

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

23-W-SE-3 **SPECIAL EXCEPTION/VARIANCE**
Brad & Kimberly Jenkins
5463 E. 200 North

FEBRUARY 28, 2023
AGENDA ITEM: 4

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural
Property area: 2.79 acres

The petitioners, owners and residents of the subject property, are requesting approval to operate a craft and antique store to be known as “Gigi’s Country Cabin,” in a building on the property at 5463 E. 200 North. It is proposed as a traffic-generating home occupation, which requires a special exception. However, the proposed sign to be used for the home occupation exceeds the maximum permissible size under the code, which necessitates a variance request as well.

As proposed, the petitioners’ recently constructed building on the property would be used as a craft and antique store. A portion of the structure would be used as a craft workshop. Once the petitioner retires, her intent is to operate the store 40 hours a week including craft classes in the facility. Anticipated hours of operation were not submitted and likely are not yet determined.

Access would be provided using the existing gravel driveway onto 200 North. Parking would be provided using stone parking area to the north and west of the cabin.

Signage is proposed with name and directional on the north side of the property bordering State Road 205, along with directional signs posted at the driveway. The proposed size of the identification sign would be 6’ x 8’, double-sided, so a total of 48 sq ft display area per side. The home occupation regulations allow for 6 sq ft of sign area per side, necessitating a variance. Note that if this were a specialty retail special exception, a commercial sign of up to 150 sq. ft. per side could be considered.

HOME OCCUPATION STANDARDS

The requirements of §10.9 Special Exception Standards and §5.14 Home Occupation Standards of the zoning code apply. The proposal appears to be in compliance with the standards of Section 5.14 of the Zoning Code for home occupations. The area to be used for business totals approximately 480 sq. ft., which is less than the 483 sq. ft. permissible maximum, as based on the floor area of the residence listed in the Assessor’s records.

VARIANCE 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 sign area variance will not likely be injurious to the public health, safety, and morals. The general welfare may be affected if there is not a specific difficulty arising from this property/proposal.

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**
The use of the area adjacent to the property is not likely to be impacted by the variance, due to the

separation between the sign location and the surrounding residential properties and the placement along SR 205.

- 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.**

Whether the square footage area difficulty is self-imposed should be scrutinized by the Board.

The home occupation standards are generally more restrictive than the permissible specialty retail special exception. So, the proposed sign, being larger than that allowed by code for home occupations but smaller than that permissible for commercial uses, may be viewed as a tradeoff for those additional restrictions since the property's location along a main highway could be ideal for a future dedicated commercial use—if such a special exception would be approved by the Board.

SPECIAL EXCEPTION REVIEW CRITERIA

Indiana Code §36-7-4-918.2 and Section 10.9(A) of the Zoning Code authorize the Board to review special exceptions and 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 special exception shall not involve any elements or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards;**

It is unlikely that this proposal will have any elements or conditions that may be particularly dangerous, injurious, or noxious to other properties or persons. Being a small retail/workshop operation, it should generally comply with performance standards.

- 2. The special exception shall be sited, or oriented and landscaped to produce a harmonious relationship of building and grounds to adjacent buildings and properties;**

The proposed special exception would not make any apparent modifications to the existing structure, other than the parking area. So, other than the new signage, there would be no significant change to the relationship of building and grounds to adjacent buildings and properties.

- 3. The special exception shall produce a total visual impression and environment that is consistent with the environment of the neighborhood;**

The use would have vehicles parked, and attendees on site while in operation, which might be consistent with the environment of the neighborhood. The Board must determine if the proposed use is sufficiently infrequent or intermittent to be consistent with the area.

- 4. The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and**

Use of the one driveway as the access point from 200 North could cause possible congestion in either direction if vehicles are waiting to turn. However, such congestion is not likely to occur frequently and likely would dissipate quickly.

- 5. The special exception shall preserve the purpose of this Ordinance, as stated in Section 1.4.**

Home Occupation (traffic-generating) is a listed special exception of the AG district. Generally, the above criteria seem to affirm the purposes stated in the ordinance.

SUGGESTED CONDITIONS

If the Board moves to grant the special exception, the following are suggested conditions of the approval:

1. The Special Exception is granted for the applicant and is non-transferable.
2. The Special Exception is granted as presented and per the site plan.
3. No additional employees are to be hired by the petitioner to operate this facility.
4. The parking areas must be kept in good condition and available to accommodate the required parking.
5. Hours of the retail operation would not exceed 10am to 6pm (or as determined by the Board).
6. Exterior lighting, if any, shall be directed and/or oriented to prevent light spillage and glare onto adjacent properties and rights-of-way.
7. Signs shall not be illuminated.

