



**MEETING NOTICE AND AGENDA- ZIONSVILLE BOARD OF ZONING APPEALS April 12, 2016**

The Regular meeting of the Zionsville Board of Zoning Appeals was scheduled Tuesday, April 12, 2016 at 6:30 p.m. in the Bev Harves Room at Zionsville Town Hall, 1100 West Oak Street the following items were scheduled for consideration:

- I. Pledge of Allegiance
- II. Attendance
- III. Approval of the March 8, 2016 Meeting Minutes
- IV. Continuance Requests
- V. Continued Business

<b>Docket Number</b>	<b>Name</b>	<b>Address of Project</b>	<b>Item to be considered</b>
2016-03-SE	G. Gunter and K. Gunter	1340 N. 1200 East Sheridan IN	<b>Approved</b> <b>5 In Favor</b> <b>0 Opposed</b> Petition to allow a Special Exception to allow for a new residential build in an (AG) Agricultural District

VI. New Business

<b>Docket Number</b>	<b>Name</b>	<b>Address of Project</b>	<b>Item to be considered</b>
2016-08-DSV	G. Gunter and K. Gunter	1340 N. 1200 East Sheridan IN	<b>Approved</b> <b>5 In Favor</b> <b>0 Opposed</b> Petition for Development Standards variance to deviate from the required lot depth to width ratio exceeding 3 to 1, in the (AG), Agricultural Zoning District.

**Other Matters to be considered:**

2015-45-UV, H. Barbara and W. Craft, Status of Commitments

2016-01-DSV, K. Smith, Status of Commitments

Respectfully Submitted:

Wayne DeLong AICP

Town of Zionsville Director of Planning and Economic Development

April 14, 2016

**Town of Zionsville  
Board of Zoning Appeals  
April 12, 2016**

Pledge of Allegiance was said and attendance was taken.  
Present: Greg Morical, Chairman, Larry Jones, Al Wopshall, and John Wolff.  
Julia Evinger joined the meeting in progress.

Staff attending: Carol Sparks Drake, attorney.  
A quorum is present.

Morical Good evening and welcome to the April 12, 2016, meeting of the Zionsville Board of Zoning Appeals. The first item on our agenda is the Pledge of Allegiance.

All Pledge.

Morical The next item on our agenda is attendance.

Drake Mr. Morical?

Morical Present.

Drake Mr. Wopshall?

Wopshall Present.

Drake Mr. Jones?

Jones Present.

Drake Mr. Wolff?

Wolff Present.

Drake Ms. Evinger?

Morical The next item on our agenda is the review and approval of the March 8, 2016, meeting minutes that were included in the Board meeting packet. Are there any comments on the minutes? Hearing none, I would entertain a motion.

Wopshall I move that we approve the minutes of the Board of Zoning Appeals meeting of March 8, 2016, as written.

Morical Thank you. Is there a second?

Jones Second.

Morical All those in favor, please say aye.

All Aye.

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- Morical Any opposed? Motion carries. Thank you. The next item on our agenda is continuance requests. Are there any continuance requests tonight? Okay, thank you. The next item is continued business, which is Docket #2016-03-SE, G. and K. Gunter. Hello, if you'd please approach the podium and state your name and address for the record.. We can essentially address both of your petitions.
- Badger ---That was going to be my first request. Hi, it's Chris Badger, with Badger Engineering located here in Zionsville, and with me tonight are the Gunters, and they are requesting a division of their property to be able to allow the home site on an agricultural. And, when they did the breakout, they actually formed a non-a parcel that's not a 3 to 1 ratio, so the second docket is for making that approved, or get the exception, the variance.
- Morical Seeking a variance, right.
- Badger And, if you have any questions, Bud's here as well.
- Morical Well, one question for you. We noticed the survey that showed the new individual parcel. Have you recorded a deed to—
- Badger --We don't have a deed yet because it hasn't been transferred to his daughter, and that's when you get the deed, but I do have the recorded instrument. So, that was one of the things they'd asked me to bring.
- Morical Right, okay, that separates the parcels. Okay, perfect. Okay, so we show that that's recorded. Thank you. And, that's the same, it's the 2.969 acres, is that right?
- Badger That's correct. She has both tracks.
- Morical Thank you very much. And, track #2, is it buildable?
- Badger Correct.
- Morical Okay. Thank you. Any other questions for the petitioner?
- Badger Just to let you know, we have been in contact with both the Highway Department and the Public Health, and we just got our test this past week, and they've been filed with the Board of Health of Boone County. And, we've also been in contact with DNR, because we are along a floodplain, and that has been marked out in the field as well. So, we know that the septic field will not be in the floodplain or any portion of the home.
- Morical And, you've got plenty of space to build the house.
- Badger Yes, we do. Thank you.

