

# AGENDA

## ELKHART COUNTY BOARD OF ZONING APPEALS

OCTOBER 17, 2024  
9:00 A.M.

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

Call to Order

Roll Call

Approval of Minutes of the last regular meeting of the Elkhart County Board of Zoning Appeals held on the 19<sup>th</sup> day of September 2024.

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

### SPECIAL USES

9:00 A.M.

(CRAMER)

- A. Petitioner: ***Sugar Grove Cemetery Association*** (Page 8)  
Petition: for a Special Use for a cemetery.  
Location: East side of Old CR 17, 255 ft. North of CR 118, in Concord Township, zoned A-1. SUP-0602-2024
- B. Petitioner: ***Dalton Null & Alissa Null, Husband & Wife*** (Page 9)  
Petition: for a Special Use for a home workshop/business for a vehicle service and repair business.  
Location: South side of SR 119, 1,910 ft. Southwest of CR 17, common address of 22440 SR 119 in Harrison Township, zoned A-1. SUP-0650-2024
- C. Petitioner: ***AMMF Trustee Corporation (Land Contract Holder) & Seth Bontrager (Land Contract Purchaser)*** (Page 10)  
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 Special Use for a kennel.  
Location: South side of CR 42, 890 ft. East of Ash Rd., common address of 30790 CR 42 in Locke Township, zoned A-1. SUP-0663-2024

**SPECIAL USE/DEVELOPMENTAL VARIANCES**

- D. Petitioner: ***Alice E. Poseley & Steven Poseley, Wife & Husband*** (Page 11)  
Petition: for a Special Use for a kennel, and for a 3 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing accessory structure 2 ft. from the East side property line.  
Location: South side of US Hwy 20, 3,015 ft. West of CR 19, common address of 21060 US 20 in Jefferson Township, zoned A-1. SUP-0662-2024
- 9:30 A.M. (HESSER)**
- E. Petitioner: ***Wesley D. Meier, & Roger A. Meier & Kathleen D. Meier, Husband & Wife*** (Page 12)  
Petition: for a Special Use for a home workshop/business for a lawn service business 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 44, 3,220 ft. West of CR 37, common address of 13612 CR 44 in Benton Township, zoned A-1. SUP-0656-2024
- F. Petitioner: ***Devon R. Schrock & Noretta Kay Schrock*** (Page 13)  
Petition: for a Special Use for a home workshop/business for a metal fabrication business, for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, for a Developmental Variance to allow for 5 outside employees (Ordinance allows 3), and for a 9 ft. Developmental Variance (Ordinance allows 25 ft.) to allow for an accessory structure 34 ft. in height.  
Location: North side of CR 24, 900 ft. East of CR 43, common address of 10551 CR 24 in Middlebury Township, zoned A-1. SUP-0641-2024

**USE VARIANCE/DEVELOPMENTAL VARIANCE**

- G. Petitioner: ***Lonnie Bontrager (Buyer) & Octavio Ramos (Seller)*** (Page 14)  
Petition: for a Use Variance to allow for 4 (four) dwelling units, for a 2 ft. Developmental Variance (Ordinance requires 50 ft.) to allow for an existing duplex 48 ft. from the centerline of the right-of-way, for a 2 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing duplex 3 ft. from the west side property line, and for a 46,496 sq. ft. lot-area Developmental Variance (Ordinance requires 30,000 sq. ft. per duplex) to allow for 2 existing duplexes .  
Location: South side of Morgan St., 325 ft. West of Broad St., common address of 28197 Morgan St. in Baugo Township, zoned R-2. UV-0585-2024

**TABLED**

- H. Petitioner: ***Kelvin Amaya Alvarado*** (Page 15)  
Petition: for a Special Use for a home workshop/business for a barber shop.  
Location: West side of CR 7, 750 ft. South of West Mishawaka Rd., common address of 58071 CR 7 in Concord Township, zoned R-1. SUP-0560-2024

- I. Petitioner: **Kevin Sarber** (Page 16)  
Petition: for a 25 ft. Developmental Variance (Ordinance requires 55 ft.) to allow for the construction of an accessory building 30 ft. from the centerline of the right-of-way of 27th St., and for a 62 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for the construction of an accessory building 58 ft. from the centerline of the right-of-way of Old US 33.  
Location: Northeast corner of 27th St. & Old US 33, in Baugo Township, zoned B-3.  
DV-0547-2024

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

- Minor Change - Special Use - Ervin Heatwole (SUP-0431-2016) – request to amend the site plan to allow for the construction of a new building.

**ADJOURNMENT**

The Elkhart County Board of Zoning Appeals is meeting on Thursday, October 17, 2024, at **9:00 a.m.** in Rooms 104, 106, & 108 of the Administration Building, Goshen, Indiana. Pursuant to 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](http://www.elkhartcountyplanninganddevelopment.com) at **9:00 a.m.** on October 17, 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 19<sup>th</sup> DAY OF SEPTEMBER 2024 AT 9:00 A.M.**  
**MEETING ROOMS 104, 106, & 108 – ADMINISTRATION BUILDING**  
**117 2<sup>nd</sup> 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; Danielle Richards, Planner; and James W. Kolbus, Attorney for the Board.

**Roll Call.**

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

**Absent:** 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 15<sup>th</sup> day of August 2024 be approved as read. The motion was carried with a unanimous roll call vote.

3. A motion was made and seconded (*Cramer/Warner*) 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 *Nathan D. Petersheim & Susan M. Petersheim, Huband & Wife (Land Contract Holder) & Hidden Creek School (Land Contract Purchaser)* for a Special Use for a school on property located on the Southeast corner of CR 143 & CR 48, common address of 00000 CR 143 in Benton Township, zoned A-1, came on to be heard.

Mrs. Richards presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0556-2024*.

There were six neighboring property owners notified of this request.

Enos Miller, 70409 CR 143, Ligonier was present for this request. Nathan Petersheim, 70216 CR 143, Ligonier, was also present for this request. Mr. Enos Miller stated that they want to build an Amish Parochial School on this property. He stated that it would be able to serve 42 students. He continued to say that it will have living quarters for the teachers to stay as needed. He also stated that they would have parking for 10 buggies.

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 school 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 new recorded deed in the new owner's name is required.

The following commitment was imposed:

1. The request is approved in accordance with the site plan submitted (dated 8/6/2024) and as represented in the Special Use application.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

5. The application of *Alexander Manford Alber & Amber Irene Alber, Husband & Wife* 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 State Line Rd., 800 ft. West of CR 17, common address of 21462 State Line Rd. in Washington Township, zoned A-1, came on to be heard.

Mrs. Richards presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0570-2024*.

There were seven neighboring property owners notified of this request.

Amber Alber, 17390 Kirkland Dr., Bristol, was present for this request. Mrs. Alber stated that they would like to use the existing structure for their goats. She continued to say that they have 500 feet of pasture for their three goats. She also stated that they will have a garden and the waste from the goats will be used as compost for the garden. Mrs. Alber also stated that they do not intend to have more than three goats. She explained that the two male goats are fixed, and the female cannot reproduce. Mrs. Cramer asked if there is currently a home on the property. Mrs. Alber stated that they are building a house, and it should be done by the middle of November. Mr. Warner asked if the goats would have pasture. Mrs. Abler stated they currently have a fenced in pasture in addition to the existing building for shelter.

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 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 8/12/2024) and as represented in the Special Use application.
2. The request is limited to a maximum of three (3) adult goats at any one time.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

6. The application of **Bonnie J. Whitaker** 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 CR 34, 1,265 ft. East of CR 43, common address of 10504 CR 34 in Clinton Township, zoned A-1, came on to be heard.

Mrs. Richards presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0572-2024*.

There were eight neighboring property owners notified of this request.

Bonnie J. Whitaker, 10504 CR 34, Goshen, was present for this request. Ms. Whitaker stated that they are selling this property to an Amish family that wants to have horses. Mr. Hesser asked if the horses were to be used for transportation. Ms. Whitaker said yes. Mr. Hesser also asked if the subdivision had been done yet. Ms. Whitaker responded yes, but Mrs. Richards stated that the subdivision still needed to be completed and that it does not need to be part of the conditions imposed. Mr. Warner ask if there was a plan for waste disposal. Ms. Whitaker responded that she does not know. Mr. Hesser wanted clarification about the buildings present on the property. Mrs. Richards stated they are non-conforming.

Suzie Weirick, Elkhart County Commissioner, came on and spoke to the waste concern. She agreed that there needs to be some type of waste disposal plan.

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 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 distances from all structures to property lines.
3. Owner must provide a plan describing how the waste will be disposed of.

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 two (2) adult horses at any one time.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

**Yes:** Deb Cramer, Steve Warner, Ron Norman, Roger Miller, Randy Hesser

7. The application of **Kelvin Amaya Alvarado** for a Special Use for a home workshop/business for a barber shop on property located on the West side of CR 7, 750 ft. South of West Mishawaka Rd., common address of 58071 CR 7 in Concord Township, zoned R-1, came on to be heard.

Mrs. Richards presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0560-2024*.

There were 18 neighboring property owners notified of this request.

Kelvin Amaya Alvarado, 58071 CR 7, Elkhart was present for this request. Jessica Hernandez, 58071 CR 7, Elkhart was also present as an interpreter for Mr. Alvarado. She stated that they want to put a barber shop in the garage. Mr. Hesser asked how many employees they would have. Ms. Hernandez said four full-time employees. Mr. Hesser then asked how many customers they anticipate having per day. Ms. Hernandez stated 20-30 by appointment only. Mr. Miller asked if they would be selling hair products and drinks. Ms. Hernandez responded yes. Mr. Hesser asked if the owner of the house would also be cutting hair. Ms. Hernandez responded no, only outside employees. Mr. Miller asked if the parking area was going to be grass or gravel. Ms. Hernandez replied gravel.

Mr. Martin, Store Safe Self Storage, 58013 CR 7, Elkhart spoke in favor of the petitioner. He stated that they have cleaned up the property, and what they are proposing would be good for the neighborhood.

There were no remonstrators present.

The public hearing was closed at this time.

Mr. Kolbus, Elkhart County Attorney asked the Board and staff if they were sure this qualified for a home workshop because the petitioner was not going to cutting hair. The Board had Mr. Hernandez and Ms. Hernandez to come back to the podium to address their concerns. Ms. Cramer asked if they were going to rent out the chairs for the business. Ms. Hernandez replied yes. She also reiterated they live in the home, but neither one of them would be cutting hair. The Board continued discussion as to whether this request would qualify for a homework shop/business. Mrs. Richards stated when the application was taken in the owner indicated he would not be cutting hair but would still own the business. Mr. Hesser suggested that the matter be tabled until the next meeting of the Board because of the confusion.

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

**Motion: Action:** Table, **Moved by** Randy Hesser, **Seconded by** Roger Miller that this request for a Special Use for a home workshop/business for a barber shop be tabled until the October 17, 2024 Advisory Board of Zoning Appeals meeting to allow the petitioner to confirm that they are operating the business not renting the space for the business.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

8. The application of **Mark L. Raber & Sharon R. Raber, Husband & Wife** for a Special Use for a home workshop/business for a trailer building business, for a 20 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for an existing residence 100 ft. from the centerline of the right-of-way, for a 17 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for an existing detached accessory structure 103 ft. from the centerline of the right-of-way, 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 South side of SR 4, 120 ft. West of CR 133, common address of 14504 SR 4 in Clinton Township, zoned A-1, came on to be heard.

Mrs. Richards presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0562-2024*.

There were 10 neighboring property owners notified of this request.

Mark Raber, 10504 SR 4, Goshen, was present for this request. Mr. Raber stated that he wants to build specialty motorcycle trailers in his existing garage/shop. He also stated that he does not anticipate having much customer traffic. He continued saying that he would build them as a side business. Mr. Miller asked if he would have any employees, and Mr. Raber said no, just himself. Mr. Hesser asked Mr. Raber how long the buildings have been on the property. Mr. Raber stated that the house was built in 1955, and the shop was built in 2020. Ms. Cramer asked Mr. Raber if he intended to store any of the trailers outside. Mr. Raber responded no that is not his intention. He continued to say that he has arrangements with a friend to store completed trailers in his building.

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** 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 Special Use for a home workshop/business for a trailer building business 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 8/9/2024) and as represented in the Special Use application.

Further, the motion also included that a 20 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for an existing residence 100 ft. from the centerline of the right-of-way, for a 17 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for an existing accessory structure 103 ft. from the centerline of the right-of-way, and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right on the Real Estate 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 8/9/2024) and as represented in the Developmental Variance application.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

9. The application of *The Schwartz Family Revocable Living Trust* 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 49 ft. Developmental Variance (Ordinance requires 75 ft.) to allow for an existing residence 26 ft. from the centerline of the right-of-way, for a 12 ft. Developmental Variance (Ordinance requires 75 ft.) to allow an existing accessory structure 63 ft. from the centerline of the right-of-way, 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 West side of CR 31, 685 ft. South of CR 34, common address of 63115 CR 31 in Clinton Township, zoned A-1, came on to be heard.

Mrs. Richards presented the Staff Report/Staff Analysis, which is attached for review as *Case #SUP-0573-2024*.

There were nine neighboring property owners notified of this request.

Paul Hostetler, Freedom Builders, 54824 CR 34, Middlebury was present for this request. Mr. Hostetler stated that the goal is to get everything on the property in compliance with current zoning regulations. He continued saying that he went out and measured all the buildings and confirmed their uses because it disagrees slightly with the GIS information. Mr. Hesser asked if he was representing the current owner or the buyers. Mr. Hostetler stated that he is representing the current owner. He continued to say that there is no buyer at this time, but it is advertised for sale.

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 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. Building permits must be obtained for the 12'×12' storage shed and the rear of the center storage building.

The following commitments were imposed:

1. The request is approved in accordance with the site plan submitted (dated 8/27/2024) and as represented in the Special Use application.
2. The agricultural use is limited to a maximum of two (2) adult horses at any one time.

Further the motion also included that a 49 ft. Developmental Variance (Ordinance requires 75 ft.) to allow for an existing residence 26 ft. from the centerline of the right-of-way, for a 12 ft. Developmental Variance (Ordinance requires 75 ft.) to allow an existing accessory structure 63 ft. from the centerline of the right-of-way, and for 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. 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 8/27/2024) and as represented in the Developmental Variance application.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

10. The application of *Aaron J. Scholl & Jessica L. Scholl* for a Use Variance to allow for an existing accessory structure without a residence on property located on the West side of CR 133, 955 ft. South of CR 28, common address of 60943 CR 133 in Middlebury Township, zoned A-1, came on to be heard.

Mrs. Richards presented the Staff Report/Staff Analysis, which is attached for review as *Case #UV-0541-2024*.

There were seven neighboring property owners notified of this request.

Mrs. Richards stated that the petitioners sent a letter asking to withdraw the petition. Mr. Hesser stated that they should move to accept the petitioners withdraw.

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:** Withdraw, **Moved by** Randy Hesser, **Seconded by** Steve Warner that this request for a use variance to allow for an existing accessory structure without a residence be withdrawn at the request of the petitioner.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 5).

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

11. The application of *Kevin Sarber* for a 25 ft. Developmental Variance (Ordinance requires 55 ft.) to allow for the construction of a commercial accessory building 30 ft. from the centerline of the right-of-way of 27th St., and for a 62 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for the construction of a commercial accessory building 58 ft. from the centerline of the right-of-way of Old US 33 on property located on the Northeast corner of 27th St. & Old US 33, common address of 00000 Old US 33 in Baugo Township, zoned B-3, came on to be heard.

Mrs. Richards presented the Staff Report/Staff Analysis, which is attached for review as *Case #DV-0547-2024*.

There were eight neighboring property owners notified of this request.

Kevin Sarber, 912 Ren St., Elkhart was present for this request. Mr. Sarber stated that he wants to build a structure with a bathroom and an office to sell cars on this property. Mr. Hesser then asked if the property is currently vacant. Mr. Sarber answered yes. He continued to say that the Highway Department gave him permission to use the alley, and it would give him more room to run the business. Mr. Norman asked what he would use the alley for, and Mr. Sarber stated that he would use it for parking. Mr. Sarber continued to say that he already has septic approved by the County. Mr. Sarber stated that he was not sure why the County felt that the use would be detrimental to the neighborhood, especially since it is zoned B-3. Mr. Hesser then asked how many cars would be on his lot, and Mr. Sarber stated that he would need to have a minimum of 10 to have a car sales business. Mrs. Richards stated that the alley could not be used for parking unless it is vacated. She continued to say that one of the reasons staff recommended denial was because the required setbacks for this property would not leave enough room for parking the cars for the business.

Kevin Koon, 28132 Larue St., Elkhart, was present in remonstrance to this request. Mr. Koon stated that his main concern was the traffic on Old US 33 and the possibility of accidents from cars pulling out into the heavy traffic.

The public hearing was closed at this time.

Mr. Hesser stated that he has concerns about the size of the parcel, and that the site plan does not satisfy the setback requirements. He continued to suggest that they table this petition and give the petitioner time to submit a revised site plan in compliance with the required setbacks. Mr. Miller stated that he has real concerns about the location of the property, and the possibility of accidents occurring on the curve of Old US 33. Mr. Norman stated that if Mr. Sarber can revise an acceptable site plan, that he would be in favor of approving the petition.

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

**Motion: Action:** Table, **Moved by** Randy Hesser, **Seconded by** Ron Norman that this request for a Developmental Variance be tabled until the October 17, 2024 Advisory Board of Zoning Appeals meeting to allow the petitioner to submit a revised site plan satisfying setback requirements.

**Vote:** Motion passed (**summary:** Yes = 3, No = 1, Abstain = 0).

**Yes:** Steve Warner, Ron Norman, Randy Hesser.

**No:** Roger Miller.

13. The meeting was adjourned at 10:19 A.M.

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:** October 17, 2024

**Transaction Number:** SUP-0602-2024.

**Parcel Number(s):** 20-06-24-276-019.000-009, 20-06-24-476-015.000-009.

**Existing Zoning:** A-1.

**Petition:** for a Special Use for a cemetery.

**Petitioner:** Sugar Grove Cemetery Association.

**Location:** East side of Old CR 17, 255 ft. North of CR 118, in Concord Township.

**Site Description:**

- Physical Improvement(s) – Cemetery.
- Proposed Improvement(s) – Cemetery addition.
- Existing Land Use – Residential, agricultural.
- Surrounding Land Use – Residential, agricultural.

**History and General Notes:**

- The cemetery has been in existence since 1825.

**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 a cemetery 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 4.55-acre property in a low to moderately-density residential and agricultural area, and the property will remain a cemetery.
3. The Special Use will substantially serve the public convenience and welfare by allowing a local cemetery to expand.

# ***BZA Staff Report (Continued)***

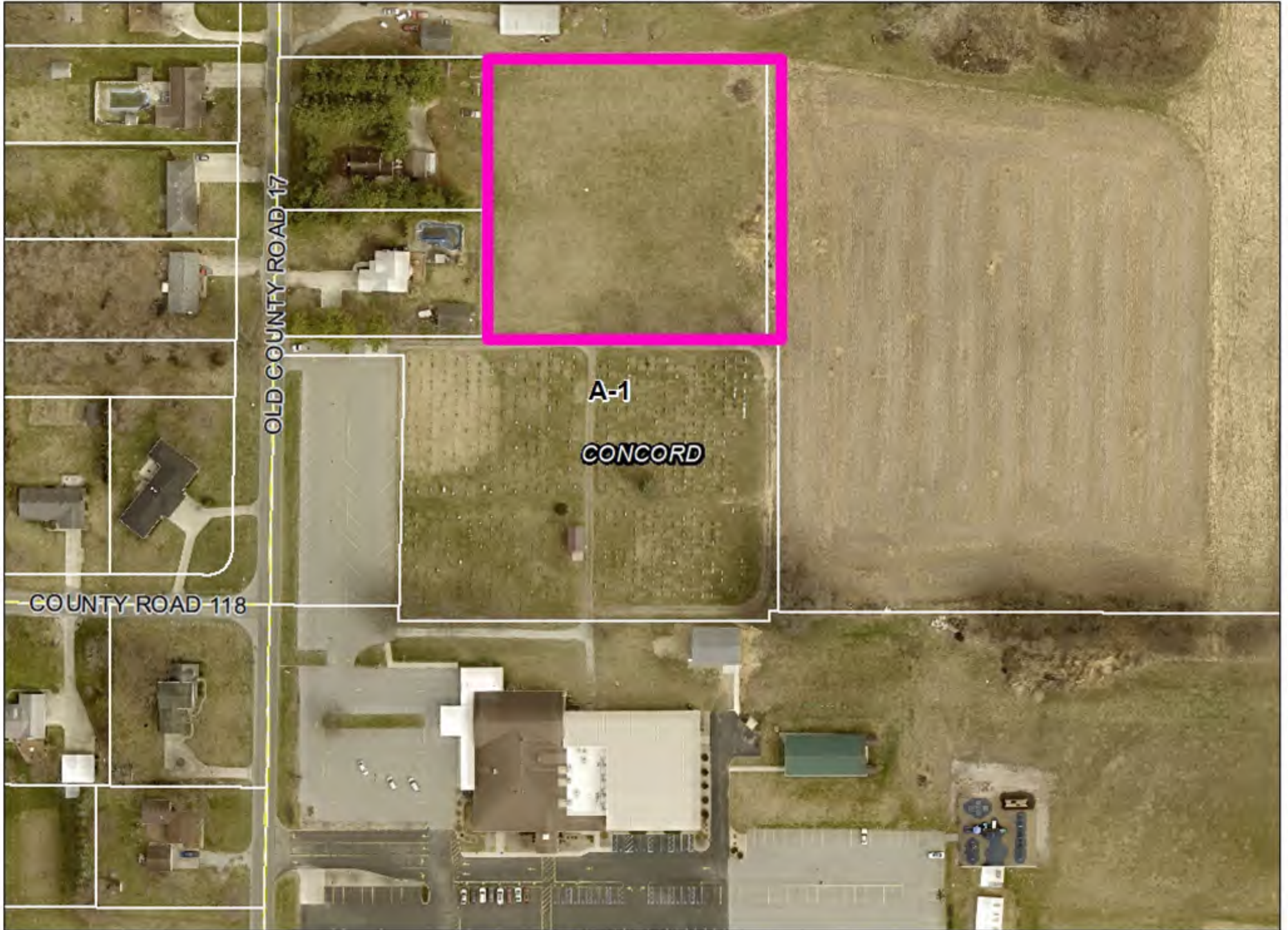
***Hearing Date:*** October 17, 2024

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:

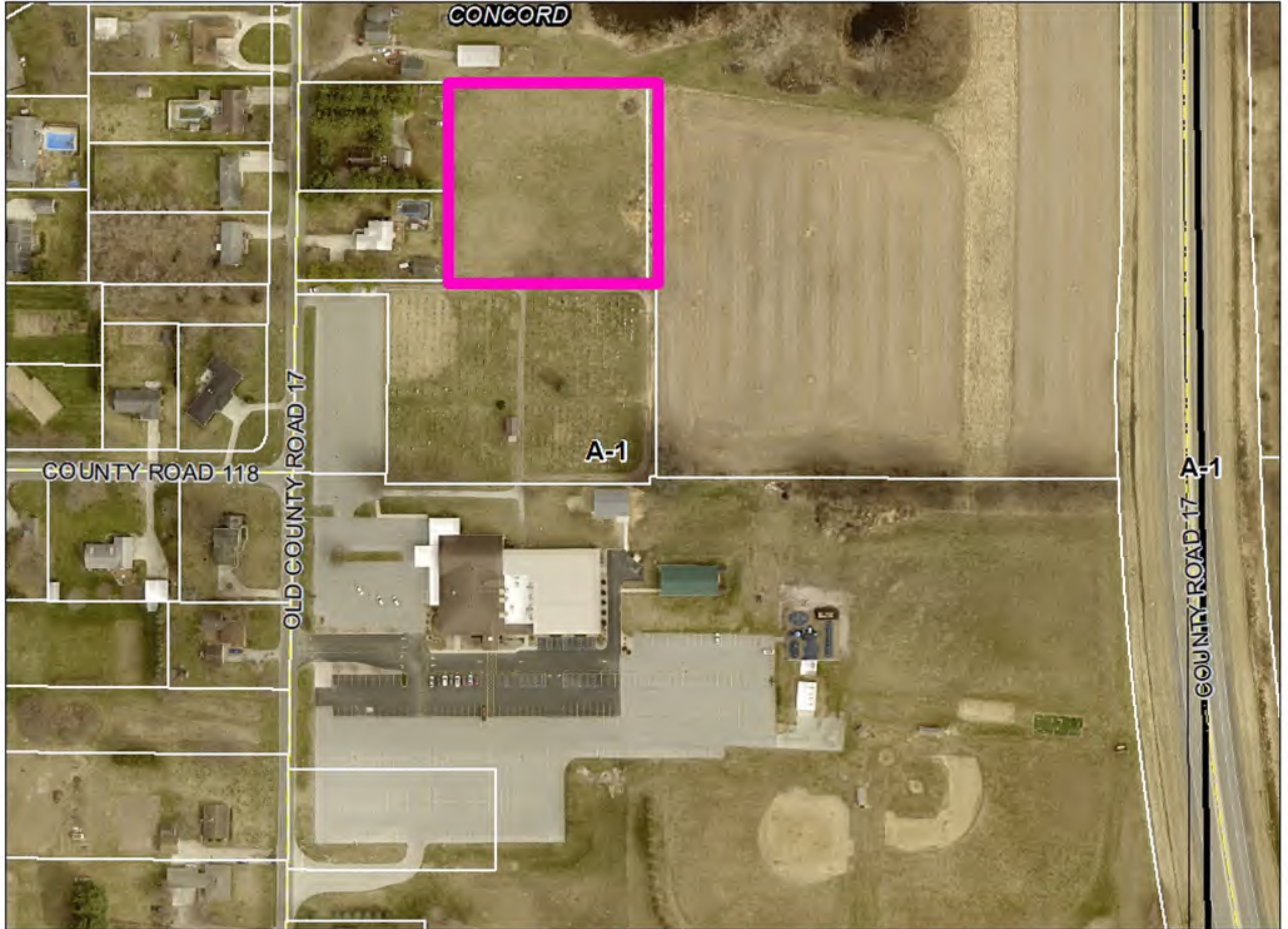
1. The request is approved in accordance with the site plan submitted 8/23/2024 and as represented in the Special Use application.

