



**MEETING RESULTS- ZIONSVILLE BOARD OF ZONING APPEALS June 14, 2016**

The Regular meeting of the Zionsville Board of Zoning Appeals was scheduled Tuesday, June 14, 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 May 10, 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>
2016-10-UV	W. Totty	665 W. Laurel Ave	<b>Continued from the May 10, 2016, and June 14, 2016 meeting, to the July 12, 2016 Board of Zoning Appeals Meeting</b> Petition for Use Variance to provide for the operation of a Bed and Breakfast, (without food service) within a Single Family Dwelling in the (RV) Residential Village Zoning District

VI. New Business

<b>Docket Number</b>	<b>Name</b>	<b>Address of Project</b>	<b>Item to be considered</b>
2016-11-DSV	D. Clarke	9526 E. 300 South (AKA) 9530 E. 300 South	Petition for Development Standards Variance to provide for the Accessory square footage to exceed the Primary square footage in the (R2), Rural Residential Zoning District <b>Approved</b> <b>5 in Favor</b> <b>0 Opposed</b>

2016-12-DSV	G. Dozier	3273 E. 700 South Lebanon IN 46052	Petition for Development Standards Variance to provide for the Accessory square footage to exceed the Primary square footage in the (R2), Rural Residential Zoning District <b>Approved</b> <b>5 in Favor</b> <b>0 Opposed</b>
2016-13-DSV	W. Beam	210 S. 2 <sup>nd</sup> Street	Petition for Development Standards Variance to allow a Lot Coverage increase of 43% over the 35% Lot Coverage allowance in the (RV), Residential Village Zoning District <b>Approved</b> <b>5 in Favor</b> <b>0 Opposed</b>
2016-14-DSV	S. Makinson	155 S. 4 <sup>th</sup> Street	Petition for Development Standards Variance to allow for an existing driveway to encroach into the required 5 ft. side yard setback line in the (RV), Residential Village Zoning District <b>Approved</b> <b>5 in Favor</b> <b>0 Opposed</b>
2016-15-DSV	B. McDavitt	9944 E. State Road	Petition for a Special Exception to locate a single family residence with an existing veterinary clinic (veterinary clinic approved by Boone County Board of Zoning Appeals in a October 1996 public meeting), in the (AG) Agricultural Zoning District (new single family residence to be located on separate parcel from veterinary clinic) <b>Approved with Conditions</b> <b>5 in Favor</b> <b>0 Opposed</b>

**Other Matters to be considered:**

2016-03-SE, Gunter, Status of Right-to-Farm document

Respectfully Submitted:

Wayne DeLong AICP

Town of Zionsville Director of Planning and Economic Development

June 16, 2016



**Petition Number:** 2016-11-DSV

**Subject Site Address:** 9526 E. 300 South (AKA) 9530 E. 300 South

**Petitioner:** David Clarke

**Representative:** David Clarke

**Request:** Petition for Development Standards Variance to provide for the Accessory square footage to exceed the Primary square footage in the (R2), Rural Residential Zoning District

**Current Zoning:** (R2), Rural Residential Zoning District

**Current Land Use:** Residential

**Approximate Acreage:** 6.19 Acres

**Zoning History:** No prior petitions are known.

**Exhibits:** Exhibit 1- Staff Report  
Exhibit 2- Aerial Location Map  
Exhibit 3- Structure Layout  
Exhibit 4- Site Plan Exhibit  
Exhibit 5- Petitioner's proposed Findings of Fact

**Staff Reviewer:** Wayne DeLong, AICP

## PETITION HISTORY

This petition will receive a public hearing at the June 14, 2016 Board of Zoning Appeals meeting.

## PROPERTY HISTORY

This property is comprised of Lot 2, which is 2.87 acres and Lot 3, which is 3.32 acres for a total of 6.19 acres. Lot 3 is presently improved with a single family dwelling (with accessory structures attached to the single-family dwelling including patios, stoops, porches, and decks). An Improvement Location permit application was submitted and approved for a 4,000 square foot barn. During the review for the barn, it was noticed that the proposed covered porches would place the square footage of the structure over the allowable accessory square footage requirement. The barn was permitted and the Homeowner has submitted this petition to allow for the additional square footage of the covered porches (attached to the barn).

## ANALYSIS

The site is currently improved with a 4,995 square footage single family dwelling (the primary structure). The parcel is currently utilized for residential purposes and accessory buildings and uses all as further described below (data source: Boone County Assessor and/ or Petitioner):

1. Existing dwelling living space: 4,995 square feet
2. Existing and proposed accessory uses total 7,060 square feet. Per the applicant, this total includes:
  - a) A 900 sq ft garage
  - b) A 4,000 sq ft pole barn
  - c) Existing porches and patios: 60 sq ft
  - d) A proposed covered porch (attached to the barn) 900 sq ft
  - e) A proposed covered porch (attached to the barn) 1,200 sq ft

As per the itemized list within the petition application, the addition of the accessory square footage of the porches exceeds the primary by 2,065 square feet.

By Ordinance, properties in the R2 District are permitted by right to be improved with Accessory Structures which exceed the 1) height, 2) area, 3) bulk extent, and 4) purpose to the Primary Structure IF the property is at least 20 acres in size AND is classified as a Farm. As the subject site is neither 20 acres in size nor a Farm, a variance must be sought (in order to improve the property as proposed by the Petitioner). While the current Zoning Ordinance requires such restrictions, a review of the development pattern found in the immediate area finds that large home sites are typical of the area (though less than 20 acres in size AND not classified as a Farm), and improvements to the home sites include large estate type homes (with some enjoying Accessory Structures which exceed the 1) height, 2) area, 3) bulk extent, and 4) purpose to the Primary Structure). However, as this home site is within a platted subdivision, staff is conscious of the home site's presence within a platted subdivision and the interest of the Les Arbres Minor Subdivision Home Owners Association (or collective representation of the property owners) may have in the Petitioner's request. Barring any concerns of the Les Arbres Home Owner's Association (or any other party entitled to receive personal notice) being made of record during the disposition of the Petitioner's request, Staff would not oppose the request

as over 1,000 square feet of improvements are associated with the daily occupancy of the primary dwelling. In as such, the Petitioner's request to improve the property with covered areas associated with an permitted accessory all within one building envelope (being the lone area being improved with stand-alone structures), in staff's opinion, meets the intent of the Ordinance (by keeping the portion of the property dedicated to stand-alone accessory structures subordinate in mass to the primary structure and subordinate to the number of areas dedicated to structures associated with the primary improvement on the property). Additionally, it is noted by staff that a portion of the properties surrounding or near the subject site enjoy the use of one large accessory building in addition to the primary use.

**PROCEDURAL – CONSIDERATION OF A DEVELOPMENT STANDARDS VARIANCE PETITION**

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 an unnecessary hardship 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 #2016-11-DSV.

**RECOMMENDATION MOTION**

I move that Docket #2016-11-DSV design standards variance to provide for Accessory Structures which exceeds the square footage of the Primary Structure (providing for 7,060 square feet of accessory structures in association with a 4,995 square foot dwelling), be (Approved as filed / Denied/ Continued) as presented.

