



## 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  
February 27, 2024, 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 January 23, 2024 meeting.

### PUBLIC HEARINGS

#### -CONTINUED PETITIONS

None.

#### -NEW PETITIONS

V-3-24. Rita Horton. 2.39-acre parcel east of 3590 E 250 S, Franklin ..... Page 3

VARIANCE OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to legally allow for 130 feet lot width on an illegally created parcel (A-1, Agriculture, zoned properties require a lot width of 208 feet).

V-4-24. Bradley and Brooke Sichting. 7243 W 600 S, Morgantown ..... Page 12

VARIANCE OF USE of the Johnson County Zoning Ordinance to provide for a contractor's office and yard (not permitted in the A-1 (Agricultural) Zoning District). VARIANCES OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to waive commercial parking requirements.

V-5-24. Jess Harris. 4795 W 100 S, Bargersville ..... Page 24

VARIANCE OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to allow for a 1,448-square-foot accessory dwelling unit (a maximum of 1,000-square-foot accessory dwelling is 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, March 26, 2024 at 7:00 PM.

*In accordance with American Disabilities Act, any person attending the public meeting in need of reasonable accommodations in order to attend, hear, or present evidence at the public meeting on an agenda item should contact the Johnson County ADA coordinator, Barb Davis, at 86 W. Court St., Franklin, IN 46131, (317) 346-4329, [bdavis@co.johnson.in.us](mailto:bdavis@co.johnson.in.us).*

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# STAFF REPORT

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**CASE NUMBER:** V-3-24  
**ADDRESS:** 2.39 acre parcel east of 3590 E 250 S, Franklin  
Parcel 41-08-36-024-009.000-019  
**PETITIONER:** Rita Horton

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## **REQUEST**

VARIANCE OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to legally allow for 130 feet lot width on an illegally created parcel (A-1, Agriculture, zoned properties require a lot width of 208 feet).

## **PROPERTY DESCRIPTION**

This 2.38 acre property is zoned A-1 (Agricultural) and is not improved. The site is surrounded by large agricultural fields and several large residential parcels, all of which are zoned A-1.

## **VARIANCE OF DEVELOPMENT STANDARDS**

This request was sought at the December 20<sup>th</sup>, 2022 Board of Zoning Appeals meeting and the request was denied. The applicant has reapply for the same request with no changes to the application.

This request, if approved, would allow the subject parcel to have a 130 foot width where 208 feet is required. This variance request is being made for a parcel that was illegally created in 2016 and is not eligible to build on. To make this lot legal, the petitioners are required to gain approval from the Board of Zoning Appeals (BZA) and the Plan Commission (PC). BZA approval is required to allow the lot to be 130 feet wide, where 208 feet is required in the A-1 zoning district. PC approval is needed to legally establish a lot that was illegally subdivided.

The 2.38-acre subject parcel was originally a part of the 36.66 acre parcel, northwest of the subject parcel. In 2015, the 36.66 acre parcel was subdivided via a Roadside Subdivision that created the three new residential parcels west of the subject parcel (see Exhibit *2015 Herron Hill Roadside Subdivision Survey*). The maximum number of new parcels that can be created via the Roadside Subdivision process is three. The Roadside Subdivision regulations are intended to provide property owners the opportunity to create tracts of land for residential development, but in a manner that minimizes encroachment of residential uses into agricultural areas. This request would not support the intent of the subdivision regulations.

After the completion of the Roadside Subdivision, the owner of the remaining tract, sold an additional 2.38 acres of land to the applicant that owned land adjacent to the property. This tract of land was never combined with an existing parcel, hence creating a fourth parcel from the parent parcel.

To remedy the illegal split, the parcel of land can be combined with the original tract it was split from or the petitioners can complete a Replat of their Minor Platted lot to combine the 2.38 acres with their 3.16-acre lot to the east, 3590 E 250 S. However the applicant wish to legalize the parcel as a separate parcel that can be potentially sold and improved on with an additional single-family home. There is no hardship unique to this property which warrants relief from the Zoning Ordinance lot standards or the Subdivision Control Ordinance. Further, approval of this variance request could encourage other illegal subdivision that do not conform to the Zoning Ordinance or the Subdivision Control Ordinance.

Staff, therefore, recommends denial 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.

The proposed lot width will not impact public health, safety, morals, or general welfare.

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

Allowing an illegally created lot to not conform to the required lot standards would not support the intent of the Zoning Ordinance or the subdivision regulations to minimize encroachment of residential uses into agricultural areas. A

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

There is nothing unique to this property that would have precluded it from being created in conformance to the Zoning Ordinance lot standards. The petitioner could combine the parcel to the original tract of land or to the adjacent land they own to make the subject parcel legal.

#### **GENERAL INFORMATION**

Applicants: Rita and Tony Horton  
3590 E 250 S  
Franklin, IN 46131

Owners: Same

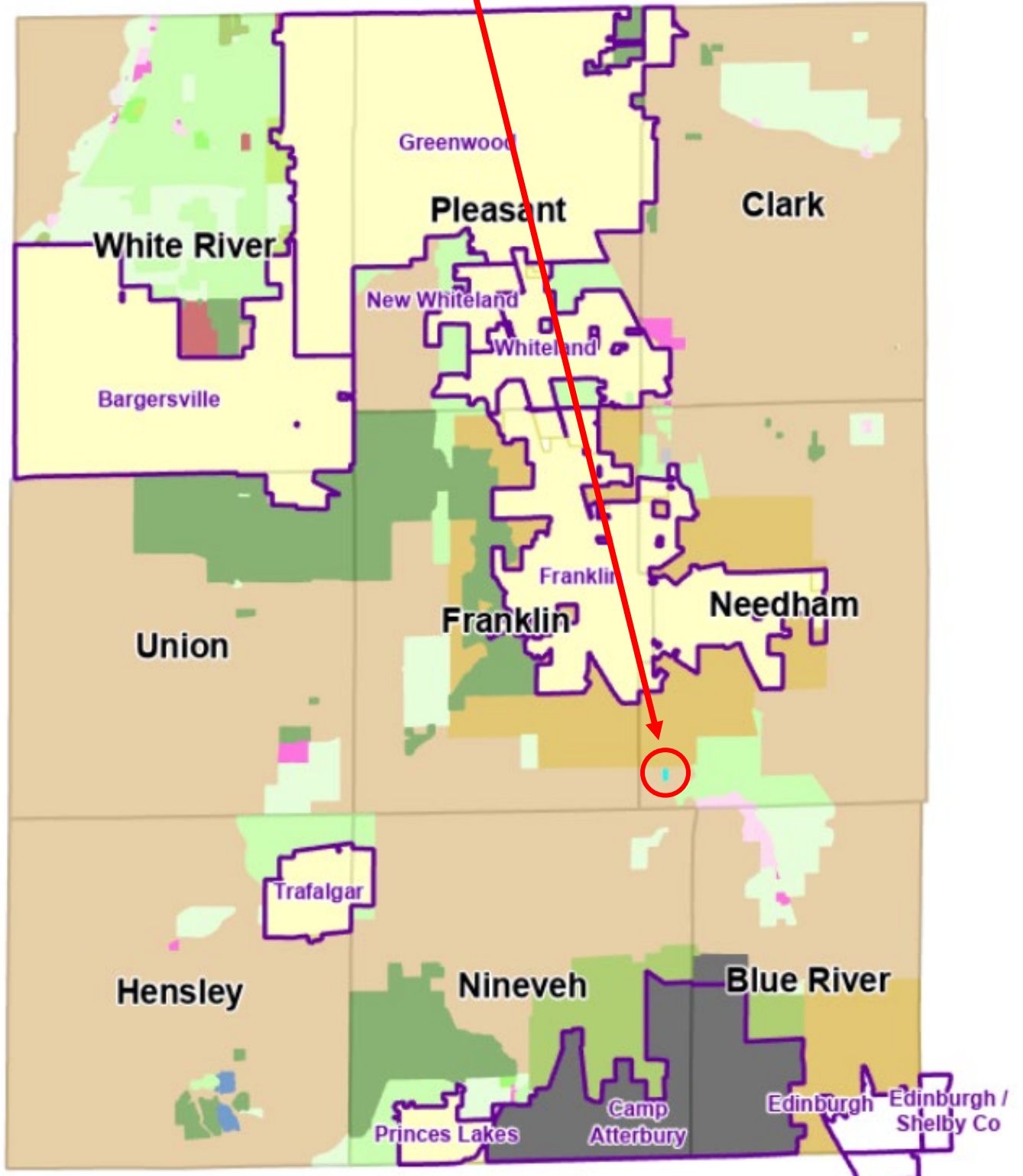
Zoning: A-1 (Agricultural)