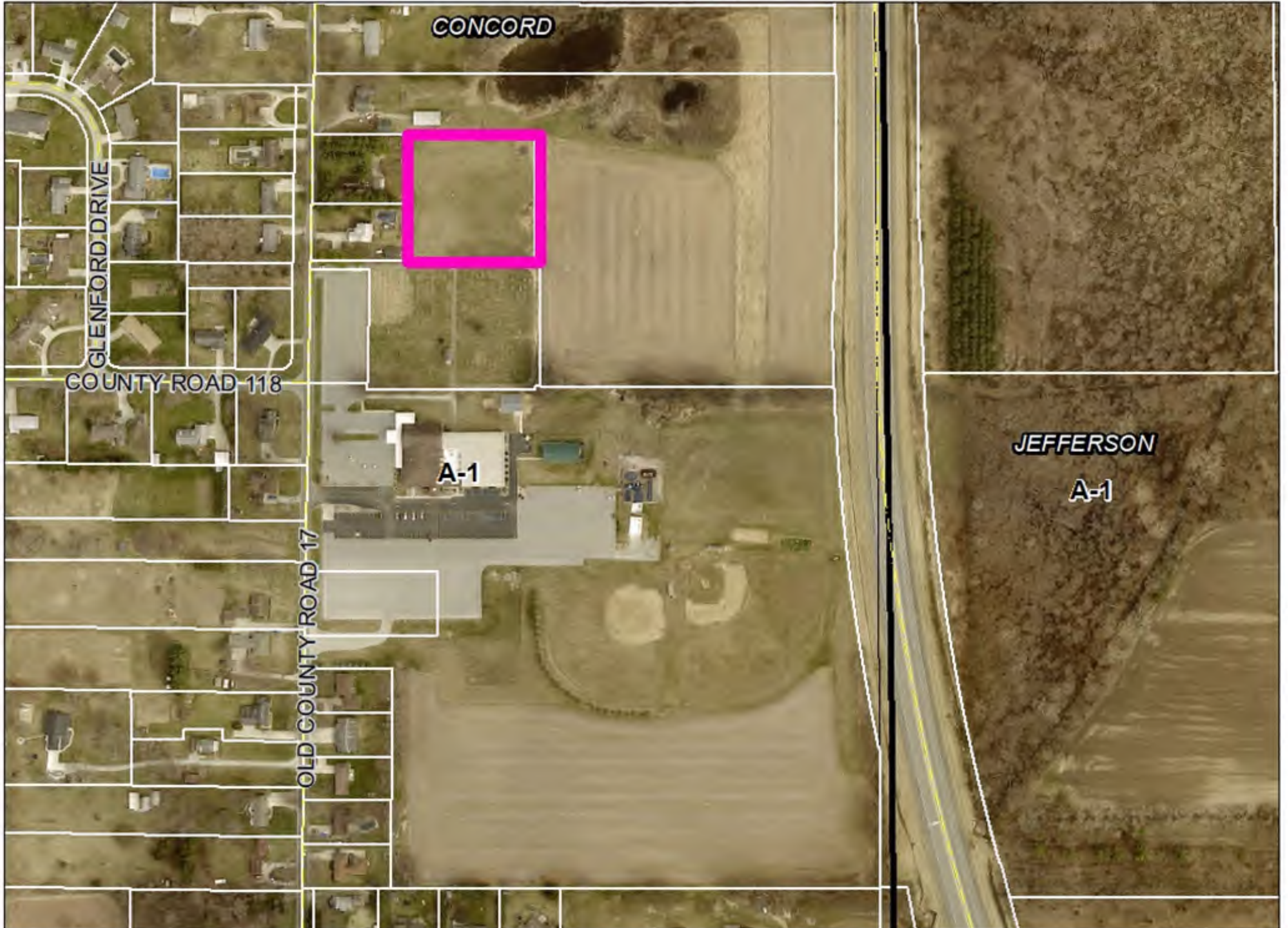


OLD COUNTY ROAD 17

COUNTY ROAD 118

A-1  
CONCORD









Facing east towards subject property



Facing west



Facing north



Facing 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

SUP-0602-2024

Special Use - Non Mobile Home

Date: 08/23/2024

Meeting Date:

October 17, 2024

Board of Zoning Appeals Public Hearing

Transaction #:

SUP-0602-2024

Description: for a Special Use for an addition to an existing cemetery

Contacts: Applicant

Sugar Grove Cemetery

Association

58512

Goshen, IN 46528

Authorized Agent

Peter Schnaars

22448 Cr 118

Goshen, IN 46528

Land Owner

Sugar Grove Cemetery

Association

58512

Goshen, IN 46528

Site Address: 00000 Cr 17  
Goshen, IN 46528

Parcel Number: 20-06-24-276-019.000-009  
20-06-24-426-013.000-009

Township: Concord

Location: EAST SIDE OF OLD CR 17, 255 FT NORTH OF CR 118

Subdivision:

Lot #

Lot Area: 4.55 Frontage: 20.00 Depth: 520.00

Zoning: A-1

NPO List:

Present Use of Property: VACANT/CEMETERY

Legal Description:

Comments: PARCEL CREATED 2/1/1991 (SMALLER PIECE ADDED 2/5/2010)  
CEMETERY HAS BEEN IN EXISTENCE SINCE 1825 AND DOES NOT HAVE AN EXISTING SPECIAL USE.

Applicant Signature:

Department Signature:

Meeting held at  
County  
Administration Bldg.  
117 N. 2nd St.  
Goshen, IN 46526  
Meeting rooms  
104, 106 & 108

Sugar Grove Cemetery Application Section E

Site address: 58512 Old CR 17

Parcel number(s): 20-06-24-276-015 and 019

4.47 Ac + 0.079 Ac 2/5/10  
7/1/1991

**Current property owner**

Name: Sugar Grove Cemetery Assoc. 40 Scott Nystrand, Pres. + Sexton

Address: 58512 Old CR 17, Goshen In. 46528

Phone: 574-320-7799

Email: snystrand@gaylor.com

**Other party**

Agent  Buyer  Land contract purchaser  Lessee

Name: Peter Schnaars

Address: 22448 CR 118 Goshen In 46528

Phone: 574-596-7087

Email: pschnaars@aol.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: Scott D Nystrand

**Staff Use Only**

Description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Parcel creation date: 7/1/1991 (4.47 acres) - .079 acres added 2/5/10

Subdivision required?  Y  N If yes,  AS  Minor  Major

Residential accessory breakdown, if applicable: \_\_\_\_\_  
\_\_\_\_\_

Location: N S (E) W corner side end of Old CR 17  
265 ft. (N) S' E W of CR 118  
in Concord Township

Frontage: 20 Depth: 520 Area: 4.549 acres

Subdivision and lot number, if applicable: \_\_\_\_\_

Present use: \_\_\_\_\_

Special Use — Questionnaire

Name: Sugar Grove Cemetery

1) Tell us what you want to do. Expand the existing cemetery, established in or by 1856, to include 486 new lots of 4 spaces each.

2) Tell us why this activity won't hurt your neighbors or the community. Cemeteries fill very slowly. There is little or no activity most of the time. Existing neighbors are already used to cemetery

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 N/A

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. Excavation of cemetery lots + arrival of cars for funerals

Tell us how you'll reduce the impact of those things on neighbors. Dirt is hauled to east property line + returned as needed.

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

If yes, tell us about it. A new chain link fence has been constructed along the west + north property lines

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 yes, did the Health Department say there's enough space for it?  Y  N N/A

7) Will the activity use buildings or additions?  Y  N If yes, fill out below. No Bldgs on Site

**Building or addition 1** Existing?  Y  N Size and height to the peak: H = 12' ± 19' x 24'

Tell us what you'll use it for. Existing storage bldg is on the old cemetery

**Building or addition 2** Existing?  Y  N Size and height to the peak: \_\_\_\_\_

Tell us what you'll use it for. N/A

**Building or addition 3** Existing?  Y  N Size and height to the peak: \_\_\_\_\_

Tell us what you'll use it for. N/A

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: 0 Part time: 0

How many of the employees won't live onsite? N/A

What will be the days and hours of operation on this property? Open for visitation from dawn to dusk

How many parking spaces do you have now? none

How many parking spaces do you want? none

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. N/A

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

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

Tell us how often. Occasional deliveries

Tell us the kind of vehicles used. flat bed trucks

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

**Sign 1** Dimensions (length and width). N/A

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). N/A

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). N/A

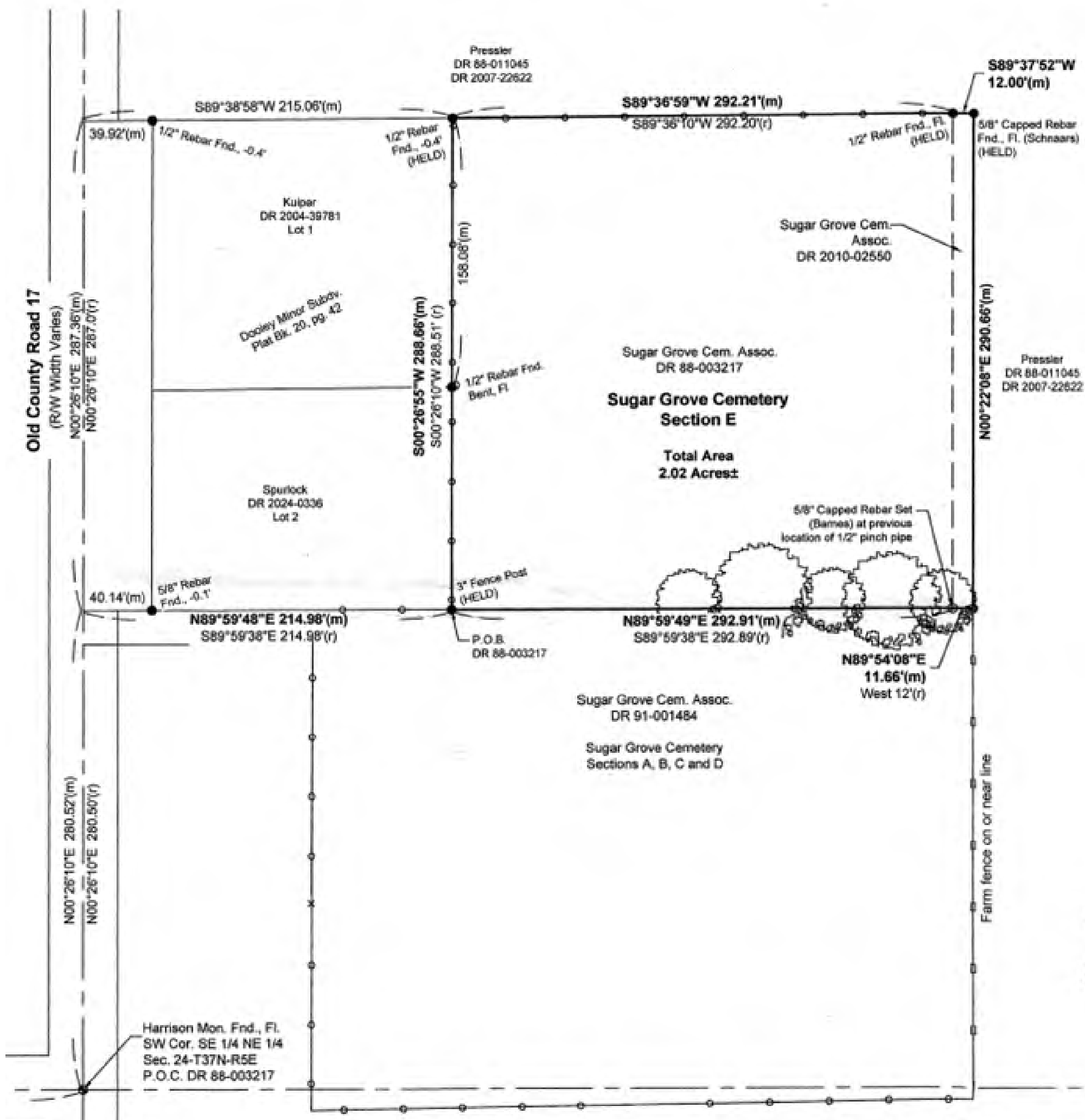
Existing?  Y  N Double faced?  Y  N

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. Sugar Grove Cemetery has been a responsible community member for over 160 years





Old County Road 17  
(R/W Width Varies)

N00°26'10"E 287.36'(m)  
N00°26'10"E 287.07'(r)

N00°26'10"E 280.52'(m)  
N00°26'10"E 280.50'(r)

Harrison Mon. Fnd., Fl.  
SW Cor. SE 1/4 NE 1/4  
Sec. 24-T37N-R5E  
P.O.C. DR 88-003217

Kulper  
DR 2004-39781  
Lot 1

Dodley Minor Subov.  
Plat 89. 20. pg. 42

Spurlock  
DR 2024-0336  
Lot 2

Pressler  
DR 88-011045  
DR 2007-22622

S89°37'52"W  
12.00'(m)

Pressler  
DR 88-011045  
DR 2007-22622

Sugar Grove Cem. Assoc.  
DR 88-003217

**Sugar Grove Cemetery  
Section E**  
  
Total Area  
2.02 Acres

Sugar Grove Cem. Assoc.  
DR 91-001484

Sugar Grove Cemetery  
Sections A, B, C and D

Sugar Grove Cem.  
Assoc.  
DR 2010-02550

5/8" Capped Rebar Set  
(Barnes) at previous  
location of 1/2" pinch pipe

Farm fence on or near line

S89°38'58"W 215.06'(m)

S89°36'59"W 292.21'(m)

39.92'(m)  
1/2" Rebar Fnd., -0.4'

1/2" Rebar  
Fnd., -0.4'  
(HELD)

S89°38'10"W 292.20'(r)

1/2" Rebar Fnd., Fl.  
(HELD)

5/8" Capped Rebar  
Fnd., Fl. (Schnaars)  
(HELD)

158.06'(m)

S00°26'55"W 288.66'(m)  
S00°26'10"W 268.51'(r)

1/2" Rebar Fnd.  
Bent, Fl

40.14'(m)

5/8" Rebar  
Fnd., -0.1'

N89°59'48"E 214.98'(m)  
S89°59'38"E 214.98'(r)

3" Fence Post  
(HELD)

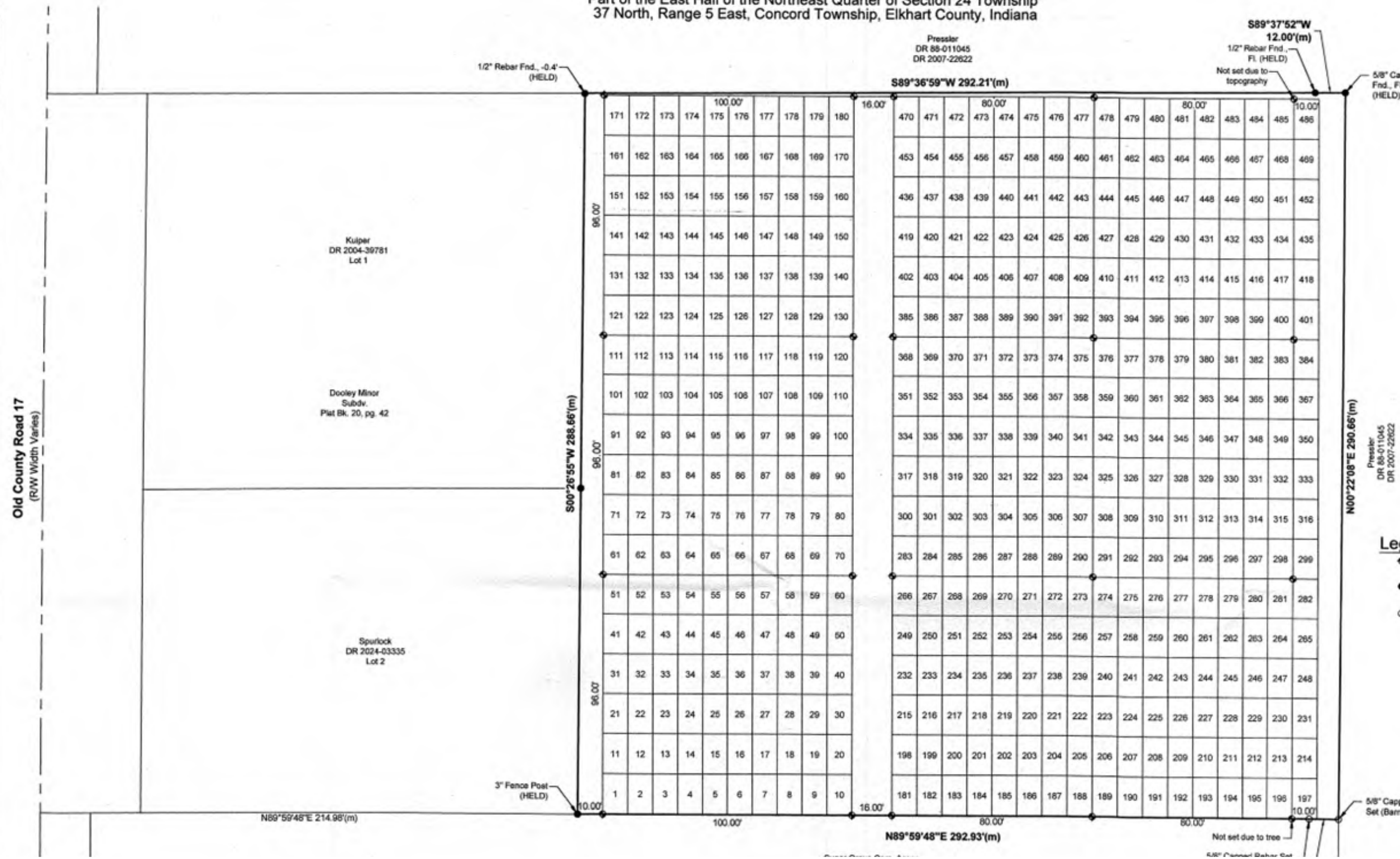
P.O.B.  
DR 88-003217

N89°59'49"E 292.91'(m)  
S89°59'38"E 292.89'(r)

N89°54'08"E  
11.66'(m)  
West 12'(r)

**Sugar Grove Cemetery, Section 24**  
 Part of the East Half of the Northeast Quarter of Section 24 Township  
 37 North, Range 5 East, Concord Township, Elkhart County, Indiana

Pressler  
 DR 88-011045  
 DR 2007-22622



Kulper  
 DR 2004-29781  
 Lot 1

Dooley Minor  
 Subdv.  
 Plat Bk. 20, pg. 42

Spurlock  
 DR 2024-03335  
 Lot 2

Old County Road 17  
 (R/W Width Varies)

Pressler  
 DR 88-011045  
 DR 2007-22622

**Legend**

- ◆
- 
- 

5/8" Capped R  
 Set (Barnes)

# ***BZA Staff Report***

*Prepared by the Department of Planning and Development*

**Hearing Date:** October 17, 2024

**Transaction Number:** SUP-0650-2024.

**Parcel Number(s):** 20-10-24-251-002.000-016.

**Existing Zoning:** A-1.

**Petition:** for a Special Use for a home workshop/business for a vehicle service and repair business.

**Petitioner:** Dalton Null & Alissa Null, Husband & Wife.

**Location:** South side of SR 119, 1,910 ft. Southwest of CR 17, in Harrison Township.

**Site Description:**

- Physical Improvement(s) – Residence and accessory structures.
- Proposed Improvement(s) – None.
- Existing Land Use – Residential, agricultural.
- Surrounding Land Use – Residential, agricultural.

**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 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 6.79-acre property in a low-density 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 allowing a local vehicle service and repair shop.

# ***BZA Staff Report (Continued)***

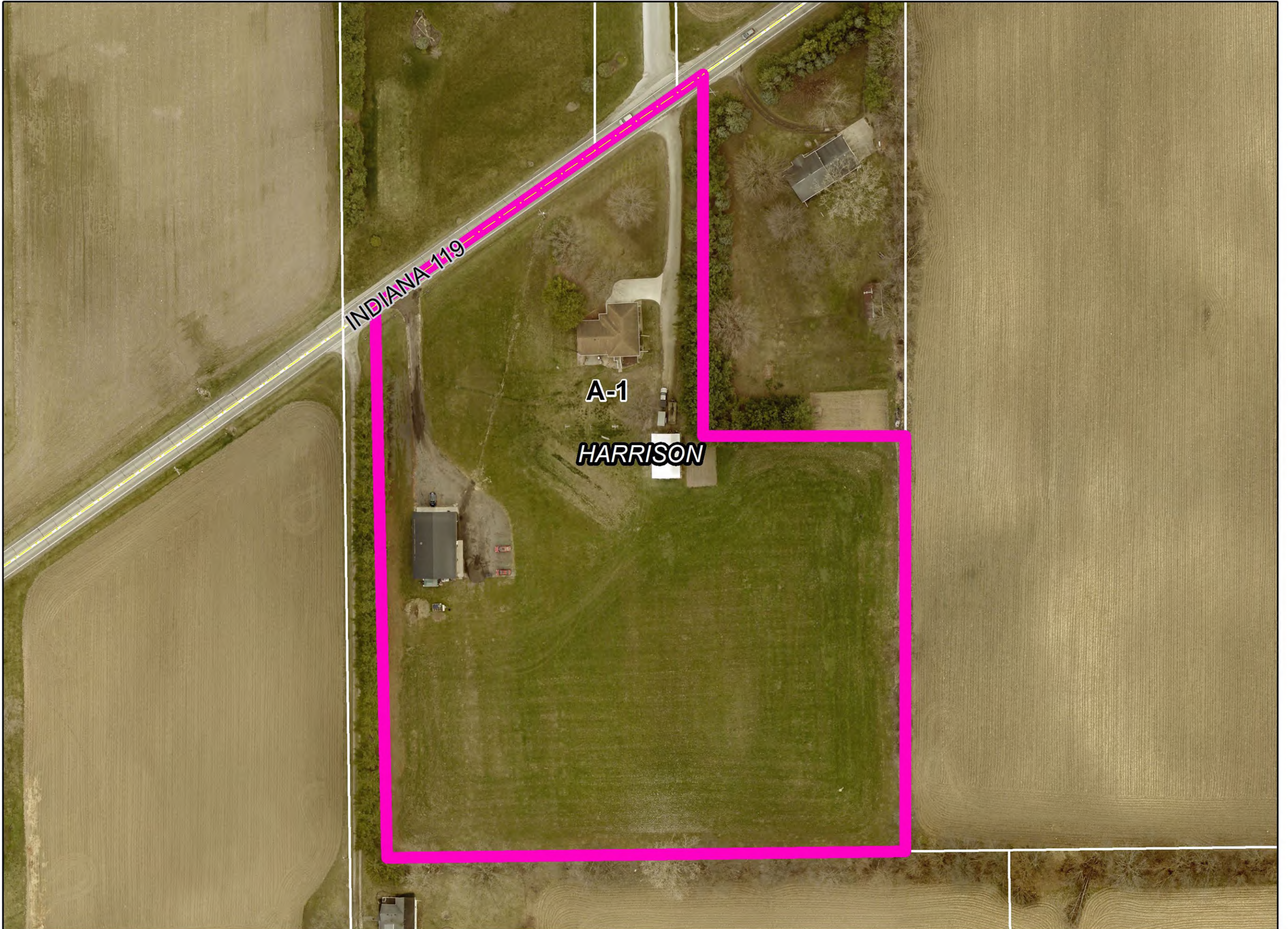
***Hearing Date:*** October 17, 2024

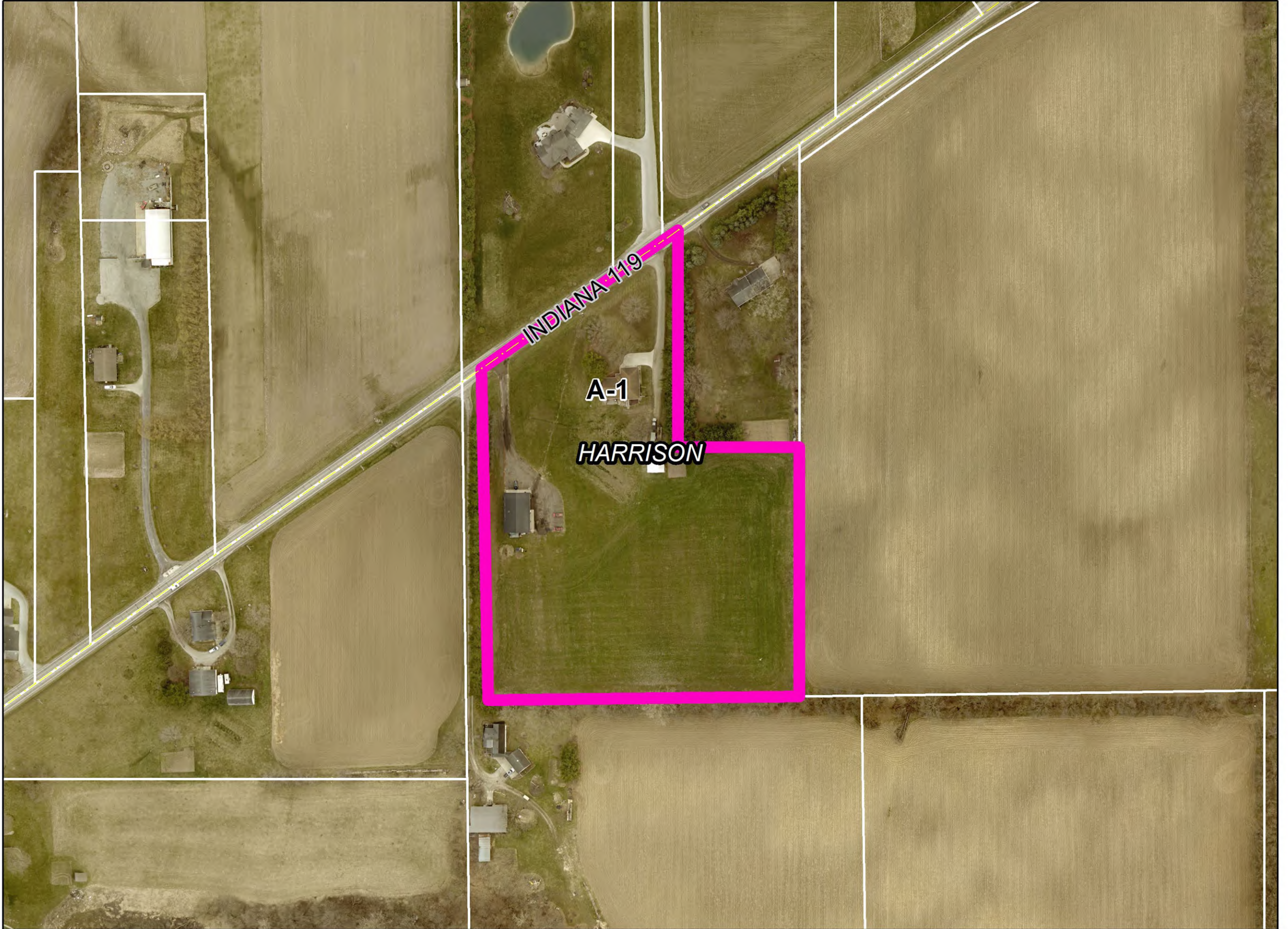
Staff recommends **APPROVAL** with the following condition(s) imposed:

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 9/11/2024 and as represented in the Special Use application.
2. Limited to ten (10) customer vehicles onsite at any one time.
3. No outside storage of vehicle parts or junk cars.









