

ELKHART COUNTY BOARD OF ZONING APPEALS

ADMINISTRATION BUILDING
MEETING ROOMS 104, 106, & 108
117 N. 2nd STREET, GOSHEN, INDIANA

Elkhart County Zoning Ordinance and Staff Report materials are to be entered as evidence for today's hearings.

B. Petitioner: ***Enrique Rodriguez*** (Page 12)
 Petition: for a Special Use for a home workshop/business for an auto detailing and tinting business.
 Location: North side of Forsythia Dr., West of Old CR 17, 690 ft. East of Sommerset Place Blvd., West of Old CR 17, common address of 22281 Forsythia Dr. in Concord Township, zoned A-1. SUP-0494-2024

C.	Petitioner:	<i>Loren Stutzman & Joann Stutzman, Husband & Wife</i>	(Page 13)
	Petition:	for a Special Use for a home workshop/business for a concrete border business, for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right , and for a Developmental Variance to allow for 7 outside employees (Ordinance allows 4 employees).	
	Location:	East side of CR 35, 2,160 ft. South of US Highway 20, common address of 57404 CR 35 in Middlebury Township, zoned A-1. SUP-0446-2024	

- D. Petitioner: ***Jose Olais & Lourdes Agustin Flores*** (Page 14)
 Petition: for a Special Use for a home workshop/business for a roofing business, and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right.
 Location: West side of Conn Ave., 385 ft. North of Bristol St. (CR10), common address of 54431 Conn Ave. in Osolo Township, zoned R-2. SUP-0450-2024
- 9:30 A.M. (NORMAN)**
- E. Petitioner: ***David D. Sommers & Anna M. Sommers, Husband & Wife*** (Page 15)
 Petition: for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres, and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right.
 Location: South side of CR 8, 1,300 ft. West of CR 27, common address of 17240 CR 43 in Washington Township, zoned A-1. SUP-0488-2024
- F. Petitioner: ***Verle J. Yoder & Malinda Yoder, Husband & Wife (Sellers) & JoasJ. Miller & Freda Miller, Husband & Wife (Buyers)*** (Page 16)
 Petition: for a Special Use for a home workshop/business for a retail store, and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right.
 Location: Southeast corner of CR 43 & CR 10, common address of 54524 CR 43 in York Township, zoned A-1. SUP-0489-2024

SHOW CAUSE

- G. Petitioner: ***Roberto Barrera Zuniga & Isabel P. Arizpe Martinez, Husband & Wife*** (Page 18)
 Petition: for a requested recission of an agricultural use for the keeping of animals on a tract of land containing less than 3 acres for failure to comply with the condition(s) and/or commitments imposed by the Board of Zoning Appeals.
 Location: East side of CR 27, 550 ft. South of CR 40, common address of 66102 CR 27 in Elkhart Township, zoned A-1. SUP-0473-2023

APPEAL FROM THE HEARING OFFICER'S DECISION

- H. Petitioner: ***Matthew Nelson & Loren M. Nelson, Husband & Wife*** (Page 17)
 Petition: for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right and for a 7 ft. Developmental Variance (Ordinance allows 25 ft.) to allow for the construction of an accessory structure 32 ft. in height.
 Location: Southeast corner of North Shore Dr. & Deer Run Trail, 1160 ft. South of Fawn, common address of 25290 North Shore Dr. in Osolo Township, zoned R-2. DV-0397-2024

STAFF/BOARD ITEMS (time of review at the discretion of the Board of Zoning Appeals)

ADJOURNMENT

The Elkhart County Board of Zoning Appeals is meeting on Thursday, August 15, 2024, at **9:00 a.m.** in Rooms 104, 106, & 108 of the Administration Building, Goshen, Indiana. Pursuant to the advice of the Indiana Public Access Counselor, general public comment will not be permitted at this public meeting on non-public hearing matters. To the extent you wish to make comment remotely during any public hearings scheduled during this public meeting, please call (574) 971-4678 to learn how to remotely submit your public comment for the public hearing. The public is encouraged to attend the meeting remotely by going to www.elkhartcountyplanninganddevelopment.com at **9:00 a.m.** on August 15, 2024. If you have further questions regarding how to remotely attend the public meeting please call (574) 971-4678.

<https://elkhartcountyin.webex.com/elkhartcountyin/j.php?MTID=mbb02709b73824cc9d67f2b786f288815>

BZA MINUTES
ELKHART COUNTY BOARD OF ZONING APPEALS MEETING
HELD ON THE 18th DAY OF JULY, 2024 AT 9:00 A.M.
MEETING ROOMS 104, 106, & 108 – ADMINISTRATION BUILDING
117 2nd STREET, GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Board of Zoning Appeals was called to order by the Chairperson, Randy Hesser. Staff members present were: Mae Kratzer, Plan Director; Jason Auvil, Zoning Administrator; Danelle Richards, Planner; and James W. Kolbus, Attorney for the Board.

Roll Call.

Present: Roger Miller, Randy Hesser, Steve Warner, Deb Cramer.

Absent: Ron Norman, David Miller, John Gardner

2. A motion was made and seconded (*Miller/Cramer*) that the minutes of the regular meeting of the Board of Zoning Appeals held on the 20th day of June 2024 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Warner/Miller*) that the Board accepts the Zoning Ordinance and Staff Report materials as evidence into the record and the motion was carried with a unanimous roll call vote.

4. The application of **Jonathon A. Ramirez** for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres on property located on the South side of Bainbridge Dr., 125 ft. West of CR 15, common address of 22792 Bainbridge Dr. in Osolo Township, zoned R-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as Case #SUP-0355-2024.

There were 24 neighboring property owners notified of this request.

Jonathan Ramirez 22792 Bainbridge Dr. was present for this request. Mr. Ramirez stated he would like to have 24 chickens to help feed his family.

Mr. Auvil read a letter from James & Patricia Kelm 22833 Bainbridge Dr., Elkhart in remonstrance. The letter stated that they are not against Mr. Ramirez having chickens, but they don't want a business of selling the chickens at the petitioner's location.

Mr. Ramirez responded that they will not be selling chickens on their property. The chickens will be for their own personal use.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Steve Warner, **Seconded by** Deb Cramer that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that the request for a Special Use for an agricultural use for the keeping animals on a tract of land containing less than 3 acres on the Real Estate shall be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 5/21/2024) and as represented in the Special Use application.
2. The request is limited to a maximum of twelve (12) chickens, and no roosters at any one time.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

Yes: Deb Cramer, Steve Warner, Roger Miller, Randy Hesser.

5. The application of *Michele P. Chaney & Rick A. Chaney, Sr., Wife & Husband* for a Special Use for a roadside stand on property located on the East side of CR 5, 400 ft. North of CR 1, common address of 51444 CR 5 in Cleveland Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as Case #SUP-0360-2024.

There were 14 neighboring property owners notified of this request.

Rick Chaney, 51444 CR 5, Elkhart was present for this request. Mr. Chaney stated that he and his wife want to sell plants and flowers and extra vegetables. Mr. Miller asked if there is room for people to pull over on the side of the road. Mr. Chaney stated that they have a circular driveway to accommodate the sale of the plants and that it would only be during the warmer months. Mr. Hesser asked about the location of the sign. Mr. Chaney stated that it would be in front of the hedges indicated on the site plan. That was satisfactory to the rest of the Board.

There were no remonstrators present.

The public hearing was closed at this time

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Steve Warner, **Seconded by** Deb Cramer that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a roadside stand be approved with the following condition:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 5/24/2024) and as represented in the Special Use application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

Yes: Deb Cramer, Steve Warner, Roger Miller, Randy Hesser.

6. The application of **Ramon A. Portillo** for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres on property located on the Northwest corner of Shawn Dr. & CR 11, common address of 25023 Shawn Dr. in Osolo Township, zoned R-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0362-2024*.

There were 16 neighboring property owners notified of this request.

Ramon Portillo and son-in-law Mark, 25023 Shawn Dr., Elkhart were present for this request. Mr. Portillo's son-in-law stated that after seeing the first hearing today that he is now aware of the limit of 12 chickens. Mark continued that he was told by someone that the chickens would have to be towards the front of the property. Mr. Hesser asked Mark if he was aware that a revised site plan was needed. Mark replied that he was waiting until he was sure they could have chickens. Mr. Miller asked if there are turkeys on the property. Mark stated that there are turkeys on the property. Mr. Auvil stated that the request should have said special use for twelve fowl.

There was 2 remonstrators present. Henry Town 53358 CR 11, Elkhart was concerned about the noise in the mornings. Mr. Town stated he has a business right across the street from the petitioner's parcel and he is planning to build a new office there that would be in sight of the chickens. Mike Castleman 25051 Shawn Dr., Elkhart was also present with questions about the animals Mr. Portillo would be able to have and how many. Mr. Castleman also wanted to know what Mr. Portillo's plan was to keep his animals contained in his yard. Mr. Castleman stated that Mr. Portillo's chickens are in his yard almost daily. Mr. Castleman was also concerned about debris from the care of the chickens that ends up in his yard. Mr. Hesser advised Mr. Castleman that we could take the pictures he provided but that the Board would keep the pictures.

Mr. Portillo responded by saying they have a fenced-in yard, but sometimes they get out. Mark also stated that his father-in-law Mr. Portillo is currently over the limit of fowl but that he plans to reduce the amount by butchering them to eat. Mr. Miller asked about disposing of the waste from the chickens. Mr. Hesser stated that on the questionnaire it says the waste would be disposed of weekly. Mark stated the waste is disposed of on his property.

The public hearing was closed at this time.

Mr. Hesser stated that he would prefer to keep the commitment as stated to 12 chickens and no mention of fowl. Mrs. Cramer brought up the fact that the fence has some holes in it. Mr. Miller brought up the fact that no type of containment for the chickens was mentioned. Mr. Warner stated that it sounds like they are going to be free range chickens.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Steve Warner, **Seconded by** Deb Cramer that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres be approved with the following conditions imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.
2. A revised site plan must be submitted for staff approval showing correct measurements from all structures to the fence and from the fence to all property lines.

The following commitments were imposed:

1. The request is approved in accordance with the revised site plan to be submitted for staff approval and as represented in the Special Use application.
2. The request is limited to a maximum of twelve (12) chickens, and no roosters at any one time.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

Yes: Deb Cramer, Steve Warner, Roger Miller, Randy Hesser.

7. The application of **John R. Kuhns** for a Special Use for a cemetery on property located on the East side of CR 17, 2,350 ft. North of CR 52, common address of 71014 CR 17 in Jackson Township, zoned A-1, came to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0389-2024*.

There were 10 neighboring property owners notified of this request.

John R Kuhns 71014 CR 17, New Paris was present for this request. Mr. Kuhns stated that he wants to put a small family cemetery on his property. Mr. Hesser asked the staff what they were specifically looking for in the revised site plan. Mr. Auvil stated the revised site plan should be more revised to be accurate. Mr. Auvil stated to Mr. Kuhns that pending the Board approval then the revised site plan can be submitted.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Steve Warner, **Seconded by** Roger Miller.

that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for a cemetery be approved with the following conditions imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.
2. A revised site plan must be submitted for staff approval showing correct measurements from all structures to all property lines and clearly showing the location of the cemetery area.
3. A recorded deed with the correct legal description for the property is required.

The following commitment was imposed:

1. The request is approved in accordance with the revised site plan to be submitted for staff approval and as represented in the Special Use application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

Yes: Deb Cramer, Steve Warner, Roger Miller, Randy Hesser.

8. The application of **Roy M. Kinsinger** for a renewal of a Special Use for a home workshop/business for a small engine repair business on property located on the Northeast side of Nelson Ln, 45 ft. south of Isaac Dr., East of CR 31, common address of 67620 Nelson Ln. in Benton Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as Case #SUP-0395-2024.

There were 20 neighboring property owners notified of this request.

Roy Kinsinger 67620 Nelson Ln., Goshen was present for this request. Mr. Hesser stated that the original Special Use was only good for 1 year and that staff is not recommending renewal, they are recommending the Board to deny the renewal of the Special Use for a home workshop/business. Mr. Hesser asked Mr. Kinsinger what equipment he had sitting outside. Mr. Kinsinger replied that he had some lawn mowers and other equipment sitting outside because he was waiting on payment for the repairs he had done. The board has current pictures of the property and Ms. Cramer stated that the current pictures don't look any different from the complaint pictures they have been provided. She also stated that there was to be no outside storage as part of the Special Use agreement.

Lyle Garber, 15856 Burtsfield Dr., Goshen complained about the 4 lawnmowers and other equipment in Mr. Kinsinger's yard. Mr. Garber feels like not a whole lot has changed since he last complained. Tim Groves, 15911 Burtsfield Dr., Goshen was complaining about noise, but his complaint was hypothetical. He was not sure where the noise was coming from.

An email was read by Mr. Auvil in remonstrance from Mike and Candie Bartley, 67700 Nelson Ln., Goshen. The Bartley's feel this request is not a good fit for the neighborhood and that it is unsightly. The Bartley's also claimed that the rule about outside storage has never been followed and therefore they are not in favor of the renewal of Mr. Kinsinger's petition for a Special Use for a home workshop/business.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Deny, Moved by Roger Miller, Seconded by Deb Cramer that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a renewal of a Special Use for a home workshop/business for a small engine repair business be **DENIED**.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

Yes: Deb Cramer, Steve Warner, Roger Miller, Randy Hesser.

9. The application of **Alyssa A. Al-Ugaili** for a Special Use for an agricultural use for the keeping of animals on tract of land containing less than 3 acres on property located on the East side of Mars Dr., 150 ft. South of Lantz Blvd., 305 ft. East of CR 3, common address of 56514 Mars Dr. in Baugo Township, zoned R-2, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as Case #SUP-0411-2024.

There were 48 neighboring property owners notified of this request.

Alec Sanders 56514 Mars Dr., Elkhart was present for this request. Mr. Miller asked Mr. Sanders how they were planning to contain the ducks. Mr. Sanders stated that they have a sixteen-foot run and are using an old shed as a coop for the ducks. Mr. Miller asked Mr. Sanders how the waste is disposed of. Mr. Sanders said the waste is put into a compost area. Mr. Hesser then asked Mr. Sanders if he understood that a revised site plan is required.

There was 1 remonstrator present. Greg Kirk, 28929 Lantz Blvd., Elkhart had questions if the ducks were for food or pets. Mr. Hesser stated that in the questionnaire the petitioner stated the ducks were for the eggs that they would provide.

Jason read a letter in remonstrance from Gloria Rohm, 56526 Mars Dr., Elkhart. Ms. Rohm is in opposition to this request. Ms. Rohm said in the letter that a couple of years ago there were ducks and chickens and that the noise and smell was horrible. Ms. Rohm stated that this is not a location for farm animals and would not be a good fit for the neighborhood. Mr. Hesser asked where Ms. Rohm's property is located with relation to Ms. Al-Agaili's property.

Mr. Sanders responded that he was not living at this property during the time frame Ms. Rohm mentioned. He plans to have the ducks on the back side of the property away from Ms. Rohm's property.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Deb Cramer. that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for an agricultural use for the keeping of animals on tract of land containing less than 3 acres be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 7/18/2024) and as represented in the Special Use application.
2. The request is limited to a maximum of six (6) ducks at any one time.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

Yes: Deb Cramer, Steve Warner, Roger Miller, Randy Hesser.

10. The application of **Waypoint Community Church** for an Amendment to an existing Special Use for a place of worship to allow for a new building and wall sign on property located on the West side of CR 29, 600 ft. North of US 20, common address of 56893 CR 29 in Jefferson Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0387-2024*.

There were 18 neighboring property owners notified of this request.

Blake Carlstrom 56893 CR 29, Goshen was present for this request. Mr. Carlstrom explained that the addition of a new building would allow for more outside groups to use the space as well as the church members. It would have a gym, an office and more classrooms. Mr. Carlstrom also stated that the security lighting would be aimed down so there would be no light pollution. Mr. Carlstrom also addressed the fact that the sign would not have lighting on it but would be lit from the ground. Mr. Carlstrom also stated that there would be no need to add additional lighting for parking. Mr. Carlstrom addressed the septic and said it is being maintained and pumped every other year and an inspection proved it to be adequate.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Hesser and Mr. Miller had a discussion regarding a possible revised site plan that may need to be submitted if they change the size or location of the building.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Steve Warner. that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for an Amendment to an existing Special Use for a place of worship to allow for a new building and wall sign be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 06/04/2024) and as represented in the Special Use Amendment application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

Yes: Deb Cramer, Steve Warner, Roger Miller, Randy Hesser.

11. The application of *Tina E. Curtis* for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres, for a special use for a roadside stand, and for a 22 ft. lot-width Developmental Variance (Ordinance requires 100 ft.) to allow for an existing residence on property located on the North side of CR 18, 535 ft. East of CR 1, common address of 29897 CR 18 in Baugo Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0361-2024*.

There were 23 neighboring property owners notified of this request.

Tina Curtis, 29897 County Road 18, Elkhart was present for this request. Ms. Curtis stated that she has had her chickens since she has lived at 29897 CR 18 for 7 years. Ms. Curtis informed the board that she sells the eggs, but people do not come to her house which is why she wants the roadside stand. Ms. Curtis indicated in her questionnaire that she would like to have goats and maybe a pig but that would be in the future. Ms. Curtis explained that she would like twenty chickens and 2 ducks because she sells fifteen dozen eggs a week. She expressed that twelve chickens would not suffice. Ms. Curtis claimed she only lets her chicken's free range when she is home and that one of her neighbors does not mind the chickens in their yard. In fact, her neighbor to the east feeds the chickens. Ms. Curtis stated that she has a 20x20 coop that the chickens stay in when she is not home. Ms. Curtis also stated that she has a rooster to protect her chickens because she there is a fox that has been threatening her chickens and ducks. Mr. Hesser stated that generally special uses don't approve of roosters. Ms. Curtis claimed that she understood. Mr. Miller asked Ms. Curtis how she would dispose of the waste. Ms. Curtis responded that she digs holes in the back of her property, buries the waste and covers the holes with lyme.

Frederick Whitmer, 57936 County Road 1, Elkhart stated he is not against or for the fowl. Mr. Whitmer wanted to oppose the pigs and goats which are not part of this petition. Angie Davis, 29906 County Road 18, Elkhart stated that she opposes a free-standing building to sell eggs as it

may cause additional traffic. Three anonymous letters read by Mr. Auvil were against the traffic, the stand, the waste and the noise. The letters also stated concern about the upkeep of the property and that this is better suited for an agricultural area.

Mr. Miller asked Ms. Curtis if she wanted to address any of the remonstrators and Ms. Curtis stated that she could do without the roadside stand. Mr. Miller asked if she had a driveway customers could pull in on. Ms. Curtis stated that she has a 70 ft driveway for use of customers.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Roger Miller, **Seconded by** Deb Cramer that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres and for a special use for a roadside stand be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 5/24/2024) and as represented in the Special Use application.
2. The request is limited to a maximum of twenty (20) chickens, two (2) ducks, and no roosters at any one time.

The request for a Special Use for a roadside stand was acted upon as follows: Denied.

Further, the motion included that a 22 ft. lot-width Developmental Variance (Ordinance requires 100 ft.), be approved with the following conditions imposed:

1. A variance from the developmental standards of the Development Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted (dated 5/24/2024) As represented in the Developmental Variance application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

Yes: Deb Cramer, Steve Warner, Roger Miller, Randy Hesser.

12. The application of **Kevin D. Stutzman** for Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres, for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, and for a 35 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for the construction of a detached accessory structure 85 ft. from the centerline of the right-of-way on property located on the West side of SR 13, 650 ft. North of CR 24, common address of 59395 SR 13 in Middlebury Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0390-2024*.

There were 11 neighboring property owners notified of this request.

Kevin Stutzman, 59395 SR 13, Middlebury was present for this request. Mr. Stutzman stated that they would like 2 horses and a 30x40 barn to house the horses and provide storage. Mr. Hesser asked Mr. Stutzman how he would be disposing of the waste. Mr. Stutzman responded by saying he spreads the waste out over his neighbor's field to the north.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Roger Miller that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres be approved with the following condition imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 06/04/2024) and as represented in the Special Use application.
2. The request is limited to a maximum of two (2) adult horses at any one time.

Further the motion included that a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right and for a 35 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for the construction of a detached accessory structure 85 ft. from the centerline of the right-of-way be approved with the following conditions imposed:

1. Variances from the developmental standards of the Development Ordinance are void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted (dated 06/04/2024) and as represented in the Developmental Variance application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

Yes: Deb Cramer, Steve Warner, Roger Miller, Randy Hesser.

13. The application of **Mikel P. Wendel** for a Use Variance to allow for the construction of an accessory structure on property without a residence and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right on property located on the Northeast side of CR 22, 2,170 ft. Northwest of CR 1, common address of 00000 CR 22 in Baugo Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0372-2024*.

There were 13 neighboring property owners notified of this request.

Blake Doriot, B Doriot and Associates, 68080 Division St., New Paris, was present for this request. Mr. Doriot stated that Mr. Wendel will combine the parcels to one deed and that Mr.

Wendel wished to build an accessory structure for storage of personal items. Mr. Doriot also stated that the accessory structure will be placed appropriately so as to not interfere with a future dwelling.

There were no remonstrators present.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Deb Cramer that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a Use Variance to allow for the construction of an accessory structure on property without a residence be approved with the following conditions imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.
2. A recorded deed must be submitted that combines 20-0522-253-002.000-001 and 20-05-22-201-003.000-001.

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 7/12/2024) and as represented in the Use Variance application.
2. The proposed structure must remain a residential accessory structure.

Further, the motion included that a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right be approved with the following conditions imposed:

1. A variance from the developmental standards of the Development Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the revised site plan to be submitted for staff approval and as represented in the Developmental Variance application.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

Yes: Deb Cramer, Steve Warner, Roger Miller, Randy Hesser.

14. The application of *Jose Antonio Garcia-Hernandez & Marisol Peredia* for a requested rescission of an agricultural use for the keeping of animals on a tract of land containing less than 3 acres for failure to comply with the condition(s) and/or commitments imposed by the Board of Zoning Appeals on property located on the South side of State Line Rd., 4,590 ft. West of CR 15, common address of 23176 State Line Rd. in Osolo Township, zoned A-1, came on to be heard.

Mr. Auvil presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0040-2023*.

There were six neighboring property owners notified of this request.

Kierstin Dominguez, Elkhart County Planning and Development Code Enforcement was present for this request regarding the rescission of Mr. Garcia-Hernandez petition rescission. Ms. Dominquez inspected the property on Monday July 15, 2024, and all animals were removed except

the chickens. Mr. Miller asked if the roosters were gone. Ms. Dominguez said the roosters were gone as far as she could tell.

Mr. Garcia-Hernandez, 23176 State Line Road, Elkhart was present for this request. Mr. Garcia-Hernandez stated that he only has chickens remaining. Mr. Garcia-Hernandez clarified that he currently has 8 chickens. Mr. Auvil stated that there are no more concerns if the number of chickens remains under thirty.

Donna Bachota, 23276 State Line Rd., Elkhart is still worried about piles of wood and debris in the back of Mr. Garcia-Hernandez's property. Once they are moved she will have no more issues. Ms. Bachota also stated that he has removed the animals as requested.

The public hearing was closed at this time.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Deny, **Moved by** Randy Hesser, **Seconded by** Steve Warner that the Board adopt the Staff Analysis as the Findings and Conclusions of the Board, and based upon these, further moved that this request for a requested rescission of an agricultural use for the keeping of animals on a tract of land containing less than 3 acres for failure to comply with the condition(s) and/or commitments imposed by the Board of Zoning Appeals be Denied.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

Yes: Deb Cramer, Steve Warner, Roger Miller, Randy Hesser.

15. Mr. Auvil presented a staff item for a minor change to allow for an addition for an existing Special Use for Andrew G & Susie Martin, Husband & Wife (SUP-0841-2021).

Mr. Auvil explained that Mr. Eugene Martin was here representing Andrew & Susie Martin. Mr. Auvil stated that Andrew and Susie Martin are requesting to amend the special use permit for a home workshop/business for a meat processing business to allow for an addition to the property located at 30425 County Road 36 in Wakarusa. Mr. Auvil stated they are requesting to add an 800 square foot addition to the existing butcher house. The request was received in an email June 24, 2024, and Mr. Auvil stated that staff recommends approval of this minor change request. Mr. Hesser asked if there have been any complaints since the initial approval of the special use. Mr. Auvil responded no.

The board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Randy Hesser, **Seconded by** Roger Miller that the Board approve the minor change to (SUP-0841-2021).

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

Yes: Deb Cramer, Steve Warner, Roger Miller, Randy Hesser.

16. The meeting was adjourned at 10:53 AM

Respectfully submitted,

Jean Boyer, Recording Secretary

Randy Hesser, Chairman

Ron Norman, Secretary

BZA Staff Report

Prepared by the Department of Planning and Development

Hearing Date: August 15, 2024

Transaction Number: SUP-0481-2024.

Parcel Number(s): 20-08-01-100-002.000-034.

Existing Zoning: A-1.

Petition: for a Special Use for two (2) retail greenhouses.

Petitioner: Edwin & Miriam Miller Trust.

Location: West side of CR 43, 3,075 ft. North of CR 14, in Middlebury Township.

Site Description:

- Physical Improvement(s) – Residence, accessory structures, agricultural structures.
- Proposed Improvement(s) – Greenhouses.
- Existing Land Use – Residential.
- Surrounding Land Use – Residential.

History and General Notes:

- None.

Staff Analysis:

Staff finds that:

1. The Special Use will be consistent with the spirit, purpose, and intent of the Development Ordinance. A Special Use for retail greenhouses is allowed in the A-1 zoning district.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a 44.59-acre parcel in a low-density area, and the property will remain agricultural and residential in character.
3. The Special Use will substantially serve the public convenience and welfare by allowing for a local provider of plants and seed for produce and flowers.

