



## 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  
September 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 August 25, 2020 meeting.

### PUBLIC HEARINGS

#### -CONTINUED PETITIONS

None.

#### -NEW PETITIONS

V-19-20. Rick Hamm. Vacant lot north of 1070 S 550 E, Franklin. .... Page 3

VARIANCE OF USE of the Johnson County Zoning Ordinance to provide for a 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.

V-20-20. Lynn Jelinek. 4946 Old Smith Valley Road, Greenwood. .... Page 16

VARIANCE OF USE of the Johnson County Zoning Ordinance to allow for an excavation/construction contractor's office and yard (not permitted on residentially-zoned property).

VARIANCES OF DEVELOPMENT STANDARDS of the Zoning Ordinance to:

1. Waive commercial parking requirements (paved surface, curbs, and stall striping), and
2. Waiver commercial landscaping requirements

VARIANCE OF DEVELOPMENT STANDARDS of the Zoning Ordinance to allow for the construction of a 3,700-square foot pole barn, resulting in a total accessory building area of 3,956 square feet (maximum 678 square feet total accessory building area allowed).

#### OLD BUSINESS

None.

#### NEW BUSINESS

#### REPORTS AND RECOMMENDATIONS

Accessory Dwelling Unit Discussion. .... Page 31

Preliminary discussion about a future amendment to the zoning ordinance to allow for accessory dwelling units, in certain limited circumstances, by right. (This is a preliminary discussion only; there will be no vote.)

#### ADJOURNMENT

The next regular meeting of the Johnson County Board of Zoning Appeals is scheduled for Tuesday, October 27, 2020 at 7:00 PM.

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# Staff Report

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CASE NUMBER: V-19-20  
ADDRESS: the 1.5-acre vacant lot north of 1070 South 550 East, Franklin  
Section 29, Township 12, Range 5  
PETITIONER: Rick Hamm

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## REQUEST

VARIANCE OF USE of the Johnson County Zoning Ordinance to provide for a 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 approval subject to substantial compliance with the submitted Plan of Operation and site plan, and the following condition:

There shall be no outdoor storage of equipment or materials associated with the business.

## PROPERTY DESCRIPTION

This 1.5-acre property, Lot 1 of Hamm's Minor Plat, is zoned A-1 (agricultural) and is unimproved. To the south is Lot 2, which is improved with a single-family dwelling. The property is surrounded by larger parcels of land currently used agriculturally. Immediately to the north is the city limits of Franklin.

## VARIANCE OF USE REQUEST

This Variance of Use request, if approved, would allow the subject property to be used as a contractor's office and yard. The petitioner resides in the residence on Lot 2 and operates a well drilling business. The petitioner plans to construct a 4,224 square foot building to store business equipment and materials.

The Johnson County Zoning Ordinance defines a contractor's office and contractor's office as the following:

*CONTRACTOR'S OFFICE: Any building or structure used as the permanent place of business for a general contractor or tradesman, but where the site does not include the outdoor storage of construction equipment, material, and company vehicles.*

*CONTRACTOR'S YARD: Any developed or vacant land used as a place of storage for a general contractor or tradesman, including the storage of construction equipment, material, and company vehicles.*

As proposed, this request would allow use of this location for the storage of tools and equipment related to the contractor operation, which is otherwise run by the property owners through the residence, similarly to a home occupation.

The petitioner has submitted a Plan of Operation, which is included in this report. Any approval of this Variance of Use should be subject to adherence to that Plan of Operation, which:

- limits Hours of Operation to Monday through Friday, 8 am to 5 pm
- limits number of on-site employees to two, namely the two petitioners/property owners.
- states that there will be no on-site visits from customers.

The land north of the property is in the City of Franklin's limits. It is zoned Industrial and is planned for future industrial growth. A contractor's office and yard is a permitted use in a Light Industrial District in Johnson County. The light industrial use on 1.5 acres parcel would be compatible to long-term plan for industrial use in the City of Franklin, and being, isolated, would not create hardship or nuisance for adjoining. For these reasons, staff recommends approval.

#### 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 use a gravel drive and parking area 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 required buffering landscaping. However, staff determined that this portion of the request is not actually necessary, and should be withdrawn, because the subject property does not abut a residential use.

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.

#### 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 while operating. Construction of the pole barns would require building permits and compliance with all building codes before passing final building inspections.

**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: Indoor storage of business equipment and materials would allow the appearance of the property to remain consistent with neighboring properties.

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

Staff Analysis: Indoor storage of business equipment and materials would allow the appearance of the property to remain consistent with neighboring properties. The nearby development of industrial buildings lessens the desire to use this property residentially.

**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 future decrease in desirability for residential use due to the increase of industrial development north of the property supports low-intensity industrial use of the property that does not negatively impact nearby existing residential uses

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

Staff Analysis: The request would be generally inconsistent with the land use recommendations of the *Johnson County Comprehensive Plan*, which recommends agricultural use and development of the site. However, the City of Franklin's Comprehensive Plan recommends industrial use for this area and the area to the north. With the size of the lot and the recommendation, a low-intensity industrial use of the property is supported.

#### STAFF ANALYSIS OF FINDING OF FACTS - DEVELOPMENT STANDARDS VARIANCE

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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 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: Rick and Vacinda Hamm  
1070 South 550 East  
Franklin IN 46131

Owner: same

Zoning: A-1 (Agricultural)