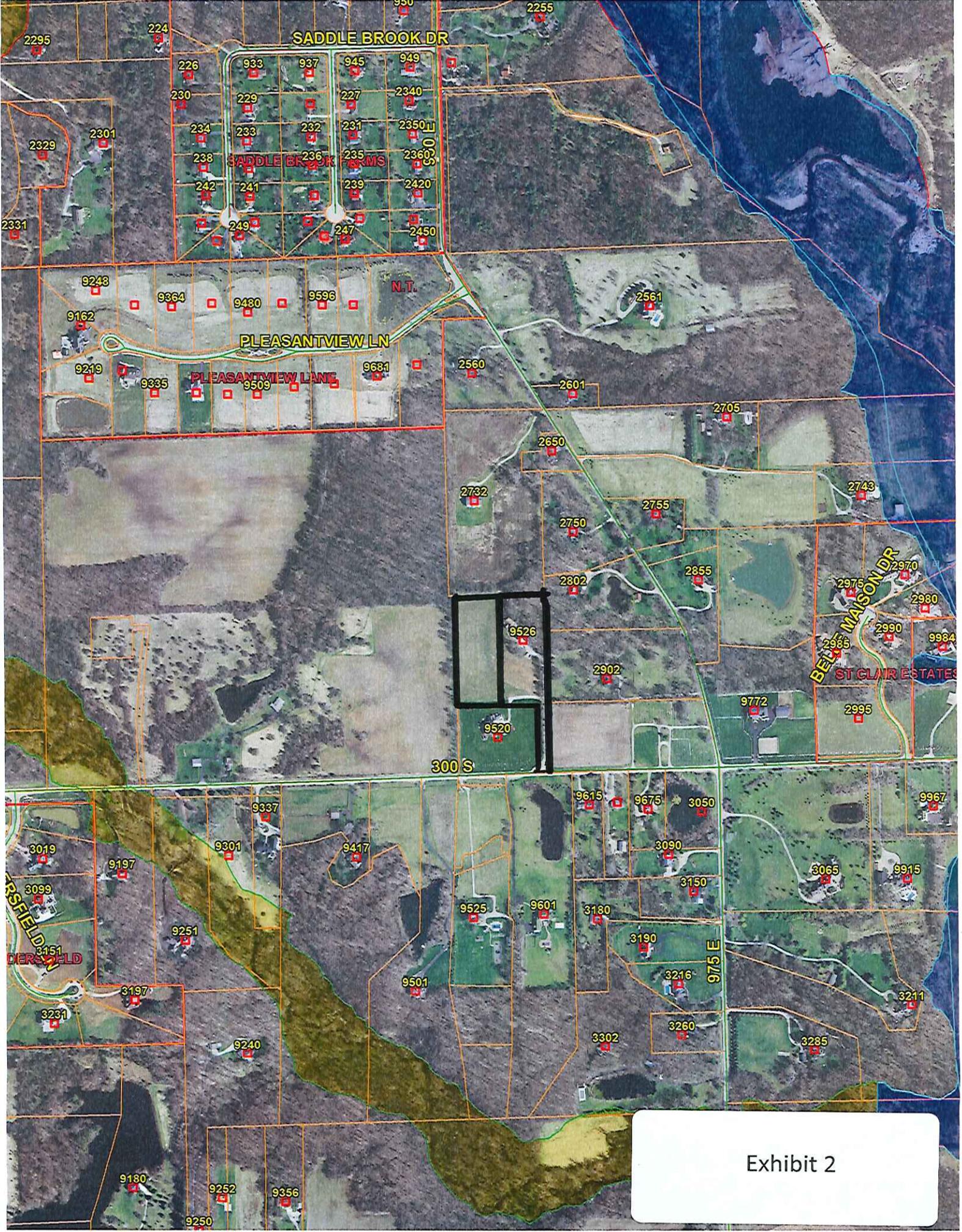


Exhibit 2

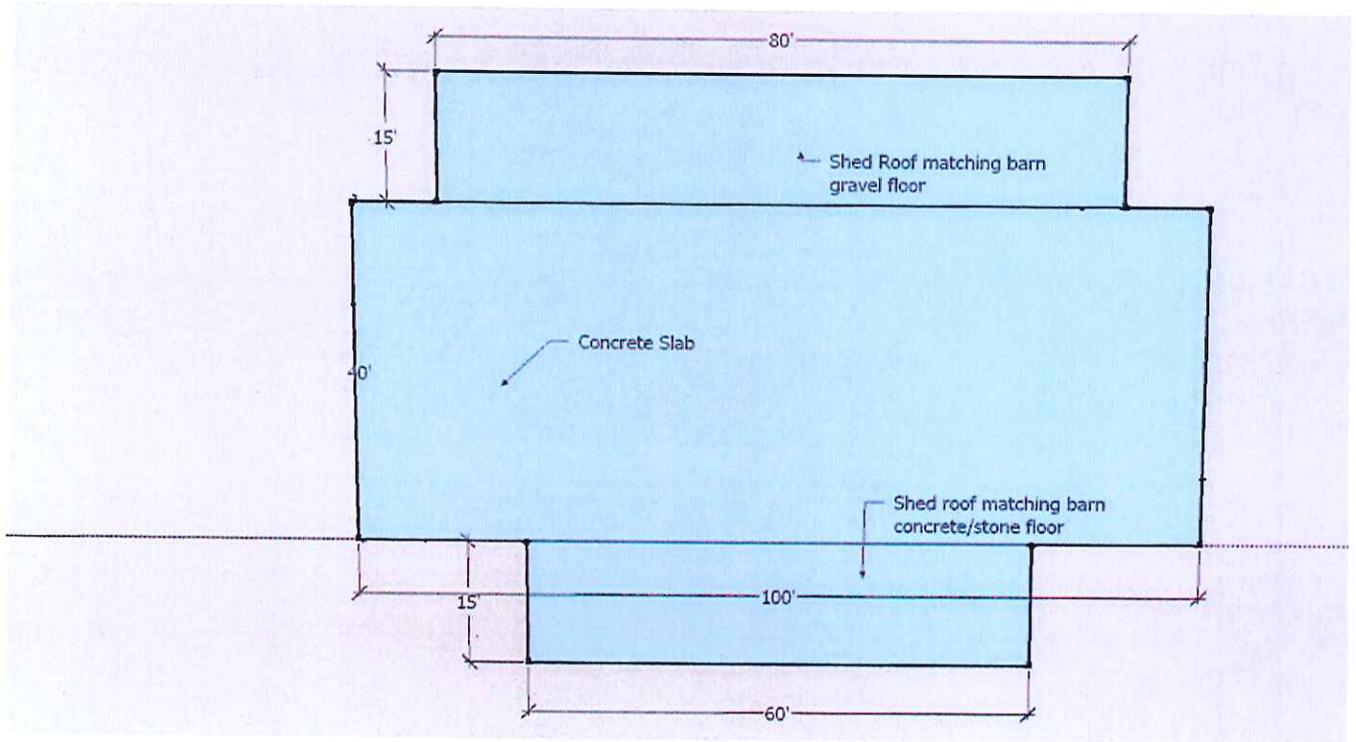


Exhibit 3



TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS  
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

We are requesting a variance for accessory structures, principally open porches for the front and rear of our stone barn. We are attempting to recreate a Lexington, Kentucky style barn shown in the pictures included in your docket. The porches, although attractive in design, can realistically only be seen by the principal dwelling on Lot 2, our residence. We have talked with two of the three adjoining neighbors, Catherine/David Haun and William/Joy Derocker directly and they believe the style to be attractive and fitting of the property. The covered porches will also help to keep people and yard adornments protected from the elements as well.

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

This is largely addressed in statement 1. Additionally, the richness of the overall stone design and construction that matches the principal residence will add to the overall appearance and ultimate value of the property.

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

I believe that the zoning requirements should not be strictly applied because the combined properties, Lot 2 and Lot 3, represent a total property size of approximately 7 acres and we are in a very rural area with residences very far apart and not practically visible to one another. The esthetic value of the porches I am adding will enhance to visual appeal of my property and most probably help the neighborhood in maintaining higher property values as a result.

DECISION

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Petition Number:** 2016-12-DSV

**Subject Site Address:** 3273 E. 700 South Lebanon In 46052

**Petitioner:** Gregory and Catheryn Dozier

**Representative:** Gregory and Catheryn Dozier

**Request:** Petition for Development Standards Variance to provide for the Accessory square footage to exceed the Primary square footage in the (R2), Rural Residential Zoning District

**Current Zoning:** (R2), Rural Residential Zoning District

**Current Land Use:** Residential

**Approximate Acreage:** 4.67 Acres

**Zoning History:** No prior petitions are known.

**Exhibits:** Exhibit 1- Staff Report  
Exhibit 2- Aerial Location Map  
Exhibit 3- Elevations, Foundation, and Floor Plans  
Exhibit 4- Site Plan Exhibit  
Exhibit 5- Petitioner's proposed Findings of Fact

**Staff Reviewer:** Wayne DeLong, AICP

## PETITION HISTORY

This petition will receive a public hearing at the June 14, 2016 Board of Zoning Appeals meeting.

## PROPERTY HISTORY

This property is comprised of 4.67 acres and is presently improved with a single family dwelling and accessory structures. Historically the property has enjoyed 4,990 square feet of accessory uses (4,104 square feet of accessory uses were demolished in in 2015, and 1,440 square feet have since been constructed).

## ANALYSIS

The site is currently improved with a 1,329 square footage single family dwelling (the primary structure). The parcel is currently utilized for residential purposes and accessory buildings and uses all as further described below (data source: Boone County Assessor and/ or Petitioner):

1. Existing dwelling living space: 1,329 square feet
2. Existing and proposed accessory uses total 2,326 square feet. Per the applicant, this total includes:
  - a) A 506 sq ft garage
  - b) A 60 sq ft covered front porch
  - c) A 30x48 Pole Barn (1,440 sq ft)
  - d) A 320 proposed covered back porch

As per the itemized list within the petition application, the addition of the accessory square footage of the barn exceeds the primary by 997 square feet.

Staff is supportive of the petition as filed, as 1) the property, until recently, was improved with accessory uses which were well in excess of the primary use of the site (in terms of height, bulk and area), and 2) other similar properties in the area currently enjoy accessory uses which exceed the size of the primary use of the property.

## PROCEDURAL – CONSIDERATION OF A DEVELOPMENT STANDARDS VARIANCE PETITION

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 an unnecessary hardship 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 #2016-12-DSV.

