



JOHNSON COUNTY

Department of Planning and Zoning
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Courthouse Annex
Franklin, Indiana 46131

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MEETING AGENDA

Johnson County Board of Zoning Appeals
December 29, 2020, 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 November 24th, 2020 meeting.

PUBLIC HEARINGS

-CONTINUED PETITIONS

V-22-20. Chad Fowler. SW corner of Urmeyville Road and 700 E. Page 3

VARIANCE OF USE of the Johnson County Zoning Ordinance to allow for an outdoor recreational area with three baseball fields, a batting cage, a storage building, and two parking lots (not permitted on agriculturally-zoned property).

VARIANCE OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to allow for stone parking areas and stone drive aisles without curbs or perimeter landscaping (paved and striped parking areas, paved and curbed drive aisles, and parking lot perimeter landscaping required).

-NEW PETITIONS

V-23-20. Lucinda Hoehn. 5-acre tract east of 842 West 750 South. Page 14

VARIANCE OF USE of the Johnson County Zoning Ordinance to provide for a Dog Training Facility and Kennel (not permitted on agriculturally-zoned property).

VARIANCES OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to waive commercial parking (paved surface, curbs, and stall striping), and

landscaping requirements.

V-25-20. Brandon Dye and Brittany Brown. 177 Noack Road. Page 26

VARIANCE of USE of the Johnson County Zoning Ordinance to legally establish an automotive repair and fabrication business (not permitted on residentially-zoned property).

OLD BUSINESS

None.

NEW BUSINESS

Approval of 2021 Board of Zoning Appeals calendar. Page 36

REPORTS AND RECOMMENDATIONS

None.

ADJOURNMENT

The next regular meeting of the Johnson County Board of Zoning Appeals is scheduled for Tuesday, January 26, 2020 at 7:00 PM.

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Staff Report

CASE NUMBER: V-22-20
ADDRESS: Land at the southwest corner of Urmeyville Road and 700 E (an 11-acre portion of Parcel # 41-07-04-044-001.000-017)
Section 4, Township 12, Range 5
PETITIONER: Chad Fowler

ADDENDUM FOR THE DECEMBER 29, 2020 PLAN COMMISSION MEETING

This matter was continued from the November 24th, 2020 meeting of the Johnson County Board of Zoning Appeals to the December 29th, 2020 meeting following the timely submittal of an automatic continuance by the petitioner.

REQUEST

VARIANCE OF USE of the Johnson County Zoning Ordinance to allow for an outdoor recreational area with three baseball fields, a batting cage, a storage building, and two parking lots (not permitted on the agriculturally-zoned property).

VARIANCE OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to allow for stone parking areas and stone drive aisles without curbs or perimeter landscaping (paved and striped parking areas, paved and curbed drive aisles, and parking lot perimeter landscaping required).

STAFF RECOMMENDATION

Staff recommends approval subject to substantial compliance with the submitted Plan of Operation and site plan, and the following conditions:

1. Approval must be received from the Department of Natural Resources before issuance of an Improvement Location Permit.
2. There shall be no lighting installed.
3. There shall be no sound amplification.
4. The parking lot shall not exceed 35 parking spaces.
5. Required perimeter landscaping shall be installed between the parking lot and the right-of-way.

PROPERTY DESCRIPTION

This 11-acre property is zoned A-1 (Agricultural), is unimproved and is used agriculturally. It is surrounded to the west, south, and north by larger parcels used agriculturally and to the east by heavily-wooded areas and a water well for Indiana-American Water.

VARIANCE OF USE REQUEST

This Variance of Use request, if approved, would allow the subject property to be used as an outdoor recreational area. The recreational area will include three baseball fields, a batting cage, and a parking lot. The petitioner has stated that this field will only be used for practices for a youth baseball league and will not be used for games or tournaments. There will be no installation of lights nor audio speakers on the property.

The petitioner has submitted a Plan of Operation, which is included in this report. On the submitted Plan of Operation, the petitioner states the fields will be used Monday through Friday from 12 p.m. to 9 p.m. and Saturday and Sunday from 10 a.m. to 9 p.m. A practice field will only be used by one team at a time. Per the Plan, there would be up to 30 vehicles on the property at the heaviest use.

The proposed parking lot provides parking for 78 vehicles. Staff has recommended to the petitioner to reduce the number of parking to 35 spaces to ensure the number of patrons on the property at one time does not exceed the Plan of Operation, and to minimize the scope of development on the property.

This property is designated as a FEMA Floodway Zone on the Indiana Floodplain Information Portal. Development in a Floodway will need to be approved and permitted by the Indiana Department of Natural Resources (DNR). The petitioner submitted a site plan for approval to DNR and is awaiting an official determination.

The Johnson County Comprehensive Plan recommends the best use for this area to be Park, Recreation, and Conservation due to the proximity to Little Sugar Creek and the Flood Zone Area. Land that is encompassed by a FEMA Floodway is often used for recreational activity, where land improvements are minimal and would not be greatly effective by flooding. This property is known to flood frequently; the use of a practice field would suffer less of a loss than an agriculture crop or structures like single-family homes. Additionally, in an A-1 zoning district, public parks and playgrounds are permitted by right. A governmental entity could install a similar use within this area as a community sports field, which could have the possibility of more intrusive development (lights, speakers). For these reasons, the staff recommends approval, but only subject to DNR approval.

VARIANCE OF DEVELOPMENT STANDARDS - COMMERCIAL PARKING STANDARDS

This Variance of Development Standards request, if approved, would allow for commercial use at this location without providing the paved maneuvering and parking areas required of commercial properties. The petitioner is proposing to add a gravel parking area. The gravel area will also lack curbs and stall striping, whereas the zoning ordinance requires all non-residential parking and maneuvering areas to be paved and curbed and to have parking stalls marked in paint. As stated above staff recommends reducing the size of the proposed parking area to no more than what is genuinely needed for the proposed use. Said parking area should also be located a minimum of 20 feet from the Right-of-Way of Urmeyville Road.

The zoning ordinance also requires a six-foot-wide landscaping strip around the perimeter of any non-residential parking lot. It will require one canopy tree per every forty feet and one shrub

per every four feet. Staff recommends this ordinance requirement be met for the area between the parking lot and public right-of-way.

STAFF ANALYSIS OF FINDING OF FACTS - USE VARIANCE REQUESTS

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

Staff Analysis: The approval of the use will not be injurious to the community. The improvement would require approval from Department of Natural Resources and would require a Improvement Location Permit.

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

Staff Analysis: The approval of this request would be similar to a public park or playground that could offer a sport field are permitted in A-1

State Requirement: The need for the variance arises from some condition peculiar to the property involved.

Staff Analysis: The approval of this request would be similar to a public park or playground that could offer a sport field are permitted in A-1. The property is located in a FEMA Floodway where structural development is restricted. The propose use does not involve structural development.

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

Staff Analysis: The property is located in a FEMA Floodway where structural development is restricted. Agricultural crops are also greatly affected by the Floodway. The propose use does not involve structural development.

State Requirement: The approval does not interfere substantially with the Comprehensive Plan.

Staff Analysis: The request would be generally consistent with the land use recommendations of the *Johnson County Comprehensive Plan*, which recommends Park, Recreation, and Conservation. A sport field is consider recreational.

STAFF ANALYSIS OF FINDING OF FACTS - DEVELOPMENT STANDARDS VARIANCE

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

Staff Analysis: The proposed graveled parking and maneuvering area, lacking curbs and stall striping, would not create adverse impacts as it would be sufficiently removed from the road and adjoining properties so as not to cause undue migration, dust or noise.

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

Staff Analysis: The proposed graveled parking and maneuvering area, lacking curbs and stall striping, would not create adverse impacts as it would be sufficiently removed from the road and adjoining properties so as not to cause undue migration, dust or noise.

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

Staff Analysis: The site would not be well served by the introduction of a sizable paved parking area, which would needlessly add to the site's impervious area and would be aesthetically out-of-place in this rural residential environment.

