



**JOHNSON COUNTY**

Department of Planning and Zoning  
86 West Court Street  
Courthouse Annex  
Franklin, Indiana 46131

Phone: (317) 346-4350  
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www.co.johnson.in.us

**MEETING AGENDA**

**Johnson County Board of Zoning Appeals  
October 29, 2024 at 7:00 PM  
Public Auditorium, West Annex Building  
86 West Court Street, Franklin, Indiana**

**CALL TO ORDER**

**ROLL CALL**

**APPROVAL of MINUTES**

Approval of minutes from the September 24, 2024 meeting.

**PUBLIC HEARINGS**

**-CONTINUED PETITIONS**

**-NEW PETITIONS**

**V-17-24. Eugene and Lori Kogut. 5554 Camden Lane. Greenwood**

**VARIANCE OF DEVELOPMENT STANDARDS OF THE JOHNSON COUNTY ZONING ORDINANCE TO ALLOW A FENCE TO BE PLACED IN A UTILITY AND DRAINAGE EASEMENT.**

**V-18-24. Nick Davis. 6694 N. US 31. Whiteland**

VARIANCE OF USE of the Johnson County Zoning Ordinance to allow for outdoor storage of rental dumpsters (not permitted in the SR zoning district).

VARIANCE OF DEVELOPMENT STANDARDS of the Zoning Ordinance of Johnson County, Indiana to waive landscaping requirement for commercial use, and to allow for a free-standing sign.

**OLD BUSINESS**

None.

**NEW BUSINESS**

**REPORTS AND RECOMMENDATIONS**

None.

## **ADJOURNMENT**

The next regular meeting of the Johnson County Board of Zoning Appeals is scheduled for Tuesday, November 19, 2024 at 7:00 PM.

***In accordance with American Disabilities Act, any person attending the public meeting in need of reasonable accommodations in order to attend, hear, or present evidence at the public meeting on an agenda item should contact the Johnson County ADA coordinator, Barb Davis, at 86 W. Court St., Franklin, IN 46131, (317) 346-4329, [bdavis@co.johnson.in.us](mailto:bdavis@co.johnson.in.us).***

# Staff Report

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**CASE NUMBER:** V-17-24  
**ADDRESS:** 5554 Camden Lane, Greenwood  
**PETITIONER:** Eugene and Lori Kogut

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## REQUEST

VARIANCE OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to allow a fence to be placed in a Utility and Drainage Easement.

## PROPERTY DESCRIPTION

This 0.62-acre site is zoned SR, Single-Family Detached Dwelling District. It is located within the Kensington Grove major subdivision. The property is improved with a single-family dwelling and a pool.

## VARIANCE REQUEST

This request, if approved, would allow a fence to be placed within a Utility and Drainage Easement on the south and west sides of the property.

As shown on page 9, the applicant is requesting to encroach into the 10' D.&U. E. by three feet on the south side and 2 feet on the west side.

Rear D.&U.E. are typically designated for natural swales and storm drains to collect runoff water for the developed lot to be collected in the subdivision detention system. Majority of rear D.&U.E. in recent development do not contain other utilities such as electrical, gas, or other cable utilities. These easements are intended to protect the storm drains and the swales as they are part of the drainage system. Additionally, easements are provided to offer access to the drainage system. These are typically wide enough where equipment to pass through and repair or maintain any drainage concerns.

As shown on page 11, on the west side of the property is a storm drain that collects water from lots 110, 109, 108, 308, and 159. It drains water to the north. On the south side of the property is a sanitary sewer line at the corner of lot 308. The sanitary sewer is within Lot 308, but the easement is there to provide protection and access. The applicant would need to seek approval from the Greenwood Sanitation Department to encroach in this easement in addition to approval of the variance.

The development standard in the Unified Development Ordinance does not allow structures and fences to be placed in an easement. Structures and fences can hinder the purpose of the easement or prevent unnecessary problems that can be avoided if they were not placed in the easement in the first place. The proposed fence is a wrought iron fence. Wrought Iron and Chain Link fences are less of an obstruction to the natural flow of water than solid fences. However, it is still an item within an easement that could cause problems that could have been prevented in the future.

**FINDINGS OF FACT: VARIANCE OF DEVELOPMENT STANDARDS**

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

Easement encroachment does not impose public health, safety, and moral concern.

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

Easement encroachment will not have an adverse effect on the adjacent property; however, it could affect the access and maintenance of the infrastructures within the easement which will cause a hardship for the easement holder.

- 3. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.**

There is nothing unique to this property or the needs of the petitioners that would preclude a fence from being built outside the easement. There is ample space on the property where a fence can be relocated that does not involve removing landscaping from the property.

**GENERAL INFORMATION**

Applicant: Eugene and Lori Kogut  
5554 Camden Lane  
Greenwood IN 46142

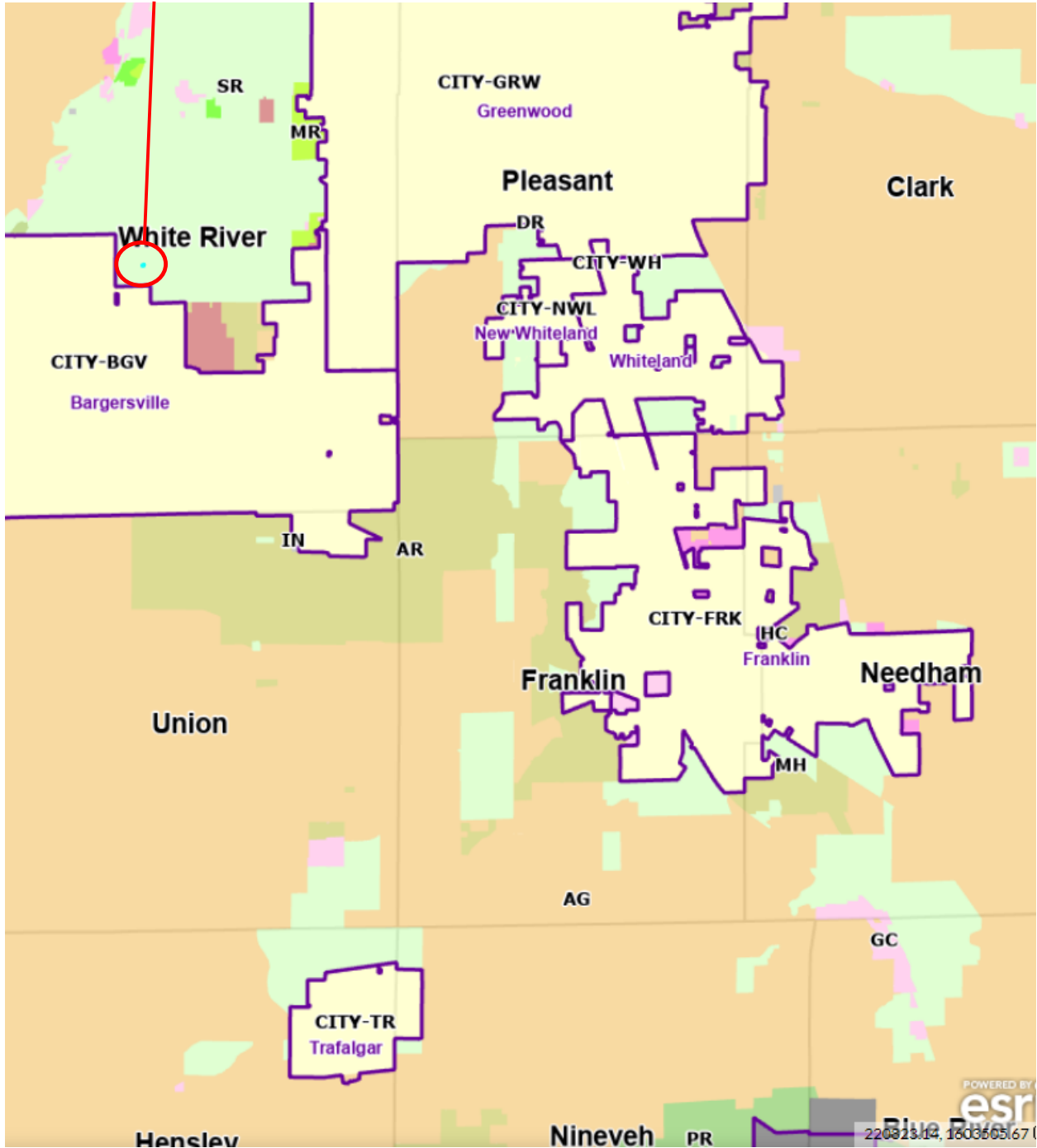
Owner: Same

Zoning: SR, Single-Family detached dwelling  
Land Use: Single-family Residential  
Future Land Use: Single-family Residential