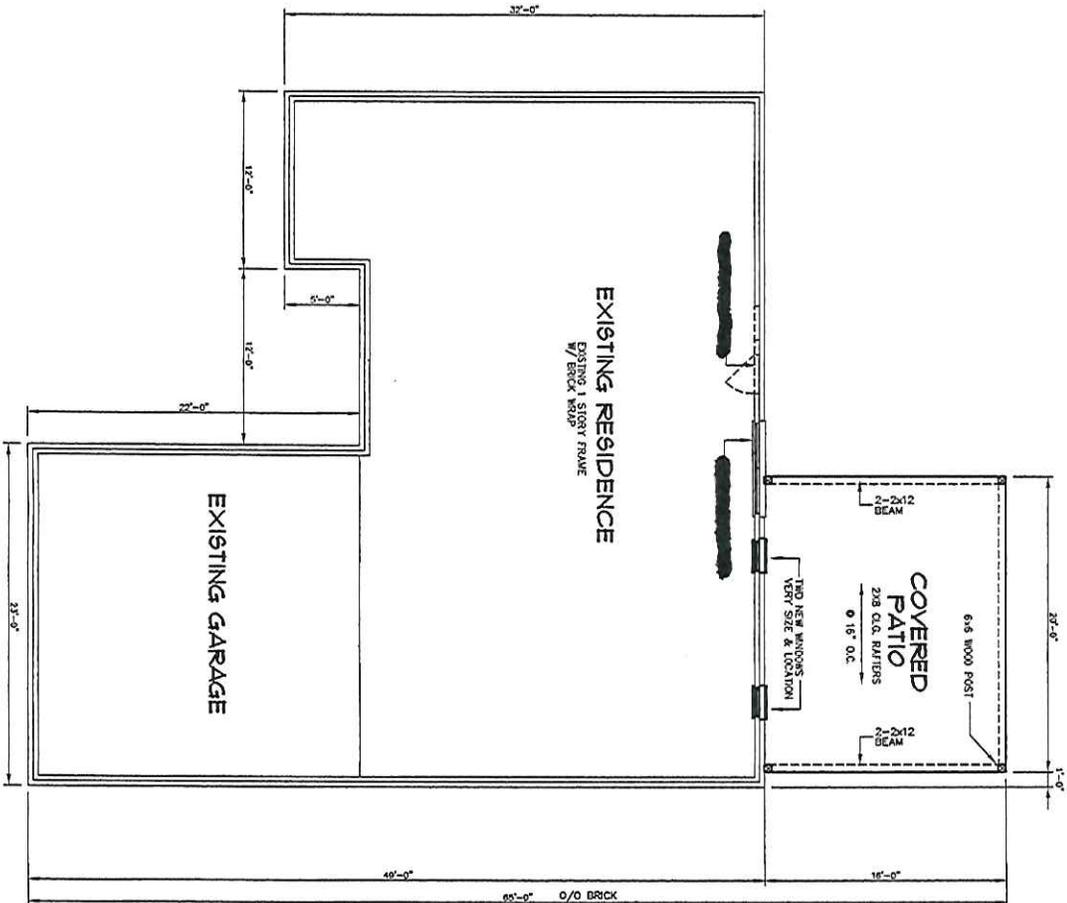
**RECOMMENDATION MOTION**

I move that Docket #2016-12-DSV design standards variance to provide for Accessory Structures which exceeds the square footage of the Primary Structure (providing for 2,326 square feet of accessory structures in association with a 1,329 square foot dwelling), be (Approved as filed / Denied/ Continued) as presented.



700 S

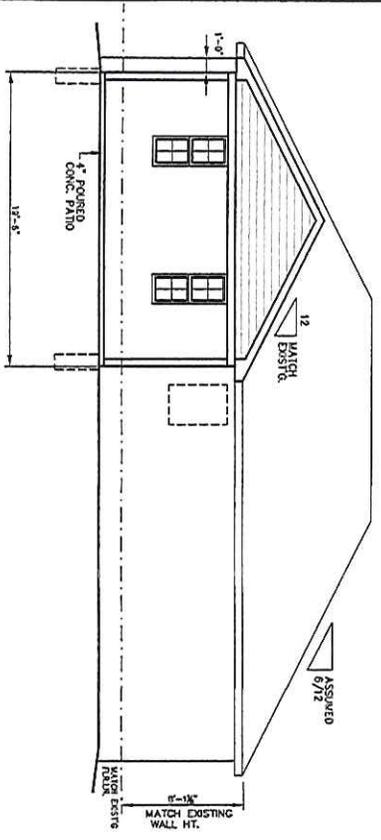
Exhibit 2



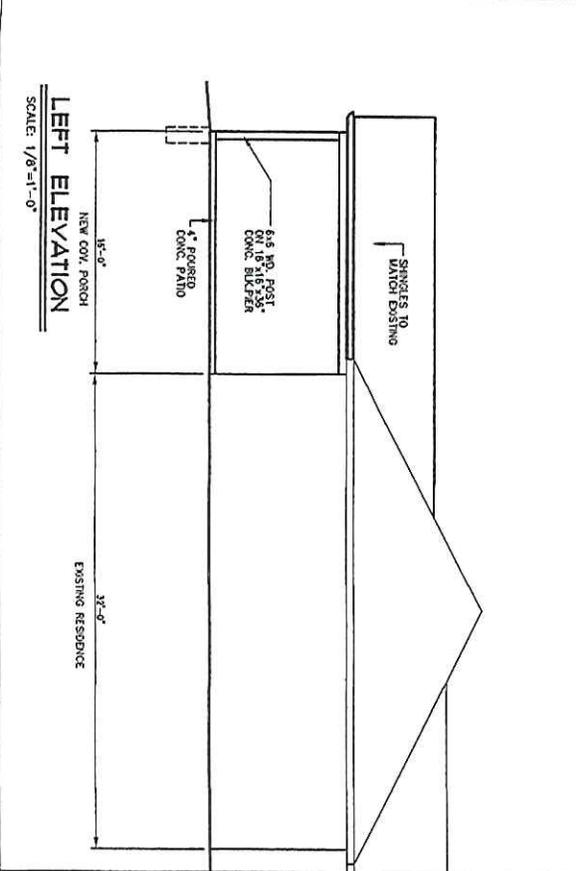
FLOOR PLAN  
SCALE: 1/8" = 1'-0"

Exhibit 3

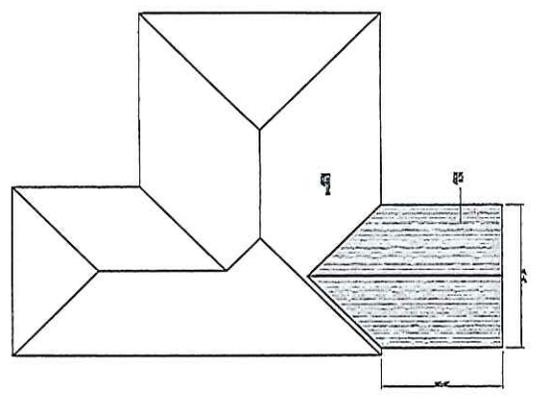
 Palladian Custom Home Design (317) 852-6483 10000 N. Meridian St., Suite 100 Indianapolis, IN 46260 © PALLADIUM, INC.	PERMIT SET SHEET NO. A.FP1.1 FLOOR PLAN	THE DOZIER RESIDENCE 3273 E. 700 S. LEBANON, IN.	DATE: _____ DRAWN BY: _____ CHECKED BY: _____ REVISIONS: _____	PLAN NO. P15080 PROJECT NO. _____ DATE: _____ DRAWN BY: _____ CHECKED BY: _____ REVISIONS: _____
	PERMIT SET SHEET NO. A.FP1.1 FLOOR PLAN	THE DOZIER RESIDENCE 3273 E. 700 S. LEBANON, IN.	DATE: _____ DRAWN BY: _____ CHECKED BY: _____ REVISIONS: _____	PLAN NO. P15080 PROJECT NO. _____ DATE: _____ DRAWN BY: _____ CHECKED BY: _____ REVISIONS: _____



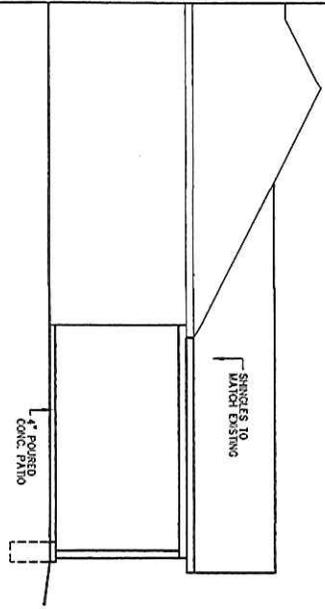
**REAR ELEVATION**  
SCALE: 1/8"=1'-0"



**LEFT ELEVATION**  
SCALE: 1/8"=1'-0"



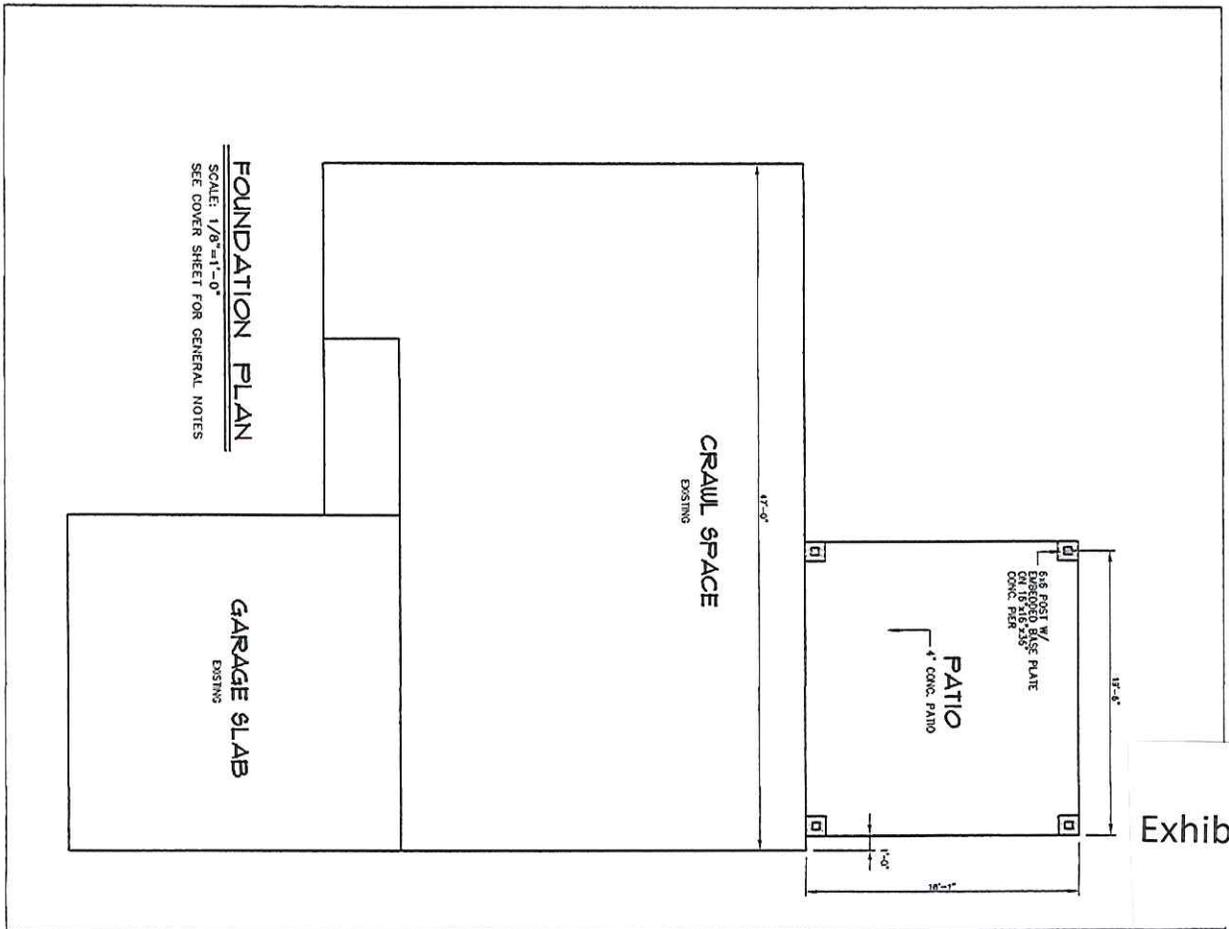
**ROOF PLAN**  
SCALE: 1/8"=1'-0"



