



JOHNSON COUNTY

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

Phone: (317) 346-4350
Fax: (317) 736-4722
www.co.johnson.in.us

MEETING AGENDA

Johnson County Board of Zoning Appeals
July 28, 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 June 23, 2020 meeting.

PUBLIC HEARINGS

-CONTINUED PETITIONS

None.

-NEW PETITIONS

V-14-20. John Blackwell. 2300 Fox Drive, Franklin..... Page 3
VARIANCE OF DEVELOPMENT STANDARDS of the Johnson County Zoning
Ordinance to allow for the construction of an accessory structure:

- a) where all accessory structures will total 1,760 square feet in building area, which will exceed the size limitation of 1,207 square feet for all accessory structures at this property, and
- b) with a 15-foot height (maximum 14-foot height allowed).

SP-1-20. Josh Miller. 1044 East 775 South, Nineveh..... Page 14
SPECIAL EXCEPTION of the Johnson County Zoning Ordinance to allow for residential use of the property and to allow for the construction of a residential garage in the B-1 (Neighborhood Business) District.

V-16-20. 951 East 775 South, Nineveh..... Page 23
VARIANCE OF DEVELOPMENT STANDARDS of the Johnson County Zoning
Ordinance to legally establish a detached secondary dwelling unit (no more than one
dwelling unit allowed on a residentially-used lot).

OLD BUSINESS

None.

NEW BUSINESS

UB-1-20. Evelyn Haddin c/o James Haddin. 4796 S 450 W, Trafalgar..... Page 32
Public Hearing to review an Unsafe Building Ordinance Violation and Order to seal or
remove a vacant single-family dwelling.

REPORTS AND RECOMMENDATIONS

None.

ADJOURNMENT

The next regular meeting of the Johnson County Board of Zoning Appeals is scheduled
for Tuesday, August 25th, 2020 at 7:00 PM.

- - -

Staff Report

CASE NUMBER: V-14-20
ADDRESS: 2300 Fox Drive, Franklin
Section 31, Township 12, Range 5
PETITIONER: John Blackwell

REQUEST

VARIANCE OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to allow for the construction of an accessory structure:

- a) where all accessory structures will total 1,760 square feet in building area, which will exceed the size limitation of 1,207 square feet for all accessory structures at this property, and
- b) with a 15-foot height (maximum 14-foot height allowed).

STAFF RECOMMENDATION

Staff recommends **denial** of these variances.

PROPERTY DESCRIPTION

This 2.1-acre site is zoned R-2 (Single Family Residential) and is improved with a single-family dwelling and two existing accessory structures. The site is located in the Foster Acres Subdivision.

VARIANCE REQUEST- ACCESSORY SIZE

This variance, if approved, will allow for the construction of an accessory structure that will be 1,350 square feet in size. The structure will be used as a garage and residential storage.

The property owners currently own two adjacent lots in Foster Acres. The proposed structure will be built on the vacant lot located to the east of the house. The property owner will combine the parcels into one lot if this petition is approved.

The property has two accessory structures located behind the house. The combined square footage of those two structures is 410 square feet. Collectively with the proposed structure, all accessory structures would have a total building area of 1,760 square feet, which would be 73% of the building area of the primary dwelling. The Zoning Ordinance allows, on a lot zoned Single-Family Residential R-2, for an aggregate accessory building area no more than 50% of the square footage of the footprint of the principal building. The primary dwelling's footprint of 2,414 square feet would allow for a total of 1,207 square feet of accessory structure building area. This restriction is intended to discourage commercial conversion and to maintain the residential aesthetic within residential districts.

Staff often supports variance requests for oversized residential accessory structures where most or all of the following conditions are met:

1. The subject lot is located in a rural or agricultural area, or in an area generally characterized by large lots and open, expansive spaces.
2. The subject lot is located in an area where oversized accessory structures are common.
3. The oversized accessory structure would be obscured from view from surrounding properties and rights-of-way.

The proposed oversized accessory structure does not meet the provisions as stated above. The lot is located in a residential subdivision where lots are, on average, one acre in area. There are a few accessory structures in the area but oversized accessory structures are not common in this subdivision. The average size of accessory structures in the neighbor range from 678 to 960 square feet. Additionally, the accessory structure would be conspicuously visible from both Fox Drive and surrounding properties.

This proposal is also not common for the area, in that the structure would be located in the side yard of the primary dwelling. It would also be visually disconnected from the dwelling as it would be accessed by a separate driveway and parking area. Most of the accessory structures in the area are situated behind or immediately adjacent to the dwelling, and share access with those dwellings. As proposed, the configuration would make the site attractive, in the present and the future, for the operation of a business.

Staff asserts that the required findings relative to aggregate accessory building area have not been met, and that development of a large accessory structure in a conventional, major residential subdivision would represent an overdevelopment of the property. Staff, therefore, recommends denial of this variance.

VARIANCE REQUEST- ACCESSORY HEIGHT

This variance request component, if approved, would allow for the construction of an accessory residential structure with an overall height of 15 feet, whereas the zoning ordinance allows an accessory structure to have a height no greater than 25 feet and no greater than the height of the associated primary structure, which is 14 feet tall. This variance component, viewed independently, would not be particularly concerning. However it is materially related to variance component *a*), which should be denied for the reasons outlined above.

FINDINGS OF FACT: VARIANCE OF DEVELOPMENT STANDARDS - ACCESSORY BUILDING AREA

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

Required building and improvement permits must be issued prior to the development of the subject structure.

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 approval would allow an accessory structure to become a dominant feature in a residential area.

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

An accessory structure can be placed on this property within regulations with minor inconvenience to the property owner.

GENERAL INFORMATION

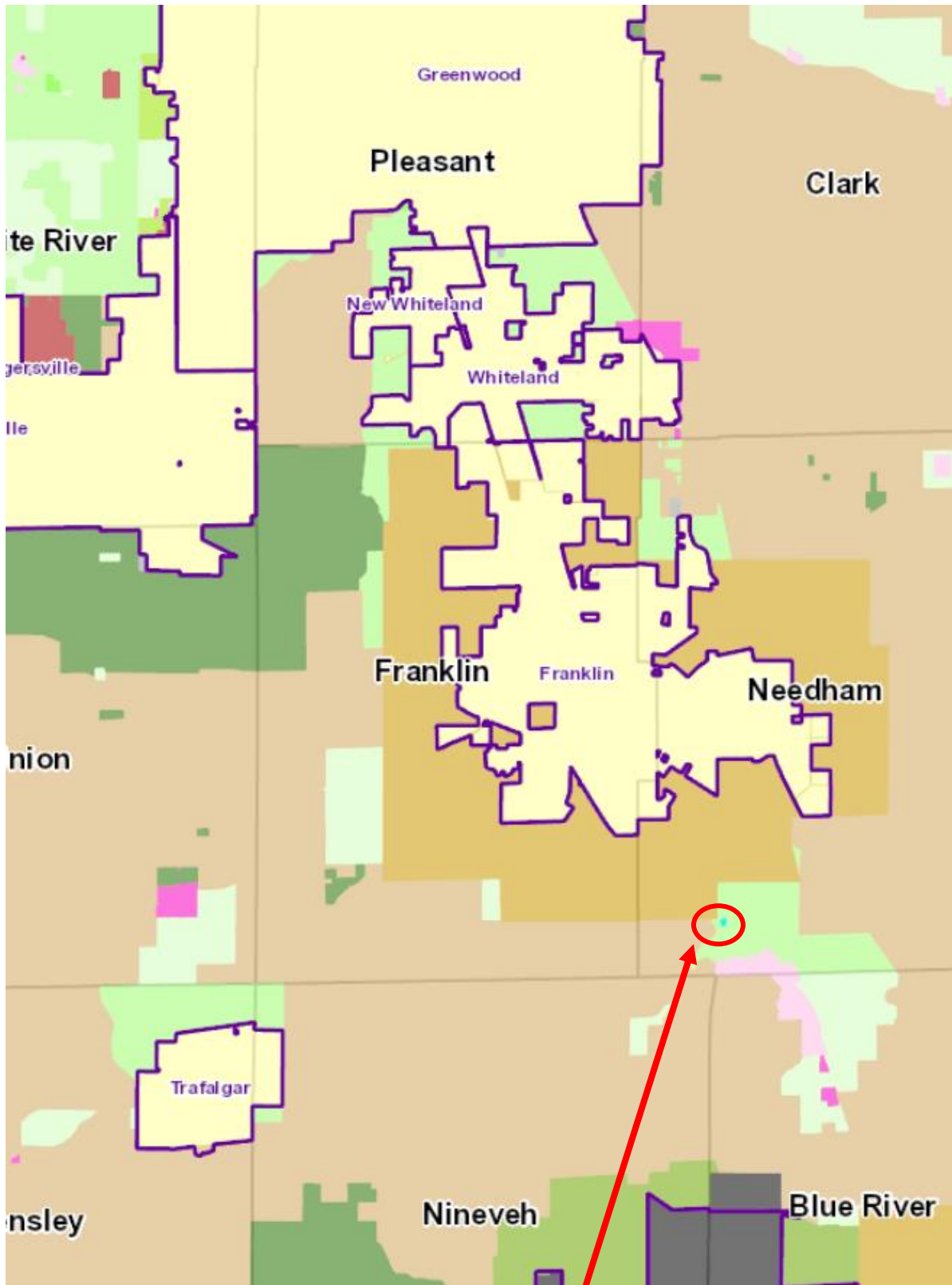
Applicant: John Blackwell
5903 S 700 E
Franklin, IN 46131

