



**JOHNSON COUNTY**

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

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**MEETING AGENDA**

Johnson County Board of Zoning Appeals  
April 25<sup>th</sup> 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 March 28, 2023 meeting.

PUBLIC HEARINGS

-CONTINUED PETITIONS

None.

-NEW PETITIONS

V-4-23. Michael and Lynn Patton, 4703 S 537 E and 4691 S 537 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 the residentially 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

VARIANCE OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to provide for the allowance of 3,200 square feet of total aggregate accessory structures on an R-1 zoned property.

VARIANCE OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to allow for the outdoor storage of several unlicensed, hobby vehicles in an R-1

(Single Family Residential) District (maximum of one (1) unlicensed and/or inoperable vehicle permitted).

**OLD BUSINESS**

None.

**NEW BUSINESS**

None.

**REPORTS AND RECOMMENDATIONS**

None.

**ADJOURNMENT**

The next regular meeting of the Johnson County Board of Zoning Appeals is scheduled for Tuesday, May 23, 2023 at 7:00 PM.

# Staff Report

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**CASE NUMBER:** V-04-23  
**ADDRESS:** 4703 S 537 E and 4691 S 537 E, Franklin  
**PETITIONER:** Michael and Lynn Patton By Dustin Huddleston

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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 the residentially 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

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VARIANCE OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to allow for the outdoor storage of several unlicensed, hobby vehicles in an R-1 (Single Family Residential) District (maximum of one (1) unlicensed and/or inoperable vehicle permitted).

## **PROPERTY DESCRIPTION**

This petition covers two parcels with a combined size of 1.50 acres. These two parcels are shown as two but are in the process of being combined into one. The parcels are zoned R-1 (Single-Family Residential) and are improved with four structures, one being the applicant's residence. This property is located at a dead-end road South 537 East. It is surrounded to the north and east by small parcels that are developed residentially. To the west and south are two large parcels of land, one with a private lake and one used agriculturally. All properties are zoned R-1.

The property owners also own a property that abuts these two parcels on the east side at 4732 S 550 E. This property was not included on the applications.

## **PROPERTY HISTORY**

This property came to the attention of the department in 2021 when the Assessor's Office observed a new structure in the updated aerial photographs of the property. After referring to the Planning and Zoning Department files, it was determined that there were no permits issued to this property for a new structure. The property owners' were notified by the Planning and Zoning Department that a permit was required for the work that was done on the property. In

addition, after reviewing the submitted paperwork for the structure , Staff determined the structure was in violation of two development standards of the Zoning Ordinance. The structure was too close to the north property line and the structure was too large, therefore the Staff could not issue a permit. Over the course of several months, Staff attempted to work with the property owner to address the violation and had discussions on various land use petitions. However, the property owner failed to address the violations with any corrective action.

In 2022, Staff re-issued the violation letter since the property owner had not attempted to resolve any of the ongoing issues on the property. Since the initial violation letter, other activities in violation of the zoning ordinance have appeared on the property. The property owner is using the property for their plumbing contractor business. There are several locations on the property that have outdoor storage of plumbing materials and what appears to be multiple vehicles associated with the business. Additionally, the property owners are storing several inoperable vehicles on the property that are being used for the owner’s participation in demolition derbies. Only one violations has been resolved. The structure that was built too close to the property line has been resolved with the purchase of the second parcel that will be combined with this parcel.

The petitioner with the assistance of an attorney, has filed a land use petition in attempt to rectify the violations on the property. This petition is broken down into three main topics.

1. To legally allowed the use of a contractor’s office and yard
2. To legally allow an oversized accessory structure
3. To legally allow the storage up to 30 inoperable vehicles

**VARIANCE OF USE – CONTRACTOR’S OFFICE AND YARD**

If approved, this variance request would allow the petitioner to legally continue the use of the plumbing contractor’s business on-site with outdoor storage. This use is typically associated with employees going to job sites during the day. No customers or clients will visit this property. The petitioner has submitted a plan of operation for the Plumbing Business. See Page 13. The business will only operate Monday through Friday from 7:30 a.m. to 4:30 p.m. The Plan of Operation states only six employees, including the two property owners that reside on the property, will be at the property. It was not clear if there are any subcontractors that use this property.

