

OCT 31 2014

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: 1412-VS-15 FILING DATE: 10-31-14
FILING FEE: \$ FEE PLUS \$ PER ADDITIONAL VARIANCE (@) = \$

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: (STAFF NAME) DATE:

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: AMENDMENTS: DEVELOPMENT PLAN:

PRIMARY PLAT: SECONDARY PLAT: VARIANCE(S):

APPLICANT INFORMATION

APPLICANT'S NAME: Yan Guenette TELEPHONE: 317-938-2440

ADDRESS: 17056 Lakeville Crossing, Westfield, IN 46074 EMAIL: indybuilt@hotmail.com

PROPERTY OWNER'S NAME: JENNIFER L KAIM + JAMES J KAIM TELEPHONE:

ADDRESS: 12378 TORBERG PL FISHERS IN 46038 EMAIL:

REPRESENTATIVE'S NAME: JAMES D. HALL TELEPHONE: 317-696-3594

COMPANY: JD HALL LAND SURVEYING EMAIL: alandsurveyor@yahoo.com

ADDRESS: 803 S. OHIO St., SHERIDAN, IN, 46069

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: Tract is 650' West of EagleTown Road & 640' North of 166th Street, Washington Twp.

COUNTY PARCEL ID #(S): 08-09-04-00-00-014.000 & 08-09-04-00-0-014.014

EXISTING ZONING DISTRICT(S): AG-SF1 (RURAL) EXISTING LAND USE(S): VACANT

VARIANCE REQUEST

[] VARIANCE OF LAND USE CODE CITATION:

[x] VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: UDO 4.2 (D)

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY):

This request is to seek relief from the strict application of UDO 4.2(d) Minimum Lot Frontage of 250 feet

The properties in question are being combined and do not have direct road frontage. A Non-Exclusive 20' ingress & egress easement is providing access to EagleTown Road. The Ingress/Egress easement crosses land owned by others, making strict adherence to the letter of the ordinance impossible.

At present, the property is a legal non-conforming use, but the applicant wishes to construct his own single family residence on this land. This property encompasses 5.30 acres once combined and the only issue requiring action will be this frontage requirement.

APPLICANT AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that above information is true and correct as he/she is informed and believes and that Applicant owns or controls the property involved in this application.

[Signature]
Applicant/Representative (signature)

YAN GWENETTE
Applicant/Representative (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing Application.

Witness my hand and Notarial Seal this 31st day of October, 2014.

State of IN, County of Hamilton, ss:



[Signature]
Notary Public Signature
John James Cox
Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the foregoing Application.

[Signature]
Property Owner (signature)*

Jennifer L. Kalm
Property Owner (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Witness my hand and Notarial Seal this 27th day of October, 2014.

State of IN, County of Hamilton, ss:

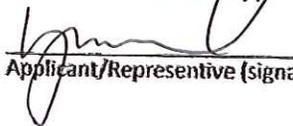


[Signature]
Notary Public Signature
Stephanie D. Bledsoe
Notary Public (printed)

*A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required with the application.

APPLICANT AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that above information is true and correct as he/she is informed and believes and that Applicant owns or controls the property involved in this application.


Applicant/Representative (signature)

YAN GUENETTE
Applicant/Representative (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing Application.

Witness my hand and Notarial Seal this 31st day of October, 2014.

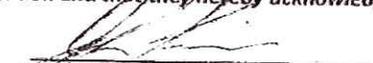
State of IN, County of Hamilton, ss:




Notary Public Signature
John James Cox
Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the foregoing Application.


Property Owner (signature)*

JAMES J. KAIM
Property Owner (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Witness my hand and Notarial Seal this 24th day of October, 2014.

State of IN, County of Hamilton, ss:




Notary Public Signature
Stephanie D. Bledsoe
Notary Public (printed)

*A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required with the application.

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: _____

DOCKET #: _____

In taking action on a variance request, the Board of Zoning Appeals uses the following decision criteria to approve or deny a variance, as established by Indiana Code, and the Board may impose reasonable conditions as part of its approval. The applicant must address the criteria below (if multiple variances of development standard are being requested, then this sheet should be completed separately for each requested variance). A variance of land use may be approved by the Board of Zoning Appeals only upon a determination that the Board finds all of the following to be true:

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

In this particular case, additional land to create the required Frontage simply does not exist and is not possible. Whoever, this site is served by an existing drive which is covered by a Non-Exclusive 20' Ingress & Egress Easement, which currently being utilized by two additional properties. Continuation of the status quo will have no ill effect on the community at large.

B. 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: _____

Similar properties already exist along the existing drive which utilizes the Ingress/Egress Easement, which do not have direct frontage on Eagletown Road. Approval of this request will likely increase the subject property value while the construction on a New residential structure is likely to increase the value of surrounding properties.