-MNH

# V-17-24 BASE MAP

**subject site**



# V-17-24 BASE MAP II



**V-17-24 AERIAL PHOTO**

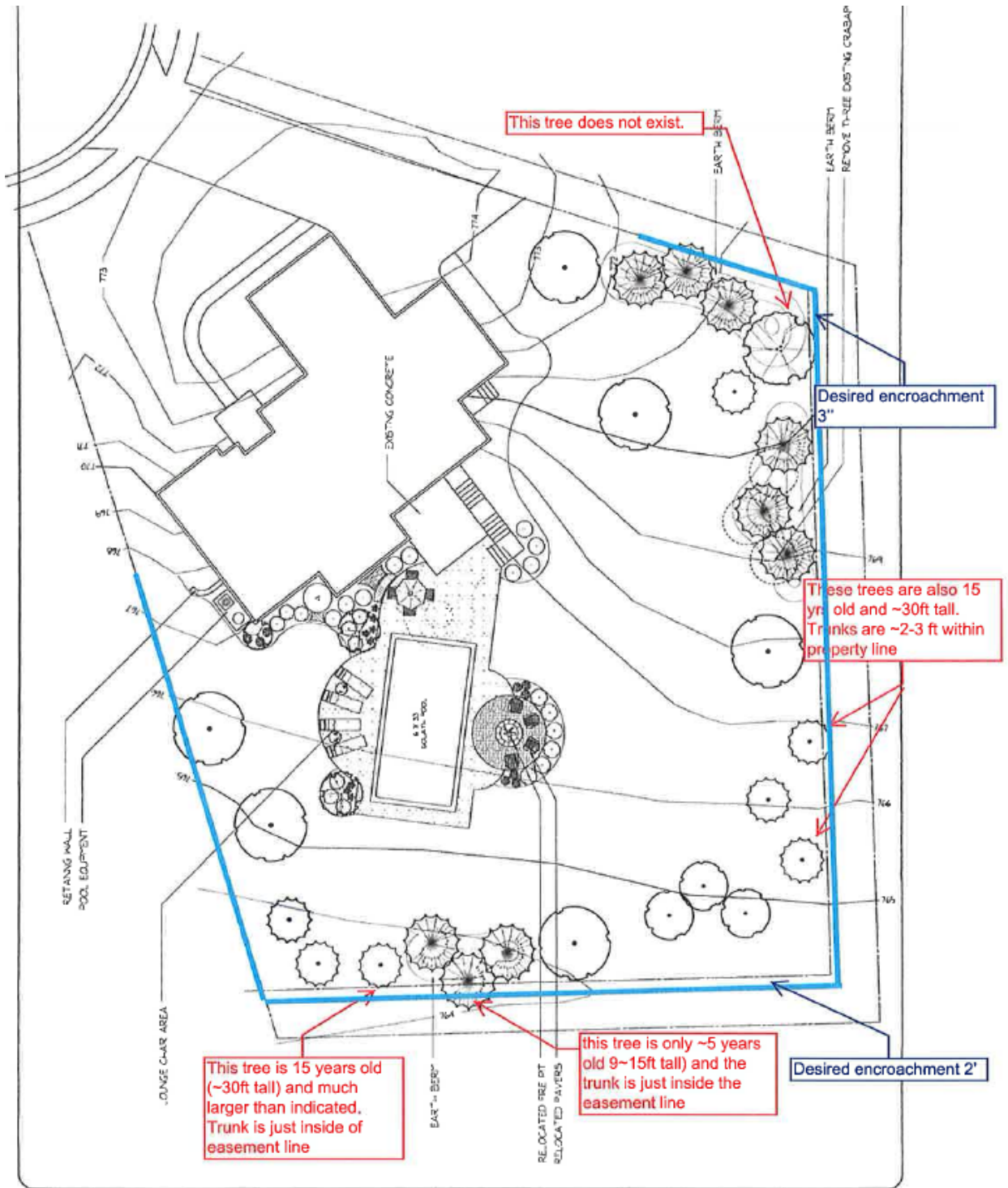


**V-17-24 BIRDS EYE VIEW**





# V-17-24 SITE PLAN



## V-17-24 PETITIONER'S FINDINGS OF FACT

### FINDINGS OF FACT, DEVELOPMENT STANDARDS VARIANCE

JOHNSON COUNTY BOARD OF ZONING APPEALS

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

The variance approval will allow addition of a fence within the property boundaries of the petitioner. The fence will be installed by profession installers, Amerifence. In addition, The petitioner is willing to remove the posts if needed for utility purposes and replace or adjust the placement if needed for utility purposes.

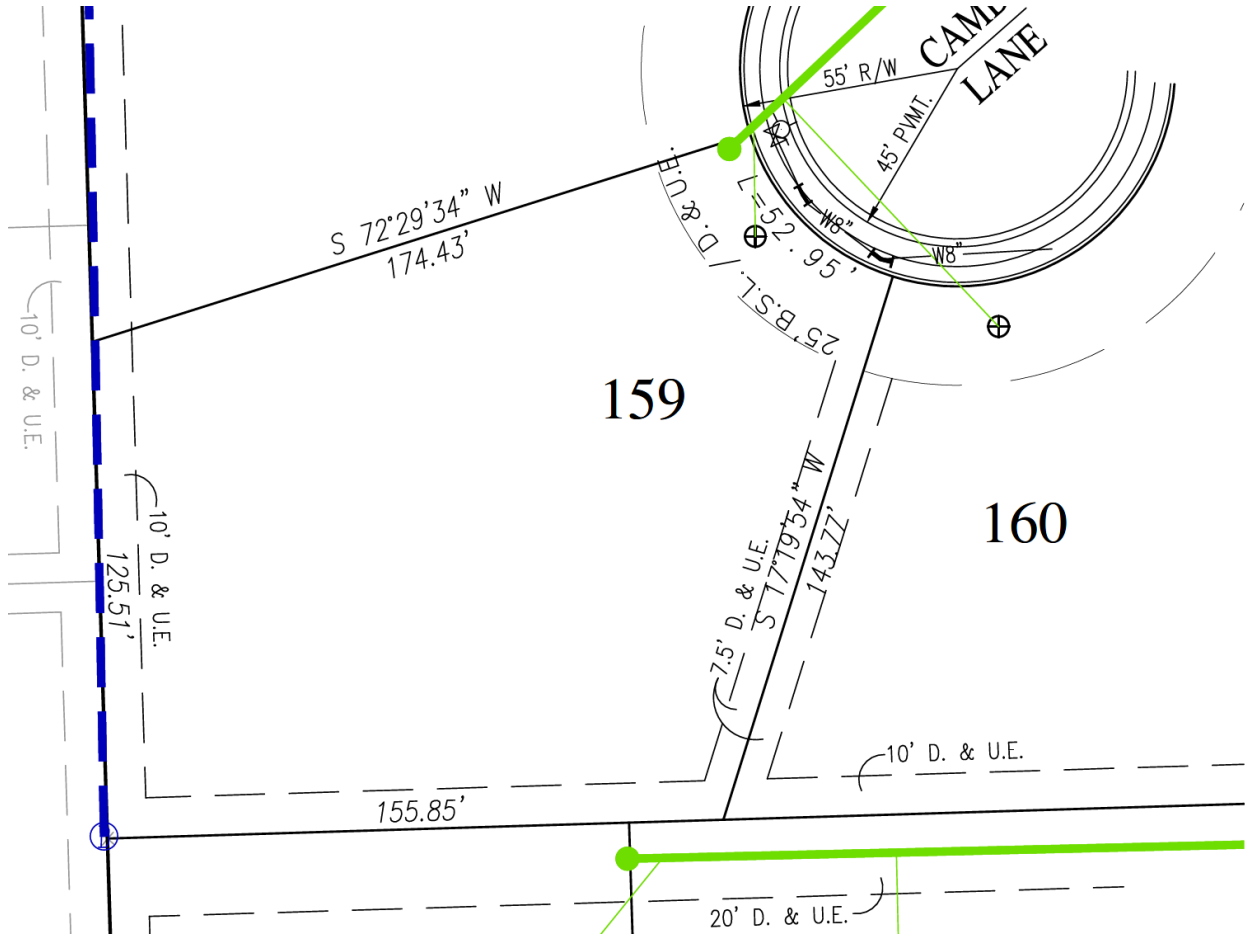
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The property value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner as the fencing installed as a result of the variance will meet all HOA guidelines. Prior to installation of said fence, the HOA will need to approve the fence proposal. In addition, several similar fences are present in the neighborhood. (See attachment 1, 9 and 10)

3. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property because:

Several mature trees ranging from 5 to 14 years old create a nature privacy landscape barrier and are located just outside of the D&UE boundary on the property of the petitioner. See attachments 12 & 13  
If the fence were placed at the edge of the D&UE boundary following strict application of the Zoning Ordinance would require the removal or trimming of the evergreen trees to within 1-2" of the tree trunk. (see attachments 14 & 15). The resulting removal or trimming of the trees would result in the aesthetic appeal of the natural privacy barrier from the viewpoint of the neighbors.

**V-17-24 UTILITY LOCATION**  
**BLUE – STORM DRAIN**  
**GREEN – SANITARY SEWER LINE**



## Attachments

A1 - picture of fence style

A2 - Plot plan with proposed fence location. Southern edge encroaches into easement due to mature trees on the U. & D.E. border (approximate tree location indicated)

A3 - Photo from southeast corner of lot looking toward Camden Lane.

A4 - Photo from southeast corner of lot looking west indicating marked utilities, property line, easement border and proposed fence line.