Land Use: Unimproved

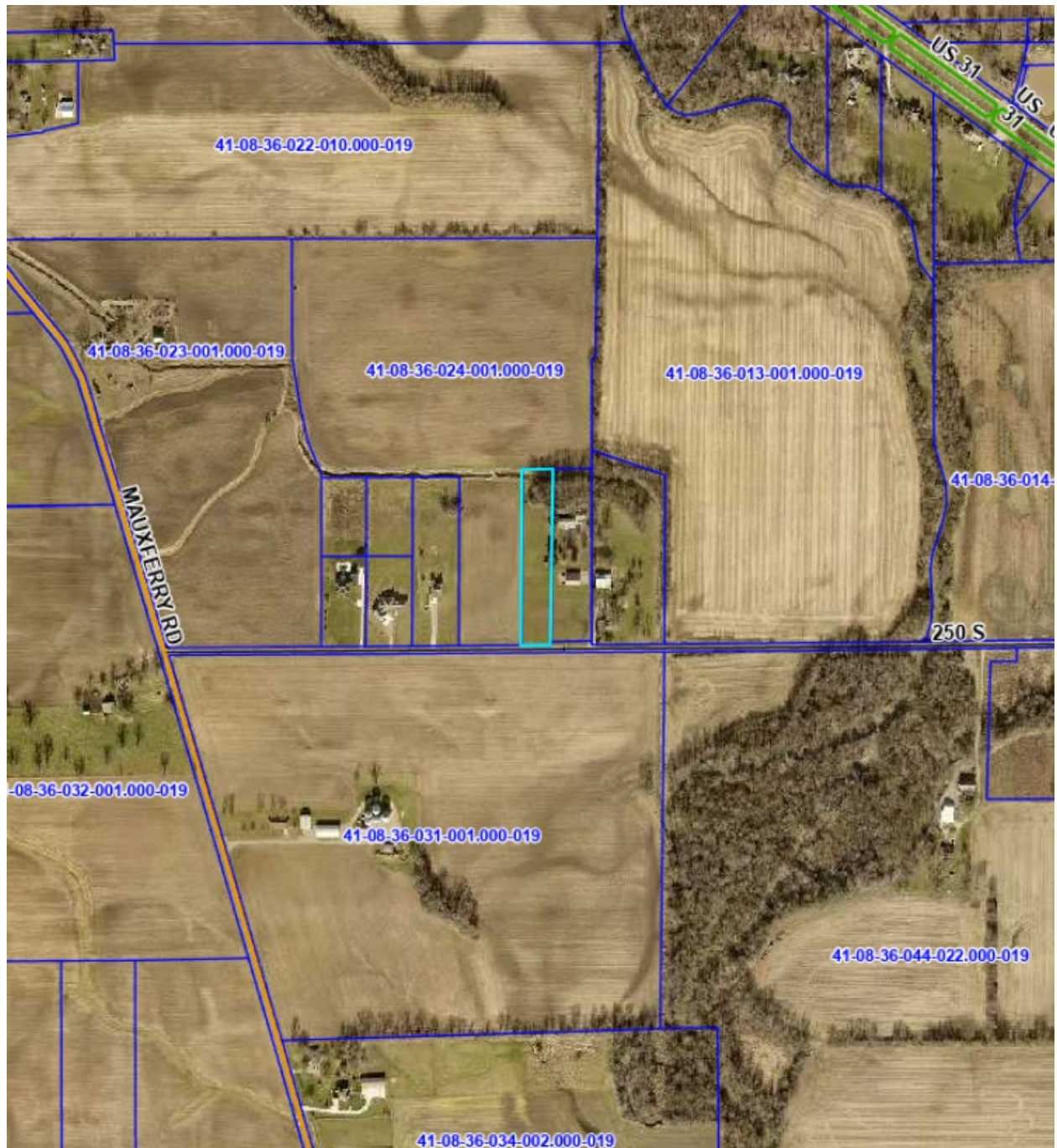
Future Land Use: Rural Residential --MNH