The contracting business utilizes two structures on-site and outdoor space. One structure is an office and the other is for storage according to the submitted site plan. Various plumbing

materials, equipment, and vehicles are stored on the east side of the property. It is believed the petitioner may also use the driveway from S 550 E as another means of accessing the property.

South 537 East is a small local road that is not improved into a full two-lane road. This could cause issues with the traffic of the employees and deliveries. The Highway Department was asked to review the case and supply comments. Those comments are found in the exhibits of this staff report.

In agricultural, rural, and low-density residential areas, it may be reasonable, under certain circumstances, to consider certain lower-intensity commercial or industrial uses, which are not otherwise allowed by right, to represent a reasonable deviation from the requirements of the zoning ordinance and the recommendations of the Comprehensive Plan. Here, however, in a higher-density residential area with access only from local roads, a contractor's yard represents an exceptionally higher level of intensity than the norm for the area. The requested uses represent too far a deviation from any reasonable notion of acceptable land use expectations. Noise generated by the general operation of the business, loading and unloading materials, outdoor storage, and use of a dead-end road has the potential to greatly impact the enjoyment of nearby residential properties. Additionally, such higher-intensity uses tend to expand over time.

For these reasons, Staff recommends denial of the use variance request.

#### **VARIANCE OF DEVELOPMENT STANDARDS – COMMERCIAL DEVELOPMENT STANDARDS**

This Variance of Development Standards request, if approved, would allow for commercial use at this location without providing the paved maneuvering and parking areas and landscaping required of commercial properties. The property is improved with gravel. The lack of curbs, striping, and completely paved surfaces does not meet the required off-street parking standards of the Zoning Ordinance and thus requires the variance. The use would also need to incorporate landscape buffer strips to the north, east, and west which the property does not provide space to implement. The parking lot will also be in deficient of the perimeter landscaping requirement due to the limited space on the site.

The proposed development does not meet the Findings of Fact for a Use Variance. Therefore, Staff recommends that the Board dismiss the development standards variances due to irrelevancy.

#### **VARIANCE OF DEVELOPMENT STANDARDS - ACCESSORY STRUCTURE**

This Variance of Development Standard, if approved, would legally allow for combined square footage of 3,200 of all accessory structures which would exceed the 50% allowance. The Zoning Ordinance allows, on a lot zoned Single-Family Residential R-1, 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 1,616 square feet would allow for a total of 808 square feet

of accessory structure building area. There are three accessory structures on the property. An existing structure built in 1903 that is 832 square feet that is used for the contractor's office, an accessory dwelling that is 625 square feet, and the unpermitted structure that is 2,160 square feet. Prior to the construction in 2020, the barn use to be 768 square feet.

This variance is required to allow an unpermitted structure to remain on the property, if denied the applicant will be required to remove the structure. There are several properties in the area with multiple accessory structures, a few are relatively similar in the overall size of accessory structures. The primary dwelling does not have an attached garage. If this was presented to Staff prior to construction, staff would have supported the variance request for a residentially used accessory structure.

### **VARIANCE OF DEVELOPMENT STANDARD – INOPERABLE VEHICLE STORAGE**

This request, if approved, would allow the petitioner to store up to 30 unlicensed and/or inoperable vehicles on the property. The petitioner participates in demolition derby, off-site. This is separate from their contracting business. The petitioner stores several inoperable vehicles on the property for use during meets/competitions. They are currently stored on the north side of the property. Prior to the recent relocation, the vehicles were stored on the south side of the property, which can be seen in the aerials. Larger trailers are required for loading and unloading. Pictures are supplied in the staff report.

Noise generated by the activity and the unsightly storage of vehicles has the potential to greatly impact the enjoyment of nearby residential properties. Additionally, the activities and storage associated with the uses could expand over time.

For these reasons, Staff recommends denial of the use variance request.

### **FINDING OF FACTS - USE VARIANCE**

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

The proposed use would be inconsistent with the predominantly residential uses in the area.

**2. The use and value of the area adjacent to the property included in the variance will be affected in a substantially adverse manner.**

The proposed use would be inconsistent with the predominantly residential uses in the area. The storage of nonresidential items can be viewed from multiple properties and would greatly affect the value of area.

**3. The need for the variance does not arise from some condition peculiar to the property involved.**

The property is zoned and developed for uses permitted by the Johnson County Zoning Ordinance.