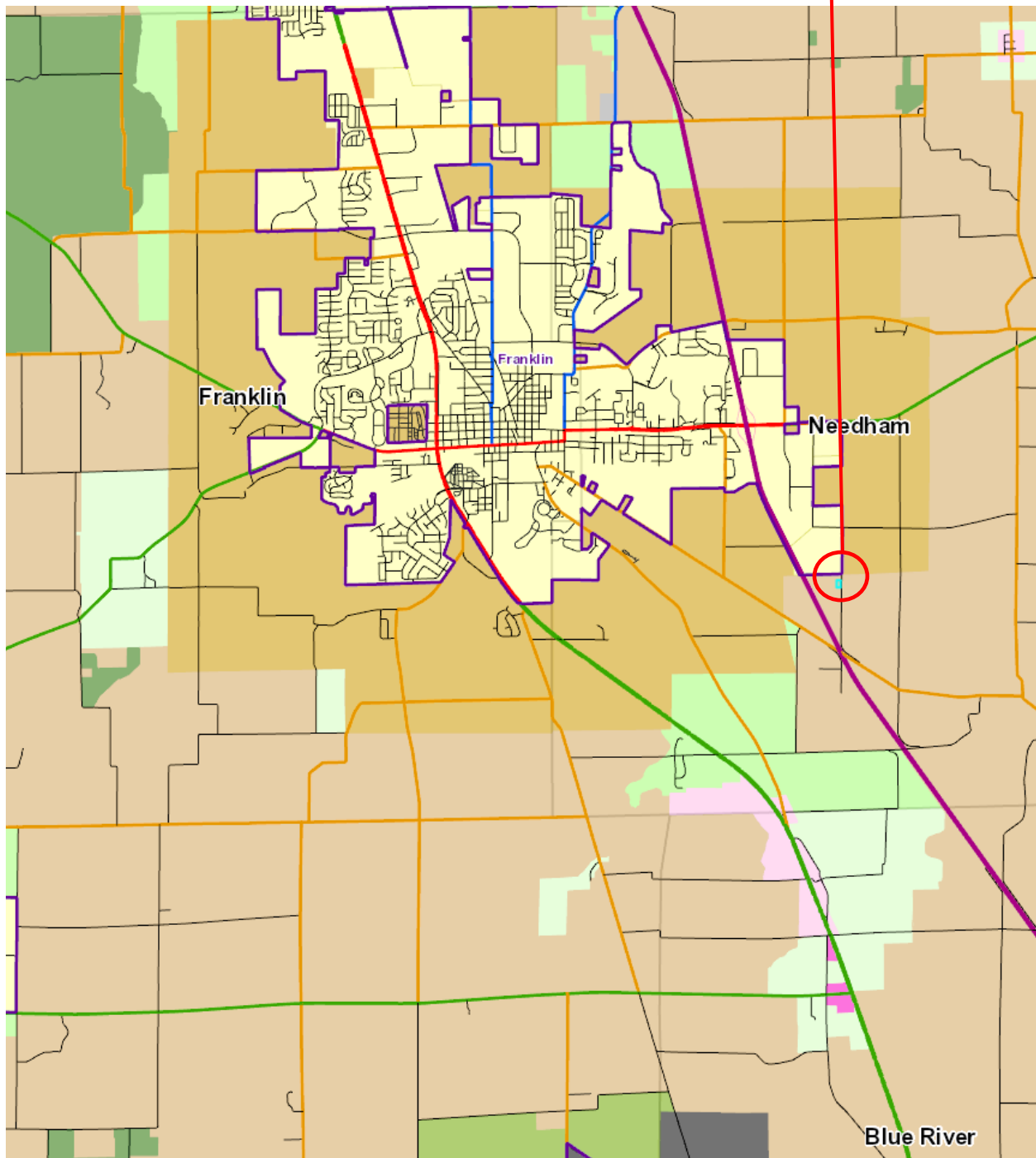
Land Use: Single-family Residential & Agricultural

Future Land Use: Agricultural

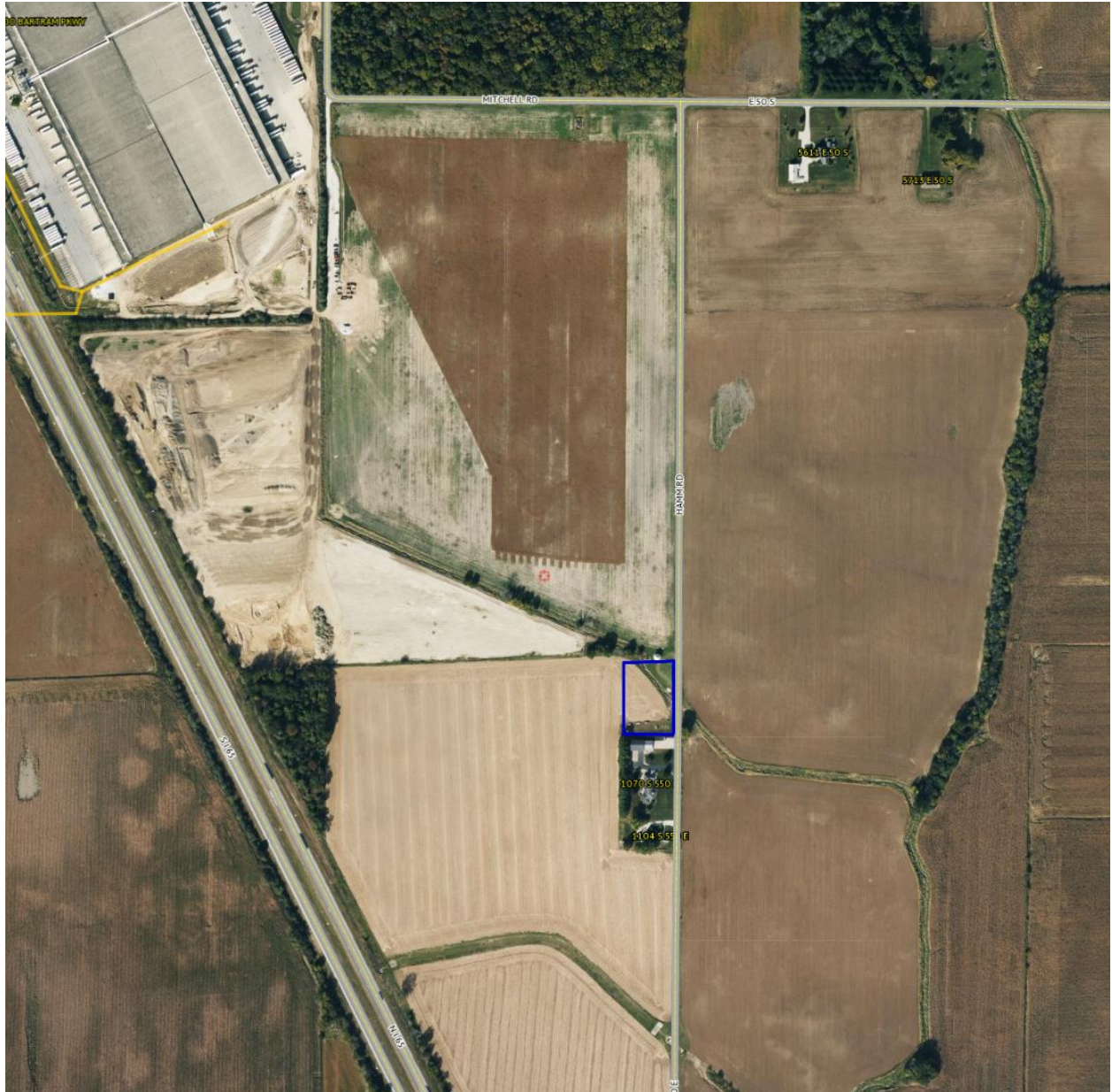
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## V-19-20 VICINITY MAP