BZA Staff Report (Continued)

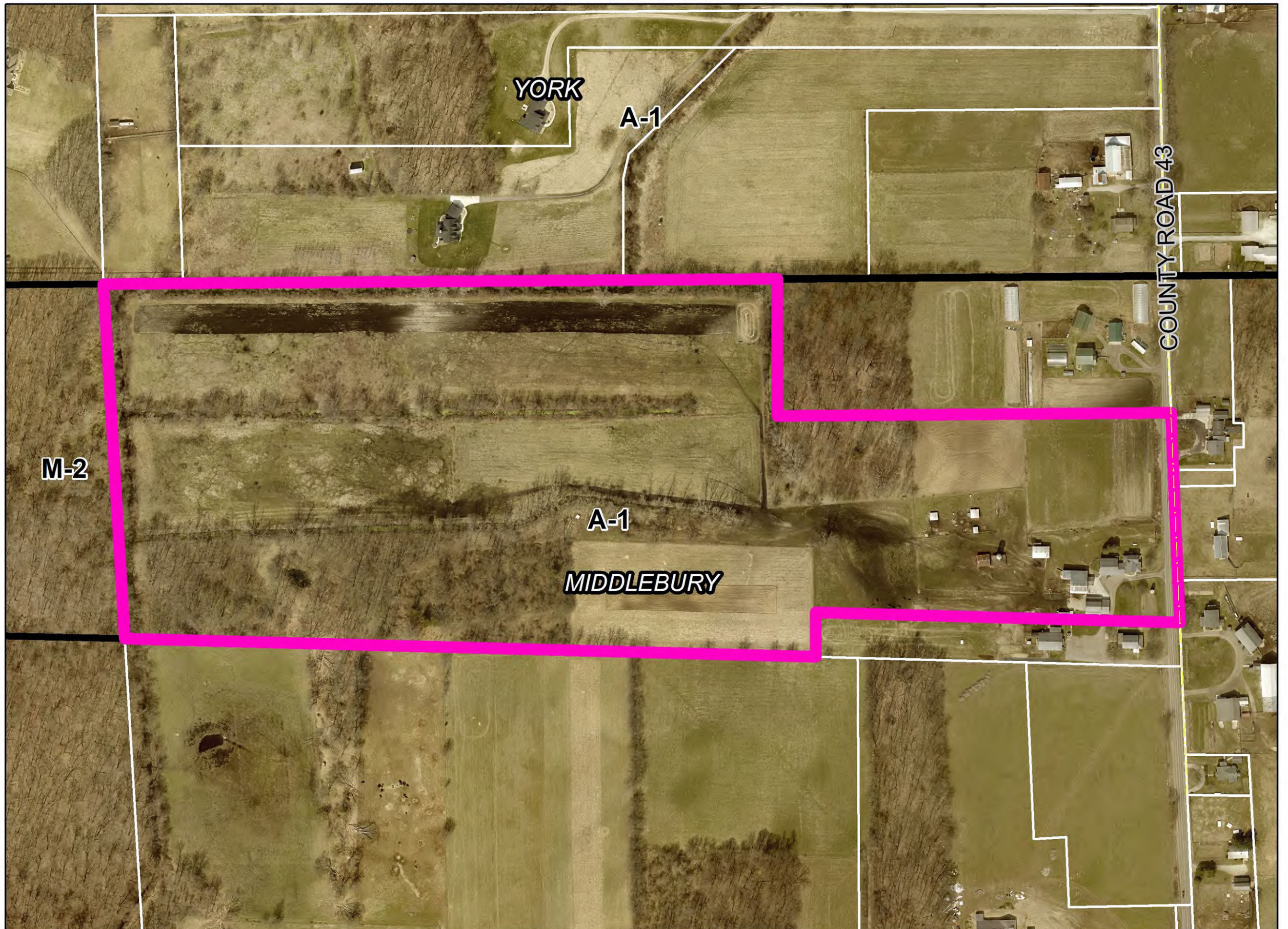
Hearing Date: August 15, 2024

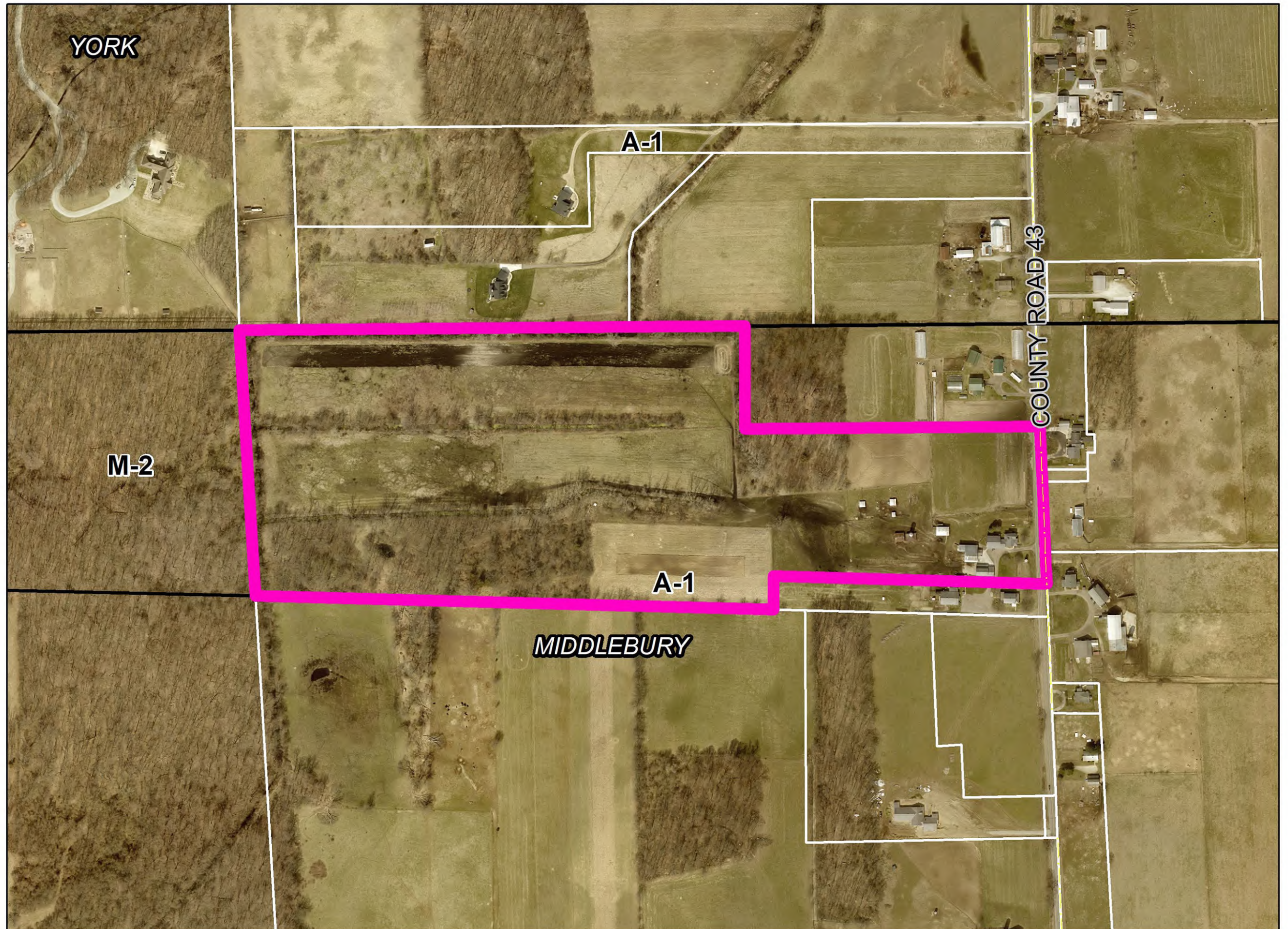
Staff recommends **APPROVAL** with the following condition(s) imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

Staff recommends **APPROVAL** with the following commitment(s) imposed:

1. The request is approved in accordance with the site plan submitted (dated 7/09/2024) and as represented in the Special Use application.





SUP-0481-2024

YORK

A-1

M-2

COUNTY ROAD 43

MIDDLEBURY

A-1

2021 Aerials

1 inch = 600 feet





Looking west towards subject property



Looking northwest towards subject property



Looking east



Looking south



Looking north

PLAN COMMISSION & BOARD OF ZONING APPEALS

Special Use - Non Mobile Home

**Elkhart County Planning & Development
Public Services Building**

4230 Elkhart Road, Goshen, Indiana, 46526

Phone - (574) 971-4678

Fax - (574) 971-4578

Date: 07/09/2024 Meeting Date: August 15, 2024
Board of Zoning Appeals Public Hearing Transaction #: SUP-0481-2024

Description: for a Special Use for two retail two greenhouses

Contacts: <u>Applicant</u>	<u>Land Owner</u>
Edwin & Miriam Miller Trust	Edwin & Miriam Miller Trust
55199 County Road 43	55199 County Road 43
Middlebury, IN 46540	Middlebury, IN 46540

Site Address: 55199 Cr 43
MIDDLEBURY, IN 46540

Parcel Number: 20-08-01-100-002.000-034

Township: Middlebury
Location: WEST SIDE OF CR 43, 3,075 FT. NORTH OF CR 14

Subdivision: Lot #

Lot Area: 44.59 Frontage: 519.50 Depth: 757.00

Zoning: A-1, A-1 NPO List: 07/30/2024

Present Use of Property: RESIDENTIAL DWELLING/AG

Legal Description:

Comments: PARCEL CREATION DATE 1/24/13
NO HISTORY

Applicant Signature:

Department Signature:

Application

Site address: 55199 CR 43 Middlebury IN 46540

Parcel number(s): 20-08-01-100-002-000-034

Current property owner

Name: Edwin^{W.} + Miriam Miller Trust ^{for}

Address: 55199 CR 43 Middlebury IN 46540

Phone: 574-825-3432 x 2

Email: _____

Other party

☐ Agent

☐ Buyer

☐ Land contract purchaser

☐ Lessee

Name: _____

Address: _____

Phone: _____

Email: _____

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent: _____

Edwin Miller

Staff Use Only

Description: _____

Parcel creation date: 11/24/13

Subdivision required?

☐ Y

☐ N

If yes,

☐ AS

☐ Minor

☐ Major

Residential accessory breakdown, if applicable: _____

Location:

N S E W

corner

side

end

of

CR 43

3075

ft.

IN

E W

of

CR 14

in

Township

Frontage: 519.5

Depth: 757

Area: 44.59

acres

Subdivision and lot number, if applicable: _____

Present use: ag-residential

A-1 -

Special Use — Questionnaire

Name: Edwin Miller

1) Tell us what you want to do. We want to have a retail Greenhouse

2) Tell us why this activity won't hurt your neighbors or the community. The neighbors depend on this greenhouse for their plants & seeds

3) Is there a subdivision covenant that says you can't do this activity? ☐ Y ☒ N

If yes, does the subdivision have an active homeowners' association? ☐ Y ☐ N

4) Will the activity create noise, vibration, smoke, dust, odor, heat, or glare? ☐ Y ☒ N If yes, fill out below.

Tell us what will create those things. _____

Tell us how you'll reduce the impact of those things on neighbors. _____

5) Will there be buffering (fences, trees, shrubs, mounds)? ☐ Y ☒ N

If yes, tell us about it. _____

6) Does the property need well and septic? Well: ☐ Y ☒ N Septic: ☐ Y ☒ N

Does the property need a new septic system? ☐ Y ☒ N

If a new septic system is needed, did the Health Department say there's enough space for it? ☐ Y ☐ N

7) Will the activity use buildings or additions? ☒ Y ☐ N If yes, fill out below.

Building or addition 1 Existing? ☐ Y ☒ N Size and height to the peak: 30 x 72 x 15

Tell us what you'll use it for. Greenhouse

Building or addition 2 Existing? ☐ Y ☒ N Size and height to the peak: 34 x 96 x 15

Tell us what you'll use it for. Greenhouse

Building or addition 3 Existing? ☐ Y ☐ N Size and height to the peak: _____

Tell us what you'll use it for. _____

8) Does this application include animals? ☐ Y ☒ N

If yes, tell us what kind and how many of each. _____

Next page ➡

Special Use — Questionnaire

- 9) Does this application include a business or nonprofit (church, school, other) based all or in part on this property? ☒ Y ☐ N If yes, fill out below.

How many employees do you have now? Full time: 0 Part time: 0

How many employees do you want? Full time: ☐ Part time: ☐

How many of the employees won't live onsite? 10

What will be the days and hours of operation on this property? Mon - Sat 8-6

How many parking spaces do you have now? _____

How many parking spaces do you want? 8

Will there be outside storage or display areas on this property? ☒ Y ☐ N

If yes, tell us what will be stored outside or displayed. P/ants

Will there be retail sales on this property? ☒ Y ☐ N

If yes, tell us what will be sold. plants & seeds

Approximately how many customers (clients, guests, students, members) will be on this property per day?

Will there be pickups or deliveries on this property? ☒ Y ☐ N If yes, fill out below.

Tell us how often. 1 or 2 times per week?

Tell us the kind of vehicles used. UPS Fedex

Does the application include signs? ☒ Y ☐ N If yes, fill out below.

Sign 1 Dimensions (length and width). 2' x 4'

Existing? ☐ Y ☒ N Double faced? ☒ Y ☐ N

Electronic message board? ☐ Y ☒ N If no, lighted? ☐ Y ☒ N

Freestanding? ☒ Y ☐ N Wall mounted? ☐ Y ☒ N

Sign 2 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

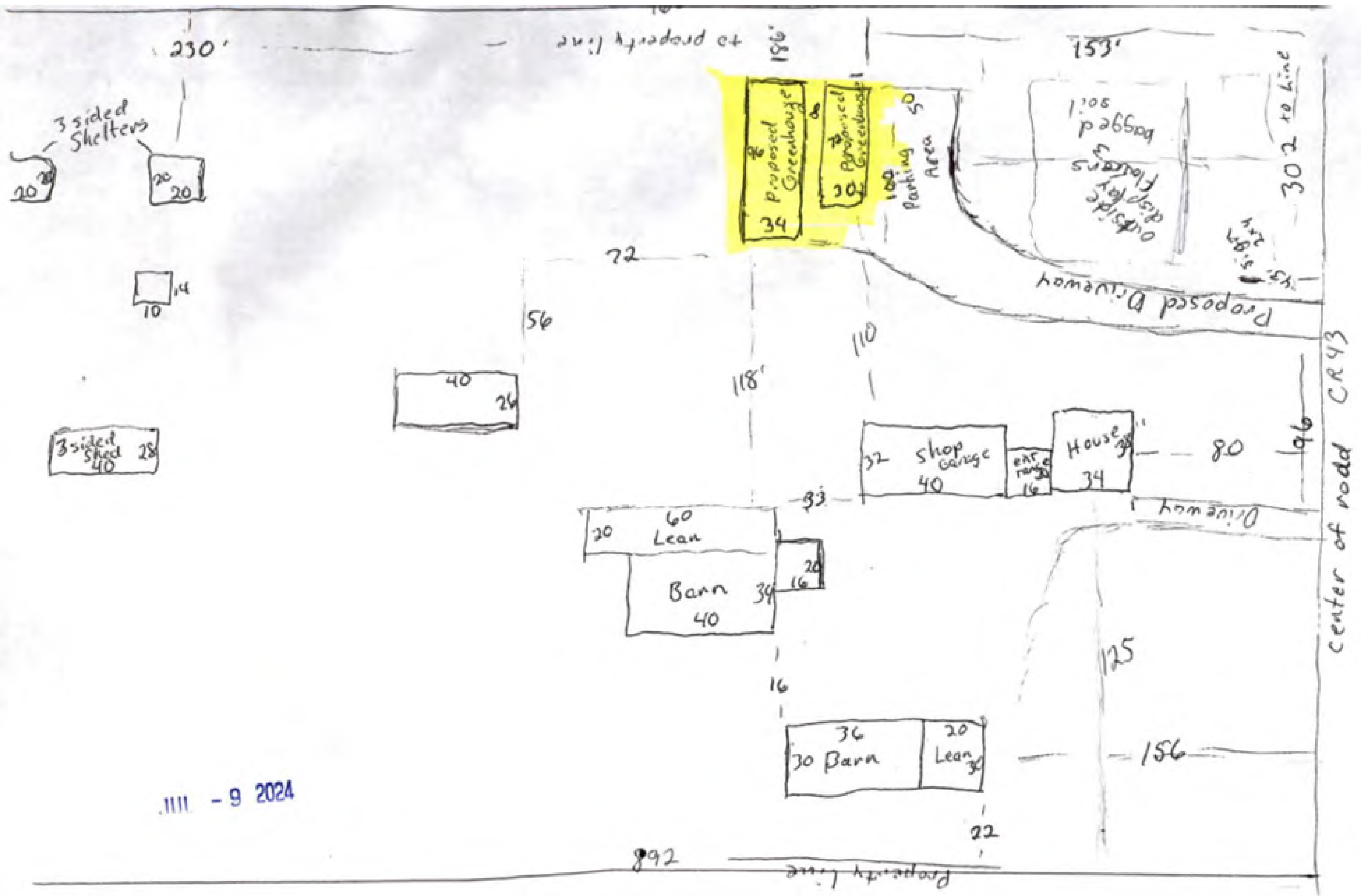
Sign 3 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

- 10) Tell us anything else you want us to know. _____



1111 - 9 2024

BZA Staff Report

Prepared by the Department of Planning and Development

Hearing Date: August 15, 2024

Transaction Number: SUP-0494-2024.

Parcel Number(s): 20-06-24-254-016.000-009.

Existing Zoning: A-1.

Petition: for a Special Use for a home workshop/business for an auto detailing and tinting business.

Petitioner: Enrique Rodriguez.

Location: North side of Forsythia Dr., 690 ft. West of Sommerset Place Blvd., West of Old CR 17, in Concord Township.

Site Description:

- Physical Improvement(s) – Residence.
- Proposed Improvement(s) – None.
- Existing Land Use – Residential.
- Surrounding Land Use – Residential.

History and General Notes:

- **May 14, 2024** – A complaint was received regarding a tinting business being run on the property (CODE-0322-2024).

Staff Analysis:

Staff finds that:

1. The Special Use will be consistent with the spirit, purpose, and intent of the Development Ordinance. A home workshop/business is allowed in the A-1 zone with a special use permit.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. The business will mainly take place inside the garage, and the driveway provides adequate space for customer parking.
3. The Special Use will substantially serve the public convenience and welfare by providing a local auto detailing and window tinting service.

BZA Staff Report (Continued)

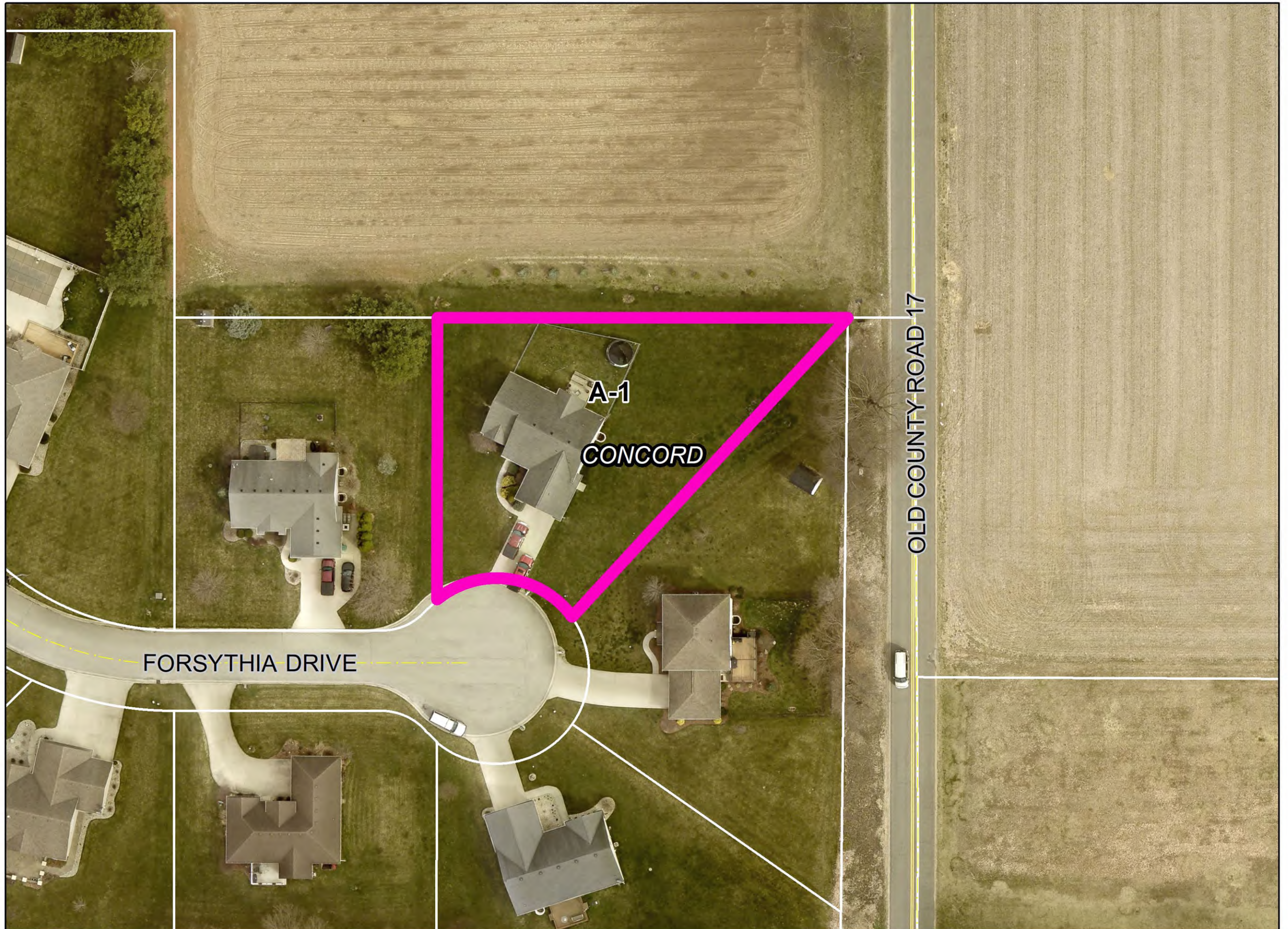
Hearing Date: August 15, 2024

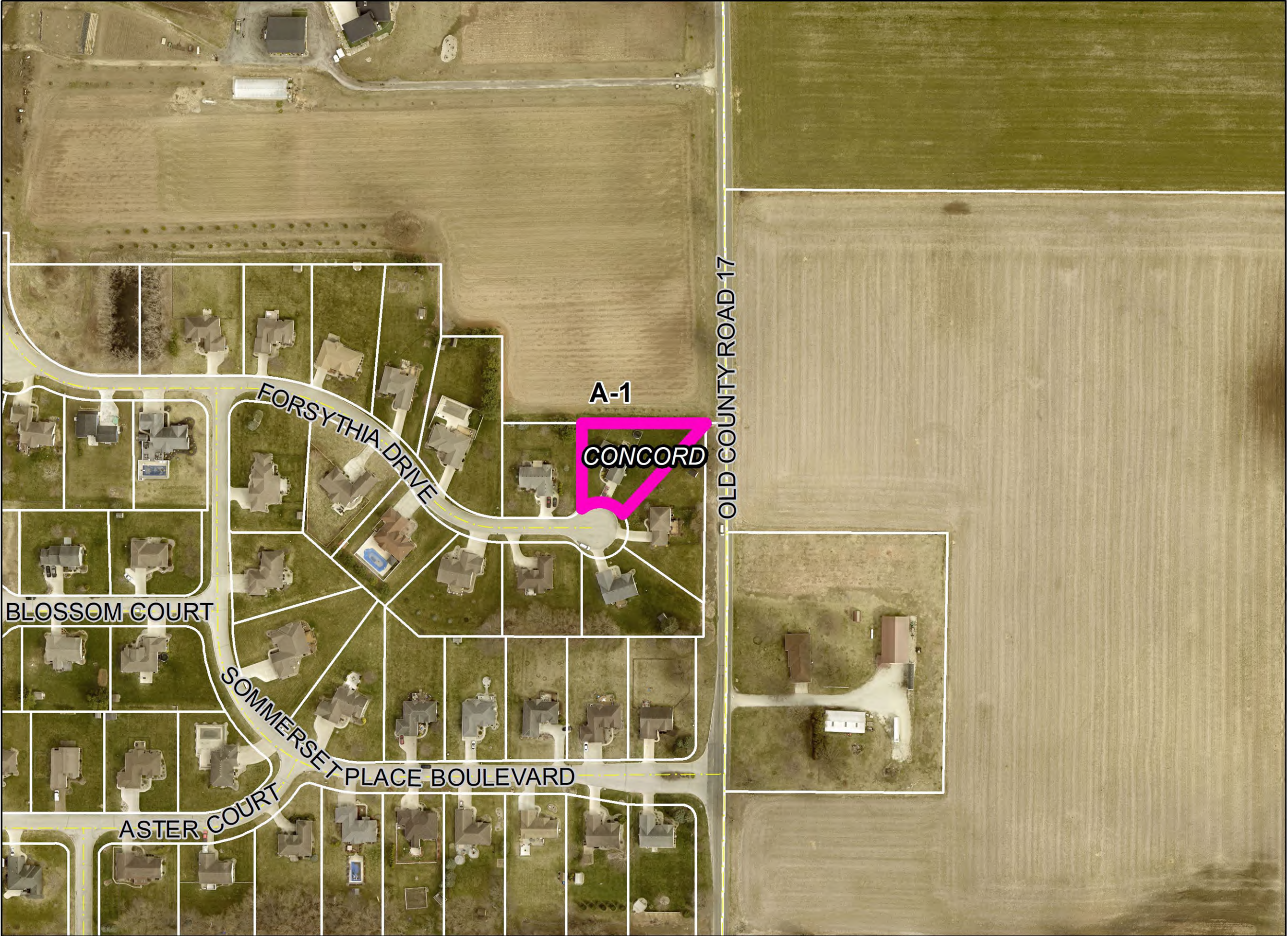
Staff recommends **APPROVAL** with the following condition(s) imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

Staff recommends **APPROVAL** with the following commitment(s) imposed:

1. The request is approved in accordance with the site plan submitted (dated 7/18/2024) and as represented in the Special Use application.
2. The request is limited to the hours of operation from Monday through Friday 8 a.m. to 5 p.m.
3. Parking of cars is limited to the driveway.