Facing south towards subject property





Facing north



Facing east



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

Special Use - Non Mobile Home

SUP-0650-2024

Date: 09/11/2024

Meeting Date:

October 17, 2024

Board of Zoning Appeals Public Hearing

Transaction #:

SUP-0650-2024

Description: for a Special Use for a home workshop/business for a vehicle service and repair business

Contacts: Applicant

Dalton Null And Alissa Null,  
Husband And Wife  
22440 State Road 119  
Goshen, IN 46526

Land Owner

Dalton Null And Alissa Null,  
Husband And Wife  
22440 State Road 119  
Goshen, IN 46526

Site Address: 22440 State Road 119  
GOSHEN, IN 46526

Parcel Number: 20-10-24-251-002.000-016

Township: Harrison

Location: South Side Of Sr 119, 1,755 FT West Of Cr 17

Subdivision:

Lot #

Lot Area: 6.79 Frontage: 396.80

Depth: 357.80

Zoning: A-1

NPO List:

Present Use of Property: RESIDENTIAL DWELLING

Legal Description:

Comments: PARCEL CREATED 3-1-1976  
RESIDENCE = 2716 SF X 200% = 5432 SF MINUS 2560 SF OF PERSONAL STORAGE (BARN), AND 960 SF OF PERSONAL STORAGE (BARN), AND 576 SF FOR GARAGE. NEW PROPOSED ADDITION IS 630 SF, WHICH LEAVES 706 SF OF REMAINING SPACE.

Applicant Signature:

Department Signature:

Application

Site address: 22440 State Road 119, Goshen, Indiana 46526

Parcel number(s): 20-10-24-251-002.000-016

Current property owner

Name: Dalton Null & Alissa Null

Address: 22440 State Road 119, Goshen, Indiana 46526

Phone: 574-215-1451

Email: N/A

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: \_\_\_\_\_

Parcel creation date: 3-1-76

Subdivision required?     Y     N    If yes,     AS     Minor     Major

Residential accessory breakdown, if applicable: Residence equals 2716 SF x 200% = 5432 SF minus 2560 SF of personal storage (Barn), and 960 SF of personal storage (Barn, former AG) and 576 SF for garage which leaves 1,336 SF

Location: N (S) E W corner (side) end of SR 119 which leaves 1,336 SF  
1755 ft. N S E (W) of CR 17

in Harrison Township

Frontage: 396.8ft    Depth: 357.8ft    Area: 6.791 acres

Subdivision and lot number, if applicable: \_\_\_\_\_

Present use: \_\_\_\_\_

Special Use — Questionnaire

Name: Dalton Null & Alissa Null

1) Tell us what you want to do. Get a special use permit for home workshop/business for minor vehicle service and repair, I started working on cars for family & friends and it turned into a business opportunity

2) Tell us why this activity won't hurt your neighbors or the community. By servicing 3 or 5 vehicles per day and the amount of traffic on SR 119, the additional vehicles to the property are negligible. Work is done inside the existing shop. shop is about 250 feet from SR 119 and Has trees on 3 sides

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. there could be some noise and vibration from the servicing and repairs

Tell us how you'll reduce the impact of those things on neighbors. All servicing and repair will be done inside and with distance from neighbors and tree buffering no noise or vibration should be detected beyond property

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

If yes, tell us about it. existing tree lines on west, south and East sides

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: 40x64x21

Tell us what you'll use it for. vehicle servicing & Repair

**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. \_\_\_\_\_

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: \_\_\_\_\_

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

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

What will be the days and hours of operation on this property? 8am to 5pm Monday-Friday

How many parking spaces do you have now? 5

How many parking spaces do you want? 15 including fenced in area

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

If yes, tell us what will be stored outside or displayed. at times customers will drop off the night before and may not pick up till after hours next day

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?

3-5

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

Tell us how often. 2-3 a day for Parts

Tell us the kind of vehicles used. small cars or trucks

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

**Sign 1** Dimensions (length and width). 3x5

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. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

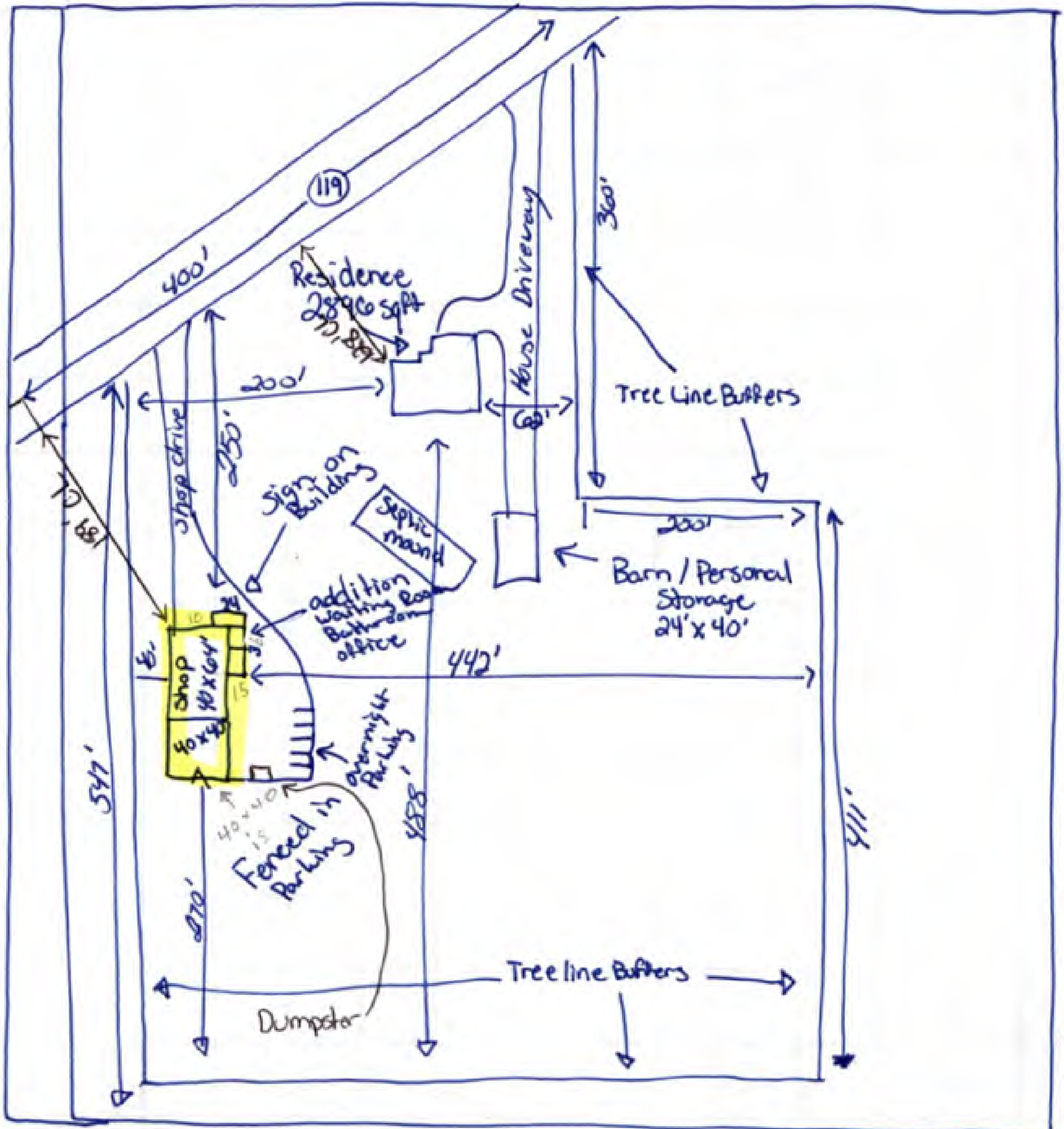
**Supporting Petition**  
**Dalton and Alissa Null**

Each of the undersigned represents as follows:

1. The undersigned resides either adjacent to or within close proximity of 22440 State Road 119, Goshen, Indiana 46526.
2. The undersigned is familiar with such property and the fact that Dalton Null, operates a light vehicle repair business on such property.
3. The undersigned have had an opportunity to review the Special Use Questionnaire and Site Plan in connection with such light vehicle repair business.
4. The undersigned have no objection to the operation of the light vehicle repair business on the property so long as it is operated as shown on the Site Plan and described in the Special Use Questionnaire.
5. That such use of the property will not create a substantial or permanent injury to the use of their respective neighboring property.
6. That such use of the property will continue to serve the public convenience and welfare of the community.

<u>Name</u>	<u>Address</u>
1. <u>Timothy D. Shubert</u>	<u>22428 SR 119, Goshen, IN</u>
2. <u>Linda M. Shubert</u>	<u>22428 SR 119, Goshen IN</u>
3. <u>Allen Mast</u>	<u>22548 SR 119 Goshen IN</u>
4. <u>Norma J. Mast</u>	<u>22548 State Road 119 Goshen IN</u>
5. <u>John Brntz</u>	<u>22453 SR 119 Goshen, IN</u>
6. <u>Jennifer L. Brntz</u>	<u>22453 SR 119 Goshen, IN</u>
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____





# ***BZA Staff Report***

*Prepared by the Department of Planning and Development*

**Hearing Date:** October 17, 2024

**Transaction Number:** SUP-0663-2024.

**Parcel Number(s):** 20-13-03-100-003.000-020.

**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 Special Use for a kennel.

**Petitioner:** AMMF Trustee Corporation (Land Contract Holder) & Seth Bontrager (Land Contract Purchaser).

**Location:** South side of CR 42, 890 ft. East of Ash Rd., in Locke Township.

**Site Description:**

- Physical Improvement(s) – Residence and barn.
- Proposed Improvement(s) – Detached dog kennel.
- Existing Land Use – Residential, agricultural.
- Surrounding Land Use – Residential, agricultural.

**History and General Notes:**

- None.

**Staff Analysis:**

1. The Special Uses will be consistent with the spirit, purpose, and intent of the Development Ordinance. The keeping of animals on a tract of land containing less than 3 acres and kennels are allowed by Special Use, in the A-1 zoning district.
2. The Special Uses will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a 1.14-acre parcel and in a low-density residential and agricultural area, and the property will remain residential and agricultural in character.
3. The Special Uses will substantially serve the public convenience and welfare by providing a hobby opportunity and local transportation.

# ***BZA Staff Report (Continued)***

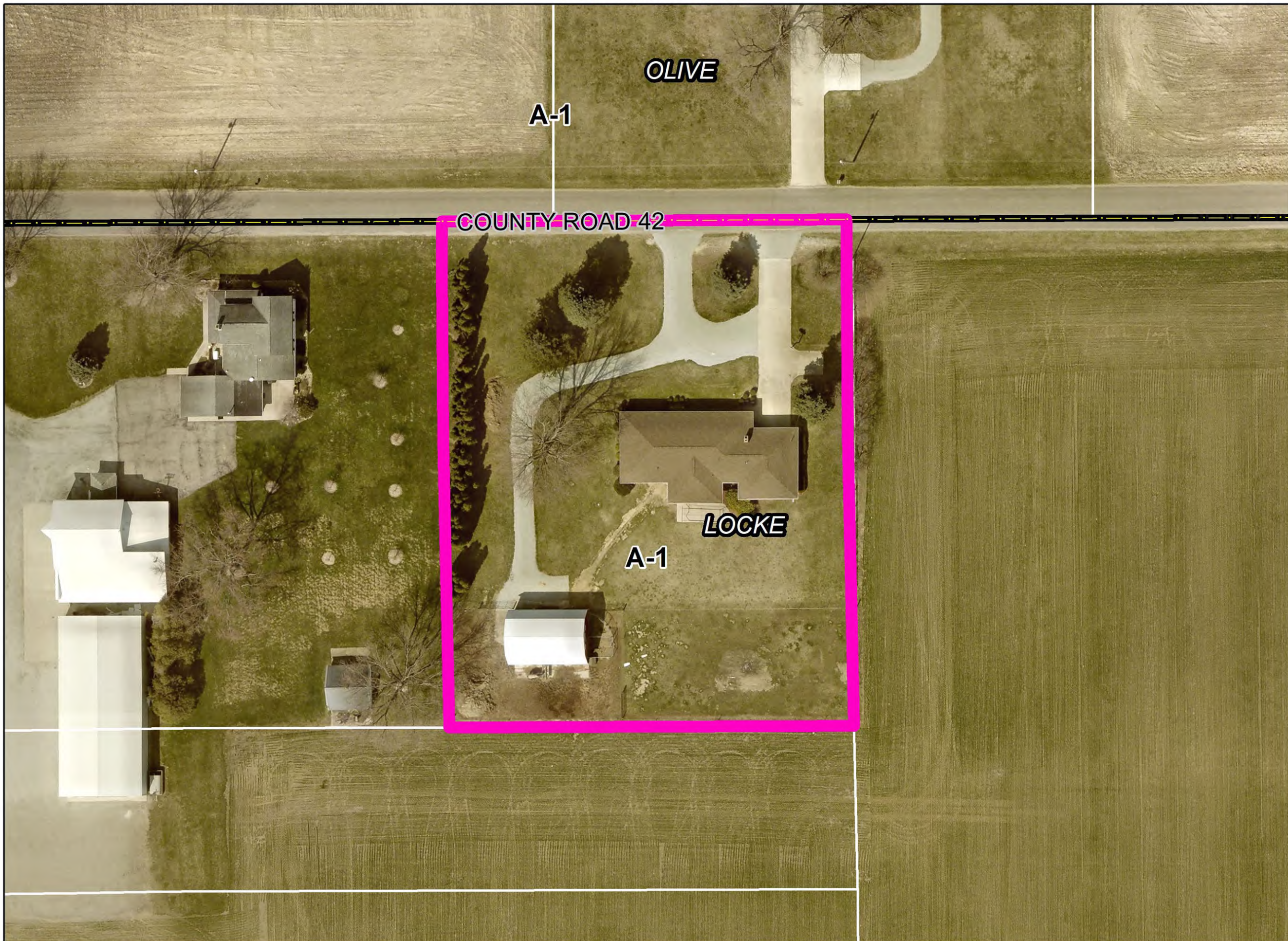
***Hearing Date:*** October 17, 2024

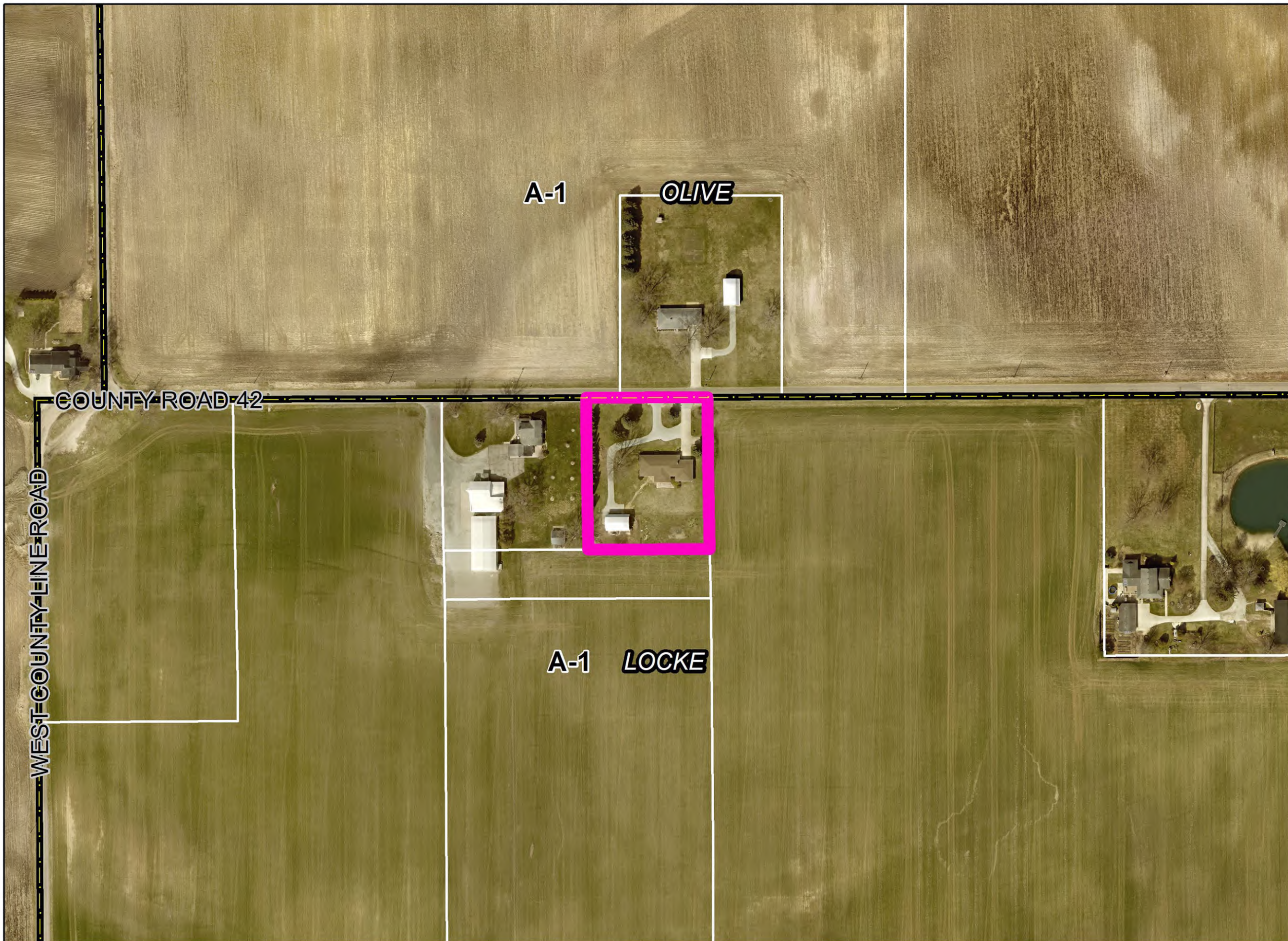
Staff recommends **APPROVAL** with the following condition(s) imposed:

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.
2. A revised site plan must be submitted for staff approval showing fencing for the kennel dogs.

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

1. The requests are approved in accordance with the revised site plan submitted for staff approval and as represented in the Special Use application.
2. The kennel dogs will be contained in a physically fenced-in area at all times.
3. The request is limited to a maximum of two (2) adult horses at any one time.









Looking south towards subject property



**Subject property Proposed building site**





Looking east



Looking west



Looking north

# 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

SUP-0663-2024

Date: 09/16/2024

Meeting Date:

October 17, 2024

Board of Zoning Appeals Public Hearing

Transaction #:

SUP-0663-2024

Description: for a Special Use for an agricultural use for the keeping of animals on a tract of land containing less than 3 acres, for a special use for a kennel, for a. Developmental Variance to allow for a kennel on less than 3 acres, and for a developmental variance to allow for kennel facilities 0 ft from all property lines (ordinance requires 50 ft)

Contacts: Applicant

Ammf Land Trustee  
Corporation  
30790 County Road 42  
Wakarusa, IN 46573

Land Owner

Ammf Land Trustee  
Corporation  
30790 County Road 42  
Wakarusa, IN 46573

Site Address: 30790 County Road 42  
Wakarusa, IN 46573

Parcel Number: 20-13-03-100-003.000-020

Township: Locke

Location: SOUTH SIDE OF CR 42, 4,425 FT WEST OF CR 1

Subdivision:

Lot #

Lot Area: 1.14 Frontage: 198.00

Depth: 248.00

Zoning: A-1

NPO List:

Present Use of Property: RESIDENTIAL

Legal Description:

Comments: PARCEL CREATION DATE 3/1/1967  
RESIDENCE = 1711 SF X 110% = 1882 SF MINUS 288 SF OF BUGGY STORAGE WITHIN AG BARN AND 280 SF FOR PROPOSED KENNEL LEAVES 1,314 SF OF AVAILABLE BUILDABLE SPACE  
PER DANNY, CHECK THE KENNEL DEFINITION AND DECIDE IF VARIANCES ARE REALLY REQUIRED

Applicant Signature:

Department Signature:

Application

Site address: 30790 CR 42, WAKARUSA, IN 46573

Parcel number(s): 20-13-03-100-003.000-020.

Current property owner

Name: Amish Mutual Mortgage Fund

Address: 8216 W 1350 N Nappanee IN 46550

Phone: 574-208-6058

Email: \_\_\_\_\_

Other party

Agent  Buyer  Land contract purchaser  Lessee

Name: Seth Bontrager

Address: 30790 CR 42, Wakarusa IN 46573

Phone: 574-354-0105

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: \_\_\_\_\_

Seth Bontrager

Staff Use Only

SU-~~H~~DS  
SU-~~D~~SS  
DV-KENNEL

Description: \_\_\_\_\_

Parcel creation date: 3/1/1967

Subdivision required?  Y  N If yes,  AS  Minor  Major

Residential accessory breakdown, if applicable: Residence 1711 SF x 110% = 1882 SF  
minus Buggy Storage 288 SF of AG Building and proposed  
kenel 280 SF equals 1314 SF of avail. Storage

Location: N (S) E W corner (side) end of CR 42,  
4,425 ft. N S E (W) of CR 1,  
in Locke Township

Frontage: 198 ft Depth: 248 ft Area: 1.14 acres

Subdivision and lot number, if applicable: \_\_\_\_\_

Present use: Residential

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: 0 Part time: 0

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

What will be the days and hours of operation on this property? Mon - Sat - 6:AM to 9 PM

How many parking spaces do you have now? 2

How many parking spaces do you want? 2

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. Puppies

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

between 20-30 per year

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

Tell us how often. maybe once a week

Tell us the kind of vehicles used. UPS - FedEX - Amazon

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. The dogs will be free range on property with a Gps - surrounding fence - There will not be a fence surrounding property - The dogs will wear Gps collars - That will prevent from leaving property

Special Use — Questionnaire

Name: Seth Bontrager

1) Tell us what you want to do. Have horses for transportation,  
Dogs - a little hobby and side income.

2) Tell us why this activity won't hurt your neighbors or the community. The horses are in a  
fenced pasture. The Dogs will be trained to stay on  
property

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. The dogs will Bark now and then.  
The horses are quiet  
Tell us how you'll reduce the impact of those things on neighbors. I will put on (no  
bark) collars and a surrounding fence.