## V-3-24 BASE MAP

**SUBJECT SITE**



## V-3-24 AERIAL MAP



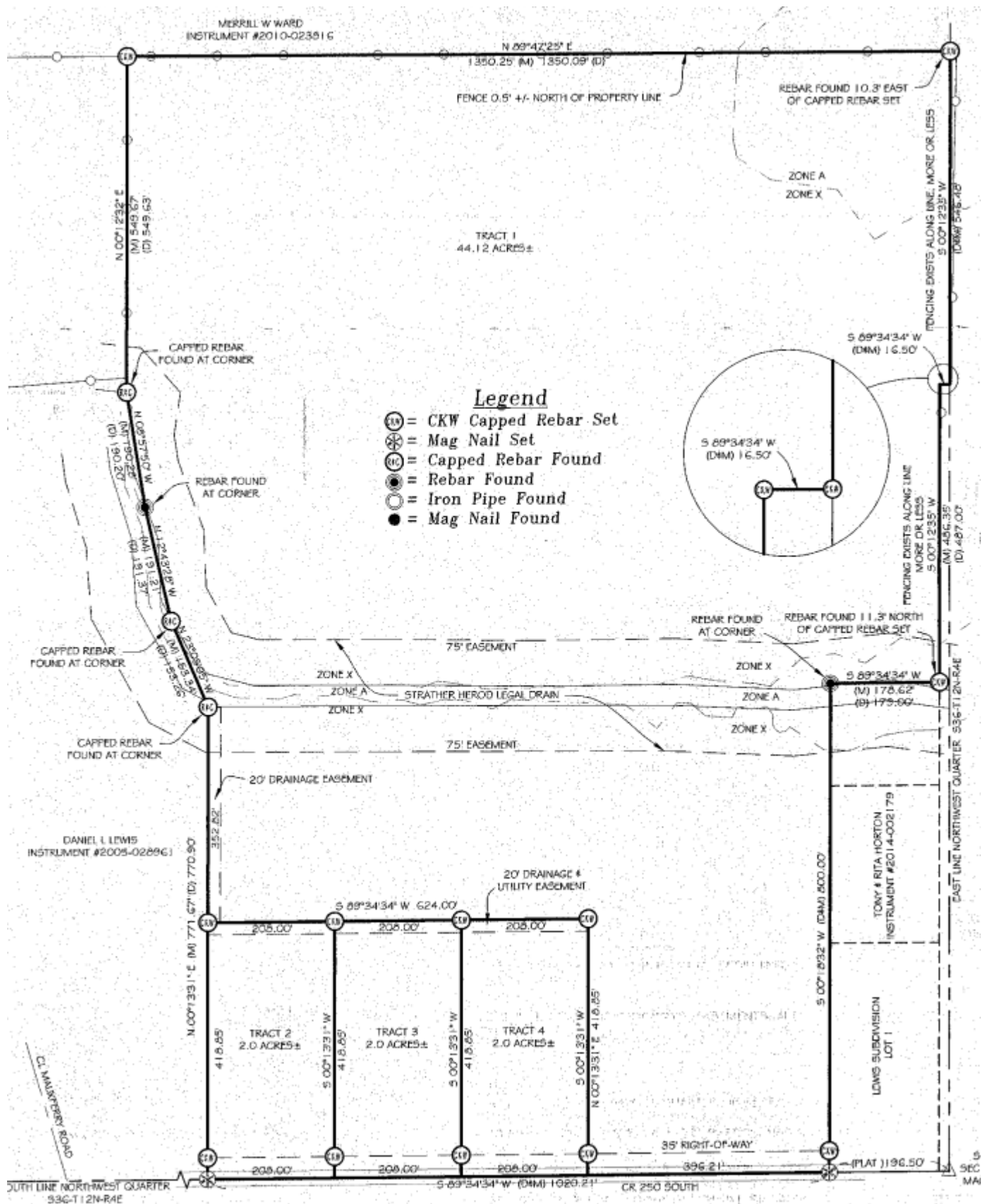


## V-3-24 AERIAL MAP II

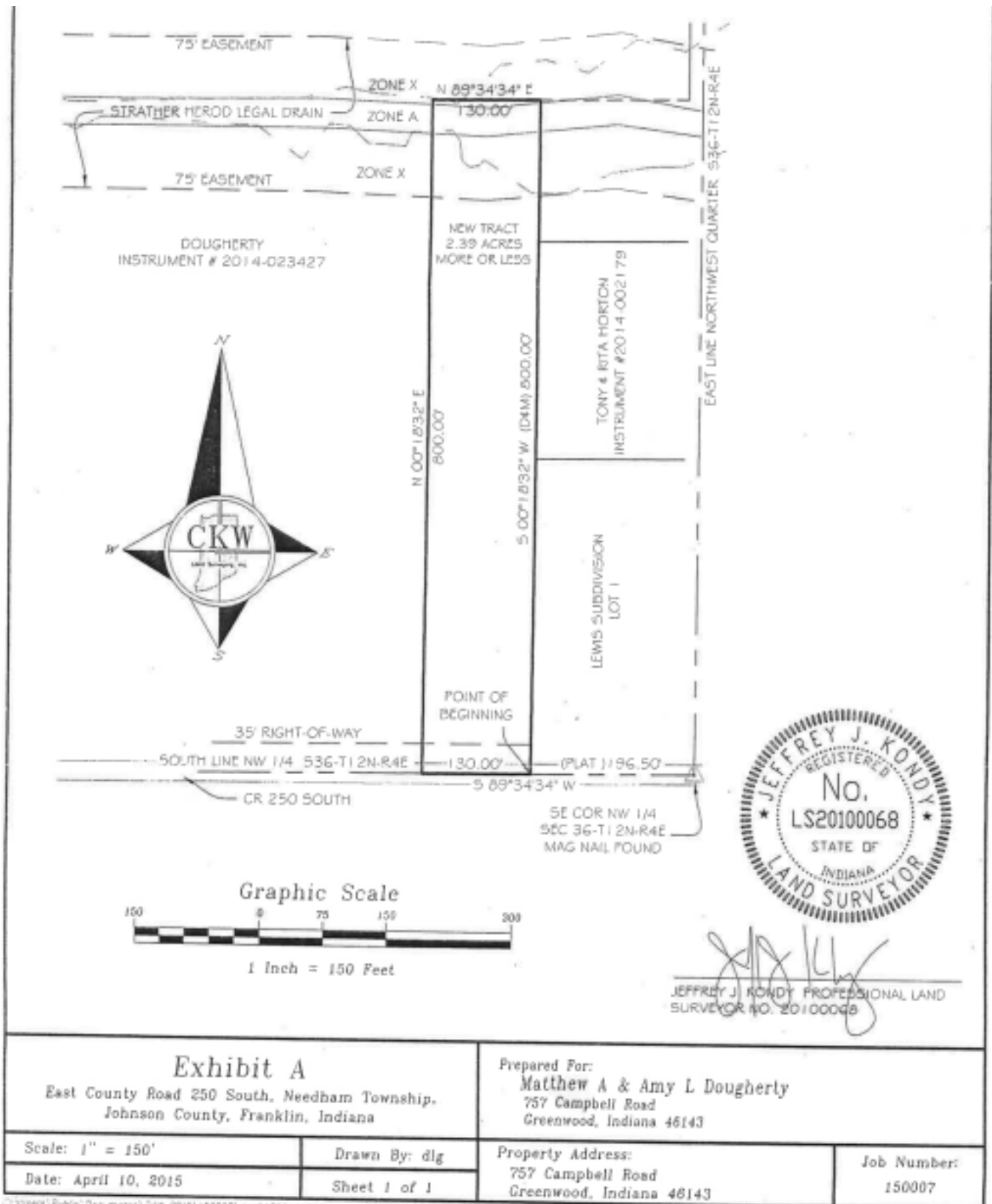




## V-3-24 2015 Herron Hill Roadside Subdivision Survey



# V-3-24 Survey of Subject Parcel



## V-3-24 PETITIONER 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:

would only be used to build a house and/or polebarn structure on it.

will not interfere with traffic

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:

will not decrease property value of homes nerby.

will not interfere with farming on the field next to the property.

will increase property tax revenue for the county

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

would not be able to sell the property nor legally buid on the property

without approval

## V-3-24 - Meeting Minutes on same request from 12-20-22

### V-16-22; Rita Horton – Variance of Development Standards Request.

#### 2.39 acre parcel east of 3590 E. 250 S.

Staff presented findings and facts to the board and recommended denial of this variance request.

Petitioner Tony Horton (3590 E. 250, Franklin 46131) was present to speak and address questions and/or concerns.

Board members asked questions and expressed concerns which were addressed by the Petitioner and staff as follows:

- Q. Board member Charlie Canary asked for confirmation that the Board of Zoning Appeals would have to approve before the matter would go to the Plan Commission?  
  
A. Staff explained to the board that the Subdivision Control Ordinance defines how land can be divided and that the Zoning Ordinance defines the lot standards. Staff briefly advised the board of the processes.
- Q. Board member Charlie Canary asked for confirmation that if the Board of Zoning Appeals decides to approve this matter that the Plan Commission doesn't have to approve?  
  
A. Correct.
- Q. Board member James Kaylor asked the Petitioner where he currently resided?  
  
A. Right next door to this parcel.
- Q. Board member James Kaylor asked the Petitioner how many original acres did he purchase?  
  
A. Approximately three (3) acres.
- Q. Board member Steve Powell asked for clarification on this variance request?  
  
A. Staff explained the lot split history and the purposed variance request.

**Motion:** To deny V-16-22 to legally allow for 130 feet lot width on an illegally created parcel and Staff's Findings of Fact. **Moved** by James Kaylor. **Seconded** by Steve Powell. **Yes:** Campbell, Canary, Kaylor and Powell. **No:** Bowman. **Motion approved 4-1.**

# STAFF REPORT

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**CASE NUMBER:** V-4-24  
**ADDRESS:** 7243 W 600 S, Morgantown  
**PETITIONER:** Bradley and Brooke Sichting by Andrew C. Eggers

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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 in the A-1 (Agricultural) Zoning District).

VARIANCES OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to waive commercial parking requirements.

## **PROPERTY DESCRIPTION**

This approximately 24-acre site is zoned A-1 (Agricultural) located Hensley Township. The property is currently improved with a dwelling, in ground pool, and two accessory structure. The area around the barn is covered by a gravel drive and the remaining portion of the property is agricultural field. Trees line the south east corner of the property from State Road 135.

The property is surrounding by larger parcels used agriculturally with an occasionally residential use. The property is boarded by County Road 600 S and State Road 135.

