



**Petition Number:** 1412-VS-15

**Subject Site Address:** West of Eagletown Road and North of 166<sup>th</sup> Street (the “Property”)

**Petitioner:** Yan Guenette (the “Petitioner”)

**Request:** The petitioner is requesting Variances of Development Standard from the Unified Development Ordinance to: (i) not require the Subdivision process (*Article 10.12*); and (ii) reduce the Minimum Lot Frontage requirement in the AG-SF1: Agriculture/Single-Family Rural District (*Article 4.2(D)*).

**Current Zoning:** AG-SF1 (Agriculture/Single-Family Rural District)

**Current Land Use:** Vacant

**Approximate Acreage:** 5.3 acres +/-

**Exhibits:**

1. Staff Report
2. Location Map
3. Application
4. Proposed Site Plan
5. Ingress/Egress Easement

**Staff Reviewer:** Kevin M. Todd, AICP

---

### **Petition History**

This petition is scheduled to receive a public hearing at the January 13, 2015 Board of Zoning Appeals meeting.

---

### **Analysis**

**Location:** The Property is approximately 5.3 acres in size and is located approximately 650 feet west of Eagletown Road and approximately 640 feet north of 166<sup>th</sup> Street. The Property is currently two (2) separate, adjacent parcels, neither of which contains road frontage. According to the application, the Property is accessed by an existing twenty (20) foot non-exclusive ingress/egress easement that extends to Eagletown Road. The Property is vacant and is zoned AG-SF1. Adjacent property to the property to the



north, east, and south is also zoned AG-SF1 and is residential in use. Adjacent property to the west is vacant and is zoned Westgate PUD.

Subdivision Process Request: The subject property was originally part of a larger thirty-seven (37) acre piece of property until 1996, when the two (2) subject parcels were created. Zoning and subdivision laws were established in Westfield-Washington Township in 1977, which is prior to subdivision of the property in question. At the time the parcels were created, the zoning and subdivision laws required certain minimum road frontage and minimum lot size for newly created lots. Because the Property does not contain adequate road frontage, the property did not meet the zoning requirement and was illegally subdivided (and illegally created). The Property has been in its current state for nearly twenty (20) years. There have been improvements made (i.e. homes built) on adjacent properties over the years, and the Petitioner has expressed a desire to build a home on the Property. Because the Property was illegally subdivided, a building permit cannot legally be issued on the Property as it currently exists. One way of addressing the illegal subdivision of the Property is to approve the request to (retroactively) not have the Subdivision process apply to this Property. If the process doesn't apply, then the subdivision rules don't apply, rendering the creation of the properties legal (as long as the road frontage reduction request is also approved).

Road Frontage Variance Request: The Petitioner has filed a request to reduce the minimum road frontage requirement from two hundred-fifty (250) feet to zero (0) feet. The Property does not have any road frontage and is served by an access easement. The lack of road frontage leaves few options: leave the property as is; join the property with adjacent property that has compliant road frontage; or obtain a variance from the road frontage standard. The petitioner states in the application that the intention is to combine the two parcels into a single parcel and build a single-family home on the newly-created lot. If the requested road frontage variance and subdivision process relief requests are approved, then all other applicable zoning requirements could be met.

Access: The petitioner has provided a copy of the adjacent ingress/egress easement that serves this area (see attached Exhibit 5).

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan (the "Comprehensive Plan") identifies this Property within the "New Suburban"<sup>1</sup> land use classification. "Detached Dwellings"<sup>2</sup> are contemplated in the Comprehensive Plan as appropriate uses within this area of the township.

---

<sup>1</sup> Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (pg. 23).

<sup>2</sup> Westfield-Washington Township Comprehensive Plan, New Suburban Development Policies (pg.40).



### **Procedural**

**Public Notice:** The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standards. This petition is scheduled to receive its public hearing at the January 13, 2015, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

**Variance of Development Standard:** The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the Unified Development Ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
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
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

---

### **Recommendation**

**If the Board of Zoning Appeals is inclined to APPROVE the Variance of Standard requests,** then the Department recommends approval of the findings set forth below, with the following condition:

**Recommended Condition of Approval:**

1. The two (2) existing parcels be legally combined into a single parcel prior to the issuance of an improvement location permit.

**Recommended Findings of Fact:** A Variance of Standard may be approved under Indiana Code § 36-7-4-918.5 and the City of Westfield-Washington Township Unified Development Ordinance (Article 10.14.G.2) only upon a determination that:

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

**Finding:** It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community. The Property is currently served by an existing shared driveway, and shared driveways reduce the number of road cuts onto public streets, thus reducing potential conflicts on those streets. Additionally, detached single-family homes are a contemplated use in this area of the township



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:*

**Finding:** It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. Constructing a home would likely add value to Property, and therefore have a neutral or positive impact on nearby property values.

3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

**Finding:** Strict adherence to the zoning ordinance would result in the inability to improve the Property with any sort of structure, and likely result in the property remaining vacant, unless joined with adjacent property with adequate road frontage. The proposed use is permitted in the AG-SF1 District, and the parcel would otherwise comply with all other standards of that district.

**If the Board of Zoning Appeals is inclined to DENY the Variance of Standard requests,** then the Department recommends approval of the findings set forth below:

**Recommended Findings of Fact:** A Variance of Standard may be approved under Indiana Code § 36-7-4-918.5 and the City of Westfield-Washington Township Unified Development Ordinance (Article 10.14.G.2) only upon a determination that:

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

**Finding:** It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community. The Property is currently served by an existing shared driveway, and shared driveways reduce the number of road cuts onto public streets, thus reducing potential conflicts on those streets. Additionally, detached single-family homes are a contemplated use in this area of the township

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:*

**Finding:** The use and value of adjacent property could be affected in a substantially adverse manner. Adding an additional home to use the existing shared driveway could have a negative impact on access to and use of the access easement. This additional burden on the shared drive could negatively impact the use and value of the area.



WESTFIELD-WASHINGTON  
BOARD OF ZONING APPEALS

January 13, 2015

1412-VS-15

Exhibit 1

- 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

**Finding:** Each of the two (2) existing subject parcels are adjacent to properties with appropriate road frontage. If there is a willing purchaser(s), the properties could be lawfully joined to other nearby compliant properties (without the need for a variance) and used in a manner that is consistent with the terms of the Comprehensive Plan and the AG-SF1 District.