5) Will there be buffering (fences, trees, shrubs, mounds)?  Y  N  
If yes, tell us about it. I will put up a fence

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

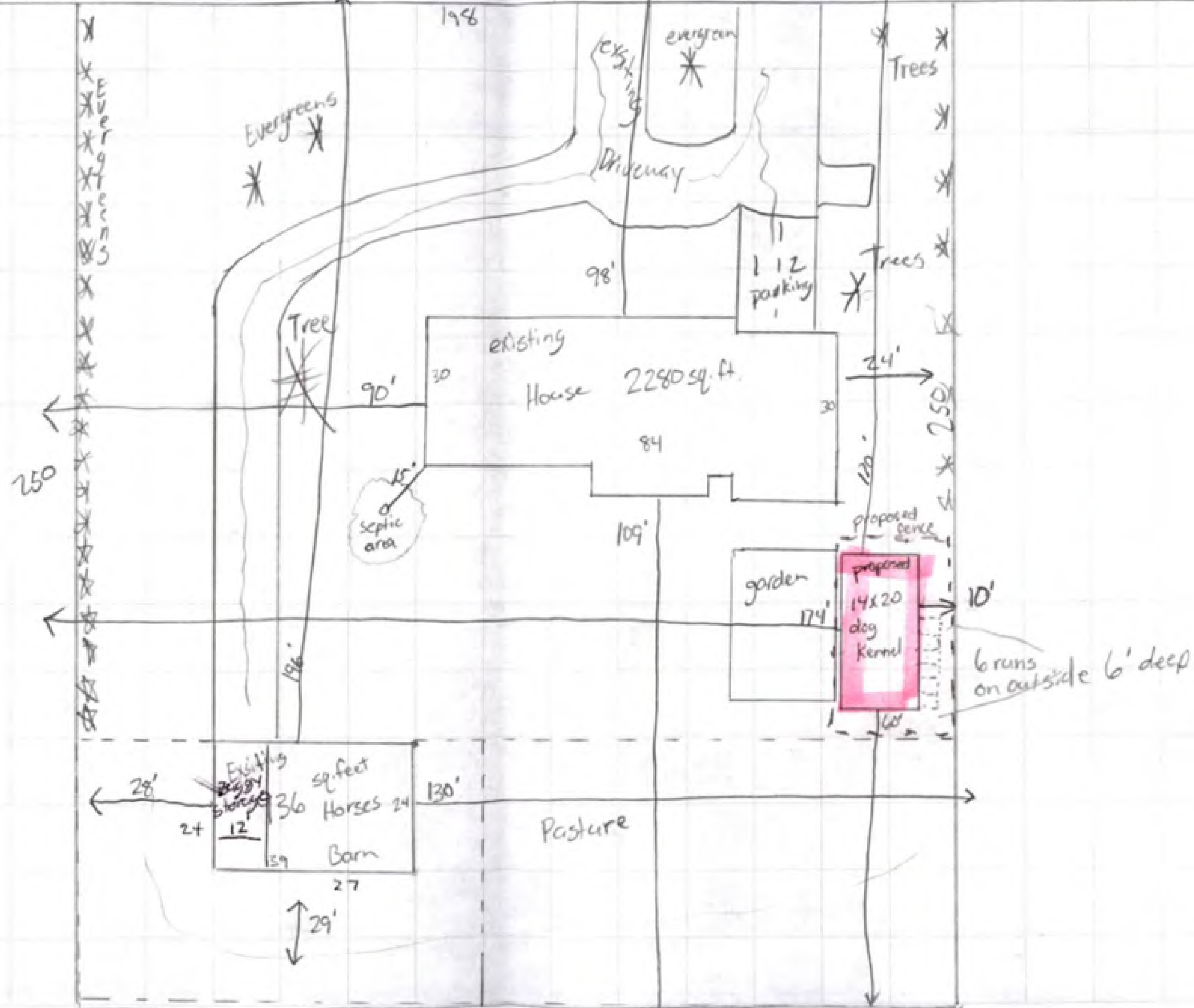
7) Will the activity use buildings or additions?  Y  N If yes, fill out below.  
**Building or addition 1** Existing?  Y  N Size and height to the peak: 936 sq. feet 18' to peak  
Tell us what you'll use it for. Horses to feed - then bed in winter  
**Building or addition 2** Existing?  Y  N Size and height to the peak: 14x20 - 14' to peak  
Tell us what you'll use it for. dogs - Heated on inside  
**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. Horses - 2 Dogs - 6

Next page ➡

Nakarusa IA 46573

CR 412





# ***BZA Staff Report***

*Prepared by the Department of Planning and Development*

**Hearing Date:** October 17, 2024

**Transaction Number:** SUP-0662-2024.

**Parcel Number(s):** 20-07-18-200-026.000-019.

**Existing Zoning:** A-1.

**Petition:** For a Special Use for a kennel and for a 3 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing accessory structure 2 ft. from the east side property line.

**Petitioner:** Alice E. Poseley & Steven Poseley, Wife & Husband.

**Location:** South side of US Hwy. 20, 3,015 ft. west of CR 19, in Jefferson Township.

## ***Site Description:***

- Physical Improvement(s) – Residence, accessory structures.
- Proposed Improvement(s) – Addition to residence, addition to accessory structure, parking.
- Existing Land Use – Residential.
- Surrounding Land Use – Residential, agricultural.

## ***History and General Notes:***

- **November 16, 2023** – The BZA approved a Special Use for Catsnip on property on CR 4 with a 2025 deadline for kennel completion. No facilities were ever built.
- **May 16, 2024** – The BZA approved an Amendment to revise the site plan and move the deadline to 2026. No facilities were ever built.

## ***Staff Analysis:***

*For a Special Use for a kennel, staff finds that:*

1. The Special Use will be consistent with the spirit, purpose, and intent of the Development Ordinance. A kennel is allowed by Special Use in the A-1 zone.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. All kennel facilities on this 4.4-acre parcel in a low-density residential and agricultural area will be in or added to the rear of existing structures, and this cat-only kennel will have no outside runs or storage.
3. The Special Use will substantially serve the public convenience and welfare by helping relieve the burden on existing TNR (trap-neuter-release) facilities in the community.

# ***BZA Staff Report (Continued)***

***Hearing Date:*** October 17, 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:

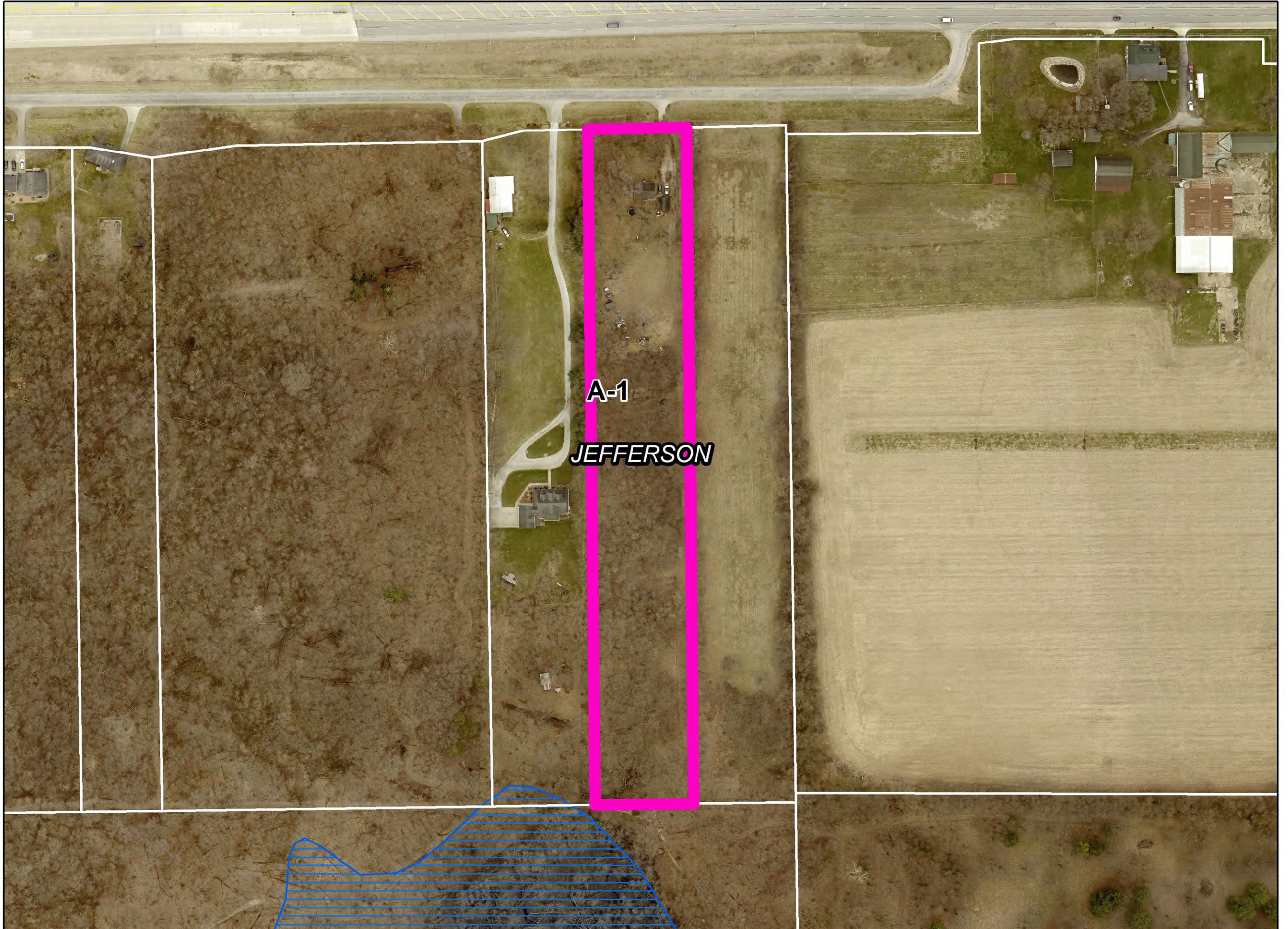
1. The request is approved in accordance with the site plan submitted 9/16/2024 and as represented in the Special Use application.
2. No more than twelve (12) total employees and volunteers onsite at any one (1) time on regular business days, not including fundraising event days and board meeting days.
3. No more than two (2) one-day fundraising events per calendar year.
4. Hours of operation limited to 7:00 a.m. to 6:00 p.m., Monday through Sunday.

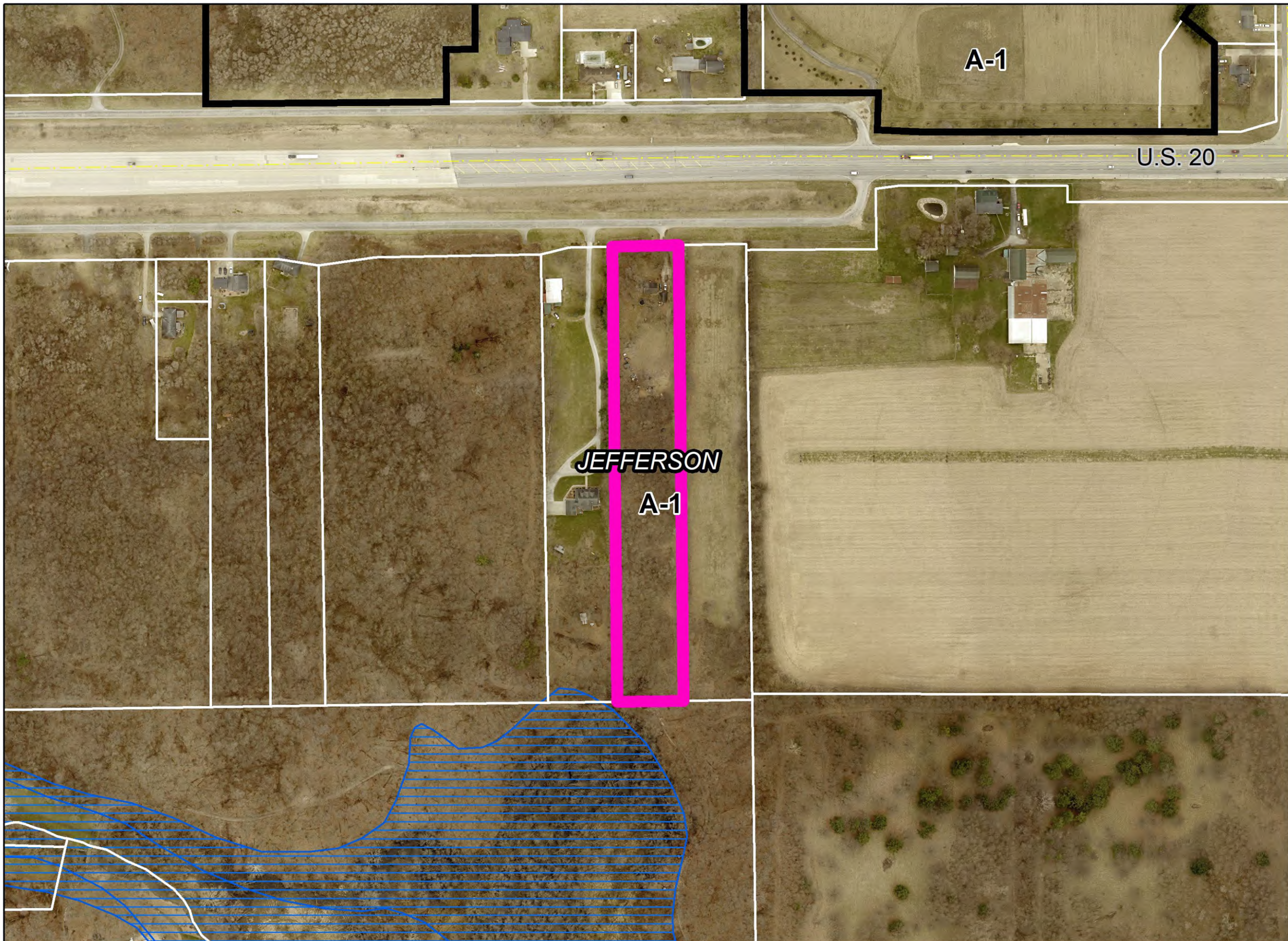
*For a 3 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing accessory structure 2 ft. from the east side property line, staff finds that:*

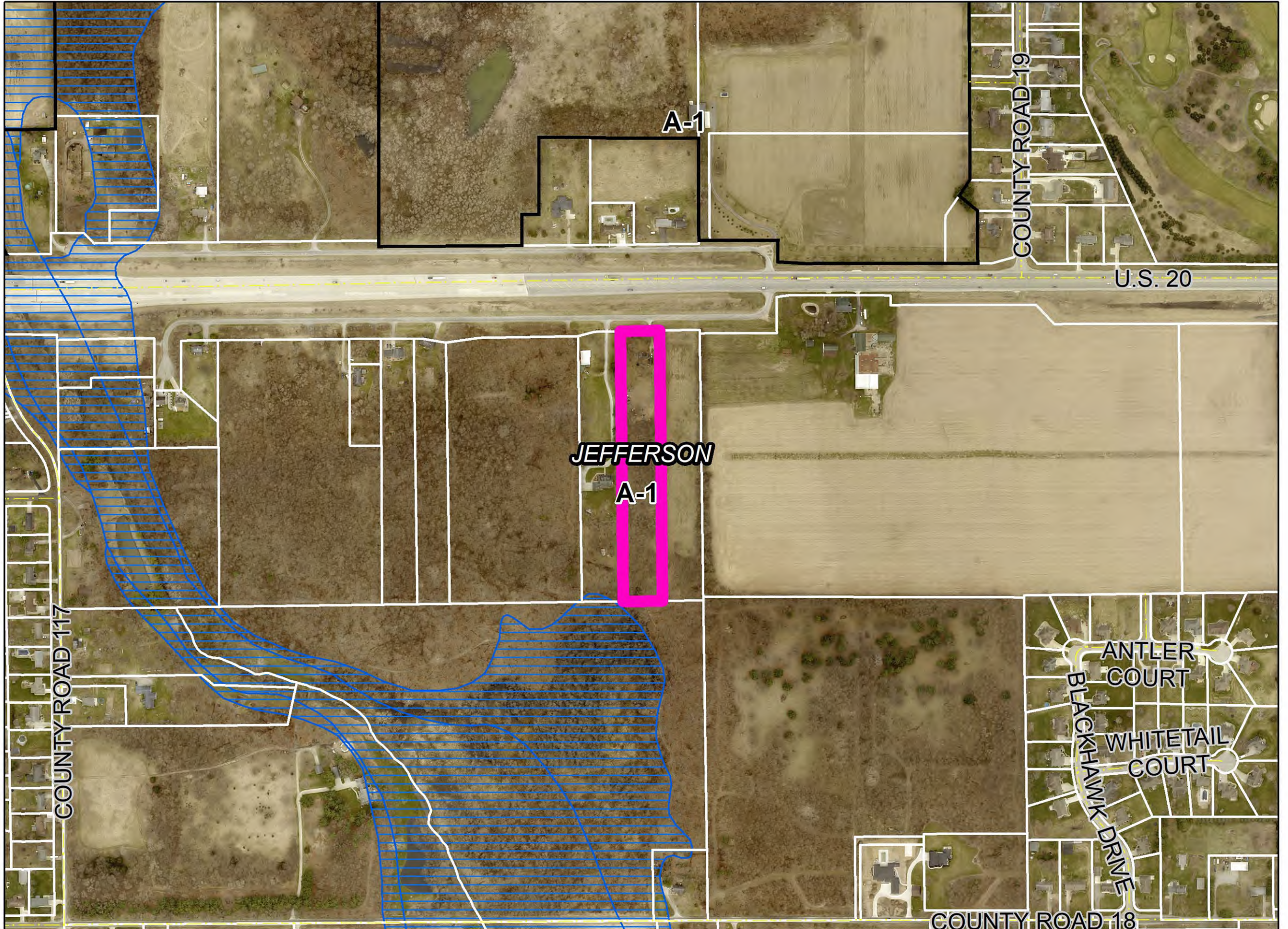
1. Approval of the request will not be injurious to public health, safety, morals, or general welfare. The property and structure are complaint-free and pose no risk to public health or safety.
2. Approval of the request will not cause substantial adverse effect on neighboring property. The variance is for an existing structure on the side of the property that has no neighboring home.
3. Strict application of the terms of the Development Ordinance would result in an unnecessary hardship in the use of the property. Requiring removal of this 48 sq. ft. structure located in an isolated part of the property would constitute an undue hardship.

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 9/16/2024 and as represented in the Developmental Variance application.









**Subject property**



Subject property, east side



Facing west





Facing east



Facing north

# 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

SUP-0662-2024

Special Use - Non Mobile Home

Date: 09/16/2024

Meeting Date: October 17, 2024  
Board of Zoning Appeals Public Hearing

Transaction #: SUP-0662-2024

Description: for a Special Use for a kennel and for a 20 ft. Developmental Variance (Ordinance requires 50 ft.) to allow for an existing kennel 30 ft. from the east side property line and for a 3 ft. Developmental Ordinance (Ordinance requires 5 ft.) to allow for an existing accessory structure 2 ft. from the east side property line

Contacts: Applicant

Catsnip Etc  
24985 County Road 30  
Goshen, IN 46526

Authorized Agent

Catsnip Etc  
24985 County Road 30  
Goshen, IN 46526

Land Owner

Alice E. Poseley And Steven  
Poseley, Husband And Wife  
24741 Na Ce Dah  
Elkhart, IN 46516

Site Address: 21060 Us Highway 20  
Goshen, IN 46528

Parcel Number: 20-07-18-200-026.000-019

Township: Jefferson

Location: SOUTH SIDE OF US HWY 20, 1,635 FT SOUTHWEST OF CR 19

Subdivision:

Lot #

Lot Area: 4.39 Frontage: 162.00 Depth: 1,115.00

Zoning: A-1

NPO List:

Present Use of Property:

Legal Description:

Comments: PARCEL CREATED 1/16/1990  
PREVIOUSLY FILED SPECIAL USE #SUP-0676-2023, BUT THEN FILED #SUP-0194-2024 AND PRIMARY #MI-0193-2024  
AND ADMIN SUB #AS-1083-2024

Applicant Signature:

Department Signature:

**Application**

Site address: 21060 US Highway 20, Goshen, IN 46528

Parcel number(s): 20-07-18-200-026.000-019

**Current property owner**

Name: Alice and Steven Poseley

Address: 21060 US Highway 20, Goshen, IN 46528

Phone: 574-596-2262

Email: aposeley@touchtronics.com

**Other party**

Agent     Buyer     Land contract purchaser     Lessee

Name: Nancy Greer for Catsnip Etc.

Address: 24985 CR 30, Goshen, IN 46526

Phone: 574-238-7646

Email: Nancy7646@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: \_\_\_\_\_

*Nancy Greer*

**Staff Use Only**

Description: for the a Special Use for a kernel

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 US 20  
1,635 ft. N S E W of CR 19  
in Jefferson Township

Frontage: 162    Depth: 1,115    Area: 4,393 acres

Subdivision and lot number, if applicable: \_\_\_\_\_

Present use: \_\_\_\_\_

Special Use — Questionnaire

Name: Catsnip Etc. 21060 US Highway 20, Goshen, IN 46528

1) Tell us what you want to do. Kennel. The cats will live inside the house. There will be both kittens and adult cats available for adoption. Additionally, there will be sanctuary cats who are not adoptable, and a medical area for cats with special health needs. A TNR (Trap, Neuter, Release) program will operate from the garage, where owner will drop off their cats for pre- and post-surgery care. We will also have a few "rodent responder" cats to help control the mouse population.

2) Tell us why this activity won't hurt your neighbors or the community. The special user will not negatively impact our neighbors or the community because the TNR program and cat adoption facility are designed to address existing issues, such as stray cat populations, in a humane and controlled manner. The TNR program will help reduce the number of feral cats by preventing uncontrolled breeding, which in turn decreases the likelihood of nuisance behavior associated with stray animals. The facility will be well-maintained to ensure cleanliness and minimize noise, with indoor housing for the cats to avoid disruption. Additionally, adopting cats into loving homes will provide a community service, while the "rodent responder" cats will offer natural pest control, benefiting the area without the use of harmful chemicals. By carefully managing the facility and ensuring it operates respectfully within the neighborhood, we are confident that it will enhance the community rather than cause any harm.

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

4) Will the activity create noise, vibration, smoke, dust, odor, heat, or glare? [ ] Y [x] 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)? [x] Y [ ] N
If yes, tell us about it. The existing trees and shrubs surrounding the property will remain in place to preserve the natural landscape, but they will be cleaned up and pruned to ensure they complement the aesthetics of the surrounding area. Any dead or unhealthy trees will be removed to improve safety and the overall appearance of the property. In addition, we plan to plant new trees and shrubs to enhance the greenery and create a more inviting, well-maintained environment. This landscaping approach will maintain the natural beauty of the area while improving the visual appeal and ecological health of the property.

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

7) Will the activity use buildings or additions? [x] Y [ ] N If yes, fill out below.
Building or addition 1 Existing? [x] Y [ ] N Size and height to the peak: 1,600 Sq ft. & 20' +/- to peak. Addition would be ranch 30' x 50'
Tell us what you'll use it for. House sanctuary cats, adoptable kitten, meeting space, office/craft area, medical area. Addition would house adult adoptable cats, and care takers living space.
Building or addition 2 Existing? [x] Y [ ] N Size and height to the peak: Garage 20'L x 16'W, addition to the garage 16'W x 30'L, 14' Peak. Match the existing height and width of the garage.
Tell us what you'll use it for. Storage for cat food, cat toys, kitty litter storage that needs climate control. Temporary care for cats undergoing spay/neuter surgery.
Building or addition 3 Existing? [ ] Y [x] N Size and height to the peak: 2 cube containers. 40' long and 9' tall
Tell us what you'll use it for. Storage for resale items.

8) Does this application include animals? [x] Y [ ] N
If yes, tell us what kind and how many of each. Cats and kittens (Felis Catus). No more than 200.

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? [X] Y [ ] N If yes, fill out below.
How many employees do you have now? Full time: 7 Board Members Part time: 80-100 Volunteers
How many employees do you want? Full time: 10 Board Members Part time: 100 Volunteers +/-
How many of the employees won't live onsite? 105 Volunteers
What will be the days and hours of operation on this property? 7 am to 6 pm We will have volunteers stopping a different times of the day to take care of the cats. post and pick surgery set at 5:30 pm usually.
How many parking spaces do you have now? 6 +
How many parking spaces do you want? 20
Will there be outside storage or display areas on this property? [ ] Y [X] N
If yes, tell us what will be stored outside or displayed.

Will there be retail sales on this property? [X] Y [ ] N
If yes, tell us what will be sold. Pop, coffee, hot coco, prepackaged food, food for fundraisers, home made craft items, resale of donated items for fundraisers.

Approximately how many customers (clients, guests, students, members) will be on this property per day? 2 people will live on site. Up to 10 volunteers to care for cats at different times. Usually there are 1 to 2 volunteers stopping by twice a day to care for the cats. Occasionally there will be board meetings and fund-raising on site.

Will there be pickups or deliveries on this property? [X] Y [ ] N If yes, fill out below.
Tell us how often. 4 times a week will be pick up and drop off of cats for surgery.
Tell us the kind of vehicles used. Passenger vehicles.

Does the application include signs? [X] Y [ ] N If yes, fill out below.

Sign 1 Dimensions (length and width). 6' tall and 8' wide
Existing? [ ] Y [X] N Double faced? [X] Y [ ] N
Electronic message board? [ ] Y [X] N If no, lighted? [X] Y [ ] N
Soft solar light that will pointed directly at the sign
Freestanding? [X] Y [ ] N Wall mounted? [ ] Y [X] 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. Granting this variance would provide several direct and indirect benefits to the community. 1. Reducing Stray Cat Populations: By managing the local feral cat population through TNR and house cats, we help to reduce the number of stray animals in the area, leading to fewer nuisances, less wildlife disruption, and fewer public health concerns. 2. Offering Adoption Opportunities: Our adoption program finds homes for many cats, easing the burden on local shelters and giving community members the chance to adopt healthy, well-cared-for animals. 3. Supporting Humane Solutions: Rather than relying on euthanasia or other inhumane methods, we provide a compassionate solution for feral and abandoned cats, improving the overall welfare of the animal population. 4. Rodent Control: Some of the cats we care for will also serve as "rodent responders," providing natural, non-toxic pest control to local properties and businesses. Respecting Our Neighbors: We understand that any new development in a community raises concerns. We are committed to being good neighbors by maintaining a clean, quiet, and orderly facility. The majority of our cats will be housed indoors, and we will take measures to ensure there are no disturbances, such as noise or odor, to nearby properties.

