



## 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  
August 25, 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 July 28, 2020 meeting.

## PUBLIC HEARINGS

### -CONTINUED PETITIONS

None.

### -NEW PETITIONS

V-17-20. Rosemae Townsend. 4141 South 25 West, Trafalgar. .... Page 3

VARIANCE OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to allow for construction of a second dwelling on a single lot. (The zoning ordinance allows only one dwelling per lot.)

V-18-20. Tyler Schnell. 5524 Watson Road, Greenwood. .... Page 13

VARIANCE OF USE of the Johnson County Zoning Ordinance to provide for a landscape contractor's office and yard (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

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, September 29, 2020 at 7:00 PM.

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# Staff Report

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CASE NUMBER: V-17-20  
ADDRESS: 4141 South 25 West, Trafalgar  
Section 8, Township 11, Range 4  
PETITIONER: Rosemae Townsend, by Ellen Mae Paris

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## REQUEST

VARIANCE OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to allow for construction of a second dwelling on a single lot. (The zoning ordinance allows only one dwelling per 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 42-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-17-20 shall be limited to use of the property owner and/or a blood relative in need of proximate care and shall occur only under the ownership of Rosemae Townsend. The existing residential structure shall only be occupied by an familial relationship. Upon any transfer of the property, Variance # V-17-20 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 42.7-acre site is zoned A-1 (agricultural) and is improved with a single-family dwelling and several agricultural buildings. It is surrounded to the east, north and south by large parcels used agriculturally, and to the west by rural single-family homes and agricultural fields, all zoned A-1.

#### VARIANCE REQUEST – SECONDARY DWELLING UNIT

The petitioners plan to build a second single-family dwelling on the property, to be used as a residence that she can live in to better suit her age and health. The petitioner has lived on the property over 60 years and wants an easier one-story house to live in for the remainder of the time on the property. The second dwelling is proposed to be a 1,000 square-foot accessory structure. It will be located northwest of the existing dwelling. As the zoning ordinance allows only one dwelling unit per lot, grant of this variance is required.

The zoning ordinance allows only one dwelling unit per lot to limit density, parking needs and neighborhood traffic in residential areas, and to protect property values. Here, given the area's very low density and the site's isolation, increased density, parking and traffic congestion are non-issues, and any impact on neighboring property values due to the presence of a secondary dwelling unit occupied by the property owner and the existing dwelling would most likely be occupied a family member to help maintain the property.

Concerns arise, however, when considering the long-term use of a secondary dwelling unit. The opportunity to provide care for a family member, or to provide accommodations for visiting family or friends, 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 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 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 isolation and remoteness of the property make the proposed caretaking arrangement appropriate.