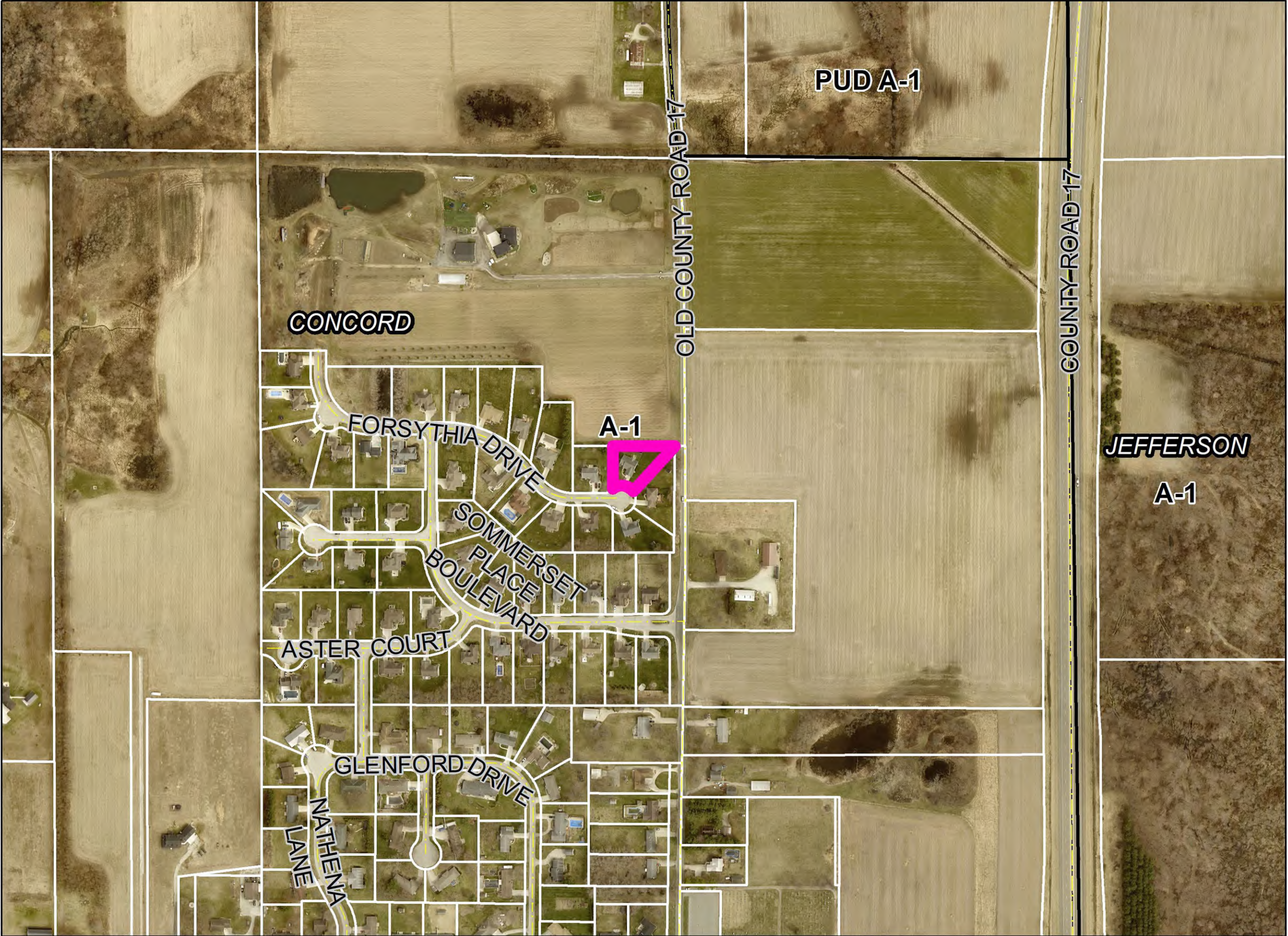




2021 Aerials

1 inch = 200 feet







Looking north towards subject property



Looking east



Looking west



Looking south

PLAN COMMISSION & BOARD OF ZONING APPEALS

Elkhart County Planning & Development
Public Services Building

4230 Elkhart Road, Goshen, Indiana, 46526

Phone - (574) 971-4678

Fax - (574) 971-4578

Special Use - Non Mobile Home

Date: 07/15/2024

Meeting Date: August 15, 2024
Board of Zoning Appeals Public Hearing

Transaction #: SUP-0494-2024

Description: for a Special Use for a home workshop/business for a auto detailing and tinting business

Contacts: Applicant

Anthony Rodriguez
22281 Forsythia Dr
Goshen, IN 46528

Authorized Agent

Anthony Rodriguez
22281 Forsythia Dr
Goshen, IN 46528

Land Owner

Enrique Rodriguez
22281 Forsythia Dr
Goshen, IN 465288329

Site Address: 22281 Forsythia Dr
GOSHEN, IN 46528

Parcel Number: 20-06-24-254-016.000-009

Township: Concord

Location: NORTH SIDE OF FORSYTHIA DRIVE, WEST OF SOMMERSET PLACE BLVD, 1650 FT NORTH OF CR 18

Subdivision: SOMMERSET PLACE SEC 2

Lot # 45

Lot Area: 0.52 Frontage: 67.31 Depth: 139.59

Zoning: A-1

NPO List: 07/30/2024

Present Use of Property: RESIDENTIAL DWELLING

Legal Description:

Comments: CODE-0322-2024
ME-R-1060-2023

Applicant Signature:

Department Signature:

Application

Site address: 22281 Forsythia Dr. Goshen, IN 46528

Parcel number(s): 20-06-24-254-016.000-009

Current property owner

Name: ~~Anthony Rodriguez~~ Enrique Rodriguez

Address: 22281 Forsythia Dr

Phone: ~~574-524-6582~~
574-206-6092 Email: _____

Other party ☐ Agent ☐ Buyer ☐ Land contract purchaser ☐ Lessee

Name: Anthony Rodriguez

Address: 22281 Forsythia Dr

Phone: 574-524-6582 Email: TONYRodriguez9218@gmail.com

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent: ER

Staff Use Only

Description: _____

Parcel creation date: _____

Subdivision required? ☐ Y ☐ N If yes, ☐ AS ☐ Minor ☐ Major

Residential accessory breakdown, if applicable: _____

Location: N S E W corner side end of _____,
_____ ft. N S E W of _____,
in _____ Township

Frontage: _____ **Depth:** _____ **Area:** _____ acres

Subdivision and lot number, if applicable: _____

Present use: _____

Special Use — Questionnaire

Name: 2 Customed

1) Tell us what you want to do. Tint windows, Detail vehicles, Customizations etc.

2) Tell us why this activity won't hurt your neighbors or the community. No mechanical work will be done so no super loud noises, we only tint one car at a time for max 6 hrs. most cars will have outside is 3 max waiting to get picked up

3) Is there a subdivision covenant that says you can't do this activity? ☐ Y ☒ N
If yes, does the subdivision have an active homeowners' association? ☐ Y ☒ N

4) Will the activity create noise, vibration, smoke, dust, odor, heat, or glare? ☒ Y ☐ N If yes, fill out below.
Tell us what will create those things. customer's car modifications, music, pressure washer, vacuum, any power tools we use
Tell us how you'll reduce the impact of those things on neighbors. Keep music low, tell customers to be quieter, only operate 8am - 10pm availability weeks 3-8pm Mon-Fri

5) Will there be buffering (fences, trees, shrubs, mounds)? ☐ Y ☒ N
If yes, tell us about it. _____

6) Does the property need well and septic? Well: ☐ Y ☒ N Septic: ☐ Y ☒ N
Does the property need a new septic system? ☐ Y ☒ N
If a new septic system is needed, did the Health Department say there's enough space for it? ☐ Y ☒ N

7) Will the activity use buildings or additions? ☐ Y ☒ N If yes, fill out below.
Building or addition 1 Existing? ☐ Y ☒ N Size and height to the peak: _____
Tell us what you'll use it for. _____
Building or addition 2 Existing? ☐ Y ☒ N Size and height to the peak: _____
Tell us what you'll use it for. _____
Building or addition 3 Existing? ☐ Y ☒ N Size and height to the peak: _____
Tell us what you'll use it for. _____

8) Does this application include animals? ☐ Y ☒ N
If yes, tell us what kind and how many of each. _____

Next page ➡

Special Use — Questionnaire

- 9) Does this application include a business or nonprofit (church, school, other) based all or in part on this property? ☒ Y ☐ N If yes, fill out below.

How many employees do you have now? Full time: 0 Part time: 2

How many employees do you want? Full time: 0 Part time: 2

How many of the employees won't live onsite? 1

What will be the days and hours of operation on this property? 8am through 10pm
MON - SUN

How many parking spaces do you have now? 7

How many parking spaces do you want? 7

Will there be outside storage or display areas on this property? ☐ Y ☒ N

If yes, tell us what will be stored outside or displayed. _____

Will there be retail sales on this property? ☐ Y ☒ N

If yes, tell us what will be sold. _____

Approximately how many customers (clients, guests, students, members) will be on this property per day?

Maximum 3 clients a day we don't usually get booked all day every day but most days maximum 3

Will there be pickups or deliveries on this property? ☒ Y ☐ N If yes, fill out below.

Tell us how often. everytime a customer drops and picks up a vehicle we work on

Tell us the kind of vehicles used. commercial cars sometimes sports cars

Does the application include signs? ☒ Y ☐ N If yes, fill out below.

Sign 1 Dimensions (length and width). _____

Existing? ☐ Y ☒ N Double faced? ☐ Y ☒ N

Electronic message board? ☐ Y ☒ N If no, lighted? ☐ Y ☒ N

Freestanding? ☒ Y ☐ N Wall mounted? ☐ Y ☒ N

Sign 2 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

Sign 3 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

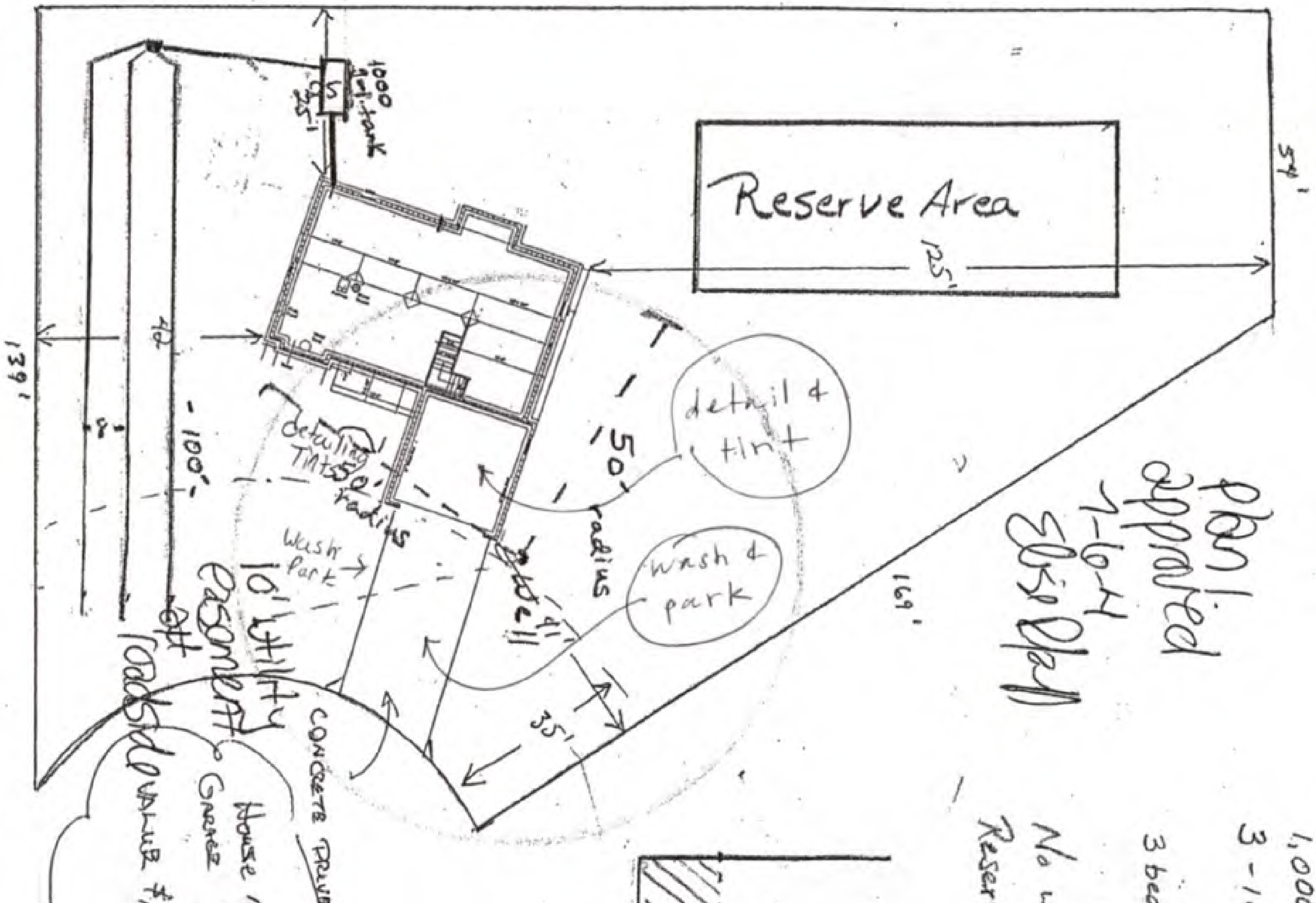
Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

- 10) Tell us anything else you want us to know. We are two owners of business but not put in paper how can we do this?

LOT # 45 FORESTHAW DR. SEEN

220'



plan 1.
approved
7-10-44
S. B. D. J.

1,000
3-1-
3 bec
No 4
Reser

BZA Staff Report

Prepared by the Department of Planning and Development

Hearing Date: August 15, 2024

Transaction Number: SUP-0446-2024.

Parcel Number(s): 20-08-17-279-001.000-034.

Existing Zoning: A-1.

Petition: for a Special Use for a home workshop/business for a concrete border business, for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, and for a Developmental Variance to allow for 7 outside employees (ordinance allows 4 employees).

Petitioner: Loren Stutzman & Joann Stutzman, Husband & Wife.

Location: East side of CR 35, 2,160 ft. South of US Highway 20, in Middlebury Township.

Site Description:

- Physical Improvement(s) – Residence, accessory structures.
- Proposed Improvement(s) – Outdoor (raw materials) storage area.
- Existing Land Use – Residential, agricultural.
- Surrounding Land Use – Residential, agricultural.

History and General Notes:

- **October 20, 1999** – BZA approved a developmental variance for a front setback (993986).

Staff Analysis:

for a Special Use for a home workshop/business for a concrete border business, staff finds that:

1. The Special Use will be consistent with the spirit, purpose, and intent of the Development Ordinance. A special use for a home workshop business is allowed in the A-1 zoning district.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a 2.00-acre property in a moderately dense residential and agricultural area, and the property will remain residential in character.
3. The Special Use will substantially serve the public convenience and welfare by providing a local concrete borders contractor.

BZA Staff Report (Continued)

Hearing Date: August 15, 2024

Staff recommends **APPROVAL** with the following condition(s) imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

Staff recommends **APPROVAL** with the following commitment(s) imposed:

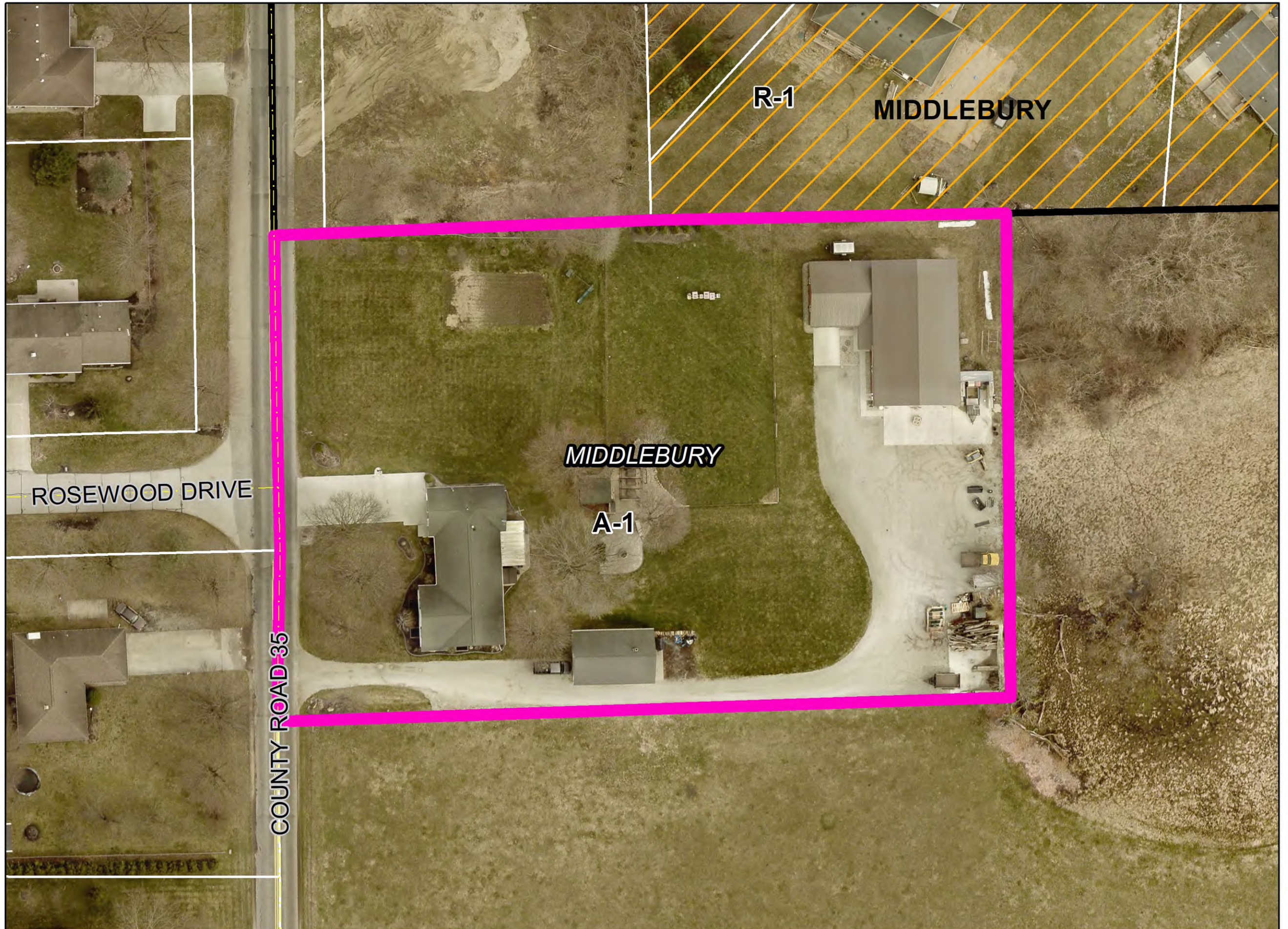
1. The request is approved in accordance with the site plan submitted 6/27/2024 and as represented in the Special Use application.

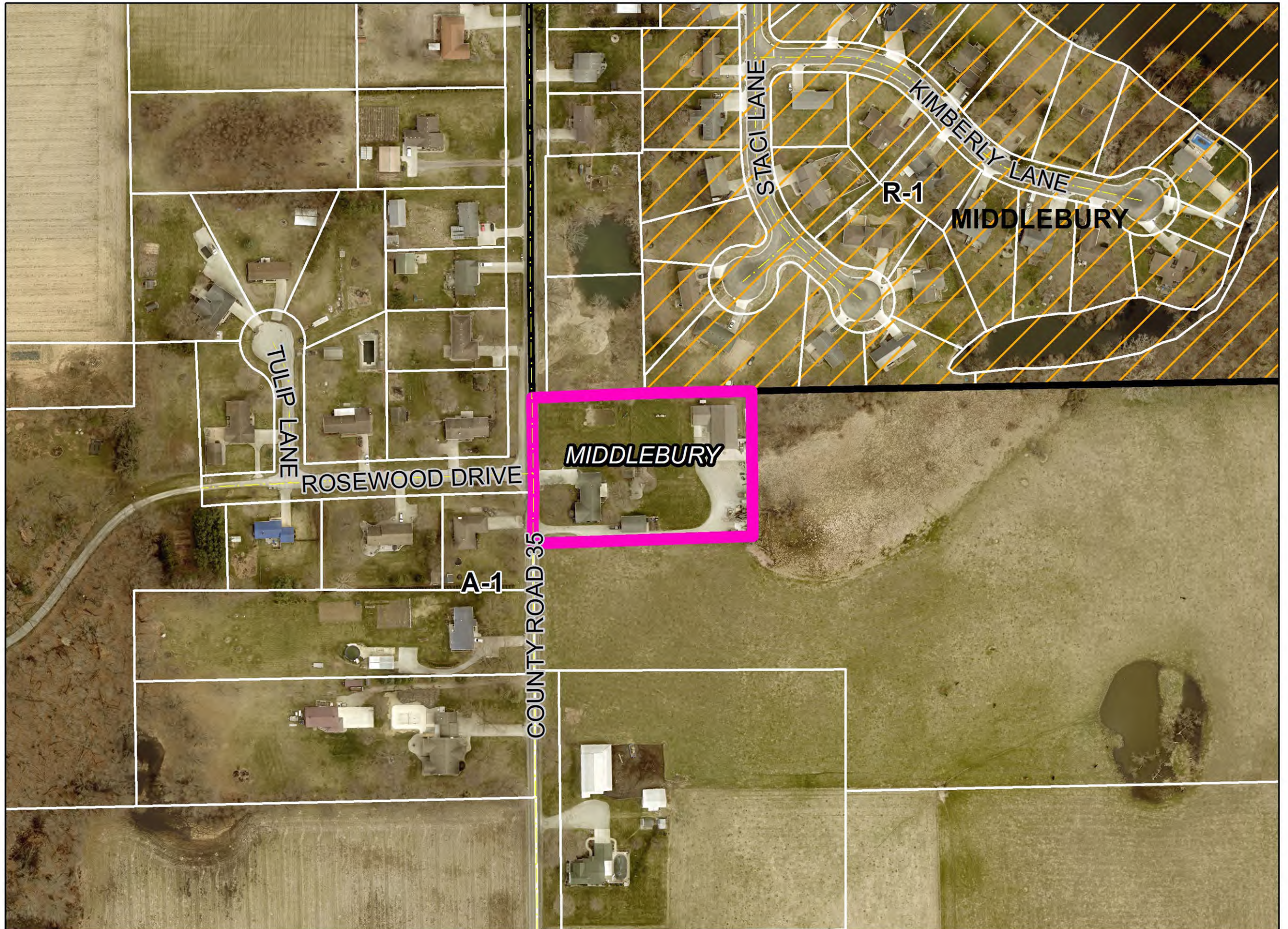
for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right and for a Developmental Variance to allow for 7 outside employees (ordinance allows 4 employees), staff finds that:

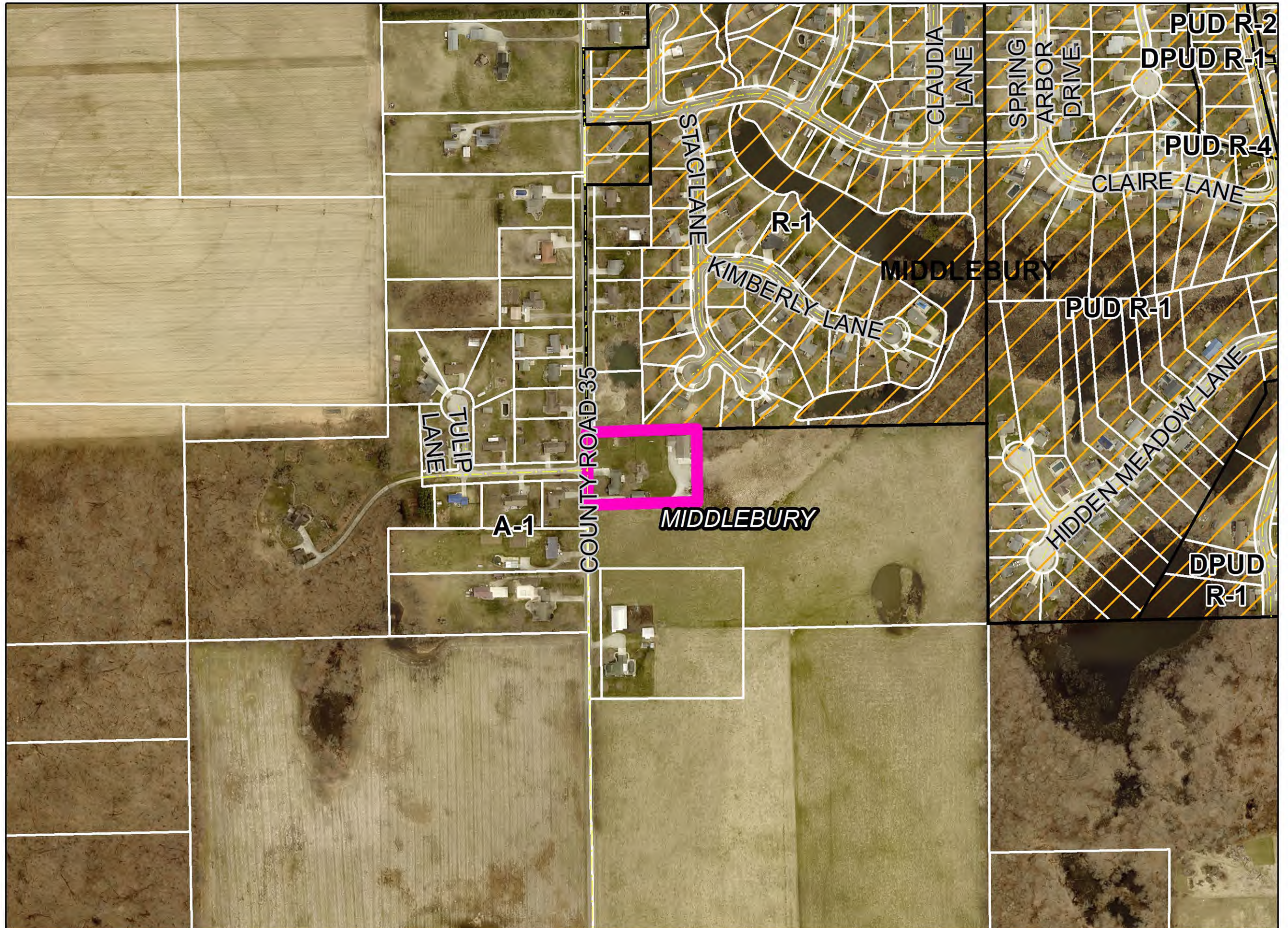
1. Approval of the requests will not be injurious to public health, safety, morals, or general welfare. The accessory structure for the home workshop business exists, is 349.6 sq. ft. or 7.3%, over what is allowed by right, and is in the rear of the property. There is adequate space for the additional employees to park on site.
2. Approval of the requests will not cause substantial adverse effect on neighboring property. This is a 2.00-acre property in a moderately dense residential and agricultural area, and the property will remain residential in character. There will be no customers, and nothing will be produced on site.
3. Strict application of the terms of the Development Ordinance would result in an unnecessary hardship in the use of the property. The existing structure allows for storage space for the proposed contractor business and the added employees allow for seasonal operations of the business.