A5 - Photo facing south along property line separating houses on Travis road to indicate the cable and power lines turn south after passing the buried sanitary sewer (on neighbors property side of easement)

A6 - Northwest corner of lot looking south, indicating property line, easement line and proposed fence placement.

A7- Northwest corner of lot looking south along DU&E line indicating how much tree would need to be removed (branches cut to within 1-2 inches of trunk)

A8 - Northwest corner of lot looking south along proposed fence placement resulting in transplanting aster plant.

A9 & A10 - Photos of other, similar fences within sight of proposed fence.

A11 - COI from Amerifence

For the photos, the following key applies;

White line / arrow indicates location of property line

Yellow line / arrow indicates location of easement border

Blue line / arrow is the proposed fence placement

Orange line / arrow is the location of the cable line

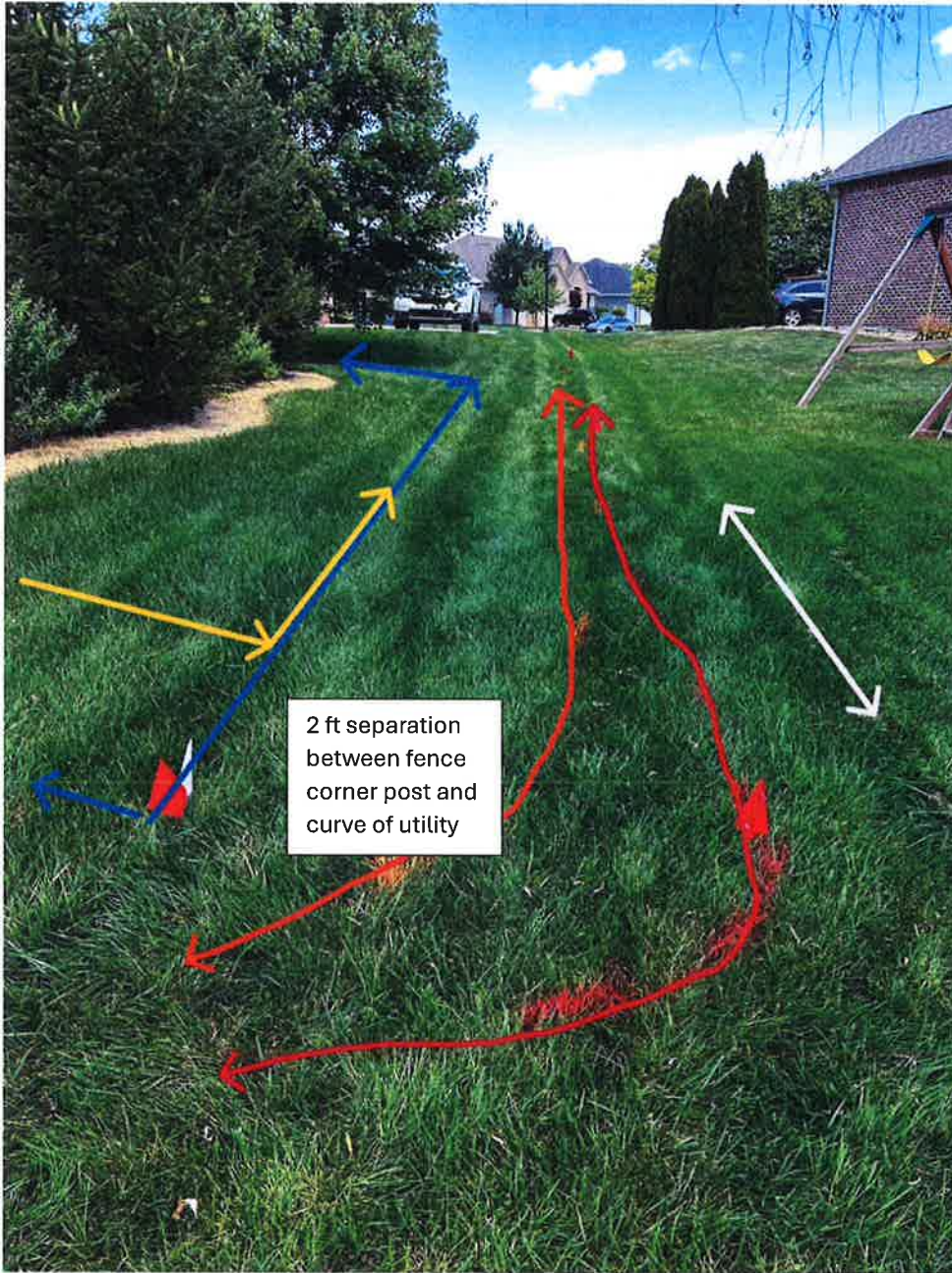
Red line / arrow is the location of the power line

**Attachment 1**



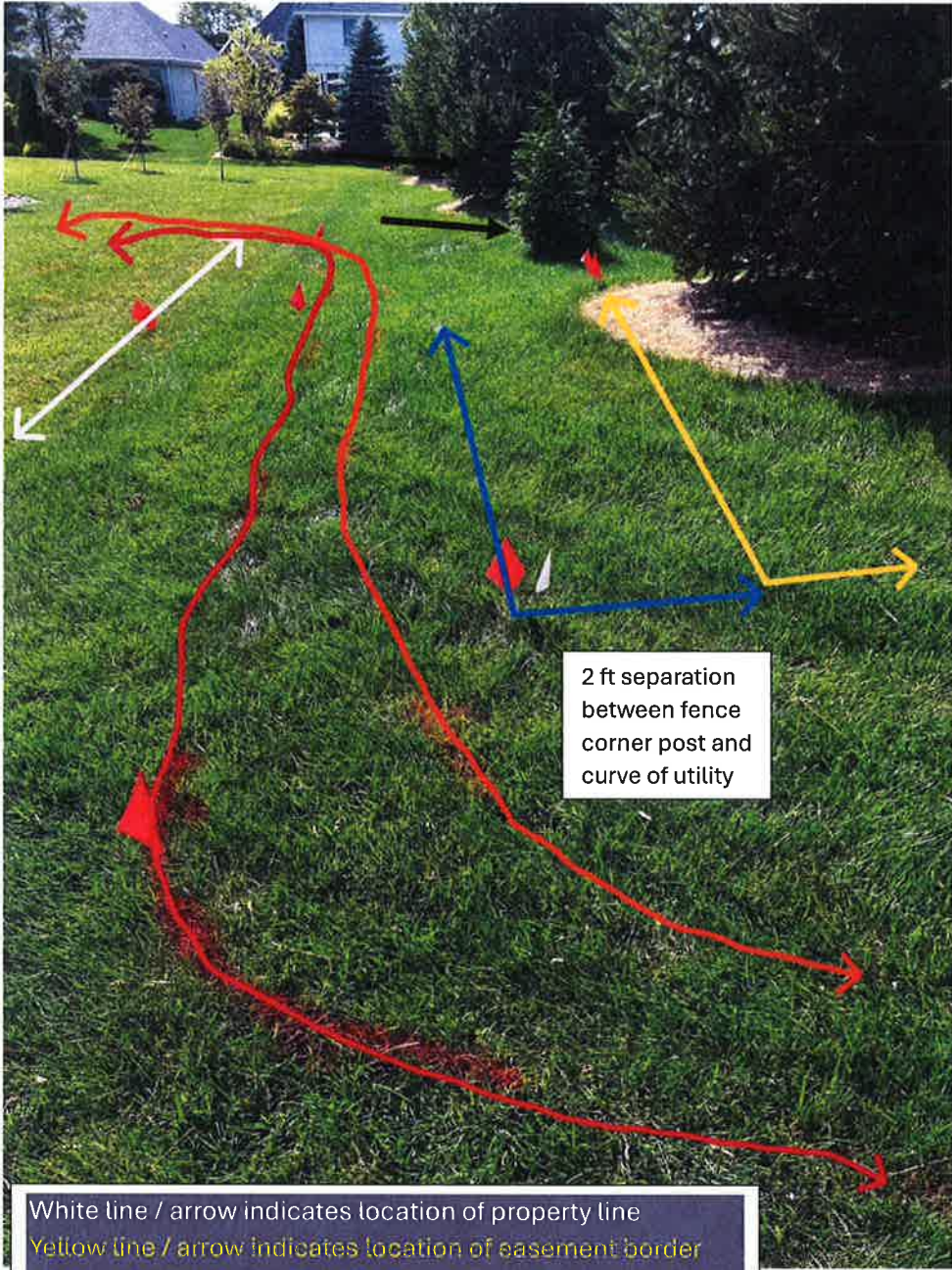


### Attachment 3



White line / arrow indicates location of property line  
Yellow line / arrow indicates location of easement border  
Blue line / arrow is the proposed fence placement  
Orange line / arrow is the location of the cable line  
Red line / arrow is the location of the power line

### Attachment 4



Placement along D&UE would result in 4 trees being cut down. The young giant thuja tree (black arrow) and three additional pine shown on next page.