**Application**

Site address: 21060 US Highway 20, Goshen, IN 46528

Parcel number(s): 20-07-18-200-026.000-019

**Current property owner**

Name: Alice and Steven Poseley

Address: 21060 US Highway 20, Goshen, IN 46528

Phone: 574-596-2262

Email: aposeley@touchtronics.com

**Other party**

Agent     Buyer     Land contract purchaser     Lessee

Name: Nancy Greer for Catsnip Etc.

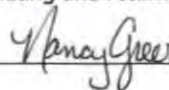
Address: 24985 CR 30, Goshen, IN 46526

Phone: 574-238-7646

Email: Nancy7646@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: for a 20ft. DV (Ordinance requires 50ft.)  
to allow for an existing kennel 30ft. from the east  
side property line and for a 3ft. DV (Ordinance requires  
5ft.) to allow for an existing accessory structure  
2ft. from the east side property line

Parcel creation date: 4/16/90

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: Catsnip Etc. 21060 US Highway 20, Goshen, IN 46528

1) Tell us what you want to do. Kennel. The cats will live inside the house. There will be both kittens and adult cats available for adoption. Additionally, there will be sanctuary cats who are not adoptable, and a medical area for cats with special health needs. A TNR (Trap, Neuter, Release) program will operate from the garage, where owner will drop off their cats for pre- and post-surgery care. We will also have a few "rodent responder" cats to help control the mouse population.

2) Tell us why you can't change what you're doing so you don't need a variance. We cannot change our current approach to avoid needing a variance because the nature of our TNR and cat adoption program requires specific facilities that do not fully align with the existing zoning regulations. The TNR program involves temporary care for cats undergoing spay/neuter surgery, requiring dedicated space for pre- and post-surgery recovery, which cannot be easily relocated or scaled down without compromising the health and safety of the animals. Additionally, having both adoptable and sanctuary cats within the same facility is essential to the program's success, ensuring all cats are properly cared for in a controlled environment. Reducing the scope or relocating parts of the operation would not be feasible due to logistical challenges, such as maintaining a proper level of veterinary care, managing intake processes, and controlling population levels. Therefore, the variance is necessary to allow us to meet the needs of both the community and the cats in a humane and effective manner.

3) Tell us why the variance won't hurt your neighbors or the community. The variance will not negatively impact our neighbors or the community because the TNR program and cat adoption facility are designed to address existing issues, such as stray cat populations, in a humane and controlled manner. The TNR program will help reduce the number of feral cats by preventing uncontrolled breeding, which in turn decreases the likelihood of nuisance behavior associated with stray animals. The facility will be well-maintained to ensure cleanliness and minimize noise, with indoor housing for the cats to avoid disruption. Additionally, adopting cats into loving homes will provide a community service, while the "rodent responder" cats will offer natural pest control, benefiting the area without the use of harmful chemicals. By carefully managing the facility and ensuring it operates respectfully within the neighborhood, we are confident that it will enhance the community rather than cause any harm.

4) Does the property need well and septic? Well: [ ] Y [x] N Septic: [ ] Y [x] N

Does the property need a new septic system? [ ] Y [x] N

If a new septic system is needed, did the Health Department say there's enough space for it? [ ] Y [x] 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: 1,600 Sq ft. & 20' +/- to peak. Addition would be ranch 30' x 50'
Tell us what you'll use it for. House sanctuary cats, adoptable kitten, meeting space, office/craft area, medical area. Addition would house adult adoptable cats, and care takers living space.

Building or addition 2 Size and height to the peak: Garage 20L x 16W, addition to the garage 16W x 30L, 14' Peak. Match the existing height and width of the garage.
Tell us what you'll use it for. Storage for cat food, cat toys, kitty litter storage that needs climate control. Temporary care for cats undergoing spay/neuter surgery.

Building or addition 3 Size and height to the peak: 2 cube containers, 40' long and 9' tall
Tell us what you'll use it for. Storage for resale items.

6) Does the application include a variance for a residence on property with no road frontage? [ ] Y [x] 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? [x] Y [ ] N If yes, fill out below.

Sign 1 Dimensions (length and width): 6' tall and 8' wide

Existing? [ ] Y [x] N Double faced? [x] Y [ ] N

Electronic message board? [ ] Y [x] N If no, lighted? [x] Y [ ] N

Freestanding? [x] Y [ ] N Wall mounted? [ ] Y [x] N Soft solar light that will pointed directly at the sign

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

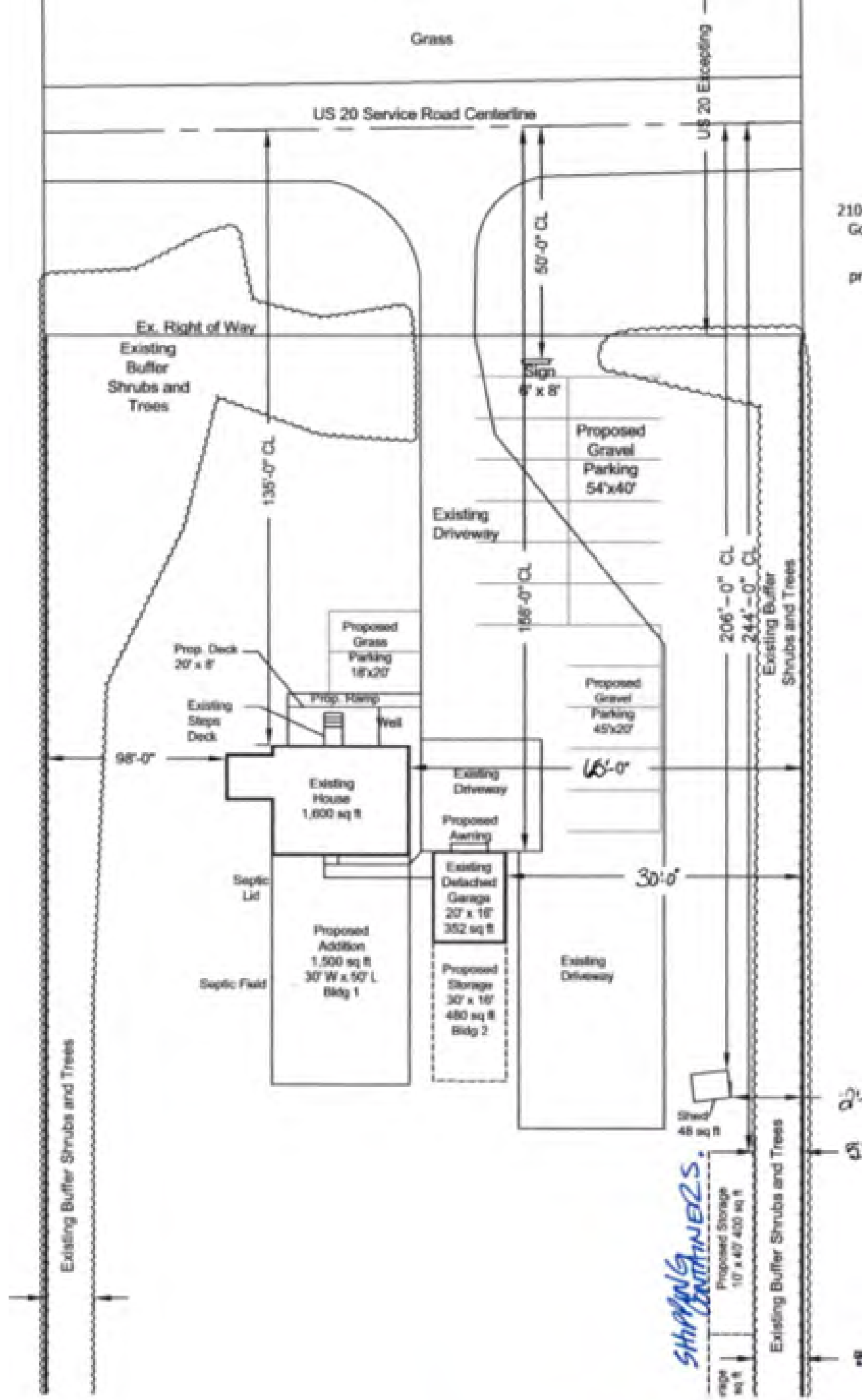
Freestanding? [ ] Y [ ] N Wall mounted? [ ] Y [ ] N

8) Does the application include a variance for parking spaces? [x] Y [ ] N

If yes, tell us how many total there will be. 20 parking space on combination of grass and gravel. Most of the time we will have 2 to 3 cars there off and on.

9) Tell us anything else you want us to know. Granting this variance would provide several direct and indirect benefits to the community: 1. Reducing Stray Cat Populations: By managing the local feral cat population through TNR and house cats, we help to reduce the number of stray animals in the area, leading to fewer nuisances, less wildlife disruption, and fewer public health concerns. 2. Offering Adoption Opportunities: Our adoption program finds homes for many cats, easing the burden on local





*SHIPPING CONTAINERS*

# ***BZA Staff Report***

*Prepared by the Department of Planning and Development*

***Hearing Date:*** October 17, 2024

***Transaction Number:*** SUP-0656-2024.

***Parcel Number(s):*** 20-16-09-100-004.000-003.

***Existing Zoning:*** A-1.

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

***Petitioner:*** Wesley D. Meier & Roger A. Meier & Kathleen D. Meier, Husband & Wife.

***Location:*** South side of CR 44, 3,220 ft. west of CR 37, in Benton Township.

***Site Description:***

- Physical Improvement(s) – Residence, shed to be removed.
- Proposed Improvement(s) – Detached accessory structure.
- Existing Land Use – Residential.
- Surrounding Land Use – Residential, agricultural.

***History and General Notes:***

- **2024** – The existing detached accessory structure at west was destroyed by fire.

***Staff Analysis:***

*For a Special Use for a home workshop/business for a lawn service 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 zone.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a 0.8-acre parcel in a low-density area of Benton Township with no neighboring homes to the south or west.
3. The Special Use will substantially serve the public convenience and welfare by providing for a local lawn service business.

# ***BZA Staff Report (Continued)***

***Hearing Date:*** October 17, 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.
2. A revised site plan must be submitted for staff approval delimiting an area for outside storage of trucks and trailers on an improved surface and an area for outside storage of materials.

Staff recommends **APPROVAL** with the following commitment(s) 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. No outside storage of landscaping equipment including but not limited to tractors, skid loaders, and backhoes.
3. Hours of operation limited to 7:30 a.m. to 7:30 p.m., Monday through Sunday.

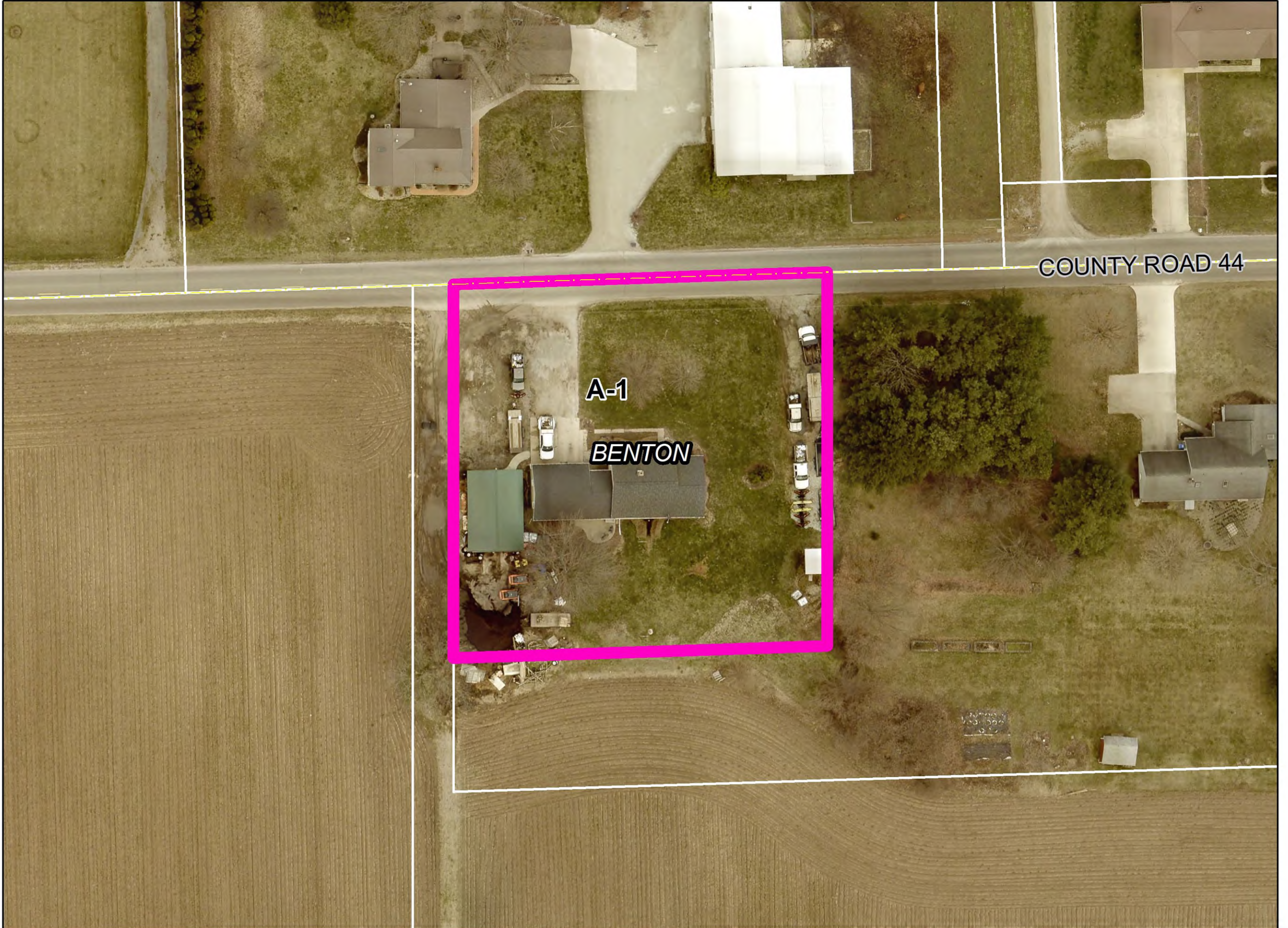
*For a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, staff finds that:*

1. Approval of the request will not be injurious to public health, safety, morals, or general welfare. The request is 1,742 sq. ft., or 108 percent, over what is allowed by right, and the building will be placed at the rear of the property where it will have little effect on public health and welfare.
2. Approval of the request will not cause substantial adverse effect on neighboring property. This is a 0.8-acre parcel in a low-density area of Benton Township with no neighboring homes to the south or west.
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 building is what would be expected in a low-density neighborhood of mostly large homesites.

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 revised site plan to be submitted for staff approval and as represented in the Developmental Variance application.

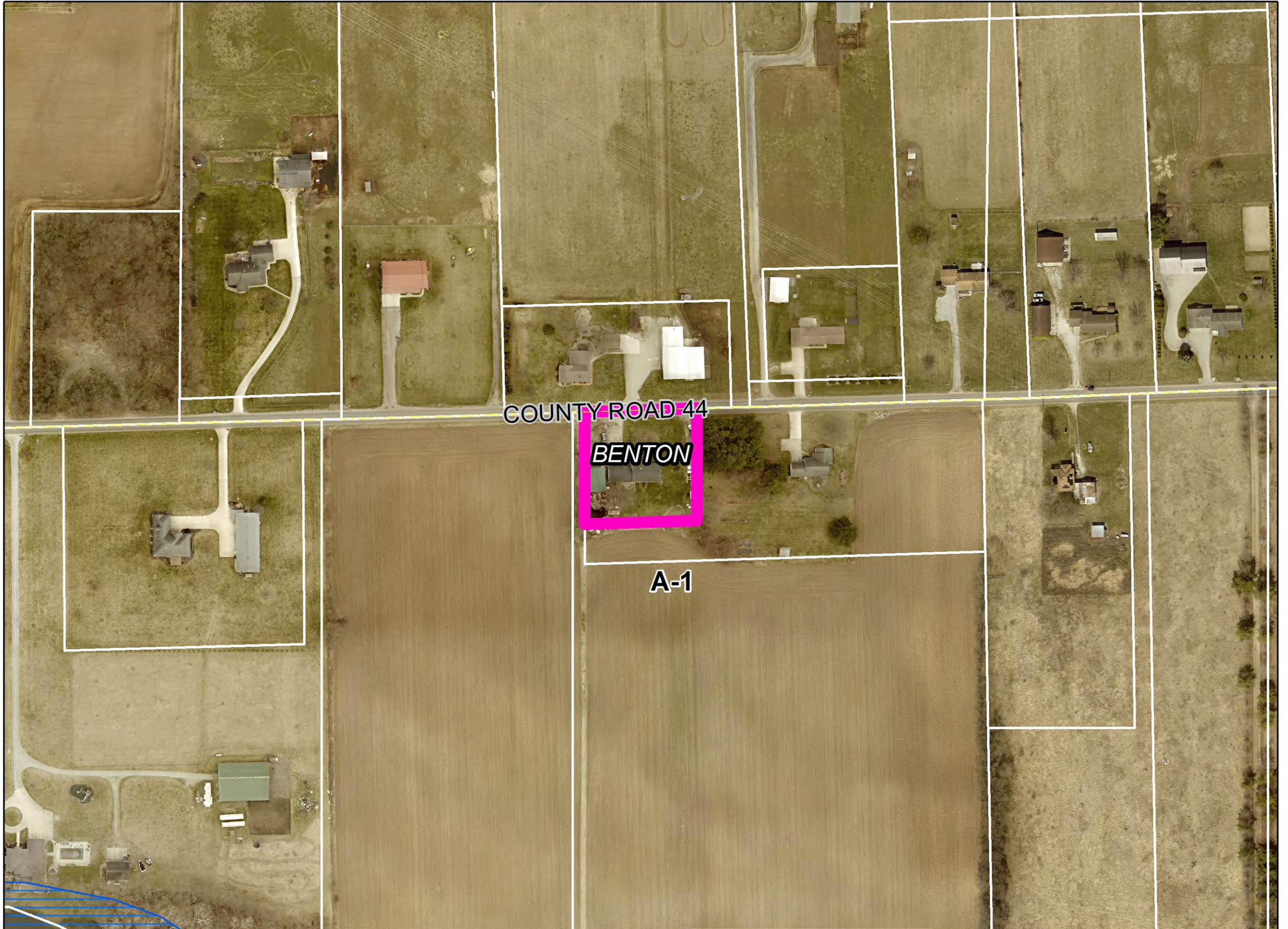
SUP-0656-2024



COUNTY ROAD 44

A-1  
BENTON





COUNTY ROAD 44

**BENTON**

A-1







Subject property, west side



Subject property, west side





Subject property, center



Subject property, east side



Subject property, east side



Area for new accessory structure



Demolished building in process of removal



Facing east



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

Special Use - Non Mobile Home

SUP-0656-2024

Date: 09/16/2024

Meeting Date: October 17, 2024  
Board of Zoning Appeals Public Hearing

Transaction #: SUP-0656-2024

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

Contacts: Applicant

Land Owner

Wesley D Meier Undivided

Wesley D Meier Undivided

One Half Interest Roger A

One Half Interest Roger A

Meier And Kathleen D Meier

Meier And Kathleen D Meier

H&W

H&W

13612 County Road 44

13612 County Road 44

Millersburg, IN 46543

Millersburg, IN 46543

Site Address: 13612 County Road 44  
Millersburg, IN 46543

Parcel Number: 20-16-09-100-004.000-003

Township: Benton

Location: South Side Of Cr 44, 3,220 FT West Of Cr 37

Subdivision:

Lot #

Lot Area: 0.80 Frontage: 185.00 Depth: 185.00

Zoning: A-1

NPO List:

Present Use of Property: RESIDENTIAL

Legal Description:

Comments: PARCEL CREATION DATE 3-1-1962  
RESIDENCE 1460 SF X 110% = 1606 SF MINUS ATTACHED GARAGE 648 SF AND SHED 120 SF EQUALS 838 SF MINUS  
PROPOSED BARN 2700 SF WHICH GOES OVER AVAILABLE STORAGE BY 1862 SF  
REFERENCE DEMO PERMIT BR-1818-2024 FOR EXISTING BARN DAMAGED BY FIRE

Applicant Signature:

Department Signature:



Application

Site address: 13612 County Road 44 Millersburg, IN 46543

Parcel number(s): 20-16-09-100-004\*000-003

Current property owner

Name: Kesley D. Meier, Roger A. and Kathleen D. Meier

Address: 13612 County Road 44 Millersburg, IN 46543

Phone: 574-536-7775

Email: mrlawncareinc@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: \_\_\_\_\_

Parcel creation date: 3-1-62

Subdivision required?     Y     N    If yes,     AS     Minor     Major

Residential accessory breakdown, if applicable: Residence 1460 SF X 110% = 1606 SF  
minus Att. Garage 648 SF, and shed 120 SF equals 838 SF  
minus proposed Barn 2700 SF - Goes over Avail. Storage by 1867 SF

Location: N (S) E W corner (side) end of CR 44

3,220 ft. N S E (W) of CR 37

in Benton Township

Frontage: 185 ft    Depth: 185 ft    Area: 0.8 acres

Subdivision and lot number, if applicable: \_\_\_\_\_

Present use: Residential

Developmental Variance — Questionnaire

Name: Wes Meier

1) Tell us what you want to do. REPLACE EXISTING BUILDING THAT BURNED  
- REPLACE WITH BETTER BUILDING / APPEARANCE  
MORE USABLE

2) Tell us why you can't change what you're doing so you don't need a variance. NEEDING A BIGGER  
BUILDING AND IT CANNOT GO WHERE OTHER BUILDINGS SET, DUE TO  
PROPERTY

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

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: 45x60x18  
Tell us what you'll use it for. STORAGE OF EQUIPMENT  
**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. NEED FOR STORAGE OF EQUIPMENT +  
TO GET STUFF OUT OF OPEN, SO IT WONT GET STOLEN OR RUINED  
BY WEATHER

Special Use — Questionnaire

Name: Wes Meier

1) Tell us what you want to do. REPLACE EXISTING BUILDING THAT BURNED  
- REPLACE WITH BETTER BUILDING / APPEARANCE  
- MORE USUABLE

2) Tell us why this activity won't hurt your neighbors or the 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. There is already a pre-existing row of  
pine trees next to the neighbors.

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: 45 x 60 x 18  
Tell us what you'll use it for. STORAGE OF EQUIPMENT

**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. \_\_\_\_\_  
\_\_\_\_\_

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: 3 Part time: 2

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? MON-SAT

LEAVE 7:30AM RETURN 7:00PM

How many parking spaces do you have now? EXISTING DRIVEWAY

How many parking spaces do you want? NONE

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

If yes, tell us what will be stored outside or displayed. 6 TRUCKS + 5 TRAILERS

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?