## **HISTORY**

In summer of 2023, the Planning and Zoning Department was made aware of a potential non permitted use of this property. After a site visit and additional research it was determined that the property was being used as contractor's office and contractor' yard for Pink Lady Contracting Inc. Staff started communication with the property owner about the use around July. Staff issued a Notice of Zoning Violation to the property in December 2023 after no resolution was attempted. From historical aerials, property started to change around 2018. Pink Lady Contracting Inc, started using this address on their business report to the Indiana Secretary of State in 2021.

## **VARIANCE OF USE**

This Variance of Use request, if approved, would allow the subject property to be developed and used for a contractor's office and yard for an company that provide construction, excavating, concrete, and utility work.



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 from on-site.

#### Plan of Operation Summary

- Hours of Operation: Monday through Friday 7 am – 5 pm
- Employees: 6-8 employees including property owner
- Material, equipment, and tools are stored outside and inside an enclosed structure.
- The proposed site plan indicated the petitioner will also construct a 60 X 64 structure

The applicant was asked to provide more information on the two existing buildings and the proposed building and weather these structure would reduce any outdoor storage. A answer was not provided prior to completion of staff report.

#### **COMPREHENSIVE PLAN**

The Future Land Use Map of the Comprehensive Plan recommends Agriculture as the best use of the area. The indented 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 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 property is current utilizing gravel around the existing structure and the operation of the business. The gravel area 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.

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.

## **FINDINGS OF FACT: VARIANCE OF USE**

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

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.

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 necessarily involves outdoor storage, movement of large equipment, regular large deliveries, and noise which is not compatible with the surrounding residential properties.

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

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

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

5. The approval does interfere substantially with the Comprehensive Plan.

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**

Applicants: Andrew Eggers  
40 ½ East Jefferson St  
Franklin IN 46131

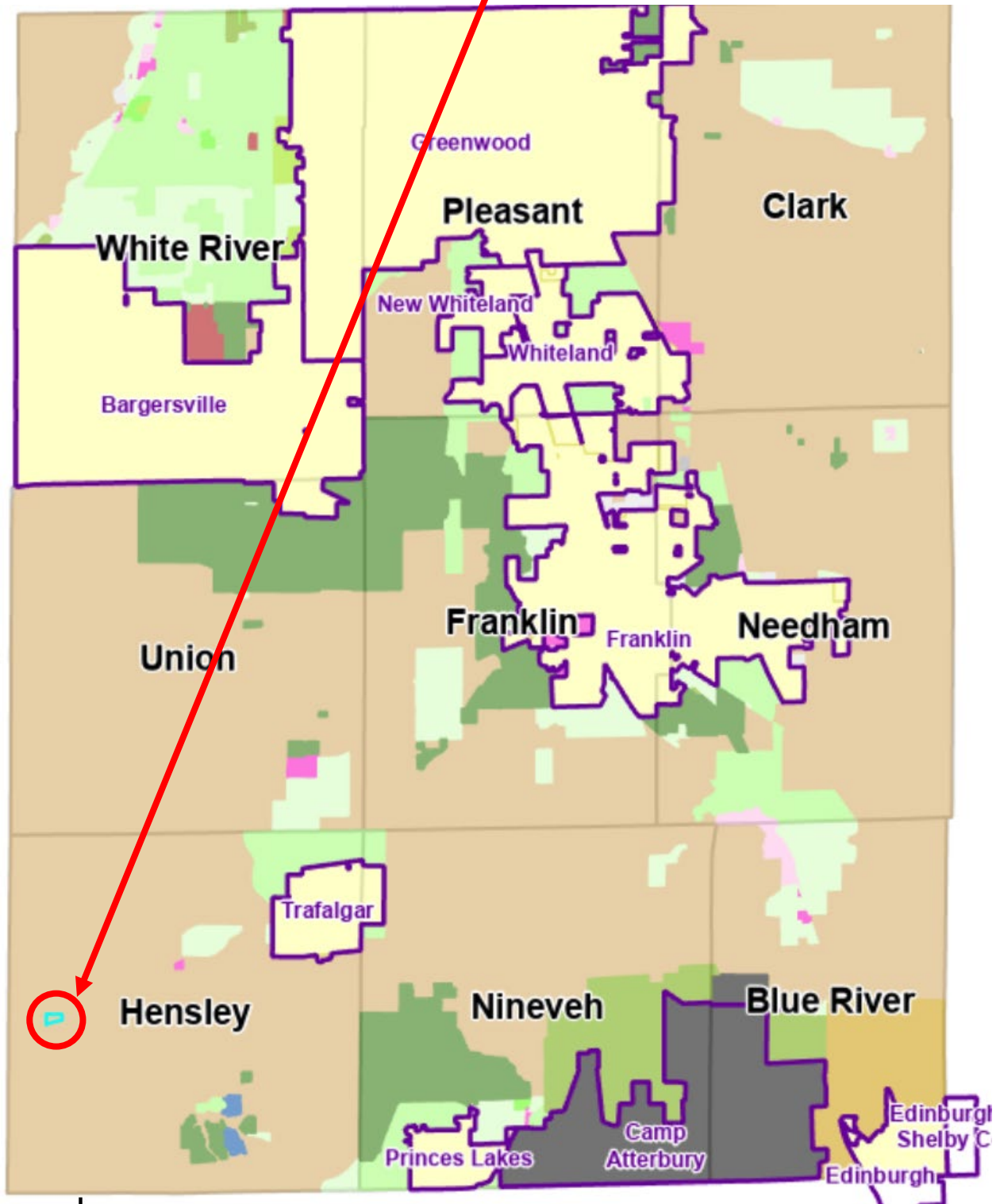
Owners: Bradley and Brooke Sighting  
7243 W 600 S  
Morgantown IN 46160

Zoning: A-1, Agricultural  
Land Use: Residential, Contractor's yards  
Future Land Use: Agricutrual