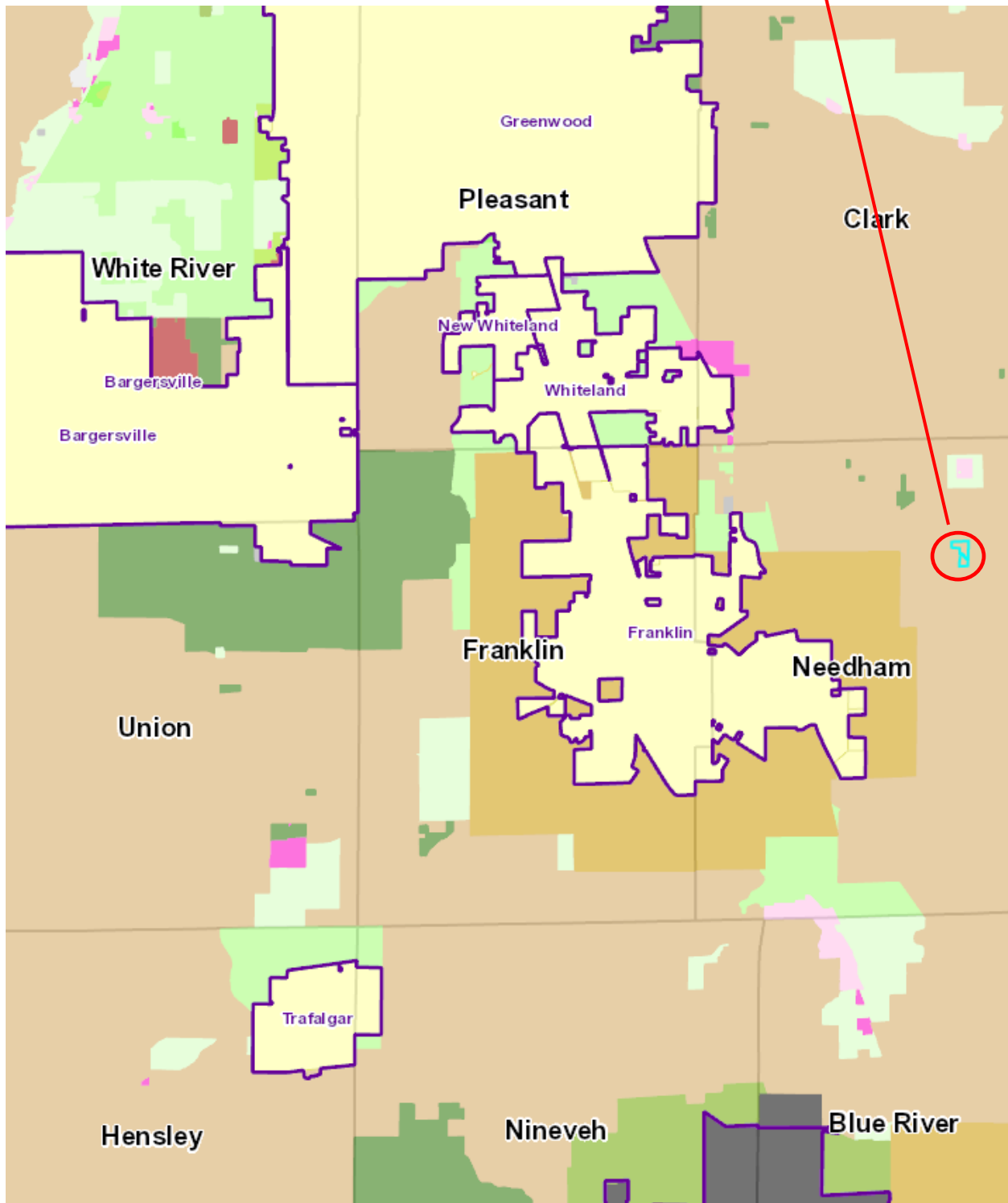
GENERAL INFORMATION

Applicant:	Chad Fowler 977 North 700 East Franklin, IN 46131
Owner:	Wesley Mitchell 2371 North 700 East Franklin IN 46131
Zoning:	A-1, Agricultural
Land Use:	Agricultural
Future Land Use:	Conservation

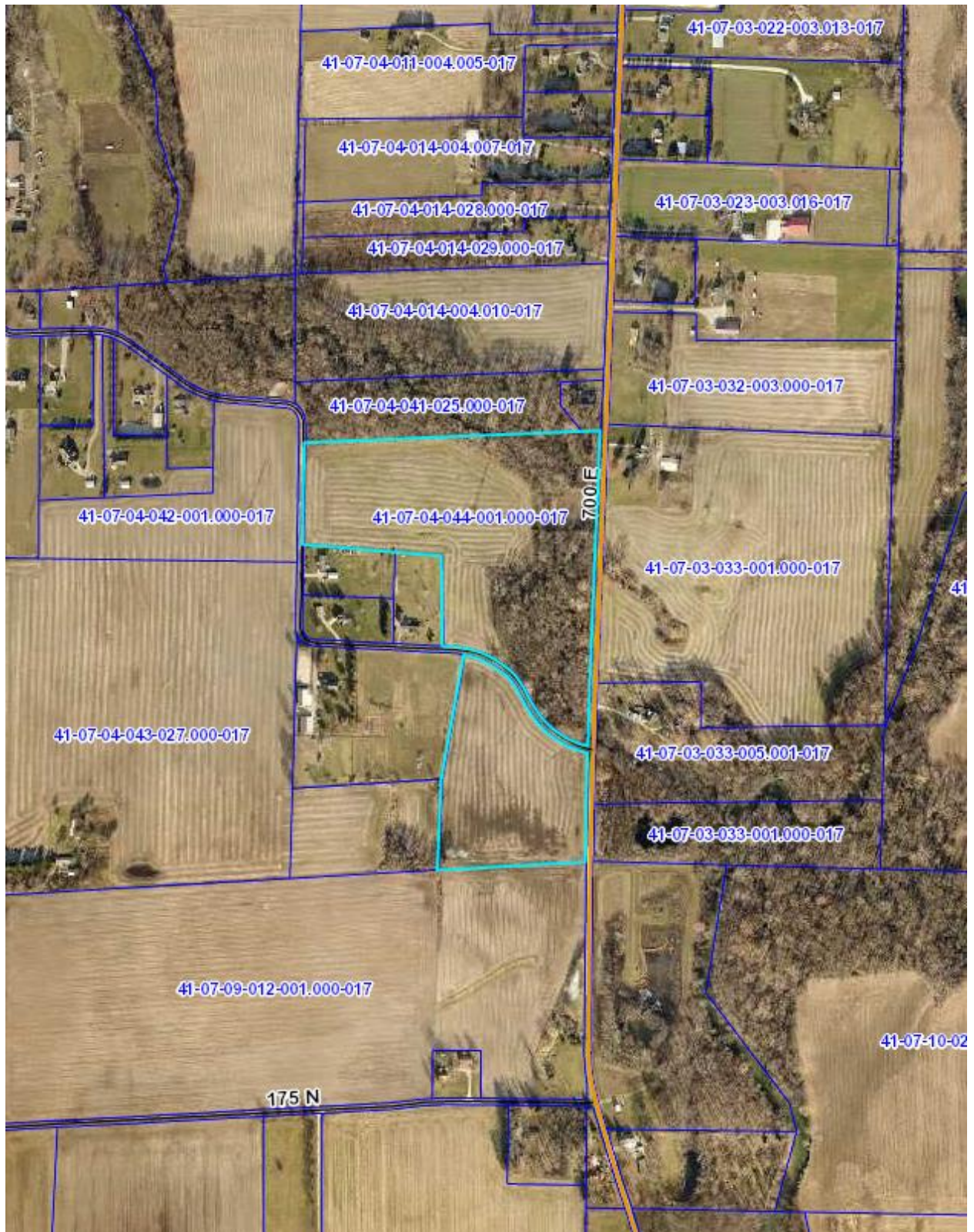
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V-22-20 VICINITY MAP

