

PETITION NUMBER:	0905-VS-06
SUBJECT SITE ADDRESS:	900 East Main Street
APPELLANT:	Aaron Starr
REQUEST:	The Appellant is requesting a Variance of Standard from the Westfield-Washington Zoning Ordinance (WC 16.04.010, I) to allow a second principal structure on one lot.
CURRENT ZONING:	LB
CURRENT LAND USE:	Residential
APPROXIMATE ACREAGE:	2.75 acres
RELATED CASES:	92-AP-3
EXHIBITS:	1. Staff Report, 05/12/09
	2. Location Map, 05/12/09
	3. Property Card, 05/12/09
	4. Appellant's Application and Plans, 4/02/2009
STAFF REVIEWER:	Jeremy Miller

PROCEDURAL

This item requires a public hearing.

PETITION HISTORY

The May 12, 2009 Board of Zoning Appeals meeting represents the first hearing of this petition before the Board.

PROPERTY HISTORY

In 1855, a house (the "House") was constructed on the subject property (the "Property"). Improvements to the Property include the addition of a 30 foot by 60 foot antique sales building (the "Commercial Building") in 1980 (Permit Number 08-IP-25), an addition to the House and an addition to the Commercial Building in 1984 (Permit Number 84-IP-39) and the addition of a 60 foot by 81 foot pole barn in 1992 (Permit Number 84-IP-23). The Property has been used for single family purposes while also being used commercially as a trucking dispatch, antique shop and used to raise and house livestock animals.

There are no pending code enforcement actions on this property.

ANALYSIS

This variance request is to allow the existing Commercial Building to be converted to a single family residence. The owners intend to house their parents in the converted residence. The proposed conversion would include a great room, den, dining room, kitchen, laundry room, bedroom, two bathrooms, a study, a garage and two screened in porches on the main level. The conversion would also include a storage room, utility and storage room, game room and play room to the second level. (Exhibit 4).



The House and the Commercial Building have separate septic systems. The appellant is working with the Hamilton County Health Department to gather information about the condition of the existing septic systems and to determine whether they can handle the demand of the existing House and the proposed conversion of the existing Commercial Building.

The appellant has agreed to not rent or lease the converted Commercial Building to non-family members. The appellant would like to have the option to have other family members occupy the converted Commercial Building in the future. The Board of Zoning Appeals heard and approved a similar case in March 2009 (0903-VS-04) where the appellants desired to create a second dwelling within an existing detached garage structure located on the same parcel as an existing residence. The BZA attached the following conditions as part of the approval;

1. That the variance be in place for no more than ten years.
2. That the converted structure not be used as a rental property.
3. That the property owner's family members be the sole residents.
4. That the variance apply to the property owner only.

The BZA may wish to consider similar conditions in the present case.

In the present case, the Commercial Building mimics the residential character of the House. The Commercial Building has a greater setback from State Road 32 than the House and blends into the property. Allowing the Commercial Building to be used as a single family residence would not visually appear out of place.

PROCEDURAL

A Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under IC 36-7-4-918.5 only upon a determination in writing that:

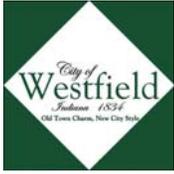
STANDARDS FOR VARIANCE REQUEST

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

Finding: The approval of such a variance will not be injurious to the public health, safety, morals and general welfare of the community. The existing structure could be used commercially which would have higher demands for traffic and utilities. The Commercial Building is setback from State Road 32 and is enclosed by a fence. The Commercial Building currently has the appearance of a residential use and blends into the existing surroundings.

2. The use and value of the area adjacent to the property included in the variance of development standard will not be affected in a substantially adverse manner:

Finding: The use and value of the area adjacent to the property will not be adversely impacted by converting the Commercial Building into a single family residence. The Commercial



Building has a larger setback from State Road 32 than the House and has mature trees that help screen the building from State Road 32. The mature plantings and other structures on the Property help screen the Commercial Building from the adjacent neighbors. The Commercial Building has been on the property since 1980 and changing its use to an arguably less intense use is likely to have a positive to neutral impact on neighboring properties.

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

Finding: The strict application of the zoning ordinance does prevent the appellant from using the property for a reasonable purpose as it exists today. The Property is zoned LB and allows for commercial use. The Property is currently being used residentially as a pre-existing legal non-conforming use. The owners of the Property do not wish to use the Commercial Building commercially and wish, instead to use it residentially.

RECOMMENDATIONS

Approve this request based on the findings of this report.