GENERAL INFORMATION

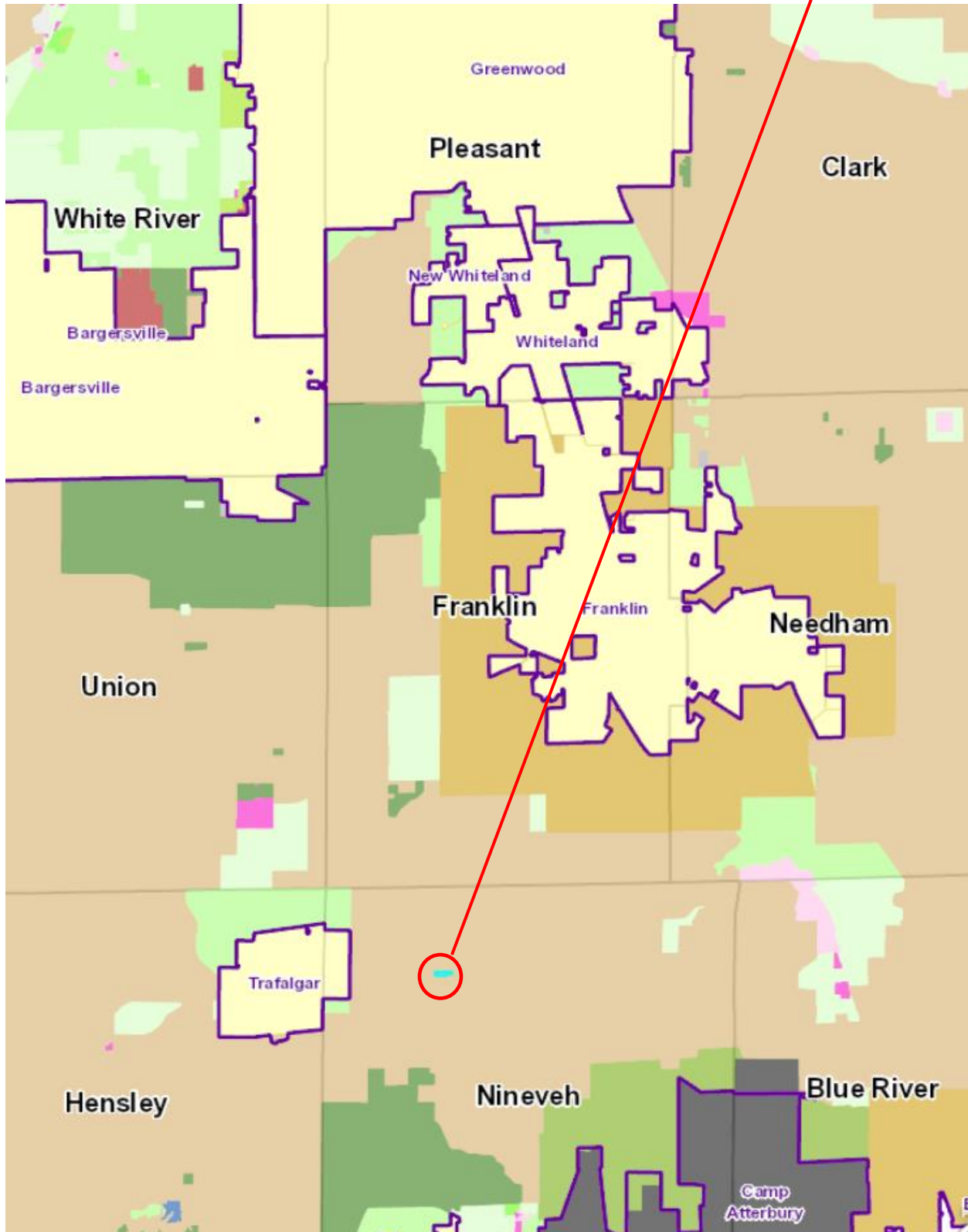
Applicant/Owner: Rosemae Townsend  
4141 South 25 West  
Trafalgar, IN 46181

Zoning: A-1 (Agriculture)  
Land Use: Single-family Residential, Agricultural  
Future Land Use: Agricultural