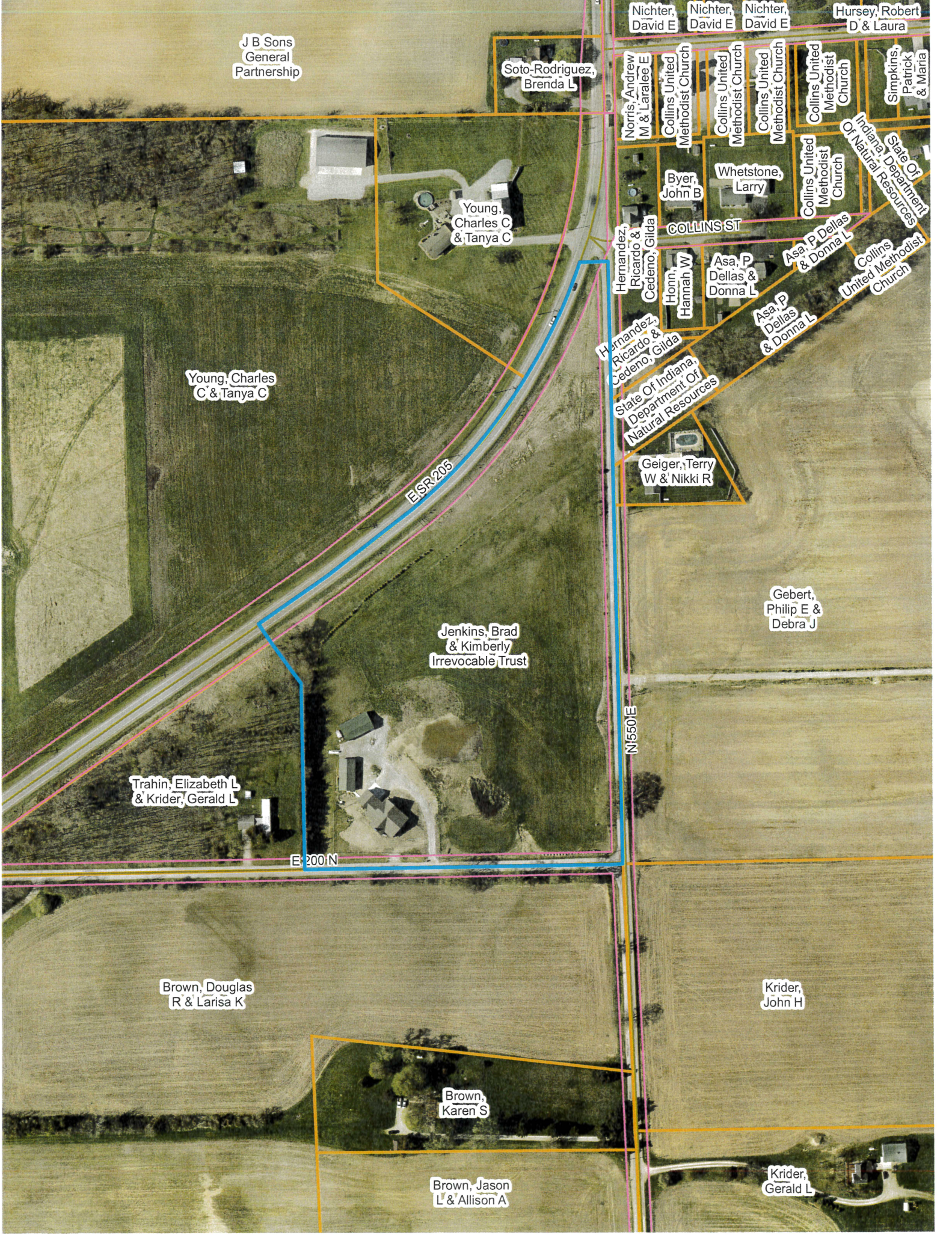
Date report prepared: 2/21/2023

BOARD OF ZONING APPEALS RECORD OF ACTION

Motion: _____ By: _____ Second by: _____

Approve _____
 Approve w/conditions _____
 Deny _____

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



J B Sons
General
Partnership

Soto-Rodriguez,
Brenda L

Young,
Charles C
& Tanya C

Young, Charles
C & Tanya C

Jenkins, Brad
& Kimberly
Irrevocable Trust

Trahin, Elizabeth L
& Krider, Gerald L

Brown, Douglas
R & Larisa K

Brown,
Karen S

Brown, Jason
L & Allison A

Krider,
John H

Krider,
Gerald L

Gebert,
Philip E &
Debra J

Geiger, Terry
W & Nikki R

State Of Indiana,
Department Of
Natural Resources

Hernandez,
Ricardo &
Cedeno, Gilda

Honn,