**4. The strict application of the terms of the Zoning Ordinance will not constitute an unnecessary hardship if applied to the property for which variance is sought.**

The property is zoned and developed for uses permitted by the Johnson County Zoning Ordinance.

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

The Comprehensive Plan states this area is the Camp Atterbury 1-mile buffer therefore it does not have a future land use recommendation. However Agricultural and residential land use are found on the north side of SR 252.

**GENERAL INFORMATION**

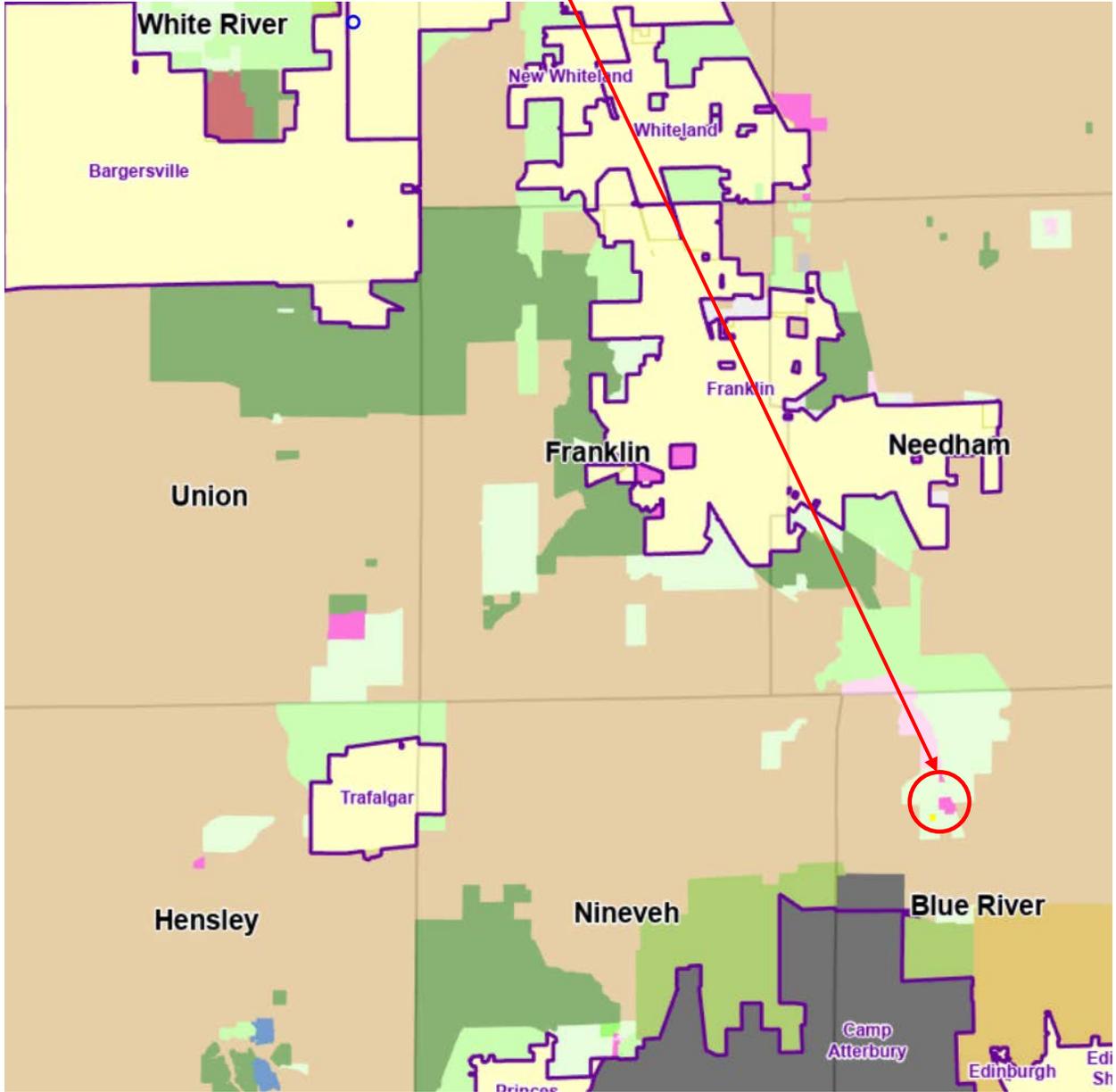
Applicant: Dustin Huddleston  
98 W. Jefferson St.  
Franklin IN 46131