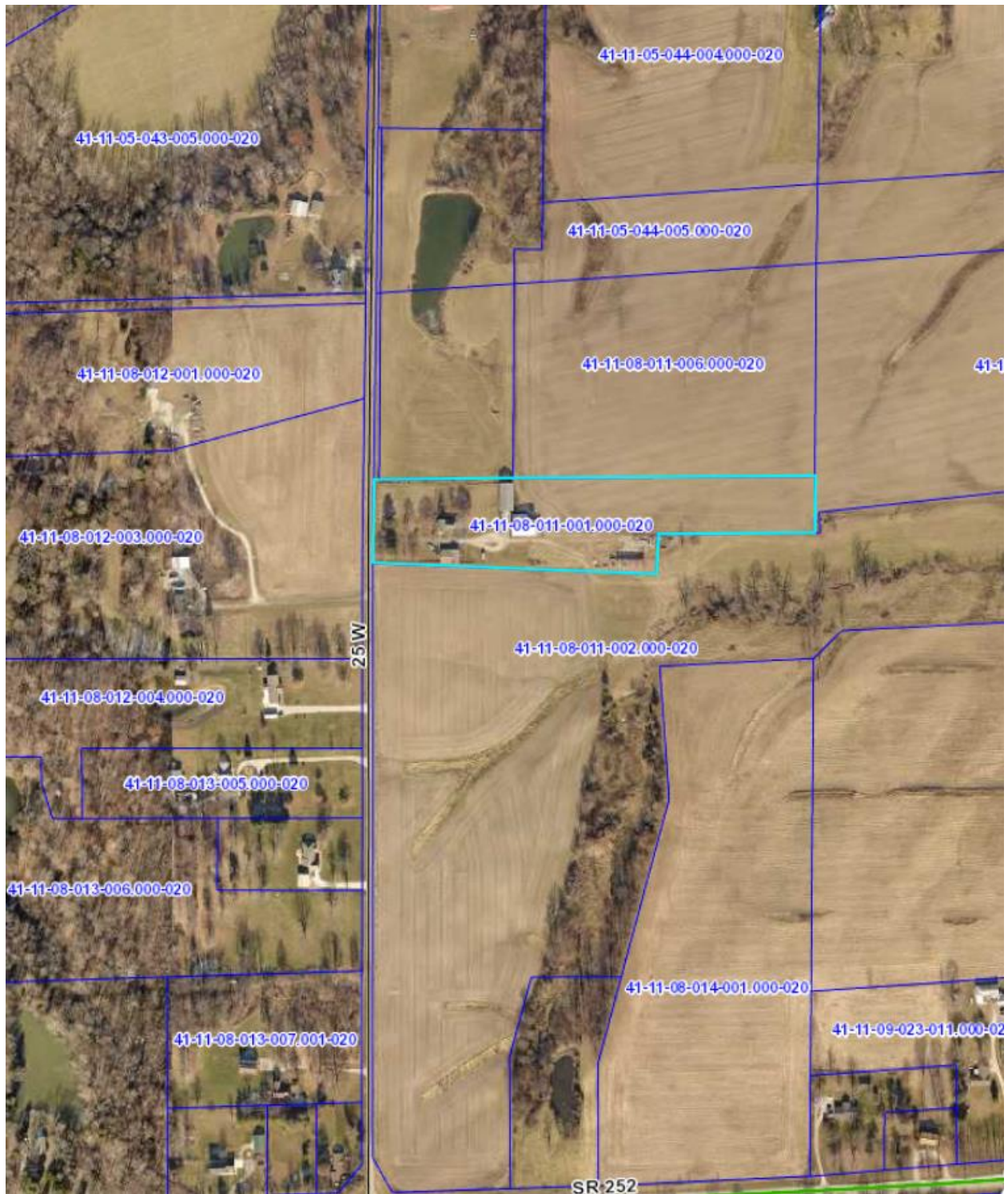
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## V-17-20 BASE MAP

subject site



## V-17-20 AERIAL PHOTO





V-17-20 AERIAL PHOTO II





## V-17-20 SITE PLAN



## V-17-20 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:

The small cottage home will be built to code by a licensed builder.

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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 small cottage home will look appealing to the surrounding areas as it will seem natural, as it belongs there with the mature trees behind it.

There are no other homes close. The nearest homes are 550 ft to the north, downhill and 530 ft to the west, also down a hillside.

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

The older home on site is multiple levels and difficult for an 85 year old to manage easily and safely. She wishes to stay on her property of over 60 years in a one level small cottage home. This home will allow her to manage her later years in comfort and peace with family nearby.

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## V-17-20 FLOOR PLAN OF PROPOSED DWELLING



## V-17-20 SITE PHOTOS



# Staff Report

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CASE NUMBER: V-18-20  
ADDRESS: 5524 Watson Road, Greenwood  
Section 29, Township 14, Range 5  
PETITIONER: Tyler Schnell

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## REQUEST

VARIANCE OF USE of the Johnson County Zoning Ordinance to provide for a landscape contractor's office and yard (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 this request.

## PROPERTY DESCRIPTION

This 5-acre property is zoned A-1 (Agricultural), and is improved with a single-family residence and accessory structure. It is surrounded to the east, west, and north by parcels of similar size used for single-family residential and agriculturally. To the south are large tracts of agricultural fields, with an occasional single-family residence.

## VARIANCE OF USE REQUEST

This Variance of Use request, if approved, would allow the subject property to be used as a landscape contractor's office and yard. The petitioner started commercial operation sometime after purchasing the property in April 2019. The petitioner lives in the residence. Per the submitted Plan of Operation, this proposed use at this location will be for the storage of tools, equipment, materials, and a business office. This is a service-based company where work will be performed at customers' property. Employees will arrive at this location and will also report directly to the jobsite. No customers will visit the property. Some waste from a job site is brought back to the property and disposed of on-site.