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

The subject property is "land locked" with the only access being through the existing 20' ingress & egress easement. This easement is in use and both benefits and burdens the subject property.

There is no additional land from which to create the required 250' frontage.

VARIANCE APPLICATIONS

GENERAL INSTRUCTIONS

- A. **Pre-Filing Conference:** A pre-filing conference is required for all petitions. An appointment must be made with the Economic and Community Development Department (the "Department") to discuss a petition prior to filing. An application will not be considered filed until a pre-filing conference has occurred. Applicants are encouraged to incorporate the Department's comments into the application prior to filing.
- B. **Filing Petition:** A petition shall be filed with the Department by the filing deadline in accordance with the Schedule of Meeting and Filing Dates. In order to be deemed a complete petition, a petition shall include the following:
- | | |
|---|---|
| <input type="checkbox"/> Completed Application | <input type="checkbox"/> Filing Fee Check (made out to "City of Westfield") |
| <input type="checkbox"/> Legal Description | <input type="checkbox"/> Copy of Property Deed |
| <input type="checkbox"/> Draft Public Notice | <input type="checkbox"/> List of Adjoining Property Owners (as provided by County) |
| <input type="checkbox"/> Property Owner Consent | <input type="checkbox"/> TAC Delivery Affidavit (if TAC is determined to be necessary) |
| <input type="checkbox"/> Site Plan (to scale) | <input type="checkbox"/> Vicinity Map (including property within 500 feet) |
| <input type="checkbox"/> Statement of Intent | <input type="checkbox"/> Elevations, photographs or other supporting information necessary to explain the nature of the requested variance(s) |
- C. **Technical Advisory Committee (TAC):** The applicant is responsible for submitting a copy of the application and related information to Technical Advisory Committee members prior to filing, if determined by the Department to be necessary. An affidavit confirming delivery of information is required to be completed and signed by the applicant and submitted with the petition. Technical Advisory Committee meetings are held in the City Services Building (2728 East 171st Street, Westfield, IN 46074) in accordance with the Schedule of Meeting and Filing Dates. A representative must be present at this meeting.
- D. **Public Hearing and Notice:** All variance petitions require a public hearing by the Board of Zoning Appeals. The public hearing is held at City Hall, 130 Penn Street, Westfield, Indiana, in accordance with the Schedule of Meeting and Filing Dates. Notice of the hearing is required in accordance with the Board's [Rules of Procedure](#):
- Newspaper Publication:** Notice of the hearing will be published in the Indy Star and The Times. The Department will handle the newspaper publication requirement.
 - Mailed Public Notice:** The applicant is responsible to send public notice by mail to all interested parties by certified mail with return receipt requested (green card), postmarked at least ten (10) days prior to the hearing. A list of adjacent property owners may be obtained from the **Hamilton County Auditor, Office of Transfers and Mapping** (33 North 9th Street, Noblesville, IN 46060, (317) 776-9624), and shall include all owners of property to a depth of two (2) ownerships of no direct or indirect financial or other interest to the applicant or property owner or one-eighth of a mile (1/8), whichever is less.
 - Public Notice Sign:** The applicant is responsible to post a public notice sign(s) on the property at least ten (10) days prior to the public hearing. The Department will determine sign locations and will make signs available for the applicant to obtain in the office of the Department.
 - Affidavit of Notice of Public Hearing:** The applicant shall deliver a copy of the mailed notice and a signed affidavit, verifying that the notices were mailed and the public notice sign(s) was posted on the subject property, to the Department at least four (4) calendar days prior to the public hearing.
- E. **Ex-parte Communication:** In no event shall applicants or other interested parties contact or attempt to communicate with members of the Board in regard to a filed variance petition prior to the public hearing.
- F. **Revised Materials:** If the applicant wishes to submit additional or revised information than what is filed, then the applicant shall submit those to the Department no later than ten (10) days prior to the public hearing.
- G. **Board's Consideration:** Following the public hearing, the Board may either approve, approve with conditions, deny or continue the petition.
- H. **Resource:** Please see the Board's [Rules of Procedure](#) for more detailed procedural information.