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- Morical Great. Any further questions for the petitioner? Thank you very much. Hearing none, are there any remonstrators here tonight? Okay. And, the petitioner is aware that you have the right to farm commitment?
- Badger If you look at my letter, the last letter, well, actually all the letters we've included that in there as well.
- Morical Okay. Perfect. Thank you very much. So, as a Board, we just need to remember to note as part of taking action on the special exception, the right to farm commitment, that they need to abide by that as a condition on that approval, but otherwise, is there any discussion amongst the Board? Hearing none, I would entertain a motion.
- Wolff Do you want to hear the staff report?
- Morical Oh, right, sorry. Wayne is not present tonight. He is not feeling well, so we all received in the –
- Wolff --Oh, I'm sorry.
- Morical Yes, we have no Wayne. We all received in our packets the written staff reports for both items, and staff is supportive.
- Wolff Great, thank you.
- Evinger Would you entertain a motion even though I'm late?
- Morical Yes, Ms. Evinger.
- Evinger Thank you. Okay, so this is for the Docket #2016-08-DSV, correct?
- Morical We are actually acting on both, but we could do them independently, that's fine.
- Evinger Okay.
- Morical And, that's what Carol would prefer.
- Wolff You do 08, I'll do 03.
- Evinger Okay.
- Wolff I would like to move that Docket #2016-03-SE, Special Exemptions petition in the Agricultural District for the property located at 1302 North 1200 East be approved based on the staff report and the proposed findings. I would like to add a commitment that the petitioner, part of the approval would be that the petitioner execute the right to farm acknowledgement documentation.
- Morical Perfect. Thank you. Is there is second?

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April 12, 2016

- Wopshall I second.
- Morical All those in favor, please say aye.
- All Aye.
- Morical Any opposed? Motion carries. Thank you. We are now ready to take action on the next docket number.
- Evinger Okay. I move that Docket #2016-08-DSV, design standards variance to permit a lot depth to width ratio in excess of 3 to 1, while maintaining road frontage of at least 125 feet when measured at the existing or proposed right of way line, in the Rural Agricultural Zoning District for the property located at 1340 North 1200 East be approved based upon the findings in the staff report as presented.
- Morical Thank you. Is there a second?
- Jones Second.
- Morical All those in favor, please say aye.
- All Aye.
- Morical Any opposed? Motion carries. Thank you very much, and best of luck. On our agenda we have a status update to be provided as it relates to two commitments. Carol, could you please address those?
- Drake Yes. The Craft commitments, you might recall, relate to the hair salon. Those have been recorded and a copy of the recorded document provided to the Planning Department, The K. Smith commitments have also been recorded and provided to the Planning Department. So, both of those two items have been completed.
- Morical Thank you very much, Carol. So, tonight we need to sign the Findings of Fact. Is there anything further that we need to address this evening? Anything further from the audience? Seeing none, I hereby declare the meeting adjourned.



**Petition Number:** 2016-03-SE

**Subject Site Address:** 1302 North 1200 East (Est)

**Petitioner:** Kathleen A. and Gilbert Gunter

**Representative:** Chris Badger

**Request:** Petition to allow a Special Exception to allow for a new residential build in an (AG) Agricultural) District

**Current Zoning:** Agricultural District (Rural)

**Current Land Use:** Undeveloped

**Approximate Acreage:** 2.97 Acres

**Zoning History:** 2016-08-DSV, Petition for Development Standards variance to deviate from the required lot depth to width ratio exceeding 3 to 1, in the (AG), Agricultural Zoning District (adjoining parcel, pending).