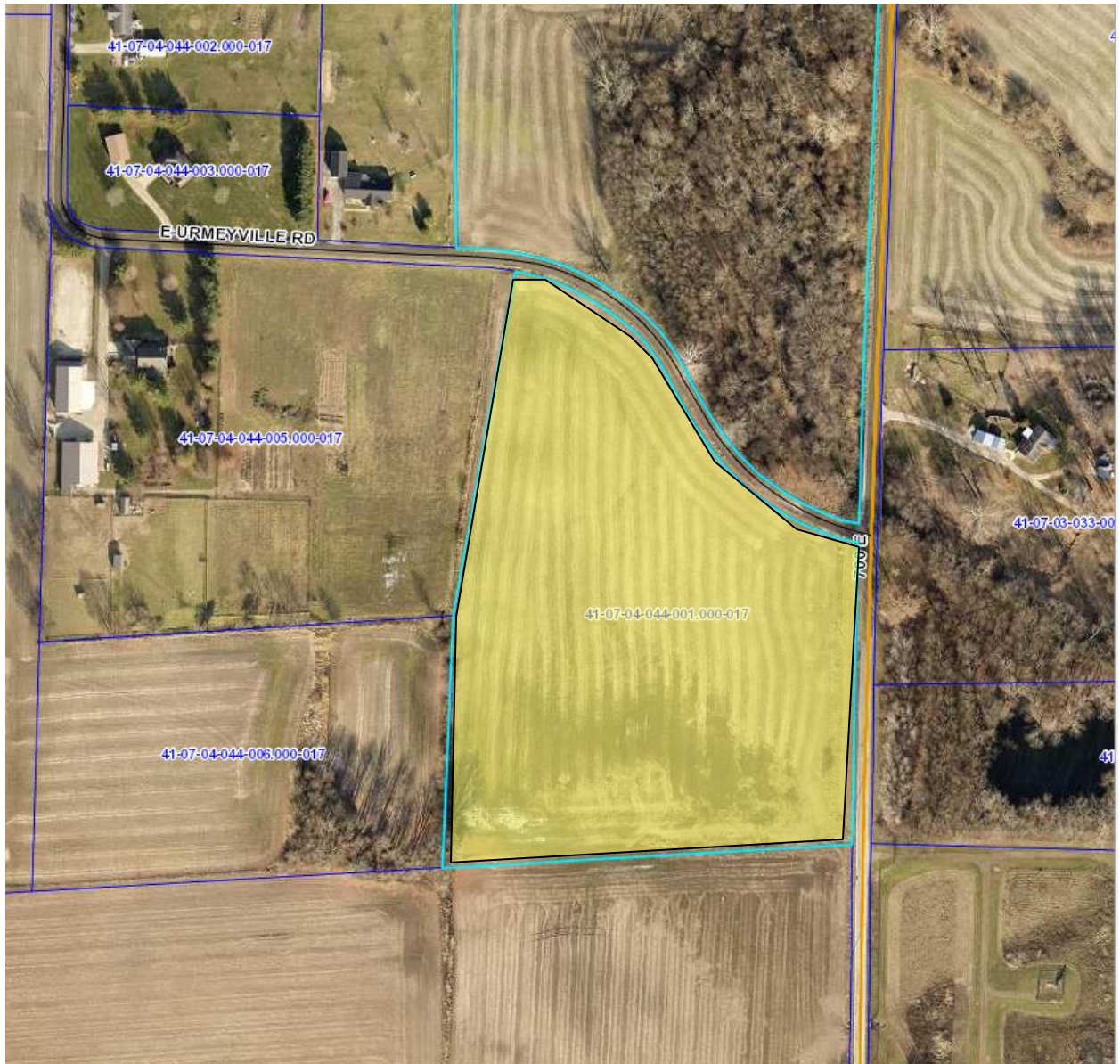
Subject Site



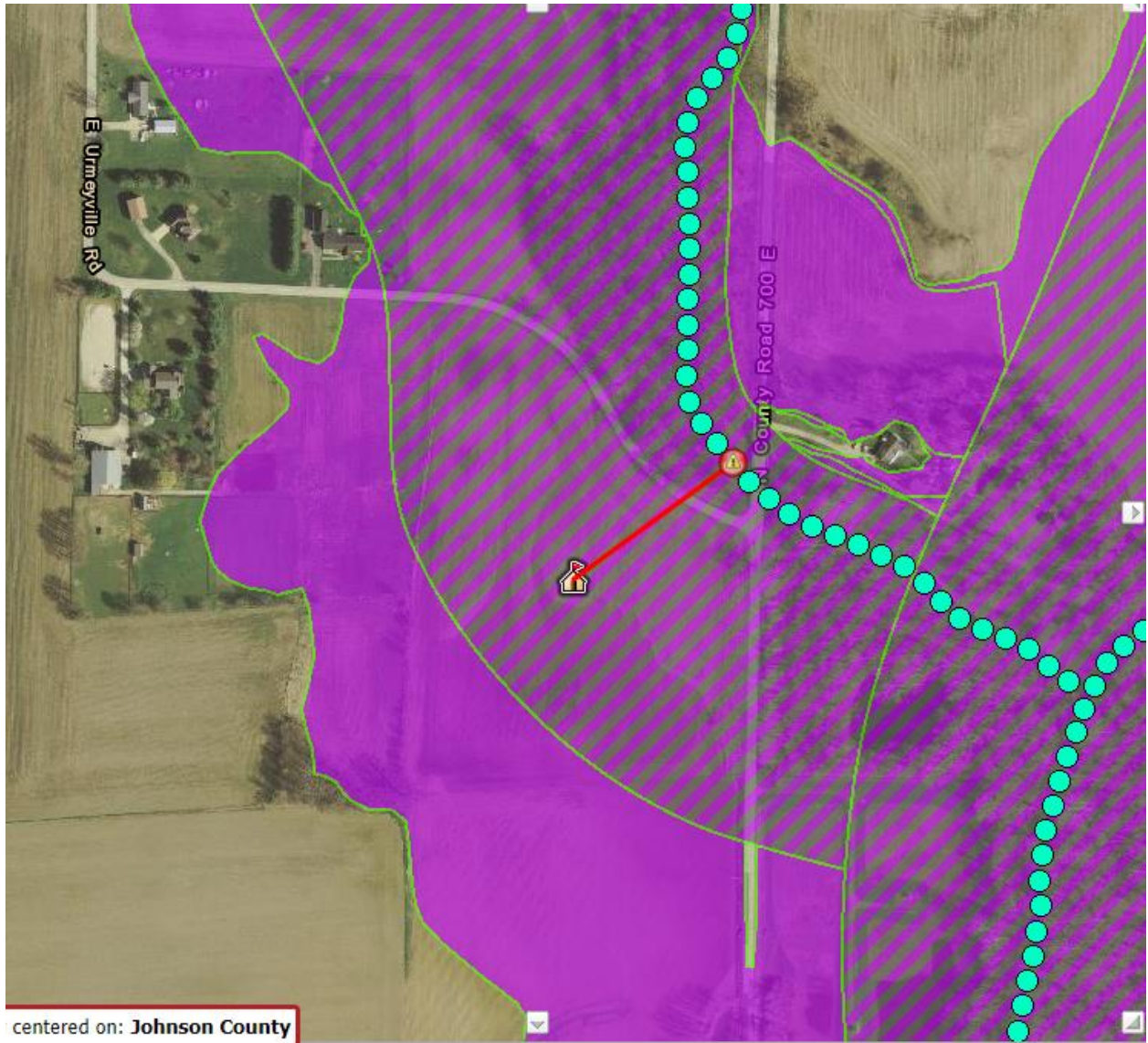
V-22-20 BASE MAP I



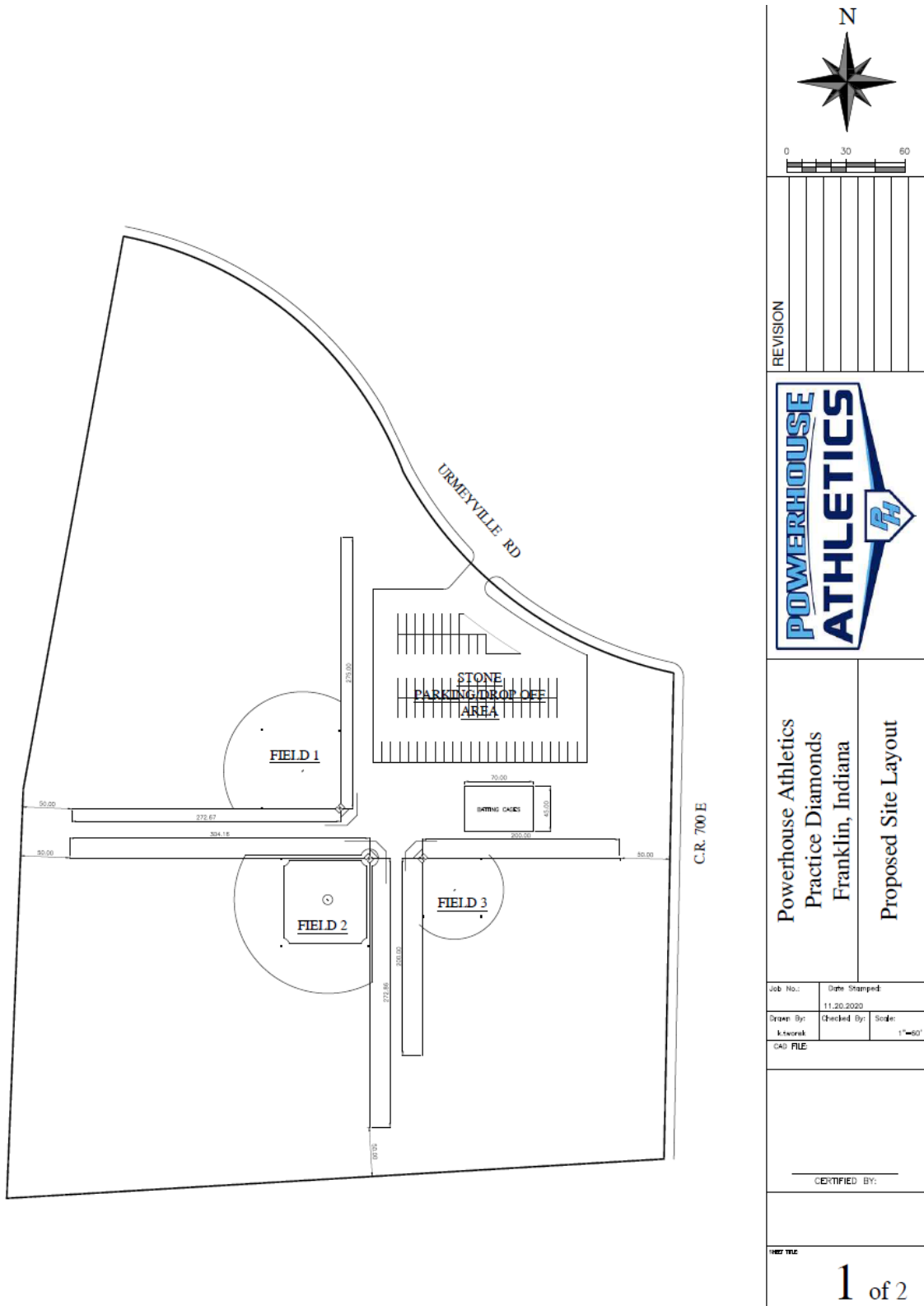
V-22-20 BASE MAP II (USE LOCATION)



V-22-20 FLOOD MAP



V-22-20 SITE PLAN



V-22-20 PLAN OF OPERATION

Plan of Operations

Property for variance – Southwest Corner of 700E and Urmeyville Road, Franklin Indiana 46131.

Company seeking variance- Powerhouse Athletics, LLC

Use of Property- Powerhouse Athletics is seeking to use the Property for athletic practices of players within our program. Practices will be for Softball and Baseball development.

Time use and hours of operation- Teams would be using diamonds for practice in the following Hours.

Maintenance of Property will be taken care of both before practice and during practices (Mowing, Cleaning, and anything needed to keep property in good quality.

Year-Round Practice Schedule

Monday to Friday

12:00pm to 9:00pm or Dark which ever would come first.

Saturday and Sunday

10:00am to 9:00pm or Dark which ever would come first.

These will be times the diamonds are available, but diamonds will not be used on a constant basis.

Volume of Property usage- There will be three diamonds on the property. One team per diamond Max. one diamond being used for High school Athletes only and will not be utilized as much as the others.

Given a two-hour practice we would stagger the teams coming in (We don this in our indoor facility as well).

Example:

4:00pm Diamond 1 Start Practice

5:00 pm Diamond 2 Starts Practice

6:00 pm Diamond 1 is done and leaving

6:15 pm Diamond 1 (Team 2) coming in.

This way average traffic should be around 20-30 vehicles on location at a time.

Many Parents only drop off their kids and then go to local stores or Downtown to shop until practice is over. Again, our goal is to reduce heavy traffic at one time.

Thank you

Chad Fowler



V-22-20 PETITIONER'S FINDINGS OF FACT, 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:

the use for the land is really the only thing changing.
removing sod and adding fencing should not change or cause
any issues including safety, health of those using it or
adjacent properties -

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 land around it is both agriculture and American water lands.
the landscape secludes it from most properties. and the
use variance will not alter value in anyway

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

because we are not looking to use the land for
agriculture. we are looking to cut a little sod out.
add some parking and let kids practice sports
on it.

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 variance is just allowing us to remove enough sod
to use for practice areas and out shed to store a
mower in and store for parking - All can be converted
back to Agriculture very easily

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

The land will be relatively unaltered and the
alteration that will be made (Fencing, outbuilding "shed")
and sod removal. Parking will be on stone

Staff Report

CASE NUMBER: V-23-20
ADDRESS: 5-acre tract east of 842 West 750 South, Trafalgar
Section 29, Township 11, Range 4
PETITIONER: Lucinda Hoehn

REQUEST

VARIANCE OF USE of the Johnson County Zoning Ordinance to provide for a Dog Training Facility and Kennel (not permitted on agriculturally-zoned property).

VARIANCES OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to waive commercial parking (paved surface, curbs, and stall striping), and landscaping requirements.

