



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
March 28, 2023, 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 February 28, 2023 meeting.

PUBLIC HEARINGS

-CONTINUED PETITIONS

None.

-NEW PETITIONS

V-3-23. Dustin Caplinger. 6234 W. Horseshoe Rd. Morgantown Page 3

VARIANCES OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to allow for an accessory structure that is:

- a) 2 feet from the side setback (10 feet required) and
- b) 5 feet from the rear setback (20 feet required).

UB-1-23. Michael Kloess. 5729 N 75 W, Whiteland..... Page 14

Public Hearing to affirm unsafe building order at 5729 N 75 W, Whiteland Land for two unsafe structures.

OLD BUSINESS

None.

NEW BUSINESS

Adoption of Findings for V-1-23 DSV 1 and 2Page 20

REPORTS AND RECOMMENDATIONS

None.

ADJOURNMENT

The next regular meeting of the Johnson County Board of Zoning Appeals is scheduled for Tuesday, April 25, 2023 at 7:00 PM.

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STAFF REPORT

CASE NUMBER: V-03-23
ADDRESS: 6234 W Horseshoe Rd, Morgantown
PETITIONER: Dustin Caplinger

REQUEST

VARIANCES OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to allow for an accessory structure that is:

- a) 2 feet from the side setback (10 feet required) and
- b) 5 feet from the rear setback (20 feet required).

STAFF RECOMMENDATION:

Staff recommends the **approval** of both variance requests.

PROPERTY DESCRIPTION

The parent parcel for this proposed parcel is located in Hensley Township at the address 6234 W Horseshoe Rd. This 3.67-acre site is zoned A-1, Agricultural, and is improved with a single-family dwelling with an attached garage and various accessory structures. Portions of the property are wooded.

VARIANCE OF DEVELOPMENT STANDARDS – SIDE SETBACK

This request seeks to provide for the development of an accessory structure with a 2-foot setback from the side property line. The zoning ordinance requires a 10-foot setback from the side property line for any structure in an A-1 zoning district.

In 2017, the petitioner was approved to construct the barn and lean-to 2-feet from the side property line. At the time, the ordinance stated that accessory structures in the front yard, so the petitioner had to located the structure as far back on the property as possible so it was not closer to the road than the existing home.

Due to the old ordinances and the approval of the 2-foot side variance, the barn is located in a part of the property that makes it difficult to expand. According to the 2017 staff report the location was also chosen due to the orientation of the house and driveway. The ten (10) foot side setback requirement allows for open space, provides for privacy between properties, and reduces the likelihood of accidentally building over a property line. The house and accessory structures on the adjoining property to the south sit over 100 feet from the location of the proposed barn. The view from the south is also obstructed by a line of mature trees.

While staff does not like to encourage increasing the size of structures already encroaching on setbacks, the additional 20 feet will not negatively affect the neighboring property owner, unless otherwise noted by them.

Staff, therefore, recommends approval of this request.

VARIANCE OF DEVELOPMENT STANDARDS – REAR SETBACK

This request seeks to provide for the development of an accessory structure with a 5 foot setback from the rear property line. The zoning ordinance requires a 20-foot setback from the side property line for any structure in an A-1 zoning district.

While there are other location available to place the lean-to for the RV now that the front yard restriction is less, logically and esthetically, the proposed location is the best option. The house and accessory structures on the adjoining property to the east sit over 500 feet from the location of the proposed barn. The view from the east is also obstructed by a line of mature trees. Therefore, the barn should have little to no impact on the use and enjoyment of the adjoining property to the east. The structure is not viewable from the road or the property to the west.

Here, the configuration of the established primary dwelling, driveway, septic system, mature tree growth, and existing barn limit the available places to logically place an accessory structure to house the RV.

Staff, therefore, recommends approval of this request.

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.**

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

- 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 existing barn on the property already sits 2 feet from the property line to the south and the Planning and Zoning office have received no complaints regarding that structure since the 2017 was approved. The house and accessory structures on the adjoining property to the east sit over 500 feet from the location of the proposed barn. Therefore, the barn should have little to no impact on the use and enjoyment of the adjoining properties.