Owner: Richard and Sue Van Cleave
2300 Fox Dr.
Franklin, IN 46131

Zoning: R-2 (Single Family Residential)
Land Use: Single-family Residential
Future Land Use: Rural Residential

-MNH

V-14-20 BASE MAP



SUBJECT SITE

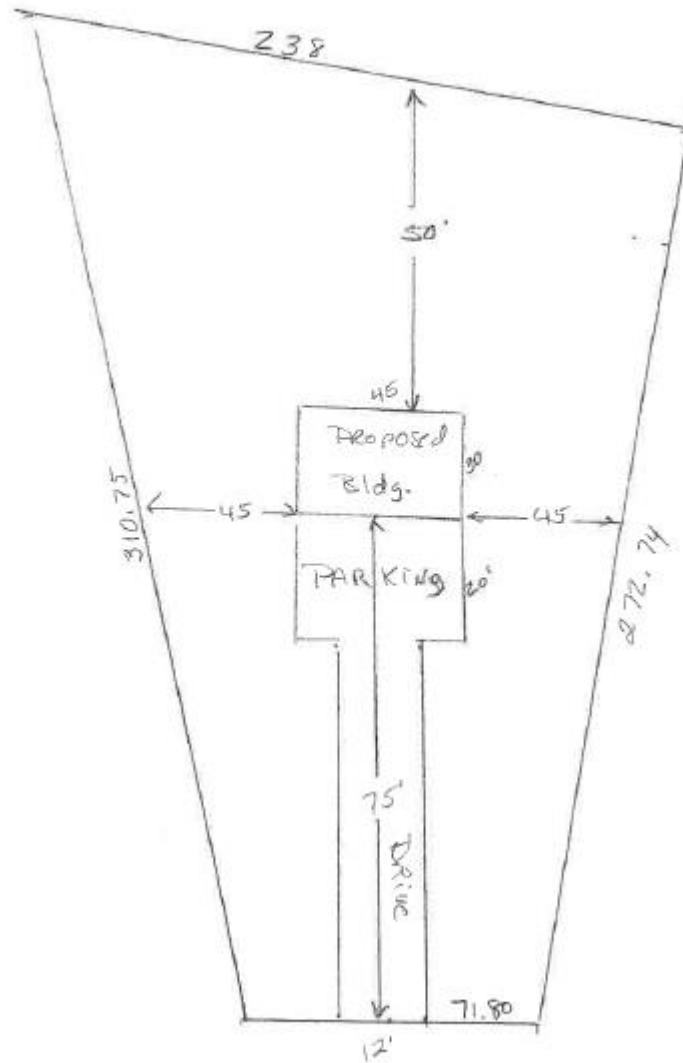
V-14-20 AERIAL I



V-14-20 AERIAL II



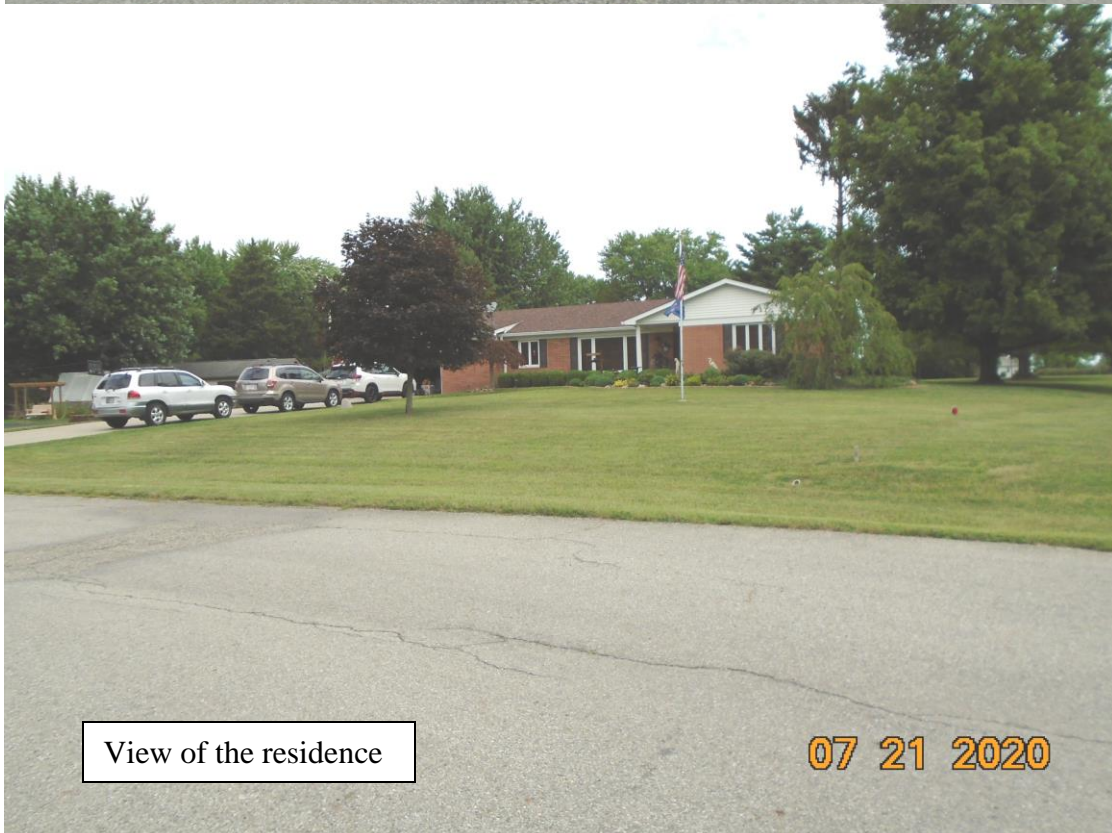
V-14-20 SITE PLAN



V-14-20 SITE PLAN ON AERIAL



V-14-20 SITE PHOTOS



V-14-20 – PETITIONER'S FINDINGS OF FACT

FINDINGS OF FACT, DEVELOPMENT STANDARDS 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:

Building is to be for storage of Personal items
No Commercial use

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:

Subdivision has many Personal storage Buildings

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

Petitioner has based the size of building on
their Personal needs.