STAFF RECOMMENDATION

Staff recommends **denial** of these variance requests.

PROPERTY DESCRIPTION

This 5-acre site is zoned A-1 (Agricultural) and is improved with barns and a kennel. The west-adjointing lot is owned by the same property owner with the associated single-family dwelling. The site is surrounded by agricultural fields and low-density single-family dwelling properties.

CASE DESCRIPTION

In September 2020, staff received complaints from residents in the area about dog training activity occurring on the subject property as well as an outdoor kennel that contained multiple dogs. Staff conducted a site visit and confirmed that a dog kennel was on the property with several dogs. During that site visit, there was no one present at the site. A search on the internet also confirmed a business that advertised dog training at this location. Staff subsequently issued a zoning violation letter to the property owner. The petitioner has filed for this use variance request to rectify the violation and to allow the use by means of a variance. The petition was filed for the 5-acre tract with accessory structures, but it does not include the parcel with the single-family home.

The petitioner has submitted a Plan of Operation, which is included in this report. On the submitted Plan of Operation, the petitioner describes two types of uses for the property. The first use that is being requested is to conduct dog training sessions with clients within a fenced-in training yard. The Plan limits training times to Saturdays from 8 a.m. to 6 p.m., and Sundays from 8:30 a.m. to 6 p.m. According to the Plan, intermittent training sessions may occur Monday through Friday from 1 p.m. to 8 p.m. During those times up to 13 people and dogs will be at a training session at one time, per the Plan. They would also offer the facility to be used by K9 Policer Officers at any time.

The second use of the property will be a kennel. The kennel will allow the keeping of 10 dogs on the property at one time. The petitioner stated that six of the ten dogs will be their personal dogs. The kennel will allow for two of the ten dogs for boarding and training. The Plan of

Operation stated there will be 10 individual kennels on the property plus three large group kennels. The kennels will be within a fenced-in area.

The Zoning Ordinance defines Kennel as “Any premises, or portion thereof, on which more than four (4) dogs, cats, or other household animals over (4) four months of age are kept or on which more than two (2) such animals are maintained, boarded, bred, or cared for, in return for remuneration, or are kept for the purpose of sale.”

All customers park in the gravel parking area north of the training yard.

Training facility use of the subject site likely would negatively impact surrounding properties, chiefly by producing noise of a level and nature which is not common to rural residential areas. That has been expressed to the staff by a few nearby neighbors.

With up to 13 dogs on site, fully active and distributed throughout the training yard, the noise produced would be particularly inappropriate for the area, especially considering that the sessions are scheduled for weekends, when people are most likely to be home enjoying their property.

Staff acknowledges the convenience the variance might afford the petitioner. However, staff ultimately asserts that the required findings have not been met and that a dog training facility at the subject site is not appropriate. Staff, therefore, recommends denial of this request.