**Subject Site**

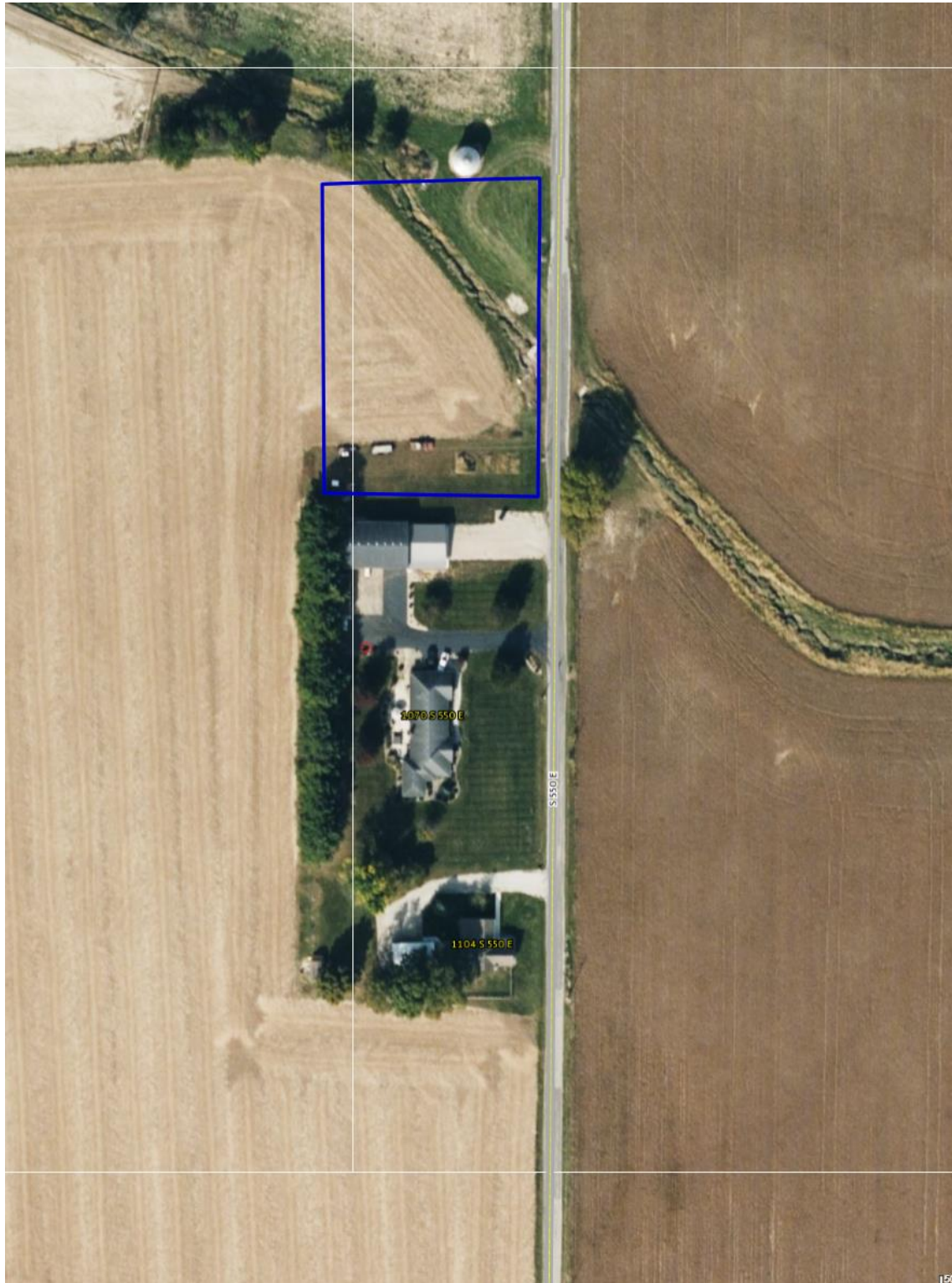


## V-19-20 BASE MAP I

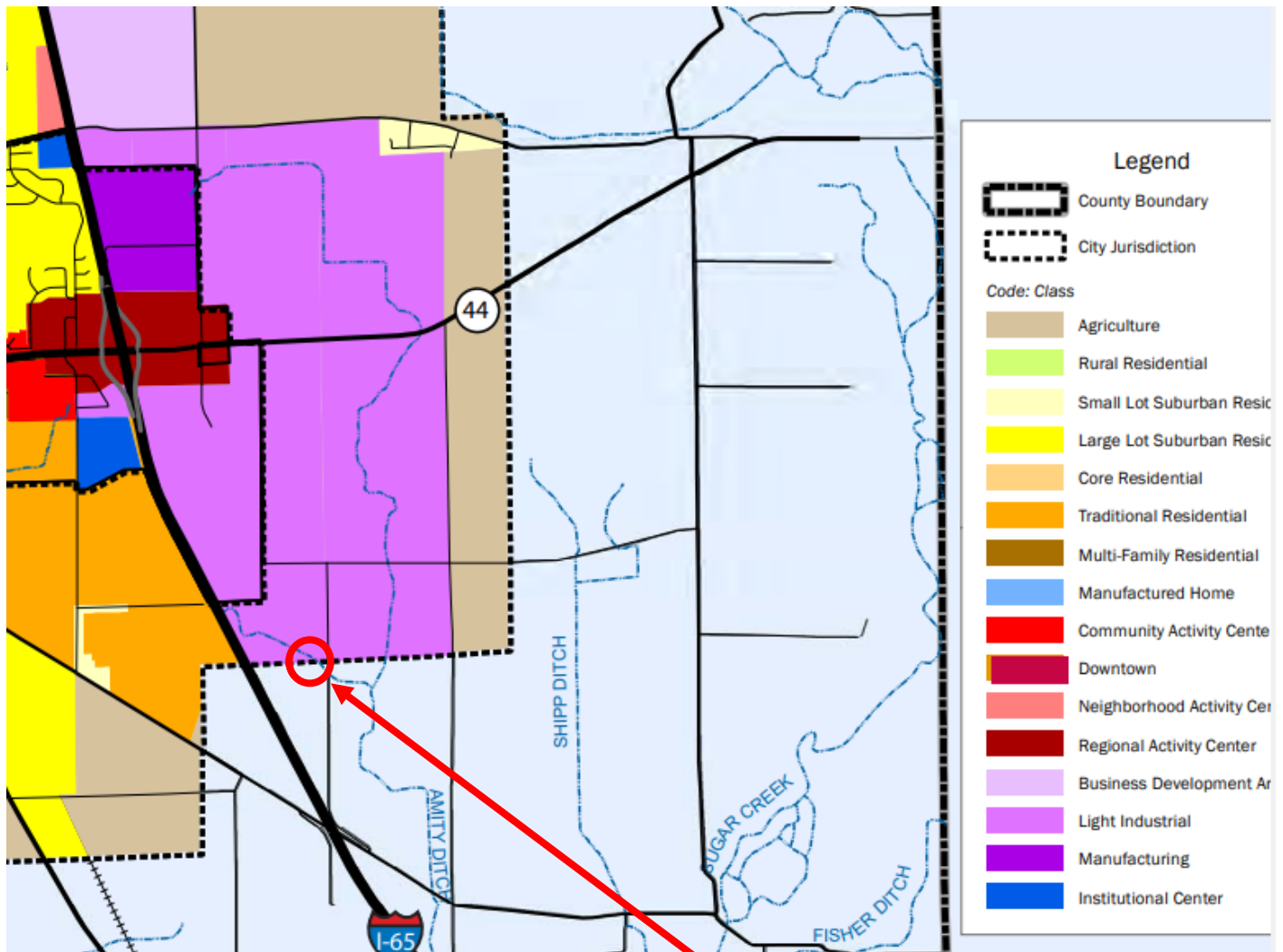




## V-19-20 BASE MAP II



**V-19-20 CITY OF FRANKLIN – COMPREHENSIVE PLAN  
FUTURE LAND USE MAP**



## **V-19-20 PLAN OF OPERATION**

### **PLAN OF OPERATION**

Owner/Operator: Rick L. Hamm, DBA: Hamm Well Drilling

Employees: None

Sub-Contractor: One

Customers: Do not support retail sales

Shipping: None

Receiving: Receive supply shipments on Fridays  
Receive UPS and Fed Ex; once-twice a month

Waste Handling: Commercial service weekly pick-up

Hours of Operation: 8am-5pm, Mon-Fri

Materials Used: PVC casing, poly pipe, silica sand, bentonite, steriline, water pumps, pressure tanks and  
brass or pvc fittings

Storage and Display: Primarily inside only

Site Activities and Operations: Loading of equipment and supplies



## V-19-20 SITE PLAN



## V-19-20 PETITIONER'S FIND OF FACT –USE VARIANCE

### FINDINGS OF FACT, USE VARIANCE

JOHNSON COUNTY BOARD OF ZONING APPEALS

1

Case Number: \_\_\_\_\_

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

\_\_\_\_\_ Area is, mostly a farming 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 because:

\_\_\_\_\_ It is commercial and agricultural property, in this area.

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

\_\_\_\_\_ Property was previously sub-divided for residential. (1989). The bordering property to the north is now zoned commercial. Has been annexed by the city of Franklin. making the lot not desirable property to build a home on.

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.

\_\_\_\_\_ Property is no longer viable for its intended use when sub-divided to a lot (to build a house). Property will serve a better purpose as pole barn storage building.

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## V-19-20 PETITIONER'S FIND OF FACT DEVELOPMENT STANDARD VARIANCE

### 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:

Area is a farming community. A pole barn storage building will not be impactful to any of the above concerns.

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:

Adjacent area is commercial and agricultural.

