4225

Owner Information ("owner is not a tenant or contract buyer")

Name: SHELIA HARDY, NOVA STARR, LLC

Mailing Address: P.O. Box 383
Street Number/P.O. Box Number Street

CHARLESTOWN IN 47111
City State Zip

Email address: STARLIGHT16@AOL.COM Phone Number: 812-987-1501

Property Information:

Address or location of the property subject to this application:

Highway 60 & Old S.R. 60 (Parcel # 10-17-10-800-452.000-031)
Street Numbers Closest Cross Street (Key # 17-00057-023-0)

Lot Size: 3.597 ACRES

Current Use of Property: UNDEVELOPED LAND

Describe the variance requested: ALLOW OFF-STREET PARKING IN OPEN GRAVEL AREAS FOR RV, BOAT, TRAILER & MOTOR VEHICLE STORAGE

Check Developmental Standards Variance Requested:

- | | | | |
|---|---|---|--|
| <input type="checkbox"/> Building Setback | <input type="checkbox"/> Building Height | <input type="checkbox"/> Lot Coverage | <input type="checkbox"/> Lot Width |
| <input type="checkbox"/> Lot Area | <input type="checkbox"/> Sight Visibility | <input type="checkbox"/> Entrance/Drive | <input type="checkbox"/> Landscaping |
| <input type="checkbox"/> Parking | <input type="checkbox"/> Loading Area | <input type="checkbox"/> Sign | <input type="checkbox"/> Exterior Lighting |

Other: ALLOW OFF STREET PARKING IN OPEN GRAVEL AREAS FOR RV, BOAT, TRAILER & MOTOR VEHICLE STORAGE

**DEVELOPMENT STANDARDS VARIANCE CRITERIA
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: THE PURPOSE OFF THIS PROJECT IS TO

PROVIDE A SAFE / SECURE FACILITY FOR STORAGE OF RV, BOATS, TRAILERS, VEHICLES FOR CITIZENS OF SELWERSBURG AND SURROUNDING AREA

(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: THE APPROVAL OF THIS VARIANCE

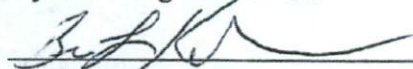
WILL PROVIDE THE OPPORTUNITY TO DEVELOPE THE LAND AND INCREASE THE COMMERCIAL VALUE OF ADJACENT PROPERTY.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: THE AVAILABILITY OF RV & BOAT

STORAGE IN OPEN AREAS MAKES IT ECONOMIC FEASIBLE FOR MANY RV & BOAT PROPERTY OWNERS TO STORE THEIR PROPERTY SECURELY AND SAFELY AT THIS FACILITY

Applicant's Signature

The information included in and with this application is completely true and correct to the best of my knowledge and belief.


Applicant Signature

5/29/2020
Date

Brian Kehar
Printed Applicant Name

State of Indiana)
)SS
County of CLARK)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared BRIAN KEHRER, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

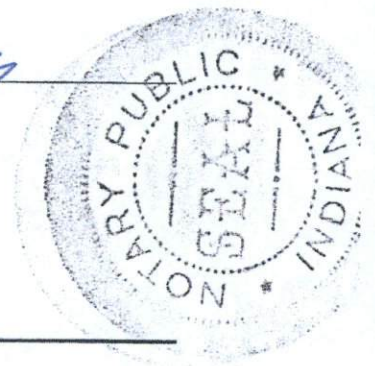
Witness my hand and Notarial Seal, this this 29th day of May, 2020

My Commission Expires:
5/17/2026

Nathan R Grimes
Notary Public

Resident CLARK County, Indiana

NATHAN R. GRIMES
Printed Name



Office Use:

Date Completed Application Received: 06 / 08 / 2020

Petition Application Fee of \$ _____ Received: ___ / ___ / ___

Docket Number: 2020-DV-07-008

Current Zoning Classification: PUD

Zoning Ordinance Section applicable to variance application: Ord 2011-015 parking