THE VARIANCE OF DEVELOPMENT STANDARDS – PARKING AND LANDSCAPING

Staff may ordinarily see these Variance of Development Standards requests as potentially representing minor and acceptable deviations from the requirements of the zoning ordinance. However, because both requests are linked to and would intensify an unsupportable Variance of Use request, staff recommends their denial, as well.

I. 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 starkly inconsistent with the predominantly residential and agricultural uses in the area, and would represent an inappropriate intrusion of noise nuisance to the area.

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 would be starkly inconsistent with the predominantly residential and agricultural uses in the area, and would represent an inappropriate intrusion of noise nuisance to the area.

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

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

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

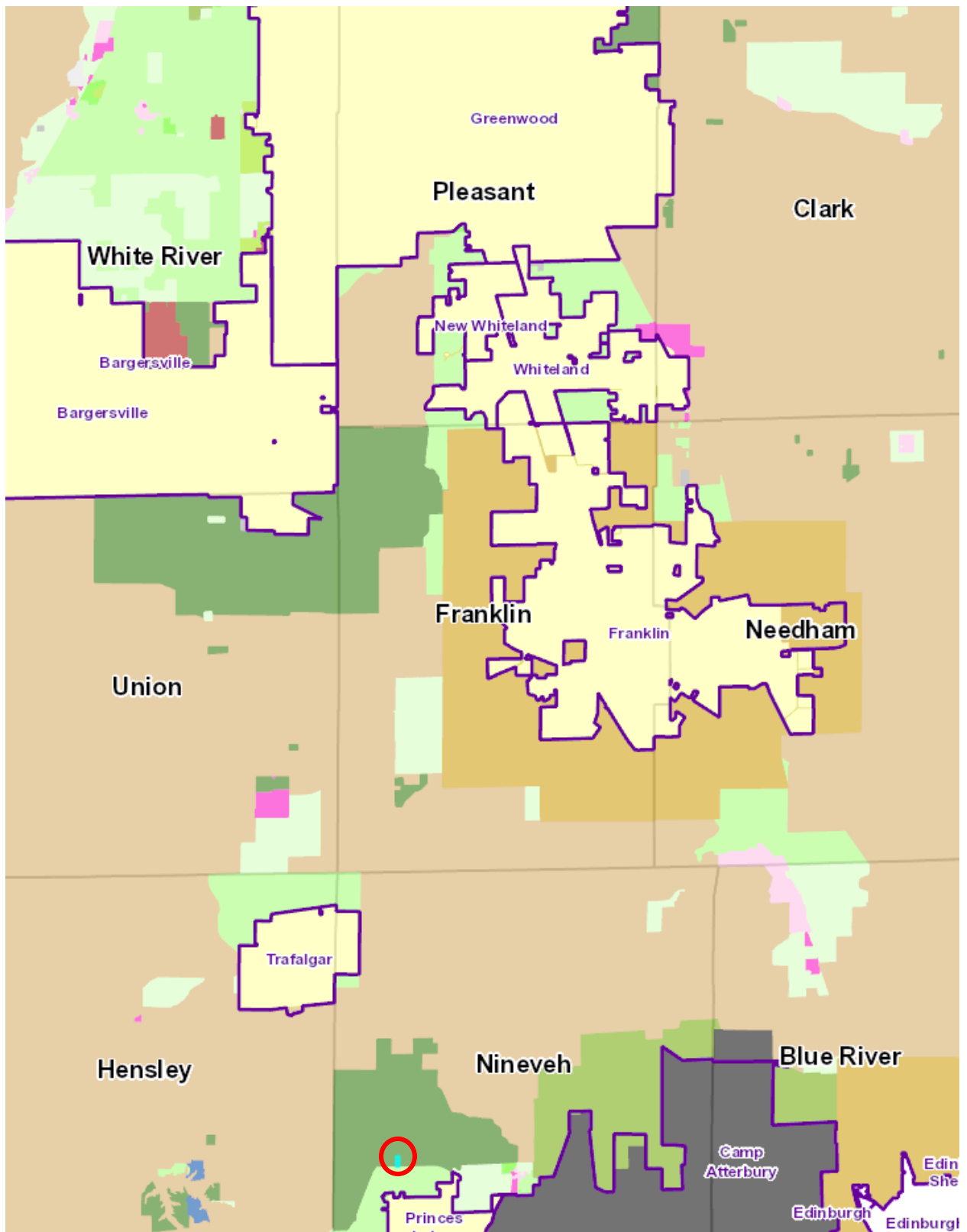
The request would be inconsistent with the land use recommendations of the *Johnson County Comprehensive Plan*, which recommends Agricultural use and development of the site.

GENERAL INFORMATION

Applicant:	Lucinda Hoehn 842 West 750 South Trafalgar IN 46181
Owner:	Raymond Hoehn 842 West 750 South Trafalgar IN 46181
Acreage:	4.48
Land Use:	Residential / training facility
Future Land Use:	Agricultural

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V-23-20 BASE MAP



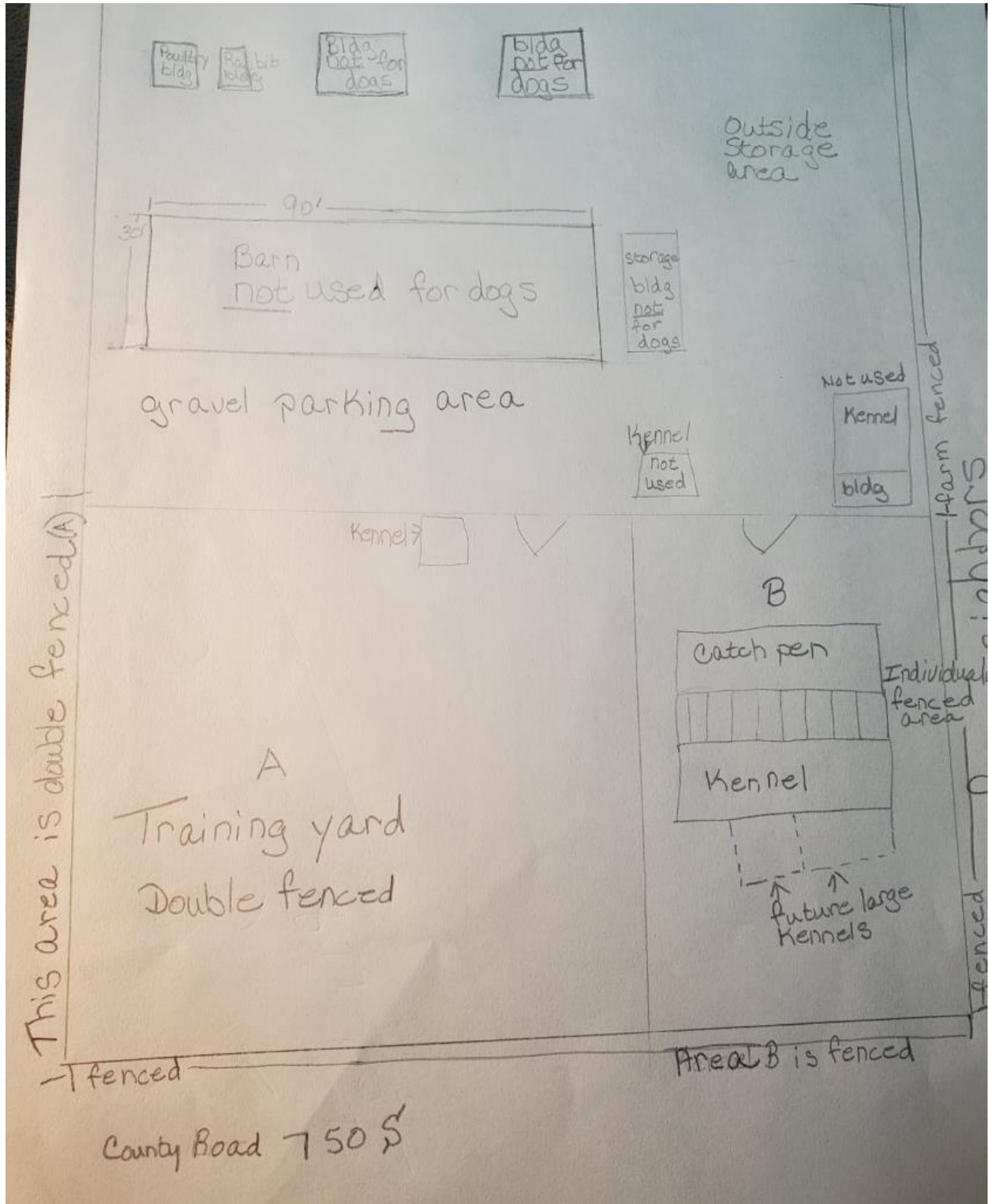
V-23-20 BASE MAP



V-23-20 AERIAL



V-23-20 SITE PLAN



V-23-20 PLAN OF OPERATION, PAGE 1 of 2

Plan of Operation:

GOAL:

Ability to have people from the community, friends, and fellow police officers over to train dogs on the property. The owner is an animal lover who takes in rescues to rehabilitate and places them in forever homes. Since March, five (5) dogs have been placed in forever homes. Reasonable cost training is offered to reduce the number of rescue dogs in the area. Since March, six dogs have received fifty percent of dogs from county control. The dog trainer has 40 years of experience training dogs with nine (9) of those years training dogs in the military. Besides the training operation, the kennel will have a maximum of ten (10) dogs at any one time. The maximum of personal dogs will be six (6) and two (2) dogs for boarding and training. From time to time dogs will be bred but the puppies sold before they are four (4) months old.

Description of desired use of the enclosed horse corals.

Utilization by an experienced trainer of puppy, obedience, agility, rally, and protection classes (expected 12 people with dogs, maximum of 13 per class) that meets:

- Saturday 8:00 am and trains until 6:00 pm— most of the training will be private one-on-one training and free evaluations which are usually one-on-one.
- Sunday 8:30 am and trains until 8:00 pm – a mix of group classes, private one-on-one training and free evaluations which are usually one-on-one.
- Weekdays, maximum of 12 handlers and 13 dogs per class. NOT DAILY – Typical hours are 1 pm to 8 pm most of the training will be private one-on-one training, training rescue dogs, personal protection dogs and personal pets.
- As a public service, K9 Police Officers train for free when it is convenient for them. Usually one officer at a time will be training.
- When the training yard is not used for training or free evaluations, petitioner and the trainer will use the training yard to run their personal and boarded dogs and to work with them.
- Besides the training operation, the kennel will have a maximum of ten (10) dogs at any one time. The maximum of personal dogs will be six (6) and two (2) dogs for boarding and training. From time to time dogs will be bred but the puppies sold before they are four (4) months old.

Facility information:

Ten (10) individual dog kennels on the property plus three large group kennels a maximum of ten dogs over the age of four months will reside at any one time. Currently, six dogs reside on the property. Of the six dogs, five dogs are rescues that are being rehabilitated so they can go to their forever homes. Three of the six dogs that are in the kennel right now were taken from Animal Control to be rehabilitated and put up for adoption. Since March, five (5) dogs have gone to forever homes. The kennel has an area for the dogs to go inside. There is a catch pen (extra fenced in area to keep dogs from escaping when cleaning the pens). Each kennel has three latches on it along with wire underneath the bottom of the kennel and wire on top of the kennel, this prevents dogs from escaping. Total amount of dogs permitted to own in A-1 zoned area is four (4). Occasionally, one or two dogs are boarded for training that are not rescues. The longest that a board and train dog will stay is eight (8) weeks at a time. Dogs have been raised and trained to be different kinds of service dogs (diabetic, emotional support, and hearing) and therapy dogs.

The training area is double fenced to keep dogs from escaping the training area. Various training equipment is set up for the dogs to use. The training area and kennel area is a half-acre that for the last seven (7) years had been horse coral used for training horses and before that a yard.

V-23-20 PLAN OF OPERATION, PAGE 2 of 2

There is gravel parking near the training area. Two of the large kennels are on a sand and lime horse training area. This area was used for training horses and now is storage and has two kennels that dogs and livestock can use. In the future when the petitioner has sheep or goats, dogs will be trained to protect them.

There are plans to install a privacy fence in 2021 along the side of the kennel bordering the neighbors drive as a buffer instead of buffering landscaping. The petitioner is asking Johnson County Zoning Ordinance to waive commercial parking (paved surface, curbs, and stall striping, and landscaping requirements. There is gravel parking and the plans to install the privacy fence in 2021.

Day of the week	Time of day	Max Number of People per class	Max Number of Dogs per class
Saturday	8:00 am– 6:00 pm	12 per class	13 per class
Sunday	8:30 am - 8:00 pm	12 per class	13 per class
*Intermittent M - F	Typically noon -8 pm	12 per class	13 per class

*There is more private one-on-one training done on Monday through Saturday then group classes.

At some time in the next ten (10) years, the petitioner would like to put a pavilion on the parcel. There is also a possibility of having small to medium competitions in the next ten (10) years.

It is extremely difficult to make a profit training, board and train, breeding and raising dogs. The grooming, medication, veterinary bills and food take all the money that could have been profit.

V-23-20 PETITIONER'S FINDINGS OF FACT, USE VARIANCE, PAGE 1/2

FINDING OF FACTS USE VARIANCE

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

Training dogs and rehabilitating dogs is beneficial to public health, safety, morals and general welfare. Training dogs helps to prevent the need to rehabilitate and place rescues. When, and if, this variance is approved, it will provide the community a service, whereby helping all citizens by providing safety and security. Obedience trained dogs are better pets and better in the community making the community safer. Most of the people taking classes live near the training facility. The neighbors help with the training classes by providing distractions during the training classes. We really appreciate their help running their four wheelers and dirt bikes up and down their driveway. It helps the dogs to learn to handle what they will see and hear outside of class. The county road 750 S has traffic and we plan our classes so that the participants arrive during times of lesser traffic.

he 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 variance is not a constant operation, nor will it run with the land whereby making it a permanent fixture. The petitioner has already made improvements to the property, the kennels are nice looking not affecting property values for the training operation. Each kennel has three (3) latches and there is a catch pen. There is wire underneath the bottom and on top of the kennel. This prevents any of the dogs from escaping. The noise of the dogs would only affect the property petitioner's property adjacent to the parcel that the variance is for. Fields surround the parcel except for two houses. One house is the parcel the petitioner owns and the house directly across the street from the adjacent parcel. After consulting a real estate broker, the petitioner was told that real estate values would not be affected because of the distance the houses were from the kennel. The dogs do not represent an inappropriate intrusion of a noise nuisance to the area considering that farmers farm the fields, neighborhood dogs that make noise and the neighbors enjoy playing loud music and running dirt bikes and four wheelers.

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

As the property is already zoned for agriculture, allowing kennels, private clubs, and professional training classes as special exceptions, there would be no substantial difference by approving this variance than that already allowed by the comprehensive plan. The petitioner put four (4) acres back into agriculture. Unknowingly, the petitioner began utilizing the horse corals that were fenced in the for training and a kennel. The petitioner thought since the parcel was zones A-1 and the former owner used he parcel for horse training and breeding that the petitioner could use it for dogs. There was an anonymous complaint due to the non-designated 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:

As kennels, private clubs are already allowed as special, there would be no substantial difference by allowing this use variance. The petitioner would have to relocate the training and kennels also this property is perfectly placed and suited to this endeavor. There are no other training facilities or classes offered in the area. Since March, five (5) dogs have been rehomed into there forever homes. Free training is offered to each dog that is rehomed. Any dog owner who adopts a dog from animal control or the humane shelter gets a fifty (50) percent discount on training. Again, this type of use would not be substantially different from those already allowed under current permitted uses (training horses), or special exceptions. There are two business operating within a mile of this parcel. One business is Coy Commercial Metal that is 0.3 miles away and the other is Sheets Auto Transmission which is 0.9 miles away from the parcel.

V-23-20 PETITIONER'S FINDINGS OF FACT, USE VARIANCE, PAGE 2/2

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

As already being zoned agriculture, the Comprehensive Plan allows for larger, louder, higher traffic operations. Dairies, feed mills, schools (all permitted uses), as well as mineral excavation, sanitary landfills, private clubs, kennels (all special exceptions) would create more noise, higher traffic volume and a greater amount of light, chemical or odor pollution for the surrounding properties. The area that is being used was used for horse breeding and training before the training started or the kennel built. The kennel is built on ground that is not suitable for farming. A portion has a lime and sand as the base not dirt for farming but for training animals.