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

Land is no longer desirable for building a home. Will be better suited for a pole barn.



## V-19-20 SITE PHOTOS



# Staff Report

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CASE NUMBER: V-20-20  
ADDRESS: 4946 Old Smith Valley Road  
Section 3, Township 13, Range 3  
PETITIONER: Lynn Jelinek, by John Young

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## REQUEST

VARIANCE OF USE of the Johnson County Zoning Ordinance to allow for an excavation/construction contractor's office and yard (not permitted on residentially-zoned property).

VARIANCES OF DEVELOPMENT STANDARDS of the Zoning Ordinance to:

1. waive commercial parking requirements (paved surface, curbs, and stall striping), and
2. waive commercial landscaping requirements

VARIANCE OF DEVELOPMENT STANDARDS of the Zoning Ordinance to allow for the construction of a 3,700-square foot pole barn, resulting in a total accessory building area of 3,956 square feet (maximum 678 square feet total accessory building area allowed).

## STAFF RECOMMENDATION

Staff recommends **denial** of these requests.

## PROPERTY DESCRIPTION

This two-acre property is zoned R-2 (Single-Family Residential) and is improved with a single-family dwelling and an accessory structure. It is surrounded by residential neighborhood development.

## VARIANCE OF USE REQUEST

This Variance of Use request, if approved, would legally establish an existing excavation/construction contractor's office and yard, which specializes in mobile home installation. The business operates from the property and the proprietor and his family live in the associated single-family dwelling. The majority of the business materials and equipment has historically been kept off-site., However, in recent years the property owner has moved most of the business equipment and materials to the subject property. Neighbors in the area have contacted this office in recent months complaining about the expansion of the commercial use of the property. Exhibits included in this staff report show the operational evolution of the property over the last two years.