**Exhibits:**  
Exhibit 1 – Staff Report  
Exhibit 2 – Aerial Location Map  
Exhibit 3 – Petitioners Cover Letter  
Exhibit 4 – Site Survey  
Exhibit 5 – Findings of Fact

**Staff Reviewer:** Wayne DeLong, AICP

### PETITION HISTORY

Both Petition number 2016-03-SE and 2016-08-DSV will receive a public hearing at the April 12, 2016, Board of Zoning Appeals meeting.

### PROPERTY HISTORY

The property is comprised of a total of 2.97 acres and presently zoned for Agricultural purposes (derived from a 13 acre parent tract, split occurred per instrument number 201600001040). There is no evidence of a prior approval for a Special Exception for the dwelling located on the parent tract or the proposed new single-family dwelling).

### ANALYSIS

The applicant is required to request a Special Exception in order to provide for a residential structure to exist in an Agricultural District. The purpose of the AG agricultural district is to encourage agricultural operations while allowing for limited residential development. The Petition represents a limited presence of residential development in the AG district as the area proposed to be improved with the new dwelling historically has not been utilized for agricultural purposes. Per Property Tax Records, the 2.97 acres is not recognized as Agricultural (and is assessed as "Residential Excess").

### RIGHT TO FARM / PROXIMITY TO AIRPORT

As stated in the Zoning Ordinance, the Applicant for a Special Exception acknowledges and/or agrees that agricultural uses are permitted in the surrounding area, no agricultural or agri-business operation in the area shall be or become a nuisance, and to not object to the continuation of any such agricultural or agri-business operation in the surrounding area as long as such operation does not constitute a nuisance. This acknowledgement will be required to be reduced to writing as a part of the Petition process.

While the north-south runway of the Indianapolis Executive Airport is within approximately 2 miles of the subject site, the Zoning Ordinance does not require any special notice or restrictions associated with the proposed dwelling's proximity to the facility. It is mentioned here in this report only as a courtesy to the Petitioner.

### PROCEDURAL – CONSIDERATION OF A SPECIAL EXCEPTION PETITION SEEKING APPROVAL FOR THE LOCATION OF A DWELLING IN THE AGRICULTURAL DISTRICT

The Board of Zoning Appeals shall hear, and approve or deny, all requests for Special Exception requests as provided for by the Zionsville Zoning Ordinance. A Special Exception may be approved only upon written determination that:

- (a) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;*

*(b) The proposed use will not injure or adversely affect the adjacent area or property values therein; and*

*(c) the proposed use will be consistent with the character of the District, land uses authorized therein and the Town of Zionsville Comprehensive Plan.*

Proposed Findings of Fact are attached for the Board of Zoning Appeal's consideration.

**STAFF RECOMMENDATIONS**

Staff recommends approval of the special exception Petition included in Docket #2016-03-SE.

**RECOMMENDATION MOTION**

I move that Docket #2016-03-SE Special Exception Petition in the Agricultural District for the property located at 1302 N. 1200 East (Est), be (Approved based upon the staff report and the proposed findings / Denied / Continued ) as presented. (If approved, it shall be required that the Petitioner execute the Right-to-Farm acknowledgement documentation).

**PROCEDURAL NOTE**

As indicated in the Petitioner's filing, the division to create the 2.97 acre parcel has already occurred. While the division of the parent tract to create the 2.97 acre parcel did not require the Plan Commission's approval, the resulting dimensions of the remaining 9 acre parcel do not conform to the standards of the Zoning Ordinance (specific to maximum depth to width ratio). The lack of conformity to this standard may present complications in the future if an Improvement Location Permit is sought to replace the existing dwelling located on the 9 acre parcel (Petition 2016-08-DSV has been filed by the Petitioner and seeks to remedy the lack of conformity with the above stated standard).