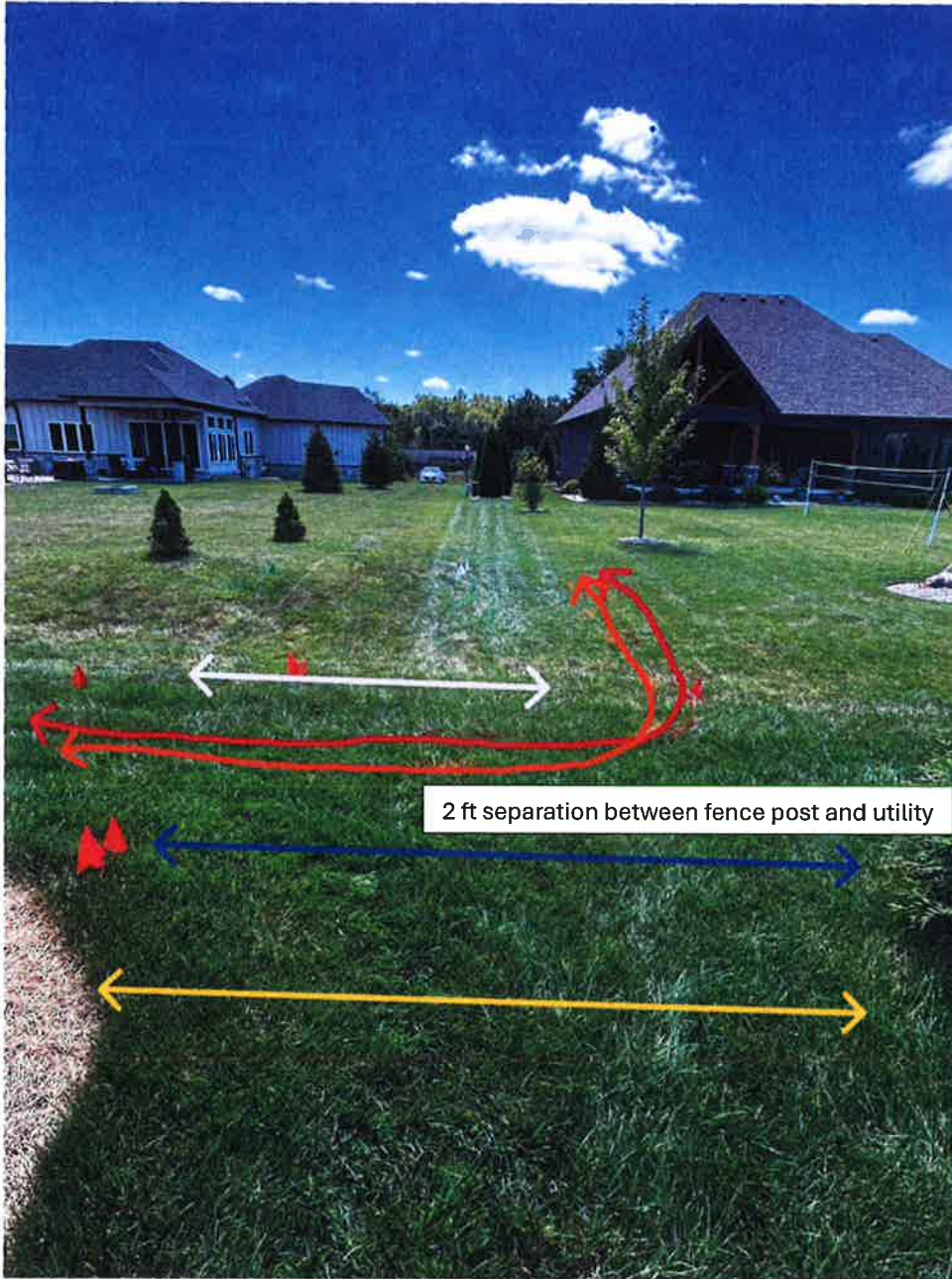
Trees indicated by black arrows would need to be cut down for fence placement along D&UE border.



View from southern neighbors' yard from east to west. Trees requiring removal are indicated by red arrows (3 pine trees and one giant thuja).