Owner: Michael and Lynn Patton  
4703 S 537 E  
Franklin IN 46131

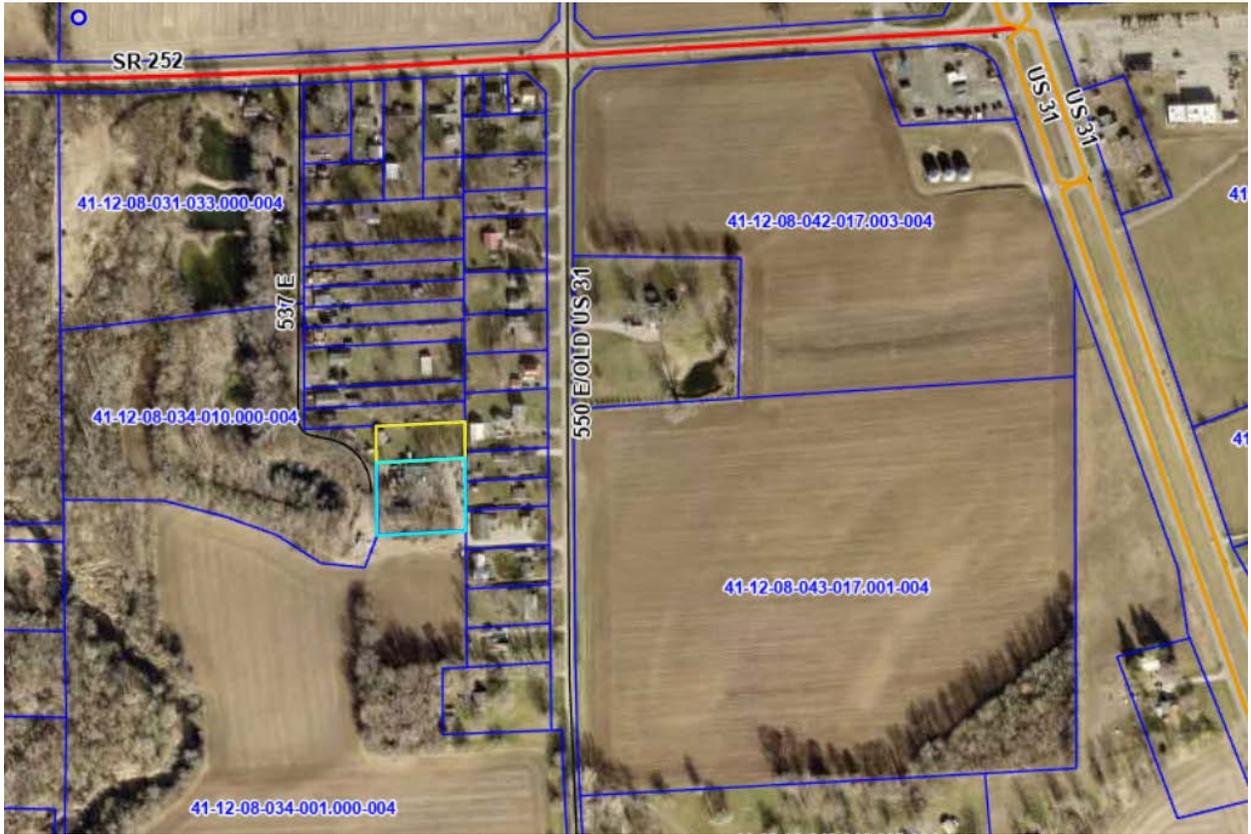
Zoning: R-1  
Land Use: Residential, Contractor Business  
Future Land Use: Camp Atterbury 1-Mile Buffer

# V-4-23 BASE MAP

**Subject Site**



# V-4-23 BASE MAP II



# V-4-23 AERIAL



# V-4-23 SITE PLAN



# V-4-23 Variance Request

## Describe Land Use Request

Mike and Lynn Patton

### Address:

4703 South 537 East, Franklin, Indiana 46131

4691 South 537 East, Franklin, Indiana 46131

### Parcel No.

41-12-08-031-018.000-004 – 1 Acre Parcel

41-12-08-031-017.000-004 - .65 Acre Parcel

## Use Variances

### Contractor's Office

To allow for a contractor's office (defined by Johnson County Zoning Ordinance Section 6-101-3) to be operated in accordance with the Plan of Operation on the existing accessory structure located on Parcel 41-12-08-031-018.000-004.