**RIGHT ELEVATION**  
SCALE: 1/8"=1'-0"

Exhibit 3

<p><b>PALMADIAN</b> EXTERIOR DESIGN</p> <p>Paladin Design Group, LLC (317) 852-6483</p> <p>10000 N. Meridian St., Suite 100 Indianapolis, IN 46220</p> <p>© PALMADIAN, INC.</p>	<p>DATE: 11/15/11</p> <p>BY: [Signature]</p> <p>FOR: [Signature]</p> <p>PROJECT: [Signature]</p>	<p>PLAN: P15080</p> <p>DATE: 11/15/11</p> <p>BY: [Signature]</p> <p>FOR: [Signature]</p> <p>PROJECT: [Signature]</p>	<p>DATE: 11/15/11</p> <p>BY: [Signature]</p> <p>FOR: [Signature]</p> <p>PROJECT: [Signature]</p>	<p>DATE: 11/15/11</p> <p>BY: [Signature]</p> <p>FOR: [Signature]</p> <p>PROJECT: [Signature]</p>	<p>DATE: 11/15/11</p> <p>BY: [Signature]</p> <p>FOR: [Signature]</p> <p>PROJECT: [Signature]</p>
	<p>THE DOZIER RESIDENCE</p> <p>3273 E. 700 S. LEBANON, IN.</p>	<p>PERMIT SET</p> <p>SHEET NO. A.ELL1.1</p> <p>ELEVATIONS</p>			



**FOUNDATION PLAN**  
 SCALE: 1/8"=1'-0"  
 SEE COVER SHEET FOR GENERAL NOTES

Exhibit 3

 <p>Paladian Bas Pkls. com        (317) 852-6483        ©TALAMON INC.</p>	<p>PLAN NUMBER: P15080        DATE: 11/23/2016        DRAWN BY: [Signature]        CHECKED BY: [Signature]        REVISIONS:</p>	<p>THE DOZIER RESIDENCE        3273 E. 700 S. LEBANON, IN.</p>	<p>PERMIT SET        SHEET NO. A.FD1.1        FOUNDATION PLAN</p>
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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:

*We will be enhancing the appearance of property and establishing an area for outdoor relaxation.*

- 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:

*All areas North, West, & South are farm fields of over 50 acres each. The area East of (3 acres) we are owners.*

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

*This petition for Development Standards Variance to provide for the Accessory square footage to exceed the Primary square footage in the (R2) Rural Residential Zoning District*

DECISION

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

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

\_\_\_\_\_

\_\_\_\_\_



**Petition Number:** 2016-13-DSV

**Subject Site Address:** 210 S. Second Street

**Petitioner:** Walter L. Beam

**Representative:** Walter L. Beam

**Request:** Petition for Development Standards Variance to allow a Lot Coverage increase of 43% over the 35% Lot Coverage allowance in the (RV), Residential Village Zoning District

**Current Zoning:** (RV) Urban Residential Village Zoning District

**Current Land Use:** Single-family residential

**Approximate Acreage:** 0.16 acres

**Zoning History:** None

**Exhibits:** Exhibit 1 – Staff Report  
Exhibit 2 – Aerial Location Map  
Exhibit 3 – Site Plan  
Exhibit 4 – Proposed Elevation  
Exhibit 5–Petitioners proposed Findings of Fact

**Staff Reviewer:** Wayne DeLong, AICP

### PETITION HISTORY

This petition will receive a public hearing at the June 14, 2016, Board of Zoning Appeals meeting.

### PROPERTY HISTORY

The property is comprised of O. P. Block 4. Lot 1. of the Town of Zionsville. Staff is not aware of any prior variance requests for this property.

### ANALYSIS

The 0.17-acre parcel is currently improved with a single-family dwelling and accessory structures totaling 2,980 square feet. As proposed, the Petitioner is seeking approval to improve the parcel with a 96 square foot addition to the Primary Structure, to be installed over an area of existing patio, and an 80 square foot tool shed. As proposed, the 35% lot coverage would be exceeded by 8%. Note, the 7,303 square foot lot currently enjoys 41.38% lot coverage. As the 96 square foot addition to the dwelling will be located in an area currently improved with a patio, the addition to the dwelling could occur today, by right. Therefore, what requires consideration is the 80 square foot tool shed.

### LOT COVERAGE

Per the RV Residential Village District regulations, lot coverage standards states the maximum lot coverage is 35 percent. The overall area developed prior to the adoption of the current Ordinance standards, and review of parcels and improvements in the area did reveal that some parcels in the area enjoy deviations from current coverage standards. Further, many properties in the area enjoy the use of a detached garage. Both of these characteristics currently exist on the subject site.

In summary, Staff supports requests which provide for minor deviations from the lot coverage requirements when the request, generally speaking, follows this general reasoning: 1) the request is seeking to improve the site with an accessory use commonly enjoyed by other properties in the area (in this case, a detached structure), and 2) other properties within proximity to the parcel enjoy deviations from the maximum lot coverage requirements. As previously mentioned, both of these characteristics currently exist, in addition to the characteristic being that the subject site currently deviates from lot coverage maximums. However, one additional unique characteristic exists in this case: the site adjoins both the Village Business District to the east and more importantly, a utility building (phone company switching station) to the north. The utility building, in particular, enjoys a lot coverage which far exceeds the standards of the Ordinance. Given the subject site's proximity to this non-residential use being located in a residentially zoned area and the associated lot coverage, and the previously mentioned additional characteristics, Staff is in support of the Petitioner's request to locate an 80 square foot shed on the property which results in a lot coverage of 43%.

**PROCEDURAL – VARIANCE TO EXCEED THE MAXIMUM LOT COVERAGE REQUIREMENTS**

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 an unnecessary hardship in the use of the property:*

*Proposed Findings of Fact are attached as an Exhibit to the staff report.*

**STAFF RECOMMENDATIONS**

Staff recommends approval of the design standards variance included in Docket #2016-13-DSV, as filed.

**RECOMMENDATION MOTION**

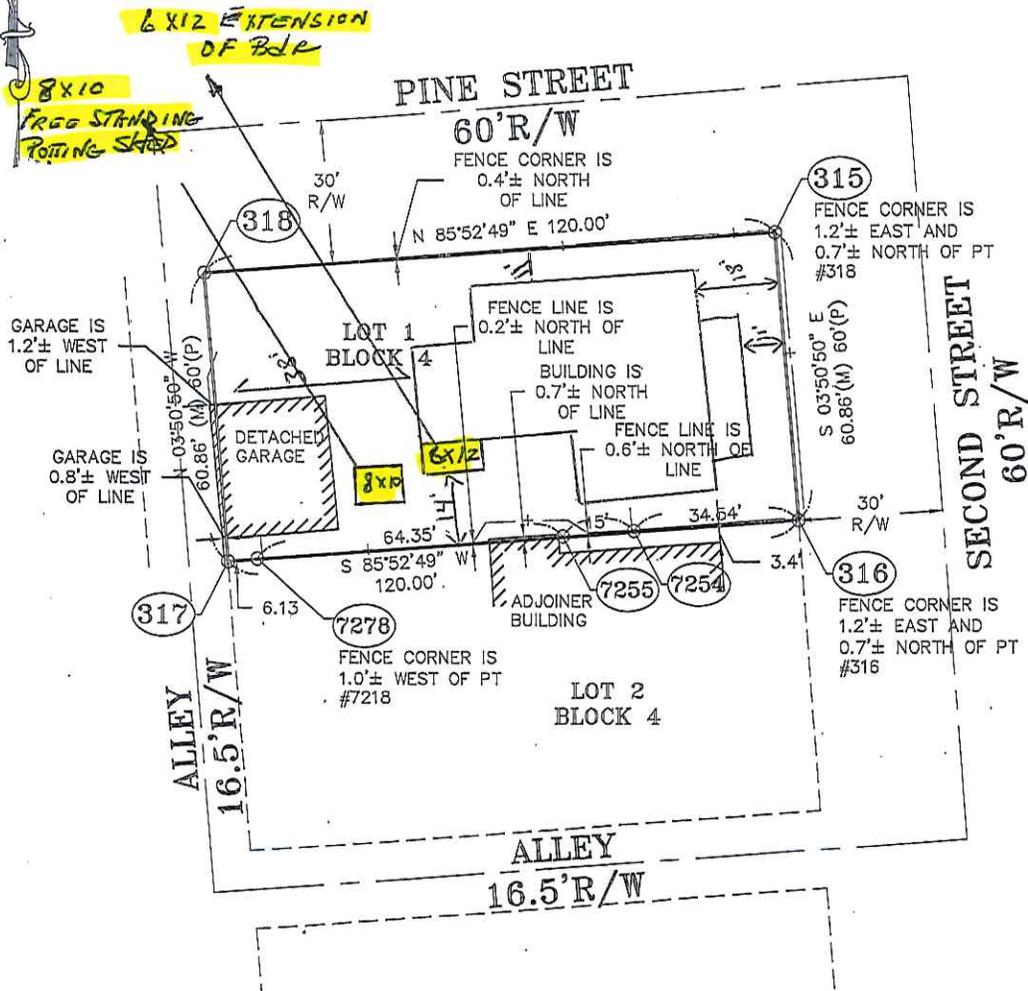
I move that Docket #2016-13-DSV design standards variance to increase the lot coverage allowance to 43% in the Residential Village District for the property located at 210 S. Second Street be (Approved as filed, based upon the findings of fact / Denied/ Continued) as presented.