As of the writing of this report, the petitioner has not submitted a full Plan of Operation, but has indicated the following operational parameters:

- The proposed use would involve the storage of materials, tools, equipment and vehicles, and the operation of a business office, all associated with a contractor specializing in mobile home installation.



- The subject site would not be visited by associated customers or employees.
- No mobile homes would be stored on the property.

The petitioner proposes to construct a 3,700-square foot pole barn building to replace the existing barn to store the equipment and materials used by the company. A second, 256-square-foot accessory structure will remain on site.

#### COMPREHENSIVE PLAN

This use variance request is inconsistent with the land use recommendation of the Comprehensive Plan, specifically the 2017 White River Township Updated Future Land Use Map, which recommends Town Residential development and uses for this site. The Town Residential land use classification is intended to provide for compact single-family neighborhoods similar to the neighborhoods that surround this property, which were platted and developed in the 1950s and 1960s.

The Plan also establishes the area adjacent to this parcel as a critical area meriting special attention, and specifically recommends protecting established residential properties from commercial encroachment. Commercial Use and development should generally be limited to the Morgantown Road node.

Additionally, notably, the current road system is not adequate to handle the proposed use of heavy commercial vehicles used by the petitioner.

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 to expand over time, as indeed, this use already has. Staff, therefore, recommends denial of this request.

#### VARIANCE OF DEVELOPMENT STANDARDS - COMMERCIAL LANDSCAPE AND PARKING AND ACCESSORY STRUCTURE SIZE

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.

#### 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 uses in the area, and would represent an inappropriate intrusion of industrial 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 uses in the area, and would represent an inappropriate intrusion of industrial 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 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 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, 2017 White River Township Updated*, which recommends Town Residential use and development of the site.

#### GENERAL INFORMATION

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Applicant: John Young, Esq.  
Young and Young  
40 W Court St. Suite D  
Franklin IN 46131

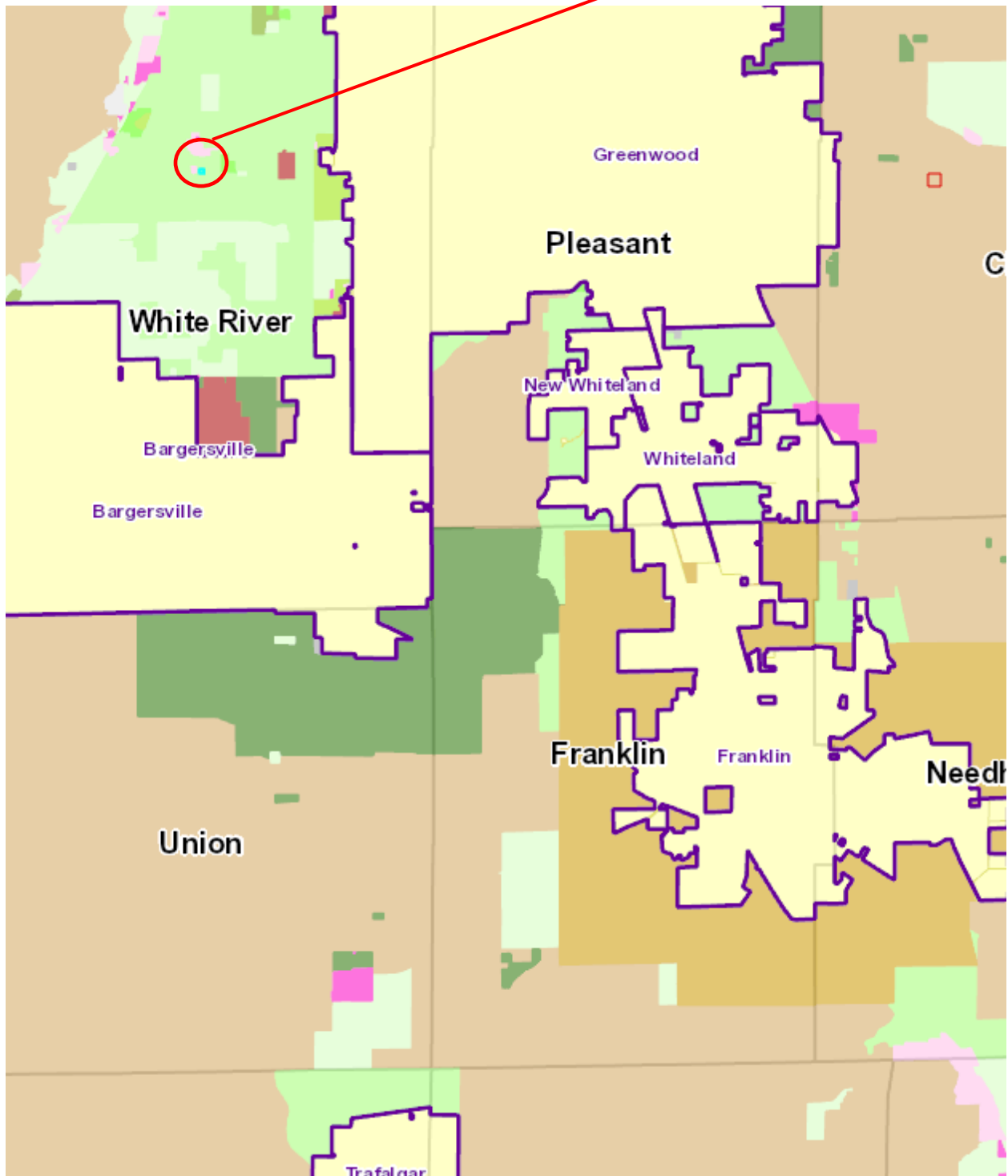
Owner: Karen and Lynn Jelinek  
4946 Old Smith Valley Road  
Greenwood, IN 4614

Zoning: R-2  
Land Use: Residential/Commercial  
Future Land Use: Town Residential