## **Plan of Operation Summary**

- Hours of Operation
  - Seasonal Business between the months of April through October.
  - Monday through Friday 7 am – 5 pm and Saturdays during peak season
- 25 employees
- Material, equipment and tools are stored outside and inside an enclosed structure
- The proposed site plan indicated the petitioner will construct a 40 X 60 structure

## COMPREHENSIVE PLAN

The Future Land Use Map of the Comprehensive Plan recommends Agriculture as the best use of the area. The intended uses of agriculture are agricultural practices and limited residential. One of the policies expressed in the Comprehensive Plan is to minimize the intrusion of non-agricultural uses into designated agricultural areas. This use variance request is not consistent with the land use recommendations.

The staff understands the convenience the variance might afford the petitioner. However, staff ultimately asserts that the use is not compatible with the Comprehensive Plan and existing land uses of the area, particularly given the propensity of such use, which is outdoor-storage-intensive, to expand over time. Staff, therefore, recommends denial of this request.

## VARIANCE OF DEVELOPMENT STANDARDS - COMMERCIAL LANDSCAPE AND PARKING

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 drive and parking area in the rear of the property for the operation of the business. The gravel area will also lack curbs and stall striping, whereas the zoning ordinance requires all commercial parking and maneuvering areas to be paved and curbed and to have parking stalls marked in paint.

This request also seeks to waive the buffering landscaping which would be required between it and the residential uses around the property. Specifically, the zoning ordinance requires a landscape buffer with a minimum width of twenty feet, planted with staggered rows of shrubs and trees at least six feet in height. The property currently has a few mature trees that border the west property line and north area of the property.

Staff would regard the ongoing use of gravel as a surface for the parking and maneuvering area associated with this use to be generally appropriate and suitable for the area, should the Board favor grant of the associated Use Variance. Similarly, should the Board favor grant of the Use variance, staff would support some deviation from the required commercial landscaping, as described below.

## STAFF ANALYSIS OF FINDING OF FACTS - USE VARIANCE REQUESTS

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

Staff Analysis: The proposed use would be starkly inconsistent with the predominantly residential and agricultural uses in the area, and would represent an inappropriate intrusion of heavy commercial activity.

**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 use would be starkly inconsistent with the predominantly residential and agricultural uses in the area, and would represent an inappropriate intrusion of heavy commercial activity.