Exhibit 2

# RETRACEMENT SURVEY

LOT 1, BLOCK 4 IN THE ORIGINAL PLAT OF ZIONSVILLE,  
BOONE COUNTY, INDIANA



## LAND DESCRIPTION

LOT #1 IN BLOCK #4, IN THE ORIGINAL PLAT OF THE TOWN OF ZIONSVILLE, BOONE COUNTY, INDIANA, AS PER PLAT OF SAID ADDITION RECORDED IN PLAT RECORD 2, PAGE 57 IN THE OFFICE OF THE RECORDER OF BOONE COUNTY, INDIANA.

## LEGEND

- x ——— EXISTING FENCE
- R/W ——— RIGHT OF WAY
- (P) ——— PLATTED DIMENSION
- (M) ——— MEASURED DIMENSION

## POINT INVENTORY

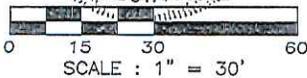
POINT #	REMARKS
7278 7254 7255	5/8 IRON ROD SET ON SOUTH LINE
315 318	5/8" IRON ROD WITH YELLOW CAP STAMPED MILLER SURVEYING SET
317	EXISTING IRON PIPE FOUND
316	EXISTING IRON PIPE FOUND IN CONCRETE



*K. Nathan Althouse*

10/18/13  
DATE:

R.L.S. LS20400007

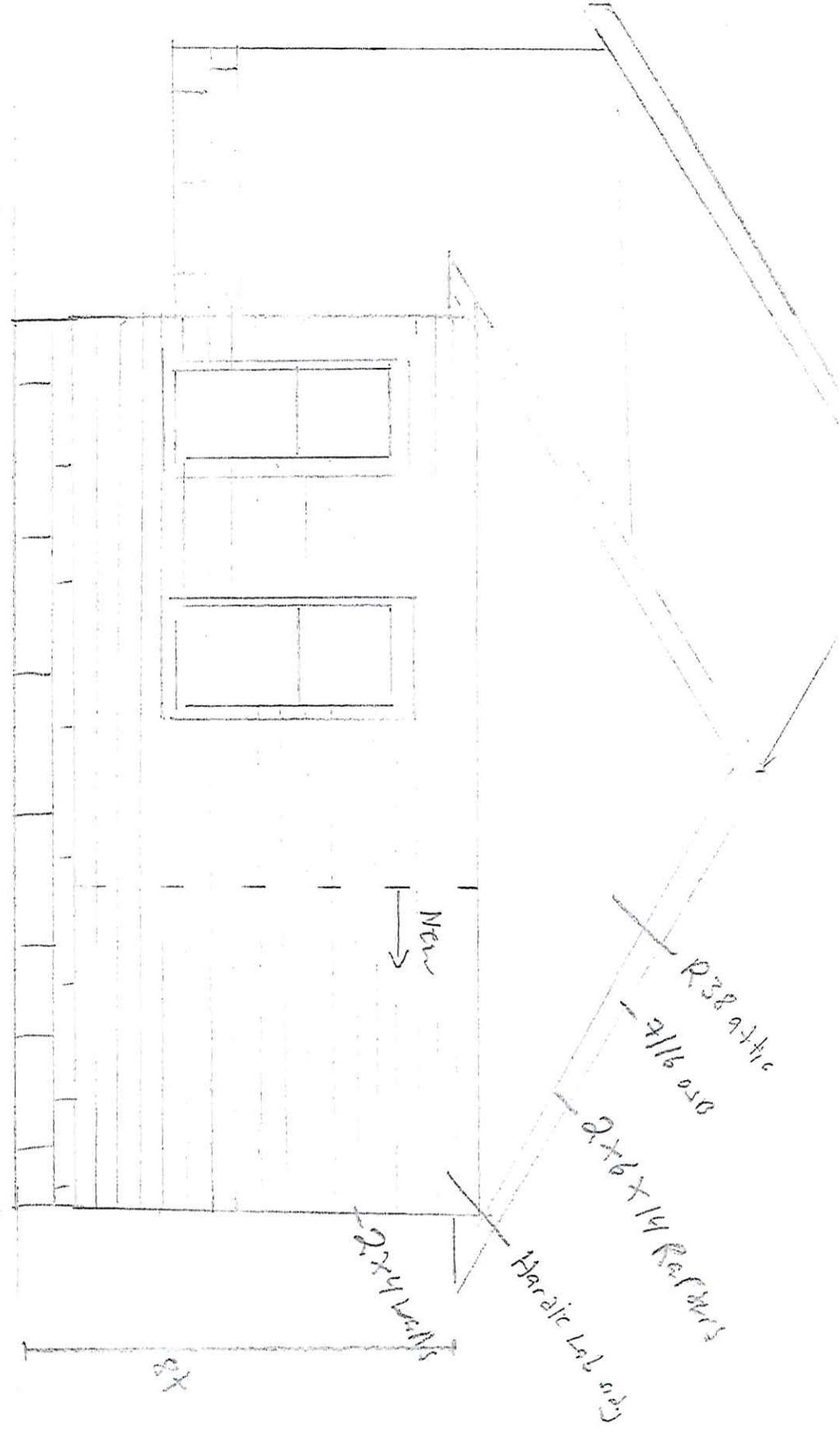
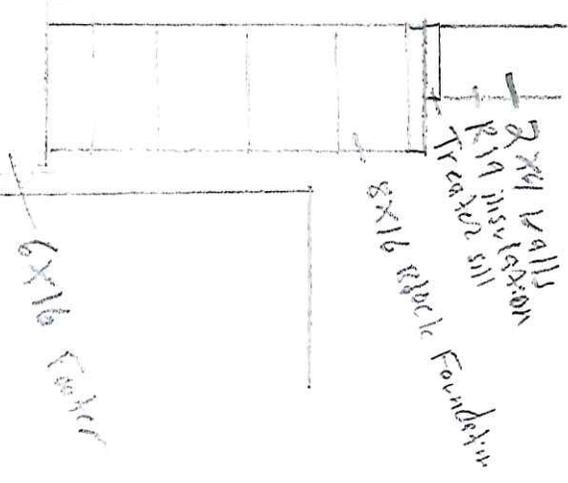
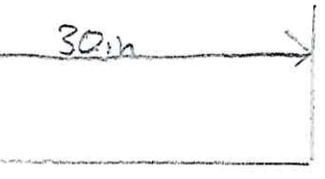


<b>MILLER SURVEYING INC.</b>		
948 CONNER STREET NOBLESVILLE INDIANA 46060 PH. # (317) 773-2644. FAX 773-2694		
LOCATION: LOT 1, BLOCK 4 IN THE ORIGINAL PLAT OF ZIONSVILLE BOONE COUNTY, INDIANA	DRAWN BY: MJJ	PREPARED BY: KNA
FIELD WORK COMPLETED: 10/18/13	SCALE: 1" = 30'	FIELD BOOK: 575
CLIENT: MARVIN MILLER	DATE: 10/25/2013	PAGE: 32,38
DESCRIPTION: RETRACEMENT SURVEY	JOB NUMBER: B34847	SURVEY

THIS SURVEY IS NOT COMPLETE AND/OR VALID WITHOUT BOTH PAGES.

**PAGE 1 OF 2**

Pine Street



South

Exhibit 4

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 grant allows for additional living area and is in keeping with the ambience and setting of the home and village area from a historical perspective. There are no issues that would impact public health or safety. This is a historical village home and our desire and intent is to preserve that perspective of the home.*
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 overall changes in the property will only tend to increase property values by encouraging other owners to increase the care and attention to their properties.*
3. Strict application of the terms of the zoning ordinance (will / will not) result in unnecessary hardships in the use of the property because: *This home is small and the inability to make the proposed changes will only degrade the future values of the property & its ability to meet the needs of even a small family as my wife & I. The granting of this request allows the home to better meet the minimal requirement for a smaller two bedroom home.*

DECISION

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

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

\_\_\_\_\_

\_\_\_\_\_



**Petition Number:** 2016-14-DSV

**Subject Site Address:** 155 S. Fourth Street

**Petitioner:** Scott and Emily Makinson

**Representative:** Scott and Emily Makinson

**Request:** Petition for Development Standards Variance to allow for an existing driveway to encroach into the required 5 ft. side yard setback line in the (RV), Residential Village Zoning District

**Current Zoning:** (RV) Residential Village Zoning District

**Current Land Use:** Single-family residential

**Approximate Acreage:** 0.27 acres

**Zoning History:** INV-2016-20 (Complaint)

**Exhibits:** Exhibit 1 – Staff Report  
Exhibit 2 – Aerial Location Map  
Exhibit 3 – Existing Site plan  
Exhibit 4 – Findings of Fact

**Staff Reviewer:** Wayne DeLong, AICP

### PETITION HISTORY

This petition will receive a public hearing at the June 14, 2016, Board of Zoning Appeals meeting.

### PROPERTY HISTORY

Staff is not aware of any prior variance requests for this property.