Hannah W

Asa, P
Dellas &
Donna L

Asa, P
Dellas
& Donna L

Collins
United Methodist
Church

Byer,
John B

Whetstone,
Larry

COLLINS ST

Indiana, Department
Of Natural Resources

Collins United
Methodist Church

Collins United
Methodist Church

Collins United
Methodist Church

Collins United
Methodist Church

Norris, Andrew
M & Laralee E

Collins United
Methodist Church

Collins United
Methodist Church

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Methodist Church

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Methodist Church

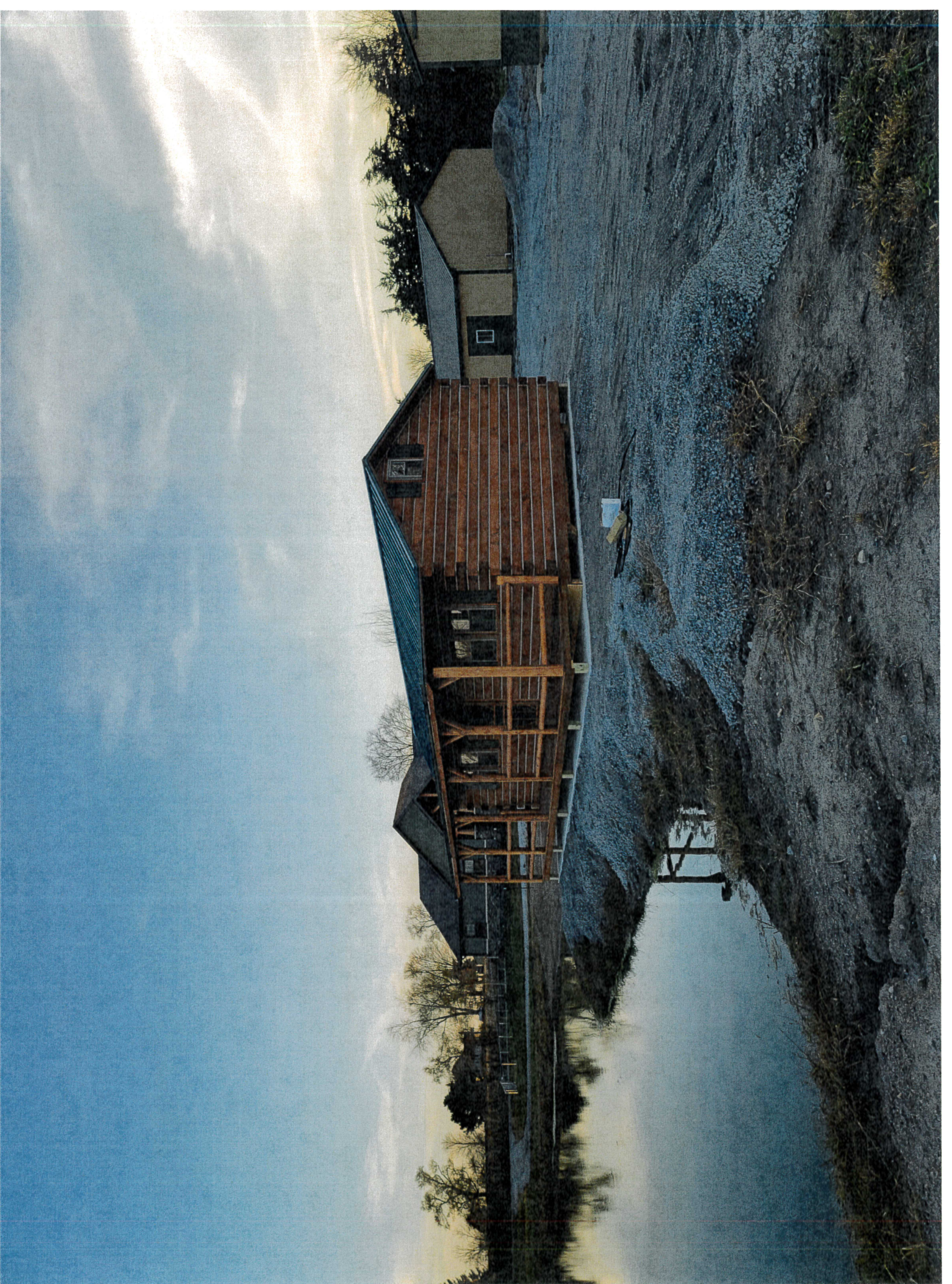
Simpkins,
Patrick & Maria

Nichter, David E

Nichter, David E

Nichter, David E

Hursey, Robert
D & Laura



GiGi's
COUNTRY CABIN