Staff recommends **APPROVAL** with the following condition(s) imposed:

1. Variances from the developmental standards of the Development Ordinance are void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted 6/27/2024 and as represented in the Developmental Variance application.









Looking east toward subject property



Looking west



Looking north



Looking south

PLAN COMMISSION & BOARD OF ZONING APPEALS

Special Use - Non Mobile Home

**Elkhart County Planning & Development
Public Services Building**

4230 Elkhart Road, Goshen, Indiana, 46526

Phone - (574) 971-4678

Fax - (574) 971-4578

Date: 06/27/2024

Meeting Date:

August 15, 2024

Board of Zoning Appeals Public Hearing

Transaction #:

SUP-0446-2024

Description: for a Special Use for a home workshop/business for a concrete border business and for a Developmental Variance to allow for the total square footage of a accessory structures to exceed that allowed by right and a Developmental Variance to allow for 7 outside employees (Ordinance Allows 4 employees).

Contacts: ApplicantLand Owner

Loren Stutzman & Joann
Stutzman, Husband & W
57404 County Road 35
Middlebury, IN 46540

Loren Stutzman & Joann
Stutzman, Husband & W
57404 County Road 35
Middlebury, IN 46540

Site Address: 57404 Cr 35
MIDDLEBURY, IN 46540

Parcel Number: 20-08-17-279-001.000-034

Township: Middlebury

Location: EAST SIDE OF CR 35, 2,160 FT. SOUTH OF US HIGHWAY 20,.

Subdivision:

Lot #

Lot Area: 2.00 Frontage: 240.66 Depth: 337.00

Zoning: A-1

NPO List: 07/30/2024

Present Use of Property: RESIDENTIAL

Legal Description:

Comments: PARCEL CREATION DATE 3/1/1962
RESIDENTIAL DWELLING AREA 4,304 SQFT (FINISHED BASEMENT THAT IS NOT LISTED) X 110 % = 4,734.4 SQFT
MINUS POLE BARN 3,700 SQFT, SHED 100 SQFT, DETACHED GARAGE 900 SQFT, ATTACHED GARAGE 384 = -349.6
SQFT OF BUILDABLE STORAGE SPACE MINUS NEW PROPOSED STRUCTURE AND SQFT NONE AT THIS TIME =
349.6 SQFT OF LEFT OVER BUILDABLE AREA.

SEE PERMITS

ELEC-R-1394-2016, BR-0565-2016

993986 OCTOBER 20, 1999 FOR FRONT SETBACK VARIANCE FOR HOUSE.

Applicant Signature:

Department Signature:

Application

Site address: 57404 COUNTY ROAD 35 MIDDLEBURY IN 46540
Parcel number(s): 26-08-17-279-001.000-034

Current property owner

Name: LOREN JOANN STUTZMAN
Address: 57404 C.R. 35 MIDDLEBURY IN 46540
Phone: 574-361-9672 Email: CONCRETEBORDERS82@GMAIL.COM

Other party

☐ Agent ☐ Buyer ☐ Land contract purchaser ☐ Lessee

Name: _____
Address: _____
Phone: _____ Email: _____

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent: 

Staff Use Only

Description: FOR A SPECIAL USE FOR A HOME WORKSHOP/BUSINESS FOR A CONCRETE BORDERS BUSINESS & FOR A DEVELOPMENTAL VARIANCE TO ALLOW FOR THE TOTAL SQUARE FOOTAGE OF A ACCESSORY STRUCTURES TO EXCEED THAT ALLOWED BY RIGHT.

Parcel creation date: 3/1/02

Subdivision required? ☐ Y ☒ N If yes, ☐ AS ☐ Minor ☐ Major

Residential accessory breakdown, if applicable: SEE ATTACHED SHEET.

Location: N S (E) W corner (side) end of CR 35.
2,150 ft. N (S) E W of US HIGHWAY 20.
in MIDDLEBURY Township

Frontage: 241 FT. Depth: 337 FT. Area: 2 acres

Subdivision and lot number, if applicable: N/A

Present use: RESIDENTIAL
A-1 ZONE.

Special Use — Questionnaire

- 9) Does this application include a business or nonprofit (church, school, other) based all or in part on this property? ☒ Y ☐ N If yes, fill out below.

How many employees do you have now? Full time: 2 Part time: 4-5 SEASONAL

How many employees do you want? Full time: 0 Part time: 0

How many of the employees won't live onsite? ALL OF THEM

What will be the days and hours of operation on this property? MON - FRIDAY 7-4

How many parking spaces do you have now? 5-6

How many parking spaces do you want? 0

Will there be outside storage or display areas on this property? ☒ Y ☐ N

If yes, tell us what will be stored outside or displayed. THERE IS A STORAGE AREA

FOR SAND THAT IS SURROUNDED BY CONCRETE BARRICADES AND A

Will there be retail sales on this property? ☐ Y ☒ N COUPLE OF AREAS TO DUMP
If yes, tell us what will be sold. SOD UNTIL ITS HAULED AWAY

Approximately how many customers (clients, guests, students, members) will be on this property per day?

0

Will there be pickups or deliveries on this property? ☒ Y ☐ N If yes, fill out below.

Tell us how often. TRUCK LOAD OF SAND WEEKLY

Tell us the kind of vehicles used. DUMP TRUCKS

Does the application include signs? ☐ Y ☒ N If yes, fill out below.

Sign 1 Dimensions (length and width). 2FT X 3FT Rock.

Existing? ☒ Y ☐ N Double faced? ☐ Y ☒ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

Sign 2 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

Sign 3 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

- 10) Tell us anything else you want us to know. THIS BUILDING WAS BUILT IN 2016

PRIOR TO THAT (1995-2015) WE RENTED OR LEASED BUILDINGS

IN THE COMMUNITY TO OPERATE OUT OF - WORK VEHICLES
ARE PARKED INSIDE, LEAVE FOR JOB SITES IN THE MORNING
AND RETURN LATE AFTERNOON

Special Use — Questionnaire

Name: LOREN STUTZMAN CONCRETE BORDERS

1) Tell us what you want to do. HOME BASE FOR BUSINESS - CONCRETE BORDERS.

2) Tell us why this activity won't hurt your neighbors or the community. THIS IS A BUILDING FOR
STORING EQUIPMENT / MATERIAL - NOTHING IS PRODUCED ON
SITE AND CUSTOMERS DO NOT COME HERE - RAW MATERIALS
ARE LOADED IN THE MORNING

3) Is there a subdivision covenant that says you can't do this activity? ☐ Y ☒ N

If yes, does the subdivision have an active homeowners' association? ☐ Y ☐ N

4) Will the activity create noise, vibration, smoke, dust, odor, heat, or glare? ☒ Y ☐ N If yes, fill out below.

Tell us what will create those things. A SKID LOADER IS USED TO LOAD MATERIAL
ONCE A DAY IN THE MORNING OR AFTERNOON

Tell us how you'll reduce the impact of those things on neighbors. THE BUILDING ITSELF
ACTS AS A BUFFER TO THAT NOISE

5) Will there be buffering (fences, trees, shrubs, mounds)? ☒ Y ☐ N

If yes, tell us about it. THERE IS A FENCE AND THE BUILDING SITS
LOWER THAN THE NEIGHBORS PROPERTY

6) Does the property need well and septic? Well: ☐ Y ☒ N Septic: ☐ Y ☒ N

Does the property need a new septic system? ☐ Y ☒ N

If a new septic system is needed, did the Health Department say there's enough space for it? ☐ Y ☐ N

7) Will the activity use buildings or additions? ☒ Y ☐ N If yes, fill out below.

Building or addition 1 Existing? ☒ Y ☐ N Size and height to the peak: 40x65 - 22'

Tell us what you'll use it for. _____

Building or addition 2 Existing? ☐ Y ☐ N Size and height to the peak: _____

Tell us what you'll use it for. _____

Building or addition 3 Existing? ☐ Y ☐ N Size and height to the peak: _____

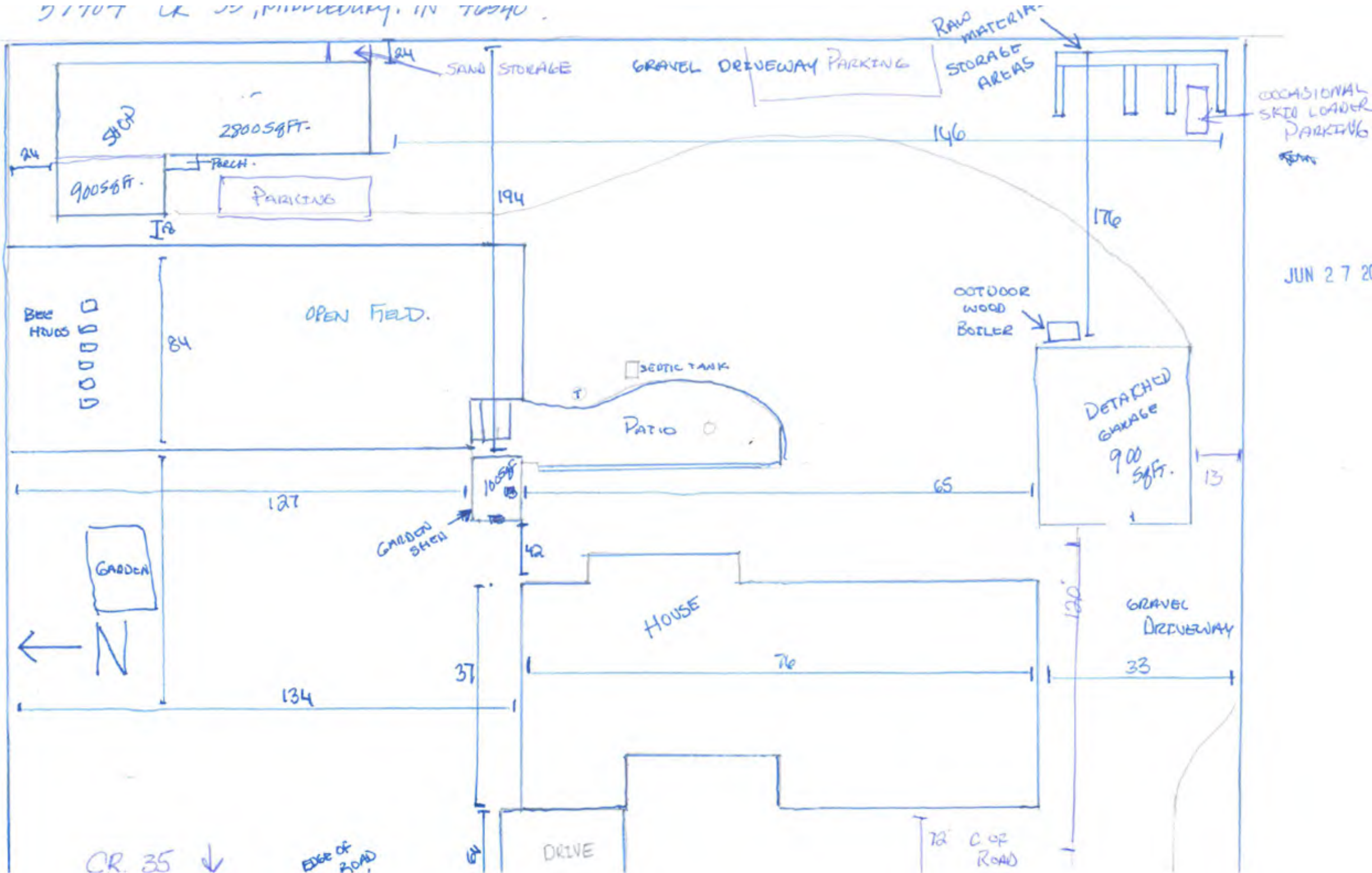
Tell us what you'll use it for. _____

8) Does this application include animals? ☐ Y ☒ N

If yes, tell us what kind and how many of each. _____

Next page ➡

57707 CR 35, MIDLAND, IN 46340



JUN 27 20

BZA Staff Report

Prepared by the Department of Planning and Development

Hearing Date: August 15, 2024

Transaction Number: SUP-0450-2024.

Parcel Number(s): 20-02-33-151-028.000-026.

Existing Zoning: R-2.

Petition: for a Special Use for a home workshop/business for a roofing business and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right.

Petitioner: Jose Olais & Lourdes Agustin Flores.

Location: West side of Conn Ave., 385 ft. North of Bristol St. (CR10), in Osolo Township.

Site Description:

- Physical Improvement(s) – Residence and accessory structures.
- Proposed Improvement(s) – Accessory structure.
- Existing Land Use – Residential, agricultural.
- Surrounding Land Use – Residential, agricultural.

History and General Notes:

- **November 14, 2018** – A complaint was received for having scrap metal, tires, debris, and outside storage as well as several inoperable vehicles (CODE-0598-2018).
- **April 17, 2019** – Code case was closed.

Staff Analysis:

for a Special Use for a home workshop/business for a roofing business, staff finds that:

1. The Special Use will be consistent with the spirit, purpose, and intent of the Development Ordinance. A special use for a home workshop business is allowed in the R-2 zoning district.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a 0.91-acre property in a moderately dense mixed-use area, and the property will remain residential in character.
3. The Special Use will substantially serve the public convenience and welfare by providing a local roofing contractor.

BZA Staff Report (Continued)

Hearing Date: August 15, 2024

Staff recommends **APPROVAL** with the following condition(s) imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

Staff recommends **APPROVAL** with the following commitment(s) imposed:

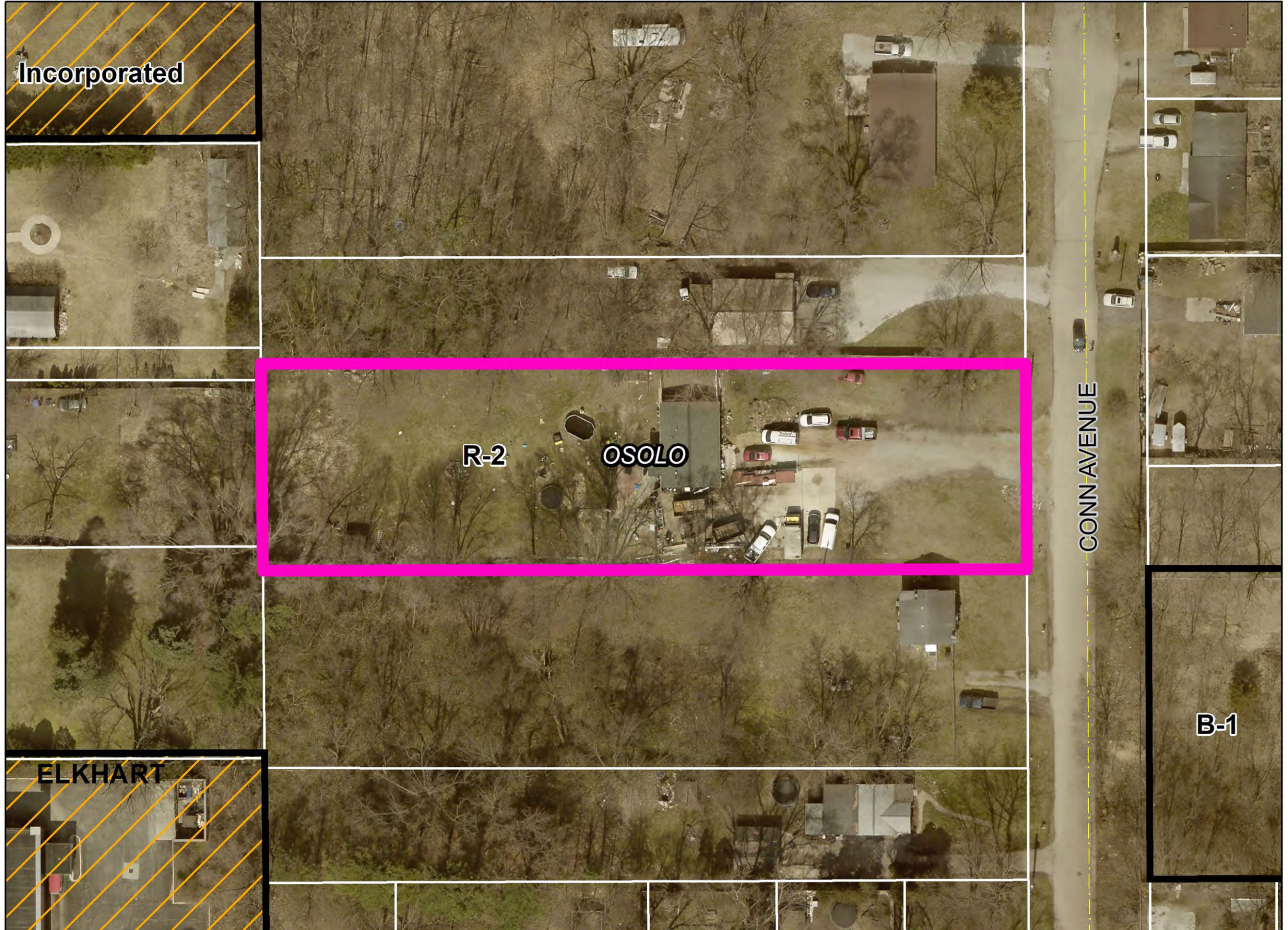
1. The request is approved in accordance with the site plan submitted 6/28/2024 and as represented in the Special Use application.

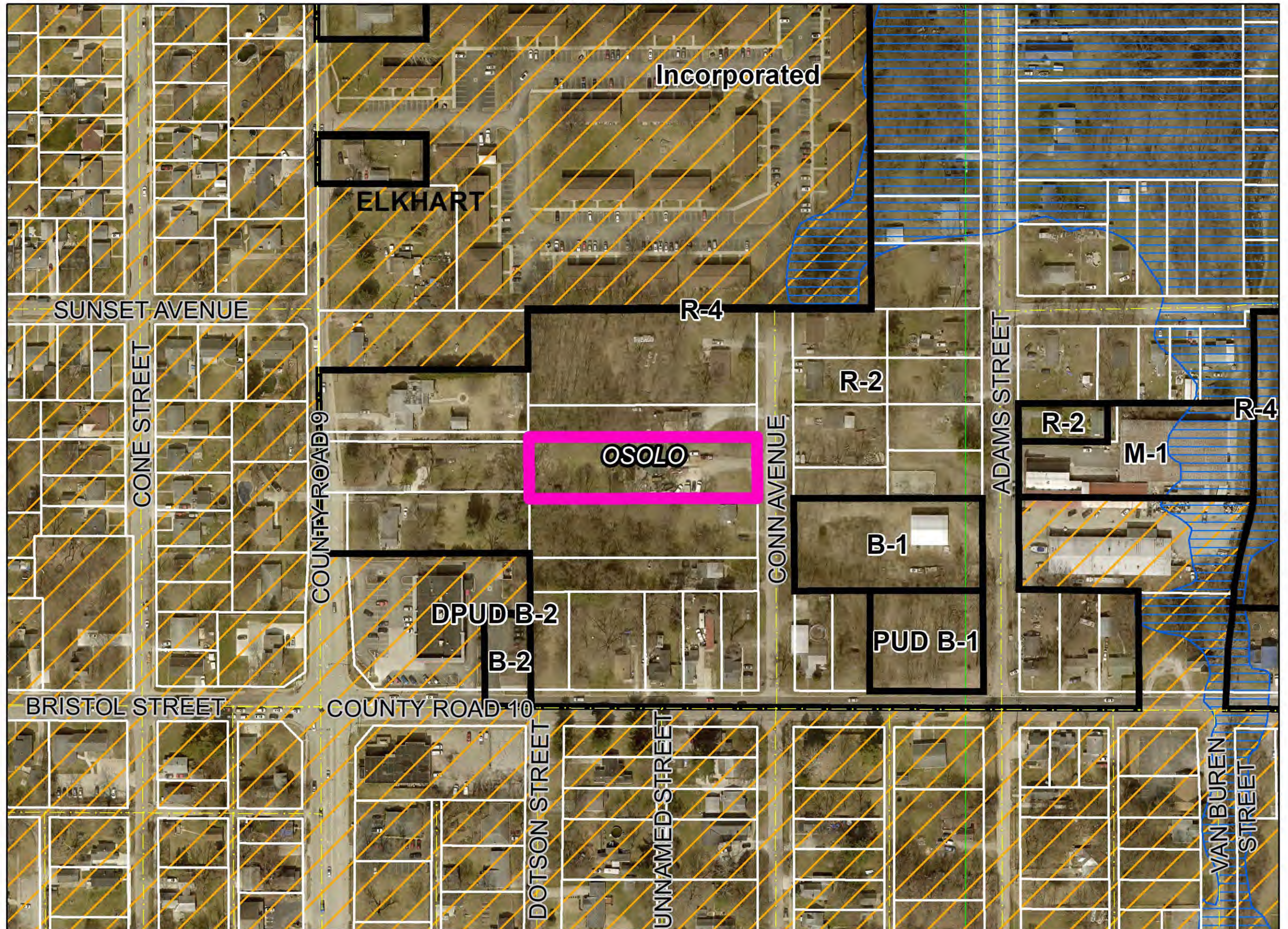
for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, staff finds that:

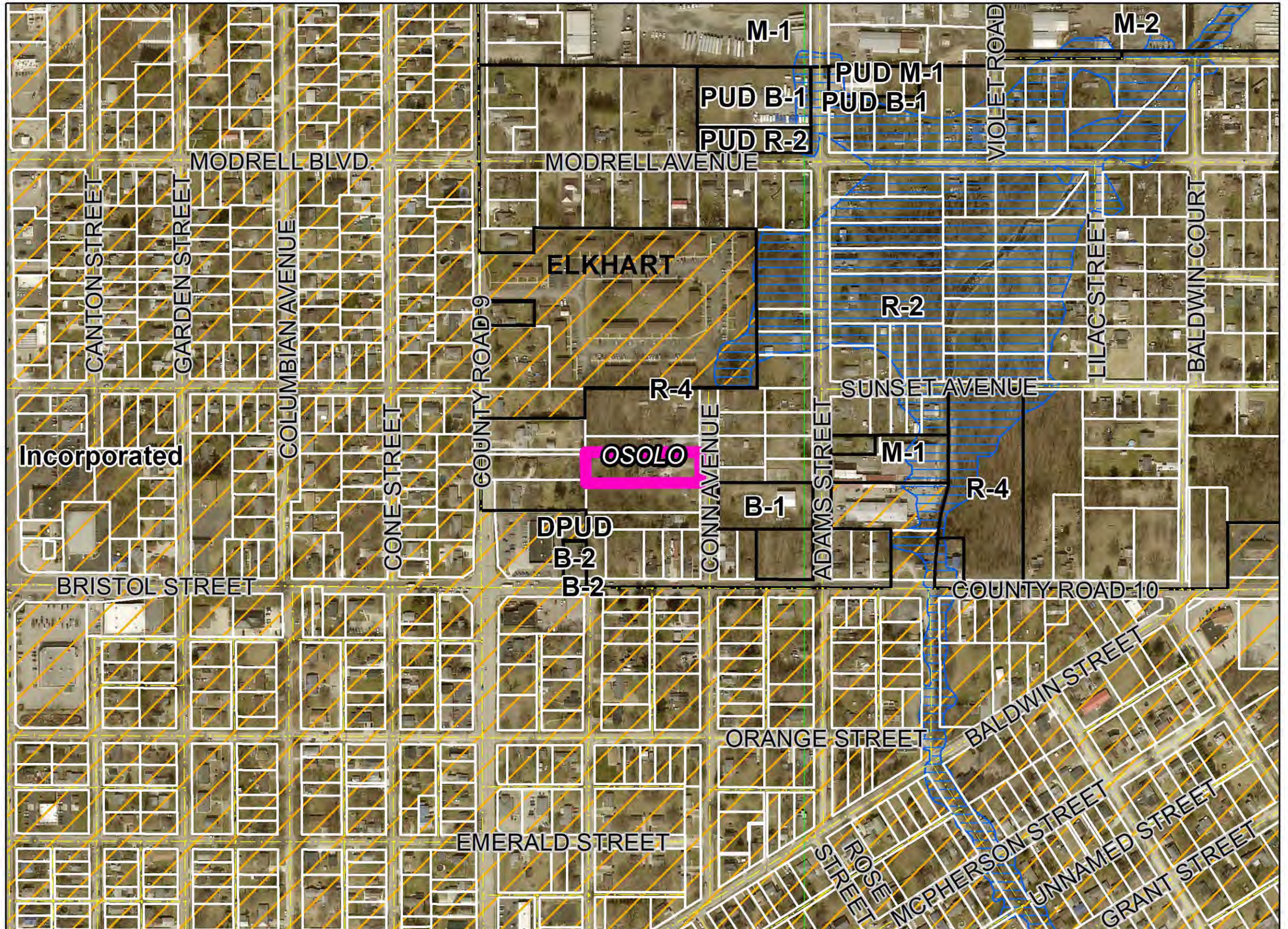
1. Approval of the requests will not be injurious to public health, safety, morals, or general welfare. The proposed accessory structure for the home workshop business is 429 sq. ft. or 36.1%, over what is allowed by right, and is in the rear of the property.
2. Approval of the requests will not cause substantial adverse effect on neighboring property. This is a 0.91-acre property in a moderately dense mixed-use area, and the property will remain residential in character. There will be no customers, and nothing will be produced on site.
3. Strict application of the terms of the Development Ordinance would result in an unnecessary hardship in the use of the property. The proposed structure reduces the need for outdoor storage.