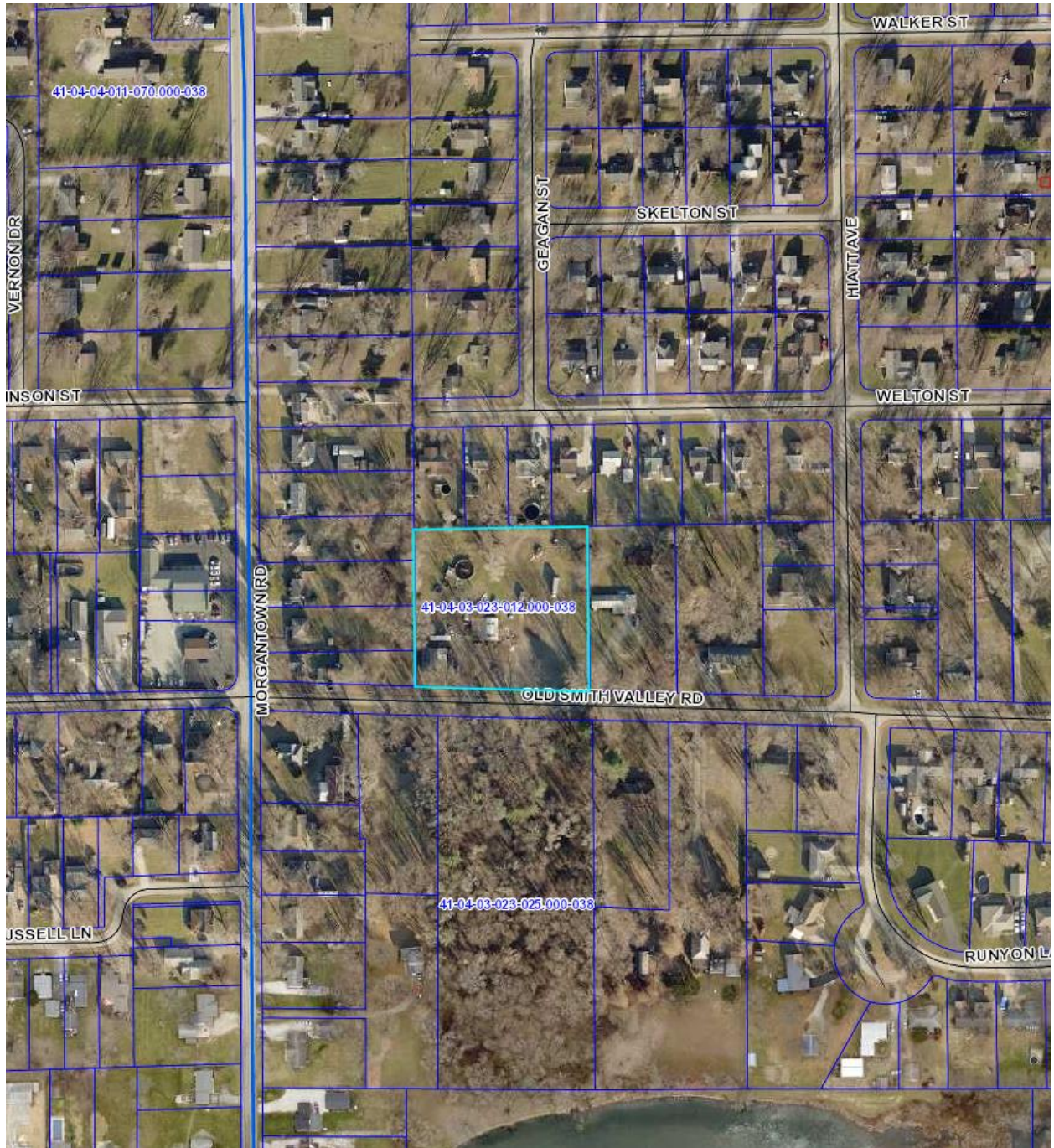
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## V-20-20 VICINITY MAP