V-23-20 PETITIONER'S FINDINGS OF FACT, DEVELOPMENT STANDARD VARIANCE

FINDING OF FACTS DEVELOPMENT STANDARD VARIANCES

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

Training dogs and rehabilitating dogs is beneficial to public health, safety, morals and general welfare. Training dogs helps to prevent the need to rehabilitate and place rescues. When, and if, this variance is approved, it will provide the community a service, whereby helping all citizens by providing safety and security. Most of the people taking classes live near the training facility. The neighbors help with the training classes by providing distractions during the training classes. We really appreciate their help running their four wheelers and dirt bikes up and down their driveway. It helps the dogs to learn to handle what they will see and hear outside of class.

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 variance is not a constant operation, nor will it run with the land whereby making it a permanent fixture. The petitioner has already made improvements to the property, the kennels are nice looking not affecting property values for the training operation. Each kennel has three (3) latches and there is a catch pen. There is wire underneath the bottom and on top of the kennel. This prevents any of the dogs from escaping. The noise of the dogs would only affect the property petitioner's property adjacent to the parcel that the variance is for. Fields surround the parcel except for two houses. The dogs do not represent an inappropriate intrusion of a noise nuisance to the area considering that farmers farm the fields, neighborhood dogs that make noise and the neighbors enjoy playing loud music and running dirt bikes and four wheelers.

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

The use variance request is not for a fulltime operation. The primary use of the property will continue to be the petitioner's area for poultry, birds, rabbits, sheep, goats, mules and entertaining. The petitioner has a 30' by 90' building that petitioner plans on entertaining several large groups, neighbors, family, and friends for food and various (games and for events on different projects). There is no charge for this as this is not a business the petitioner just enjoys being a host and enjoys entertaining. To require one to pave, stripe, curb, and landscape the property for business use or to align with the zoning ordinance for similarly situated uses is in conflict with the petitioner's personal use and enjoyment of his property. Again, this use is not substantially different than uses nearby without those requirements (Coy Commercial Metals and Sheets transmission).

Staff Report

CASE NUMBER: V-25-20
ADDRESS: 177 Noack Road
Section 4, Township 13, Range 5
PETITIONER: Brandon Dye and Brittany Brown

REQUEST

VARIANCE of USE of the Johnson County Zoning Ordinance to legally establish an automotive repair and fabrication business (not permitted on residentially-zoned property).

PROPERTY DESCRIPTION

This 0.91-acre, unplatted lot is zoned R-1 (single-family residential) and is improved with a single-family dwelling and accessory structures associated with an existing machine and automotive repair shop. It is surrounded to the north, south and west by single-family dwellings, all zoned R-1, and to the east by a large agricultural field, also zoned R-1.

SITE HISTORY

Variance # V-2-91 was granted in 1991 to Robert F. Dye, the then-owner of this site, allowing for “the rear barn to be used for automotive services”. The variance petition file contains no site plan, nor any additional information specifying the nature of, or the reason for, the approval.

Per the Johnson County Zoning Ordinance, a granted use variance does not transfer from one owner to another. Rather, upon any transfer of property, a granted variance of use is nullified. This property was transferred from Robert F. and Linda K. Dye to Brandon Dye and Brittany Brown on June 10, 2020.

Staff received a complaint on October 19, 2020 alleging that a commercial operation was running from the residentially-zoned site, and that materials associated with the business were spilling out beyond the lot’s property lines. Staff visited the site, confirmed that both the above complaints were accurate, and also identified an online presence for “Dye’s Backyard Fabrication”, operating at the site address, and showing photographs of substantial fabrication and specialized automotive repair and servicing taking place at the site. A violation was issued, and the property owners responded in timely fashion with this variance of use petition.

VARIANCE OF USE

This Variance of Use request, if approved, would legally establish an existing automotive repair and machine shop operating from the rear of the property. The petitioner has submitted a Plan of Operation, included in this report, which details the nature of the business.

The Johnson County Comprehensive Plan recommends Agricultural use for this site, and for the general area.

In agricultural, rural, and low-density residential areas, it may be reasonable, under certain circumstances, to consider certain lower-intensity commercial or industrial uses, which are not otherwise allowed by-right, to represent a reasonable deviation from the requirements of the zoning ordinance and the recommendations of the comprehensive plan. Here, however, automotive repair, fabrication and machining represent an exceptionally higher level of intensity than the norm for the area, and so represent too far a deviation from any reasonable notion of acceptable land use expectations.

Additionally, such higher-intensity uses tend to expand over time, especially on lots which are ill-equipped to accommodate them. That expansion, which is graphically visible in the set of historic aerial photographs included in this report, exacerbates the inappropriateness of the use, and compromises neighbors' use and enjoyment of property, as well as surrounding property values.

For these reasons, staff recommends denial of this request.

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 starkly inconsistent with the predominantly residential and agricultural uses in the area.

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 necessarily involves outdoor storage and movement of large equipment, testing of engines, and noise associated with fabricating and machining.

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 use, 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, planned and developed for residential use, and may continue to be used that way.

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

The request would be inconsistent with the land use recommendations of the *Johnson County Comprehensive Plan*, which recommends Agricultural use and development of the site.

GENERAL INFORMATION

Applicant: Brandon Dye and Brittany Brown
177 Noack Road
Greenwood, IN 46143

Owner: same

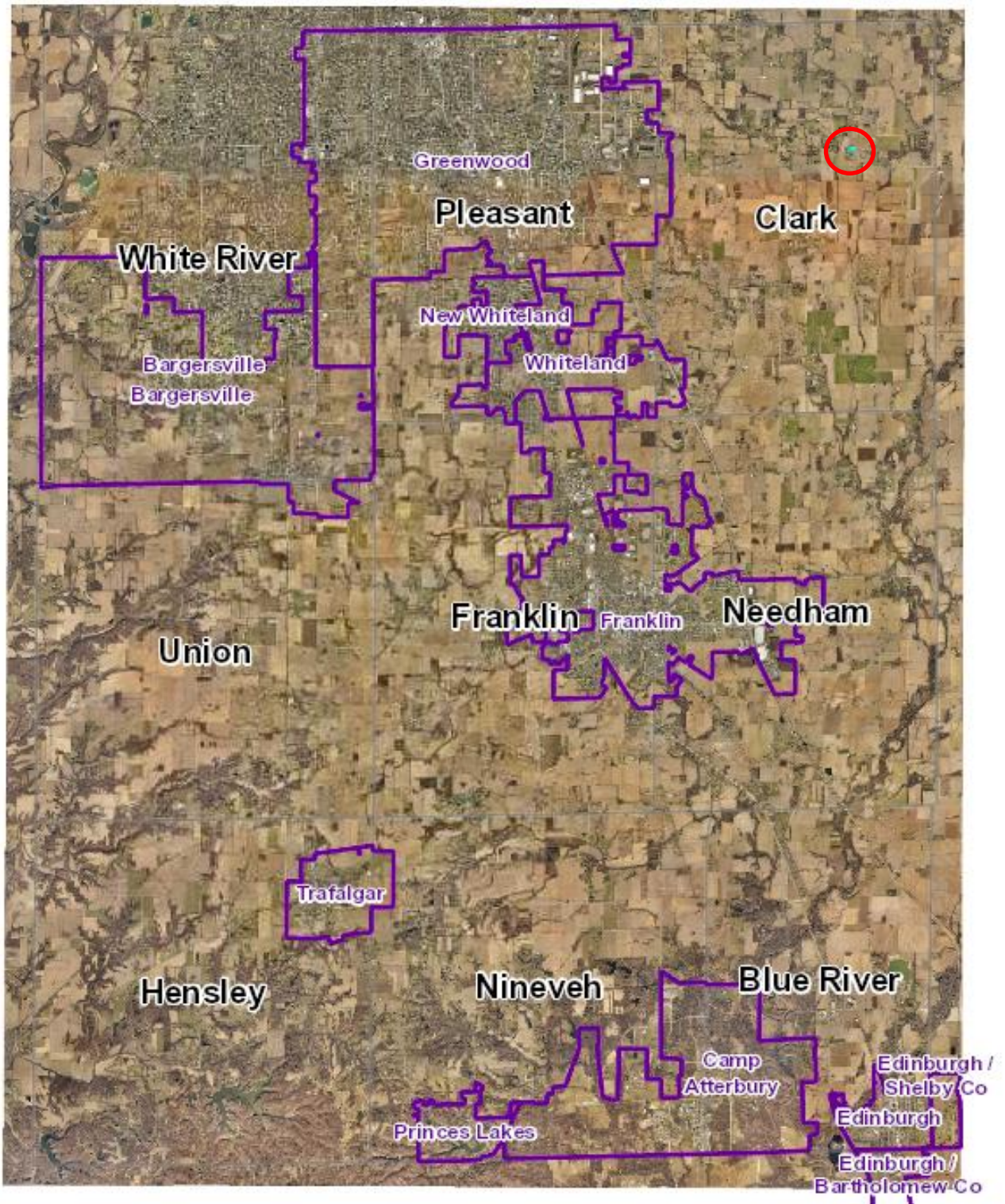
Zoning: R-1 (Single-family Residential)