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

Due to previous ordinances and variance approvals, the configuration of the established primary dwelling, driveway, septic system, mature tree growth, and existing barn limit the available places to logically place an accessory structure to house the RV.

GENERAL INFORMATION

Applicants: Dustin & Breanna Caplinger
 6234 W Horseshoe Rd.
 Morgantown, IN 46160

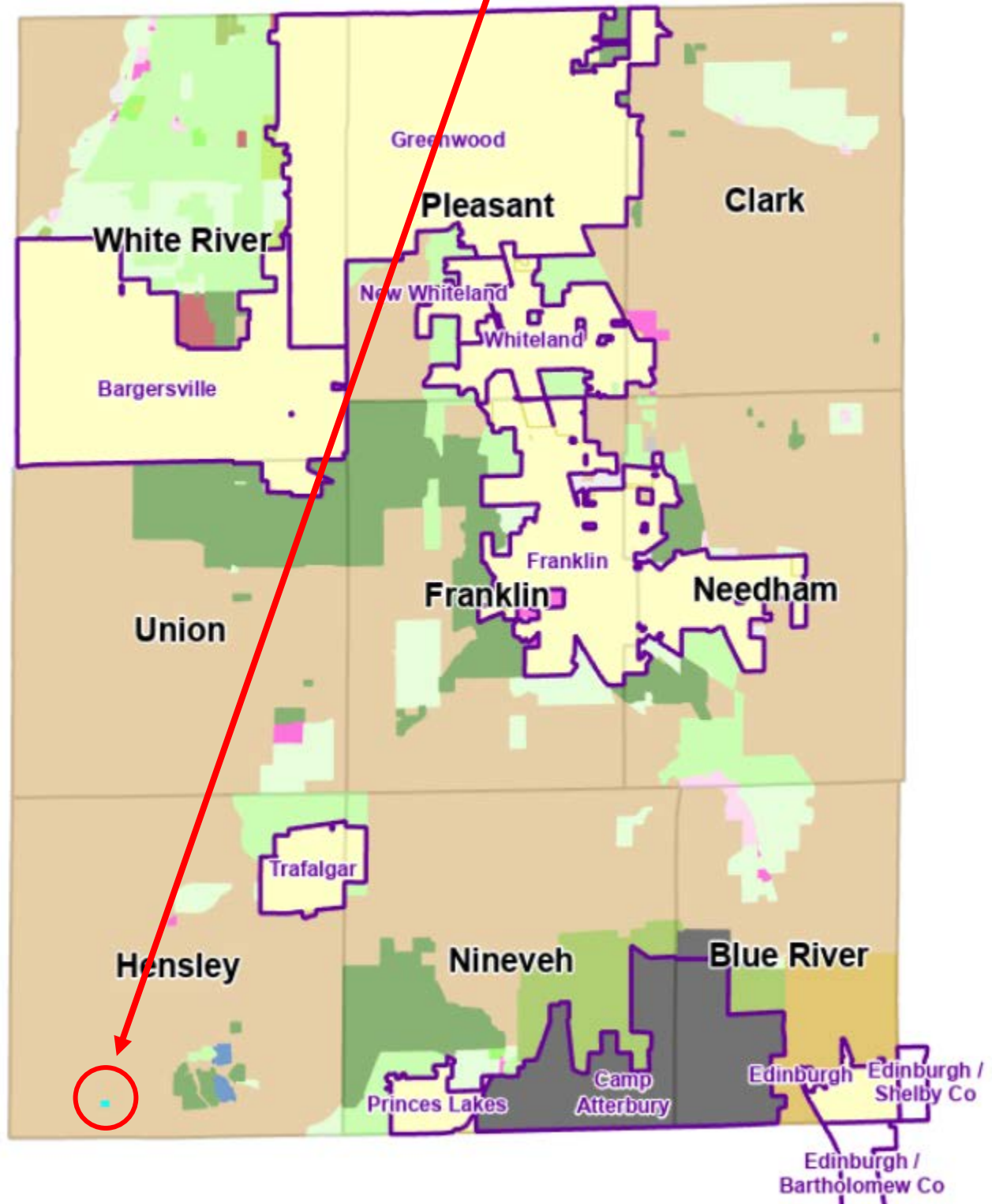
Owners: Same

Zoning: Agricultural
Land Use: Residential
Future Land Use: Agricultural

-RLS

V-03-23 BASE MAP

SUBJECT SITE



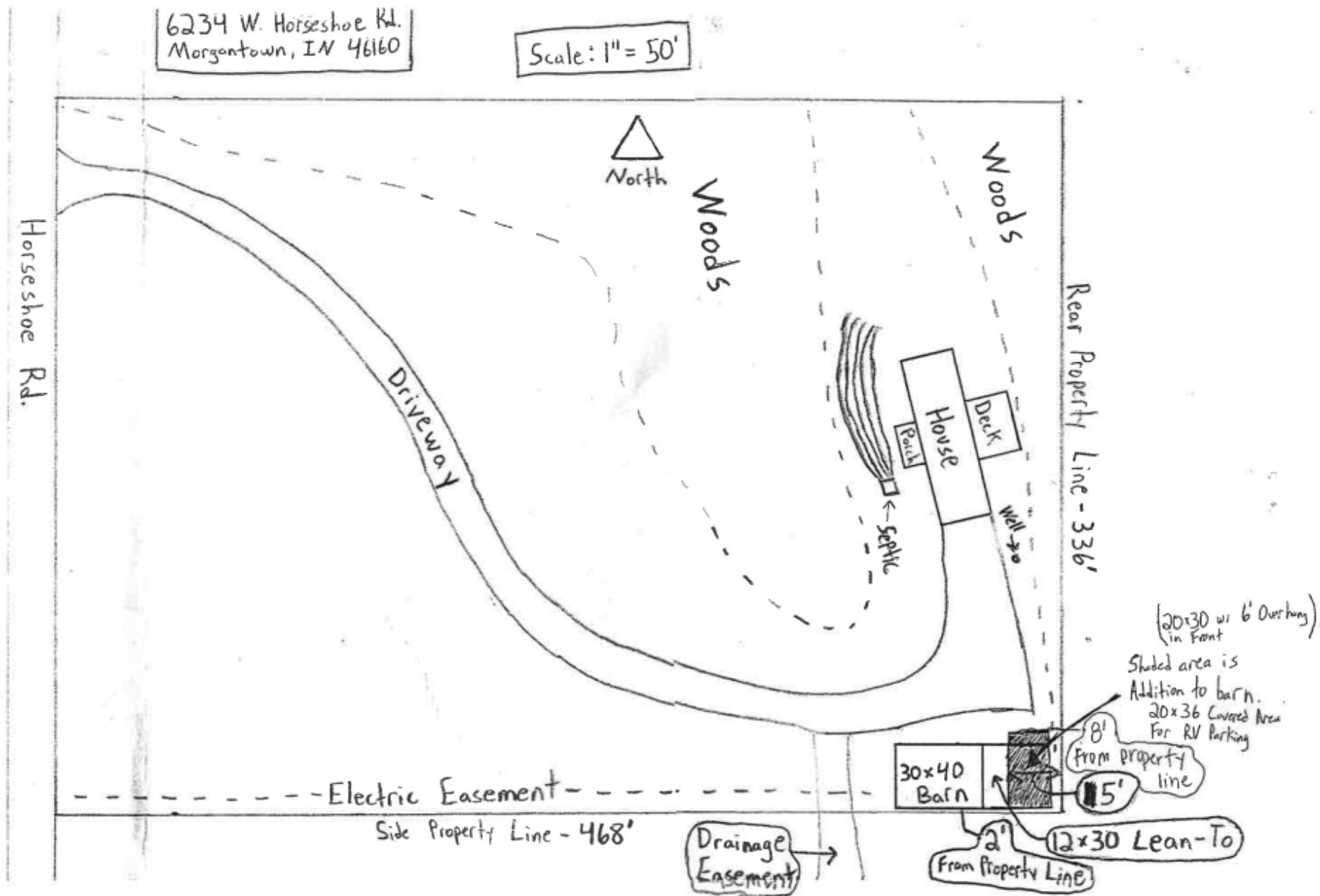