**V-14-20 – SIZE OF SURROUNDINGG ACCESSORY STRUCTURES
(in square footage)**



Staff Report

CASE NUMBER: SP-1-20
ADDRESS: 1044 East 775 South, Nineveh
Section 27, Township 11, Range 4
PETITIONER: Josh Miller

REQUEST

SPECIAL EXCEPTION of the Johnson County Zoning Ordinance to allow for residential use of the property and to allow for the construction of a residential garage in the B-1 (Neighborhood Business) District.

STAFF RECOMMENDATION

Staff recommends **approval** of this request.

PROPERTY DESCRIPTION

This 0.63-acre site is zoned B-1 (Neighborhood Business) and is improved with a residential dwelling. This parcel is surrounded primarily by commercial structures on the north side of E 775 S, and primarily single-family residential structures on the south side of E 775 S.

The area centered on the intersection of 100 E and 775 S, the original platted center of the unincorporated town of Nineveh (originally named “Williamsburg”), is mostly zoned Commercial, though the existing historic development represents a mix of residential and commercial uses. At some point, well after original development of the area, the center of Nineveh was zoned for Commercial use. That commercial rezoning forced the existing residential structures into Legal Nonconforming (“grandfathered”) status, such that any future residential addition or other improvement requires an approval from the Board of Zoning Appeals.

SPECIAL EXCEPTION REQUEST

This Special Exception request, if approved, would allow for the construction of a residential garage. In the B-1 zoning district, “single-family residential” use is allowed only by grant of Special Exception. The proposed structure is 240 square feet and located in the rear of the property off the existing driveway.

The property has historically been used for a single-family residence, most likely prior to the implementation of zoning regulations in the County. A fire destroyed a house on this property in 2013. A special exception in 2017 granted permission to rebuild a residential structure. The accessory structure will be a minimal addition to the granted residential use on the property. Staff, therefore, regards the special exception request as appropriate and reasonable.

STAFF ANALYSIS OF FINDING OF FACTS FOR SPECIAL EXCEPTION

State Requirement: The use shall be specifically identified as a special exception in this

Ordinance for the zoning district in question.

Staff Analysis: The Zoning Ordinance of Johnson County specifically lists "one-family dwellings" as a use permitted by Special Exception in the B-1 District.

State Requirement: The special exception can be served with adequate utilities, access roads, drainage and other necessary facilities.

Staff Analysis: Construction of the structure would require a building permit. The property is already served by a driveway, and public water.

State Requirement: The special exception shall not involve any element or cause any conditions that may be dangerous, injurious or noxious to any other property or persons, and shall comply with any and all design development standards for the use identified in this Ordinance.

Staff Analysis: Residential uses in compliance with Ordinance standards do not pose any danger, injurious, or noxious conditions to any persons or property. The proposed accessory structure complies with all development standards for single-family residences identified in the Ordinance.

State Requirement: The special exception shall be sited, oriented and landscaped to produce a harmonious relationship to buildings and grounds to adjacent buildings and property.

Staff Analysis: The proposed structure will be located adjacent to the existing dwelling and share the same driveway.

State Requirement: The special exception shall produce a total visual impression and environment which is consistent with the environment of the neighborhood

Staff Analysis: The area of Needham is a mixed use of commercial and residential uses. It is common in the area to have an accessory structure with dwellings.

State Requirement: The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.

Staff Analysis: This use will not generate any additional vehicular access.

State Requirement: The special exception shall preserve the purpose of this Ordinance, and shall not interfere substantially with the Comprehensive Plan.

Staff Analysis: The Comprehensive Plan classifies the future land use of the property as Camp Atterbury 1-mile buffer.