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

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

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

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

Staff Analysis: 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

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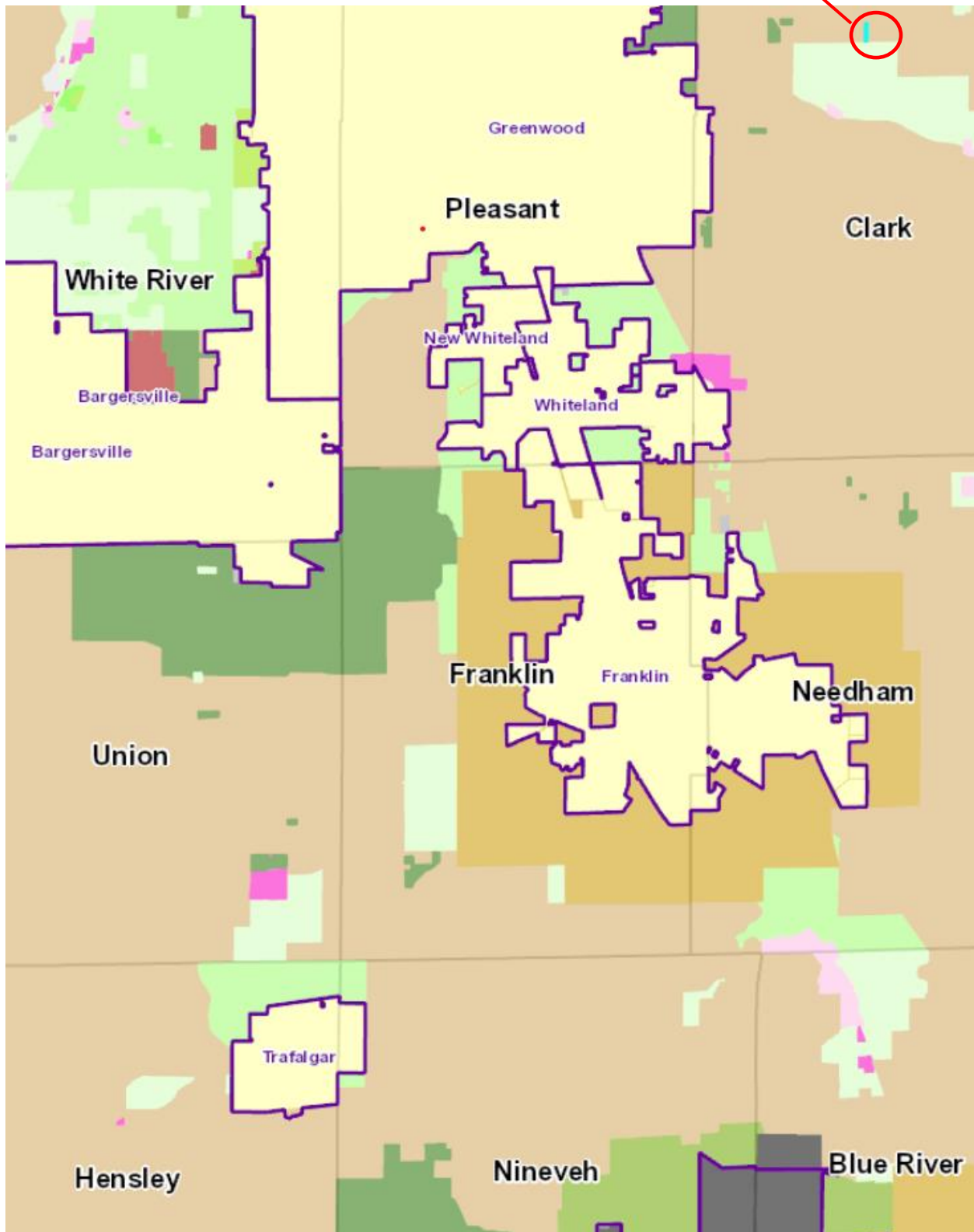
Applicant: Tyler Schnell  
5524 Watson Road  
Greenwood, IN 46143