EXHIBIT A

NEW COMBINED LEGAL DESCRIPTION

A PART OF THE Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East located in Washington Township, Hamilton County, Indiana, being bounded as follows:

Commencing at the Northeast corner of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East, said point being collinear and equidistant from the Northeast corner and the Southeast corner of said Southwest Quarter; thence South 00°00'00" (assumed bearing) 300.00 feet on and along the East line of said Southwest Quarter to the Southeast corner of a tract of land recorded as Deed Record 324, page 769, records of Hamilton County, Indiana, thence South 89°41'48" West 653.40 feet parallel with the North line of the Southeast Quarter of said Southwest Quarter and along the South line of said tract of land to its Southwest corner, said point also being the Southeast corner of a tract of land recorded as Deed Record 332, page 468, records of Hamilton County, Indiana, said point also being the point of beginning of this description, said point being a 5/8 inch iron rod with cap, thence South 00°00'00" 371.43 feet parallel with the East line of said Southwest Quarter to a 5/8 inch rod with cap; thence South 89°41'48" West 351.75 feet parallel with the North line of the Southeast Quarter of said Southwest Quarter to a 5/8 inch rod with cap; Thence South 89°41'48" West, 703.67 feet to a 5/8" inch rod with cap on the West line of said Southeast Quarter of the Southwest Quarter; thence along said West line, North 00°01'41" East, 371.43 feet to a 5/8 inch rod with cap; Thence North 89°41'48" East, 703.49 feet to the point of beginning, containing 5.30 acres more or less.

14.00

③

TRUSTEE'S WARRANTY DEED

Instrument 9609643701

THIS INDENTURE WITNESSETH, That CATHERINE L. STAFFORD, successor Trustee of

NOLAN L. STAFFORD and CATHERINE L. STAFFORD, Trustees or their successors in trust under the NOLAN L. STAFFORD LIVING TRUST, dated January 30, 1992, and any amendments thereto; and

CATHERINE L. STAFFORD and NOLAN L. STAFFORD, Trustees or their successors in trust under the CATHERINE L. STAFFORD LIVING TRUST, dated January 30, 1992, and any amendments thereto

("Grantors") of HAMILTON County, in the State of Indiana, for the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, WARRANTS and CONVEYS both trusts' entire interest in the following described real estate to JENNIFER L. KAIM, adult, of HAMILTON County.

The real estate in HAMILTON County, in the State of Indiana, which is the subject of this deed is described as follows:

SEE ATTACHED LEGAL DESCRIPTION

Subject to all taxes, easements and rights of way of Record.

9609643701
Filed for Record in
HAMILTON COUNTY, INDIANA
MARY L CLARK
On 10-15-1996 At 10:43 am.
WD 14.00

IN WITNESS WHEREOF, the Grantors have executed this deed, this 3rd day of September, 1996.

Signature: *Catherine L. Stafford Trustee*
Nolan L. Stafford Trust
Catherine L. Stafford Trust

Printed: CATHERINE L. STAFFORD, successor Trustee for the NOLAN L. STAFFORD LIVING TRUST dated January 12, 1992 & the CATHERINE L. STAFFORD LIVING TRUST dated January 12, 1992

Send Tax Statements to Grantee's Post Office Address of: 12378 TORBERG PLAK
FISHERS, IN 46038

STATE OF INDIANA)
)SS:
COUNTY OF Marion)

Before me, a Notary Public in and for said County and State, personally appeared CATHERINE L. STAFFORD, successor Trustee for both above named trusts, who acknowledged the execution of the foregoing Trustee's Warranty Deed, and who, having been duly sworn, stated that any representations therein contained are true. Witness my hand and Notarial Seal this 3rd day of September, 1996.

JULY ENTERED FOR TAXATION
Subject to final acceptance for transfer
15 day of OCT 19 96

Signature: *C. Diane Mitchell*

County of Residence: Hamilton

Printed: C. Diane Mitchell

My Commission Expires: 10-1-97

Auditor
Hamilton County

Parcel# _____

This instrument was prepared by Brian S. Gordon, Attorney at Law
GORDON & GORDON, P.C., ATTORNEYS AT LAW 9850 N. 950 E. Brownsburg, Indiana 46112

A part of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East located in Washington Township, Hamilton County, Indiana, being bounded as follows: Commencing at the Northeast corner of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East, said point being colinear with and equidistant from the northeast corner and the southeast corner of said Southwest Quarter; thence South 00 degrees 00 minutes 00 seconds (assumed bearing) 300.00 feet on and along the east line of said Southwest Quarter to the Southeast corner of a tract of land recorded as Deed Record 324 page 769 records of Hamilton County, Indiana; thence South 89 degrees 41 minutes 48 seconds West 653.40 feet parallel with the North line of the Southeast Quarter of said Southwest Quarter and along the south line of said tract of land to its Southwest corner, said point also being the Southeast corner of a tract of land recorded as Deed Record 332, page 468 records of Hamilton County, Indiana, said point also being the Point of Beginning of this description, said point being a 5/8 inch iron rod with cap; thence South 00 degrees 00 minutes 00 seconds 371.43 feet parallel with the East line of said Southwest Quarter to a 5/8 inch rod with cap; thence South 89 degrees 41 minutes 48 seconds West 351.75 feet parallel with the north line of the Southeast Quarter of said Southwest Quarter to a 5/8 inch rod with cap; thence North 00 degrees 00 minutes 00 seconds 371.43 feet parallel with the east line of said Southwest Quarter to the westerly extension of the south line of a tract of land recorded in Deed Record 297 page 172 records of Hamilton County, Indiana, said point being a 5/8 inch rod with cap; thence North 89 degrees 41 minutes 48 seconds East 351.75 feet parallel with the north line of the Southeast Quarter of said Southwest Quarter and along the westerly extension and south line of said tract of land and the south line of a tract of land recorded in Deed Record 332 page 468 to the Point of Beginning.