February 3, 2016

Zionsville Board of Zoning Appeals  
1100 West Oaks Street  
Zionsville, IN 46077

Ref: Petition for a Special Exception to permit a new single family dwelling in an (AG) Agricultural Zoning District, for 1340 North 1200 East, Sheridan, IN 46069

Dear Members of the Board,

Kathleen A. & Gilbert (Bud) Gunter's are petitioning for a Special Exception to permit a new single family dwelling in an (AG) Agricultural Zoning District. Kathy and Bud would like to allow their Daughter and her husband to build a new house on a portion of their 12.5 acres property. The property has been divided into two parcels, a 9.34 ac and a 2.67 ac. The exception would be for the 2.67ac. Gunter wish to have their daughter build a home on their property which is located northeast of the Town of Zionsville at the county line. They have hired Badger Engineering to prepare the documentation necessary for the project.

Early in the process Bud had the County Survey and County Health Department out to the property to review the proposed project. They requested that the Flood Way Boundary be reviewed by Indiana Department of Natural Resources (IDNR) and then the property be surveyed to show these limits of the 100-Year Flood Plain. This has been completed and the information provided by IDNR is contained within the Petition.

The Petitioner is aware that they have other approvals to get prior to starting the construction of the house, such as Site Plan Approval, County Driveway Permit, Well and Septic Permit and well as Erosion Control. All Local and County agencies have been notified of the proposed home construction and their input has been adopted into the preliminary Site Layout.

The Petitioner is also aware that they are building within an Agricultural Zoning District and in doing so they accept that the surrounding farms have the right to farm and will sign the Right-To-Farm wavior.

Sincerely,

Christian C. Badger, P.E.  
Badger Engineering



**TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS  
BOONE COUNTY, INDIANA**

**PETITION FOR SPECIAL EXCEPTION**

**FINDINGS OF FACT**

- 1. The proposed use (**will / will not**) will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;

*The proposed home will not be detrimental to the public health, safety, morals or general welfare of persons residing or working in the vicinity, or injurious to the property values or improvements in the vicinity because it will allow for a new rural home. The proposed home will comply with the regulations and conditions specified in the Zionsville Ordinance, Boone County Health Department and Boone County Highway Department.*

- 2. The proposed use (**is / is not**) will not injure or adversely affect the adjacent area or property values therein; and

*The proposed use will not be injurious nor have an adverse effect on the adjacent area which is being used as rural single family home. The proposed home will be one more rural home among other rural single family homes. The proposed house is approximately 1,600 sft with a walk out basement. The value of the proposed home will be in line with the homes in the area and will therefore not hurt home or land values.*

- 3. The proposed use (**will / will not**) will be consistent with the character of the District, land uses authorized therein and the Town of Zionsville Comprehensive Plan.

*As stated above this area in Boone County is being used for rural single family homes and therefore the proposed use will be consistent with the character of the agricultural district. The proposed home will comply with the regulations and conditions specified in the Zionsville Ordinance, because they have enough land to meet the requirements. The Petitioner is also aware that they are building within an Agricultural Zoning District and in doing so they accept that the surrounding farms have the right to farm and will sign the Right-To-Farm wavier*

**DECISION**

It is therefore the decision of this body that this SPECIAL EXCEPTION petition is APPROVED/DENIED.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

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**Petition Number:** 2016-08-DSV

**Subject Site Address:** 1340 North 1200 East

**Petitioner:** Kathleen A. and Gilbert Gunter

**Representative:** Chris Badger

**Request:** Petition for Development Standards variance to deviate from the required lot depth to width ratio exceeding 3 to 1, in the (AG), Agricultural Zoning District.