GENERAL INFORMATION

Applicant: Josh Miller
1044 East 775 South
Nineveh, IN 46164

Owner: Same

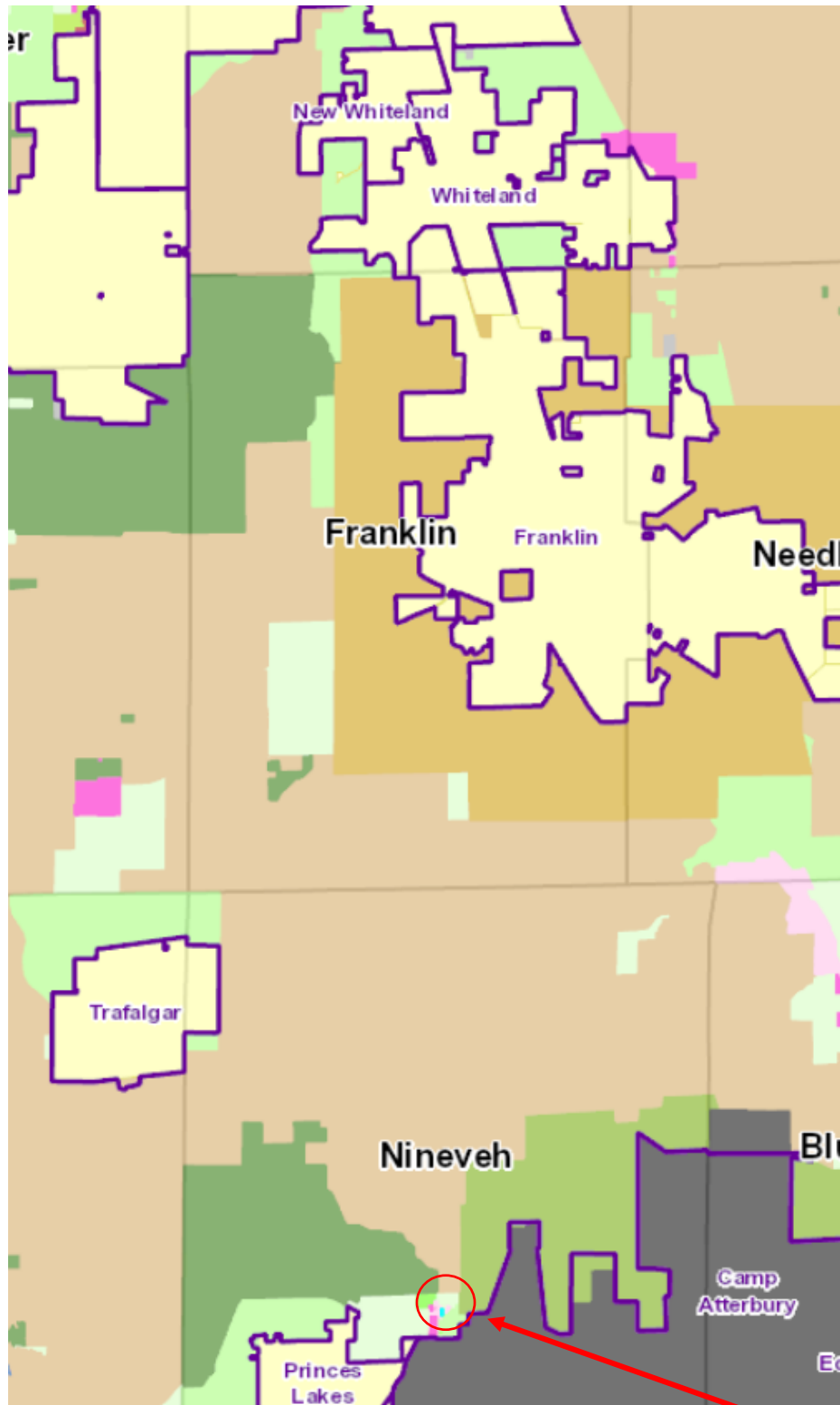
Land Use: Residential

Current Zoning District: B-1

Future Land Use: Camp Atterbury 1-mile buffer

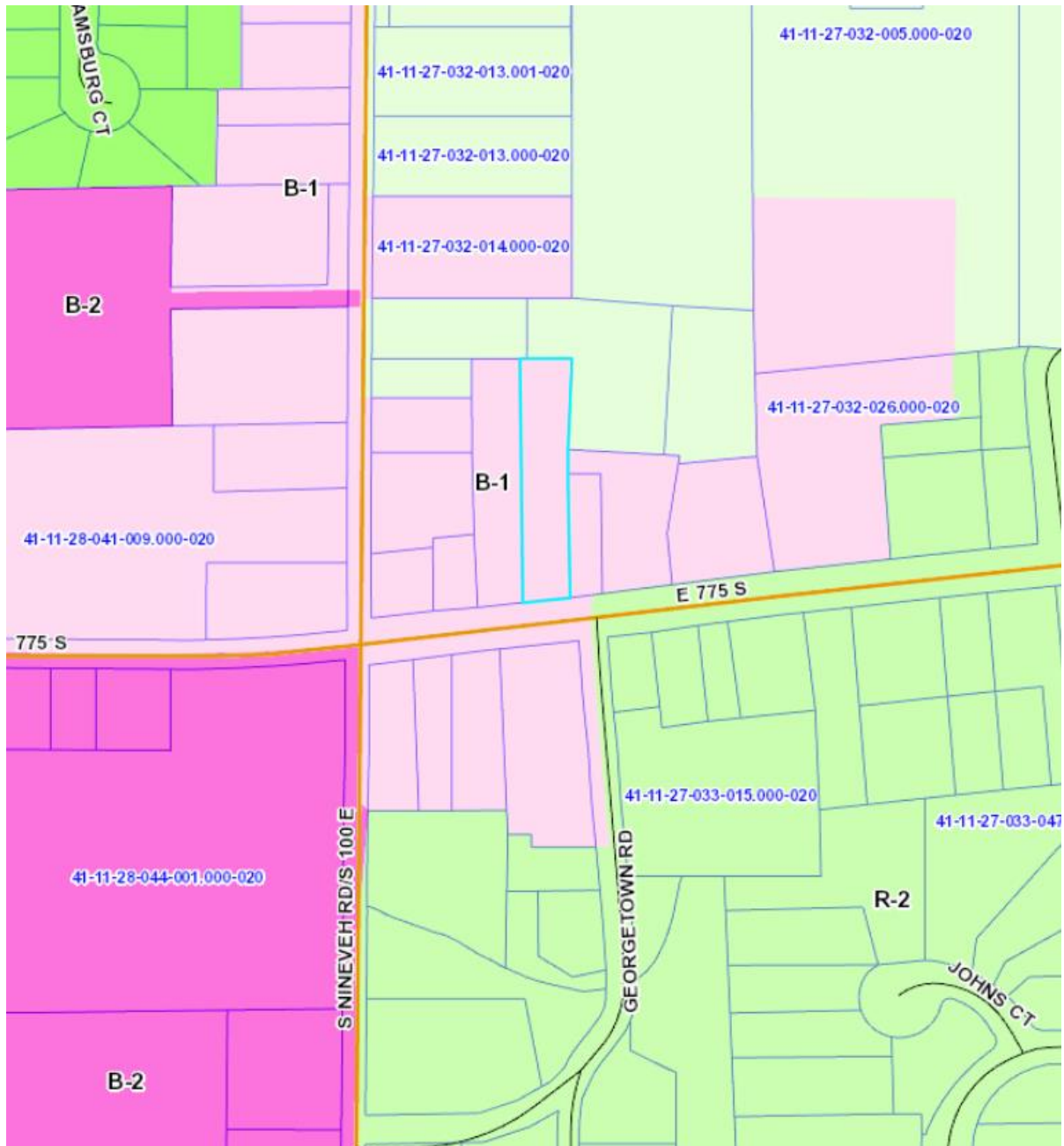
-MNH

SP-1-20 BASE MAP



Subject Location

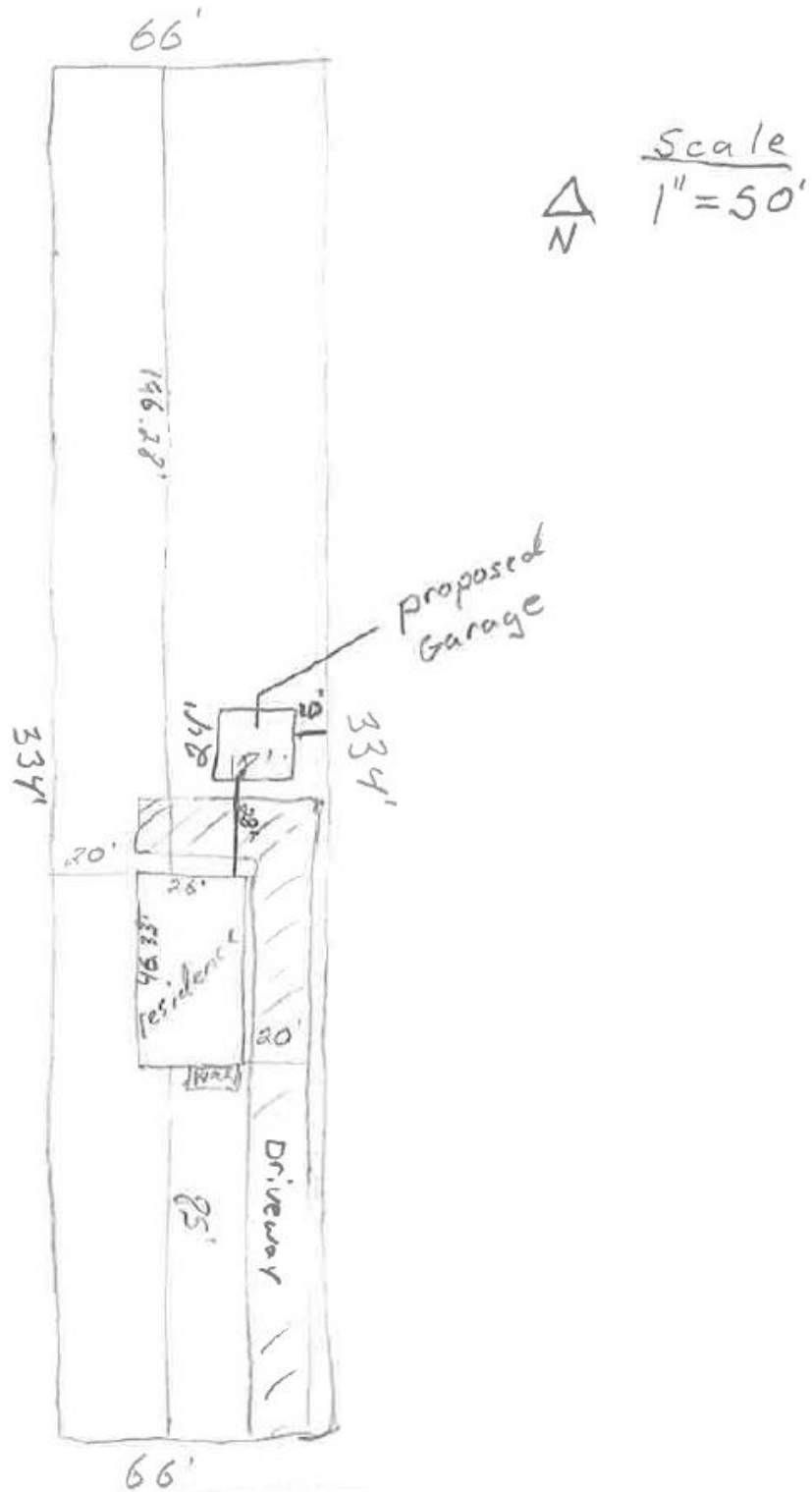
SP-1-20 ZONING MAP



SP-1-20 AERIAL MAP



SP-1-20 Site Plan



SP-1-20 Petitioner's Special Exception Findings of Fact

FINDINGS OF FACT, SPECIAL EXCEPTION

JOHNSON COUNTY BOARD OF ZONING APPEALS

1. The use shall be specifically identified as a special exception in this Ordinance for the zoning district in question because:

This property is zoned B-1 but has historically and will be used ^{for} residential ~~for~~ purposes

2. The special exception can be served with adequate utilities, access roads, drainage and other necessary facilities because:

The proposed structure will be near the petitioner's residential property, near a driveway, and near drain access.