BZA Public Hearing Date: 07 / 20 / 2020

Adjacent Property Owners Notified via Certificate of Mailing: ___ / ___ / ___

Legal Ad Published: ___ / ___ / ___

Verified Posting of Hearing Sign: ___ / ___ / ___

Public Notice Posted at Town Hall ___ / ___ / ___



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DATE:	August 14, 2020 - Revised
DOCKET NUMBER:	2020-DV-07-008
APPLICANT:	Brian & Laura Kehrer, Serenity Properties, LLC
OWNER:	Sheila Hardy, Nova Starr LLC
LOCATION OF SUBJECT PROPERTY OF VARIANCE	Northeast side of Old HWY 60, East of the Intersection of SR 60
LEGAL DESCRIPTION (Summary)	Metes & Bounds description – 5.374 acres more or less.
VARIANCE REQUESTED:	Permit off-street parking in open gravel area
CURRENT ZONING:	Planned Unit Development (PUD)
COUNCIL DISTRICT:	

Planning Unit Development Zoning District Information

The Planning Unit Development Zoning District Ordinance states: “The following Development and Design Standards are intended to reflect the Town of Sellersburg’s vision for new development within the boundaries of the district.

The development concept by subarea intent is to provide a cohesive, master-planned community which encourages mixed-uses, and compact development in a walkable sitting.

The purpose of the Community Commercial subarea is to encourage quality commercial/retail development that responds to the needs of current market conditions. This development is located along State Roads 60 and 311 and is more auto oriented. Below are additional features or principles for Community Commercial Subarea.

- Development adjacent to the intersection of S. R 311 and Enterprise Drive should incorporate a gate way in the district
- Creates a more pedestrian-friendly setting and ties into a multi-model transportation network rather than typical, auto-oriented commercial development

Applicability Planned Unit Development Zoning District

The standards in this plan area applicable to new primary and accessory structures



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

construction requiring Development Plan Approval in the TIF District Planned Unit Development (PUD).

The Applicant has not submitted the required Development Plan for review by the Technical Review Committee. It was brought to the Applicants attention in the pre-conference video call that the required Development Plan has not been submitted and was informed the Development Plan submission and review were required to determine if the proposed development was in full compliance with the Planned Unit Development Zoning District Ordinance. The Applicant in pre-conference meeting declined to submit required Development Plan, due to expense and elected to pursue Developmental Standards Variances prior to the submission of the required Development Plan.

Information:

DUE TO THE LENGTH OF THE REVISED RESPONSES TO DECISION MAKING CRITERIA AND THE POSSIBILITY OF INTRODUCING ERROR IN RE-TYPEING RESPONSE, PLEASES SEE THE END OF THE STAFF REPORT FOR THE REVISED RESPONSES TO DECISION MAKING CRITERIA.

AUGUST 14, 2020 – Please see Staff Report for 2020-DV-07-004.

The Applicant is requesting a Developmental Standards Variance to permit parking of off-street parking in open gravel area.

The Planned Unit Development Ordinance (PUD) 2011-015, General Development Standards and Guidelines, Section 5, sub-section 5.6 requires a hard surface for parking areas.

Developmental Standards Variance application 2020-DV-07-004 is a request for permit parking area and drives of gravel and not the required hard surface.

Developmental Standards Variance Application 2020-DV-07-008 is a request to permit off-street parking in open gravel areas.



Sellersburg Board of Zoning Appeals

STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

2020-DV-07-004 and 2020-DV-07-008 are a request for Developmental Standards from the same Section 5.6 of the Planned Unit Development Ordinance.

As a Developmental Standards Variance has been submitted for identical Sections of the PUD Ordinance, No Staff Report will be provided for 2020-DV-07-008.

Revised Finding of Fact are too lengthy and the possibility of error was too great for manual reproduction into the individual Staff Report for each Docket Number. Please scroll to the highlighted Docket Number to match to the Staff Report's Docket Number.