### Contractor's Yard

To allow for a contractor's yard (defined by Johnson County Zoning Ordinance Section 6-101-3) to be placed on parcel 41-12-08-031-017.000-004 for storage of plumbing supplies and materials. Said yard will be fenced in.

## Developmental Standards Variances:

### Accessory Structure Size

To retroactively grant permits to construct barn structure on Parcel 41-12-08-031-018.000-004 from Johnson County Zoning Ordinance Section 6-105-(C,4,B) for accessory structure size.

### Inoperable Vehicles

To grant permission to house up to 30 inoperable vehicles on parcel 41-12-08-031-017.000-004, which will be contained in a fenced in area. These vehicles are obtained by the applicant and worked on to become operable and/or cars used in derbies.

## V-4-23 PLAN OF OPERATION

### Plan of Operation for: Mike and Lynn Patton

#### Address:

4703 South 537 East, Franklin, Indiana 46131

4691 South 537 East, Franklin, Indiana 46131

#### Parcel No.

41-12-08-031-018.000-004 – 1 Acre Parcel

41-12-08-031-017.000-004 - .65 Acre Parcel

#### Description of Use:

Use of secondary building for office for Plumbing Company.

Use of fenced in area for storage of plumbing materials and inoperable vehicles.

#### Hours of Operation:

7:30 AM to 4:30 PM – Monday through Friday

Closed Saturday and Sunday

#### Number of Employees:

4

2 being Mike and Lynn Patton who are owners of the property and reside there

#### Structure(s) for use:

Existing Secondary building (see attached map)

#### Description of outdoor use and location:

Storage area to be fenced in (see attached map)

#### Customer/clientele/patron characteristics:

No customers or clients shall visit the site.

**Parking and parking surface:**

Parking just for 2 additional employees (Mike Patton and Lynn Patton already park there since it is there residence) (see attached map)

**Deliveries:**

standard deliveries of plumbing supplies via post office, UPS, FedEx, etc.

**Waste:**

Use of regular residential waste container

**Signage:**

No applicable signage

## V-4-23 PETITIONER'S FINDINGS OF FACTS – 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 contractor's office will not be intrusive to the community. There is only 4 employees who work in the office with 2 being the property owners. Also there is no customers that will visit the site so traffic will be at a minimum. The contractor's yard will be fenced in which will block the view of surrounding neighbors.

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 contractor's office is an existing structure and will not cause any traffic or noise issues. The contractor's yard will neatly contain all vehicles and materials in a fenced in area.

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

Due to the 2 additional employees who work in the office performing clerical work, the office cannot constitute as a home office. Further the property already contains accessory structures in use and thus the contractor's yard is needed to contain inoperable vehicles and materials.

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 Zoning Ordinance does not allow for the storage of materials for the business of the petitioners and limits the number of accessory structures to store said materials. Further the Zoning Ordinance does not provide for a non-intrusive office to support the business under the current zoning.

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

The subject parcels are within the 1 mile buffer of Camp Atterbury and thus the Comprehensive Plan does not prohibit granting such variances.

## V-4-23 PETITIONER'S FINDINGS OF FACTS – DEVELOPMENT STANDARD VARIANCES

### 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 accessory structure was built behind the secondary office space and primary residence of the owners. It provides inside storage for materials and is hidden away from neighbors. The inoperable vehicles will be maintained in a enclosed fence 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 because:

The accessory structure is a new improvement in an area that has dated structures. It will add value to the area by providing inside storage of materials. The inoperable vehicles will be located in an enclosed fenced area.

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

The Zoning Ordinance only allows for 1 inoperable vehicle per parcel. Petitioner has a hobby of obtaining inoperable vehicles and restoring them. Also the petitioner is in need of a large accessory structure to store materials and supplies for business.

V-4-23 HISTORIC IMAGE NOVEMBER 2022



V-4-23 HISTORIC IMAGE 2018