### ANALYSIS

The 0.27-acre parcel, a part of Dunn's of Crosses Addition, has been improved with a driveway and sidewalk of which a portion encroaches into the required 5-foot side yard setback. Prior to replacement, the driveway was located 4 feet, 4 inches from the property line.

The need for the variances arises as the surface of the new driveway is as close as 3 feet, 7.5 inches to the property line. In summary, the Petitioner is requesting to utilize much as an additional 8.5 inches of encroachment into the side yard setback.

The purpose of the regulation is to encourage the separation of driveways and uses associated with driveways from adjoining lot lines, when in the Village Residential District (the Town's only residential district to contain a setback standard specific to driveways). The setback provision was enacted, in part, due to the narrowness of some of the lots in the Village Residential District.

In this particular case, the surface installed within the setback area, while associated with the driveway, is not directly in front of the garage door; the surface leads to a side yard gate. Given that the surface functions more as a sidewalk than a driveway, staff is supportive of the installation and location. However, as concerns have been raised (as captured in INV-2016-20) about the presence of the encroachment, staff would suggest, if the encroachment is approved by the Board of Zoning Appeals, that ground cover or low plantings be installed along the perimeter of the surfaced area (being the area which encroaches more than 4 feet 4 inches into the setback) in an effort to reduce the visual presence of the surfaced area from the neighbor to the north.

### 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 #2016-14-DSV.

**RECOMMENDATION MOTION**

I move that Docket #2016-14-DSV design standards variance to reduce the driveway side yard setback requirement in the Residential Village District for the property located at 155 S. Fourth Street 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 design and dimensions of the new driveway create a more pleasing visual harmony to the neighborhood. It does not encroach upon any neighboring property or public right of way. Since it roughly follows the old driveway footprint, and the footprint of the old driveway was not harmful to the community, the new driveway footprint is also not harmful to the community.

- 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 driveway is an improvement both visually and structurally upon the deteriorated asphalt driveway it replaced. Being of a better quality and design than the old driveway, the new driveway adds value to our property, to the adjacent properties, and to the neighborhood because it is much nicer looking and safer to navigate.

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

We installed the driveway in good faith and trusted the expertise of a reputable contractor who we believed was aware of all the zoning requirements in Zionsville. We constructed the entrance to the driveway to match the original footprint. We mistakenly relied on the knowledge and expertise of our contractor, however we learned later that the new driveway is 16.5 inches below the 5 foot side yard setback requirement at the point where the driveway curves out toward the pathway to the gate and 8 inches below the 5 foot requirement at the apron.

DECISION

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Petition Number:** 2016-15-SE

**Subject Site Address:** 9944 E. State Road 32

**Petitioner:** Bruce and Donna McDavitt

**Representative:** Jeffery Jacob

**Request:** Petition for a Special Exception to locate a single family residence with an existing veterinary clinic (veterinary clinic approved by Boone County Board of Zoning Appeals in a October 1996 public meeting), in the (AG) Agricultural Zoning District

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

**Current Land Use:** Agricultural

**Approximate Acreage:** 37 acres

**Zoning History:** none

**Exhibits:** Exhibit 1 – Staff Report  
Exhibit 2 – Aerial Location Map  
Exhibit 3 – Site Location  
Exhibit 4 – Conceptual Elevations  
Exhibit 5 – Petitioner’s Cover Letter  
Exhibit 6 – Findings of Fact

**Staff Reviewer:** Wayne DeLong, AICP

### PETITION HISTORY

This Petition will receive a public hearing at the June 14, 2016, Board of Zoning Appeals meeting.

### PROPERTY HISTORY

The parent tract consisted of 37 acres. In 1996, the landowner petitioned the Boone County Board of Zoning Appeals for a Zoning Classification request to allow for a large animal Veterinary clinic (request was approved).

### ANALYSIS

Based on the applicant's interest in constructing a single-family dwelling on acreage zoned AG, the applicant is required to request a Special Exception. 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 has historically been occupied by land associated with agricultural buildings (note, approximately 1,000 square feet of accessory uses are currently located on the 30 acre parcel).

### 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.

And, while the north-south runway of the Indianapolis Executive Airport is within approximately 5,000 feet 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 #2016-15-SE.

**RECOMMENDATION MOTION**

I move that Docket #2016-15-SE special exception Petition in the Agricultural District for the property located at 9944 E. State Road 32 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 NOTES**

**HEIGHT, BULK, AREA, AND INTENSITY**

As indicated in the Petitioner's filing, the new single-family dwelling is intended to be located on a 30.98 acre parcel zoned AG. As such, the zoning would permit the parcel to be utilized as a Farm and enjoy accessory uses which are not subordinate to the height, bulk, area, and intensity of any single-family dwelling located on the 30.98 acres. In the event that the parcel, by potential unknown future actions, is ever reduced to a size which is less than 20 acres, this action could result in rendering the improvements as non-conforming with the Town's Zoning Ordinance (in regards to height, bulk, area, and intensity, unless the amount of accessory uses at the time of the action are both smaller and shorter than the primary use of the parcel).

**LEGAL DRAIN**

As a portion of the property contains the Dye Legal Drain, it is subject to additional development restrictions (setback from Legal Drain).

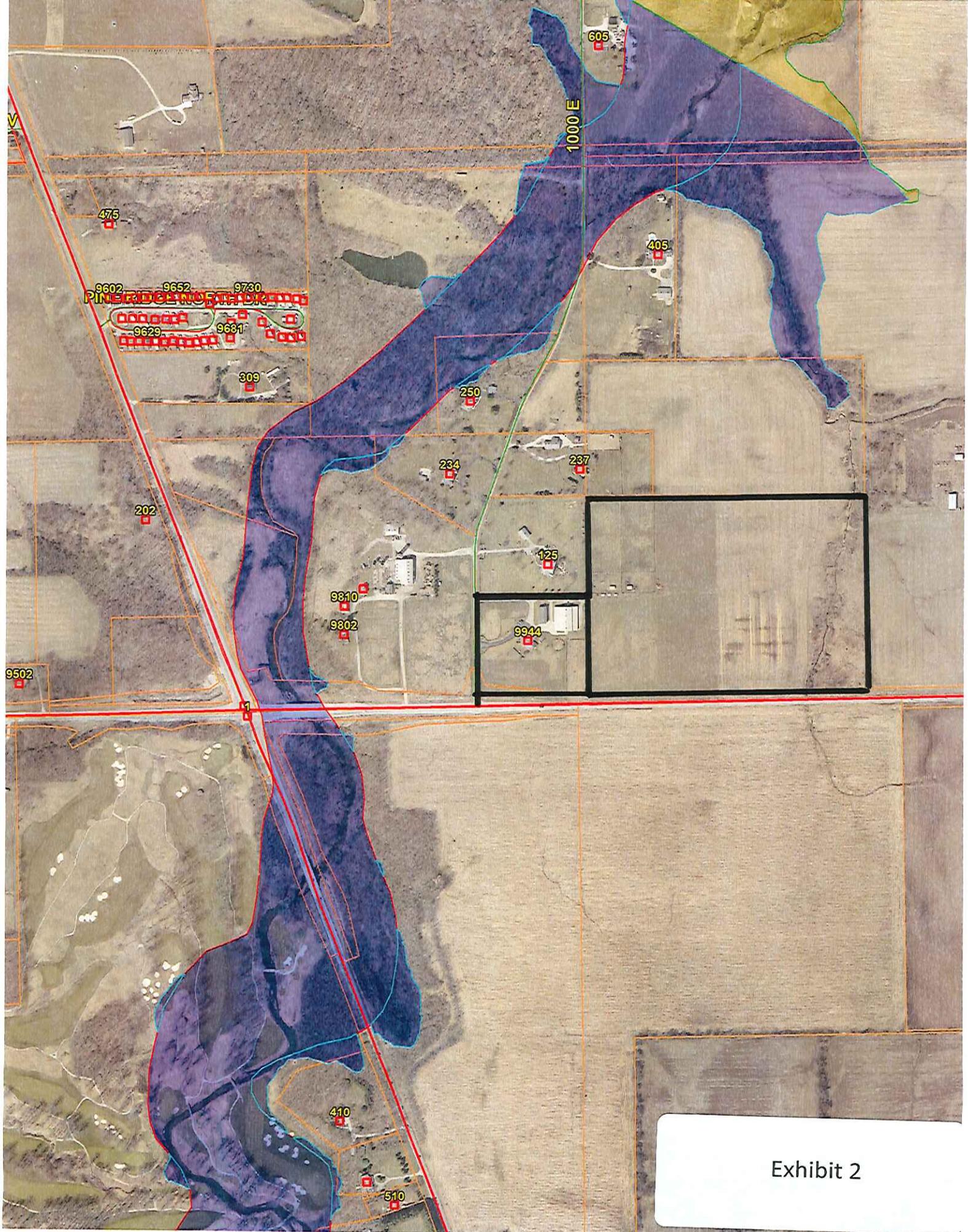
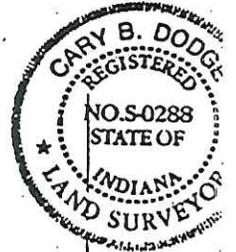