**Subject Site**



## V-20-20 BASE MAP I





## V-20-20 BASE MAP II

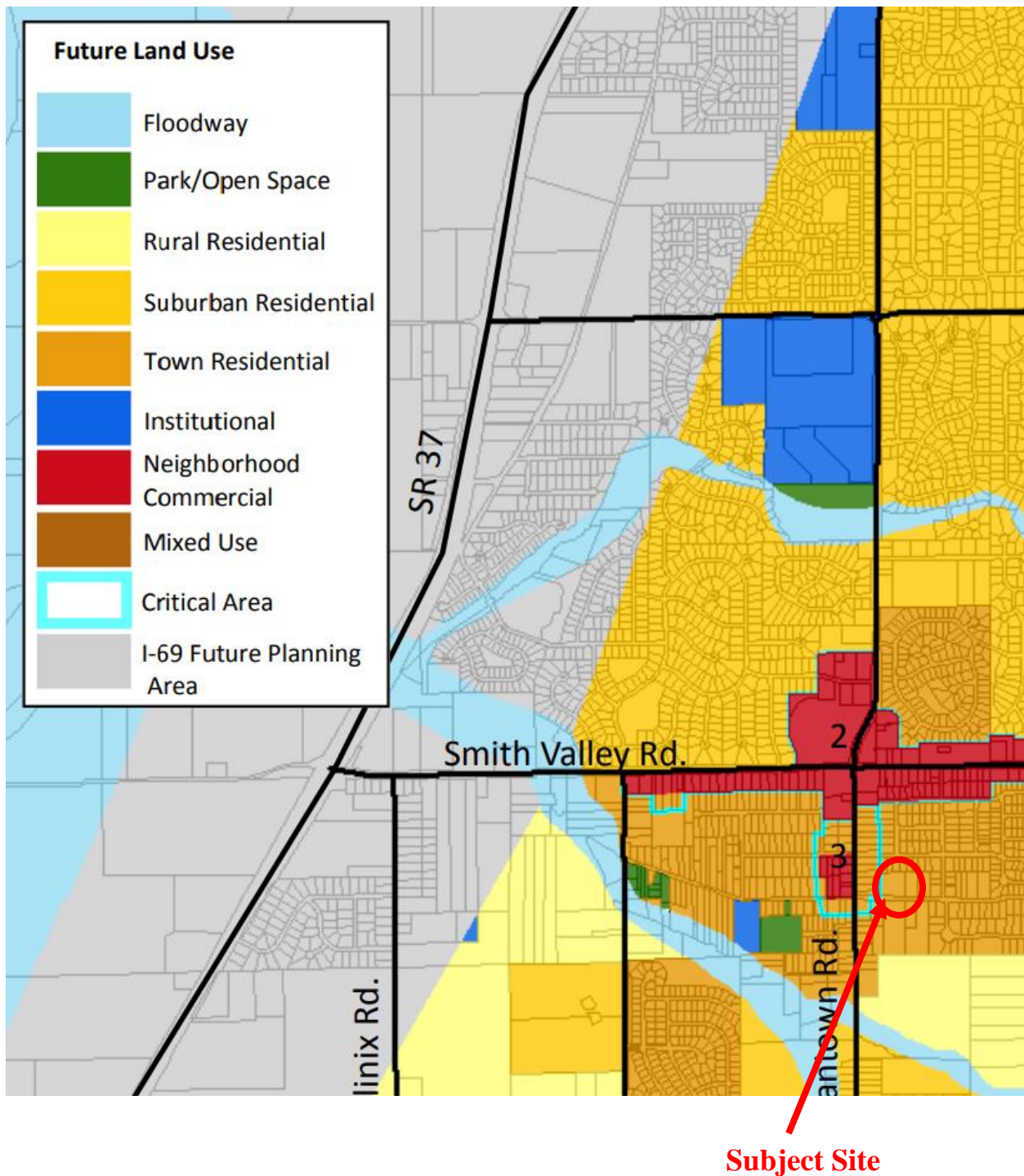




## V-20-20 BIRDS EYE VIEW



## V-20-20 WHITE RIVER TOWNSHIP FUTURE LAND USE MAP



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

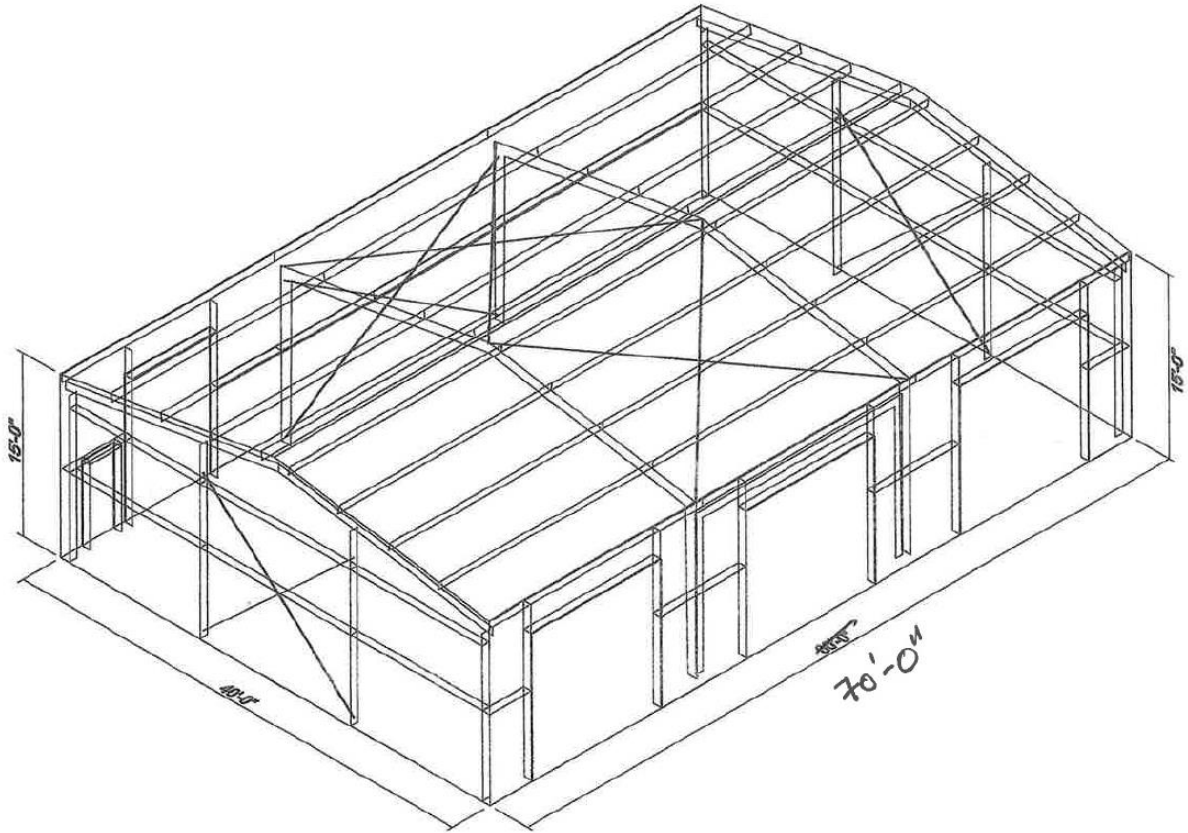
### Narrative

Petitioner operates a small business upon the subject property that installs/constructs mobile homes/trailers. The work typically includes excavation work with Petitioner's own equipment. Work would be performed offsite of the property, with the exception of loading/unloading materials or equipment (this does not include bringing or storing mobile home trailers at the property), work on equipment, or prep work. Petitioner would not operate an office on the property open to the general public. Petitioner does not have any employees other than himself. Independent contractors that Petitioner utilizes for his business may perform some prep work on the property from time to time. There would be no signage or advertising of a business on the property.