(Revised)

**DEVELOPMENT STANDARDS VARIANCE CRITERIA
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

A. Docket No. 2020-DV-07-004 and 2020-DV-07-008 – Variances of Section 5.6 of PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- The Applicant has operated a substantially similar facility in Georgetown, Indiana, since December of 2017. There have been no police or first responder runs to this property since it opened.
- The owner from which Applicant will acquire the property leases adjacent property that is accessed from CR 311 on which a substantially similar mini-warehouse facility is operated. This facility has not been injurious to public health, safety, morals, and general welfare of the community since it opened.
- The Applicant intends on having an asphalt entrance from Old State Road 60 to the gate to (a) create a curb appeal that is compatible with surrounding properties, (b) ensure those traveling on Old State Road 60 are not adversely affected in anyway, and (c) eliminate any risk of roadway erosion, as the location of the proposed entrance is the steepest part of the property.
- Due to the nature of the proposed use, it is estimated that traffic will be four (4) visits per day during the week and ten (10) visits per day during the weekend, and as a result of the limited traffic, the gravel of the surface of the storage units and areas will go unnoticed by the community at large.
- The gravel will be well maintained and compacted to reduce any noise or dust that may be caused by granting these variances. The Applicant will provide contact information to the Town and adopt and implement policies requiring watering of the gravel areas within one (1) hour following receipt of any dust complaints from the Town.

- The combination of the current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping are such that it is very likely these variances will be unnoticed by the community.
- The Applicant will adopt and comply with the drainage and erosion plan requirements to make certain these variances will not adversely affect the community.

(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 because:

- The asphalt entrance will create a curb appeal that is compatible to surrounding property.
- The current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping will conceal a portion of the property.
- A number of surrounding properties have gravel surfaces, not paved.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the assessed values of the adjacent properties have increased since the Applicant built the Georgetown facility.
- It is estimated that the average of customer visits to the facility will be four (4) visits per day during the week and ten (10) visits per day during the weekend, based on the Applicant's experience in operating its Georgetown facility.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

- Section 5.6 of the PUD Ordinance states as follows:

“Parking areas shall be hard surfaced and internally drained. Pervious pavement and individual pavers may be permitted.”

The term “hard surfaced” is not defined in the PUD Ordinance or Sellersburg Zoning Ordinance. Considering pervious pavement is not even explicitly allowed, the strict application of the PUD Ordinance creates practical difficulties for the Applicant by greatly limiting option for this property.

- Gravel surfaces are not uncommon in the proposed use industry.
- As a number of the surrounding properties have gravel surfaces, it would be inequitable and unjust to the Applicant if these variances were not granted.
- The portion of the property on which the proposed use will occur is almost totally shielded from public view as it wraps around the existing veterinary clinic to the rear of the existing apartment complex, the subject property sits at a much lower elevation than both the veterinary clinic and apartments, and the subject property is buffered from both the veterinary clinic and apartments by an existing earthen berm and heavy vegetation.
- The unusual shape of the subject property, in and of itself, creates a practical difficulty in its use.

B. Docket No. 2020-DV-07-005 – Variance of Section 2 of the PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- Section 2.2 of the PUD Ordinance allows a building to be constructed with metal.
- The side of the building facing Old State Road 60 (and closest to the entrance) will have more architectural variety to make it aesthetically pleasing from the nearest public road.
- The metal buildings will have a blue roof, tan sides and blue trim to create a curb appeal that is compatible with surrounding properties.
- The Applicant intends on using a 40-year metal to comply with Section 2.2 by using durable, high-quality material that will not be injurious to the community.

- Considering there are a number of buildings in the surrounding area that are either exclusively metal or majority metal, this variance will go unnoticed by the community.
- The combination of the current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping are such that it is very likely this variance will be unnoticed by the community.