3. The special exception shall not involve any element or cause any condition that may be dangerous, injurious or noxious to any other property or persons, and shall comply with any and all design development standards for the use identified in this Ordinance because:

The structure will only be used by the petitioner for storage and will be built according to development standards.

4. The special exception shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and property because:

The petitioner will maintain harmonious relationship relative to neighbors in order to maintain property value.

5. The special exception shall produce a total visual impression and environment which is consistent with the environment of the neighborhood because:

The petitioner will aim to maintain property value relative to neighbors.

6. The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood because:

The proposed structure will also be used for parking/storing vehicles for the petitioner and be next to driveway away from road

7. The special exception shall preserve the purpose of this Ordinance, and shall not interfere substantially with the Comprehensive Plan because:

Although this ^{property} structure is zoned B-1 the proposed structure will be used ^{for} ~~as~~ residential purposes

SP-1-20 SITE PHOTOS



View of property from road



Rear of property – proposed location of structure

Staff Report

CASE NUMBER: V-16-20
ADDRESS: 951 East 775 South, Nineveh
Section 28, Township 11, Range 4
PETITIONER: Daniel J. and Vanessa Miller

REQUEST

VARIANCE OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to legally establish a detached secondary dwelling unit (no more than one dwelling unit allowed on a residentially-used lot).

STAFF RECOMMENDATION

Staff recommends **approval** of this request subject to substantial compliance with the site plan and building elevations submitted with this petition, and the following conditions:

1. The secondary dwelling unit may be used as a dwelling only so long as a caregiving relationship involving a blood relative remains in place between the owner and occupant of the primary dwelling and the occupant of the secondary dwelling.
2. The secondary dwelling unit shall not be rented or leased for any short-term or long-term occupancy or use.
3. The subject 0.4-acre property shall not be subdivided.
4. The subject property deed shall be re-recorded to include the following language, prior to development or use of any secondary dwelling structure or unit on the property:

Use of the secondary dwelling unit permitted by Variance # V-16-20 shall be limited to a blood relative in need of proximate care and shall occur only under the ownership of Daniel and Vanessa Miller. Upon any transfer of the property, Variance # V-16-20 shall be voided, and the secondary dwelling unit shall no longer be used as a dwelling. Specifically, prior to the transfer of ownership, the refrigerator, oven, stove, and kitchen sink shall be removed from the kitchen, and all associated plumbing capped; and/or the bathtub, shower, toilet, and bathroom sink shall be removed from the bathroom, and all associated plumbing capped.

PROPERTY DESCRIPTION

This 0.4-acre site is zoned B-2 (Commercial Business) and is improved with a single-family dwelling and a smaller secondary dwelling. It is located in the unincorporated Town of Nineveh. It is surrounded to the north by a commercial business, to the south and east by a vacant wooded

parcel, and the west by a residential use. The north side of 775 South is all zoned B-1 and the south side of 775 South is all zoned B-2.

VARIANCE REQUEST – SECONDARY DWELLING UNIT

The petitioners plan to use an existing second single-family dwelling on the property, to be used primarily for the caretaking of a family member. The second dwelling is 720 square feet.

This structure has been used as a second dwelling since the 1990s, when a past property owner converted a garage/shed to a residence. Johnson County Planning and Zoning does not have building permits from the early 1990s to verify that the conversion was permitted. However, the department does have archived land use petitions dating back to the 1950s. There are no petitions linked to this property that would have granted permission for a second dwelling. That permission would have been required in the 1990s.

This property is zoned B-2 but the primary dwelling is considered a legal non-conformation use since it existed before the implementation of the business classification.

The secondary dwelling is long-standing, has not caused an issue for the area or the neighbors since its conversion in the 1990s. The structure has been maintained in good condition. It has not affected the parking and traffic congestion. The petitioner is attempting to purchase the property and use the second dwelling to care for a family member. The opportunity to provide care for a family member is generally considered a benign secondary use of residential and agricultural properties, particularly isolated ones. But when circumstances change and the property is eventually transferred, there may be a desire to rent the secondary dwelling unit to an unaffiliated party, which is considered less favorably. There may in the future also be a desire to subdivide the property, to parcel off the second dwelling unit. Any such subdivision, however, would not meet the requirements of the Subdivision Control Ordinance and the Zoning Ordinance, and should be prohibited not only by the requirements of those two ordinances, but also by a condition of approval of this variance. For these reasons, any approval of this variance should apply only to a familial caretaking relationship, or to occasional use as a guesthouse for family and friends, and should prohibit future subdivision.

In summary, staff regards the request as a minor and appropriate deviation from the requirements of the zoning ordinance and supports it given the incorporation of the conditions described above.

STAFF 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.

The proposed secondary dwelling unit would have no impact on the public health, safety, welfare and morals of the community.

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.

The proposed secondary dwelling unit would have no impact on the use and value of property in the adjacent area.

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

The existing dwelling makes the proposed caretaking arrangement appropriate.

GENERAL INFORMATION

Applicant: Daniel Miller
4411 Southport Trace Drive
Indianapolis IN

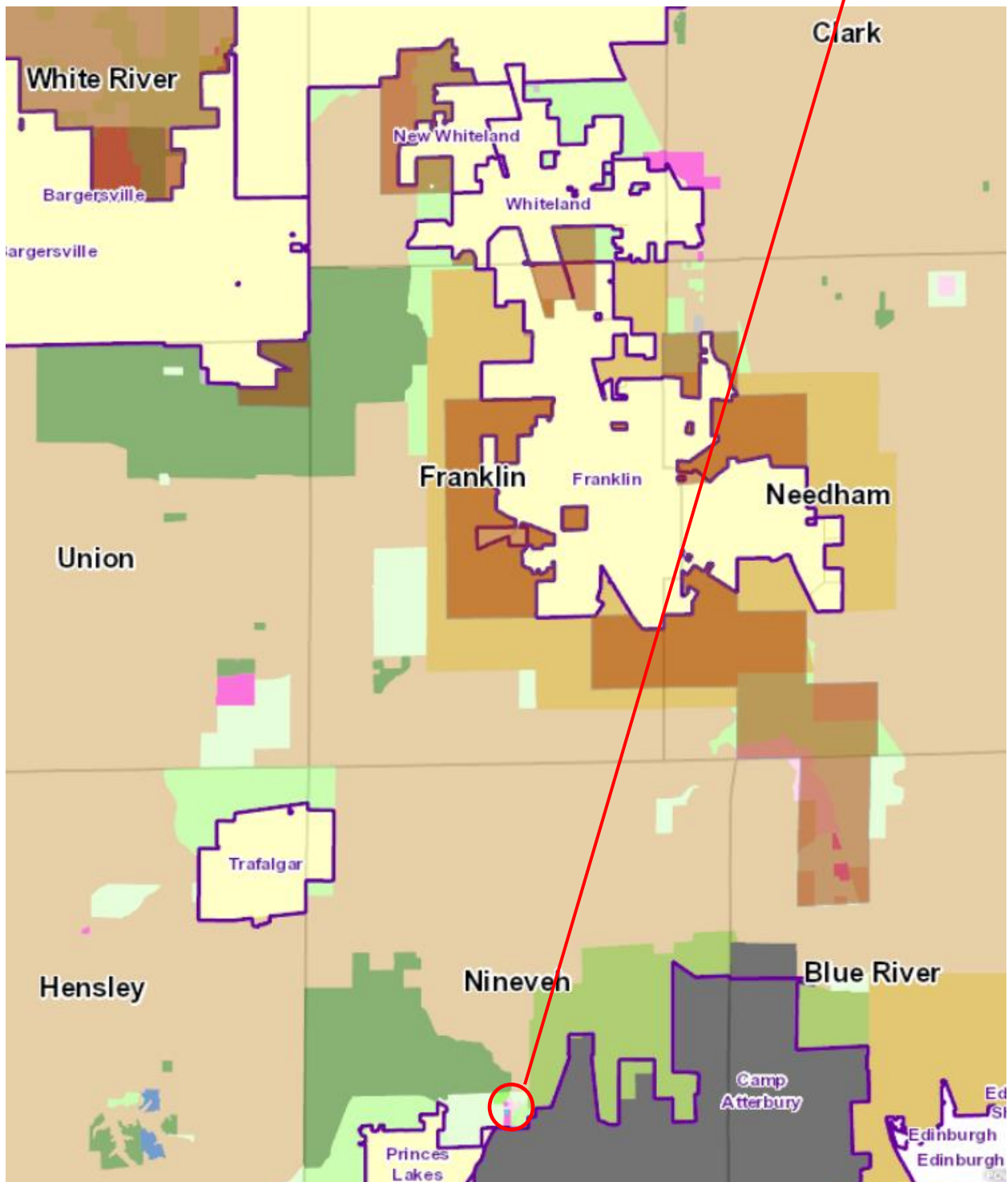
Owner: Cassandra and Joseph Patton
951 East 775 South
Nineveh IN 46164