Owner: Same

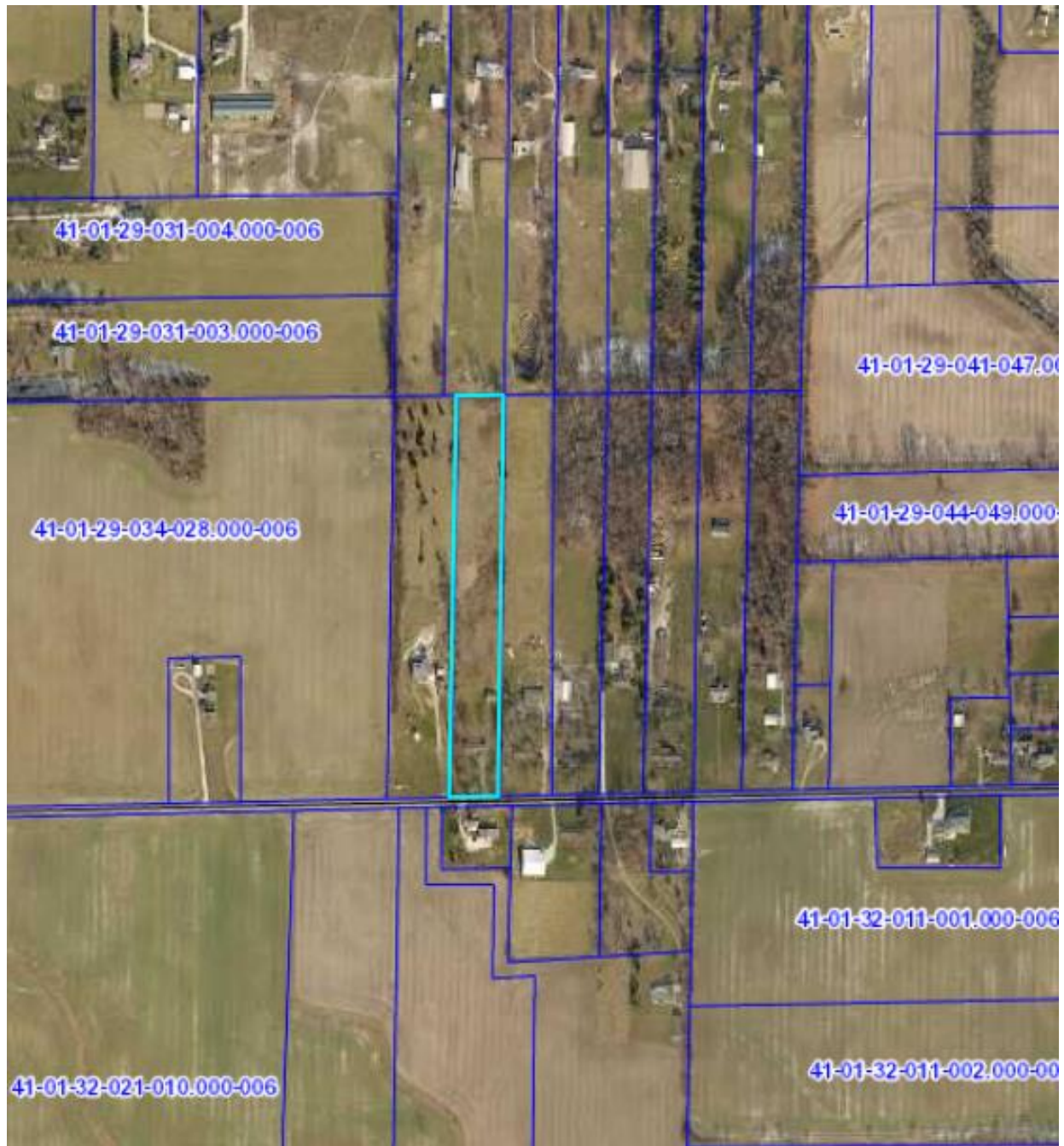
Zoning: A-1, Agricultural  
Land Use: Residential/Commercial  
Future Land Use: Agricultural