Zero

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

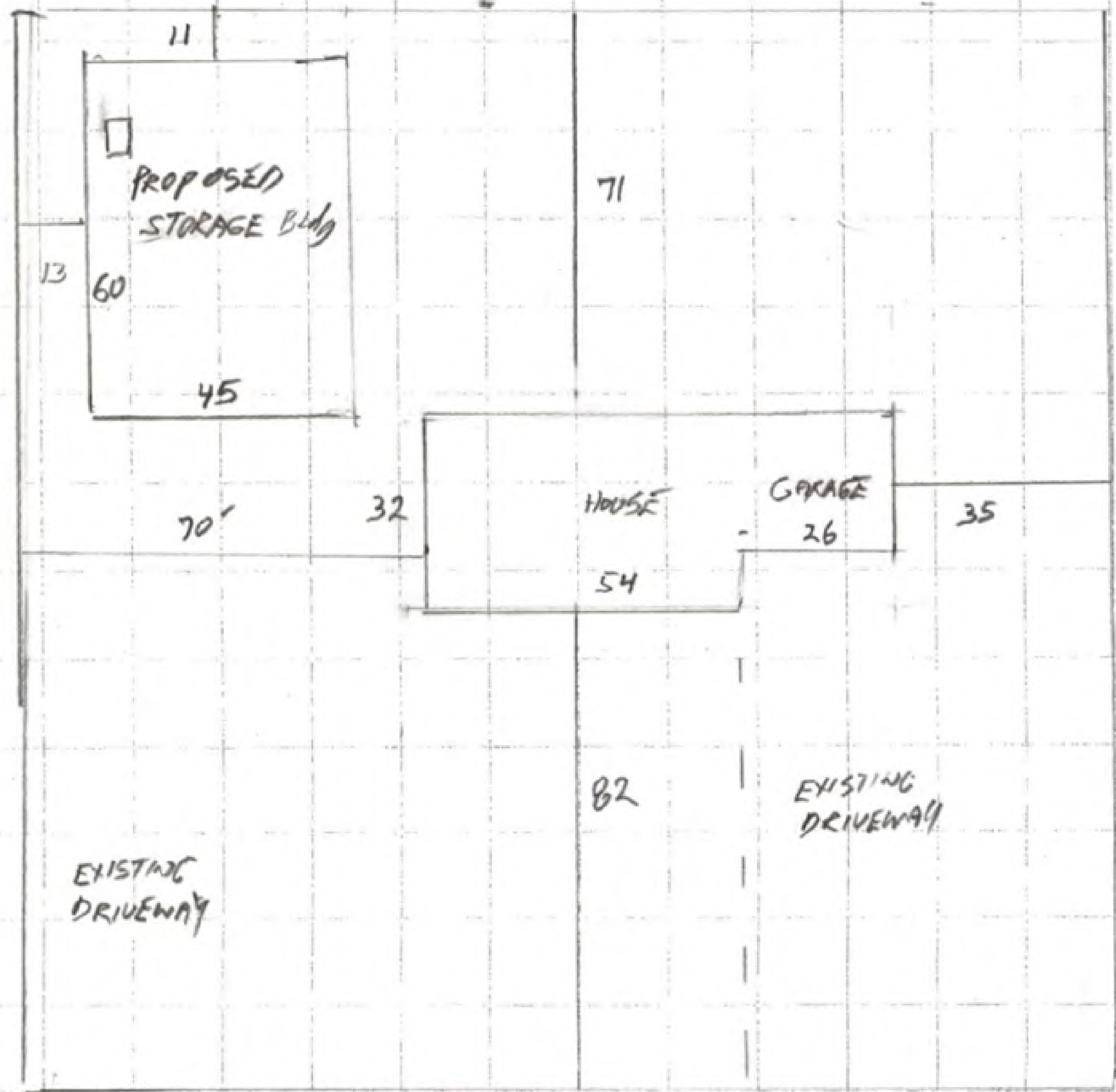
10) Tell us anything else you want us to know. NEED FOR STORAGE OF EQUIPMENT +

TOO GET STUFF OUT OF OPEN SO WONT GET STOLEN OR RUINED

FROM ELEMENTS

← N  
←  
1" = 30'

EXISTING PINE TREES



CL OF CR 44

# ***BZA Staff Report***

*Prepared by the Department of Planning and Development*

***Hearing Date:*** October 17, 2024

***Transaction Number:*** SUP-0641-2024.

***Parcel Number(s):*** 20-08-25-100-020.000-034.

***Existing Zoning:*** A-1.

***Petition:*** for a Special Use for a home workshop/business for a metal fabrication business, for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, for a Developmental Variance to allow for 5 outside employees (Ordinance allows 4), and for a 9 ft. Developmental Variance (Ordinance allows 25 ft.) to allow for an accessory structure 34 ft. in height.

***Petitioner:*** Devon R. Schrock & Noretta Kay Schrock.

***Location:*** North side of CR 24, 900 ft. East of CR 43, in Middlebury Township.

***Site Description:***

- Physical Improvement(s) – Residence, agricultural barns, storage barns, workshop.
- Proposed Improvement(s) – Addition to workshop.
- Existing Land Use – Residential, agricultural.
- Surrounding Land Use – Residential, agricultural.

***History and General Notes:***

- **October 16, 1997-** The BZA approved a Special Use for a home workshop/business for buggy manufacturing, sales and repair (973716).
- **April 10, 2000** – The BZA approved an amendment to an existing Special Use for a home workshop/business for buggy manufacturing, sales, and repair to allow for the construction of an addition to the workshop (20001768).

***Staff Analysis:***

*for a Special Use for a home workshop/business for a metal fabrication business, 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 by Special Use 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 10-acre parcel in a moderately-dense residential and agricultural area and the property will remain residential in character. They have been operating a business, without complaints, since 1997.

# ***BZA Staff Report (Continued)***

***Hearing Date:*** October 17, 2024

3. The Special Use will substantially serve the public convenience and welfare by offering a local metal fabrication business.

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:

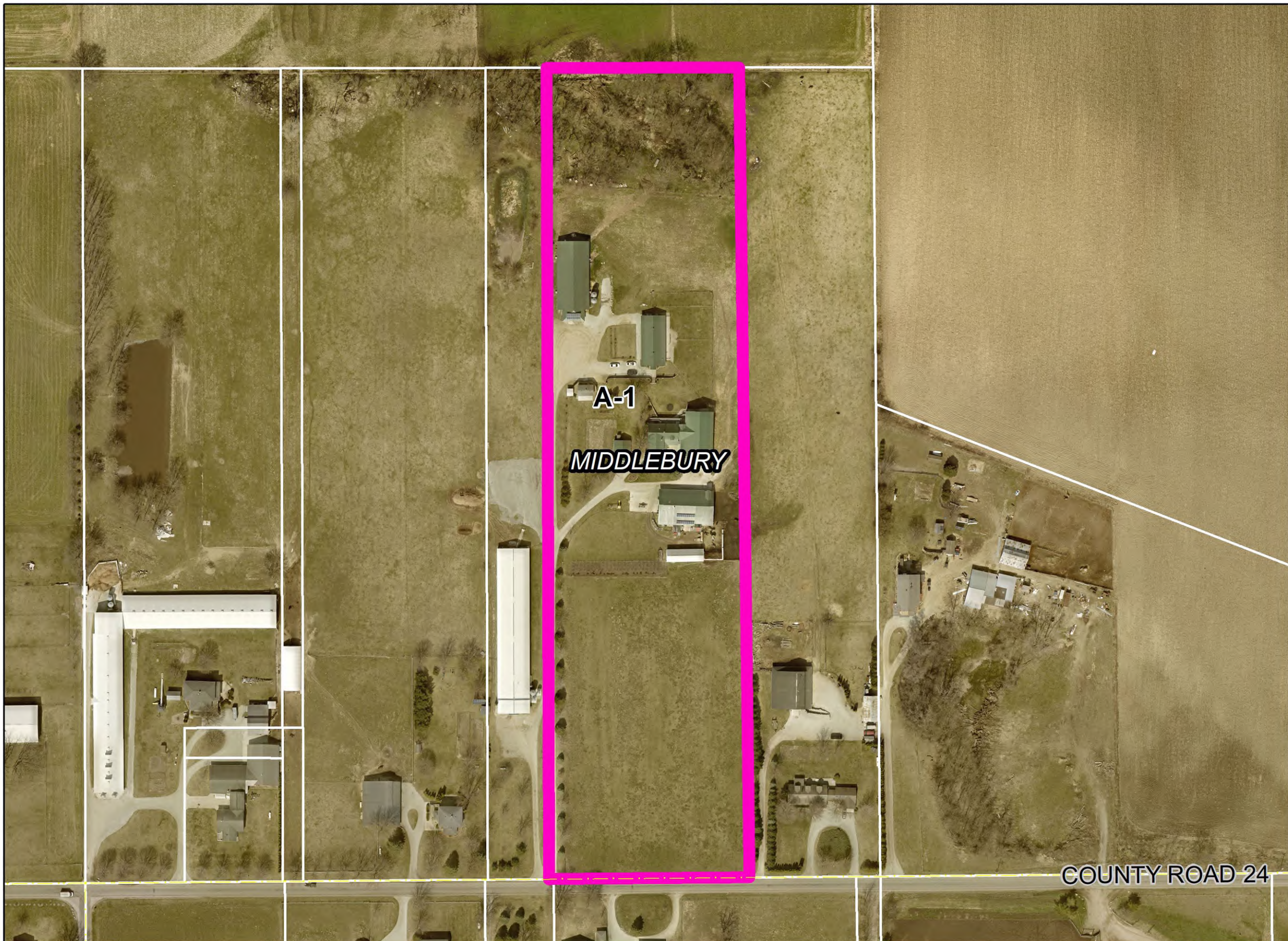
1. The request is approved in accordance with the site plan submitted (dated 9/13/2024) and as represented in the Special Use application.

*for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, for a Developmental Variance to allow for 5 outside employees (Ordinance allows 4), and for a 9 ft. Developmental Variance (Ordinance allows 25 ft.) to allow for an accessory structure 34 ft. in height, staff finds that:*

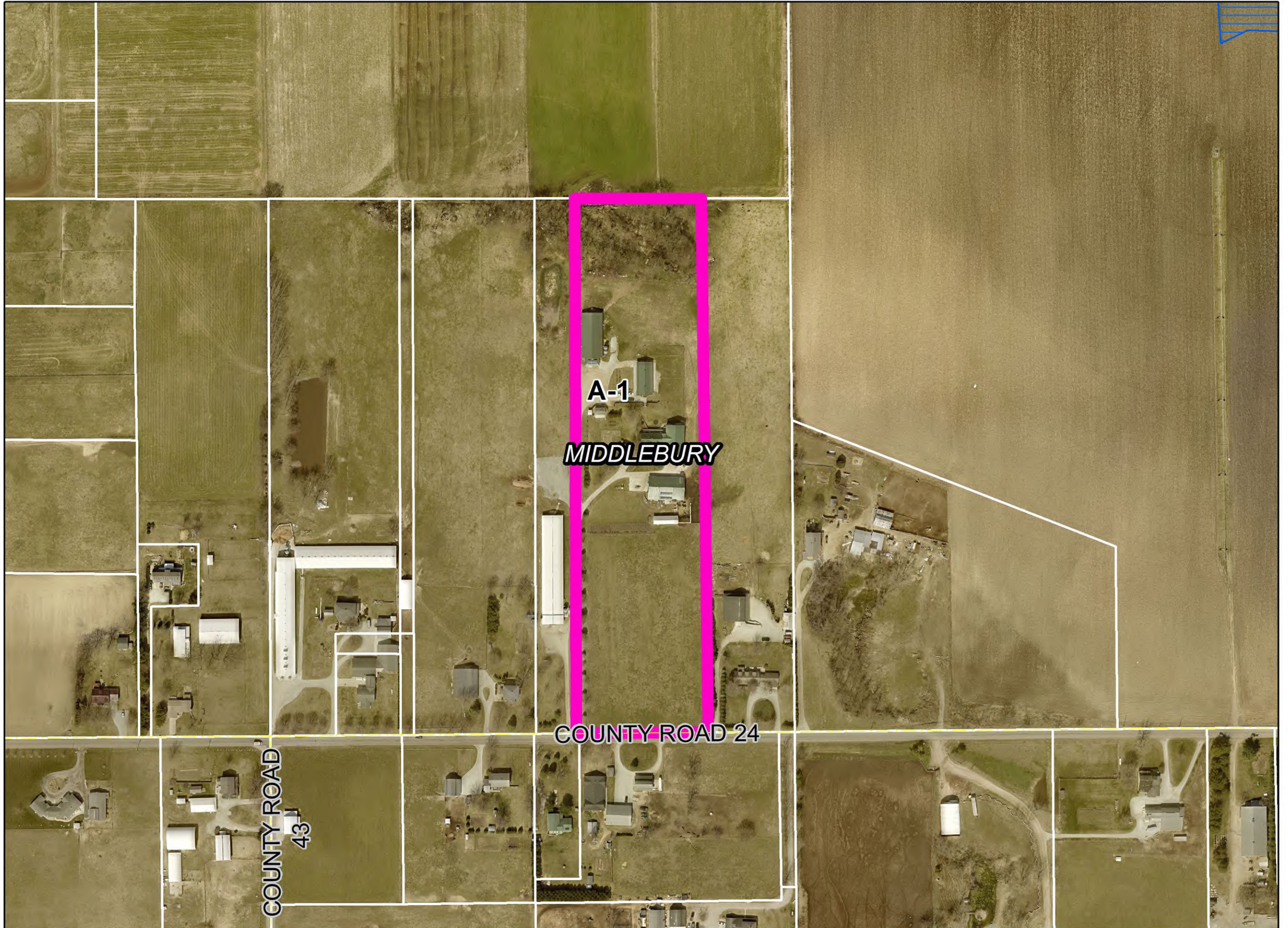
1. Approval of the request will not be injurious to public health, safety, morals, or general welfare. The request is 4,304 sq. ft., or 61 percent, over what is allowed by right, all other development standards are met, and there is no risk to public health or safety.
2. Approval of the request will not cause substantial adverse effect on neighboring property. This is a 10-acre parcel in a residential and agricultural area, and the property will remain residential in character. The building will not cause sight issues for neighboring properties, and they are only asking for one outside employee over what is allowed by right.
3. Strict application of the terms of the Development Ordinance would result in an unnecessary hardship in the use of the property. Without the variance the business would not be able to expand and grow.

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 (dated 9/13/2024) and as represented in the Developmental Variance application.





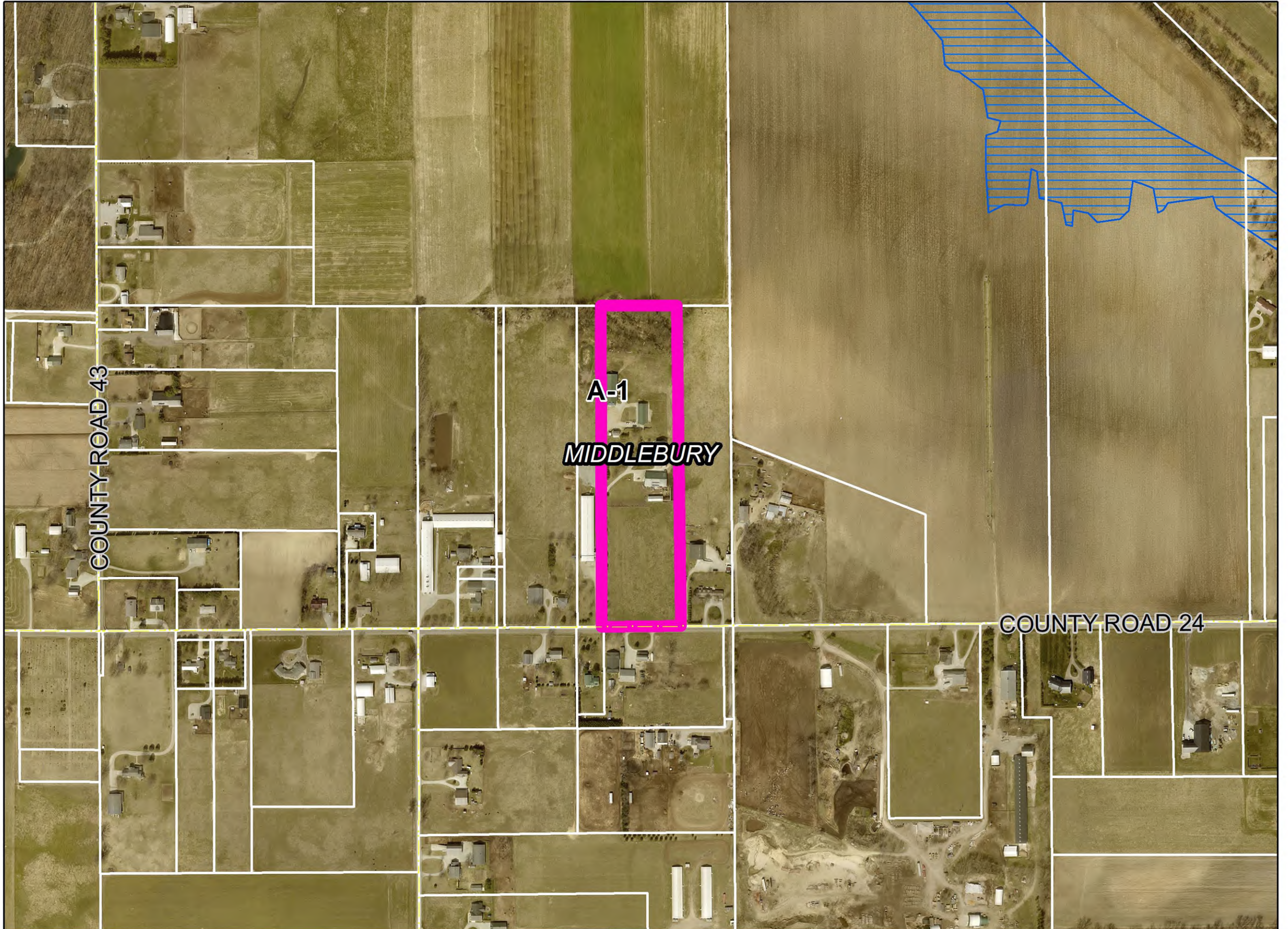


A-1

**MIDDLEBURY**

COUNTY ROAD 24

COUNTY ROAD 43





Subject property looking North (from roadway)



**Subject property (residence & garage in foreground)**



Facing South



Facing West



Facing East

# 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

SUP-0641-2024

Special Use - Non Mobile Home

Date: 09/06/2024

Meeting Date: October 17, 2024  
Board of Zoning Appeals Public Hearing

Transaction #: SUP-0641-2024

Description: for a Special Use for a home workshop/business for a metal fabrication business and for a Developmental Variance to allow for the total square footage of accessory structures to exceed that allowed by right, for a Developmental Variance to allow for 5 outside employees (Ordinance allows 3), and for a 9 ft. Developmental Variance (Ordinance allows 25 ft.) to allow for an accessory structure 34 ft. in height

Contacts: Applicant

Devon R & Noretta Kay  
Schrock  
10551 County Road 24  
Middlebury, IN 46540

Land Owner

Devon R & Noretta Kay  
Schrock  
10551 County Road 24  
Middlebury, IN 46540

Site Address: 10551 County Road 24  
46540, IN Middlebury

Parcel Number: 20-08-25-100-020.000-034

Township: Middlebury

Location: North Side Of Cr 24, 900 Feet East Of Cr 43 South

Subdivision:

Lot #

Lot Area: 10.00 Frontage: 326.00 Depth: 1,305.00

Zoning: A-1

NPO List:

Present Use of Property: RESIDENTIAL

Legal Description:

Comments: parcel creation date 7-16-1991  
BR-0641-2018 SHOWS AS NOT COMPLETE, BUT INSPECTIONS ARE BLUE FROM 2018, , BA-1848-2021 (ADDITION TO HORSE BARN) NEEDS STRUCTURAL ROUGH-IN AND FINAL INSPECTION, BR-1847-2021 (REMODEL/ADDITION TO RESIDENCE) NEEDS ROUGH-IN/FINAL INSPECTIONS FOR STRUCTURAL, PLUMBING AND ELECTRIC.  
RESIDENCE = 3,552 (PROPERTY CARD) X 200% = 7,104 SQ FT, MINUS 672 (SHED), 1,280 (GARAGE/BUGGY STORAGE), 624 (SHOP AT 24X46), 512 (SHOP 16X32) AND NEW ADDITION AT 7,844 SQ FT, FOR AN OVERAGE OF 3,828 SQ FT (INFO TAKEN FROM SITE PLAN - KB 9/13/2024)

Applicant Signature:

Department Signature:



**Application**

Site address: 10551 CR24 Middlebury IN 46540

Parcel number(s): 08-25-100-020-034

**Current property owner**

Name: Devon & Noretta Schrock

Address: 10551 CR24 Middlebury IN 46540

Phone: 574-825-5639x1 Email: dschrock@ibyfox.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:** Devon Schrock

**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:** \_\_\_\_\_

BR-0641-2010, BA-1848-2021, BR-1847-2021

Developmental Variance — Questionnaire

Name: Devon Schrock

1) Tell us what you want to do. Machining-Welding-Fabrication

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. We do repairs for the neighbors and the community. There was already the noise factor in place for a previous special use permit using deisal power. Traffic created by the business would go unnoticed due to the fact we have several businesses and quite a few commercial ag buildings that are creating a fair amount of truck traffic.

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: 24x46 + 16x32 20' peak

Tell us what you'll use it for. \_\_\_\_\_

**Building or addition 2** Size and height to the peak: 74x106 33'4" 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): 3'x5'

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.~~ Semi deliveries would likely only be once or twice a week. Currently we have 1 feed delivery per week for the Hog barn. The next 2 properties to the

9) Tell us anything else you want us to know. West of us have commercial duck barns. There are 4 Hog barns, 5 chicken barns, (1 new chicken barn currently under construction within 1 Mile South of us. To the East of us within a half Mile there is a gravel pit, lumber Mill, duck barn, Mini barn construction, and an excavating company. Our opinion is our Machine Shop will not have a noticable impact on the road and the community.

**Application**

Site address: 10551 CR 24 Middlebury IN 46540

Parcel number(s): 08-25-100-020-034

**Current property owner**

Name: Devon & Noretta Schrock

Address: 10551 CR 24 Middlebury IN 46540

Phone: 574-825-5639x1 Email: dschrock@ibyfax.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:** Devon Schrock

**Staff Use Only**

**Description:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Parcel creation date:** 7-16-91

**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: Devon Schrock

1) Tell us what you want to do. Machining - Welding - Fabrication

2) Tell us why this activity won't hurt your neighbors or the community. We do repairs for the neighbors and the community. There was already the noise factor in place for a previous special use permit using deisal power. The truck traffic would go unnoticed due to the fact we have several businesses in the neighborhood and quite a few commercial ag buildings that are creating a fair amount of truck traffic.

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. The deisal will create some noise.

Tell us how you'll reduce the impact of those things on neighbors. The deisal will go inside an insulated engine room with the exhaust going into a 500 gallon tank, reducing the noise level a lot lower than the regular muffler. The regular muffler will still be used, the tank will just be extra noise reducing.

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. L shaped  
**Building or addition 1** Existing?  Y  N Size and height to the peak: 24x46 + 16x32 20' peak  
Tell us what you'll use it for. welding and machining  
**Building or addition 2** Existing?  Y  N Size and height to the peak: 74x106 33'4" peak  
Tell us what you'll use it for. welding - Machining - Fabrication  
**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.

Special Use — Questionnaire

5 offsite

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: 1 Part time: 5

How many employees do you want? Full time: 6 Part time: \_\_\_\_\_

How many of the employees won't live onsite? 5

What will be the days and hours of operation on this property? Mon thru Fri 5-5  
Sat by appointment

How many parking spaces do you have now? none

How many parking spaces do you want? none

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

If yes, tell us what will be stored outside or displayed. trailers - open buggies - ?

Will there be retail sales on this property?  Y  N

If yes, tell us what will be sold. Childrens VolleyBall sets - trailers - open buggies  
repair projects before and after the repair takes place

Approximately how many customers (clients, guests, students, members) will be on this property per day?  
6

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

Tell us how often. Once a day

Tell us the kind of vehicles used. Cargo van - Fed Ex - UPS - pick up truck & trailer  
Semi

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

**Sign 1** Dimensions (length and width). 3' X 5'

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). \_\_\_\_\_

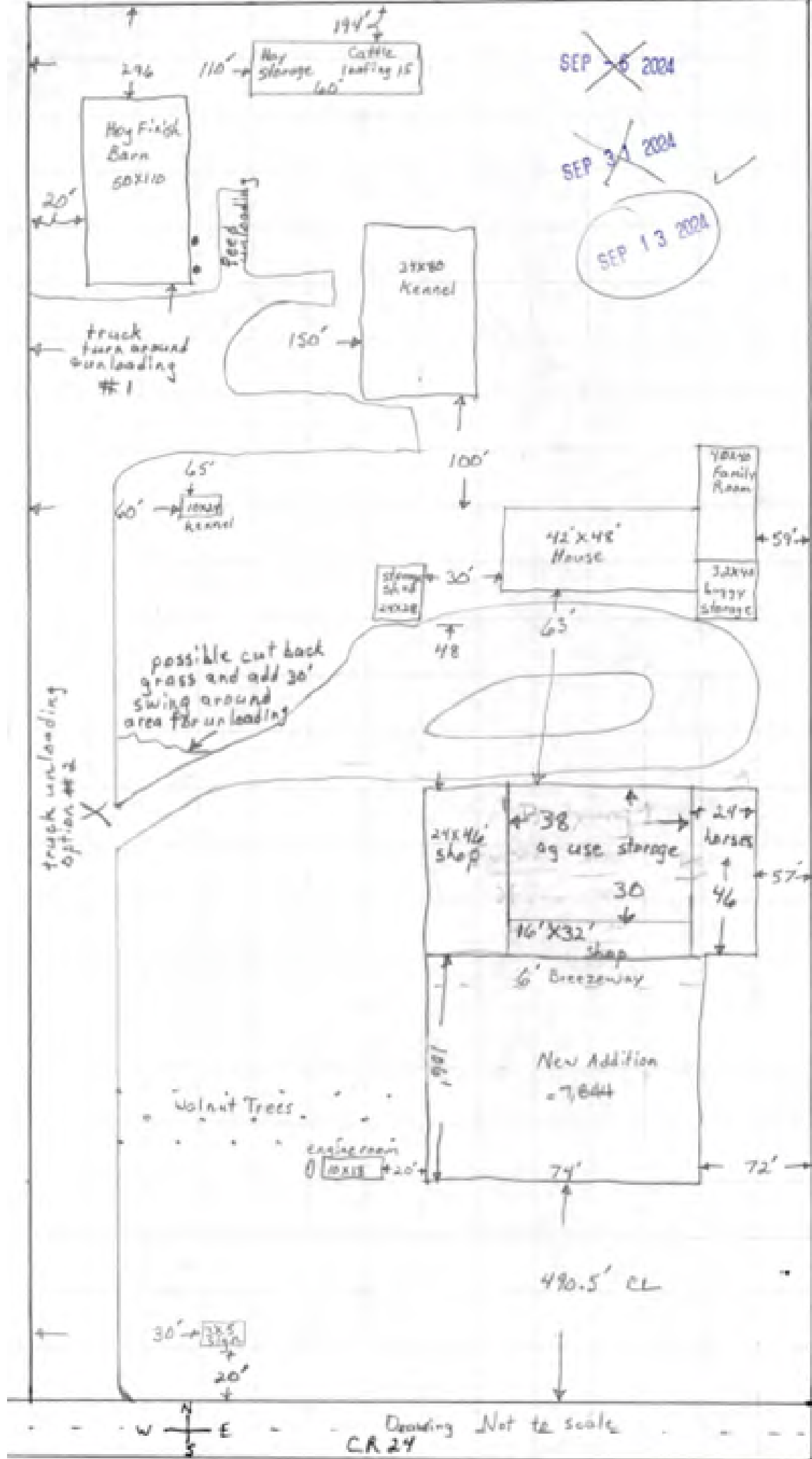
Existing?  Y  N Double faced?  Y  N

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. Semi deliveries would likely only be once or

twice a week. Currently we have 1 feed delivery per week for the hog  
barn. The next 2 properties to the west of us have commercial duck barns  
that would have once a week feed deliveries. There are 4 hog barns, five  
chicken barn, (one new chicken barn currently under construction) with in  
1 Mile south of us. To the east of us within a half mile, there is  
a gravel pit, lumber Mill, duck barn, Mini barn construction and an  
excavating company. My opinion is our Machine shop would not create a  
noticeable impact on the road and the neighborhood.