Zoning: B-2 Commercial Business
Land Use: Residential
Future Land Use: Residential

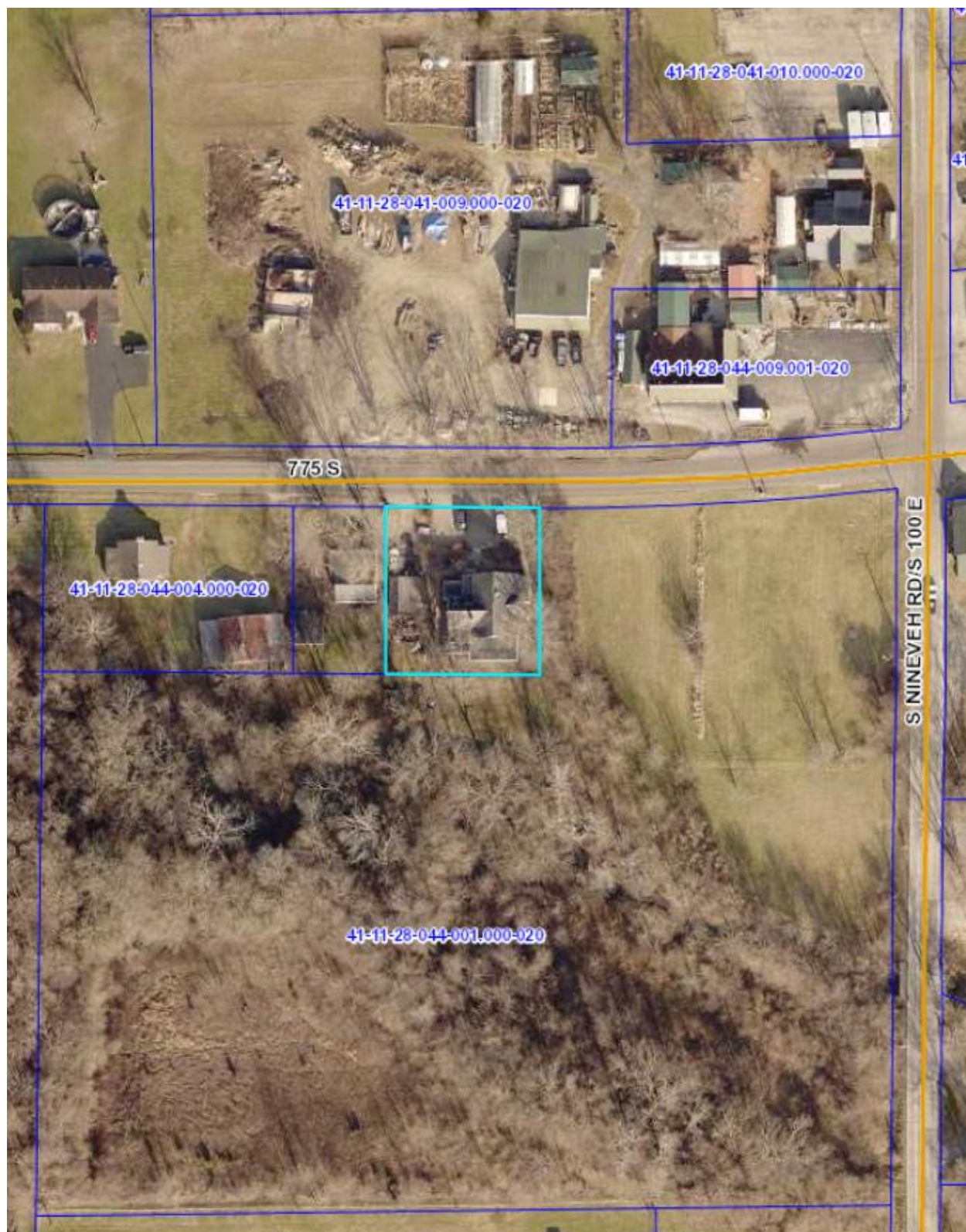
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V-16-20 BASE MAP