V-03-23 AERIAL MAP



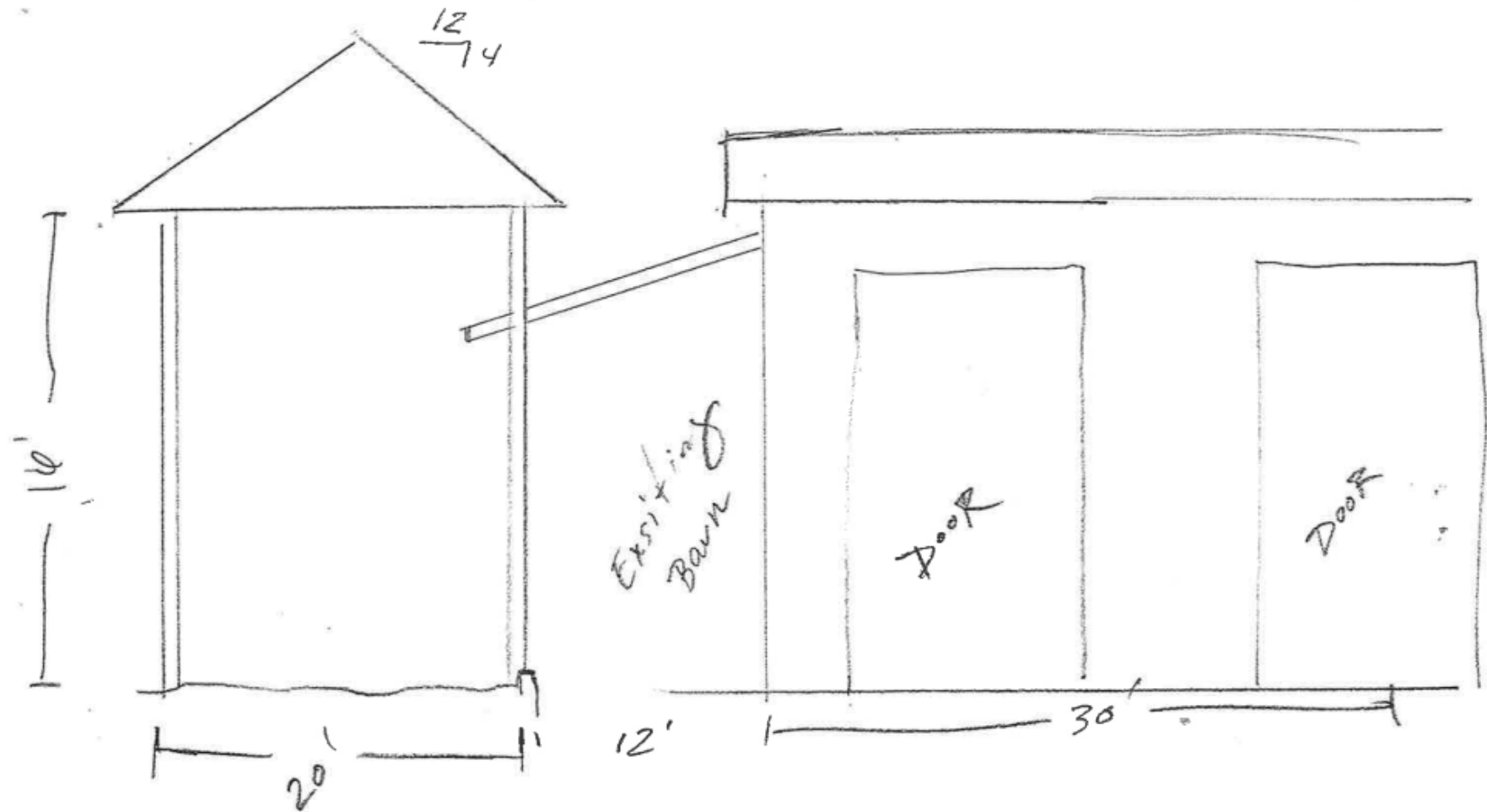
V-03-23 AERIAL MAP II



V-03-23 PROPOSED SITE PLAN



V-03-23 PROPOSED ELEVATION



North View

V-03-23 PETITIONER FINDINGS OF FACT

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

It is not near anyone or anything.