## V-20-20 PROPOSED STRUCTURE ELEVATION



## **V-20-20 PETITIONER'S FIND OF FACT –USE VARIANCE / DEVELOPMENT STANDARD VARIANCE (Page 1 of 2)**

### Combined Findings of Fact, Use Variance and Development Standards Variance

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

The subject property consists of Two (2) Acres. Petitioner's proposed use of the property, in addition to his residence, is a contractor's yard. Petitioner's proposed development plan would provide for inside storage of any materials and/or equipment by demolishing an older barn on site and constructing a new barn/garage. The existing nonconforming use will not be enlarged, only the size of the storage building. The proposed use will not create any noxious or offensive conditions. Petitioner further plans on constructing a privacy fence 6'-8' in height to surround the property

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:

Petitioner will continue to utilize his property as his primary residence. Currently on the property exists an old barn that is a nonconforming structure under the ordinance. Petitioner would be replacing the structure with a larger (40' width x 70' length x 15' height) barn/garage that would allow for the storage of equipment and materials, and provide an enclosed work space. The front of the barn/garage will have an awning extending an additional 30', spanning over a 30'x30' poured concrete pad. The proposed improvements to the lot will likely increase the property's value by replacing an aging building with a new one. Petitioner's proposed use of the lot would not diminish or have a negative impact on surrounding property values because it would primarily be used for inside storage of equipment/vehicles, and would not have any impact on the use or enjoyment of neighboring properties.

Surrounding property values have remained steady or increased over the years notwithstanding the fact that an aging building has been utilized for storage of business related property that has existed on the property for some time. If the new building has any effect on property values, it is more probable that the effect will be to increase values.

## **V-20-20 PETITIONER'S FIND OF FACT –USE VARIANCE / DEVELOPMENT STANDARD VARIANCE Page 2 of 2**

The surrounding property is currently developed and likely to remain so, regardless of whether the variance is allowed or not. The prior use and development of the property did not hinder orderly development of the surrounding lots.

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

The property is unique to the neighborhood due to its large lot size (approximately 2.08 acres). The property stabled horses in the past, and developed around that prior use. The barn existing on the property is a nonconforming use due to it being too large as an accessory structure. The need for the variance arises because historically the property developed for multiple uses (residential and stabling horses), and would be best utilized resuming an additional use other than residential. The property is not amenable to further subdivision to allow additional residential structures.

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:

In addition to the findings on No.3 above, under the ordinance, contractor's yards are not allowed in R-2 zoned districts. Petitioner seeks this variance primarily to allow him to store equipment and materials he owns for his business on the property. The zoning ordinance contemplates similar permitted uses in an R-2 zoned area for what Petitioner is proposing, including agriculture use, schools and religious institutions. Those permitted uses, particularly agriculture, would allow for the storage of heavy equipment and materials (i.e. trucks, excavators, tractors, buses, farm implements, drainage tile, fencing material, etc.), which is not inconsistent with Petitioner's proposed use. Further, the activities that would occur on Petitioner's property (i.e. working on equipment, loading/unloading materials, or building/repairing fence/decking) would be no different than the types of activities that would occur if it was used for agriculture or as a school or religious institution. Inability to develop the property further for permitted residential uses constitutes a hardship in that it impairs Petitioner's ability to fully develop his property.

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

If Petitioner's variance is granted, it would allow him to construct a new and larger barn on the property. The addition of that accessory building is compatible with the surrounding developed properties. When the use of the property as a contractor's yard ceases, the property would remain residential and the addition of the barn would not affect such use. Because of these factors, Petitioner's proposed use (primarily for storage purposes) and development of the property would not interfere with the Comprehensive Plan.

Accessory buildings to residential structures are allowed under R-2 zoning. The only real issue relates to the size of the building, which might be problematic under the Comprehensive Plan guidelines if this were a typical small residential lot, however, this lot is Two (2) Acres, more than 6x as large as what is required for lot size in R-2 zoning (which is 3.5 buildings per acre).



## V-20-20 2017 AERIAL PHOTOGRAPH





## V-20-20 SITE PHOTOS



## Accessory Dwelling Unit Regulations – DRAFT ELEMENTS

### *Introduction*

The following draft language is proposed as an eventual amendment to the Johnson County Zoning Ordinance. If adopted, the amendment will allow, by right, for the development of accessory dwelling units on residential lots within unincorporated Johnson County, under certain circumstances. At present, such accessory dwelling units are only allowed following grant of a variance by the Board of Zoning Appeals. This language is provided here, on September 29, 2020, will serve only as an initial jumping-off point for conversation.

### *Existing Zoning Ordinance Definitions*

**DWELLING:** A permanent building, or portion thereof, designed or used exclusively for residential occupancy, including single-family, two-family and multiple-family dwellings, but not including hotels, motels, lodging houses, or mobile homes.

**DWELLING UNIT:** One (1) or more rooms which are arranged, designed or used as living quarters for one family.

**FAMILY:** One (1) or more persons, each related to the other by blood, marriage or adoption, or a group of not more than three (3) persons not so related, together with his/their domestic servant(s), maintaining a common household in a dwelling unit. A family may include not more than two (2) roomers, boarders or permanent guests, whether gratuitous or not.

### *Proposed Additional Zoning Ordinance Definitions*

**ACCESSORY DWELLING, ATTACHED:** A dwelling unit with independent means of ingress and egress, which includes full kitchen and bathroom facilities and living and sleeping areas, and which is physically attached to or contained within an existing primary dwelling. The phrase “physically attached to” shall refer to an enclosed and controlled space connected by common walls and foundation, but shall not refer to an unenclosed or uncontrolled breezeway.

**ACCESSORY DWELLING, DETACHED:** A dwelling unit with independent means of ingress and egress, which includes full kitchen and bathroom facilities and living and sleeping areas, and which is physically detached from the primary dwelling on the same lot.

### ***Proposed Accessory Dwelling Regulations Components***

- Attached and detached accessory dwellings shall be allowed by right:
  - on all lots zoned A-1 (Agricultural) or RR (Rural Residential),
  - on all lots zoned R-1, R-2, R-3 (all single-family districts) or R-4 (multifamily district) which are not in a minor or major subdivision, and
  - on lots zoned R-1, R-2, R-3 or R-4 in a platted minor or major subdivision, provided said subdivision's recorded plat explicitly allows for accessory dwellings.
- Otherwise, attached and detached accessory dwelling units shall be allowed on lots used only by grant of Special Exception.
- There may be no more than one accessory dwelling unit per lot.
- An accessory dwelling unit's building area shall be no greater than 35% of the building area of the associated primary dwelling, and no greater than 1,000 square feet.
- The property owner's primary residence must be the primary or the secondary dwelling.