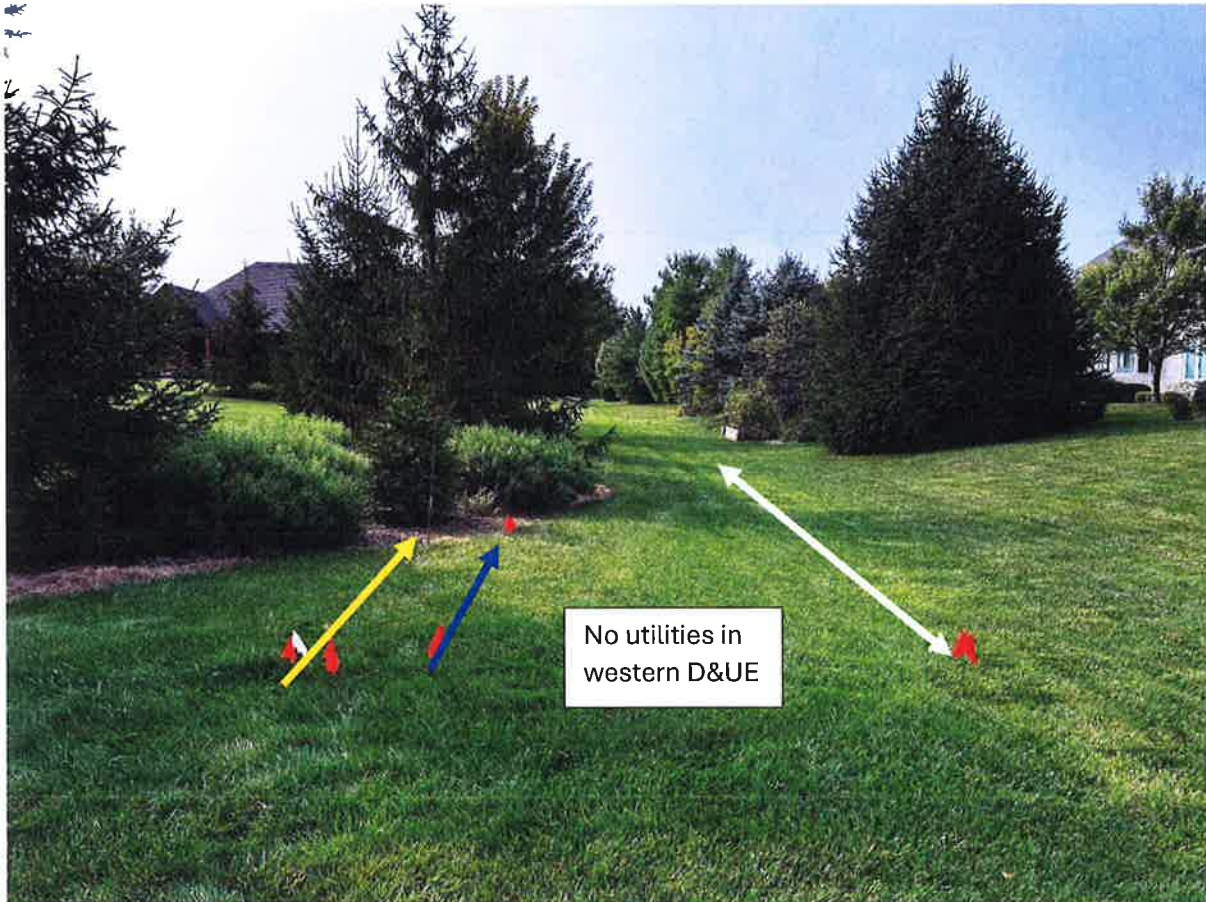


### Attachment 5



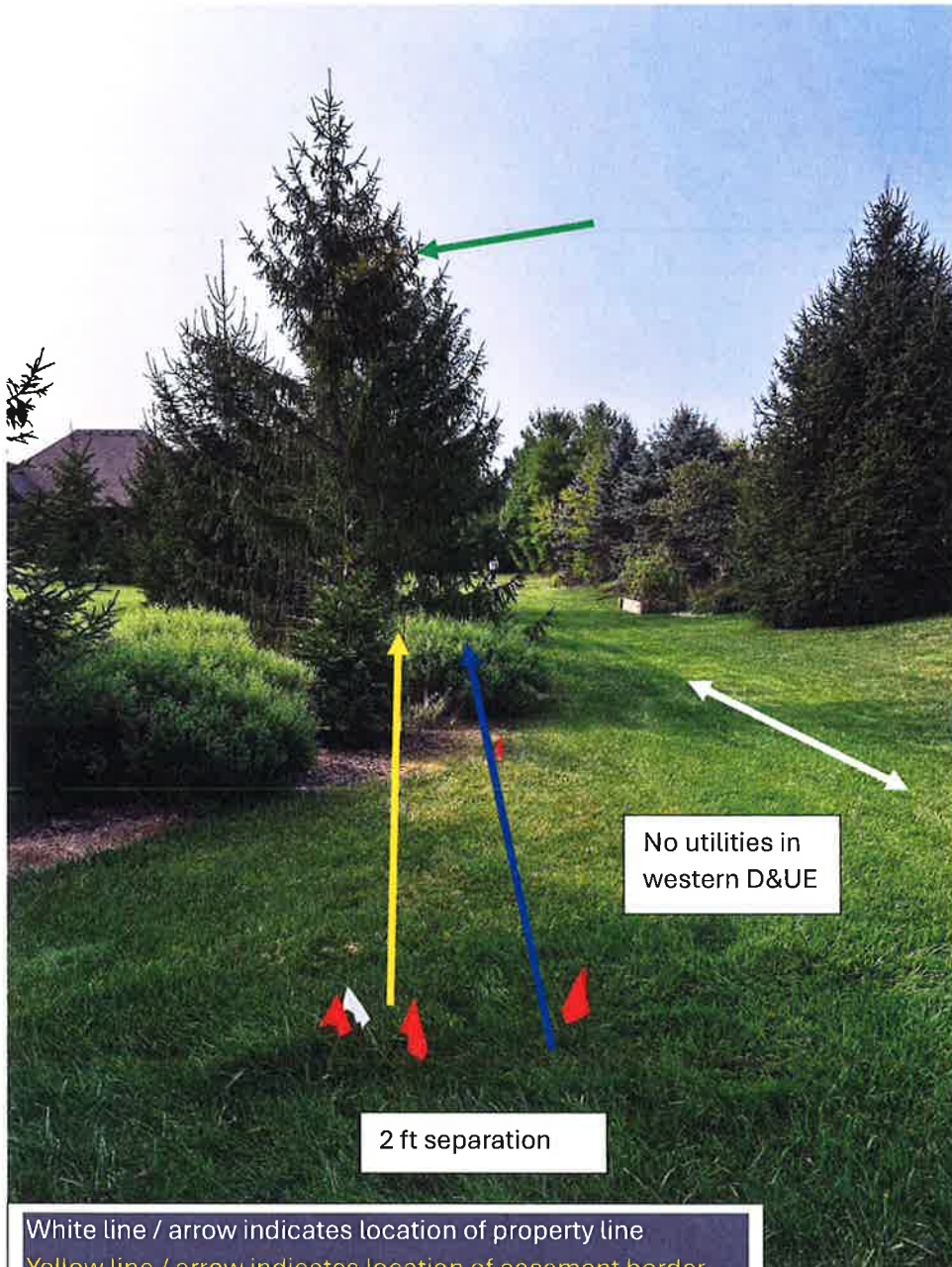
White line / arrow indicates location of property line  
Yellow line / arrow indicates location of easement border  
Blue line / arrow is the proposed fence placement  
Orange line / arrow is the location of the cable line  
Red line / arrow is the location of the power line

## Attachment 6



White line / arrow indicates location of property line  
Yellow line / arrow indicates location of easement border  
Blue line / arrow is the proposed fence placement  
Orange line / arrow is the location of the cable line  
Red line / arrow is the location of the power line

### Attachment 7 (view down D&UE border)

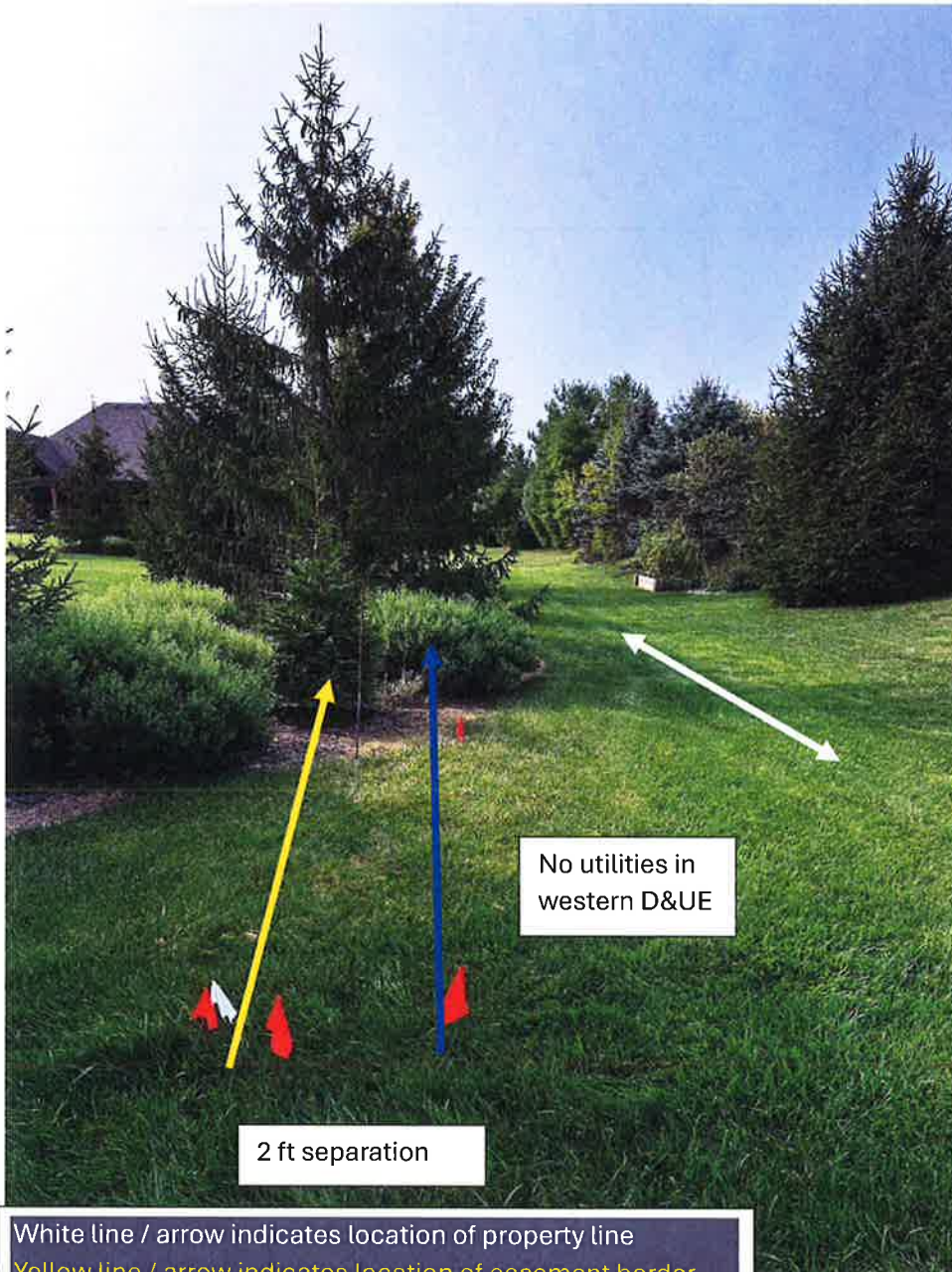


Fence placed along easement border (yellow) would require tree with green arrow to be removed.  
Fence placed along proposed line (blue) would allow branches to be bent / held back during fence install and not be trimmed. Aster plant would be transplanted.

**Tree that would need to be removed as viewed from neighbors yard.**



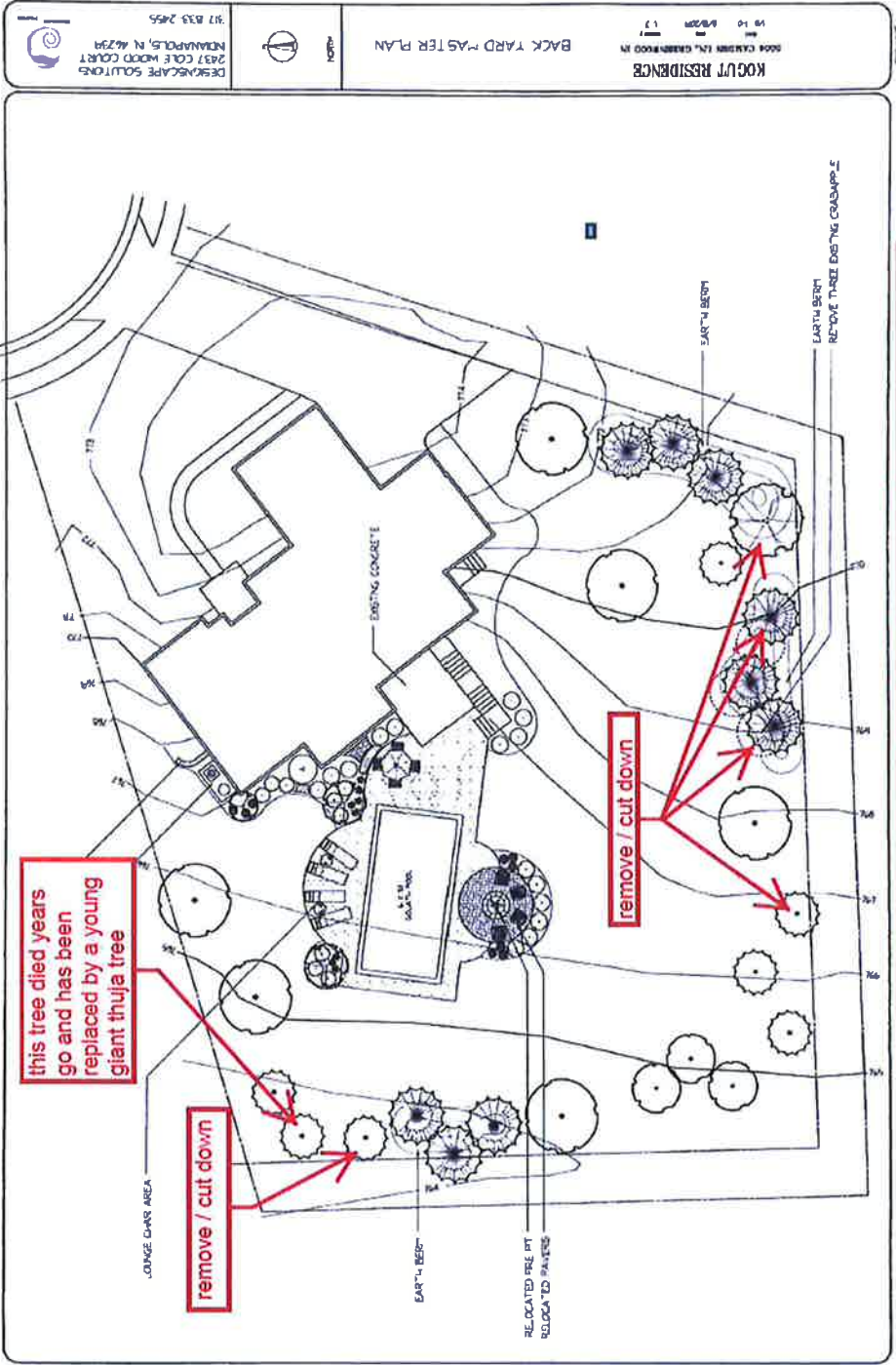
### Attachment 8 (view line down proposed fence line)