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 not near anyone's house or blocking the views of anyone or anything. One side is a field with a barn and the other side is just a field that no one is ever in.

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

This is only spot I can add on to my barn to be able to park my camper in. The front fields are too hilly and the front yard houses my septic so I can't go past it. There is overhead power lines and a drainage easement to the other side of my existing barn. This is also the only spot that I can get my camper spun around and parked in.

V-03-23 SITE PHOTOS



View of Proposed Structure



Staff Report

CASE NUMBER: UB-01-23
ADDRESS: 5729 North 75 West, Whiteland, IN 46184
OWNER: Michael Kloess

UNSAFE BUILDING ORDINANCE - REQUIRED HEARING FOR DEMOLITION 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 and detached garage be sealed or removed.

PROPERTY DESCRIPTION

This 8-acre site is located in Section 20, Township 13, Range 4 of Pleasant Valley Township.

The site is improved with an older, failing single-family dwelling and a 900 square foot detached garage. The property heavily overgrown with weeds and grass.

UNSAFE BUILDING VIOLATION

Staff issued an Unsafe Building Ordinance (UBO) Violation on February 27, 2023 after receiving a complaint from citizens of Johnson County and subsequently visiting the site. The property owner, currently residing in elsewhere in Indiana. Notice was sent certified to the address of the property and first class mail. Both letters have been returned to the office. There is no forwarding address on file. The owner has not responded. In addition to mailing, the property was posted with an notice.

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. The structure is fully available for infiltration by vermin and wildlife, and stands as a significant blighting element within the neighborhood.

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 5729 N 75 W, Whiteland, be sealed or removed.

GENERAL INFORMATION

Owner: Michael Kloess
Zoning: A-1

-MNH

UB-01-23 BASE MAP I



Subject site

UB-01-23 AERIAL PHOTO



UB-01-23 VIOLATION LETTER AND ORDER (Page 1 of 2)



JOHNSON COUNTY

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

Phone (317) 348-4350
Website: www.co.johnson.in.us

February 27, 2023

Case Number: UB-01-23

Delivered via First-Class Mail and Certified Mail Number: 9214 8901 0661 5400 0183 6940 92

MICHAEL A KLOESS
5729 N 75 W
Whiteland, IN 46184

Michael Kloess and/or interested parties of 5729 N 75 W, Whiteland, IN 46184

An inspection of the property you own at 5729 N 75 W, Whiteland, Indiana 46184, 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 this property a single-family dwelling and a detached garage stands vacant, dilapidating, apparently abandoned, and with openings in the roof and windows, 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 detached structure, and repair any openings in the roof and exterior no later than April 28th, 2023, in accordance with required permits issued by the Johnson County Department of Planning and Zoning, OR
- b) Remove all structures no later than April 28th 2023, in accordance with a demolition permit issued by the Johnson County Department of Planning and Zoning.

Property Details

Address: 5729 N. 75 W., Whiteland Indiana 46184
Parcel ID#: 41-05-20-024-015.000-033
Brief Legal: NW S20 T13 R4

UB-01-23 VIOLATION LETTER AND ORDER (Page 2 of 2)

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 **March 28th 2023, at 7:00 PM**, in the public auditorium of the West Courthouse Annex Building, 86 West Court Street, Franklin, Indiana.

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 April 28th, 2023 you do not take the actions ordered above, or succeed in having the Order rescinded or modified at the March 28th, 2023 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 mhansard@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,

Michele Hansard, Director
Johnson County Department of Planning and Zoning

V-14-22 Findings

Findings of Fact: Variance of Development Standards, Commercial Parking, and commercial landscape requirements

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

The proposed use would be regularly used commercial property by several individuals. The lack of landscaping will not provide an adequate buffer to the existing residential homes in the area.

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 gravel parking would not adversely affect the surround properties.

3. The strict application of the terms of the Zoning Ordinance will not result in practical difficulties in the use of the property.

The property does not present any difficulties that would prevent the commercial development from fulfilling the standard of a commercial parking lot and landscape. The property is large in size where the standards can be met.