ALSO

A part of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East located in Washington Township, Hamilton County, Indiana, being bounded as follows: Commencing at the northeast corner of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East, said point being colinear with and equidistant from the northeast corner and the southeast corner of said Southwest Quarter; thence South 00 degrees 00 minutes 00 seconds (assumed bearing) 300.00 feet on and along the east line of said Southwest Quarter to the Southeast corner of a tract of land recorded as Deed Record 324, page 769, records of Hamilton County, Indiana; thence South 89 degrees 41 minutes 48 seconds West 1005.15 feet parallel with the north line of the Southeast Quarter of said Southwest Quarter and along the south line of said tract of land, the South line of a tract of land described in Deed Record 332, page 468, records of Hamilton County, Indiana and the South line and the Westerly extension of the South line of a tract of land described in Deed Record 297 page 172, records of Hamilton County, Indiana to a 5/8 inch iron rod with cap, said point being the Point of Beginning of this description;

CONTINUED

thence South 00 degrees 00 minutes 00 seconds 371.43 feet parallel with the east line of said Southwest Quarter to a 5/8 inch iron rod with cap; thence South 89 degrees 41 minutes 48 seconds West 351.92 feet parallel with the north line of the Southeast Quarter of said Southwest Quarter to the west line of the Southeast Quarter of said Southwest Quarter, said point being a 5/8 inch iron rod with cap; thence North 00 degrees 01 minutes 41 seconds East 371.43 feet on and along the west line of the Southeast Quarter of said Southwest Quarter to its intersection with the westerly extension of the South line of a tract of land described in Deed Record 297 page 172, records of Hamilton County, Indiana, said point being a 5/8 inch iron rod with cap; thence North 89 degrees 41 minutes 48 second East 351.74 feet parallel with the north line of the Southeast Quarter of said Southwest Quarter and along the westerly extension of said tract of land to the Point of Beginning.

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LEGAL DESCRIPTION

A part of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East located in Washington Township, Hamilton County, Indiana, being bounded as follows: Commencing at the northeast corner of the Southeast Quarter of the Southwest Quarter of Section 4, Township 18 North, Range 3 East, said point being colinear with and equidistant from the northeast corner and the southeast corner of said Southwest Quarter; thence South 00 degrees 00 minutes 00 seconds (assumed bearing) 300.00 feet on and along the east line of said Southwest Quarter to the Southeast corner of a tract of land recorded as Deed Record 324, page 769, records of Hamilton County, Indiana; thence South 89 degrees 41 minutes 48 seconds West 1005.15 feet parallel with the north line of the Southeast Quarter of said Southwest Quarter and along the south line of said tract of land, the South line of a tract of land described in Deed Record 332, page 468, records of Hamilton County, Indiana and the South line and the Westerly extension of the South line of a tract of land described in Deed Record 297 page 172, records of Hamilton County, Indiana to a 5/8 inch iron rod with cap, said point being the Point of Beginning of this description; thence South 00 degrees 00 minutes 00 seconds 371.43 feet parallel with the east line of said Southwest Quarter to a 5/8 inch iron rod with cap; thence South 89 degrees 41 minutes 48 seconds West 351.92 feet parallel with the north line of the Southeast Quarter of said Southwest Quarter to the west line of the Southeast Quarter of said Southwest Quarter, said point being a 5/8 inch iron rod with cap; thence North 00 degrees 01 minutes 41 seconds East 371.43 feet on and along the west line of the Southeast Quarter of said Southwest Quarter to its intersection with the westerly extension of the South line of a tract of land described in Deed Record 297 page 172, records of Hamilton County, Indiana, said point being a 5/8 inch iron rod with cap; thence North 89 degrees 41 minutes 48 second East 351.74 feet parallel with the north line of the Southeast Quarter of said Southwest Quarter and along the westerly extension of said tract of land to the Point of Beginning.

PLATA OBLIGADA
ON PLATA OBLIGADA
A. WICKHAM
1892