Staff recommends **APPROVAL** with the following condition(s) imposed:

1. A variance from the developmental standards of the Development Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted 6/28/2024 and as represented in the Developmental Variance application.









Looking west toward subject property



Looking east



Looking north



Looking south

PLAN COMMISSION & BOARD OF ZONING APPEALS

Special Use - Non Mobile Home

**Elkhart County Planning & Development
Public Services Building**

4230 Elkhart Road, Goshen, Indiana, 46526

Phone - (574) 971-4678

Fax - (574) 971-4578

Date: 06/28/2024

Meeting Date:

August 15, 2024

Board of Zoning Appeals Public Hearing

Transaction #:

SUP-0450-2024

Description: for a Special Use for a home workshop/business for a roofing business and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right.

Contacts: ApplicantLand Owner

Jose Olais & Lourdes Agustin
Flores Olais
54431 Conn Ave.
Elkhart, IN 46514

Jose Olais & Lourdes Agustin
Flores Olais
54431 Conn Ave.
Elkhart, IN 46514

Site Address: 54431 Conn Ave
ELKHART, IN 46514

Parcel Number: 20-02-33-151-028.000-026

Township: Osolo

Location: WEST SIDE OF CONN AVE., 385 FEET NORTH OF BRISTOL STREET (CR 10)

Subdivision: ROSE LAWN

Lot # 18

Lot Area: 0.91 Frontage: 104.67 Depth: 377.00

Zoning: R-2

NPO List: 07/30/2024

Present Use of Property: RESIDENTIAL

Legal Description:

Comments: BR-2407-2018 (OPEN, EXPIRED), BR-0246-2022 (OPEN, EXPIRED), CODE-0598-2018 OUTSIDE STORAGE & DEBRIS. RESIDENTIAL DWELLING AREA 1,080 SQFT X 110% = 1,188 SQFT MINUS UTILITY SHED 64 SQFT, ATTACHED GARAGE 1,024 SQFT = 100 SQFT OF BUILDABLE STORAGE SPACE MINUS NEW PROPOSED STRUCTURE AND SQFT 23 X 23 = -429 SQFT OF LEFT OVER BUILDABLE AREA.

Applicant Signature:

Department Signature:

Application

Site address: 54431 CONN AVE. ELKHART, IN 46514.

Parcel number(s): 20-02-33-151-028.000-026.

Current property owner

Name: Jose Olais

Address: 54431 Conn Ave Elkhart IN 46514

Phone: 574 248-1306

Email: _____

Other party

☐ Agent

☐ Buyer

☐ Land contract purchaser

☐ Lessee

Name: _____

Address: _____

Phone: _____

Email: _____

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent: _____

Staff Use Only

R-2 ZONE.

Description: FOR A SPECIAL USE FOR A HOMEWORK SHOP / BUSINESS FOR A ROOFING CONTRACTING COMPANY + FOR A DEVELOPMENTAL VARIANCE TO ALLOW FOR THE TOTAL SQUARE FOOTAGE OF ACCESSORY STRUCTURES TO EXCEED THAT ALLOWED BY RIGHT.

Parcel creation date: N/A

Subdivision required?

☐ Y

☐ N

If yes,

☐ AS

☐ Minor

☐ Major

Residential accessory breakdown, if applicable:

SEE ATTACHED SHEET.

Location: N S E (W) corner (side) end of CONN AVE.

385

ft.

(N)

S E W

of

E. BRISTOL ST.

in OSOLO.

Township

Frontage: 104.67

Depth: 377 Ft.

Area: 0.906 acres

Subdivision and lot number, if applicable:

ROSE LANN LOT 18.

Present use: RESIDENCE.

Special Use — Questionnaire

Name: _____

1) Tell us what you want to do.

Storage / For BUSINESS.
ing

2) Tell us why this activity won't hurt your neighbors or the community.

I Have a good
Relationship with my neighbors

3) Is there a subdivision covenant that says you can't do this activity? ☐ Y ☒ N

If yes, does the subdivision have an active homeowners' association? ☐ Y ☐ N

4) Will the activity create noise, vibration, smoke, dust, odor, heat, or glare? ☐ Y ☒ N If yes, fill out below.

Tell us what will create those things. _____

Tell us how you'll reduce the impact of those things on neighbors. _____

5) Will there be buffering (fences, trees, shrubs, mounds)? ☐ Y ☒ N

If yes, tell us about it. _____

6) Does the property need well and septic? Well: ☐ Y ☒ N Septic: ☐ Y ☒ N

Does the property need a new septic system? ☐ Y ☒ N

If a new septic system is needed, did the Health Department say there's enough space for it? ☐ Y ☒ N

7) Will the activity use buildings or additions? ☒ Y ☐ N If yes, fill out below.

Building or addition 1 Existing? ☐ Y ☒ N Size and height to the peak: 23x23x11 ^{ft ft.}

Tell us what you'll use it for. Storage of tools

Building or addition 2 Existing? ☐ Y ☐ N Size and height to the peak: _____

Tell us what you'll use it for. _____

Building or addition 3 Existing? ☐ Y ☐ N Size and height to the peak: _____

Tell us what you'll use it for. _____

8) Does this application include animals? ☐ Y ☒ N

If yes, tell us what kind and how many of each. _____

Next page ➡

Special Use — Questionnaire

- 9) Does this application include a business or nonprofit (church, school, other) based all or in part on this property? ☒ Y ☒ N If yes, fill out below.

How many employees do you have now? Full time: 4 Part time: _____

How many employees do you want? Full time: _____ Part time: _____

How many of the employees won't live onsite? 2

What will be the days and hours of operation on this property? M-F 6am - 8pm

How many parking spaces do you have now? 6

How many parking spaces do you want? _____

Will there be outside storage or display areas on this property? ☐ Y ☒ N

If yes, tell us what will be stored outside or displayed. _____

Will there be retail sales on this property? ☐ Y ☒ N

If yes, tell us what will be sold. _____

Approximately how many customers (clients, guests, students, members) will be on this property per day?

None

Will there be pickups or deliveries on this property? ☐ Y ☒ N If yes, fill out below.

Tell us how often. _____

Tell us the kind of vehicles used. _____

Does the application include signs? ☐ Y ☒ N If yes, fill out below.

Sign 1 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

Sign 2 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

Sign 3 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

- 10) Tell us anything else you want us to know. _____

Application

Site address: 54431 Conn Av. Elkhart, IN.

Parcel number(s): _____

Current property owner

Name: Jose Olais.

Address: 54431 Conn Av. Elkhart, IN.

Phone: 574 240/306. Email: _____

Other party

☐ Agent ☐ Buyer ☐ Land contract purchaser ☐ Lessee

Name: _____

Address: _____

Phone: _____ Email: _____

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent: Jose Olais.

Staff Use Only

Description: SEE SPECIAL USE PAPER WORK.

Parcel creation date: _____

Subdivision required? ☐ Y ☐ N If yes, ☐ AS ☐ Minor ☐ Major

Residential accessory breakdown, if applicable: _____

Location: N S E W corner side end of _____
_____ ft. N S E W of _____,
in _____ Township

Frontage: _____ Depth: _____ Area: _____ acres

Subdivision and lot number, if applicable: _____

Present use: _____

Developmental Variance — Questionnaire

Name:

Joze Olais,

1) Tell us what you want to do.

pole barn

2) Tell us why you can't change what you're doing so you don't need a variance.

3) Tell us why the variance won't hurt your neighbors or the community.

good relationship

4) Does the property need well and septic? Well: ☐ Y ☒ N Septic: ☐ Y ☒ N

Does the property need a new septic system? ☐ Y ☒ N

If a new septic system is needed, did the Health Department say there's enough space for it? ☐ Y ☐ N

5) Does the application include variances to allow for buildings or additions? ☒ Y ☐ N If yes, fill out below.

Building or addition 1

Size and height to the peak: 23x23x11

Tell us what you'll use it for.

shop

Building or addition 2

Size and height to the peak:

Tell us what you'll use it for.

Building or addition 3

Size and height to the peak:

Tell us what you'll use it for.

6) Does the application include a variance for a residence on property with no road frontage? ☐ Y ☒ N

If yes, fill out below.

Is the easement existing? ☐ Y ☐ N If the easement is existing, is it recorded? ☐ Y ☐ N

Tell us who owns (will own) the land under the easement.

Tell us how many parcels will use the easement.

7) Does the application include variances for signs? ☐ Y ☒ N If yes, fill out below.

Sign 1 Dimensions (length and width):

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

Sign 2 Dimensions (length and width):

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

Sign 3 Dimensions (length and width):

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

8) Does the application include a variance for parking spaces? ☐ Y ☒ N

If yes, tell us how many total there will be.

9) Tell us anything else you want us to know.

JUN 28 2024

102.158

W

N

377.30

46 ft
House

19'

39 ft
Fence line

150 ft

29 ft

74 ft
Fence line

23'

41' apart from House

23' x 23'
pole barn

6' Fence line

Parking Area

919

49'
From Driveway to Fence line

104.67

E

Down Ave

BZA Staff Report

Prepared by the Department of Planning and Development

Hearing Date: August 15, 2024

Transaction Number: SUP-0488-2024.

Parcel Number(s): 20-03-26-426-001.000-030.

Existing Zoning: A-1.

Petition: for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right.

Petitioner: David D. Sommers & Anna M. Sommers, Husband & Wife.

Location: South side of CR 8, 1,300 ft. West of CR 27, in Washington Township.

Site Description:

- Physical Improvement(s) – Residence and accessory structures.
- Proposed Improvement(s) – Accessory structure.
- Existing Land Use – Residential, agricultural.
- Surrounding Land Use – Residential, agricultural.

History and General Notes:

- None.

Staff Analysis:

for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres, staff finds that:

1. The Special Use will be consistent with the spirit, purpose, and intent of the Zoning Ordinance. A Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres is allowed in the A-1 zone.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a 2.99-acre property in a low density residential and agricultural area, and the property will remain residential and agricultural in character.
3. The Special Use will substantially serve the public convenience and welfare by providing local transportation options.

BZA Staff Report (Continued)

Hearing Date: August 15, 2024

Staff recommends **APPROVAL** with the following condition(s) imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

Staff recommends **APPROVAL** with the following commitment(s) imposed:

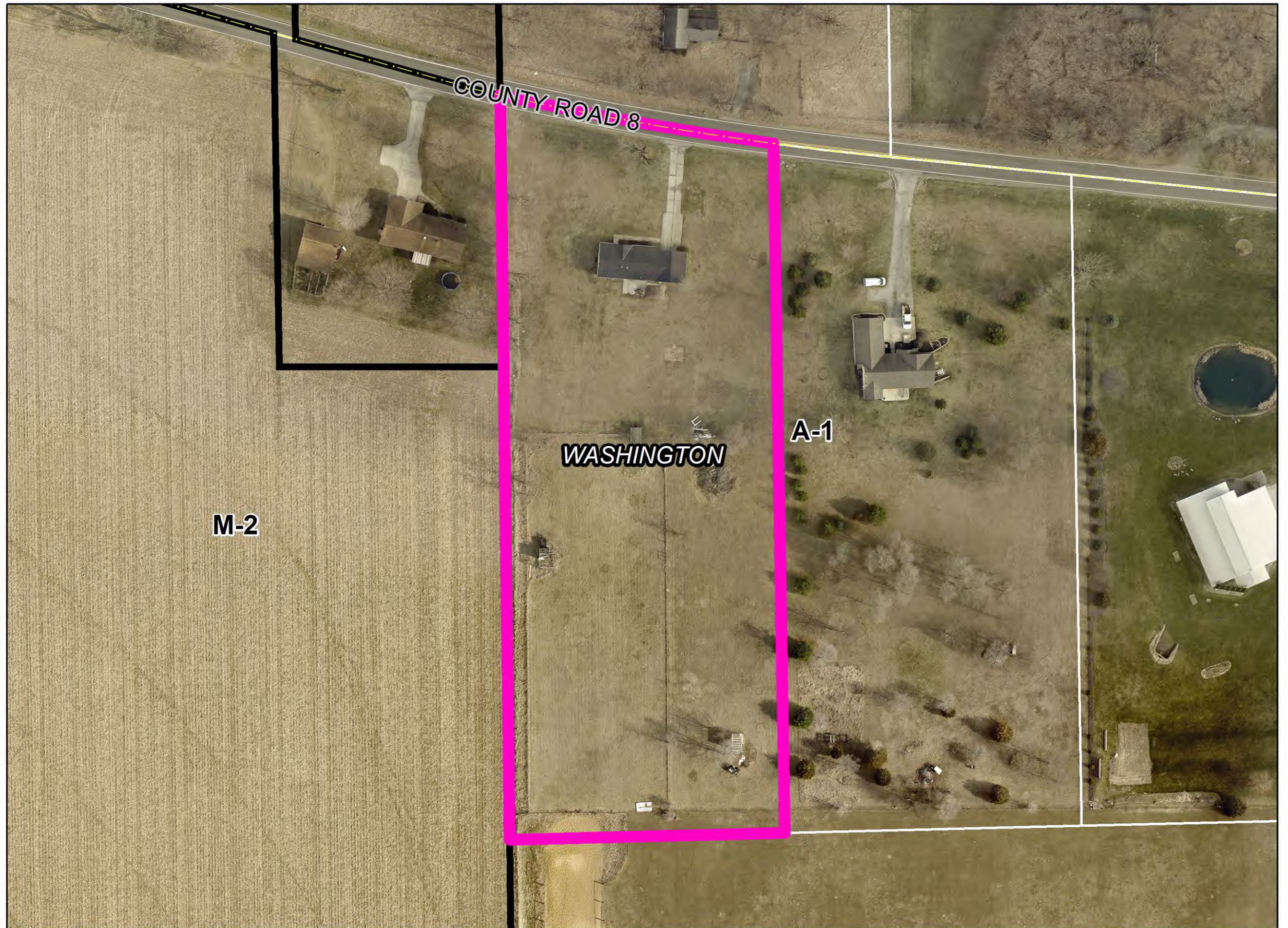
1. The request is approved in accordance with the site plan submitted 7/15/2024 and as represented in the Special Use application.
2. The request is limited to a maximum of one (1) adult horse at any one time.

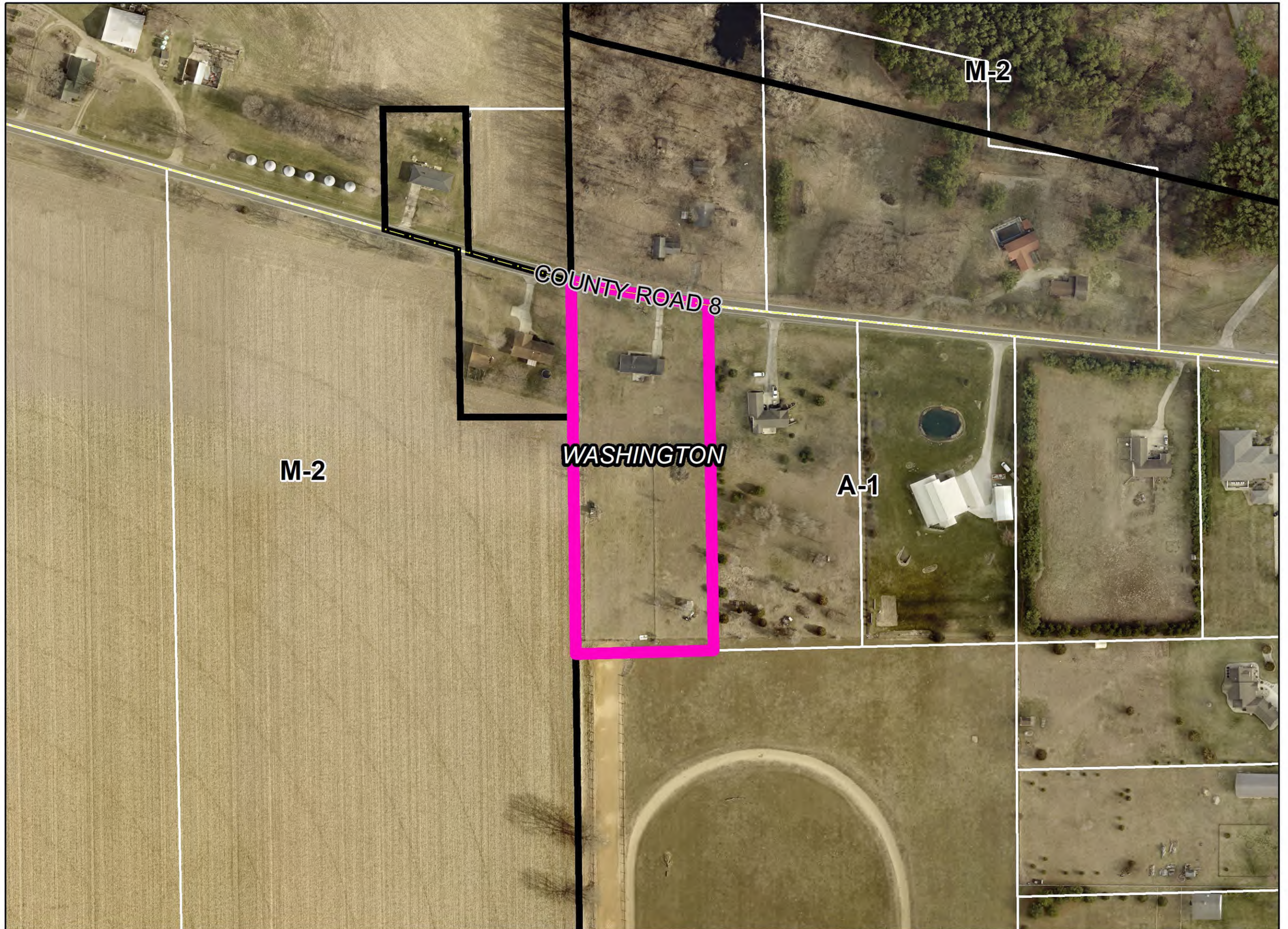
for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, staff finds that:

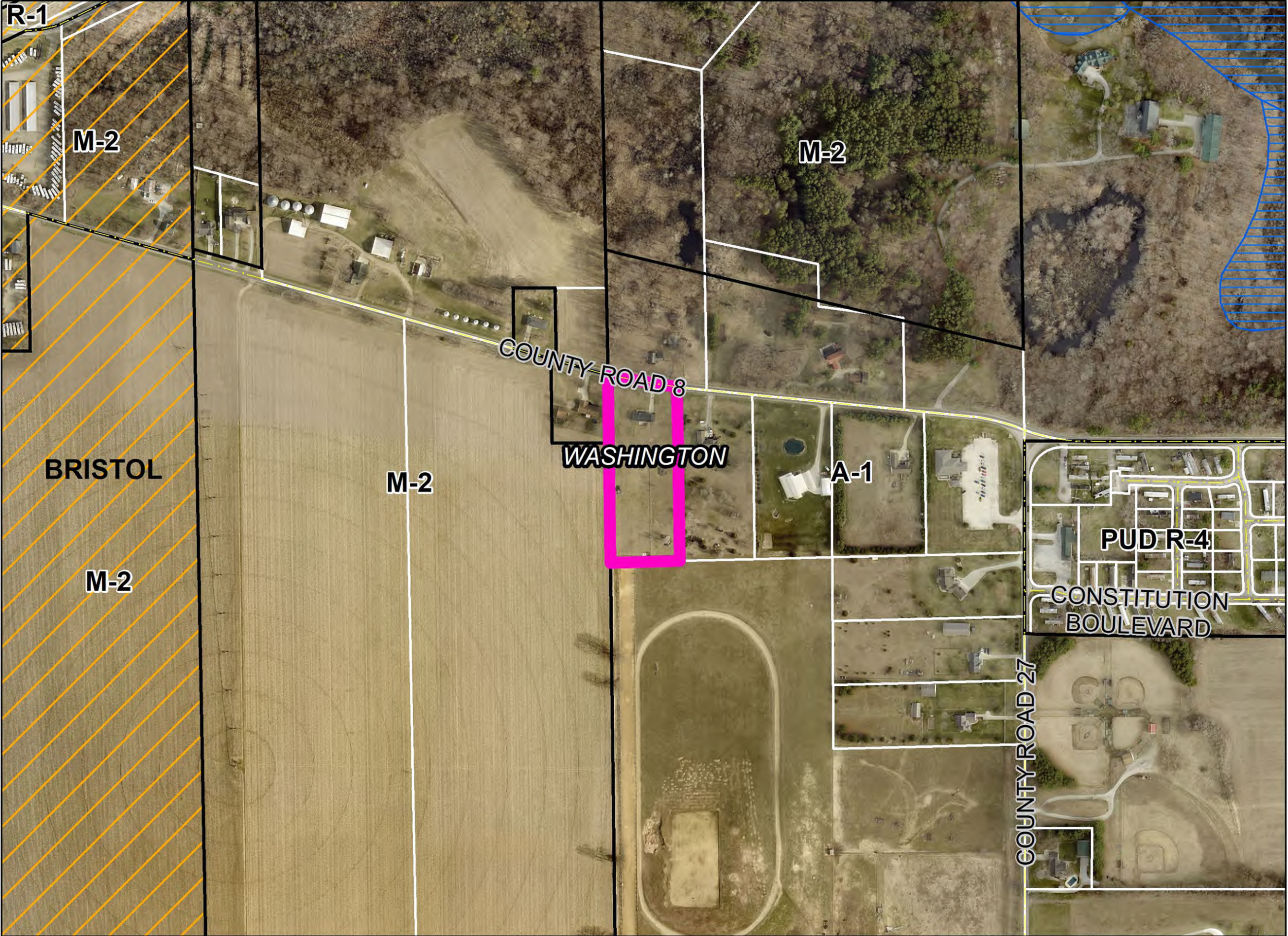
1. Approval of the request will not be injurious to public health, safety, morals, or general welfare. The request is 629 sq. ft. or 45.5% over what is allowed by right and larger accessory structures are common in the A-1 zoning district.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a 2.99-acre property in a low density residential and agricultural area, and the property will remain residential and agricultural in character.
3. Strict application of the terms of the Development Ordinance would result in an unnecessary hardship in the use of the property. The proposed structure would eliminate the need for outside storage.

Staff recommends **APPROVAL** with the following condition(s) imposed:

1. A variance from the developmental standards of the Development Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted 7/15/2024 and as represented in the Developmental Variance application.









Looking south toward subject property



Looking north



Looking east



Looking west

PLAN COMMISSION & BOARD OF ZONING APPEALS

Special Use - Non Mobile Home

**Elkhart County Planning & Development
Public Services Building**

4230 Elkhart Road, Goshen, Indiana, 46526

Phone - (574) 971-4678

Fax - (574) 971-4578

Date: 07/15/2024 Meeting Date: August 15, 2024
Board of Zoning Appeals Public Hearing Transaction #: SUP-0488-2024

Description: for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres
and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that
allowed by right

Contacts: <u>Applicant</u>	<u>Land Owner</u>
David D Sommers & Anna M Sommers, Husband And Wife 17240 County Road 8 Bristol, IN 46507	David D Sommers & Anna M Sommers, Husband And Wife 17240 County Road 8 Bristol, IN 46507

Site Address: 17240 Cr 8
BRISTOL, IN 46507

Parcel Number: 20-03-26-426-001.000-030

Township: Washington
Location: SOUTH SIDE OF CR 8, 1,300 FEET WEST OF CR 27

Subdivision: Lot #

Lot Area: 2.99 Frontage: 229.39 Depth: 595.00

Zoning: A-1 NPO List: 07/30/2024

Present Use of Property: RESIDENTIAL

Legal Description:

Comments: PARCEL CREATION DATE IS 6/28/2000
RESIDENCE = 1,256 SQ F6 X 110% = 1,381 SQ FT, MINUS 582 (GARAGE), 72 (SHED), MINUS 176 (SHED), NEW
PROPOSED BUILDING IS 32 X 40, (10 X 10 WILL BE FOR AG USE), 1,180 (PERSONAL STORAGE), LEAVES AN
OVERAGE OF 629 SQ FT
PROPERTY OWNER STATES THERE ARE NO SHEDS ON THE PROPERTY

Applicant Signature:

Department Signature:

Application

Site address: 20-03-26-426-001.000-030.

Parcel number(s): 17240 CR8. BRISTOL, IN 46507.

Current property owner

Name: David D. Sommers

Address: 14630 County Rd 38, Goshen, IN 46528

Phone: 260-350-7265

Email: mlidavidsommers@gmail.com

Other party

☐ Agent

☐ Buyer

☐ Land contract purchaser

☐ Lessee

Name: _____

Address: _____

Phone: _____

Email: _____

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent: David Sommers

Staff Use Only

Description: for a Special Use for an agricultural use for
keeping (animals) on a tract of land less than 3
acres.

Parcel creation date: 06-28-2000. ZONE A-1

Subdivision required? ☐ Y ☒ N If yes, ☐ AS ☐ Minor ☐ Major

* Residential accessory breakdown, if applicable: 1256 x 110' = 1381.72 (shed) -
176 (shed) = 1,133 available - 1180 for personal storage = 47 ft overage
582 (Garage)

Location: N S E W corner side end of CR8.
1,220 ft. N S E W of CR 27.

in WASHINGTON Township

Frontage: 247.11 Depth: 595. Area: 2.99 acres

Subdivision and lot number, if applicable: N/A.

Present use: RESIDENTIAL

32x40 proposed = 1,280 (100 for Ag use) =
10x10

Special Use — Questionnaire

Name: David D. Sommers

1) Tell us what you want to do. Build a Pole Building for storage and shelter for my horse.

2) Tell us why this activity won't hurt your neighbors or the community. It will keep my backyard cleaned up so the neighbors won't have to see a clutter.

3) Is there a subdivision covenant that says you can't do this activity? ☐ Y ☒ N
If yes, does the subdivision have an active homeowners' association? ☐ Y ☐ N

4) Will the activity create noise, vibration, smoke, dust, odor, heat, or glare? ☐ Y ☒ N If yes, fill out below.
Tell us what will create those things. _____

Tell us how you'll reduce the impact of those things on neighbors. _____

5) Will there be buffering (fences, trees, shrubs, mounds)? ☐ Y ☒ N
If yes, tell us about it. _____

6) Does the property need well and septic? Well: ☐ Y ☒ N Septic: ☐ Y ☒ N
Does the property need a new septic system? ☐ Y ☒ N
If a new septic system is needed, did the Health Department say there's enough space for it? ☐ Y ☐ N

7) Will the activity use buildings or additions? ☒ Y ☐ N If yes, fill out below.