Staff suggests that the BZA consider applying the following conditions to the approval:

1. That the variance be in place for no more than ten years.
2. That the converted structure not be used as a rental property.
3. That the property owner's family members be the sole residents.
4. That the variance apply to the property owner only.
5. That the owner complies with all regulations and requirements of the Hamilton County Health Department prior to occupying the Commercial Building for residential use.

JCM

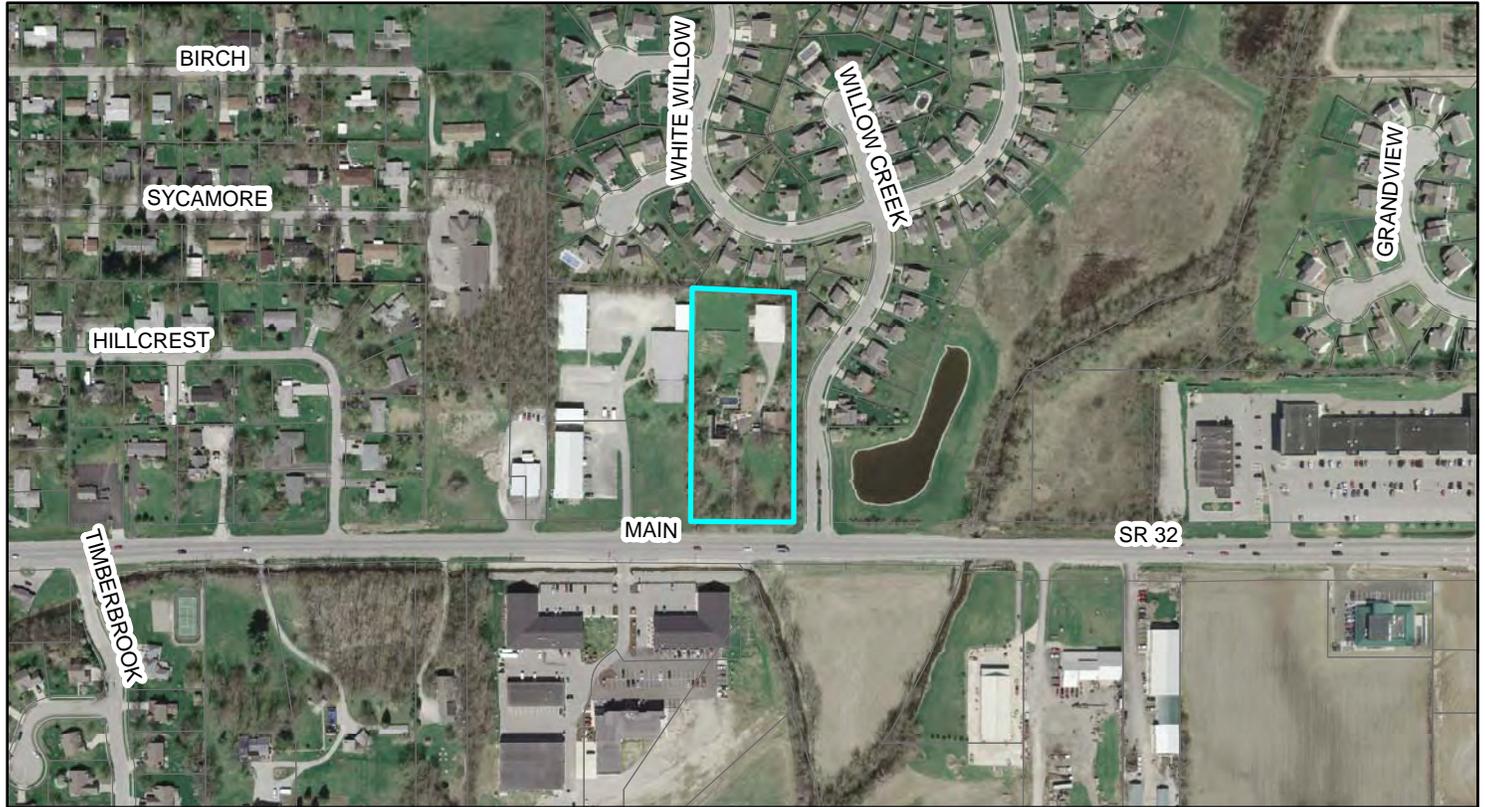


0905-VS-06
 09-06-31-00-00-016.000
 900 East Main Street
 Exhibit 2

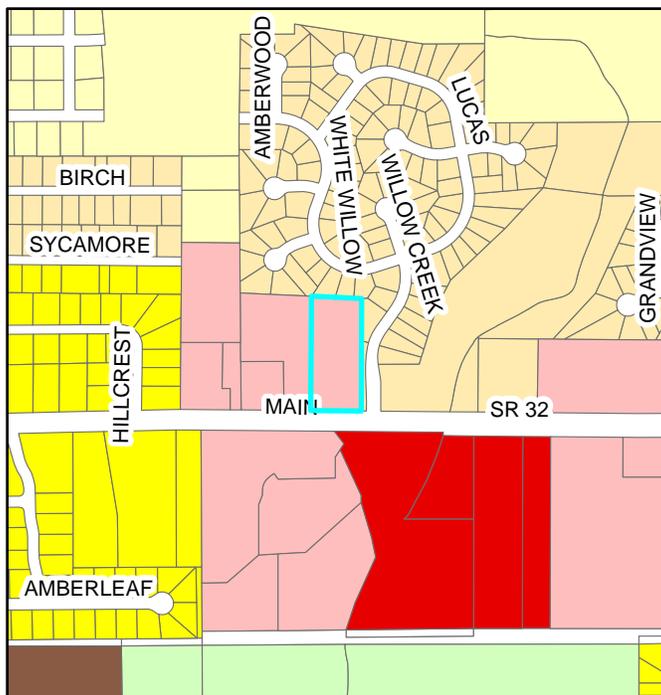


Aerial Location Map

Site

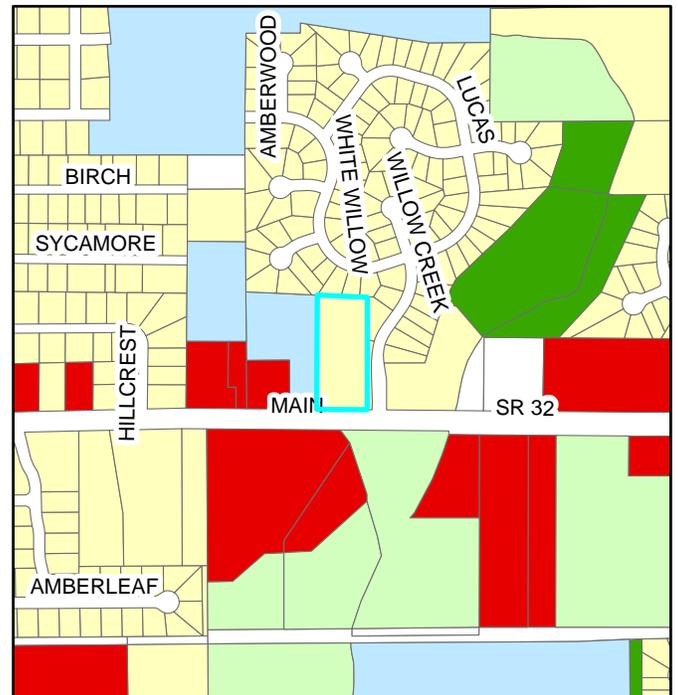


Zoning Map



- | | |
|------------------------------|-------------------|
| Agricultural-Single Family 1 | General Business |
| Single Family 2 | Local Business |
| Single Family 3 | Multiple Family 2 |
| Single Family 4 | |

Existing Land Use Map



- | | |
|---------------|--------------|
| Agricultural | Recreational |
| Commercial | Residential |
| Institutional | Vacant |

Property Card Report

1. report type 2. property search 3. view reports

- [Reset](#)