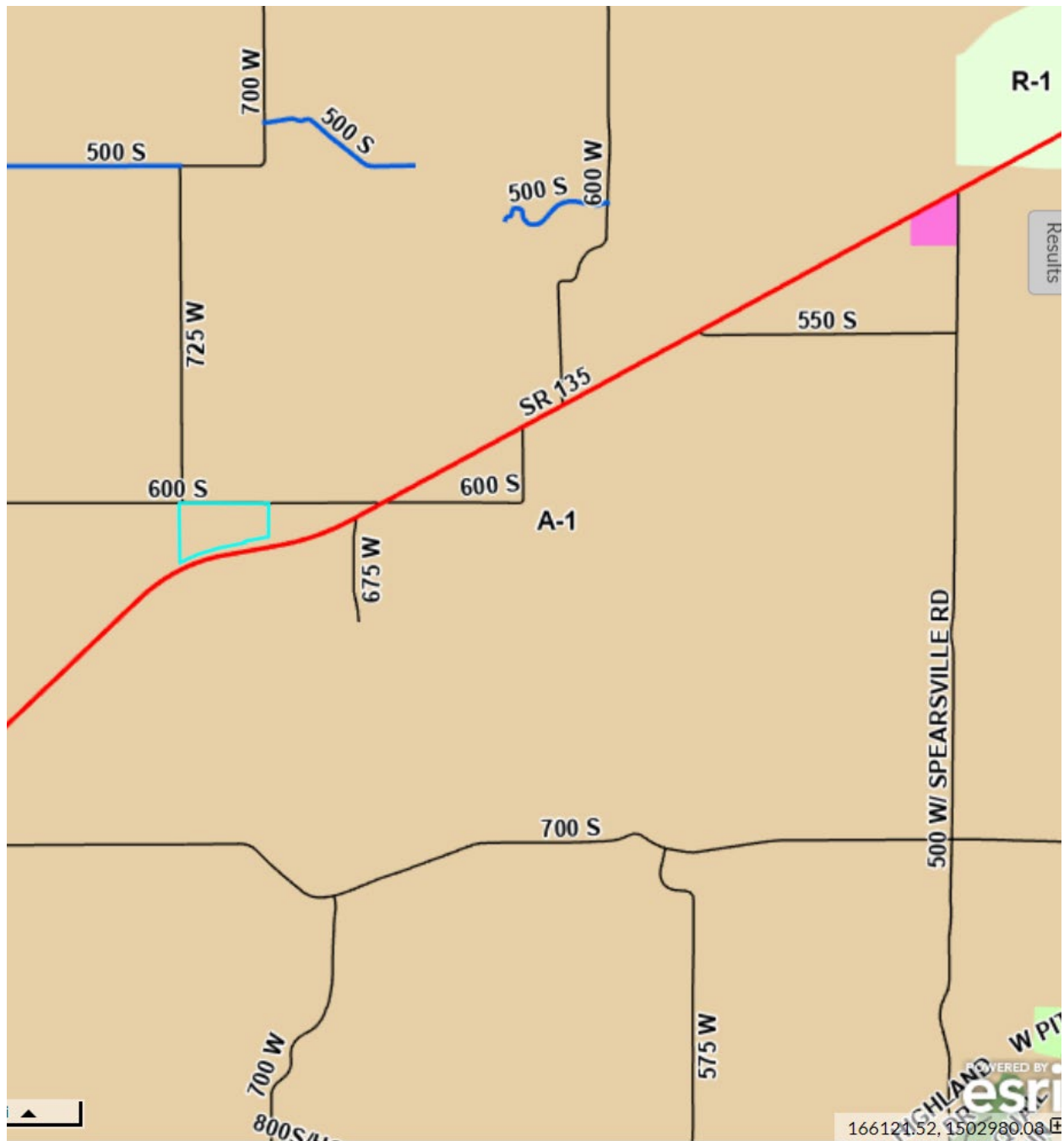
-MNH

## V-4-24 BASE MAP

**SUBJECT SITE**

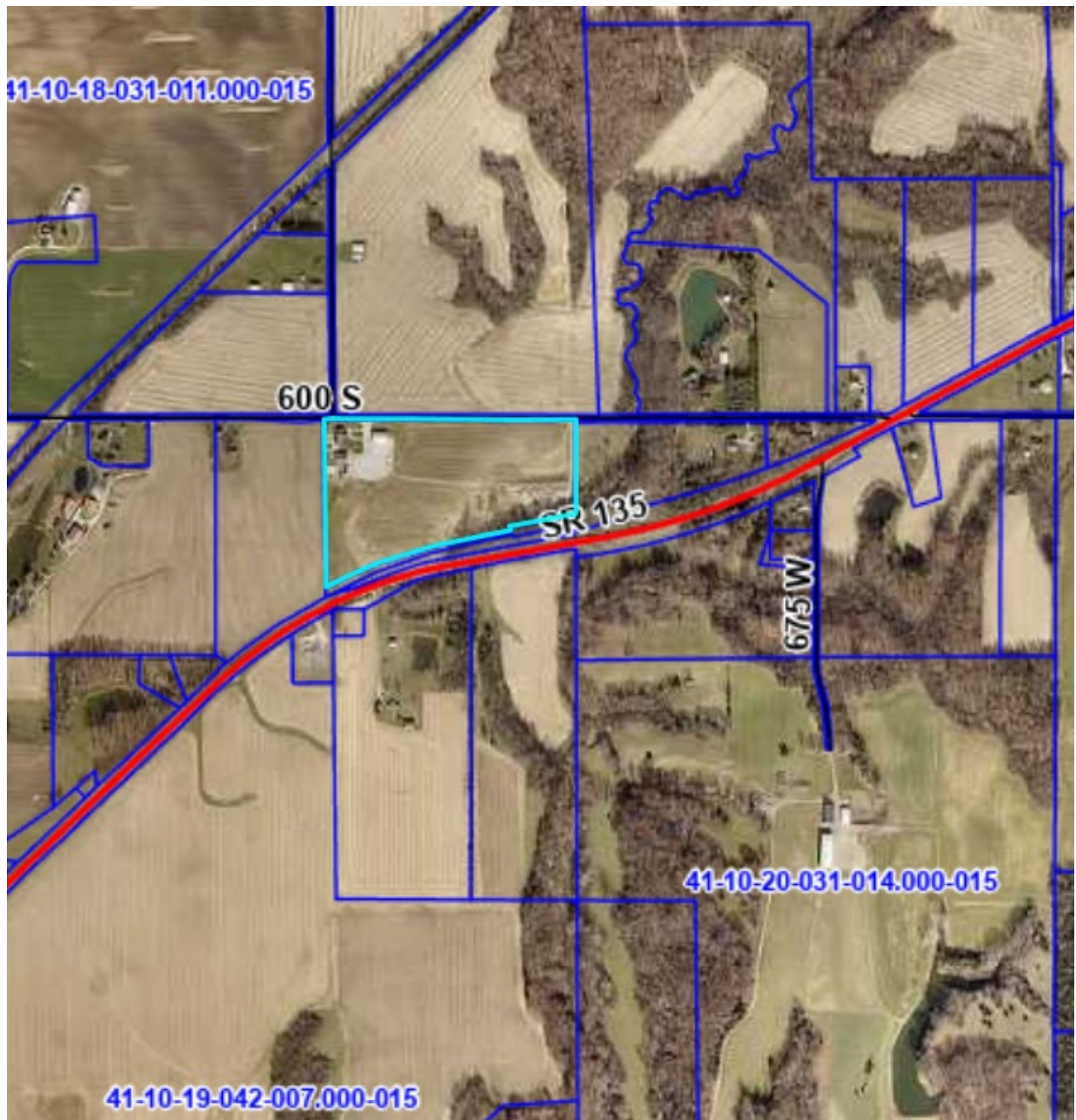


# V-4-24 ZONING MAP

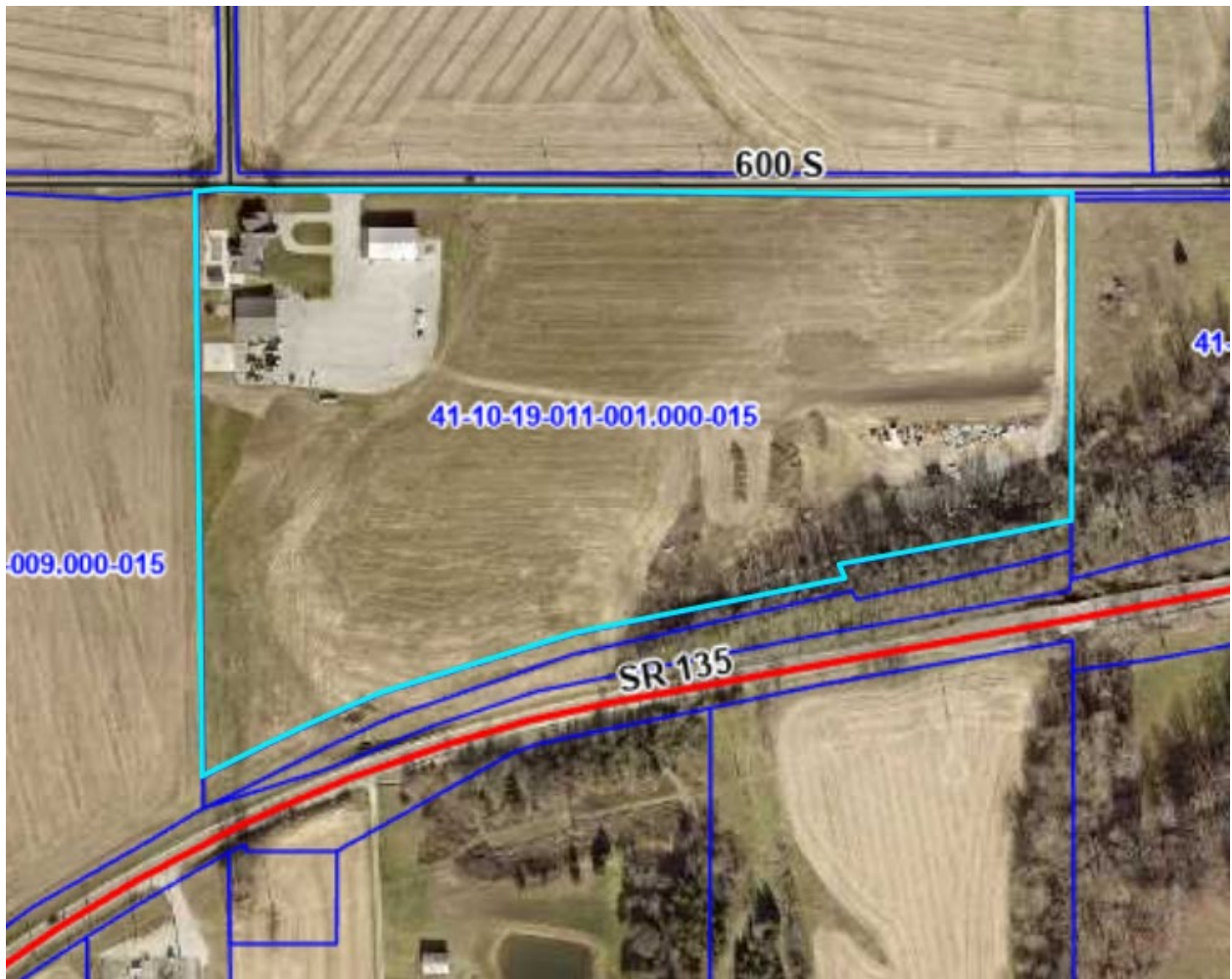




## V-4-24 AERIAL MAP I



## V-4-24 AERIAL MAP II





## V-4-24 AERIAL MAP III



## V-4-24 PLAN OF OPERATION

### Plan of Operation for:

#### Address:

#### Description of Use:

Construction business base of operations. No customers on site.

#### Hours of Operation:

7 am – 5 pm Monday – Friday

- Primarily private residence

#### Number of Employees:

6-8 employees on site intermittently – Including owner

#### Structure(s) for use :

- Primary Residence
- 2 pole barns
  - 50'x90'
  - 60'x64'

#### Description of outdoor use and location:

- Barns and gravel lot for equipment and material storage

#### Customer/clientele/patron characteristics:

- No customers or patrons on site

#### Parking and parking surface:

- Gravel area for some equipment

#### Deliveries:

- Standard Residential Deliveries – not construction based

#### Waste:

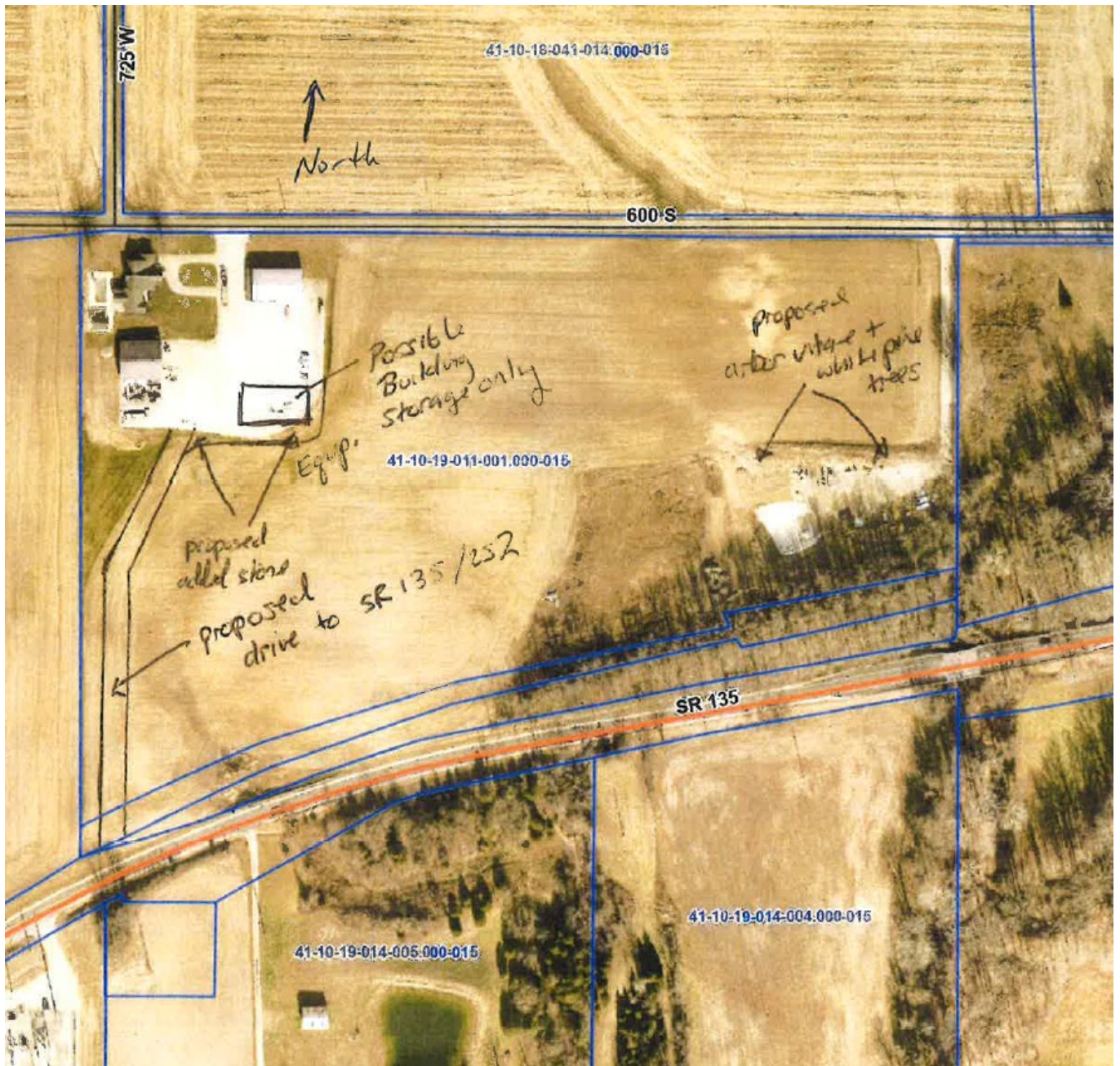
- Standard 6 yard dumpster with lids through D and L

#### Signage

No signage



## V-4-24 SITE PLAN





## V-4-24 PETITIONER FINDINGS 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 area in which the property is located is rural in nature. The use of the facility

is for business equipment storage. Customers will not be coming and going from the location.

The use would be virtually the same as a family farm in terms of equipment use and storage.

Allowing for this variance does not injure agricultural land nor deter from the rural character of Johnson County.

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:

other local landowners will not see or hear any sights or sounds not typical for

the area. As a rural property adjacent to a State Highway, there is substantial

traffic, both agricultural and heavy load (Semi, Truck-Trailer, over-the-road) traffic. This use would not

create any greater noise, light, odor, or chemical pollution or higher traffic volume than any other permitted use.

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

the area is generally zoned as agricultural. While utilizing this property as the base of operations for

and storage of excavating construction equipment, does not deviate from using this property

as a family run farm.

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.

use of the property will not deviate from the surrounding area or various other

local businesses. There will be no injury to the agricultural nature of the area, nor

the rural character of Johnson County. This use and equipment would be no different

than a family farm being run on the property.

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

As already zoned agricultural, the Comprehensive Plan allows for much larger, louder,

and higher traffic operations. Dairies, feed mills, schools (all permitted uses), as well as mineral

excavation, sanitary landfills, or private clubs (all special exceptions) would create

more noise, higher traffic volume, and a greater amount of light, chemical, sound, or odor pollution.