Building or addition 1 Existing? ☐ Y ☒ N Size and height to the peak: 32x40x17

Tell us what you'll use it for. Storage and Shelter for my horse.

Building or addition 2 Existing? ☐ Y ☐ N Size and height to the peak: _____

Tell us what you'll use it for. _____

Building or addition 3 Existing? ☐ Y ☐ N Size and height to the peak: _____

Tell us what you'll use it for. _____

8) Does this application include animals? ☒ Y ☐ N

If yes, tell us what kind and how many of each. 1 horse that I need for transportation

Next page ➡

Special Use — Questionnaire

9) Does this application include a business or nonprofit (church, school, other) based all or in part on this property? ☐ Y ☒ N If yes, fill out below.

How many employees do you have now? Full time: _____ Part time: _____

How many employees do you want? Full time: _____ Part time: _____

How many of the employees won't live onsite? _____

What will be the days and hours of operation on this property? _____

How many parking spaces do you have now? _____

How many parking spaces do you want? _____

Will there be outside storage or display areas on this property? ☐ Y ☐ N

If yes, tell us what will be stored outside or displayed. _____

Will there be retail sales on this property? ☐ Y ☒ N

If yes, tell us what will be sold. _____

Approximately how many customers (clients, guests, students, members) will be on this property per day? _____

Will there be pickups or deliveries on this property? ☐ Y ☒ N If yes, fill out below.

Tell us how often. _____

Tell us the kind of vehicles used. _____

Does the application include signs? ☐ Y ☒ N If yes, fill out below.

Sign 1 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

Sign 2 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

Sign 3 Dimensions (length and width). _____

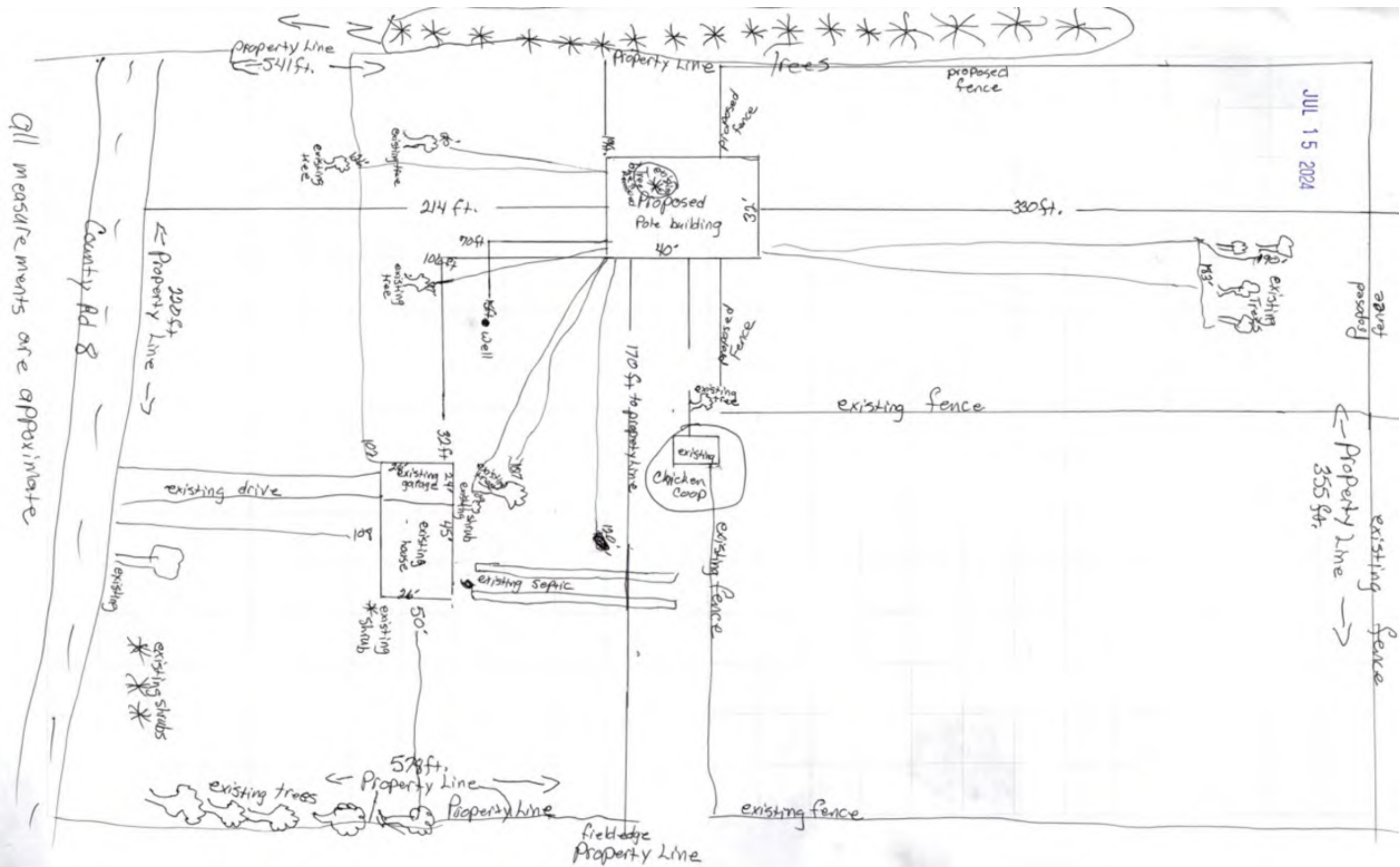
Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

10) Tell us anything else you want us to know. _____

JUL 15 2024



BZA Staff Report

Prepared by the Department of Planning and Development

Hearing Date: August 15, 2024

Transaction Number: SUP-0489-2024.

Parcel Number(s): 20-04-36-400-012.000-032.

Existing Zoning: A-1.

Petition: for a Special Use for a home workshop/business for a retail store and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right.

Petitioner: Verle J. Yoder & Malinda Yoder, Husband & Wife (Sellers) & Joas J. Miller & Freda Miller, Husband & Wife (Buyers).

Location: Southeast corner of CR 43 & CR 10, in York Township.

Site Description:

- Physical Improvement(s) – Residence and accessory structures.
- Proposed Improvement(s) – Accessory structure.
- Existing Land Use – Residential, agricultural.
- Surrounding Land Use – Residential, agricultural.

History and General Notes:

- None.

Staff Analysis:

for a Special Use for a home workshop/business for a retail store, staff finds that:

1. The Special Use will be consistent with the spirit, purpose, and intent of the Development Ordinance. A special use for a home workshop business for a retail store is allowed in the A-1 zoning district.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a 7.79-acre property in a low density residential and agricultural area, and the property will remain residential and agricultural in character.
3. The Special Use will substantially serve the public convenience and welfare by providing a local fabric and clothing supplier.

BZA Staff Report (Continued)

Hearing Date: August 15, 2024

Staff recommends **APPROVAL** with the following condition(s) imposed:

1. The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded, and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.

Staff recommends **APPROVAL** with the following commitment(s) imposed:

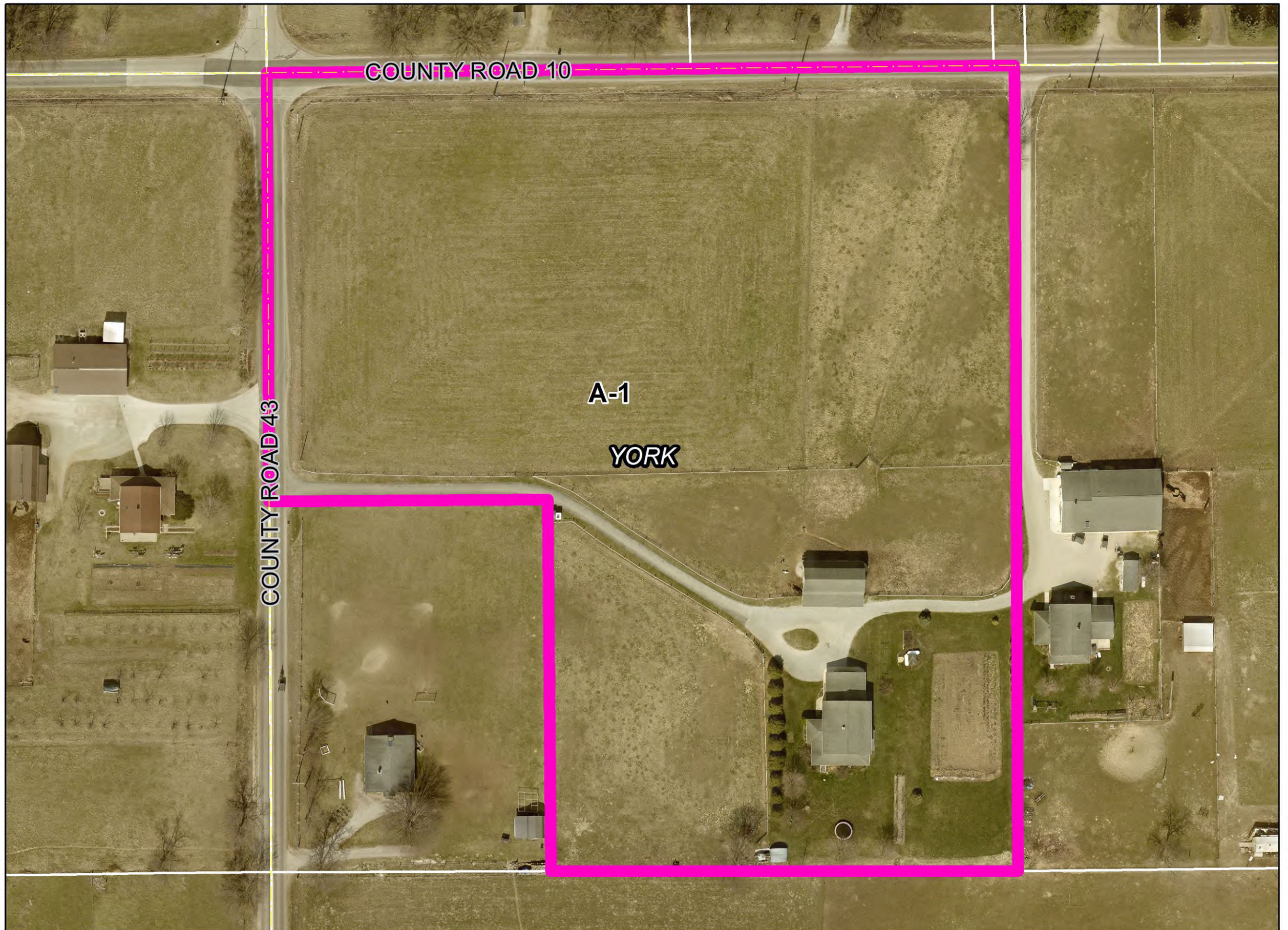
1. The request is approved in accordance with the site plan submitted 7/15/2024 and as represented in the Special Use application.
2. Any expansions will require a DPUD.

For a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, staff finds that:

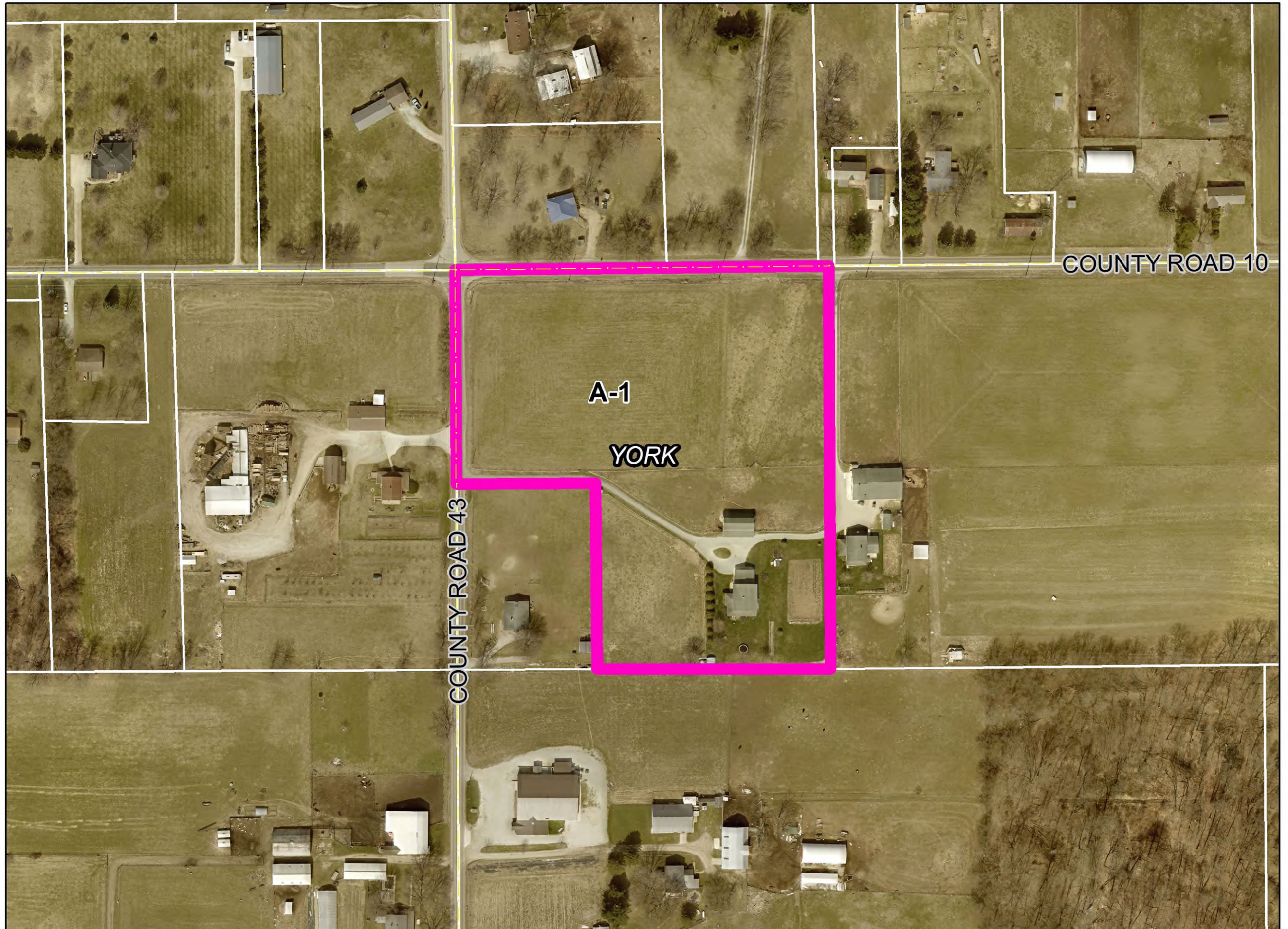
1. Approval of the request will not be injurious to public health, safety, morals, or general welfare. The request is 240 sq. ft. or 3% over what is allowed by right and larger accessory structures are common in the A-1 zoning district.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a 7.79-acre property in a low density residential and agricultural area, and the property will remain residential and agricultural in character.
3. Strict application of the terms of the Development Ordinance would result in an unnecessary hardship in the use of the property. The proposed structure would eliminate the need for outside storage.

Staff recommends **APPROVAL** with the following condition(s) imposed:

1. A variance from the developmental standards of the Development Ordinance is void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted 7/15/2024 and as represented in the Developmental Variance application.



SUP-0489-2024



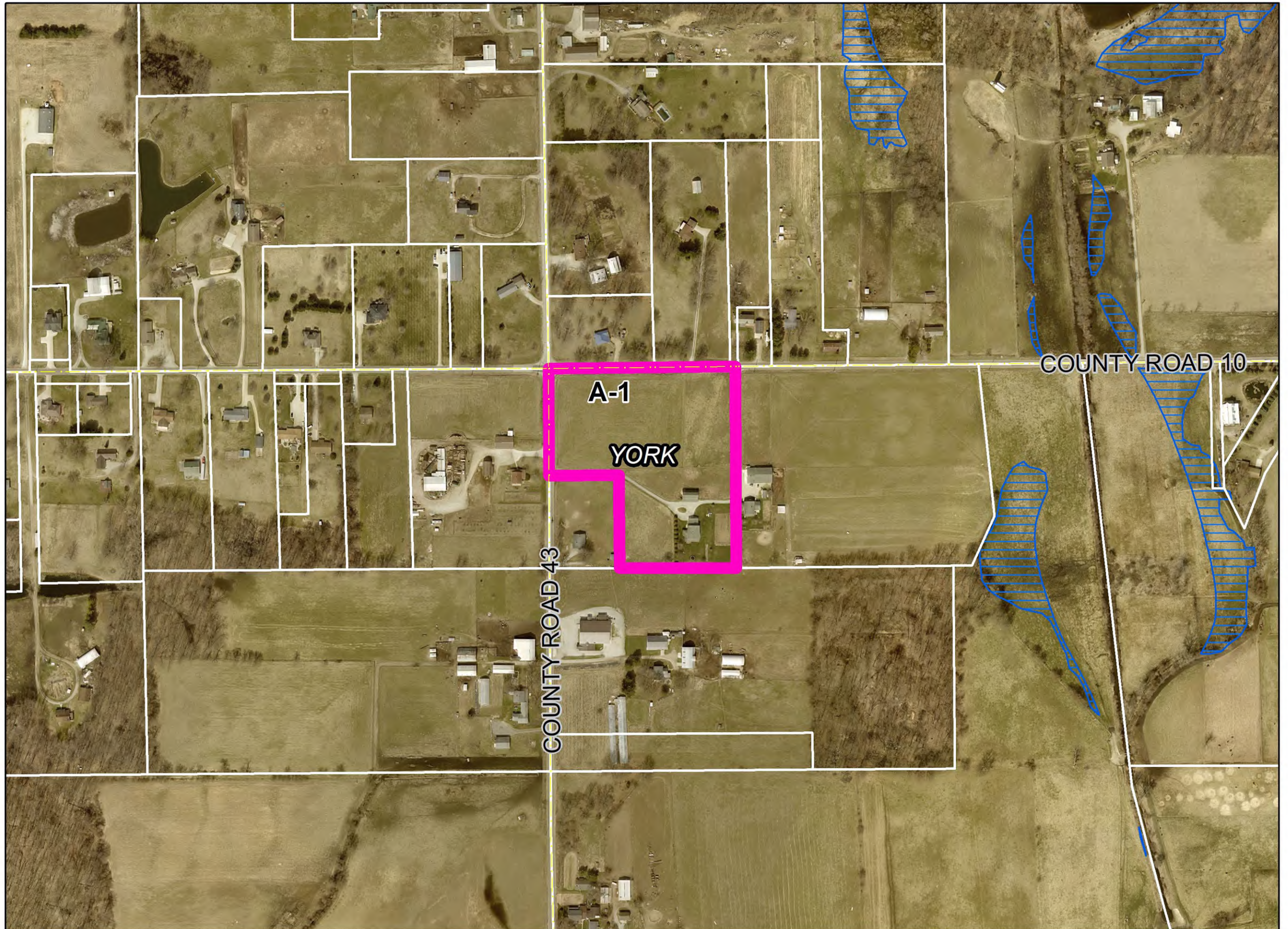
COUNTY ROAD 10

A-1

YORK

COUNTY ROAD 43

SUP-0489-2024



2021 Aerials

1 inch = 400 feet





Looking east toward subject property



Looking west



Looking north



Looking south

PLAN COMMISSION & BOARD OF ZONING APPEALS

Special Use - Non Mobile Home

**Elkhart County Planning & Development
Public Services Building**

4230 Elkhart Road, Goshen, Indiana, 46526

Phone - (574) 971-4678

Fax - (574) 971-4578

Date: 07/15/2024

Meeting Date: August 15, 2024
Board of Zoning Appeals Public Hearing

Transaction #: SUP-0489-2024

Description: for a Special Use for a home workshop/business for a retail store and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right

Contacts: ApplicantFreedom Builders
54824 Cr 33
Middlebury, IN 46540Authorized AgentFreedom Builders
54824 Cr 33
Middlebury, IN 46540Contract PurchaserJoas J. & Freda Miller,
Husband & Wife (Buyer)
54894 County Road 43
Middlebury, IN 46540Land OwnerVerle J. & Malinda Yoder,
Husband & Wife(Sellers)
54524 County Road 43
Middlebury, IN 46540Site Address: 54524 Cr 43
MIDDLEBURY, IN 46540

Parcel Number: 20-04-36-400-012.000-032

Township: York

Location: SOUTHEAST CORNER OF CR 43 AND CR 10

Subdivision:

Lot #

Lot Area: 7.79 Frontage: 976.66 Depth: 225.00

Zoning: A-1, A-1

NPO List: 07/30/2024

Present Use of Property: RESIDENTIAL DWELLING

Legal Description:

Comments: PARCEL CREATION DATE 11/6/01
NO HISTORY PER DANIELLE
DWELLING = 3928 TIMES 2=7856 SQ FT
MINUS SHEDS- 448 SQ FT
NEW PROPOSED STUCTURE IS 7648 SQ FT.
OVER 240 SQ FT.

Applicant Signature:

Department Signature:

Application

Site address: 54524 CR 43 Middlebury IN 46540

Parcel number(s): 20-04-36-400-012.000-032

Current property owner

Name: Buyer - Jons & Freda Miller Seller - Verle & Malinda Yoder

Address: 54894 CR 43 Middlebury IN 46540

Phone: 574-821-1518 Email: N/A

Other party

☒ Agent ☐ Buyer ☐ Land contract purchaser ☐ Lessee

Name: Freedom Builders

Address: _____

Phone: _____ Email: _____

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent: _____

Staff Use Only

Description: _____

Parcel creation date: _____

Subdivision required? ☐ Y ☐ N If yes, ☐ AS ☐ Minor ☐ Major

Residential accessory breakdown, if applicable: _____

Location: N S E W corner side end of _____ ,
_____ ft. N S E W of _____ ,
in _____ Township

Frontage: _____ **Depth:** _____ **Area:** _____ acres

Subdivision and lot number, if applicable: _____

Present use: _____

Special Use — Questionnaire

Name: _____

1) Tell us what you want to do. Special use to allow for a retail store selling fabrics and clothing in an A-1 zone.

2) Tell us why this activity won't hurt your neighbors or the community. This store is filling a need in the local community.

3) Is there a subdivision covenant that says you can't do this activity? ☐ Y ☒ N
If yes, does the subdivision have an active homeowners' association? ☐ Y ☐ N

4) Will the activity create noise, vibration, smoke, dust, odor, heat, or glare? ☐ Y ☒ N If yes, fill out below.
Tell us what will create those things. _____

Tell us how you'll reduce the impact of those things on neighbors. _____

5) Will there be buffering (fences, trees, shrubs, mounds)? ☐ Y ☒ N
If yes, tell us about it. _____

6) Does the property need well and septic? Well: ☒ Y ☐ N Septic: ☒ Y ☐ N

Does the property need a new septic system? ☒ Y ☐ N

If a new septic system is needed, did the Health Department say there's enough space for it? ☒ Y ☐ N

(Didn't Ask)

7) Will the activity use buildings or additions? ☒ Y ☐ N If yes, fill out below.

Building or addition 1 Existing? ☐ Y ☒ N Size and height to the peak: 7648 sqft / 25' high

Tell us what you'll use it for. Retail space, office, storage

Building or addition 2 Existing? ☐ Y ☐ N Size and height to the peak: _____

Tell us what you'll use it for. _____

Building or addition 3 Existing? ☐ Y ☐ N Size and height to the peak: _____

Tell us what you'll use it for. _____

8) Does this application include animals? ☐ Y ☒ N

If yes, tell us what kind and how many of each. _____

Next page ➡

Special Use — Questionnaire

- 9) Does this application include a business or nonprofit (church, school, other) based all or in part on this property? ☒ Y ☐ N If yes, fill out below.

How many employees do you have now? Full time: 0 Part time: 0

How many employees do you want? Full time: 4 Part time: 1

How many of the employees won't live onsite? 2

What will be the days and hours of operation on this property? 8-5 M-F

8-3 Saturday
Closed Sunday

How many parking spaces do you have now? 0

How many parking spaces do you want? 20

Will there be outside storage or display areas on this property? ☐ Y ☒ N

If yes, tell us what will be stored outside or displayed. N/A

Will there be retail sales on this property? ☒ Y ☐ N

If yes, tell us what will be sold. Fabrics & clothing & sewing
supplies, housewares, games & toys

Approximately how many customers (clients, guests, students, members) will be on this property per day?

40-45 daily

Will there be pickups or deliveries on this property? ☒ Y ☐ N If yes, fill out below.

Tell us how often. 2-3 daily

Tell us the kind of vehicles used. UPS & Fedex

Does the application include signs? ☒ Y ☐ N If yes, fill out below.

