

**WHITLEY COUNTY BOARD OF ZONING APPEALS
STAFF REPORT**

24-W-VAR-12 DEVELOPMENT STANDARDS VARIANCE
Dwight & Patricia Stetzel
200 East, ½ mile south of 800 South

JULY 23, 2024
AGENDA ITEM: 2

SUMMARY OF PROPOSAL

Current zoning: AG, Agriculture
Property area: 2.01± acres

The petitioners, owners of the subject property, are requesting a development standards variance for encroachment into required setbacks created by a proposed subdivision of the property. The property is located on the west side of 200 East, about ½ mile south of 800 South in Section 24 of Washington Township.

The petitioner has proposed a subdivision in 24-W-SUBD-13 (to be heard by the Plan Commission on July 17) that would split a 2.01± acre area from the parent tract for sale to a new owner. The new property line would snake between existing grain bins/grain leg, scale house, and pole building. The new lot would include the grain bins/grain leg and scale house but would not include the pole building, which would be retained by the petitioner. Because the current separations between these structures are less than the required distances for setbacks, the proposed property line creates setback encroachments. Additionally, the dedication of right-of-way with the plat will cause encroachments into the front setback; however, these may be treated as legal nonconformances since ROW dedication is a requirement of platting.

The proposed setbacks, code requirements, and variances for the structures are:

	Proposed	Code	Variance
Scale house shed	0'±	10' (side, accessory)	10'
Grain leg	67'±	86' (side)	19'±
	68'±	86' (front)	18'±, legal nonconforming
Pole building	10'	25' (side, primary)	15'
Grain hopper	30'±	40' (front)	10'±, legal nonconforming
Grain bin	35.7'	40' (front)	4.3'±, legal nonconforming

Note that the pole building is being treated as a primary structure since it would be the largest structure on the property. The scale house shed is treated as accessory since the grain bins and elevator are the primary structures on the lot.

Also note that the grain leg setbacks are equal to its height since it exceeds 50'.

REVIEW CRITERIA

Indiana Code §36-7-4-918.5 and Section 10.10 of the Zoning Code state the criteria listed below upon which the Board must base its review. Staff's comments/proposed findings of fact under each criterion.

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

The proposed variances will not likely be injurious to the public safety, health, morals, and general welfare as the proposed property split does not change the positions of the current structures. It is presumed that the parties involved in the splitting of the property are aware of any issues that may arise from having structures near the new property line.

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; and

These variances likely would not adversely affect the value or use of the area adjacent to the property, as there are no visible effects of these variances and the new property line is a considerable distance from other properties.

3. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction or restriction of economic gain.

The strict application of the Ordinance terms could result in practical difficulties because the existing structure separations are code-compliant, while the property line is new. Typically, setbacks are intended to maintain distance of new structures from existing property lines, since encroachment of a new structure could have effect on the adjacent property. In this case, the structures are existing, and the placement of the property line is proposed to maximize the setbacks.

Further, because of the code’s difference in application of side setbacks by “primary” or “accessory”, a difficulty does arise because the pole building is effectively an accessory use in what is defined a primary structure.

Date report prepared: 7/16/2024

BOARD OF ZONING APPEALS ACTION

Findings of Fact Criteria

	Green		Sheiss		Wilkinson		Wolf		Wright	
	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>
<i>Criterion 1</i>										
<i>Criterion 2</i>										
<i>Criterion 3</i>										

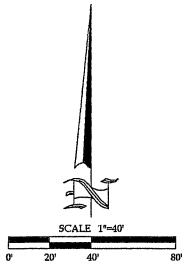
Motion: Grant
 Grant w/conditions
 Deny

By: _____ Second by: _____

	Green	Sheiss	Wilkinson	Wolf	Wright
<i>Yes</i>					
<i>No</i>					
<i>Abstain</i>					

STETZEL GRAINERY SUBDIVISION (PRELIMINARY)

SITUATED IN THE NORTHEAST QUARTER OF SECTION 24, AND IN THE SOUTHEAST QUARTER OF SECTION 24, ALL BEING IN TOWNSHIP 30 NORTH, RANGE 9 EAST, WHITLEY COUNTY, INDIANA