subject site



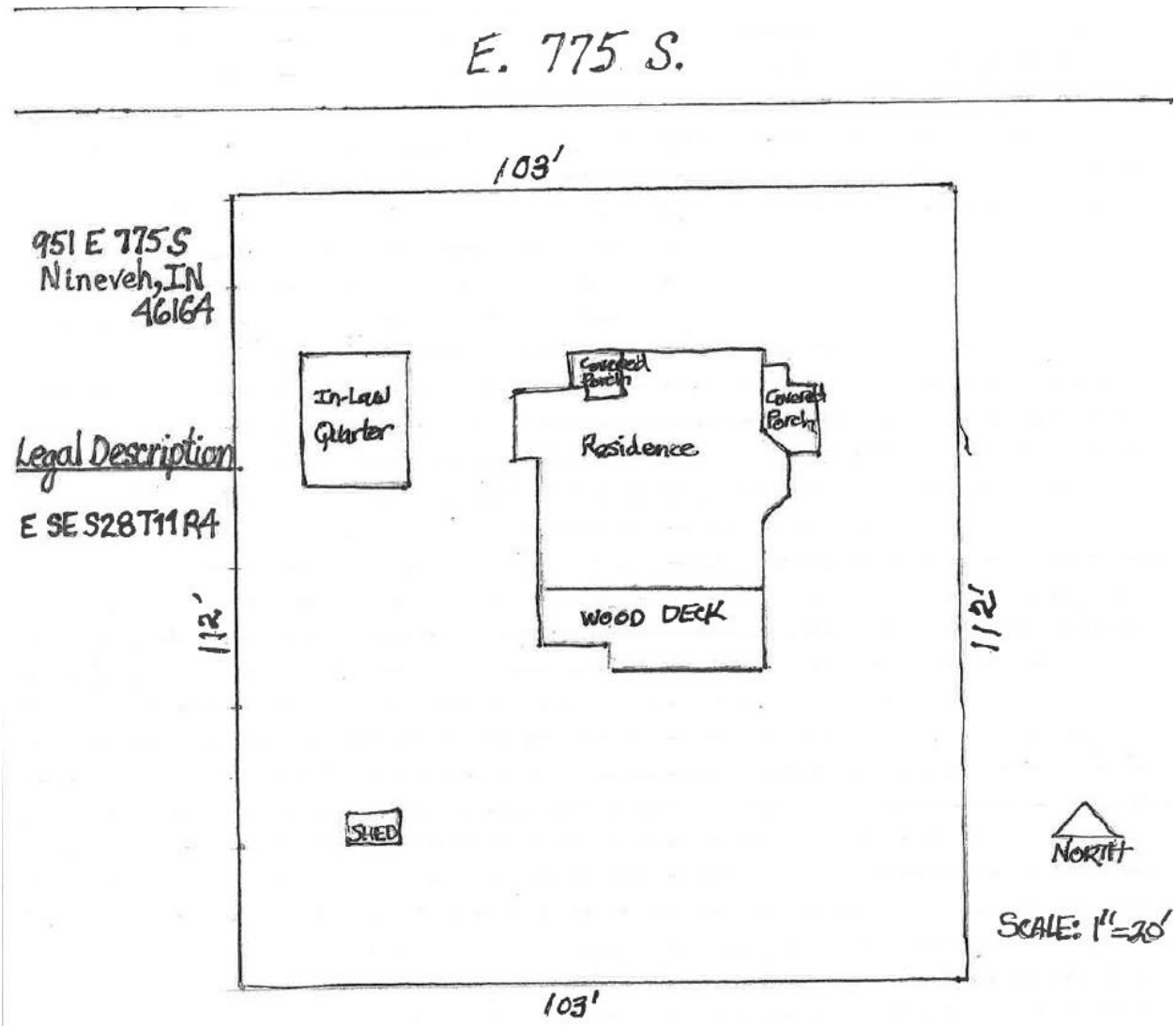
V-16-20 AERIAL PHOTO



V-16-20 AERIAL PHOTO



V-16-20 SITE PLAN



V-16-20 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:

*Structure is to be used as an apartment
for family member's use.*

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:

*Structure has been present on this property
since 1990 as a detached garage and has
been used as an apartment since 1992.*

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

*Structure has been used as an apartment
for over a quarter of a Century*

V-16-20 PROPERTY PHOTO FROM REAL ESTATE LISTING



Staff Report

CASE NUMBER: UB-01-20
ADDRESS: 4796 S 450 W, Trafalgar
OWNER: Evelyn Haddin, c/o James Haddin

UNSAFE BUILDING - REQUIRED HEARING FOR SEAL OR REMOVAL ORDER

STAFF RECOMMENDATION

Staff recommends that the Board of Zoning Appeals **affirm** the Order as delivered via Unsafe Building Ordinance Violation case UB-01-20, which requires that the subject single-family dwelling be sealed or removed.

PROPERTY DESCRIPTION

This 0.40-acre site is composed of three contiguous lots within the original plat for the town of Samaria and is located at the southwest corner of the intersection of SR 135 and 450 W.

The site is improved with an older, failing single-family dwelling, and is otherwise heavily overgrown with weeds and grass.

UNSAFE BUILDING VIOLATION

Staff issued an Unsafe Building Ordinance (UBO) Violation on June 17, 2020 after receiving a complaint from a neighbor and subsequently visiting the site. The property owner, currently residing in North Dakota, received and signed for the certified violation letter on June 22, 2020. The owner has not responded.

The subject single-family dwelling is vacant and abandoned, and is open to the elements at several places visible from the adjoining right-of-way, including under eaves, around window and door trim, and where shoddy, old repairs to siding have come undone. The structure is fully available for infiltration by vermin and wildlife, and stands as a significant blighting element within the neighborhood.

A Tall Weeds & Grass complaint is currently under investigation by the Highway Department.

UNSAFE BUILDING ORDINANCE

Johnson County adopted its Unsafe Building Ordinance in 2016, essentially implementing the existing model UBO adopted by the State of Indiana. The Johnson County UBO identifies the Board of Zoning Appeals as the ordinance's required "hearing body". Per code, any UBO Violation Order compelling a property owner to seal (long-term) or remove an unsafe structure must be reviewed at a public hearing by the designated hearing body, where it shall ultimately:

1. affirm the Order,
2. affirm the Order and additionally impose a civil penalty not to exceed \$5,000,

3. rescind the Order, or
4. modify the Order.

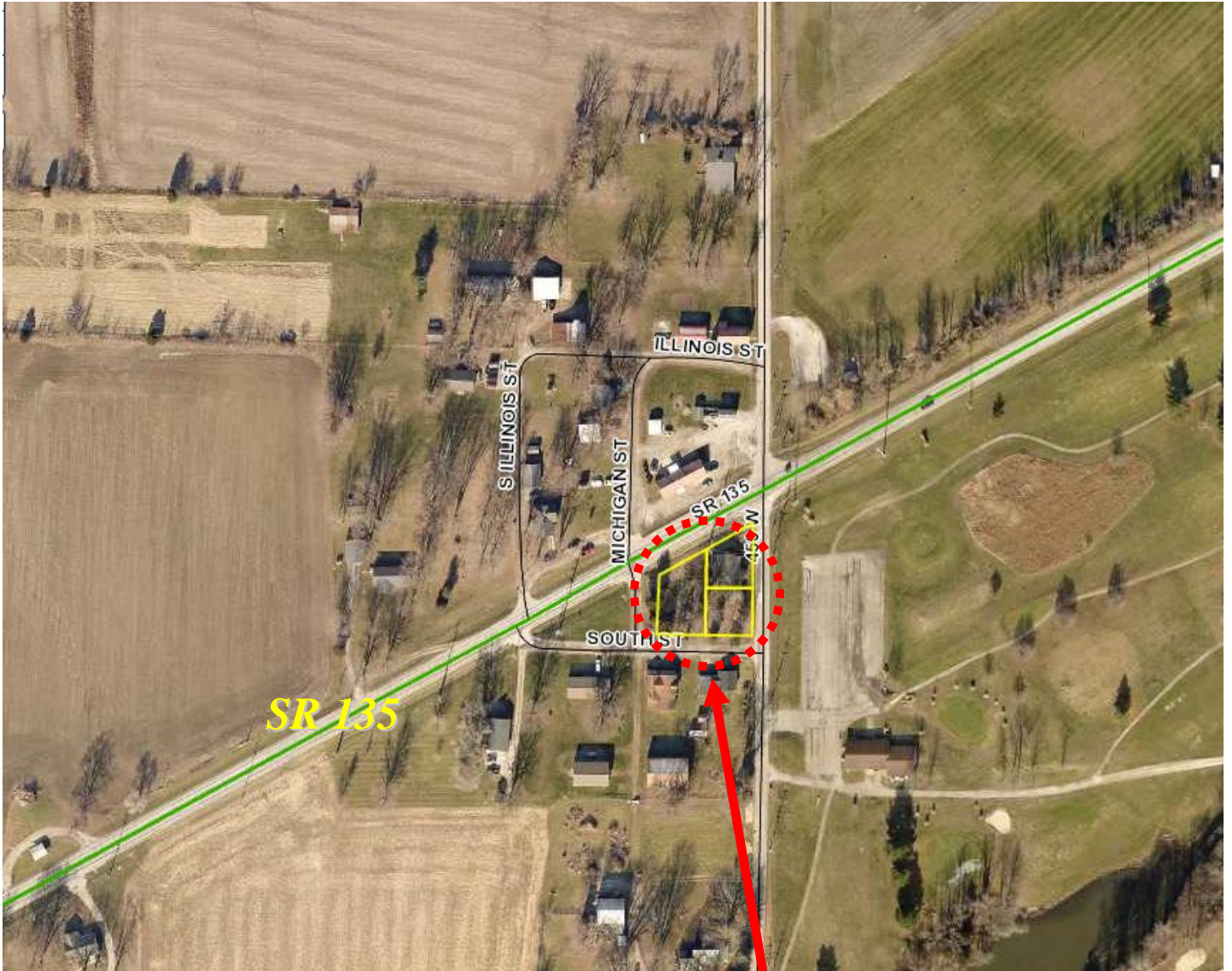
For the purpose of public safety, the preservation of property values, and the protection of neighboring homeowners' and residents' enjoyment of property, staff recommends that the Board affirm the Order that the single-family dwelling at 4796 S 450 W, Trafalgar, be sealed or removed.