Drawing Not to scale  
CR 24

# ***BZA Staff Report***

*Prepared by the Department of Planning and Development*

**Hearing Date:** October 17, 2024

**Transaction Number:** UV-0585-2024.

**Parcel Number(s):** 20-05-13-478-002.000-001.

**Existing Zoning:** R-2.

**Petition:** for a Use Variance to allow for 4 (four) dwelling units, for a 2 ft. Developmental Variance (Ordinance requires 50 ft.) to allow for an existing duplex 48 ft. from the centerline of the right-of-way, for a 2 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing duplex 3 ft. from the west side property line, and for a 46,496 sq. ft. lot area Developmental Variance (Ordinance requires 30,000 sq. ft. per duplex) to allow for two (2) existing duplexes.

**Petitioner:** Lonnie Bontrager (Buyer) & Octavio Ramos (Seller).

**Location:** South side of Morgan St., 325 ft. West of Broad St., in Baugo Township.

## **Site Description:**

- Physical Improvement(s) – Two duplexes.
- Proposed Improvement(s) – None.
- Existing Land Use – Residential.
- Surrounding Land Use – Residential. Manufacturing.

## **History and General Notes:**

- The house and garage were built in 1986 and 1987.
- The house and garage were illegally converted into duplexes sometime after 1998.
- **February 8, 2024** - The property owner received an electrical reconnection permit for the structures (ELEC-R-0234-2024).

## **Staff Analysis:**

*For a Use Variance to allow for 4 (four) dwelling units, staff finds that:*

1. The request will be injurious to the public health, safety, morals, and general welfare of the community. As the structures were converted without permits, it is unclear if the structures meet all the various building and environmental codes, including well and septic requirements.
2. The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner. This is a 0.31-acre or 13,503.6 ft<sup>2</sup> parcel in a dense residential area and the property will remain residential in character.
3. A need for the Use Variance does not arise from a condition that is peculiar to the property involved. The house and garage were converted illegally into duplexes without the permits.
4. Strict enforcement of the terms of the Development Ordinance would not constitute an unnecessary hardship if applied to the subject property. The property could be restored to one single-family residence and one accessory structure. The property would be allowed to have one duplex and accessory structure with the appropriate developmental variance. Or the property owner can request city utilities run to the property and resubmit the appropriate developmental variances.
5. The Use Variance does not interfere substantially with the Elkhart County Comprehensive Plan.

Staff recommends **DENIAL**.

# ***BZA Staff Report (Continued)***

**Hearing Date:** October 17, 2024

*For a 46,496 sq. ft. lot area Developmental Variance (Ordinance requires 30,000 sq. ft. per duplex) to allow for two (2) existing duplexes, staff finds that:*

1. Approval of the request will be injurious to public health, safety, morals, or general welfare. As the structures were converted without permits, it is unclear if the structures meet all the various building and environmental codes, including well and septic requirements.
2. Approval of the request will cause substantial adverse effects on neighboring property. This is a 0.31-acre or 13,503.6 ft<sup>2</sup> parcel in a dense residential area. Increases in density result in diminished resources, infrastructure strain, and traffic congestion.
3. Strict application of the terms of the Development Ordinance would not result in an unnecessary hardship in the use of the property. The existing structures could be converted back to a legal conforming dwelling and accessory structure.

Staff recommends **DENIAL**.

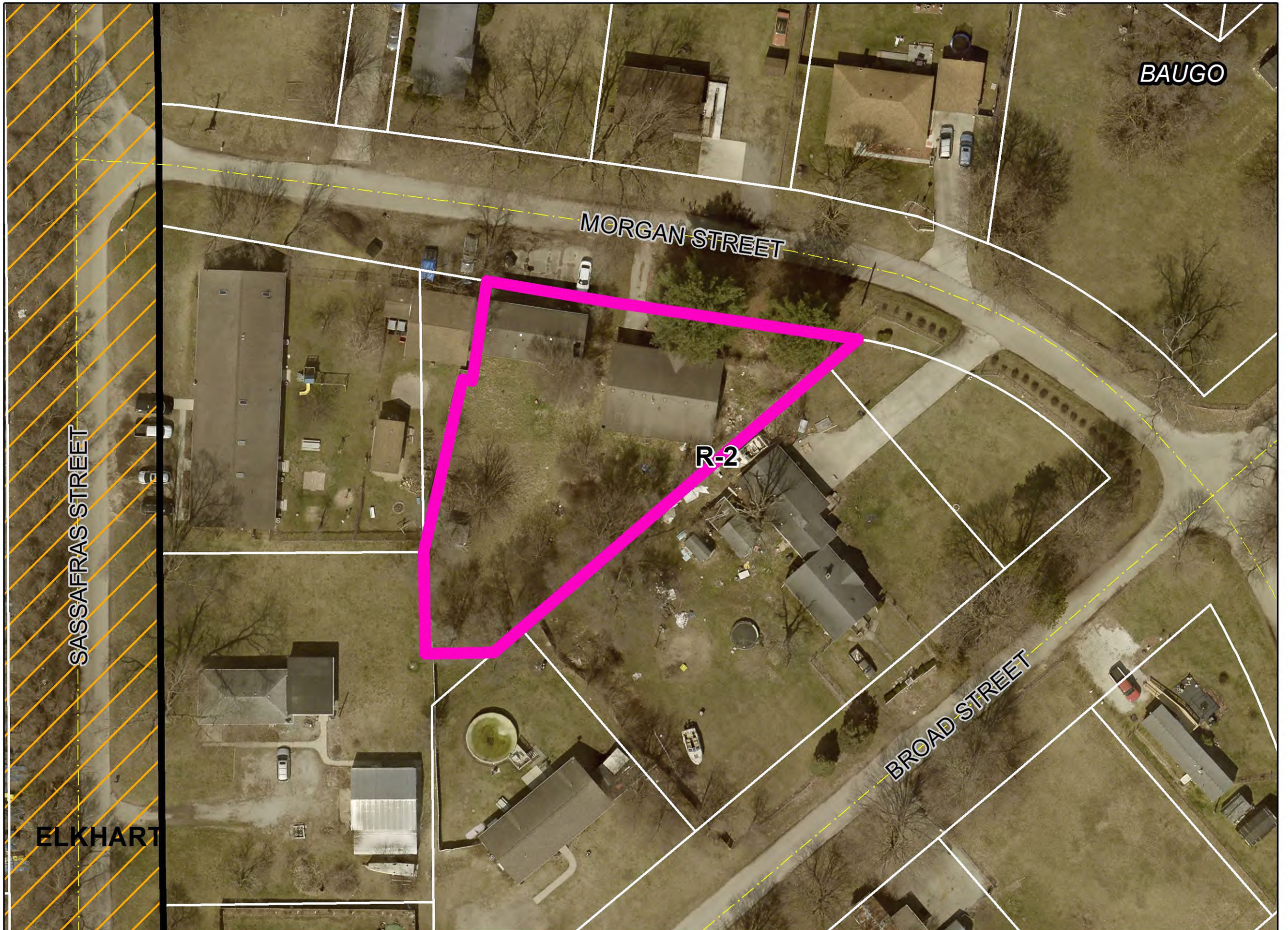
*For a 2 ft. Developmental Variance (Ordinance requires 50 ft.) to allow for an existing duplex dwelling unit 48 ft. from the centerline of the right-of-way and for a 2 ft. Developmental Variance (Ordinance requires 5 ft.) to allow for an existing duplex dwelling unit 3 ft. from the west side property line, staff finds that:*

1. Approval of the request will not be injurious to public health, safety, morals, or general welfare. The structures on the property exist and do not hinder sight distance.
2. Approval of the request will not cause substantial adverse effect on neighboring property. This is a 0.31-acre or 13,503.6 ft<sup>2</sup> parcel in a dense residential area and the property will remain residential in character.
3. Strict application of the terms of the Development Ordinance would result in an unnecessary hardship in the use of the property. Without the benefit of the developmental variance, the structure would be non-conforming.

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 9/16/2024 and as represented in the Developmental Variance application.





BAUGO

MORGAN STREET

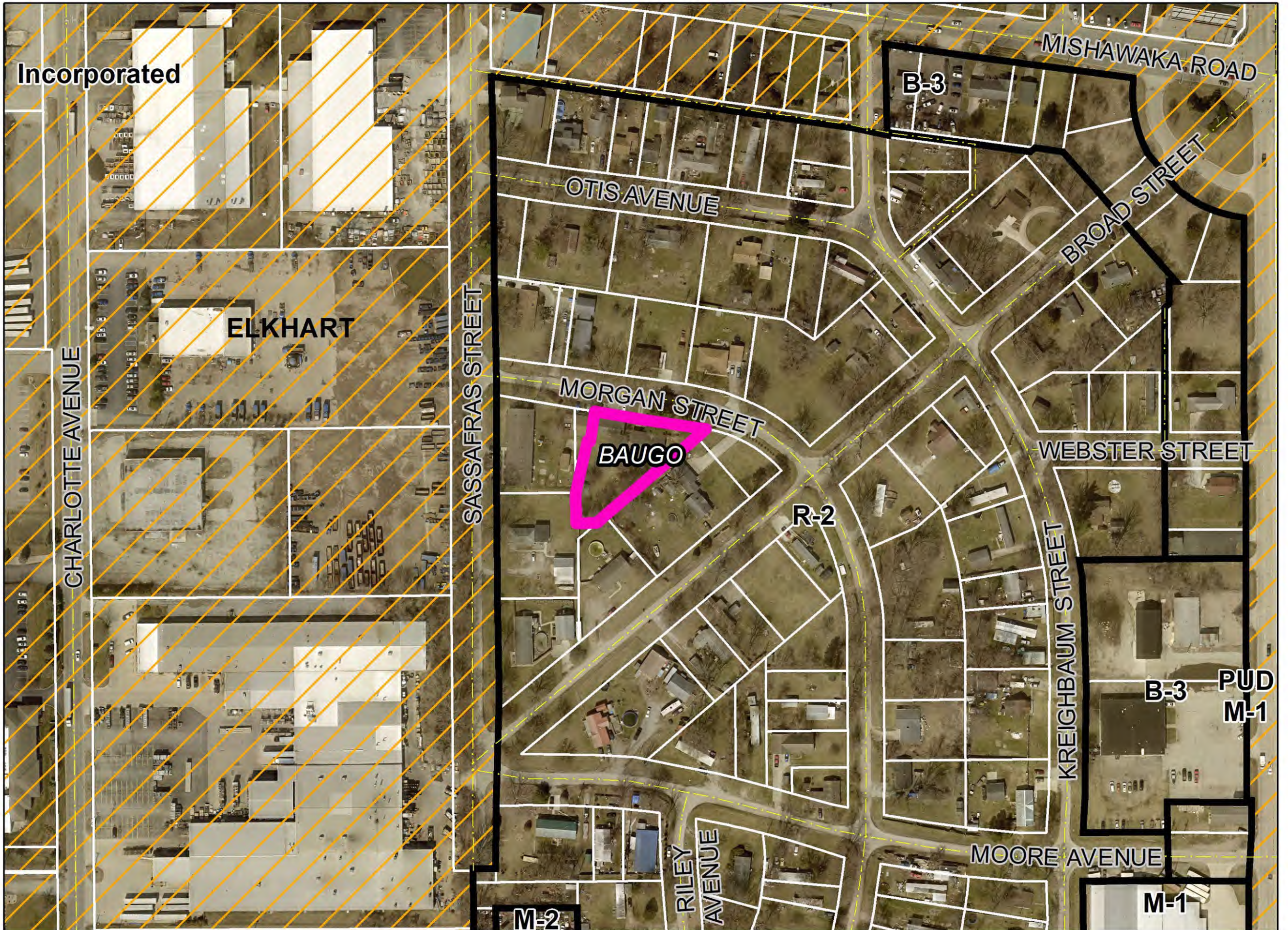
R-2

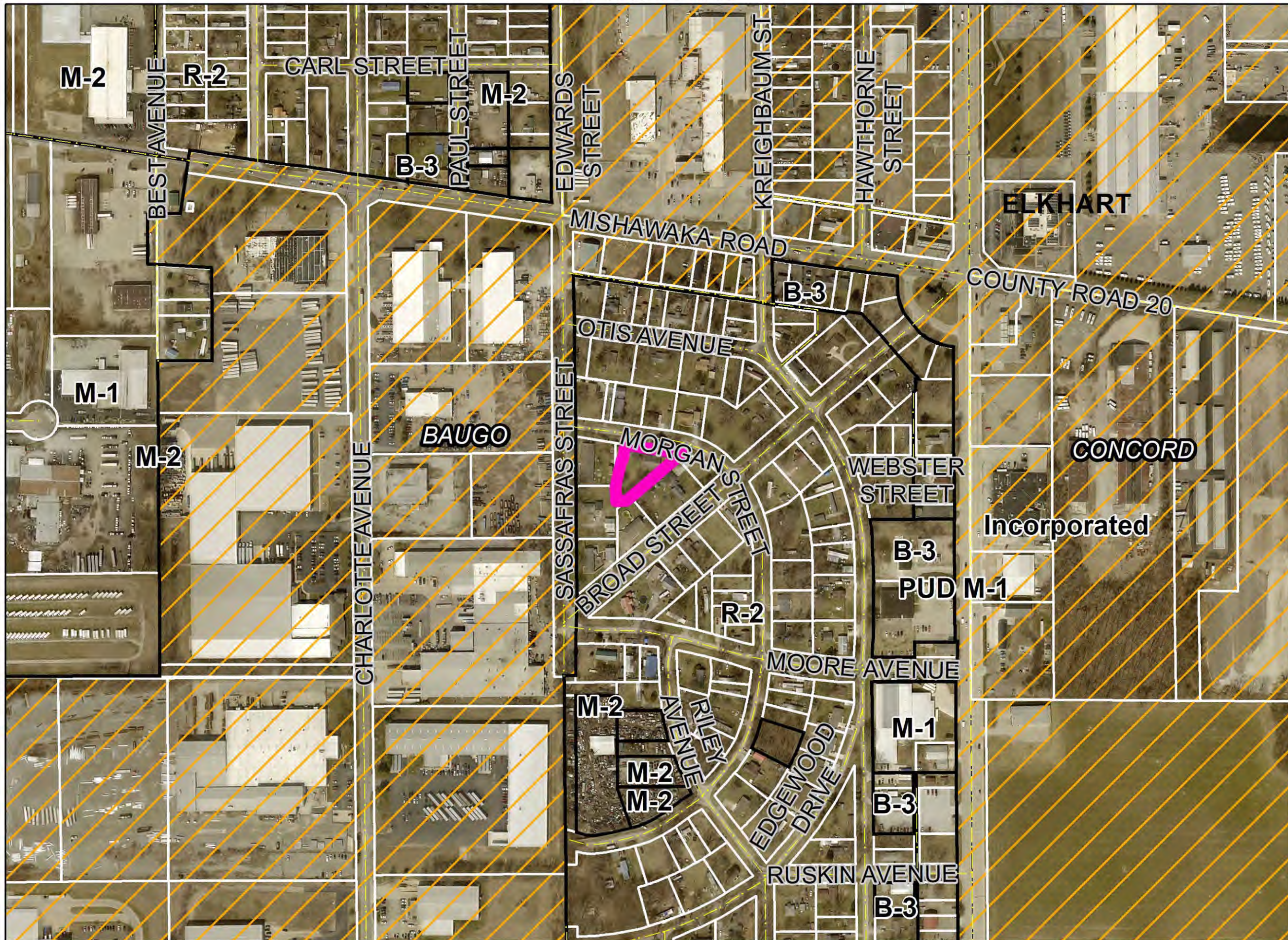
BROAD STREET

SASSAFRAS STREET

ELKHART









Facing south toward subject property



Facing north



Facing east



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

Use Variance - Use Variance

UV-0585-2024

Date: 08/19/2024

Meeting Date: October 17, 2024  
Board of Zoning Appeals Public Hearing

Transaction #: UV-0585-2024

Description: for a Use Variance to allow for 4 (four) dwelling units

<u>Applicant</u>	<u>Authorized Agent</u>	<u>Contract Purchaser</u>	<u>Land Owner</u>
Octavio Ramos (Seller) Po Box 399 Goshen, IN 46527	Samuel L Bolinger 803 Calhoun Street Fort Wayne, IN 46802	Lonnie Bontrager (Buyer) 3230 S 150 W Lagrange, IN 46761	Octavio Ramos (Seller) Po Box 399 Goshen, IN 46527

Site Address: 28197 Morgan St  
Elkhart, IN 46517

Parcel Number: 20-05-13-478-002.000-001

Township: Baugo  
Location: SOUTH SIDE OF MORGAN ST, 950 FT SOUTHEAST OF CR 20

Subdivision: BON-AIR VISTA

Lot # LOT 9 EX W PT & LOTS 10 & 11

Lot Area: 0.31 Frontage: 186.00 Depth: 187.00

Zoning: R-2

NPO List:

Present Use of Property: Residential

Legal Description:

Comments: APPLICATION WAS MAILED INTO OUR OFFICE.  
STAFF WILL BE ASKING FOR A REVISED SITE PLAN (NO SETBACKS AND NOT TO SCALE ON HOUSES) 8-19-2024 JB  
REVISED SITE PLAN ATTACHED 9-16-2024 JB

Applicant Signature:

Department Signature:



Application

Site address: 28197 Morgan Street Lot 9

Parcel number(s): 20-05-13-478-002.000- Elkhart, IN

Current property owner

Name: Octavio Ramos

Address: 28197 Morgan Street Lot 9 Elkhart, IN 46517

Phone: 574 903 8011 Email: NA

Other party

Agent  Buyer  Land contract purchaser  Lessee

Name: Lonnie Bontrager

Address: 3230 S 150 W LaGrange, IN 46761

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: [Signature]

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: \_\_\_\_\_

Use Variance — Questionnaire

Name: Octavio Ramos

1) Tell us what you want to do. update + improve real estate.

2) Tell us why your case is different from other cases in the county so that a variance should be allowed. The real estate has been in the same condition of layout for over 38 years. This is an update of the building

3) Tell us why the variance won't hurt your neighbors or the community. The neighbors approve of it. The outcome would enhance, + at the value of the community.

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 more useful + productive piece of real estate with a value increase / taxes basis.

Tell us how you'll reduce the impact of those things on neighbors. The project is confined to real estate.

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

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) Does what you want to do include 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. Rental to persons not business,

**Building or addition 2** Existing?  Y  N Size and height to the peak: \_\_\_\_\_

Tell us what you'll use it for. See above

**Building or addition 3** Existing?  Y  N Size and height to the peak: \_\_\_\_\_

Tell us what you'll use it for. \_\_\_\_\_

8) 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

9) Does this application include an accessory structure without a residence at this time?  Y  N  
If yes, are there plans for a residence on this property?  Y  N If yes, fill out below.

Tell us when it will be built. The residence already exist.

Tell us the approximate size. \_\_\_\_\_

10) Does this application include animals?  Y  N  
If yes, tell us what kind and the maximum number of each. \_\_\_\_\_

Use Variance — Questionnaire

11) 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

12) Tell us anything else you want us to know. The height of the structures  
will not increase.

# **SAMUEL L. BOLINGER**

**Attorney at Law**

**803 S. Calhoun Street Suite 300, Fort Wayne, Indiana 46802**

**Telephone: (260) 407-0040 Facsimile: (260) 407-0039**

**Email: [mark@slblawfirm.org](mailto:mark@slblawfirm.org)**

---

Date: August 14, 2024

Randy Hesser, Chairman  
Elkhart County Public Services  
4230 Elkhart Road  
Goshen, IN 46526

Elkhart County Board of Zoning Appeals  
RE: Octavio Ramos  
28225 Morgan Street, Lot #9  
Variance Request

I represent Mr. Ramos. Should you require additional information please feel free to contact me. Thank you.

Mr. Ramos has owned the above property for many years. He has paid the taxes accordingly. The property has four (4) residential units in two (2) buildings. Both buildings are on the same parcel of land. The real estate is zoned R2-Single and two (2) Family Residential. When the property was appraised, the appraiser concluded that the property has legal non-conforming grand-fathered use. This equates to a R2 zoning/4 unit rental.

Mr. Ramos has entered into a real estate buy/sell agreement for the property. A (4 unit) rental is not a legally permissible use based upon current zoning. A variance is required.

The history in the Elkhart County Recorder's Office indicates the property has been recorded as such and there has been no objections made or variances sought. The property was joined by accession. The post office assigned the two (2) addresses.

The transaction is ready to close, but cannot be consummated without a use variance applied for and approved by the Board.

As noted, the property has two (2) addresses:

28197 Morgan Street and 28255 Morgan Street. Both of these are legal non conforming.

Under R-2 zone, it is allowed to have two (2) family dwelling units. The issue becomes because the code does not allow for two (2) detached residences on a single lot.

Each structure was built when these lots were separated.

Mr. Ramos and the buyer simply want to improve the inside and outside of each structure.

The work would be repairs. It wouldn't be a rebuild.

The current county's position is that it will not give permits to be rebuilt, as the original homes were built on separate parcels years ago.

In order to complete the transaction, the board members would have to make an exception or grandfather the property and allow and issue permits for the work.

The property sale was agreed to in October 2023. At that time the property was a legal non-conforming use. At that time Mr. Ramos was given permits. (See attached). The work was inspected by the County and everything was approved.

An appraisal was done June 17, 2024, at which time the appraiser claimed it was illegal non-conforming use.

Enclosed please find:

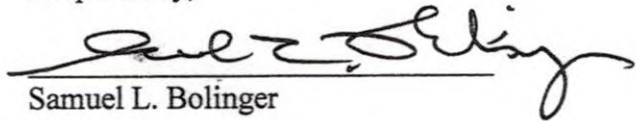
1. Non-refundable Application Fee of \$200;
2. Application signed by Mr. Ramos;
3. Completed questionnaire;
4. Site Plan;
5. Recorded deeds for parcel;
6. Letters of property neighbors;

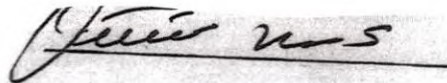
7. Agreement to Purchase;
8. No easement is involved;
9. Building Permits of:
  - a. 2/8/24
  - b. 3/1/24
  - c. 4/2/24;
10. Recorded Deeds for all parcels;
11. There is no authorizing letter. Mr. Ramos is the current property owner and applicant.

Please advise of a hearing time.

Thank you for your cooperation and consideration.

Respectfully,

  
Samuel L. Bolinger





# ***BZA Staff Report***

*Prepared by the Department of Planning and Development*

**Hearing Date:** October 17, 2024

**Transaction Number:** SUP-0560-2024.

**Parcel Number(s):** 20-06-19-226-016.000-009.

**Existing Zoning:** R-1.

**Petition:** for a Special Use for a home workshop/business for a barber shop.

**Petitioner:** Kelvin Amaya Alvarado.

**Location:** West side of CR 7, 750 ft. South of West Mishawaka Rd., in Concord Township.

**Site Description:**

- Physical Improvement(s) – Residence & accessory structure.
- Proposed Improvement(s) – None.
- Existing Land Use – Residential, agricultural.
- Surrounding Land Use – Residential, agricultural.

**History and General Notes:**

- **September 19, 2024** – The BZA tabled this petition.

**Staff Analysis:**

*for a Special Use for a home workshop/business for a barber shop, 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-1 zoning district.
2. The Special Use will not cause substantial and permanent injury to the appropriate use of neighboring property. This is a 3-acre parcel in a moderately dense mixed-use area, and the parcel will remain residential in character.
3. The Special Use will substantially serve the public convenience and welfare by providing local barber services.



# ***BZA Staff Report (Continued)***

***Hearing Date:*** October 17, 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 8/8/2024 and as represented in the Special Use application.