Exhibit 2

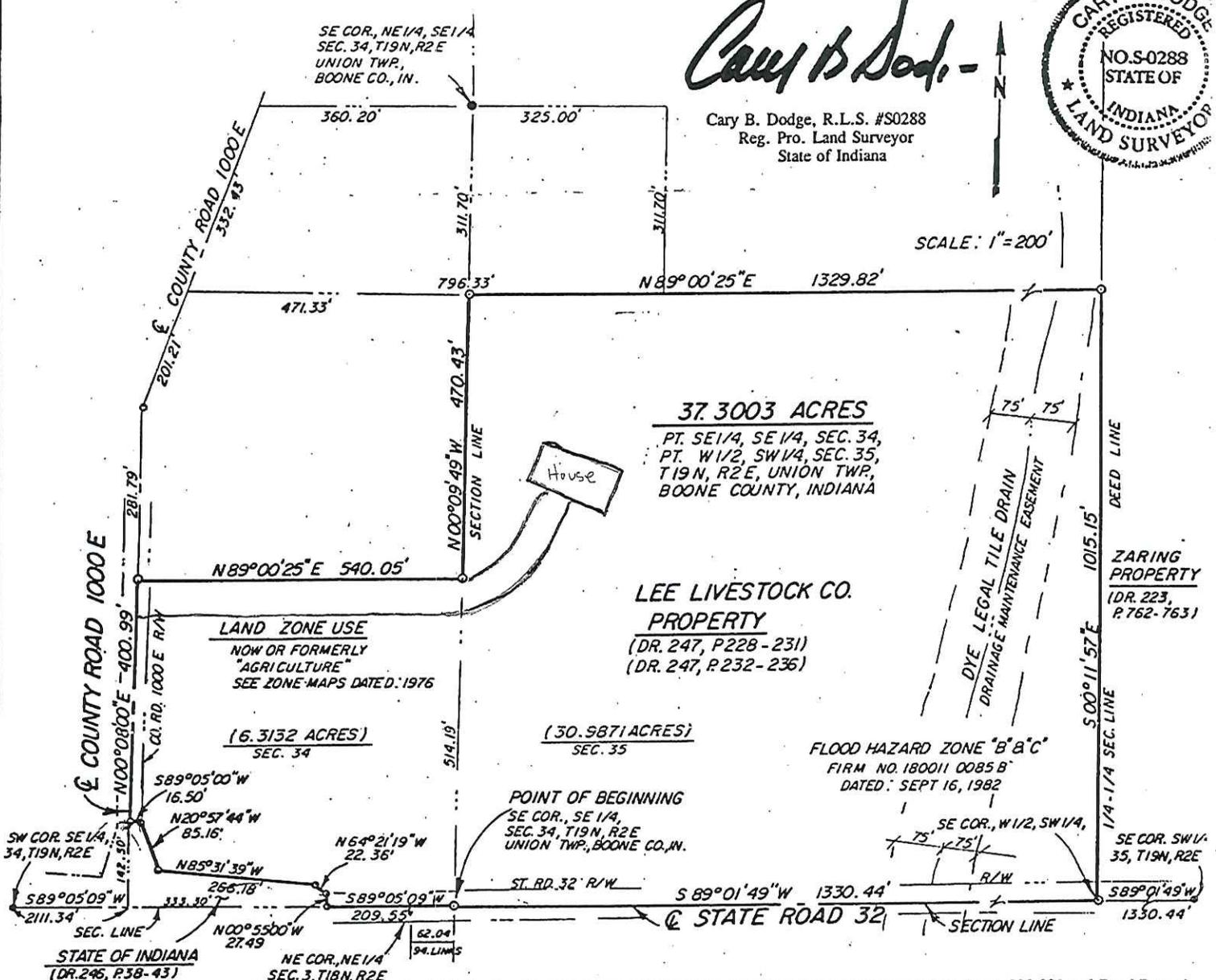
# ANDERSON & ASSOCIATES

*Cary B. Dodge*

Cary B. Dodge, R.L.S. #S0288  
Reg. Pro. Land Surveyor  
State of Indiana



SCALE: 1" = 200'



**37.3003 ACRES**  
PT. SE 1/4, SE 1/4, SEC. 34,  
PT. W 1/2, SW 1/4, SEC. 35,  
T 19 N, R 2 E, UNION TWP,  
BOONE COUNTY, INDIANA

**LEE LIVESTOCK CO.  
PROPERTY**  
(DR. 247, P.228 - 231)  
(DR. 247, P.232 - 236)

**LAND ZONE USE**  
NOW OR FORMERLY  
"AGRICULTURE"  
SEE ZONE MAPS DATED: 1976

**(6.3132 ACRES)**  
SEC. 34

**(30.9871 ACRES)**  
SEC. 35

**FLOOD HAZARD ZONE "B" & "C"**  
FIRM NO. 180011 0085 B  
DATED: SEPT 16, 1982

SW COR. SE 1/4,  
34, T19N, R2E

POINT OF BEGINNING  
SE COR., SE 1/4,  
SEC. 34, T19N, R2E  
UNION TWP., BOONE CO., IN.

SE COR., W 1/2, SW 1/4,  
R/W

SE COR. SW 1/4,  
35, T19N, R2E

STATE OF INDIANA  
(DR. 246, P.38-43)

NE COR., NE 1/4  
SEC. 3, T18N, R2E

Purpose: The purpose of this assignment was to divide the Lee Livestock Company Property, as recorded in Deed Record 247, Pages 228-231 and Deed Record 247, Pages 232-236, Boone County Recorder's Office, for partial sale.

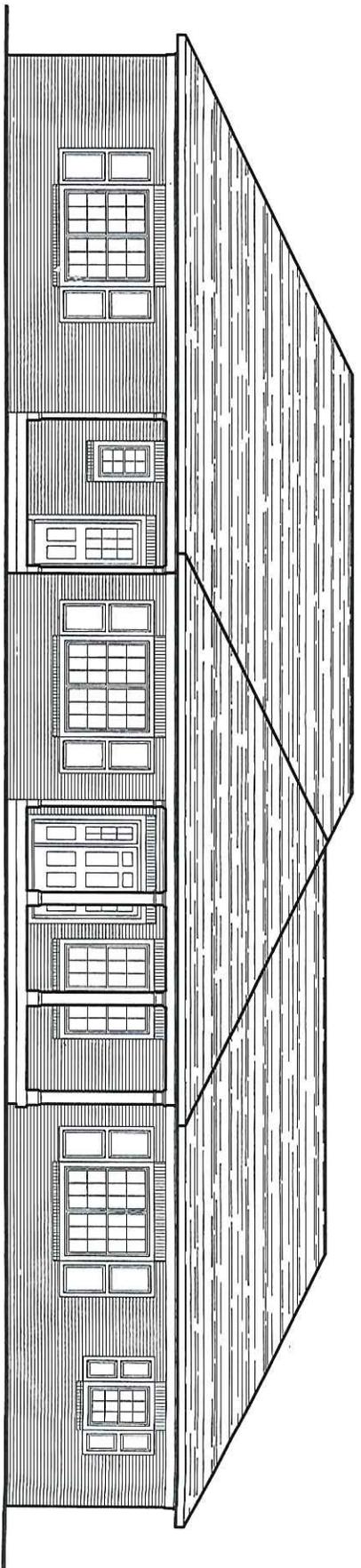
Basis of Bearings: Bearings are in agreement with the Indiana Department of Transportation as shown on the Reconstruction of the Intersection of State Road 32 and U.S. Highway 421, Project Number F-135-2 1989.

Class of Survey: Class "D" Indiana Survey Standards (Title 865, Article 1, Chapter 12)  
The Theoretical Uncertainties due to random errors in measurement of the boundary corners with respect to the referenced controlling corners, as stipulated by Indiana Statutes, is ± 1.00 foot.

**LAND DESCRIPTION (37.3003 Acre Tract)**  
(A part of the Lee Livestock Company Property, DR 247, P228-231 & DR 247, P232-236)

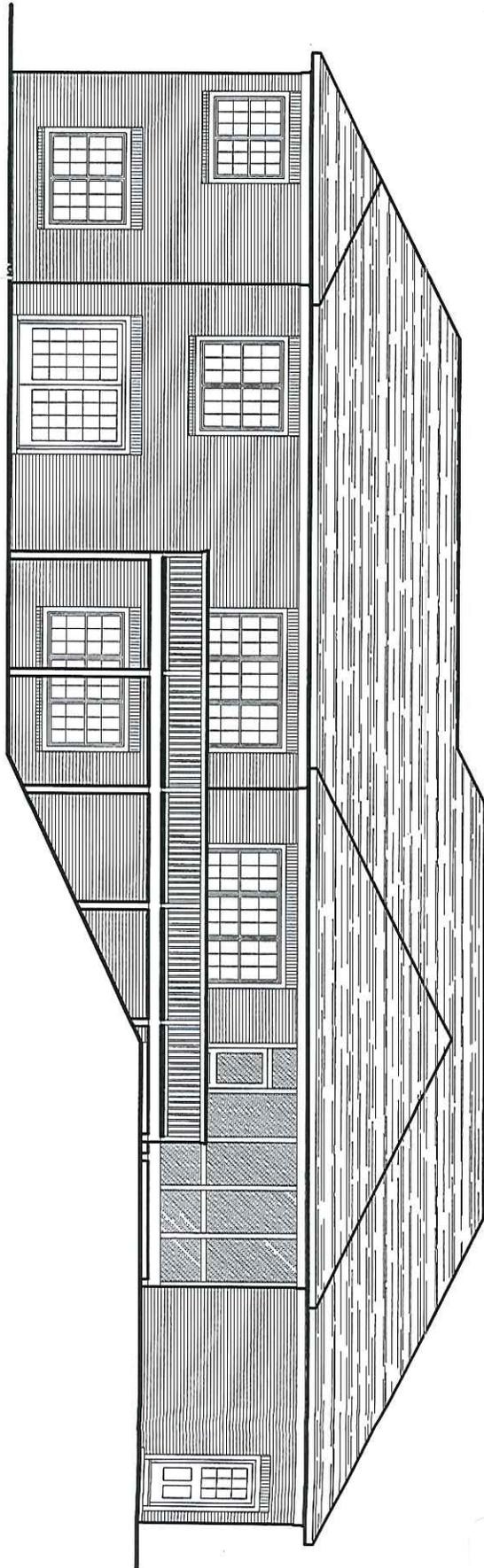
A part of the Southeast Quarter of the Southeast Quarter of Section 34 and a part of the West Half of the Southwest Qu 2 East, Union Township, Boone County, Indiana, more fully described by:

Beginning at the Southeast Corner of the Southeast Quarter of said Section 34; thence South 89°05'09" West, along tl of State Road 32, a distance of 209.55 feet; thence North 00°55'00" West, a distance of 27.49 feet; thence North 64°21'19" line of the State of Indiana Property, as recorded in Deed Record 246, Pages 38-43, a distance of 22.36 feet; thence North a distance of 266.18 feet; thence North 20°57'44" West, along said Right of Way, a distance of 85.16 feet; thence South



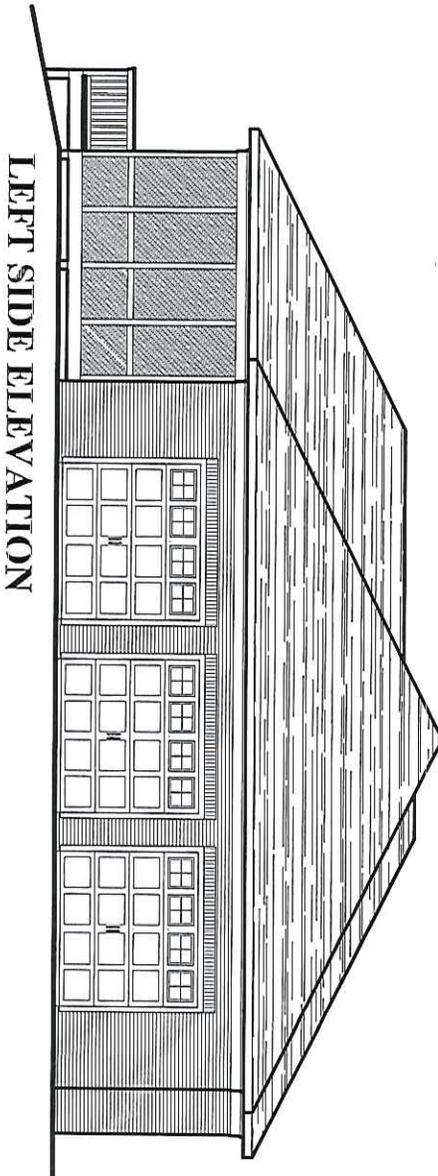
FRONT ELEVATION

McDAVITT RESIDENCE



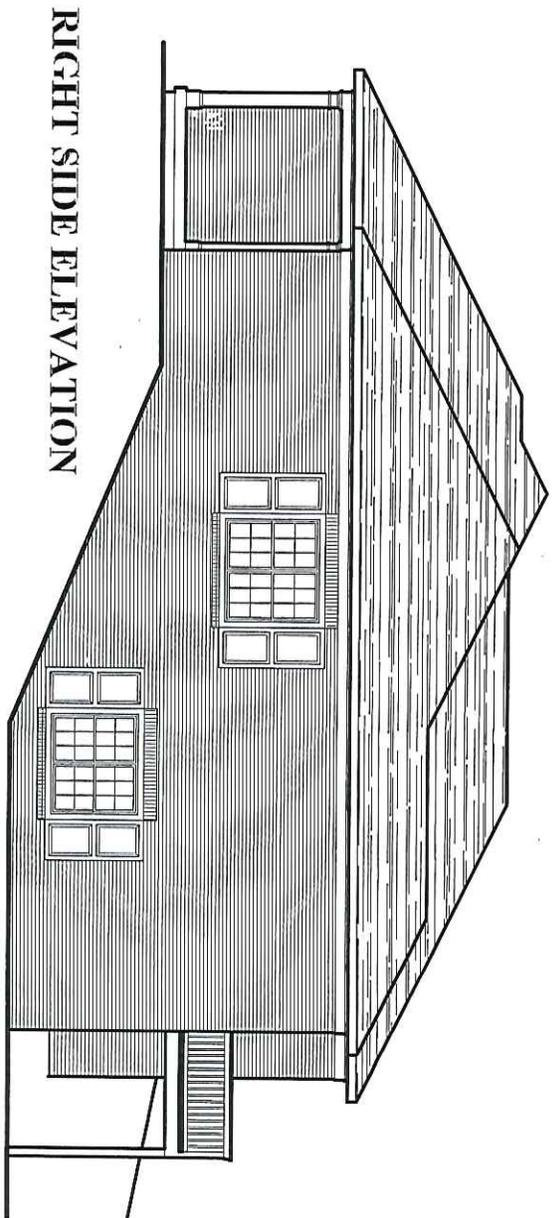
REAR ELEVATION

MCDAVITT RESIDENCE



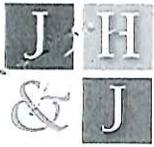
LEFT SIDE ELEVATION

MDAVITT RESIDENCE

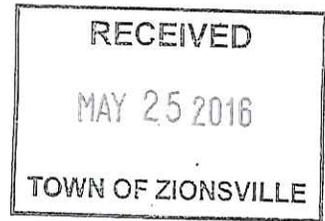


RIGHT SIDE ELEVATION

McDEVITT RESIDENCE



Jacob, Hammerle & Johnson  
LAW OFFICES



May 25, 2016

Zionsville Board of Zoning Appeals – Town of Zionsville  
c/o Zionsville Town Hall  
1100 W. Oak Street  
Zionsville, Indiana 46077

RE: Special Exception – Petition Number: 2016-15-SE

Board of Zoning Appeals:

At the helpful suggestion of staff, I am supplying a more detailed description of McDavitt's Special Exception Request. In so doing, some historical background may be helpful.

In 1996 the McDavitt's purchased 37 agriculturally zoned acres along State Road 32 from a livestock exchange. The ground is generally located east of US 421, on the north side of SR 32. Shortly thereafter, the McDavitt's sought the County's assistance in determining how to locate a small and large animal veterinary clinic on the property. Boone County's ordinance in 1996 did not contain a large animal veterinary clinic classification. Accordingly, the McDavitt's filed a "Zoning Classification Request" with the Boone County Area Plan Commission. You will note from the attached Staff Report/Agenda/Minutes (Exhibit 1) that the County Area Plan Commission utilized the related definitions of a farm, veterinary hospital and riding stable; drawing on those relevant sections of its Ordinance in order to craft the necessary zoning standards by which the clinic would operate. Ultimately, on October 23, 1996 the McDavitt Zoning Classification Request was approved. Shortly thereafter, the clinic (and its large animal related out buildings, riding areas and turnouts) was built, opened for business, and to date continues to operate on AG-Agricultural zoned ground.

The McDavitt's Special Exception request is to permit construction of a single family residence on 30 of the 37 acres owned by the McDavitt's. The veterinary clinic which currently sits on the 37 acres would be split (the McDavitt's acquired the parcel pre-1999 and it has not since been split), creating two parcels of 6+/- acres (vet clinic) and 30 +/- acres (residence).<sup>1</sup> It should be noted that the attached site plan (Exhibit 2) is an approximate location of the McDavitt

<sup>1</sup> Please note, the County GIS system denotes the McDavitt land as being two parcels with two corresponding parcel identification numbers. In short, this is a result of the tract being divided by an internal County Section Line. The Section Lines are a grid system of lines that are used to map the location of land. Historically any piece of land was recorded in the County "Section Books" and identified exclusively by its section location. Our County Auditor requires a parcel, split by section line, to be given two parcel identification numbers. As a result the land shows up in the "For Reference Only" GIS System as two separate tracts of land, despite legally existing as one parcel. In sum, the McDavitt property, as per the deed, is one parcel.

residence and driveway. Further, I have attached elevations of the proposed McDavitt residence (Exhibit 3). Please note this is also a concept only.

The McDavitt's would make the following Voluntary Commitments related to the Special Exception Request:

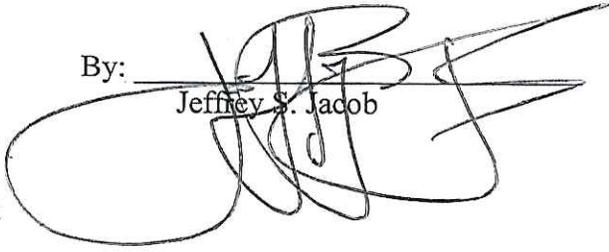
1. The grant of Special Exception would be contingent upon the McDavitt Veterinary Clinic being a separate approximately 6 +/-acre parcel and the McDavitt residence would be located on the remaining acreage (Exhibit 4);
2. The McDavitt single family residence would meet all Zionsville zoning requirements and requisite building codes; and
3. The McDavitt's will obtain a state approved Road Cut Permit in order to install direct access for the 30 +/- acre single family residence onto SR 32.

Sincerely,

JACOB, HAMMERLE & JOHNSON

By:

Jeffrey S. Jacob



cc: Bruce and Donna McDavitt  
Enclosures  
JSJ/cg

Petition No.: \_\_\_\_\_

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 subject parcel is adjacent to SR 421 and located in a mixed use area, including smaller lot single family residences.

- 2. The proposed use (~~is~~ / ~~is not~~) will not injure or adversely affect the adjacent area or property values. The construction of an ordinance compliant single family residence on a large estate type parcel in this area is a desirable use that will enhance the character and surrounding values.

- 3. The proposed use will ~~will not~~ ~~will~~ be consistent with the character of the District, land uses. Such residential use is consistent with the current nature of the area and consistent with the comprehensive plan.

DECISION

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

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

\_\_\_\_\_

\_\_\_\_\_