## V-4-24 PETITIONER FINDINGS OF FACT 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 area in which the property is located is rural in nature. The use of the facility

for business equipment storage. Customers will not be coming and going from the location.

The use would be virtually the same as a family farm in terms of equipment use and storage.

Allowing for this variance does not injure agricultural land nor deter from the rural character of Johnson County.

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:

other local landowners will not see or hear any sights or sounds not typical for

the area. As a rural property adjacent to a State Highway, there is substantial

traffic, both agricultural and heavy load (Semi, Truck-Trailer, over-the-road) traffic. This use would not

create any greater noise, light, odor, or chemical pollution or higher traffic volume than any other permitted use.

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

gravel drives and lots will suffice in the storage and upkeep with the equipment being

housed in this location. Again, this use has little to no difference than a family run

farming business.

# Staff Report

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CASE NUMBER: V-05-24  
ADDRESS: 4795 W 100 S, Bargersville  
PETITIONER: Jess Harris

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## REQUEST

VARIANCE OF DEVELOPMENT STANDARDS of the Johnson County Zoning Ordinance to allow for a 1,448-square-foot accessory dwelling unit (a maximum of 1,000-square-foot accessory dwelling is permitted).

## PROPERTY DESCRIPTION

This 2.21-acre site is zoned A-1 (Agricultural) and is improved with a residential home.

To the east and west of the property are similar sized parcels used residentially. To the north and south are large parcels of land used agriculturally. All surrounding properties are zoned A-1.

## VARIANCE REQUEST

This variance request, if approved, would allow for an accessory dwelling with a building area of 1,448 square feet. The existing dwelling on the property is technically considered the primary dwelling by ordinance since it is currently the only dwelling on the property. However, the applicant wishes to construct a second dwelling on the property that will become the primary dwelling. The second dwelling will be 2,677 square feet in living area. Both structures will not meet the accessory dwelling requirements.

The Zoning Ordinance states a maximum of 1,000 square feet of building area for an accessory structure. The creation of accessory dwellings standards was intended to allow an opportunity for property owners to provide care for a family member, or to provide accommodations for visiting family or friends, which is generally considered a benign secondary use of residential. A 1,000 square feet is adequate living space to achieve the intent to provide care for a family member while encouraging independent living.

The property owner originally planned for the existing dwelling to be converted into an accessory dwelling. The first floor is 952 sq. ft. and there is a second-story loft constructed that is 496 sq. ft which makes the total area 1,448 square feet. The building plans that were submitted with the building permit application label the second story as an attic. An attic is typically an area that is not finished in regards to walls, ceilings, and floors, it is sealed off from the rest of the house, it is also not temperature controlled 365 days of the year, and is not regularly utilized by the patron of the home. The space that was constructed was a loft area. It is open to the main floor, a stairway leads to this area from the main floor with no doors, the walls and ceilings are finished, and it is temperature control since it is open to the house.

The staff understands the convenience the variance might afford the petitioner. Staff also understands that the petitioner was committed to meeting the ordinance from the start however there are some miss clarifications of what was presented during the permit process of the first structure. Staff ultimately asserts that the required findings have not been met.

#### 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 addition will not impact public health, safety, morals, or general welfare.

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

A variance of similar requests could be sought by other property owners based on the same findings presented by the petitioner. The precedent would be set.

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

There is nothing unique to this property or needs of the petitioners which would preclude an accessory structure from being built within the development standard set forth in the ordinance.

#### GENERAL INFORMATION

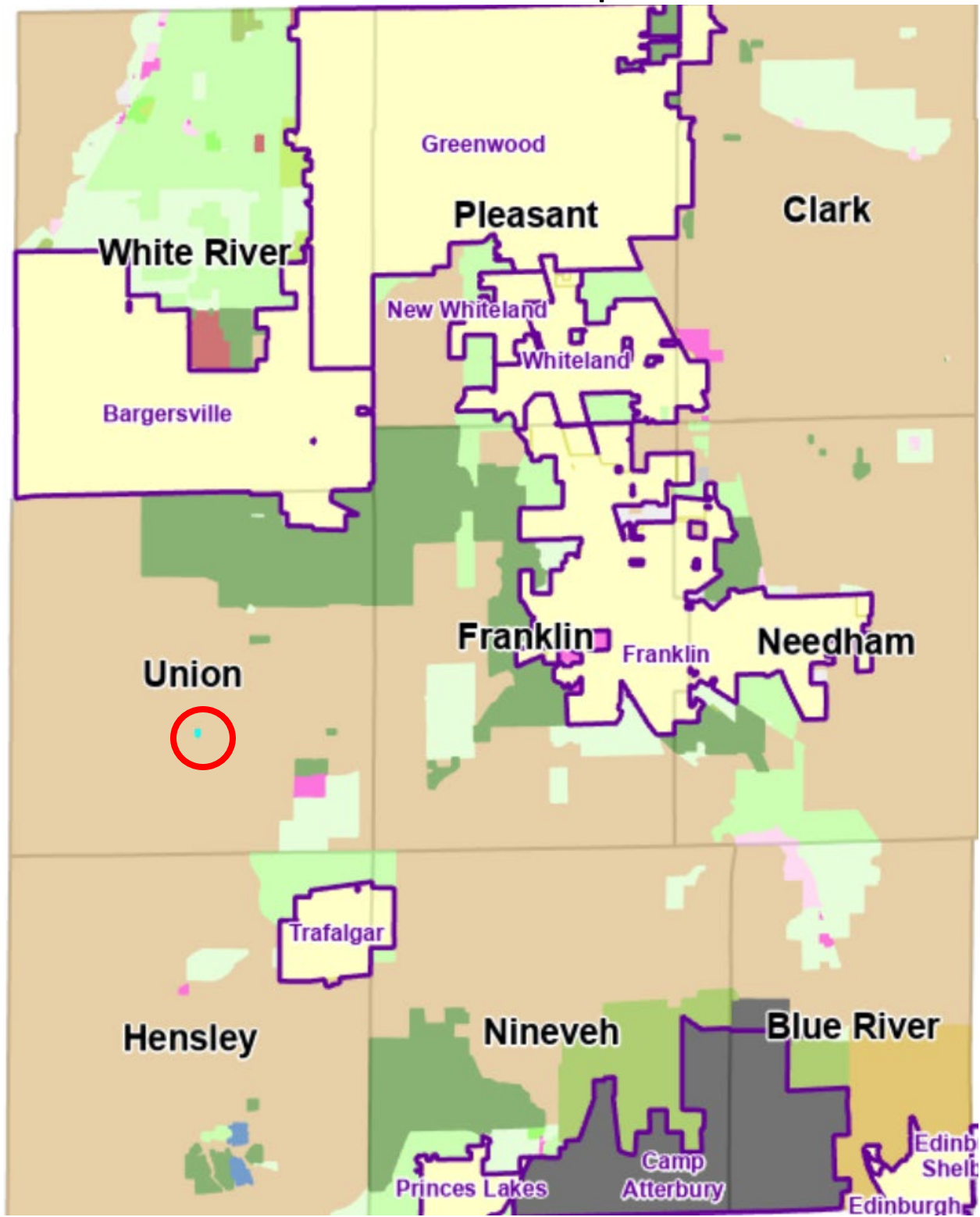
Applicant: Jess Harris  
4795 W 100 S  
Bargersville IN 46106

Owner: Same

Current Zoning: A-1 (Agricultural)  
Existing Land Use: Agricultural  
Future Land Use: Agricultural