**Current Zoning:** Agricultural District (Rural)

**Current Land Use:** Single Family Dwelling and associated accessory uses / undeveloped

**Approximate Acreage:** 9.34 acres

**Zoning History:** 2016-03-SE Petition to allow a Special Exception to allow for a new residential build in an (AG) Agricultural District (located on an adjacent 2.97 acre tract, pending)

**Exhibits:** Exhibit 1 – Staff Report  
Exhibit 2 – Aerial Location Map  
Exhibit 3 – Proposed Site Layout Map  
Exhibit 4 – Petitioner’s proposed Findings of Fact

**Staff Reviewer:** Wayne DeLong, AICP

### PETITION HISTORY

Both Petition number 2016-03-SE (adjacent, associated parcel) and 2016-08-DSV will receive a public hearing at the April 12, 2016, Board of Zoning Appeals meeting.

### PROPERTY HISTORY

The property is comprised of 12.5 acres which has recently been split by way of metes and bounds. Parcel One now comprises 9.34 acres, and hosts existing primary structure, with accessory structures. Parcel Two (established by Instrument Number 201600001040) is comprised of 2.97 acres, and has been created for a future home site (and is the subject of petition 2016-03-SE, pending).

### ANALYSIS

The necessity for the variance arises as the Petitioner desires to establish a 2.97 acre parcel for the purposes of constructing a new single-family home (as detailed in petition 2016-03-SE). As a result of the establishment of the 2.97 acre parcel (a division which is permissible under the definitions of Subdivision Rural within the Town of Zionsville) the remaining 9.34 acre tract loses its conformance with the Zoning Ordinance specific to maintaining a lot depth to width ratio that does not exceed a ratio of 3:1.

In summary, specific to the requested lot depth to width ratios, creating a parcel with the requested dimensions and characteristics and improving the site with said dimensions is not a typical development request. While it is not typical, the Zoning Ordinance provides for a one-time lot split for parcels meeting certain criteria found in the Definition of Subdivision Rural. Given the depth of the parent tract, any permissible one time lot split would require a variance of the lot depth to width ratio contained in the Zoning Ordinance. In the opinion of Staff, the recent permissible division of the parcel continues to maintain the Rural character of the area (as each parcel contains at least 100 feet of frontage and each parcel contains more than two acres of land). With those points in mind, staff is supportive of the variance request as filed (based on the survey dated January 19, 2016).

### PROCEDURAL – VARIANCE FROM DEVELOPMENT STANDARDS

The Board of Zoning Appeals shall hear, and approve or deny, all variances from development standards of the Zionsville Zoning Ordinance. A variance from development standards may be approved only upon written determination that:

- (a) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*
- (b) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*
- (c) *the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property:*

Proposed Findings of Fact are attached for the Board of Zoning Appeal's consideration.

**STAFF RECOMMENDATIONS**

Staff recommends approval of the design standards variance included in Docket #2016-08-DSV as filed.

**RECOMMENDATION MOTION**

I move that Docket #2016-08-DSV design standards variance to permit a lot depth to width ratio in excess of 3:1 (while maintaining road frontage of at least 125 feet when measured at the existing or proposed right of way line) in the Rural Agricultural Zoning District for the property located at 1340 N. 1200 East be (Approved based upon the findings in the staff report / Denied/ Continued ) as presented.