Land Use: Single-family dwelling and machine shop

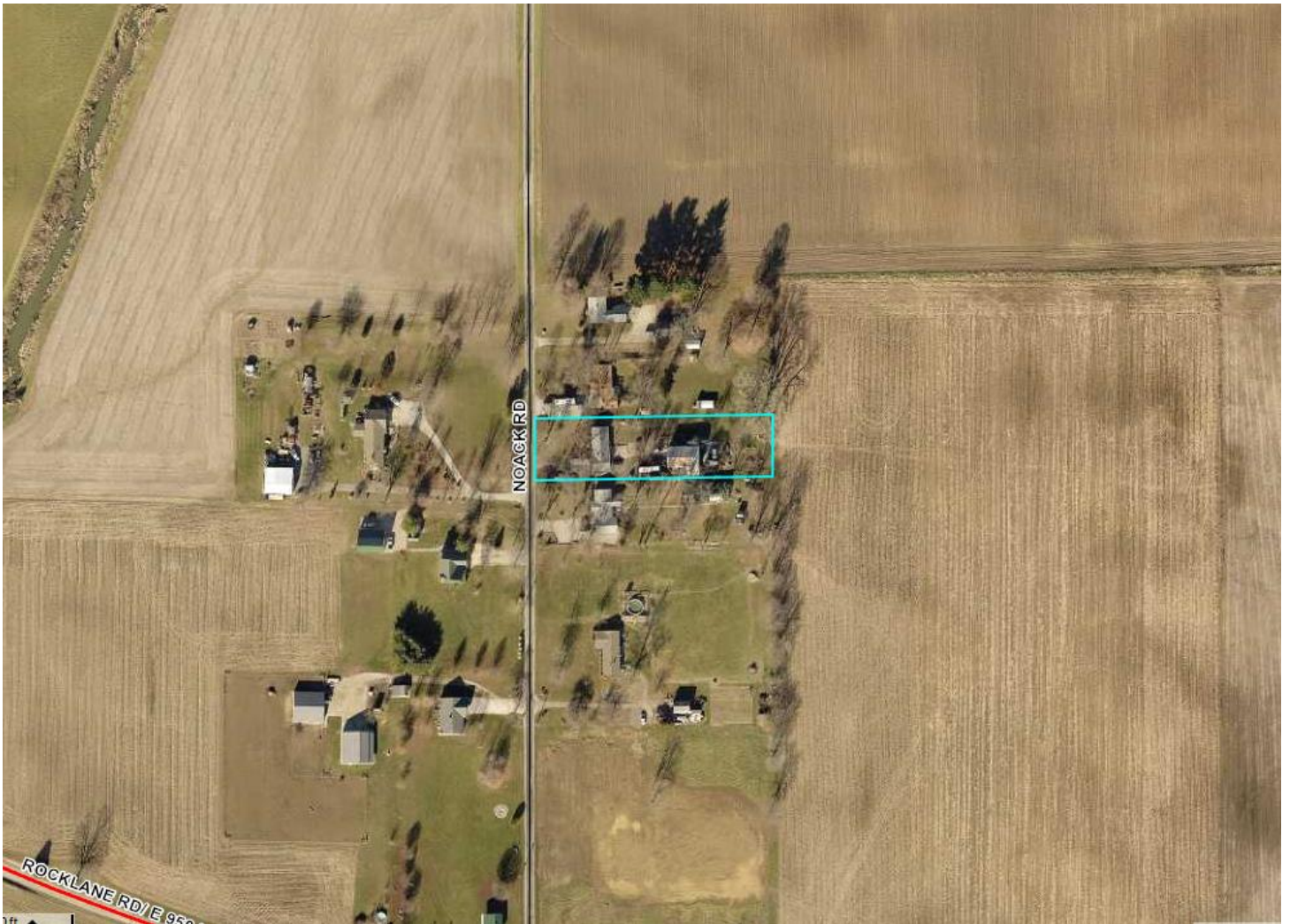
Future Land Use: Single-family residential

-DLH

V-25-20 BASE MAP I



V-25-20 BASE MAP II



V-25-20 AERIAL PHOTO 2020



V-25-20 PETITIONER'S FINDINGS OF FACT

FINDINGS OF FACT, USE VARIANCE

JOHNSON COUNTY BOARD OF ZONING APPEALS

Case Number: _____

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

No ~~work~~ work done on the property will be at risk to anyone or anything in the surrounding area, and the work will be the same as done under previous variance for the same property for the last 29 years.

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 under variance will be maintained in proper order cleanly, aesthetically, and safely.

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

The property includes building and space sufficient to proceed with needs contingent to the variance that has existed prior to this for the same property.

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:

It would make structures on the ~~property~~ ^{property} obsolete as they are particular to the variance and usage thereof.

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

The approval does not interfere with the Comprehensive plan because the usage of the variance will not expand beyond the scope of the previous variance in place for the property & will not need any changes.

Office Use Only: Do Not Write Below This Line

DECISION

It is therefore the decision of this body that this Variance petition is APPROVED.

Adopted: _____
month day year

V-25-20 PETITIONER'S PLAN OF OPERATION

Plan of Operation

Site work pertaining to this variance will be restricted to the barn in the backyard, out of plain view of the public. The anticipation is to have 2 employees and on average 2 to 3 customers per day. Furthermore, the work being done would be nothing beyond what had been happening under the timeframe of the previous variance allowed on the property. Future plans call for no expansion of the work operations beyond the current practice either. Shipping and receiving, as today, will enter from the front of the property. However, any of those deliveries will be moved to the back of the property near or within the garage out of public site as will any equipment, machinery, or vehicle used for work or to be worked upon. The hours of operation will be within industry standards. Also, no advertisement or other obtrusive displays will be used on the property.





**Johnson County
Board of Zoning Appeals
Calendar of Meetings for 2021**

Hearing Date	Filing Deadline	Legal Ad & Notification Deadline
January 26, 2021	December 28, 2020	January 5, 2021
February 23, 2021	January 25, 2021	February 2, 2021
March 23, 2021	February 22, 2021	March 2, 2021
April 27, 2021	March 29, 2021	April 6, 2021
May 25, 2021	April 26, 2021	May 4, 2021
June 29, 2021	Jun. 1, 2021	June 8, 2021
July 27, 2021	June 28, 2021	July 6, 2021
August 24, 2021	July 26, 2021	August 3, 2021
September 28, 2021	August 30, 2021	September 7, 2021
October 26, 2021	September 27, 2021	October 5, 2021
November 23, 2021	October 25, 2021	November 2, 2021
December 28, 2021	November 29, 2021	December 7, 2021
January 25, 2022	December 27, 2021	January 4, 2022

Meetings start at 7:00 p.m. in the Auditorium of the Courthouse Annex, 86 West Court Street, Franklin, Indiana 46131.

All petitions must be filed with the Department of Planning and Zoning by no later than 4:00 p.m. on the due date listed above. Office hours of the Department of Planning and Zoning are from 8:00 a.m. to 4:30 p.m., Monday through Friday. Phone: (317) 346-4350.

The BZA Rules of Procedure were amended on November 26, 2013 to require that mailed, published and on-site notice for land use petitions slated for hearing by the BZA now be provided twenty-one (21) calendar days prior to a scheduled hearing. The Rules of Procedure previously required only ten calendar days' notice. Additionally, land use petitions must now be filed at least twenty-eight (28) days prior to a scheduled BZA hearing.