-MNH

V-05-24 Base Map

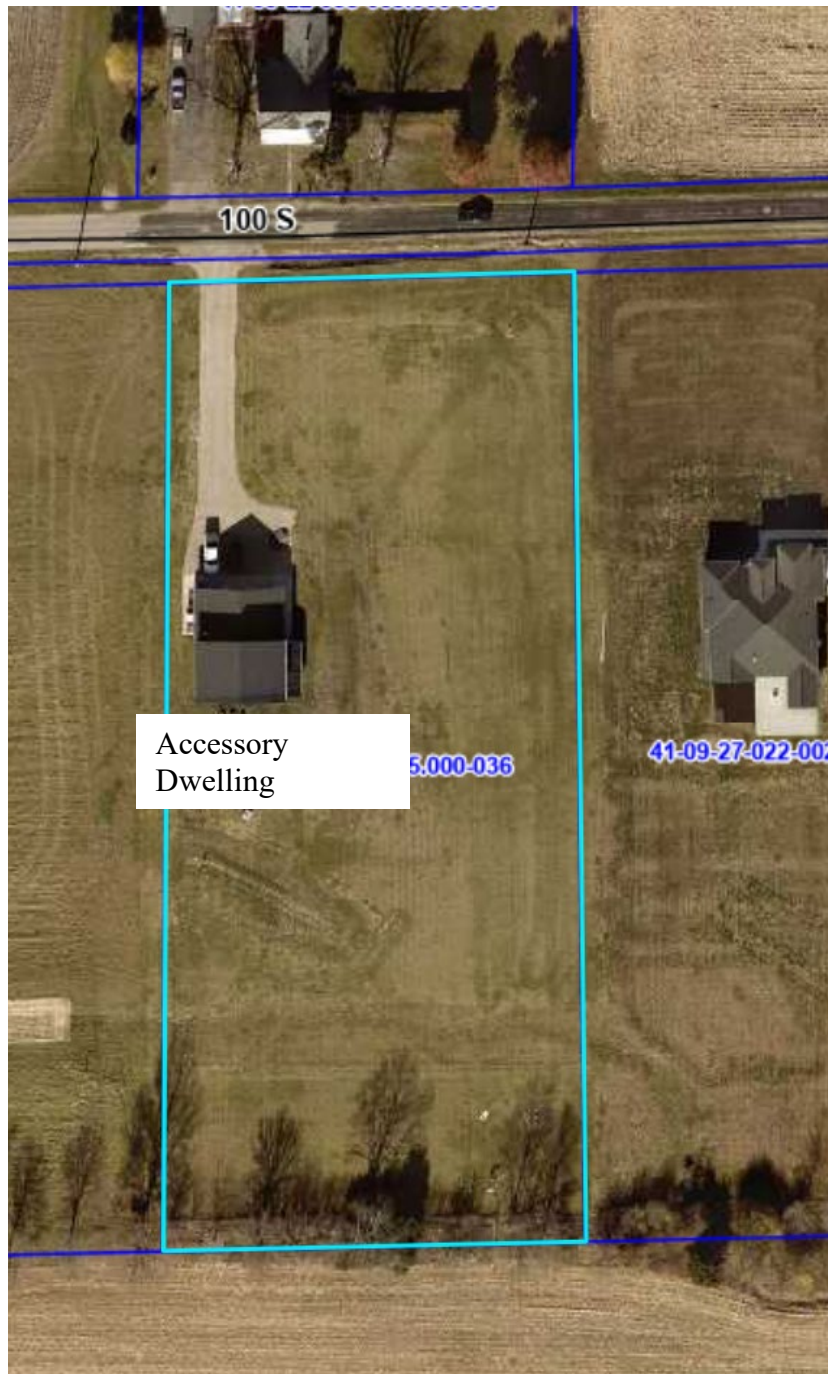




## V-05-24 Base Map II

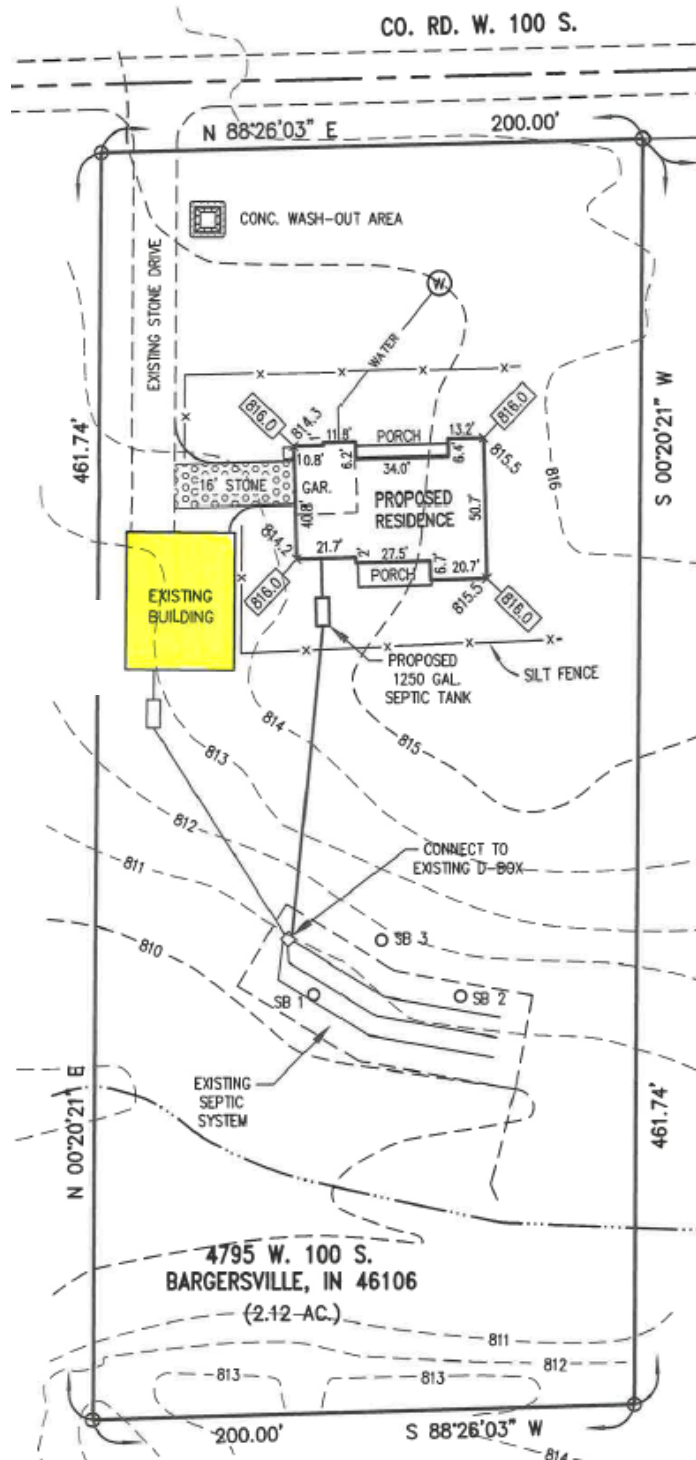


## V-05-24 BIRDS EYE VIEW



## V-05-24 SITE PLAN

Accessory Dwelling



## V-05-24 2<sup>nd</sup> LEVEL FLOOR PLAN





## V-05-24 PHOTOS OF 2<sup>ND</sup> LEVEL LOFT AREA



## V-05-24 Petitioner's Findings of Facts

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

The additional square footage of the accessory dwelling is on the upper floor and is used for storage. No additional runoff results from the increased square footage. The use of the property and amount of traffic will be consistent with other properties 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 because:

The structure was constructed in a character similar to other properties in the area and is consistent with the use of adjacent properties. Approval of the additional area, which is located on the upper floor, will not impact other properties as the structure is existing and footprint remains the same.

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

The structure was designed, permitted, and constructed with the upper floor to be used as a storage area. Strict application of the ordinance would require significant redesign and reconstruction to close off the upper floor and convert it to a standard attic versus an easily accessible storage area.