## V-18-20 VICINITY MAP

Subject Site

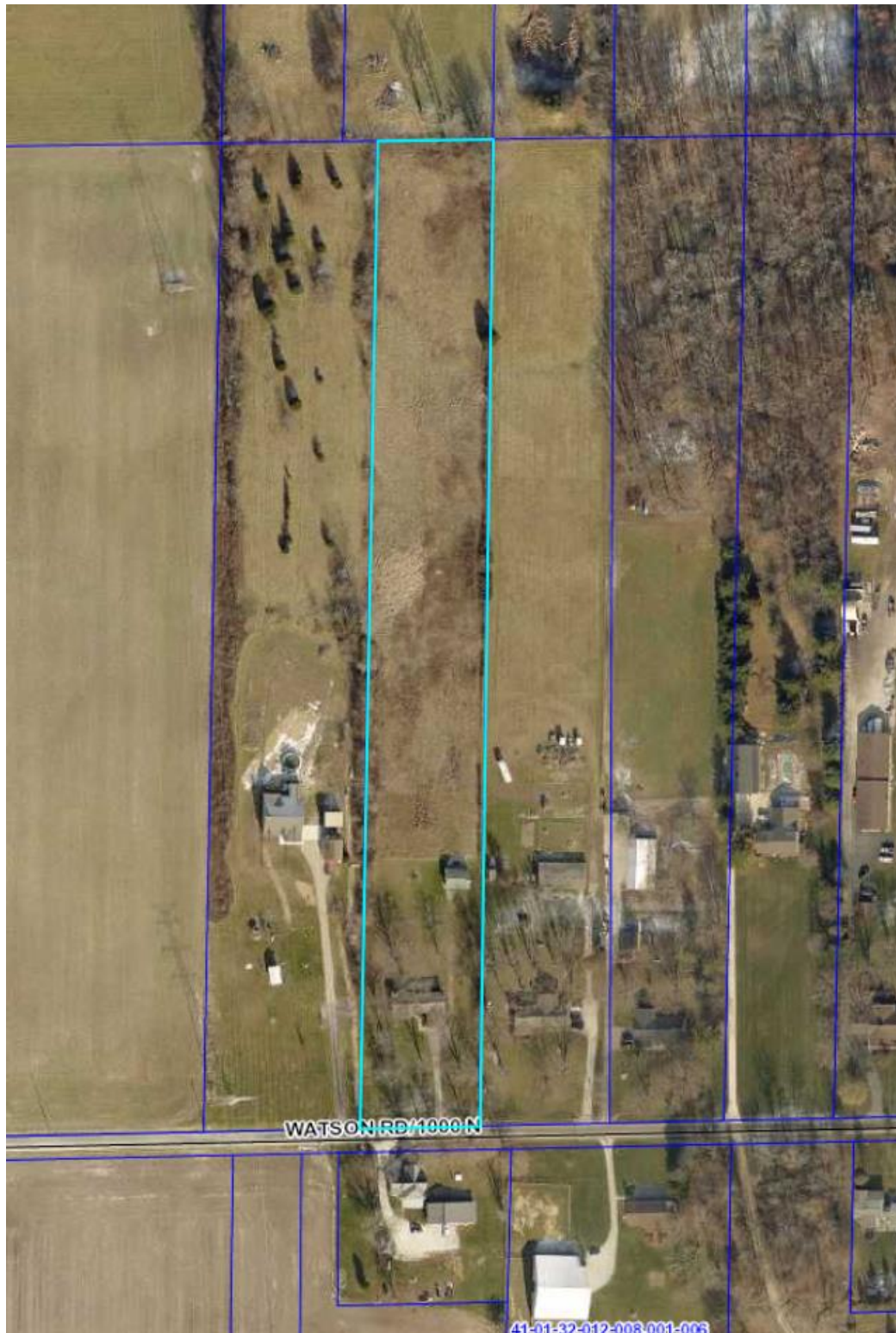


## V-18-20 BASE MAP I

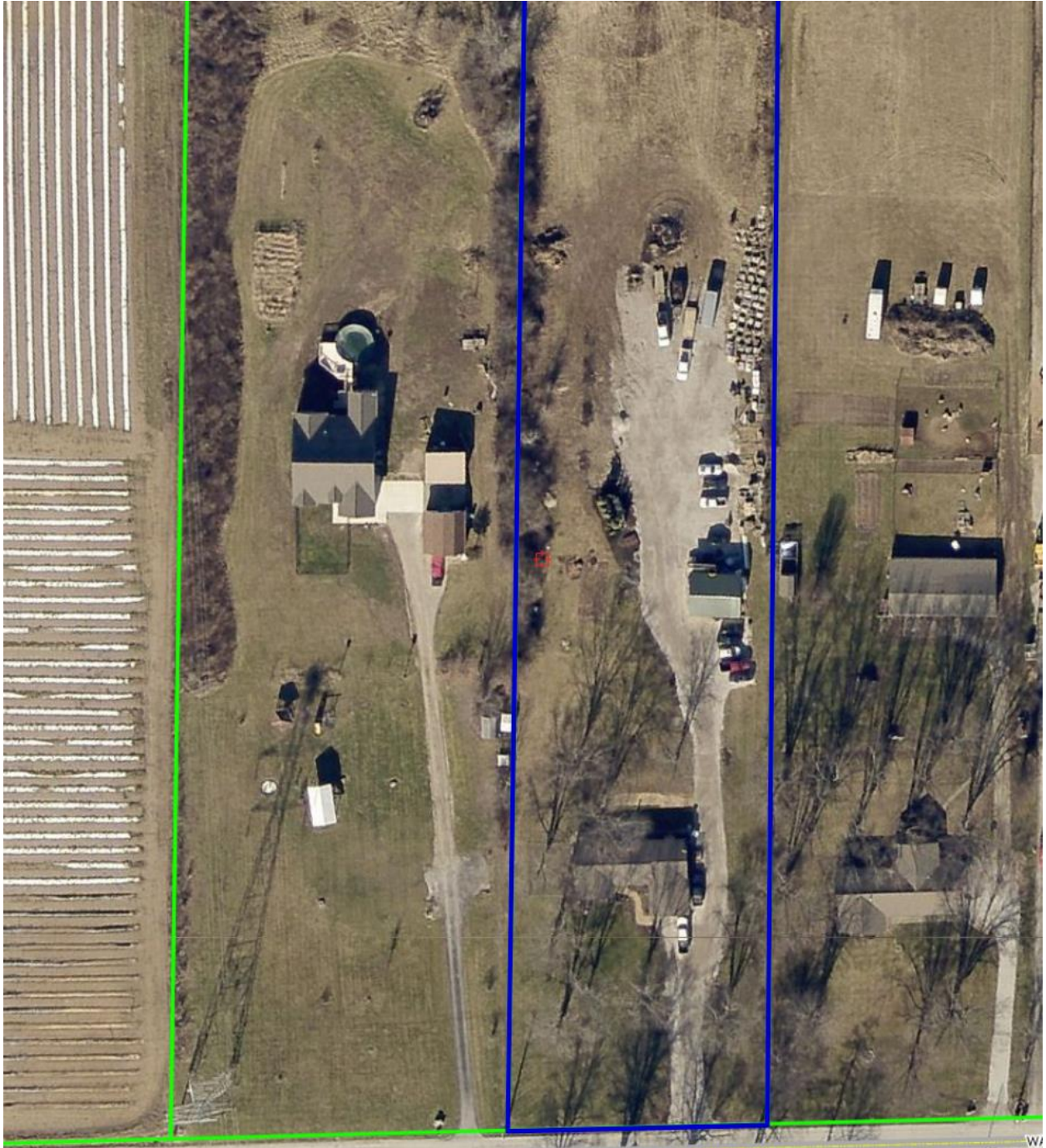




## V-18-20 BASE MAP II (2018 AERIAL)



## V-18-20 2020 AERIAL





## **V-18-20 PLAN OF OPERATION**

### **Plan of Operation**

JMT Landscape Group LLC Plan of Operation to include the following

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**Customers-** No customers use the facility as it for storage of materials and equipment for daily operations. We are a service based company and do have customers visit our location.

**Employees-** JMT employees roughly 25 employees in peak season (April-Oct) with a majority of the employees directly reporting to the jobsite.

**Shipping/Receiving-** The shipping/receiving hours are only during the business day and there are only a minimum number of times deliveries are made directly to the shop as we prefer them go directly to the jobs we are working on.

**Waste Handling-** The onsite weekly dumpster is picked up every Thursday by a trash company. This a small 7 yd dumpster that is used for trash and debris gathered throughout the week.

**Hours Of Operation** are from 7am to 5pm.

**Materials-** Materials stored and used onsite are pavers, gravel, stone, wood, plants, mulch and other misc items that are to be used throughout the season on jobs. Materials are to be stored in a clean manner for easy access.

**Site Activities-** The site is used to load and unload materials by JMT. There is not manufacturing or employees that stay at the location throughout the day.