LEGEND
 M = MEASURED C = CALCULATED
 P = PLAT R = RECORDED
 * = WALKER MONUMENT

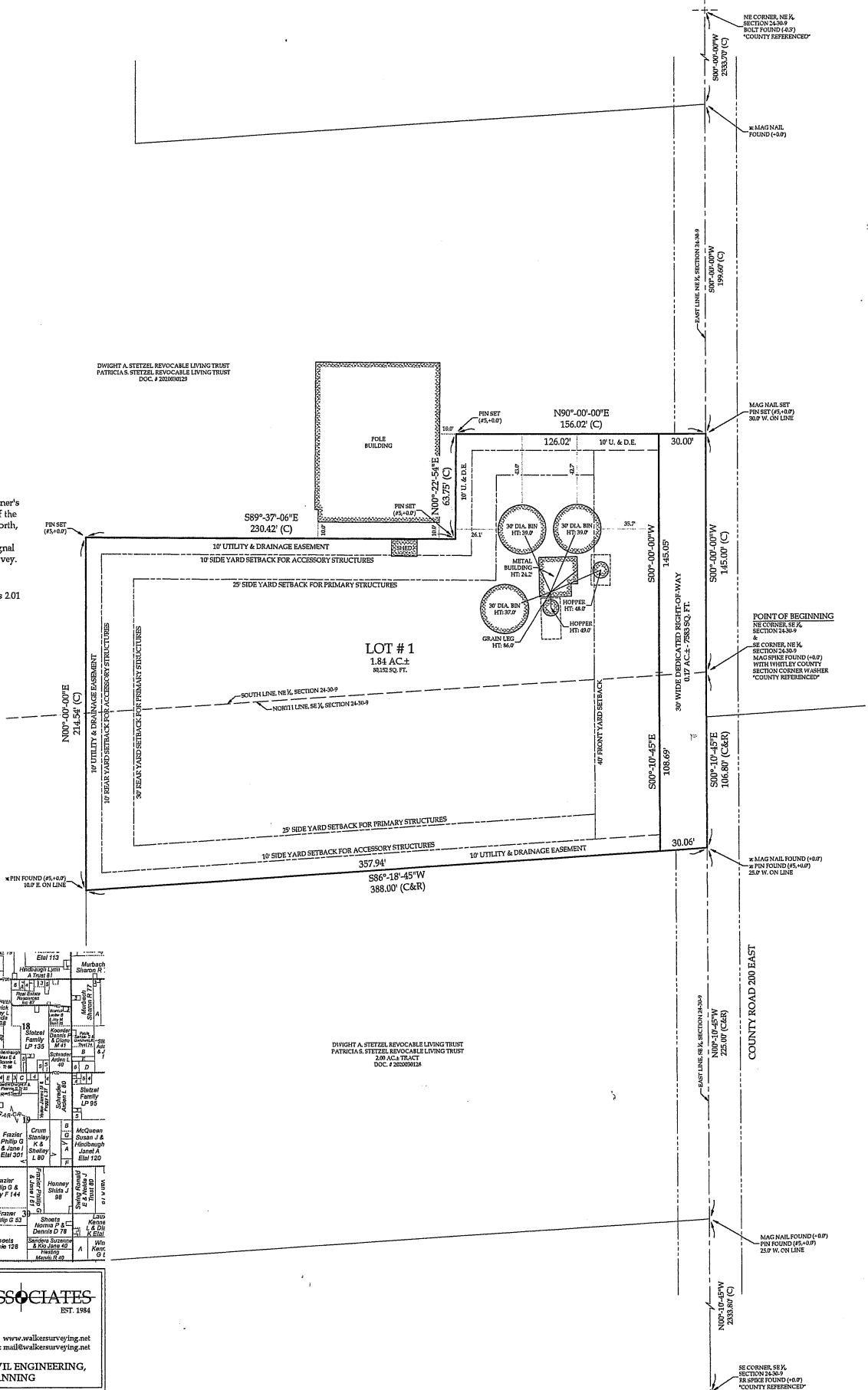
FIELD WORK COMPLETED ON 5-20-2024

BASIS OF BEARINGS

The basis of bearings for this drawing is an adjoining deed bearing of S00°-00'-00"W for the East line of the Northeast Quarter of Section 24, Township 30 North, Range 9 East, Whitley County, Indiana. Multiple GPS observations utilizing a WGS84 signal and a local coordinate grid were utilized in this survey.

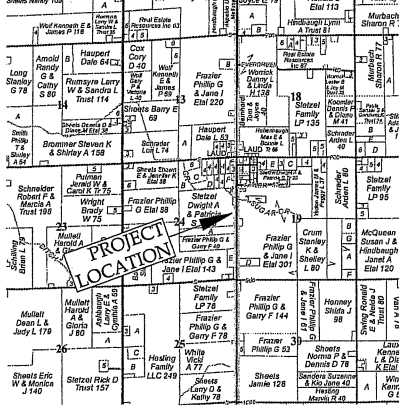
AREA NOTES

The Plat of Stetzel Grainery Subdivision contains 2.01 acres.
 Lot Number 1 contains 1.84 acres.
 There are 0.17 acres of Dedicated Right-of-Way.



VICINITY MAP

NOT TO SCALE



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