Sign 1 Dimensions (length and width). 3' wide x 4' high

Existing? ☐ Y ☒ N Double faced? ☒ Y ☐ N

Electronic message board? ☐ Y ☒ N If no, lighted? ☐ Y ☒ N

Freestanding? ☒ Y ☐ N Wall mounted? ☐ Y ☒ N

Sign 2 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

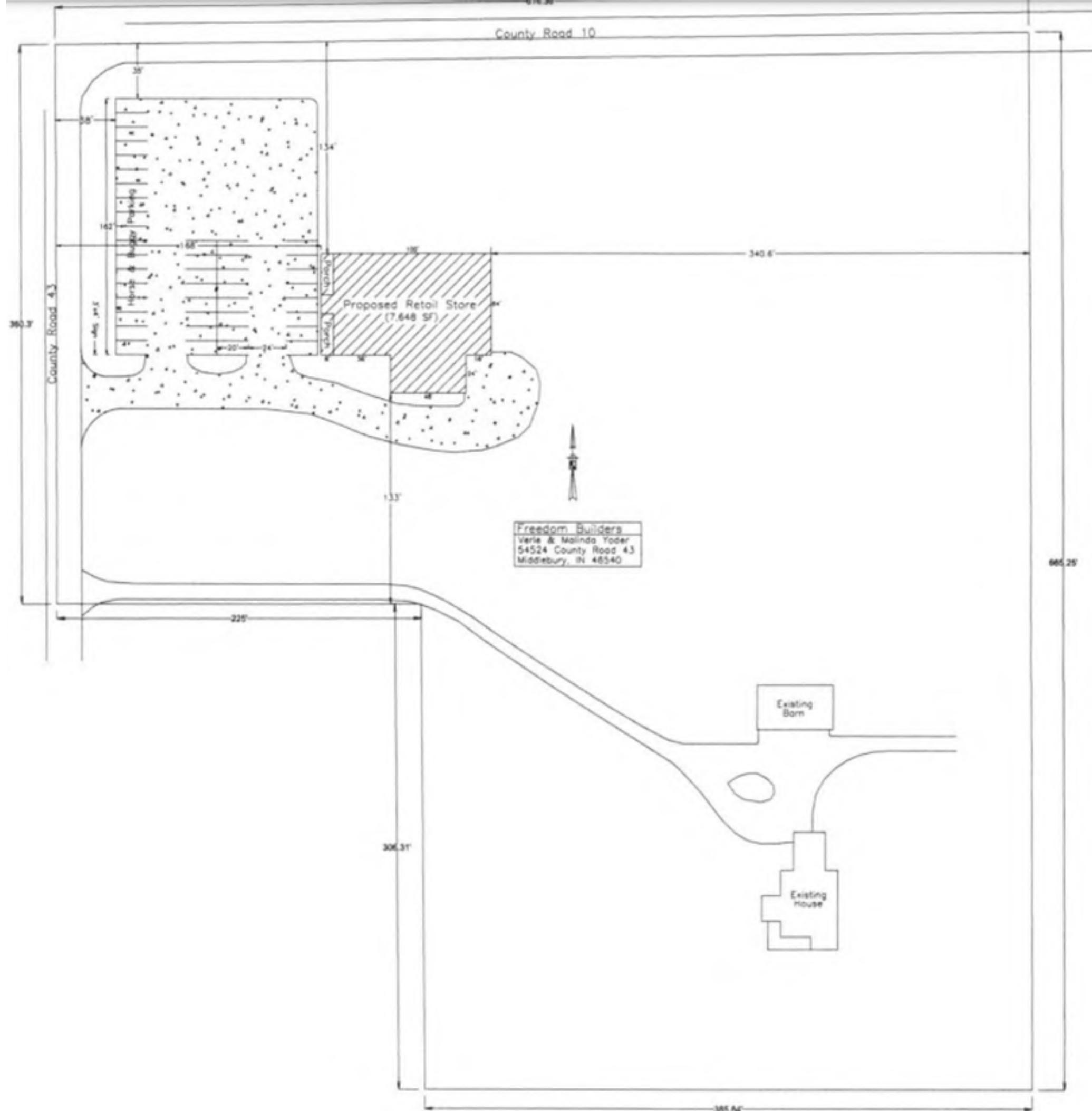
Sign 3 Dimensions (length and width). _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

- 10) Tell us anything else you want us to know. _____



BZA Staff Report

Prepared by the Department of Planning and Development

Hearing Date: August 15, 2024

Transaction Number: DV-0397-2024.

Parcel Number(s): 20-02-09-453-027.000-026.

Existing Zoning: R-2.

Petition: For a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right and for a 7 ft. Developmental Variance (Ordinance allows 25 ft.) to allow for the construction of an accessory structure 32 ft. in height.

Petitioner: Matthew Nelson & Loren M. Nelson, Husband & Wife.

Location: Southeast corner of North Shore Dr. & Deer Run Trail, 1,160 ft. south of Fawn Ln., in Osolo Township.

Site Description:

- Physical Improvement(s) – Residence.
- Proposed Improvement(s) – Accessory structure.
- Existing Land Use – Residential.
- Surrounding Land Use – Residential.

History and General Notes:

- **July 17, 2024** – An appeal from the Hearing Officer’s approval decision was filed.

Staff Analysis:

Staff finds that:

1. Approval of the request will not be injurious to public health, safety, morals, or general welfare. The proposed location is far from the road, where height and footprint will not affect health or welfare.
2. Approval of the request will not cause substantial adverse effect on neighboring property. The parcel to the east contains an accessory structure of similar size and height, and all setback requirements are met.
3. Strict application of the terms of the Development Ordinance would result in an unnecessary hardship in the use of the property. The scale of the proposed structure is what would be expected in a large-lot lake neighborhood.

BZA Staff Report (Continued)

Hearing Date: August 15, 2024

Staff recommends **APPROVAL** with the following condition(s) imposed:

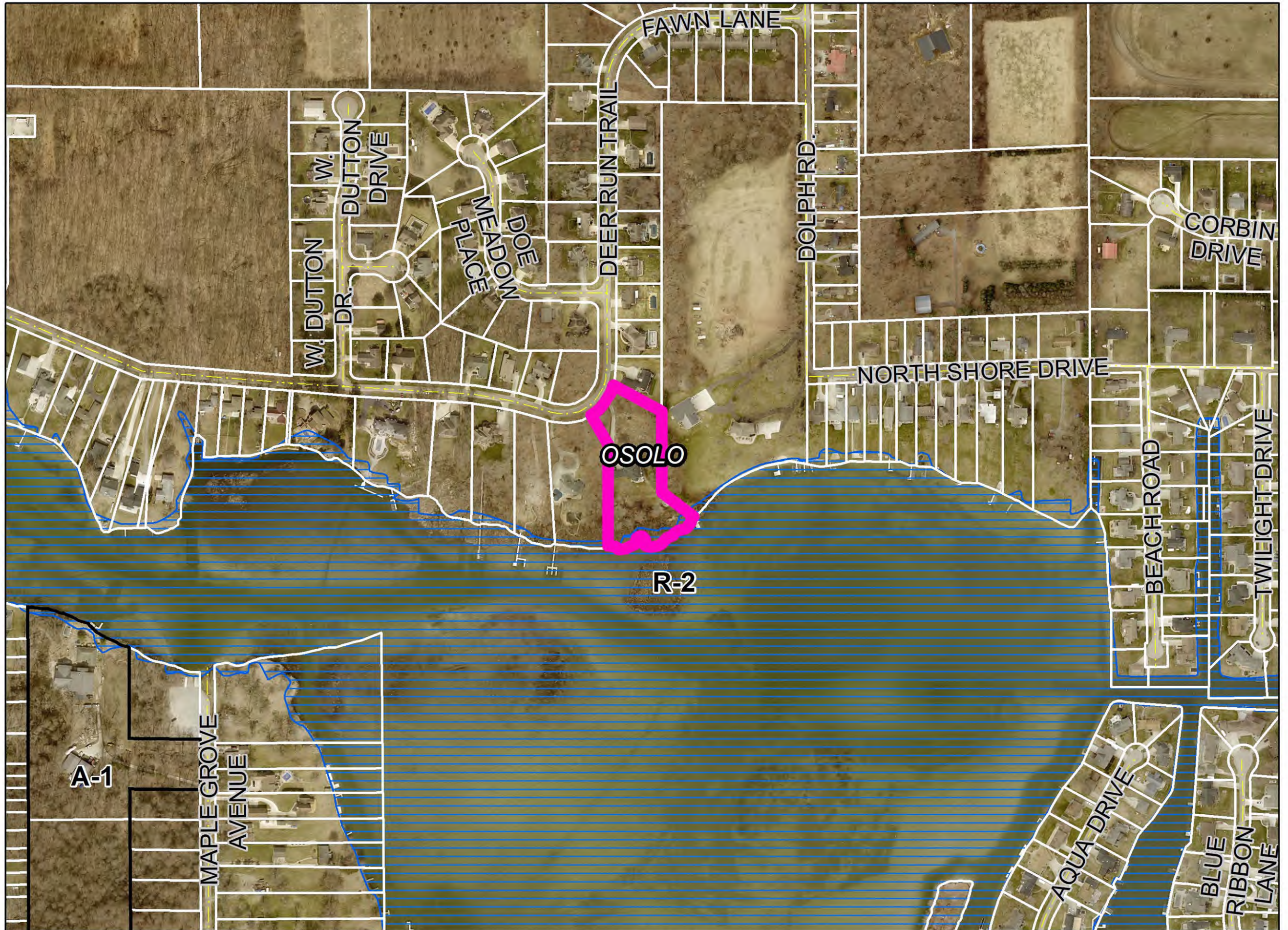
1. Variances from the developmental standards of the Development Ordinance are void unless an Improvement Location Permit is issued within 180 calendar days from the date of the grant and construction work completed within 1 year from the date of the issuance of the building permit (where required).
2. The request is approved in accordance with the site plan submitted 6/11/2024 and as represented in the Developmental Variance application.

Staff recommends **APPROVAL** with the following commitment(s) imposed:

1. The proposed accessory structure cannot be used as an accessory dwelling unit.









Subject property



Subject property



Facing north



Facing south



Facing west

PLAN COMMISSION & BOARD OF ZONING APPEALS

Elkhart County Planning & Development

Public Services Building

4230 Elkhart Road, Goshen, Indiana, 46526

Phone - (574) 971-4678

Fax - (574) 971-4578

Appeal - Appeal

Date: 07/17/2024

Meeting Date: *August 15, 2024*

Transaction #: 0498-2024

Description: for an appeal from the Hearing Officer's decision of approval for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right and for a 7ft Developmental Variance (Ordinance requires 25 ft.) to allow for the construction for an accessory structure 32 ft in height.

Contacts: Applicant

Robert S. Hatch & Karen L.
Hatch
50904 Deer Run Trl
Elkhart, IN 46514

Land Owner

Matthew Nelson & Loren M
Nelson, Husband & Wife
25290 North Shore Dr
Elkhart, IN 46514

Site Address: 25290 N Shore Dr
ELKHART, IN 46514

Parcel Number: 20-02-09-453-027.000-026

Township: Osolo

Location: SOUTH SIDE OF NORTH SHORE DR/DEER RUN TRAIL CURVE, EAST ON FAWN , 2, 115 FT SOUTH OF STATE LINE ROA

Subdivision:

Lot #

Lot Area:

Frontage:

Depth:

Zoning: R-2

NPO List:

Present Use of Property:

Legal Description:

Comments:

Applicant Signature:

X Charlotte Matthews for Robert Hatch

Department Signature:

Amie M Weiss

Application

Site address: 25290 N. Shore Dr.

Parcel number(s): 20-02-09-453-027-000-026.

Appellant

Name: ROBERT AND KAREN HATCH

Address: 50904 DEER RUN TRAIL

Phone: 574-327-4776

Email: bobkarenhatch@gmail.com

Appellant's agent

Name: _____

Address: _____

Phone: _____

Email: _____

Signature of appellant or authorized agent:

Charlotte Matthews

Staff Use Only

Description: FOR AN APPEAL FROM THE HEARING OFFICER'S DECISION OF
APPROVAL FOR A DEVELOPMENTAL VARIANCE TO ALLOW FOR THE TOTAL
SQUARE FOOTAGE OF ACCESSORY STRUCTURES TO EXCEED THAT ALLOWED
BY RIGHT AND FOR A 7FT. DEVELOPMENTAL VARIANCE (ORDINANCE
REQUIRES 25FT.) TO ALLOW FOR THE CONSTRUCTION FOR AN ACCESSORY STRUCTURE
32FT. IN HEIGHT.

Date the appealed decision was made: 7/17/24

Who made the appealed decision?

☐ Zoning Administrator

☒ Hearing Officer

Appeal of an Administrative Decision — Questionnaire

Name: _____

1) Tell us why you're appealing. Include facts that support your appeal. _____

THE RULING WAS MADE BEFORE WE ARRIVED.
THE NELSONS ARE WANTING TO BUILD A 3 STORY
STRUCTURE NEXT TO OUR PROPERTY LINE. THIS TYPE
OF BUILDING BELONGS IN THE COUNTRY, NOT IN A
RESIDENTIAL NEIGHBORHOOD. WE BUILT THE HOUSE
FOR TO ENJOY THE NATURE SURROUNDING US AND
THIS BUILDING WOULD RUIN THAT. NO ONE WANTS
A 3 STORY WALL TO LOOK AT. ALSO, WE ARE
ENTITLED, BY LAW, TO RECEIVE JUST COMPENSATION,
NO OFFER HAS BEEN FORTHCOMING. THIS PROPOSAL MUST
BE SUPPORTED BY AN APPRAISAL, WHICH TO DATE, HAS
NOT BEEN PROVIDED.

2) Tell us anything else you want us to know. _____

IN ADDITION, WE OBJECT TO AND APPEAL FROM ANY
DECISION OF THE BOARD THAT WOULD, OR MIGHT, RESULT
IN THE TAKING OF OUR PROPERTY.

PLAN COMMISSION & BOARD OF ZONING APPEALS

Developmental Variance - Developmental Variance

**Elkhart County Planning & Development
Public Services Building**

4230 Elkhart Road, Goshen, Indiana, 46526

Phone - (574) 971-4678

Fax - (574) 971-4578

Date: 06/11/2024 Meeting Date: July 17, 2024
Board of Zoning Appeals Public Hearing Transaction #: DV-0397-2024

Description: for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right and for a 7ft Developmental Variance (Ordinance requires 25 ft.) to allow for the construction for an accessory structure 32 ft in height.

Contacts: <u>Applicant</u>	<u>Authorized Agent</u>	<u>Land Owner</u>
Freedom Builders 54824 Cr 33 Middlebury, IN 46540	Freedom Builders 54824 Cr 33 Middlebury, IN 46540	Matthew Nelson & Loren M Nelson, Husband & Wife 25290 North Shore Dr Elkhart, IN 46514

Site Address: 25290 N Shore Dr ELKHART, IN 46514	Parcel Number: 20-02-09-453-027.000-026
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Township: Osolo
Location: SOUTH SIDE OF NORTH SHORE DR/DEER RUN TRAIL CURVE, EAST ON FAWN , 2, 115 FT SOUTH OF STATE LINE ROA

Subdivision: SIMONTON AT THE CROSSING	Lot # 61
---------------------------------------	----------

Lot Area: 1.79	Frontage: 123.15	Depth: 121.95
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Zoning: R-2	NPO List: 07/01/2024
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Present Use of Property: RESIDENTIAL DWELLING

Legal Description:

Comments: MECH PERMIT FOR AC/FURNANCE 2645-2020-NO INSPECTIONS COMPLETED.
EHSC-2017-0087- CAN NOT VIEW THIS COMPLIANT.
PARCEL CREATION DATE 9/21/90

RES DWELLING349 SQ FT X 110% = 3827 SQ FT MINUS GARAGE 851 SQ FT LEAVES 2976 SQ FT. PROPOSED
STRUCTURE 4260 SQ FT- 1284 SQ FT OVERAGE ON ACCESSORY STRUCTURE ALLOWED BY RIGHT

Applicant Signature:	Department Signature:
----------------------	-----------------------

Application

Site address: 25290 North Shore Drive Elkhart, IN 46514

Parcel number(s): 20-02-09-453-027.000-026

Current property owner

Name: Matthew & Loren Nelson

Address: 25290 North Shore Drive Elkhart, IN 46514

Phone: 574-849-2321

Email: mnelson@unitedbev.net

Other party

☒ Agent

☐ Buyer

☐ Land contract purchaser

☐ Lessee

Name: Freedom Builders

Address: 54824 County Road 33 Middlebury, IN 46540

Phone: 574-350-0078

Email: jh.freedombuilders@gmail.com

By signing below, I understand that if my application is approved, there may be conditions that will have to be met before approval is final and building permits can be started. I also understand that the conditions may include a commitment that the property owner is responsible for completing and returning.

Signature of current property owner or authorized agent: _____

Staff Use Only

Description: _____

Parcel creation date:

9/21/20

Subdivision required?

☐ Y

☐ N

If yes,

☐ AS

☐ Minor

☐ Major

Residential accessory breakdown, if applicable: _____

Location: N S E W corner side end of _____,

_____ ft. N S E W of _____,

in _____ Township

Frontage: _____

Depth: _____

Area: _____

acres

Subdivision and lot number, if applicable: _____

Present use: _____

Developmental Variance — Questionnaire

Name: _____

- 1) Tell us what you want to do. Variance to allow personal storage to exceed that allowed by right.

- 2) Tell us why you can't change what you're doing so you don't need a variance. Due to the personal storage allowed by right on this 0.20 acre parcel, it does not give the owner the storage area desired

- 3) Tell us why the variance won't hurt your neighbors or the community. The proposed storage building will fit in well in this residential area. It will not adversely affect the value of neighboring properties.

- 4) Does the property need well and septic? Well: ☒ Y ☐ N Septic: ☒ Y ☐ N

Does the property need a new septic system? ☐ Y ☒ N

If a new septic system is needed, did the Health Department say there's enough space for it? ☐ Y ☐ N

- 5) Does the application include variances to allow for buildings or additions? ☒ Y ☐ N If yes, fill out below.

Building or addition 1 Size and height to the peak: 60'x60' (3,600 sf) ; 32' to the peak

Tell us what you'll use it for. Personal storage + 22x30 loft - 2nd story SH

Building or addition 2 Size and height to the peak: _____

Tell us what you'll use it for. _____

Building or addition 3 Size and height to the peak: _____

Tell us what you'll use it for. _____

- 6) Does the application include a variance for a residence on property with no road frontage? ☐ Y ☒ N

If yes, fill out below.

Is the easement existing? ☐ Y ☐ N If the easement is existing, is it recorded? ☐ Y ☐ N

Tell us who owns (will own) the land under the easement. _____

Tell us how many parcels will use the easement. _____

- 7) Does the application include variances for signs? ☐ Y ☒ N If yes, fill out below.

Sign 1 Dimensions (length and width): _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

Sign 2 Dimensions (length and width): _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

Sign 3 Dimensions (length and width): _____

Existing? ☐ Y ☐ N Double faced? ☐ Y ☐ N

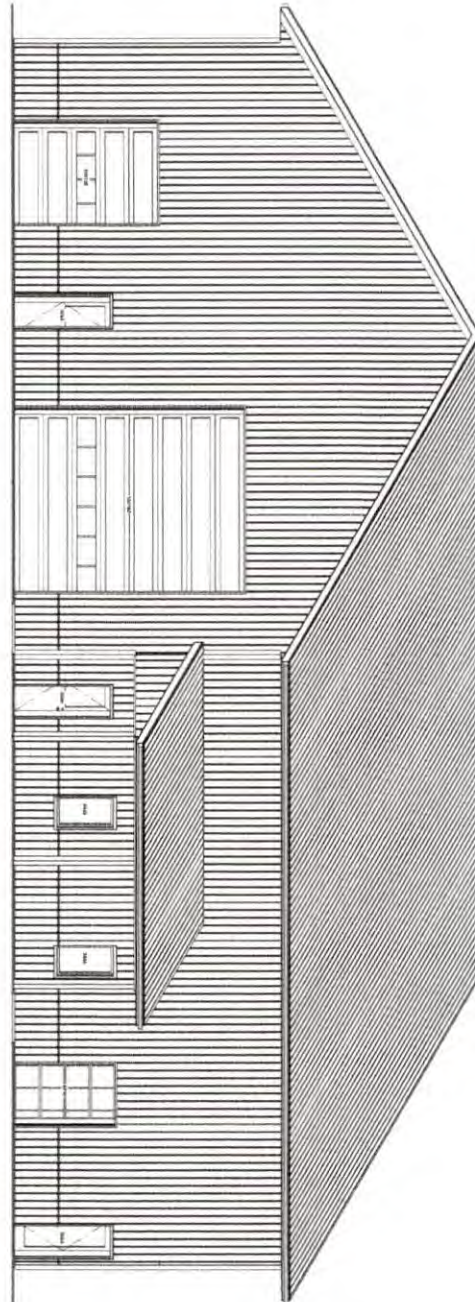
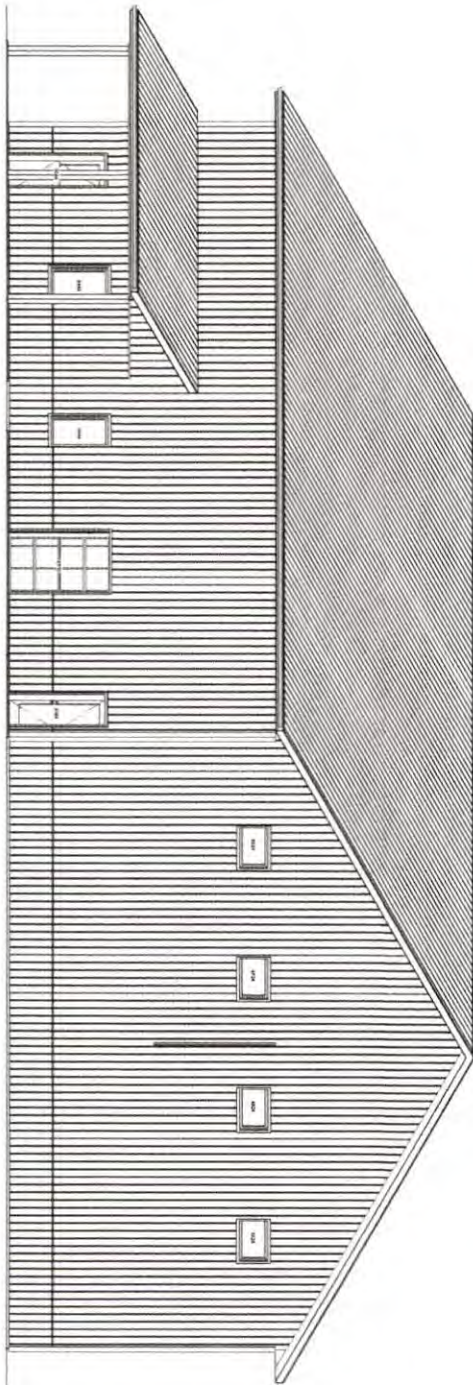
Electronic message board? ☐ Y ☐ N If no, lighted? ☐ Y ☐ N

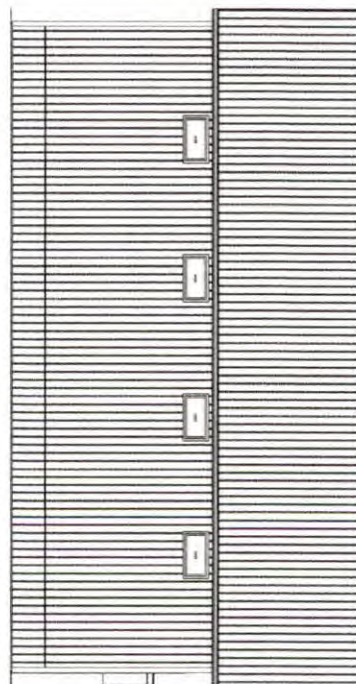
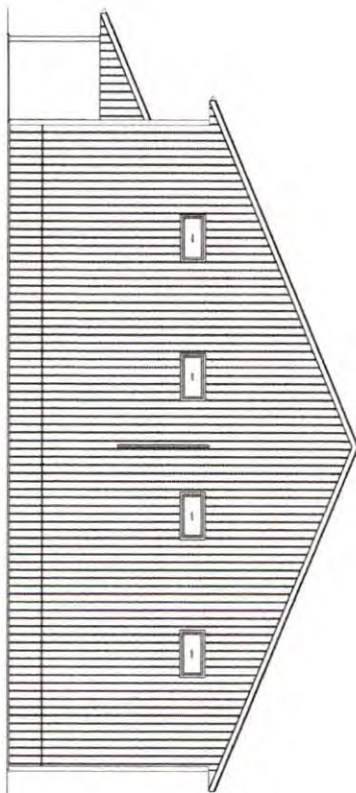
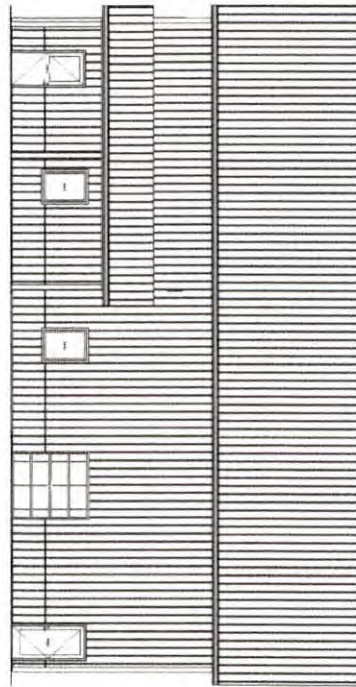
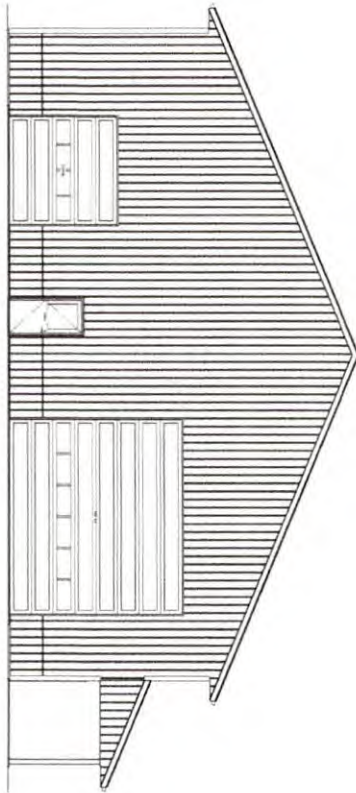
Freestanding? ☐ Y ☐ N Wall mounted? ☐ Y ☐ N

- 8) Does the application include a variance for parking spaces? ☐ Y ☒ N

If yes, tell us how many total there will be. _____

- 9) Tell us anything else you want us to know. They plan on finishing the basement at the end of this year. After that has been completed, they will be well under the allowed personal storage limit. However, they wanted to get the storage building built this summer.





A-2

SHEET:

1/4" = 1'

SCALE:

4/30/2024

DATE:

DRAWINGS PROVIDED BY:

Freedom Builders
 20300 N. HUGH - GENERAL CONTRACTOR
 54024 CR 35 Middlebury IN 46840
 974-202-6505

Project

Matthew Nelson
Elkhart IN

Sheet Title

Exterior Elevations

These Drawings are the proprietary work product of Freedom Builders developed for the exclusive use of Freedom Builders. Use of these Drawings and concepts contained therein without the written permission of Freedom Builders is prohibited and may subject you to a claim for damages from Freedom Builders.

These plans were designed with standard construction practices in mind. Due to variations in state, local, and federal codes, revisions may be required to these plans. It remains the responsibility of the builder to review the information, and assure that it is revised to become code compliant, appropriate, and complete.