White line / arrow indicates location of property line  
Yellow line / arrow indicates location of easement border  
Blue line / arrow is the proposed fence placement  
Orange line / arrow is the location of the cable line  
Red line / arrow is the location of the power line

Fence placed along easement border (yellow) would require tree (with green arrow and another newer tree hidden behind first tree) to have branches cut to within 1 – 2” of trunk.

Fence placed along proposed line (blue) would allow branches to be bent / held back during fence install and not be trimmed. Aster plant would be transplanted.



this tree died years go and has been replaced by a young giant thuja tree

remove / cut down

remove / cut down

This is for a general idea of landscaping impacted by the fence at the 10' easement. It is not to scale or necessarily accurate for property lines or DU&E boundaries.



**Attachment 9**



Multiple examples of similar fences throughout neighborhood and within sight of property.

**Attachment 10**



Multiple examples of similar fences throughout neighborhood and within sight of property

# STAFF REPORT

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**CASE NUMBER:** V-18-24  
**ADDRESS:** 6694 N. US 31, Whiteland  
**PETITIONER:** Nick Davis by Young and Young Law

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## REQUEST

VARIANCE OF USE of the Johnson County Zoning Ordinance to allow for outdoor storage of rental dumpsters (not permitted in the SR zoning district).

VARIANCE OF DEVELOPMENT STANDARDS of the Zoning Ordinance of Johnson County, Indiana to waive landscaping requirement for commercial use, and to allow for a free-standing sign.

## PROPERTY DESCRIPTION

This 1-acre site is zoned SR (Single Family Detached Dwelling). The property is currently improved with a dwelling.

To the north and east are the commercial developments within the city limits of Greenwood. To the south and west are various parcels zoned SR used residentially and an occasional commercial use.

## HISTORY

A use variance was granted to this property in 1992 to allow a clothing alteration shop within the existing house. That use variance was granted to Adia Berford who sold the property to the Davis's in May of 2023. It is unknown to staff when the clothing alteration use ceases operation. The current property owners have made improvements to the property and have contacted the office about the use of the property. The staff informed Michelle and James Davis on January 25, 2024 via email that the property is zoned residentially and cannot be used for dumpster rental storage.

## VARIANCE OF USE

This Variance of Use request, if approved, would allow the subject property to be used as outdoor storage of rental dumpsters. According to the Plan of Operation, the property could accommodate up to fifty 20-yard dumpsters at any given time. However, most of the dumpsters will be off-site during a rental period. Full details of the Operation can be found on page 35.

The petitioner will not reside in the residence on the property.

The proposed improvement may be subject to the Stormwater Ordinance and may required to provide stormwater improvements.

**COMPREHENSIVE PLAN**

The Future Land Use Map of the Comprehensive Plan recommends Commercial Use as the best use of the area. However, this recommendation is only recommended if the property is suitable for commercial development. It does not appear that this property is within a public water service area and the Greenwood Sanitation Department will not service this property without annexation to the City.

This area is adjacent to the city limits of Greenwood. It was encouraged to discuss the property with the City of Greenwood since the proposal is a commercial/industrial use. However, Greenwood implied that if the property was considered for annexation/rezone to operate an outdoor dumpster rental business, it would not receive a favorable recommendation from the Planning Staff. The City of Greenwood’s Comprehensive Plan recommends Commercial. Outdoor storage of dumpsters would fall under Greenwood’s Industrial zoning.

**VARIANCE OF DEVELOPMENT STANDARDS – LANDSCAPE REQUIREMENT**

This Variance of Development Standards request, if approved, would waive the landscape requirement for commercial use. This commercial use would be subject to landscape buffer requirements along the south and west property lines as it abuts a residential district/use. The buffer requirements are

Type 2 - Medium	20'	2 deciduous trees + 5 evergreen trees + 54 evergreen shrubs per 100'
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The site plan provided shows the storage area will be extended to the property line with no installation of landscape or fence.

**VARIANCE OF DEVELOPMENT STANDARDS –SIGNAGE**

This Variance of Development Standards request, if approved, would allow the applicant a free-standing sign along US 31. The proposed sign is included on page 39. Dimensions were not provided. The Unified Development Ordinance allows any permitted commercial use in SR district one sign that is 32 sq.ft. in area and four feet in height. It is recommended to follow those standards if the Board feels incline to approve the use variance

**FINDINGS OF FACT: VARIANCE OF USE**

1. The approval will be injurious to the public health, safety, morals, and general welfare of the community.

The proposed use would be inconsistent with the residential uses south of the property and represents an inappropriate intrusion of heavy commercial activity.

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

The proposed use of outdoor storage that will cause noise which is not compatible with the surrounding residential properties.

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

The property is zoned, planned and developed for residential and may continue to be used that way.

4. The strict application of the terms of the Zoning Ordinance will not constitute an unnecessary hardship if applied to the property for which variance is sought.

The property is zoned for residential use, and may continue to be used that way. The lake of public utilities does not support commercial redevelopment at this time.

5. The approval does interfere substantially with the Comprehensive Plan.

The request would be inconsistent with the land use recommendations of the City of Greenwood Comprehensive Plan, which recommends Commercial. Outdoor storage of dumpsters would fall under Greenwood's Industrial zoning.

#### **GENERAL INFORMATION**

**Applicants:** Nick Davis represented by Young and Young Lae  
40 W. Court Street, Suite D  
Franklin IN 46131

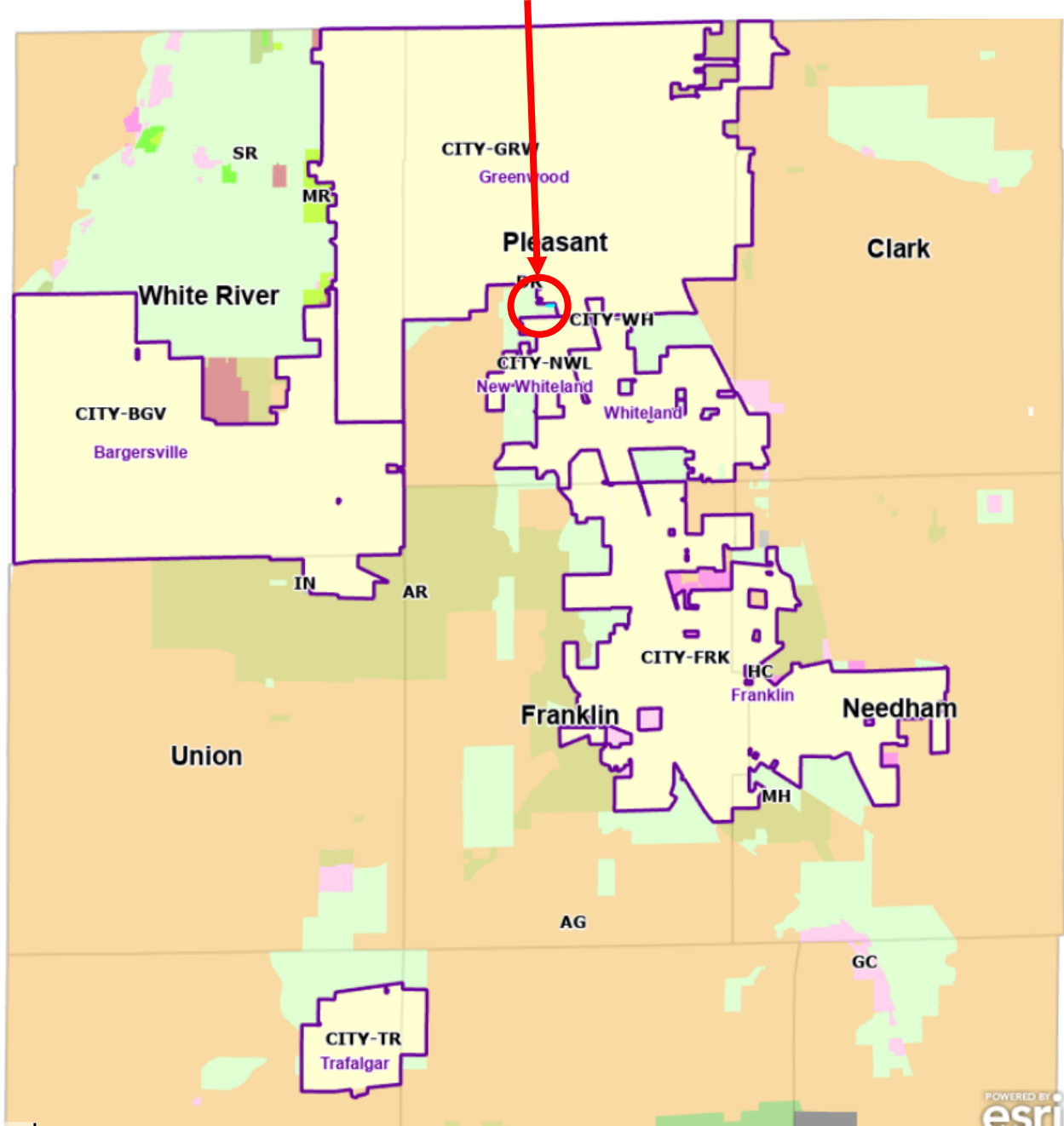
**Owners:** Michelle and James Davis  
6649 N 75 W  
Whiteland, IN 46184