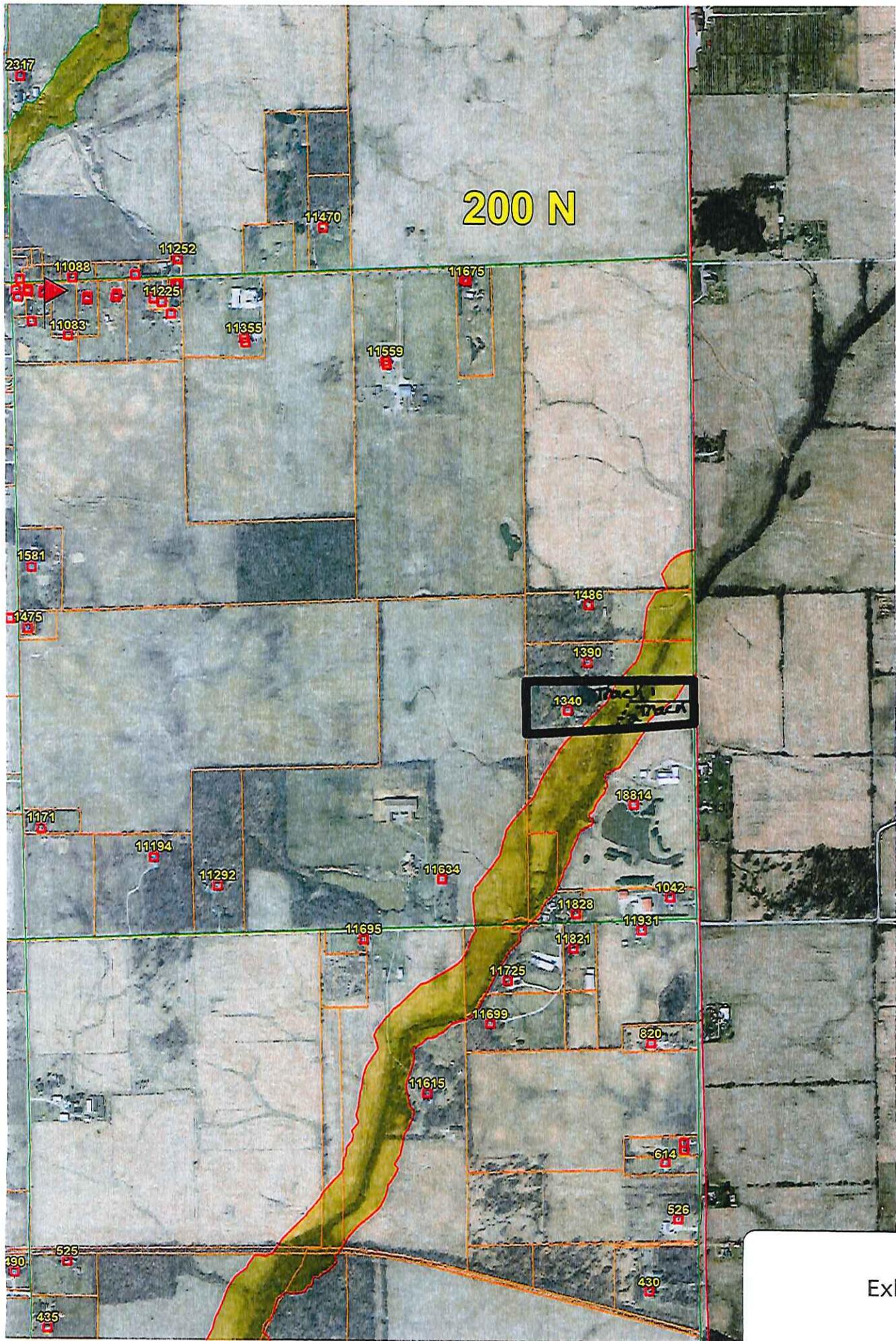


Exhibit 2



**TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS  
BOONE COUNTY, INDIANA**

**PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS**

**FINDINGS OF FACT**

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

*The granting of the Variance of Development Standards will not be detrimental to the public health safety, morals or general welfare of persons residing or working in the vicinity or injurious to property values or improvements in the vicinity because, the Lot width to length ratio is an arbitrary compliance rule which does not affect setbacks, zoning or use.*

- 2. The use or value of the area adjacent to the property included in the variance (**will / will not**) be affected in a substantially adverse manner because:

*The property is zoned agricultural and the use in this area of the county is a rural single family homes among other rural single family homes. The non-conforming lot width ratio will not affect the area adjacent to the property or surrounding homes because the house is existing.*

- 3. Strict application of the terms of the zoning ordinance (**will / will not**) result in unnecessary hardships in the use of the property because:

*Strict application of the terms of the zoning ordinance will not allow for the house to be rebuilt should it burn down, nor would it allow for the house to be expanded. This would hurt the home owner fiscally and could make the resale of his home problematic. Allowing the Variance will keep the land values of the adjacent property's higher.*

**DECISION**

It is therefore the decision of this body that this VARIANCE petition is APPROVED/DENIED.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

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