R-2

B-3

DPUD B-3

CONCORD

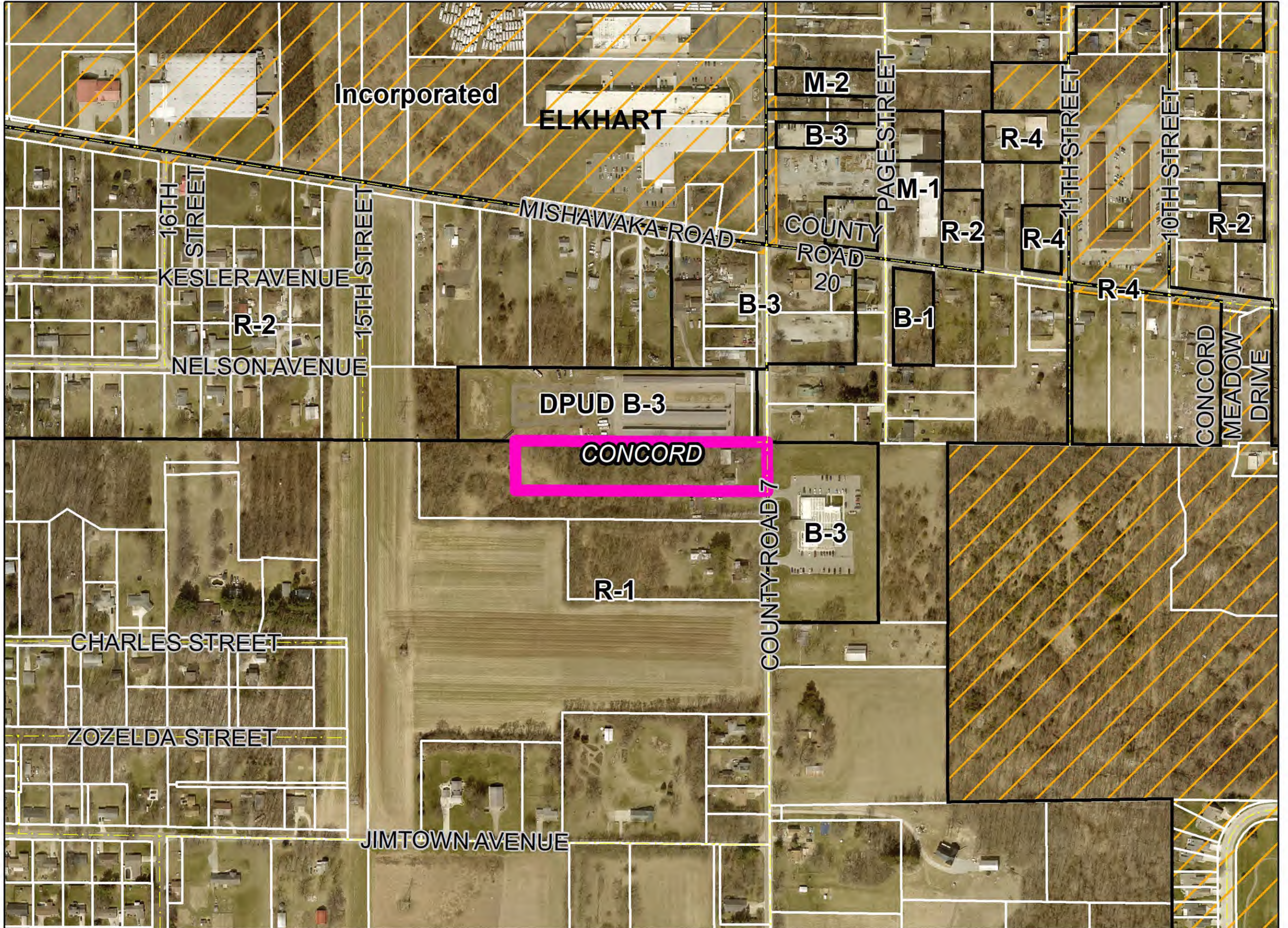
R-1

B-3

COUNTY ROAD 7









Looking west toward subject property



Looking east



Looking north



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

SUP-0560-2024

Date: 08/08/2024

Meeting Date:

September 19, 2024

Board of Zoning Appeals Public Hearing

Transaction #:

SUP-0560-2024

Description: for a Special Use for a homework shop/business for a barber shop.

Contacts: Applicant

Kelvin Amaya Alvarado

58071 Cr 7

Elkhart, IN 46517

Land Owner

Kelvin Amaya Alvarado

58071 Cr 7

Elkhart, IN 46517

Site Address:

58071 Cr 7

Elkhart, IN 46517

Parcel Number:

20-06-19-226-016.000-009

Township: Concord

Location: WEST SIDE OF CR 7, 750 FT SOUTH OF W. MISHAWAKA RD.

Subdivision:

Lot #

Lot Area:

3.00

Frontage:

137.00

Depth:

810.00

Zoning: R-1

NPO List:

Present Use of Property:

RESIDENTIAL

Legal Description:

Comments: PARCEL CREATION DATE 5/28/1999. NO SUBDIVISION IS NEEDED. AW

Applicant Signature:

Department Signature:

Application

Site address: 58071 CR 7, ELKHART, IN 46517

Parcel number(s): 20-06-19-226-014.000-009

Current property owner

Name: Kelvin Amaya Alvarado

Address: 58071 County Road 7

Phone: 574-343-0240

Email: JESSY14HDZ@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: Kelvin Amaya

Staff Use Only

Description: for a Special Use for a homework shop/business for a barber shop. + for a 5 FT DEVELOPMENTAL VARIANCE (ORDINANCE REQUIRES 5 FT) TO ALLOW FOR AN EXISTING DETACHED GARAGE 0 FT FROM PROPERTY LINE.

Parcel creation date: 5/28/1999 - AW + KB.

Subdivision required?  Y  N If yes,  AS  Minor  Major

Residential accessory breakdown, if applicable: N/A

Location: N S E (W) corner (side) end of CR 7  
750 ft. N (S) E W of W. MISHAWAKA Rd.

in CONCORD Township

Frontage: 137 Ft. Depth: 810 Ft. Area: 3.0 acres

Subdivision and lot number, if applicable: N/A

Present use: RESIDENTIAL

Special Use — Questionnaire

Name: \_\_\_\_\_

1) Tell us what you want to do. A small barbershop in the garage.

2) Tell us why this activity won't hurt your neighbors or the community. The neighbors are not close by the hours will not be that late

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. GARAGE BARBER SHOP.  
**Building or addition 1** Existing?  Y  N Size and height to the peak: 32x46, 32x26.  
Tell us what you'll use it for. GARAGE.

**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. \_\_\_\_\_

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: 4 Part time: \_\_\_\_\_

How many of the employees won't live onsite? 4

What will be the days and hours of operation on this property? Tuesday - Thursday 10am - 6pm Friday - Sunday 9am - 8pm

How many parking spaces do you have now? 7

How many parking spaces do you want? 5

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. hair products and drinks

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

20/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). 2 x 3 feet

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

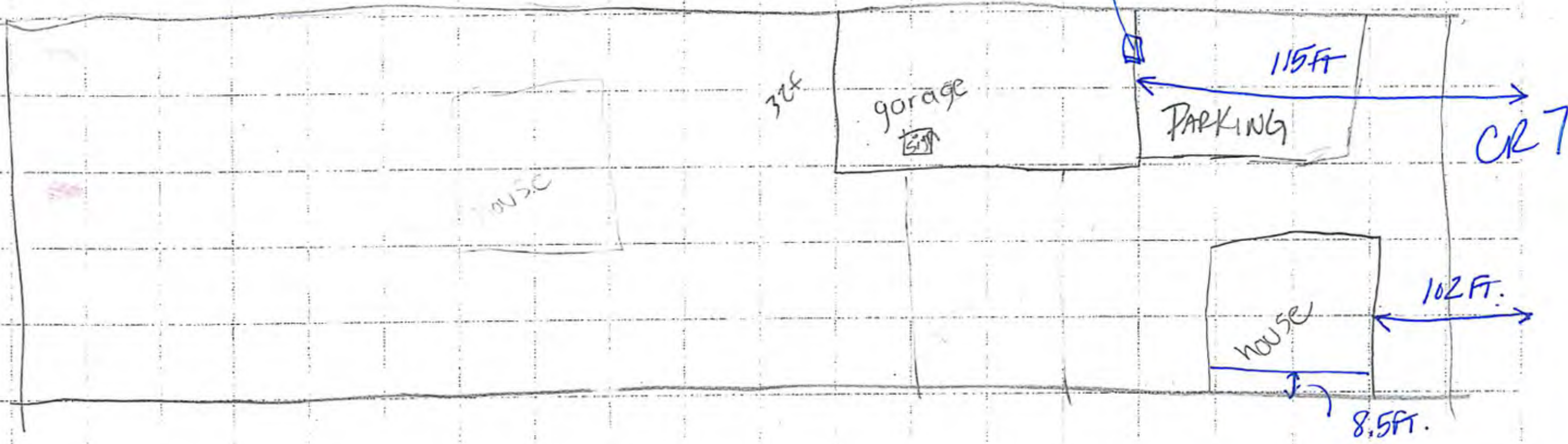
Electronic message board?  Y  N If no, lighted?  Y  N

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:** October 17, 2024

**Transaction Number:** DV-0547-2024.

**Parcel Number(s):** 20-05-12-477-007.000-001.

**Existing Zoning:** B-3.

**Petition:** for a 25 ft. Developmental Variance (Ordinance requires 55 ft.) to allow for the construction of an accessory building 30 ft. from the centerline of the right-of-way of 27th St., and for a 62 ft. Developmental Variance (Ordinance requires 120 ft.) to allow for the construction of an accessory building 58 ft. from the centerline of the right-of-way of Old US 33.

**Petitioner:** Kevin Sarber.

**Location:** Northeast corner of 27th St. & Old US 33, in Baugo Township.

**Site Description:**

- Physical Improvement(s) – Vacant.
- Proposed Improvement(s) – Accessory Structure.
- Existing Land Use – Vacant.
- Surrounding Land Use – Residential and Commercial.

**History and General Notes:**

- **September 19, 2024** – The BZA tabled this petition.

**Staff Analysis:**

Staff finds that:

1. Approval of the request will be injurious to public health, safety, morals, or general welfare. Setbacks are established to preserve public safety. This is a high traffic intersection, and sight distances will be hindered.
2. Approval of the request will cause substantial adverse effect on neighboring property. The parcel is 0.108 acres in size, and its triangular shape severely limits the buildable area of the parcel. The buildable area of the parcel is 410 sq. ft., which is 9% of the total area. The proposed parking area is not a true representation of what can fit within the allowed parking setback.
3. Strict application of the terms of the Development Ordinance would not result in an unnecessary hardship in the use of the property. The petitioner can find a use that is compatible with the small parcel.

Staff recommends **DENIAL**.

LA RUE STREET (OLD LINCOLN HIGHWAY)

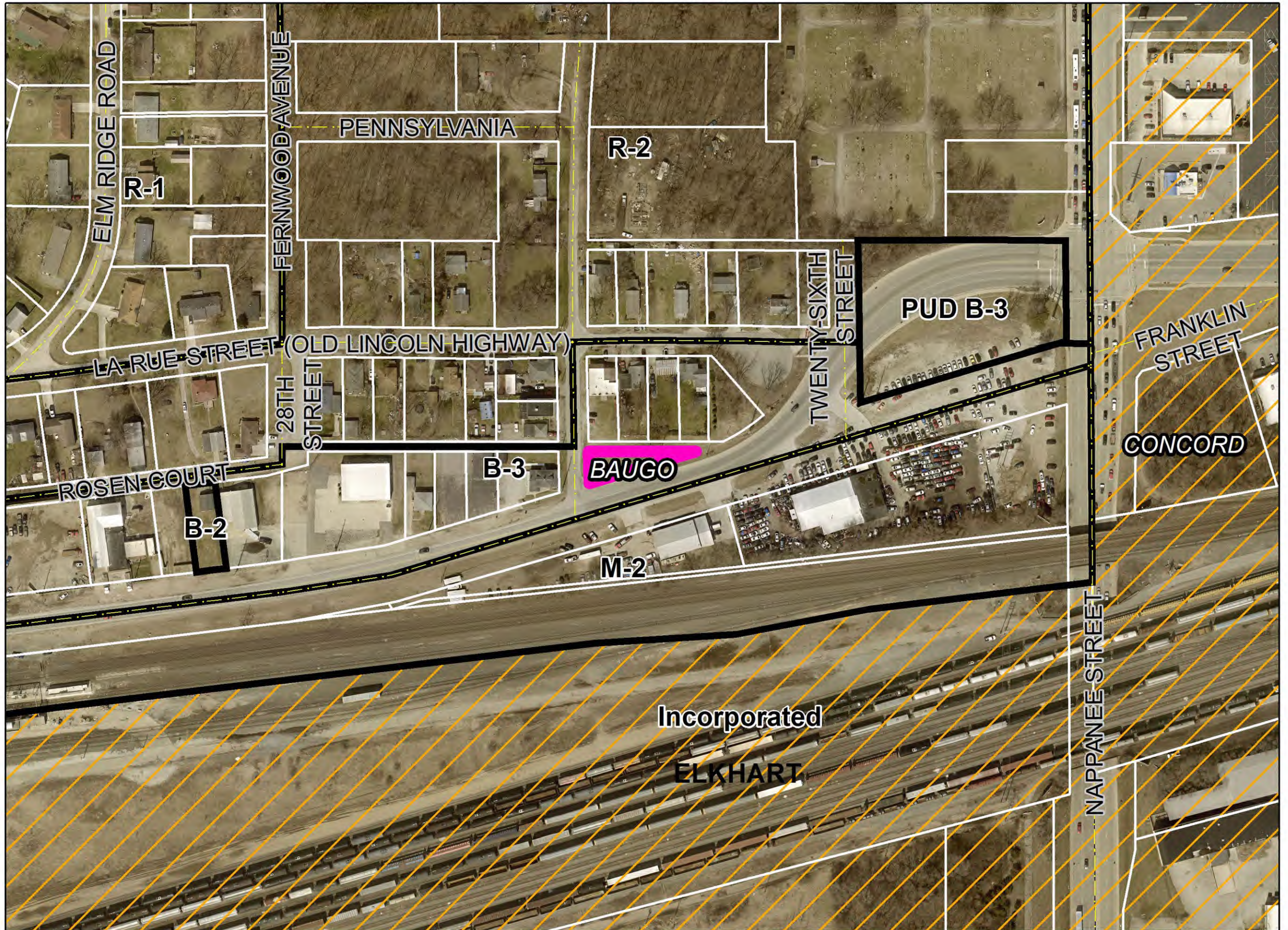
R-2

B-3

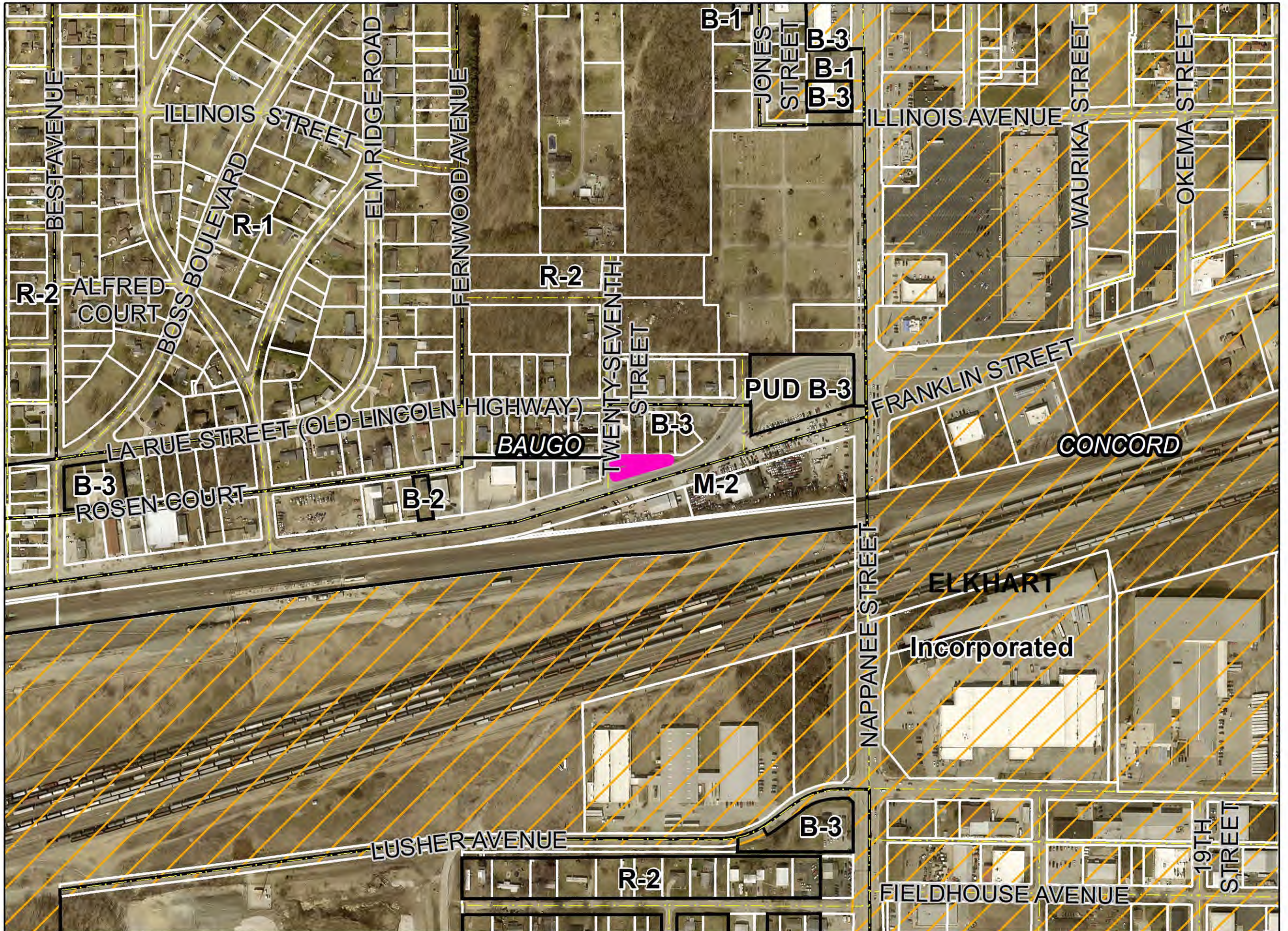
BAUGO

TWENTY-SEVENTH STREET

M-2









**Subject property facing north**



Subject property location proposed building



Facing west



Facing east from intersection



Facing 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

Developmental Variance - Developmental Variance

DV-0547-2024

Date: 08/02/2024

Meeting Date:

September 19, 2024

Board of Zoning Appeals Public Hearing

Transaction #:

DV-0547-2024

Description: for a 25 ft. Developmental Variance (Ordinance requires 55ft.) to allow for the construction of an accessory building 30 ft. from the centerline of the right-of-way 27th Street and for 62 ft. Developmental Variance (Ordinance requires 120ft.) to allow for the construction of an accessory building 58 ft. from the centerline of the right-of-way of Old US 33.

Contacts: Applicant

Kevin Sarber

912 Ren Street

Elkhart, IN 46516

Land Owner

Kevin Sarber

912 Ren Street

Elkhart, IN 46516

Site Address: 00000 Old Us 33  
ELKHART, IN 46516

Parcel Number: 20-05-12-477-007.000-001

Township: Baugo

Location: NORTHEAST CORNER OF 27TH ST AND OLD US 33

Subdivision: WIRLEY'S 1ST ADDITION

Lot # 45

Lot Area: 0.11 Frontage: 237.00

Depth: 176.00

Zoning: B-3

NPO List:

Present Use of Property: VACANT

Legal Description:

Comments: DANNY AND DANIELLE REVIEWED THIS PETITION. DANNY INFORMED CUSTOMER THAT STAFF WILL BE RECOMMENDING DENIAL. MAE STATED SIGNAGE WILL NOT BE ALLOWED ON THE ROOF. NO VARIANCE NEEDED FOR THE SIGN PER DANNY OR DANIELLE

Applicant Signature:

Department Signature:

Application

Site address: Old US 33 + 27<sup>th</sup> St

Parcel number(s): 20-05-12-477-007

Current property owner

Name: Kevin Sarker

Address: 912 Ren St. Elkhart, IN 46516

Phone: 574-522-7446

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

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 OLD US 33 + 27<sup>th</sup> St.,  
2500 ft. N S E (W) of Nappanee St.,  
in Bawgo Township

Frontage: 237 Depth: 176 Area: .108 acres

Subdivision and lot number, if applicable: WIRLEY'S 1<sup>st</sup> Addition, LOT 45

Present use: Vacant Land

b-h



Developmental Variance — Questionnaire

Name: \_\_\_\_\_

1) Tell us what you want to do. car lot

2) Tell us why you can't change what you're doing so you don't need a variance. no room

3) Tell us why the variance won't hurt your neighbors or the community. nothing will be in their way

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: \_\_\_\_\_  
Tell us what you'll use it for. 12 x 10 13' to top peak

**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): 4' x 8' no variances needed for this sign  
Existing?  Y  N Double faced?  Y  N  
Electronic message board?  Y  N If no, lighted?  Y  N  
Freestanding?  Y  N Wall mounted?  Y  N ROOF MOUNTED.

**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. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

From  
20-30

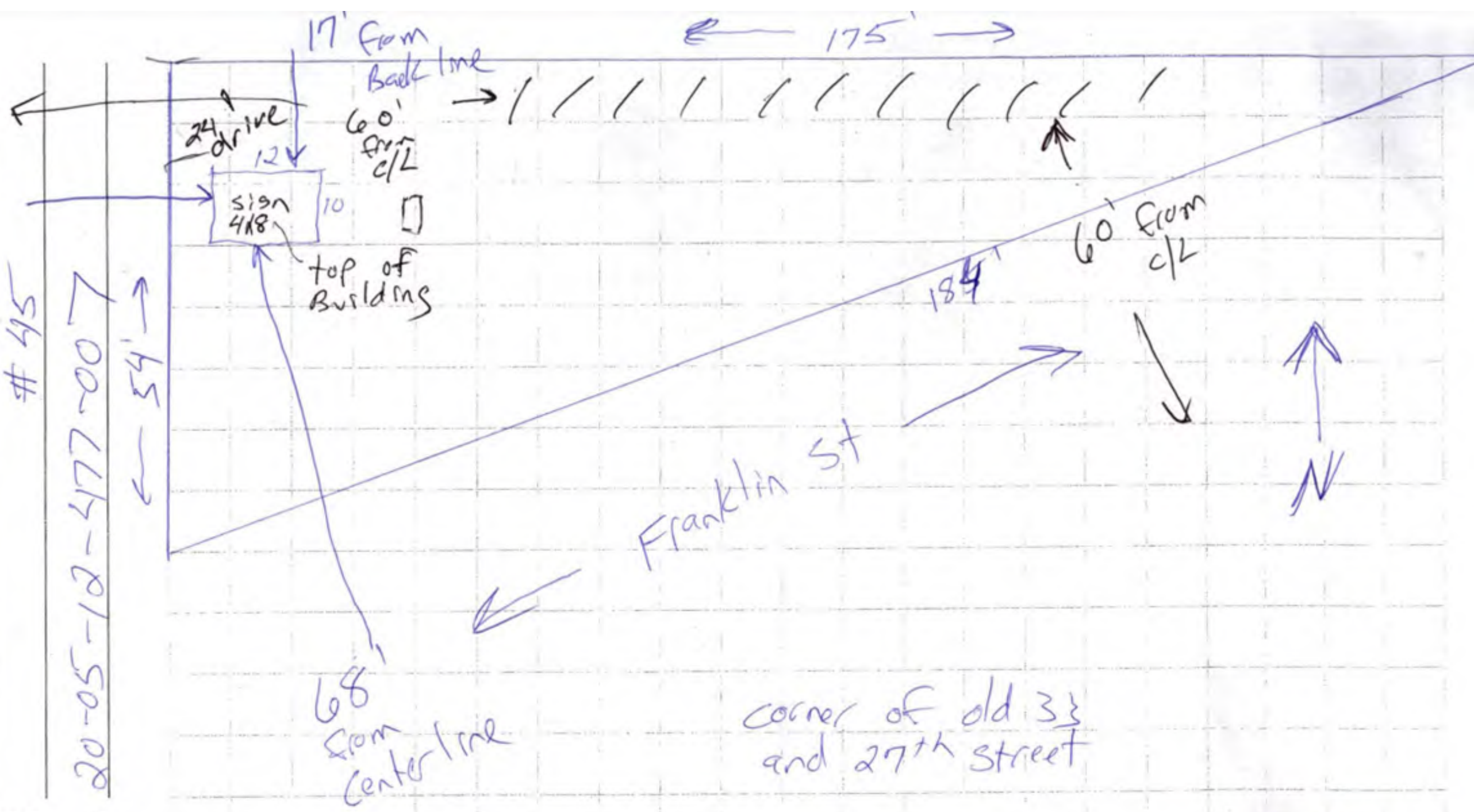
Kevin Sarber

old us 33 + 27th

# 495

20-05-12-477-007

Name:  
Address:  
Phone and  
Number:



AUG - 2 2024



**DATE:** September 26<sup>th</sup>, 2024

**TO:** BZA

**FROM:** H. Jason Auvil, Zoning Administrator

**SUBJECT:** Major / Minor Change Request – Site Plan Amendment

Ervin Heatwole is requesting to amend a Special Use Permit for a home workshop business for a meat processing business on a property located at 72155 CR 15, Nappanee, in Union Township, zoned A-1, approved on September 15<sup>th</sup>, 2016.

The request is to construct a new 2,400 ft<sup>2</sup> (60 ft. x 40 ft.) storage building for the homework shop business.

Attached is the minor change request letter and site plan received on September 24<sup>th</sup>, 2024.

Staff recommends approval of this minor change request.

This major/minor change staff item will be on the **October 17<sup>th</sup>, 2024**, BZA agenda.

72155 CR 15 Wapganee IN 46550

9-24-29

Adding a storage building for storage for Business.

40'x60' for ag storage

9

Ervin Heatwole

Ervin Heatwole

Name: Ervin Heqtwole

Site address: 72155 CR 15 Nappanee IN 46550

Subdivision and lot number: \_\_\_\_\_

Parcel number: \_\_\_\_\_



SEP 24 2024