**Zoning:** SR, Single Family Dwelling Residential District  
**Land Use:** Residential, dumpster storage  
**Future Land Use:** Commercial

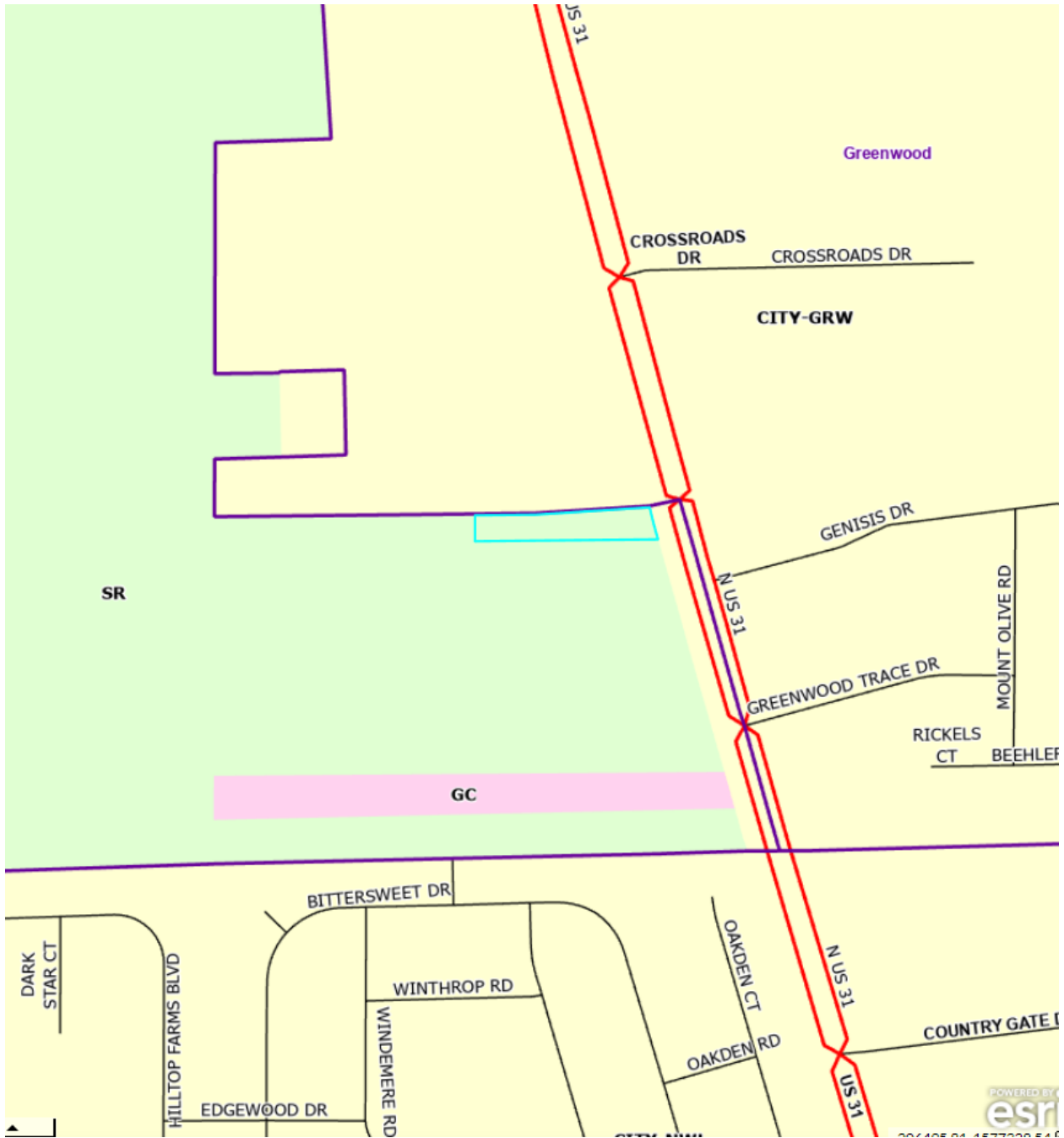
-MNH

# V-18-24 BASE MAP

**SUBJECT SITE**

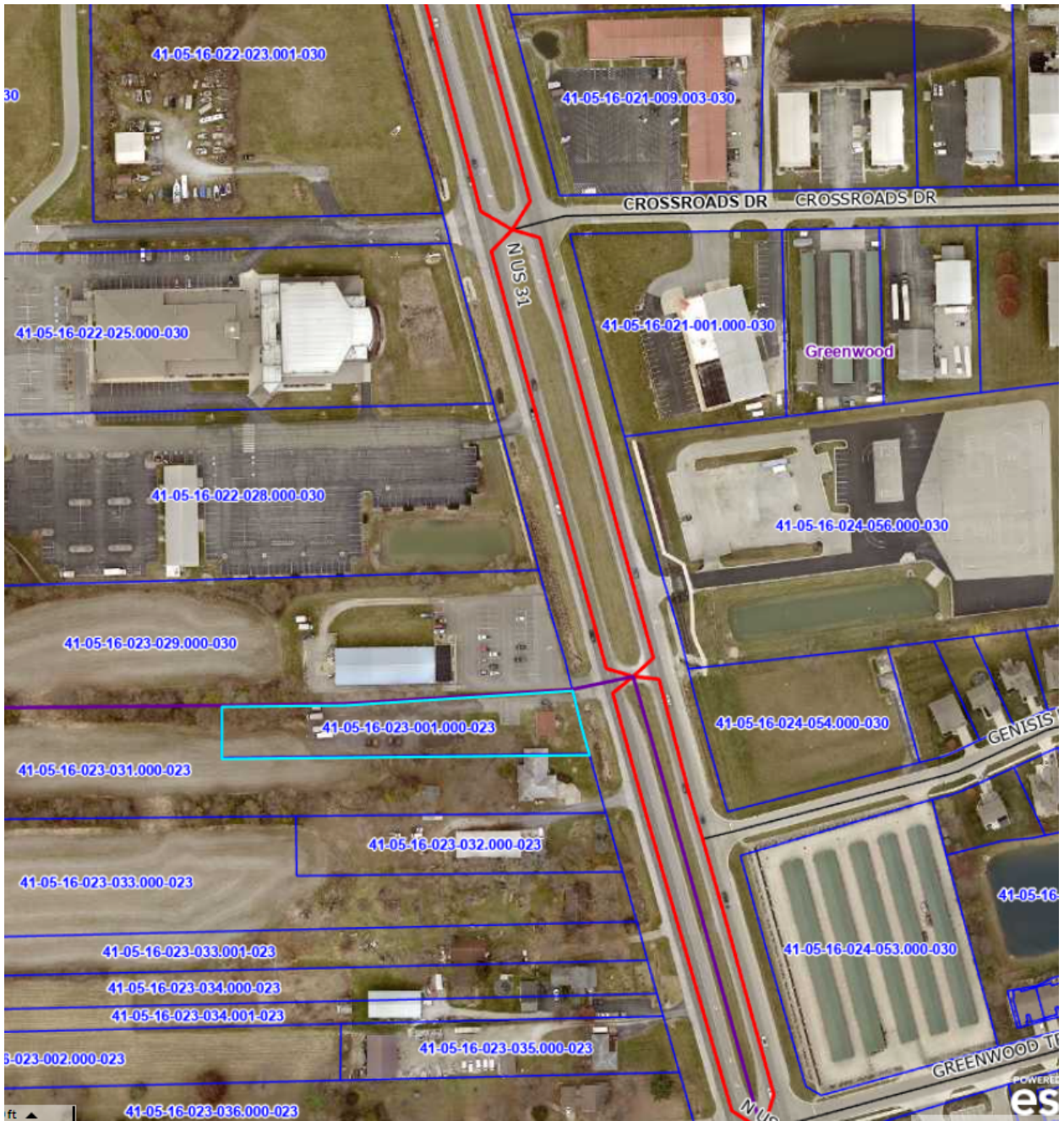


# V-18-24 ZONING MAP



# V-18-24 AERIAL MAP I

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# V-18-24 AERIAL MAP II



# V-18-24 AERIAL MAP III



3- Eagleview

## **V-18-24 PLAN OF OPERATION**

### **PLAN OF OPERATION**

The subject property has been used for commercial use since 1992, after Adia Beresford petitioned, and was granted, a use variance by the County to operate a clothing alteration shop. A copy of the Board's Findings and Order on the variance, and Minutes of its December 8, 1992 meeting granting approval of the variance are attached as Exhibit "A".