GENERAL INFORMATION

Owner:	Evelyn Haddin, c/o James Haddin
Zoning:	R-2
Land Use:	Single-Family Residential
Future Land Use:	Single-Family Residential

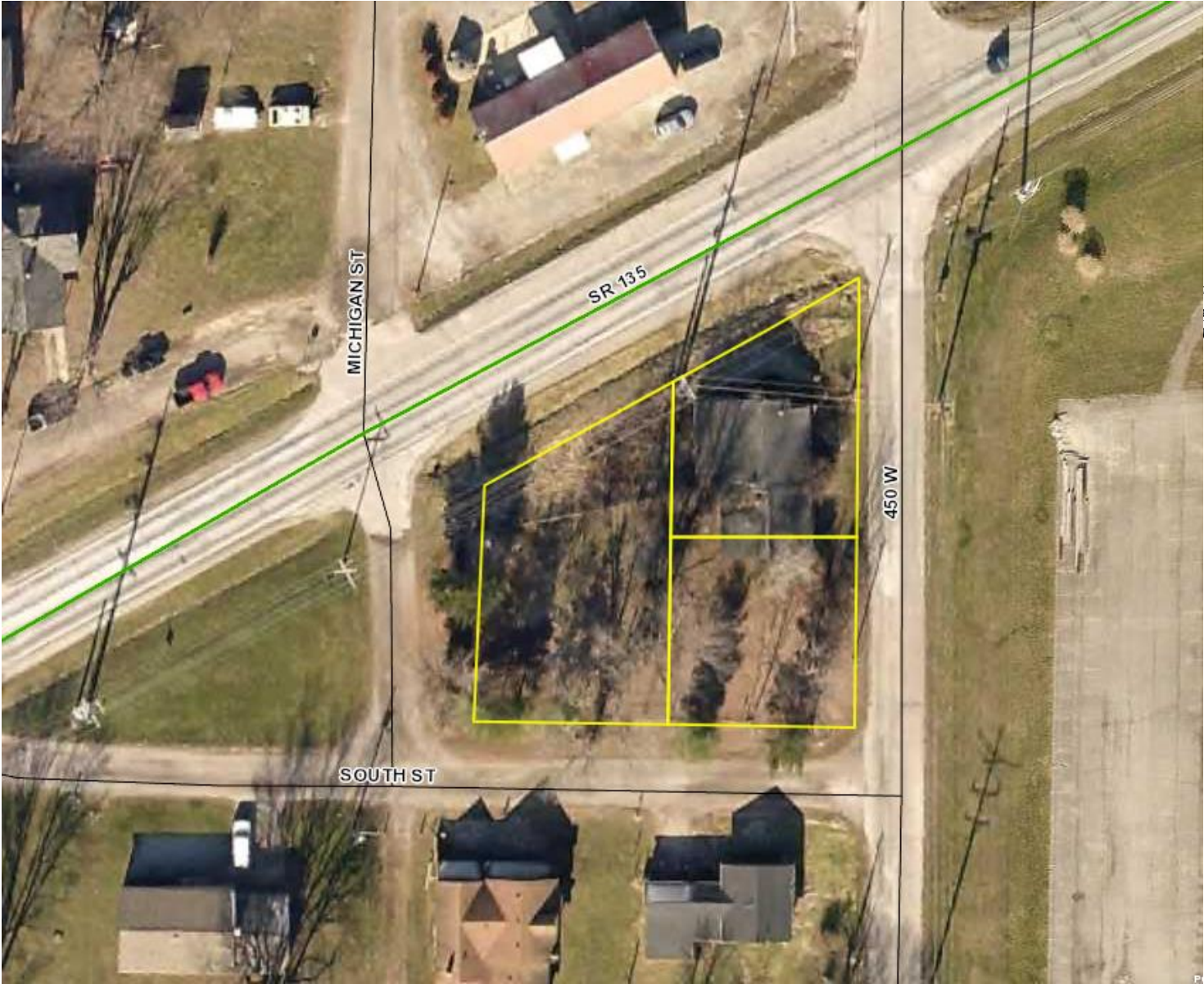
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UB-01-20 BASE MAP I



Subject site

UB-01-20 AERIAL PHOTO



as of
3.
0 E

UB-01-20 VIOLATION LETTER AND ORDER (Page 1 of 2)



JOHNSON COUNTY

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

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

June 17, 2020

Case Number: UB-01-20

Delivered via First-Class Mail and Certified Mail Number: 9214 8901 0661 5400 0151 9791 07

Haddin Evelyn
C/O JAMES HADDIN
PO BOX 576
CROSBY, ND 58730

Ms. Evelyn Haddin, C/O Mr. James Haddin:

A recent inspection of the property you own at 4796 S 450 W, Trafalgar, revealed the presence of an Unsafe Structure, as defined in Indiana Code 36-7-9-4 and in the Johnson County Unsafe Building Ordinance. With this Notice of Order you are ordered to take the action described below to make the property safe and bring the site into compliance with state and local code.

On your property a single-family dwelling stands vacant, dilapidating, apparently abandoned, and with openings in the roof and siding exposing the interior to the elements. The structure represents an attractive nuisance to children, a haven for vermin, a general hazard to the surrounding area, and a substantial eyesore and blighting influence.

Required Actions:

- a) Fully seal the dwelling and repair its failing roof and exterior no later than August 17, 2020, in accordance with required permits issued by the Johnson County Department of Planning and Zoning, OR
- b) Remove the structure no later than August 17, 2020, in accordance with a demolition permit issued by the Johnson County Department of Planning and Zoning.

Because this Order requires that the dwelling be sealed and repaired, or demolished, the matter must be brought to the Johnson County Board of Zoning Appeals (BZA) at a public hearing. That hearing is set for **July 28, 2020, at 7:00 PM**, in the public auditorium of the West Courthouse Annex Building, 86 West Court Street, Franklin, Indiana.

UB-01-20 VIOLATION LETTER AND ORDER (Page 2 of 2)

At that hearing, the BZA may affirm the Order, affirm the Order and impose a civil penalty not to exceed \$5,000, rescind the Order, or modify the Order. Additionally, if applicable, the BZA may determine the property to be abandoned as provided in Indiana Code 36-7-37. As the property owner and responsible party, you are entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments. You are strongly encouraged to attend the hearing. Adjoining property owners will be notified in writing of the hearing, and will be invited to attend.

If, by August 17, 2020, you do not take the actions ordered above, or succeed in having the Order rescinded or modified at the July 28, 2020 BZA hearing, Johnson County may take action to bring the property into compliance with the Unsafe Building Ordinance and other ordinances. You and any other party holding a substantial interest in the property will be held liable for the cost of the work, as well as ancillary costs.

Per IC 36-7-9-27, a person who has been issued and has received notice of an order relative to unsafe premises and has not complied with that order must supply full information regarding the order to any person who takes or agrees to take a substantial property interest in the unsafe premises before transferring or agreeing to transfer the interest.

If you have any questions, please contact me at (317) 346-4350 or dhittle@co.johnson.in.us. If you require a short time extension to be able to satisfy this Order, we would be happy to discuss that, as well.

Sincerely,

A handwritten signature in black ink, appearing to read 'D-Hittle', with a stylized flourish at the end.

David Hittle, Director
Johnson County Department of Planning and Zoning