A-3

SHEET:

SCALE:

1/4"=1'

DATE:

4/30/2024

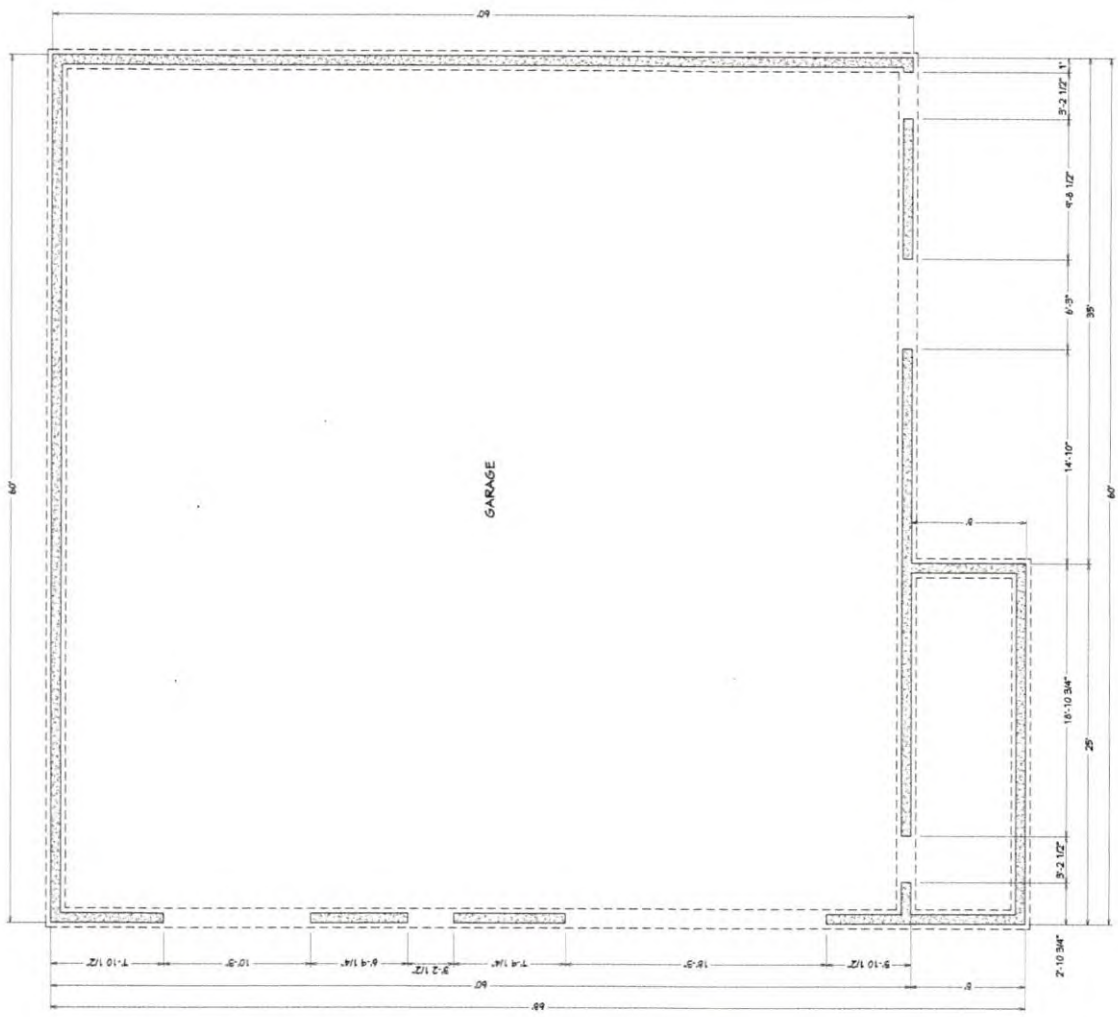
DRAWINGS PROVIDED BY:

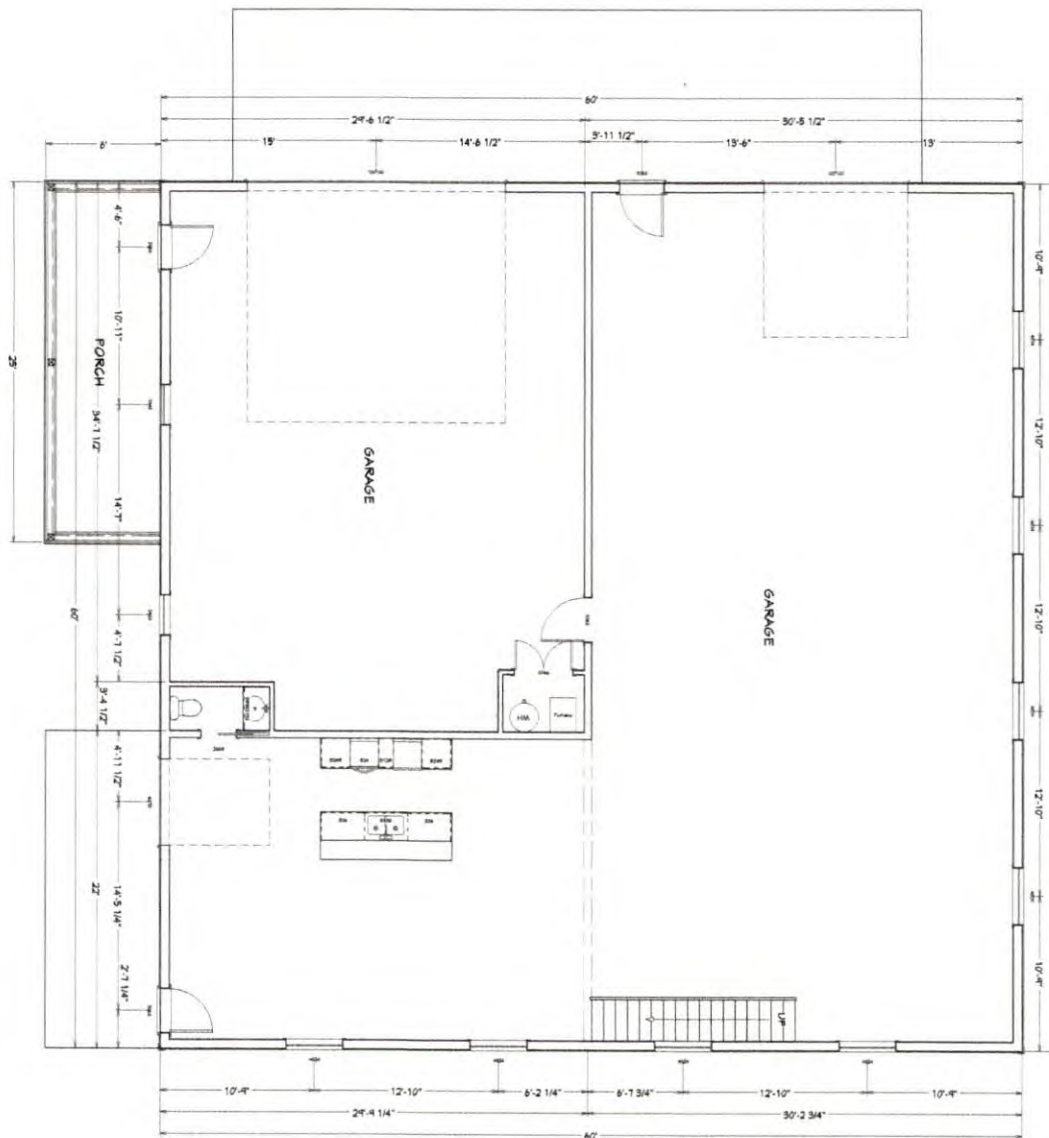
Freedom Builders
574-202-8505
5424 CR 30 Highway IN 46540
PO BOX 1000, MARIETTA, IN 46540

Mathew Nelson
Elkhart IN

Foundation Plan

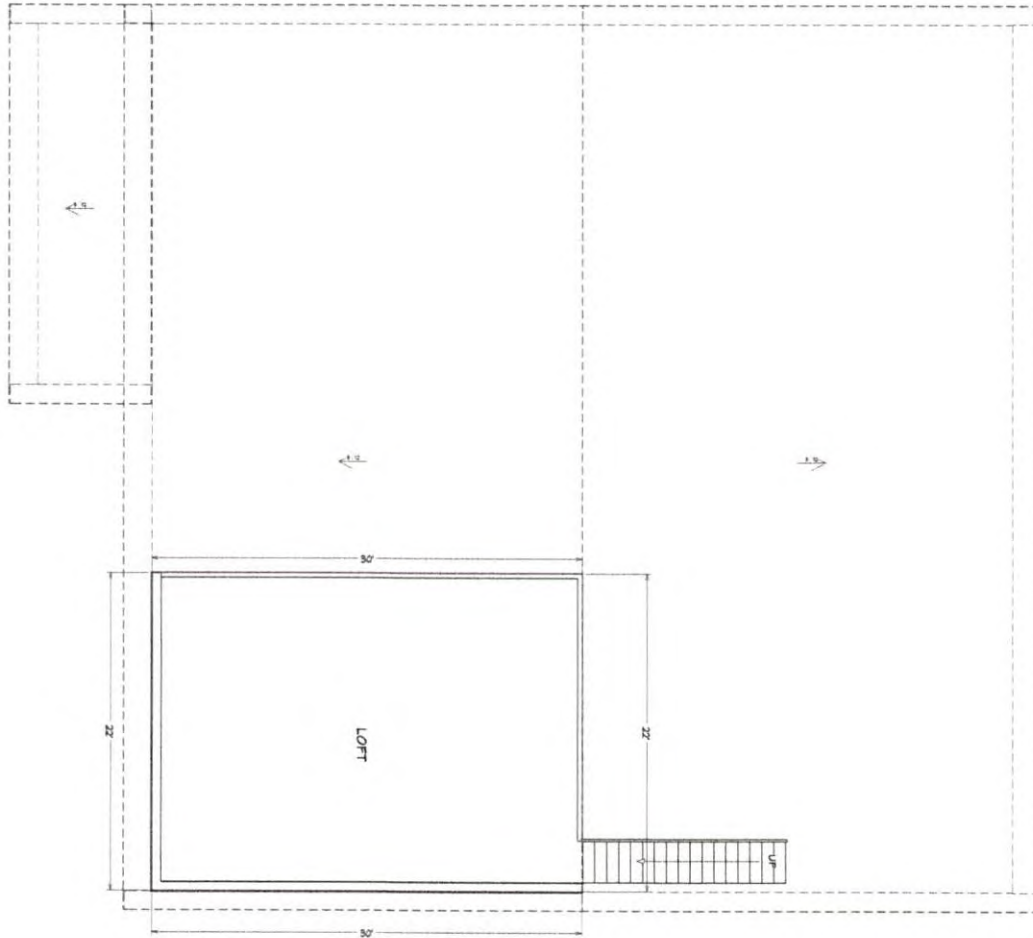
These drawings are the property of the product of Freedom Builders developed for the exclusive use of Freedom Builders. Use of these drawings without the written permission of Freedom Builders is prohibited and may subject you to a claim for damages from Freedom Builders.
These plans were designed with standard construction practices in mind. Due to variations in materials, local and lateral loads, revisions may be required to these plans. It remains the responsibility of the owner to ensure the foundation and structure are revised to become code compliant, appropriate, and complete.

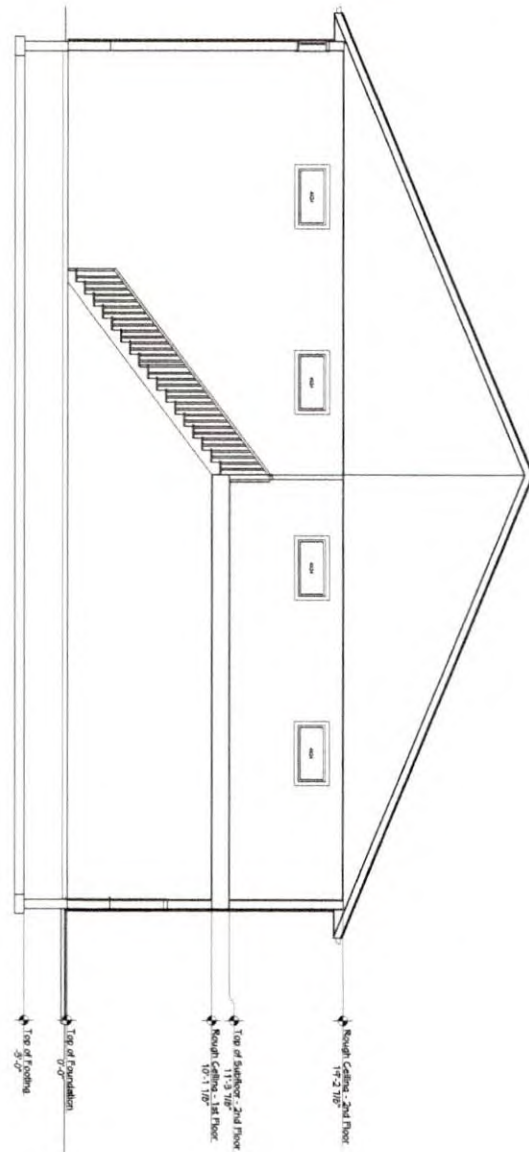
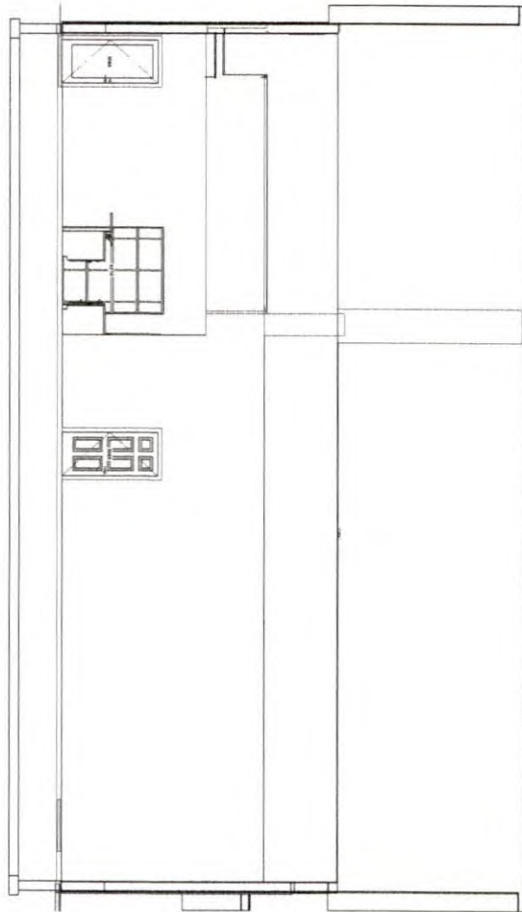




DOOR SCHEDULE	
NO.	DESCRIPTION
1	FRONT DOOR
2	REAR DOOR
3	DOOR TO GARAGE
4	DOOR TO GARAGE
5	DOOR TO PORCH
6	DOOR TO PORCH
7	DOOR TO PORCH
8	DOOR TO PORCH
9	DOOR TO PORCH
10	DOOR TO PORCH

WINDOW SCHEDULE	
NO.	DESCRIPTION
1	FRONT WINDOW
2	REAR WINDOW
3	DOOR TO GARAGE
4	DOOR TO GARAGE
5	DOOR TO PORCH
6	DOOR TO PORCH
7	DOOR TO PORCH
8	DOOR TO PORCH
9	DOOR TO PORCH
10	DOOR TO PORCH





A-6

SHEET:

SCALE:

DATE:

4/30/2024

DRAWINGS PROVIDED BY:

Freedom Builders
GENERAL CONTRACTOR
54824 C.R. 15 Middlebury IN 46540
574-202-6505

Project

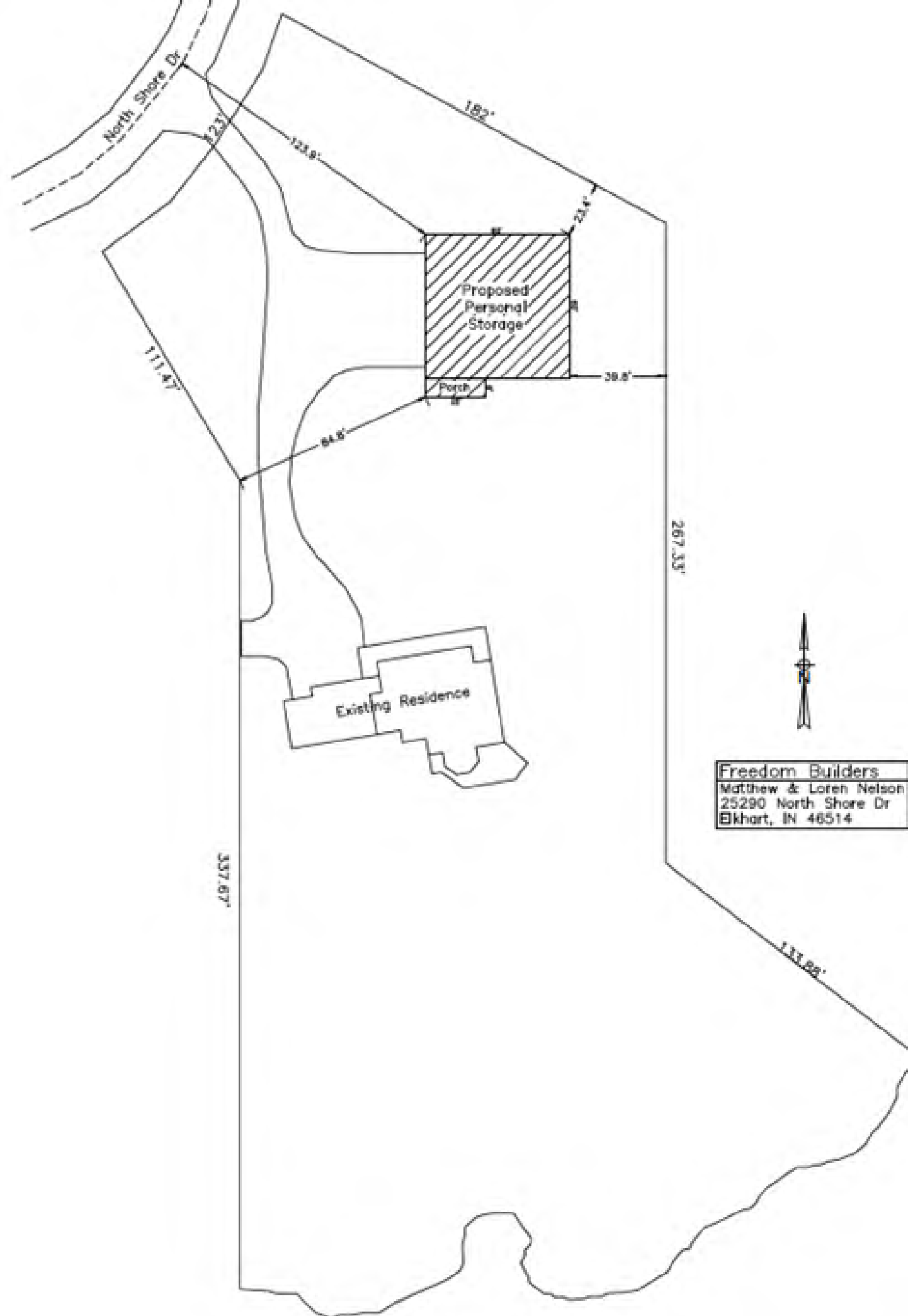
Matthew Nelson
Elkhart IN

Sheet Title

Cross Section Views

These Drawings are the proprietary work product of Freedom Builders developed for the exclusive use of Freedom Builders. Use of these Drawings and concepts contained therein without the written permission of Freedom Builders is prohibited and may subject you to a claim for damages from Freedom Builders.

These plans were designed with standard construction practices in mind. Due to variations in state, local, and federal codes, revisions may be required to these plans. It remains the responsibility of the builder to review the information, and assure that it is revised to become code compliant, appropriate, and complete.



Freedom Builders
Matthew & Loren Nelson
25290 North Shore Dr
Elkhart, IN 46514

PLAN COMMISSION & BOARD OF ZONING APPEALS

Special Use - Non Mobile Home

Elkhart County Planning & Development
Public Services Building

4230 Elkhart Road, Goshen, Indiana, 46526

Phone - (574) 971-4678

Fax - (574) 971-4578

Date: 07/13/2023 Meeting Date: August 17, 2023 Transaction #: SUP-0473-2023
Board of Zoning Appeals Public Hearing

Description: for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres, for a 6 ft. Developmental Variance (Ordinance requires 10 ft.) to allow for an existing shed 4 ft. from the rear property line, for a 2 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing shed and chicken coops 3 ft. from the north side property line, for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, and for a 1 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing chicken coop 4 ft. from the south side property line

Contacts: <u>Applicant</u>	<u>Authorized Agent</u>	<u>Land Owner</u>
Oscar Arizpe Barrera	Oscar Arizpe Barrera	Roberto Barrera Zuniga &
1319 White Blossom Dr	1319 White Blossom Dr	Isabel P. Arizpe Martinez,
Goshen, IN 46526	Goshen, IN 46526	Husband & Wife
		66102 County Road 27
		Goshen, IN 46526

Site Address: 66102 County Road 27 GOSHEN, IN 46526	Parcel Number: 20-11-35-126-005.000-014
--	---

Township: Elkhart
Location: EAST SIDE OF CR 27, 550 FT. SOUTH OF CR 40

Subdivision:	Lot #
--------------	-------

Lot Area: 0.46	Frontage: 99.74	Depth: 217.80
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Zoning: A-1	NPO List: 08/04/2023
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Present Use of Property: RESIDENTIAL

Legal Description:

Comments: SEE CODE COMPLAINT CODE-0298-2023: APPROX 10 ROOSTERS, AND ABOUT 50 CHICKENS
PARCEL CREATION DATE 3/1/1972
RESIDENCE IS 832 SQ. FT. WITH 110% IS 915 SQ. FT. MINUS AN ATTACHED GARAGE OF 416 SQ. FT. AND 3 SHEDS
(448, 256, & 96 SQ. FT.) IS OVER THE ALLOWED BY RIGHT SQUARE FOOTAGE 301 SQ. FT.

Applicant Signature:	Department Signature:
----------------------	-----------------------

TO: Roberto Barrera Zuniga
Isabel P. Arizpe Martínez
66102 County Road 27
Goshen, IN 46526
Via US Mail, Postage Prepaid

NOTICE TO APPEAR AND SHOW CAUSE

RE: Failure to comply with Conditions or Commitments re: Special Use Permit 0473-2023
For property commonly known as 66102 County Road 27, Goshen Indiana 46526

Dear Mr. Zuniga & Ms. Martinez:

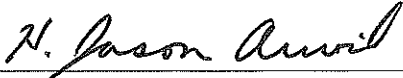
You are hereby notified to be and appear before the Elkhart County Advisory Board of Zoning Appeals at its regularly scheduled meeting on August 15, 2024, at 7:30 a.m., or as soon thereafter as this matter can be heard, in Meeting Rooms 104, 106 and 108, County Administration Building, 117 N. 2nd Street, Goshen, Indiana, 46526, to show cause, if any, why Special Use Permit 0473-2023, granted to you by said Board on August 17, 2023, should not be revoked for your failure to comply with the conditions or commitments imposed by said Board as part of its approval, specifically:

1. **Failure to provide an updated site plan to staff.**
2. **Failure to obtain the necessary building permits.**
3. **Failure to sign, record and provide staff with the commitment form.**
4. **Failure to provide proof that the chicken coops meet setbacks.**
5. **Failure to remove all roosters from the property.**

You are entitled to appear at this hearing, to present evidence, and to present arguments. If you fail to appear the Elkhart County Advisory Board of Zoning Appeals may act in your absence.

All inquiries should be directed to Kierstin Dominguez, Code Enforcement Officer for the Elkhart County Advisory Board of Zoning Appeals, 4230 Elkhart Road, Goshen, Indiana 46526, (574) 971-4678.

WITNESS, my hand at my office in Elkhart County, Indiana this 16th day of July, 2024.



H. Jason Auvil, Elkhart County
Planning Manager & Zoning Administrator



RESULT LETTER

Case # SUP-0473-2023

Date: September 21, 2023

Petitioner(s):

Roberto Barrera Zuniga & Isabel P. Arizpe Martinez,
Husband & Wife

The following shall be referred to as “the Real Estate”:

Street: 66102 CR 27, Goshen, IN 46526

Current Tax Code #: 20-11-35-126-005.000-014

You are hereby notified that the petition for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres on the Real Estate, presented and considered at the meeting of the Elkhart County Advisory Board of Zoning Appeals on September 21, 2023, was acted upon as follows: **APPROVED** in accordance with the Staff Analysis with the following Findings and Conclusions of the Board:

1. The Special Use will be consistent with the spirit, purpose, and intent of the Zoning Ordinance. A Special Use for an agricultural use is allowed in the A-1 zone.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a 0.46-acre lot in a dense residential area, and the lot will remain residential in character.
3. The Special Use will substantially serve the public convenience and welfare by providing for a local food source and hobby opportunity.

The following conditions were imposed:

1. **The Elkhart County Advisory Board of Zoning Appeals approval shall not be effective until the Commitment form has been executed, recorded and returned to the Elkhart County Advisory Board of Zoning Appeals staff for placement in the petition file.**
2. A revised site plan must be submitted for staff approval showing the chicken coops and rear shed meeting the minimum rear and side setbacks.

Roberto Barrera Zuniga & Isabel
P. Arizpe Martinez, Husband & Wife
September 21, 2023
Page 2

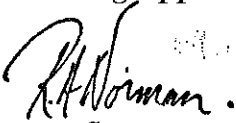
3. Permits for all structures over 120 sq. ft. with passing final inspections are required.

The following commitments were imposed:

1. The request is approved in accordance with the revised site plan to be submitted for staff approval and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of twelve (12) chickens and no roosters, at any one time.

The request for a 6 ft. Developmental Variance (Ordinance requires 10 ft.) to allow for an existing shed and chicken coops 4 ft. from the rear property line, for a 2 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing chicken coop 3 ft. from the north side property line, for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, and for a 1 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing chicken coop 4 ft. from the south side property line was acted upon as follows:
DENIED.

Deviation from said conditions and commitments may result in the Elkhart County Advisory Board of Zoning Appeals rescinding the approval or permit.


Ron Norman, Secretary
Elkhart County Board of Zoning Appeals

Placed in File 10-4-23
By RL