# V-18-20 SITE PLAN



## V-18-20 PETITIONER'S FIND 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 Petitioner's light commercial use of the property is limited to storage of vehicles and equipment and one small office space within the barn. Customers do not visit the barn, and Petitioner does not typically make more than one trip to and from the barn on work days. The Petitioner's use of the property does not create any additional traffic, noise, odors or other disturbances. The Petitioner's use of the property is less disruptive to the neighborhood than agricultural 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:**

The current barn is relatively small and is set back 350 feet from the road, far behind the residence and in line with a much larger barn on a neighboring property. Many of the surrounding properties have significantly larger barns, which are presumably used for agricultural purposes. With the location of the barn and the little to no traffic caused by the business, passersby may not even notice that Petitioner's barn is used for a light commercial purpose rather than a residential or agricultural purpose. Further, Petitioner plans to add additional landscaping and a privacy fence.

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

The property has already been developed for uses that would include both residential use and agricultural or light commercial use. The barn used by Petitioner was built by a previous owner.

**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 already been used for a light commercial purpose without any complaints from neighbors or community members, and is substantially similar to how other properties in the area are currently used.

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

While this use is commercial, it is light commercial that is comparable to agricultural use and therefore does not interfere substantially with the Comprehensive Plan. Again, the current use of the property is less disruptive to the neighborhood than agricultural use.

## V-18-20 SITE PHOTOS









Storage of materials and vehicles