(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 because:

- The design of the building closest to Old State Road 60 and overall color scheme of the buildings will create a curb appeal that is compatible to surrounding property.
- The current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping will conceal a portion of the property.
- A number of buildings in the surrounding area that are either exclusively metal or majority metal.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the adjacent property values have increased since the Applicant built the Georgetown facility.
- The location of the property is such that the development will not affect the use or value of adjacent owners. In fact, considering the property has been for sale for approximately 15 years, the value of surrounding properties will likely increase.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

- The proposed use of the property is boat and RV storage with buildings enclosed on 3 sides and open “bays” on one. Requiring different architectural material on all 4 sides of a building does not coincide with this proposed use/design or any other design in this industry.
- The intent of the PUD Ordinance is to encourage architectural variety and sustainable material that emphasize durability and diversity. The variance requested here does include architectural variety with building one and will be built with sustainable, durable materials. Thus, meeting the intent of the PUD Ordinance. With that being said, requiring different architectural on all 4 sides of every building would not only be uneconomical, but pointless considering the majority of the sides would only be viewable by those individuals who rent from the Applicant.

C. Docket No. 2020-DV-07-006 – Variance of Section 4 of the PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- The intent of Section 4 of the PUD Ordinance is to promote landscaping as it is not only visually appealing, but also serves to screen and buffer structures and uses, delineate separations, conserve energy, and moderate the effects of sun and wind. Although reduced, the proposed landscaping plan still meets all of those items. Thus, the variance will not cause any harm to the community.
- The combination of the current characteristics of the property (elevation, surrounding trees and vegetation, etc.) and proposed fencing and landscaping are such that it is very likely this variance will be unnoticed by the community. In fact, it is the Applicant’s opinion that even with the variance the proposed development will have more landscaping than a number of the surrounding properties.
- The required landscaping would actually inhibit circulation inside the property. Thus, the variance actually makes the property safer.

(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 because:

- The proposed plan includes landscape on the side closest to Old State Road 60 to ensure the property will have curb appeal that is compatible to surrounding property.
- The reduced landscaping will not substantially affect the adjacent property as there is still landscaping on majority of the property’s sides and the characteristics

of the property (elevation, surrounding trees and vegetation, etc.) will conceal a portion of the property.

- Between the characteristics of the property and the fence surrounding the property, the variance will go undetectable to all except for individuals who rent from the Applicant.
- Seeing as buildings in the immediate area of the property appear to lack sufficient landscaping and it is visually obvious that the proposed plan includes more landscaping than those buildings, this variance will not substantially affect the adjacent properties.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the adjacent property values have increased since the Applicant built the Georgetown facility.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

- The required landscaping amount does not coincide with this proposed use/design or any other design in this industry, as it negatively affects circulation in the property and would make it extremely difficult to maneuver items such as 30'-40' long RVs or boat trailers.

D. Docket No. 2020-DV-07-007 – Variance of Section 12 of the PUD Ordinance

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community because:

- The 6' tall fence in the frontyard will not affect the community as the PUD Ordinance allows for 4' in the front yard and the additional 2' would only be noticeable if it were missing since 6' is allowed on all other sides. If the PUD

Ordinance limitation was enforced, it would negatively affect the curb appeal of the property.

- The 6' tall fence in the front yard is more favorable for public health, safety, moral, and general welfare as the additional 2' will deter criminal activity even more. This will also increase the attractiveness of our property to residence of the community, as it would be a more secure facility.
- The chain link material is a commercial grade that will complement the proposed development and be compatible with the adjacent property's fence.

(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 because:

- This variance will not substantially affect the use or value of adjacent property as it will go overlooked due to the first building sitting back off Old State Road 60 the elevation of the property and surrounding trees and vegetation.
- Since 4' is allowed in the front yard already, the additional 2' will not affect the use or value of the adjacent properties.
- The chain link material is a commercial grade that will complement the proposed development and be compatible with the adjacent property's fence.
- The taller 6' fence in the front yard will create symmetry with the rest of the fence and is has better curb appeal.
- The Applicant owns a similar facility in Georgetown, Indiana that has a gravel surface. An adjacent property owner purchased their home during or prior to the start of development and, at no fault of the Applicant or the development, the property owner sold the home for approximately 10% more than the purchase price less than one year later.
- The Applicant has presented evidence that the Georgetown, Indiana facility has not adversely affected the use or value of the adjacent properties. Instead, the evidence shows the adjacent property values have increased since the Applicant built the Georgetown facility.
- The Applicant submitted multiple letters from local residents that are in favor of the proposed development.