Unlike the clothing alteration business, it is anticipated there will be less foot traffic on the property. The 1992 variance was approved allowing five (5) parking spaces. Petitioner's business will only have one (1) employee onsite during hours of operation, and orders are typically taken online or over telephone. Dumpsters will be dropped off and taken from the property periodically. Dumpsters are frequently transported from site-to-site, and do not return to the property for some time. Dumpsters are cleaned offsite prior to being returned to the property. No vehicles shall be kept on site.

Petitioner is requesting a use variance for his property, zoned R-2 (single-family residential), to allow operation of a dumpster rental business.

The property is a one (1) acre lot. The east border of the property is fronted by US 31 south bound. On the property adjacent to the north is located a Habitat for Humanity Restore shopping and donation store, which is within the city limits of Greenwood. The western side of the property is bordered by fields, and a single-family residence borders the south-side of the property. The property directly to the south and west is owned by the same owner.

The regular hours of business when dumpsters may be brought onto or taken off the property would be from 8am-5pm, Monday-Friday, and Saturdays between 8am-3pm. All other activity of the business would be conducted off site, but an employee will check the property daily. Trucks would move dumpsters on and off the premises, but no vehicles would be kept on site. It takes approximately five (5) minutes to drop off and/or pick up a dumpster.

The size of dumpsters range between 10-yard, 20-yard, or 30-yard capacity. Maximum width on all dumpsters is 7' and maximum height is 8'6"; length may vary. The portion of the property where the dumpsters would be located could accommodate fifty (50) 20-yard dumpsters. The business currently owns eighteen (18) dumpsters. Dumpsters would not be stacked. On average, it is anticipated that only 25% of the dumpsters for rent would be on site at any given time. Dumpsters are also often transported directly from one location to another location without returning to the property of the business.

Dumpsters are not permitted to contain any hazardous waste, or any waste not accepted by the landfill. All dumpsters are emptied and cleaned prior to being returned to the property.



# V-18-24 PETITIONER'S FINDINGS OF FACT (page 1 of 2)

## USE VARIANCE

### FINDINGS OF FACT, USE VARIANCE

JOHNSON COUNTY BOARD OF ZONING APPEALS

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

Vehicle business traffic of the business on the property will be low, with vehicles coming only for the purpose of loading/unloading dumpsters when necessary, and approval of the use does not pose a traffic safety risk. The proposed business use will not generate any sanitary waste. The dumpsters would not create a health hazard as they are emptied and cleaned offsite before being brought on the property, and are not used to dispose of hazardous materials. The dumpsters would not create a nuisance that would attract crime.

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

This property was previously granted a use variance in 1992, a copy of which is attached as Exhibit "A".

Neighboring properties remained unchanged or developed harmoniously with the changed use of the property after the granting of the 1992 variance. There is no evidence that commercial use of the property in the preceding years has diminished surrounding property values. The property to the west is undeveloped and used as farm ground. Directly south of the property is a residence. The property to the north, which is in the city limits of Greenwood, was recently developed, and is now the location of a Habitat for Humanity Restore thrift store. Petitioner's proposed use of the property would see the portion of the property where the house is located return to residential use.

3. The need for the variance arises from some condition peculiar to the property involved because:

The property has been used and developed for a commercial use over the past thirty-two (32) years. The existing structure was converted from a residence to an office/clothing alteration shop, however it could still serve as a home residence. A paved parking area adjacent to the dwelling still exists from the prior use, and the back portion of the property has remained unimproved. The back portion of the property is better suited after years of historical commercial use to continue to serve a commercial purpose that would not otherwise be allowed under R-2 zoning, rather than now attempt to remediate that area of the property for residential use.

4. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because:

The property has been used and developed for a commercial use over the past thirty-two (32) years and is adjacent to U.S. 31 south bound. The area of the property for which the variance is being sought has not been developed nor improved in a manner consistent with residential use,

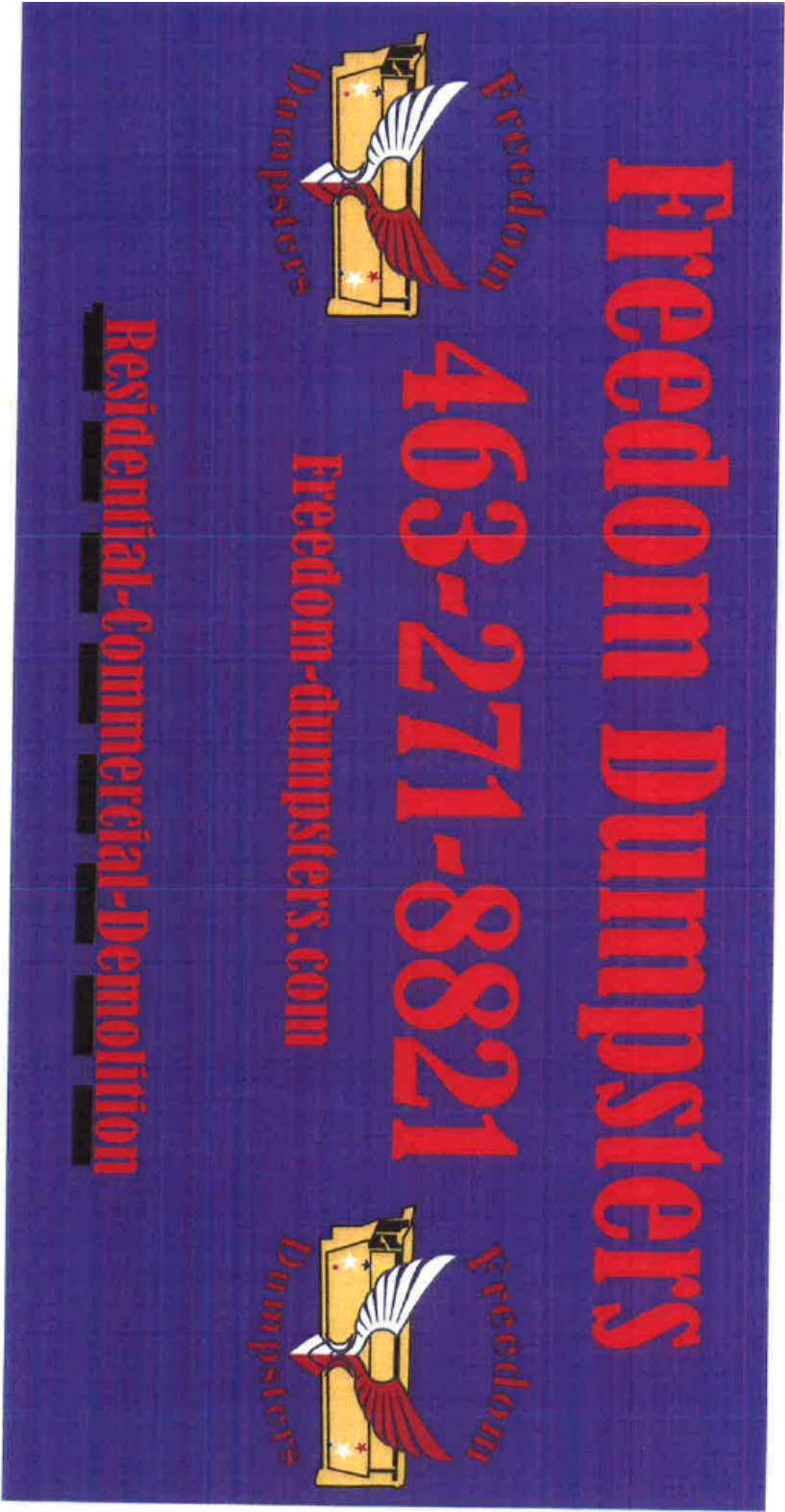
**V-18-24 PETITIONER'S FINDINGS OF FACT (page 2 of 2)**  
**USE VARIANCE**

and was essentially left as a waste area. Strict application of the Zoning Ordinance would constitute an unnecessary hardship if applied to the back portion of the property due to the decades of previous use not consistent with R-2 zoning. The future use contemplated by the Comprehensive Plan for properties in this unincorporated area is commercial.

5. The approval does not interfere substantially with the Comprehensive Plan because:

The Comprehensive Plan calls for future development of this and surrounding properties to be for commercial use.

**V-18-24 PROPOSED SIGN**



PROPOSED SIGN