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Any, and all information contained on this web site report is the result of assessment data extracted on the most recent taxable year - **March 1, 2007**. Improvement characteristics may differ from those used to determine the total assessed value listed.

Summary Information - Parcel Number: 09-06-31-00-00-016.000

Property Data

Parcel Location	900 MAIN ST E,WESTFIELD
Taxing Unit	Westfield
Legal Description	12/2/87 FROM ECKERT A ANNEX
Section/Township/Range	S31 T19 R04
Subdivision Name	NULL
Lot and Block	Lot Block
Acres	2.75
Effective Frontage	
Effective Depth	
Property Class	Commercial Other structure

Exterior Features and Out Buildings

1 General Office, 1 Concrete Apron, 1 Pool, 1 Barn, 1 Utility Shed,

1 Open Frame Porch,

Property Owner as of April 30, 2007

Starr, Paul Aaron

Most Recent Valuation as of March 1, 2007

Assessed Value: Land	238700
Assessed Value: Improvements	257600
Total Assessed Value:	496300

Building 1, Card ID R01

Physical Characteristics

Story Height	2.0
Attic	none
Basement	approx. 1/4
Crawl	approx. 3/4
Year Built	1855

Floor Construction

1.0 (first)	Sub and joists
2.0 (second)	Sub and joists
Basement	Slab

Floor Finish

1.0 (first)	Carpet, Vinyl tile
2.0 (second)	Carpet, Vinyl tile
Basement	Unfinished, None

Exterior Cover

1.0 (first)	Wood siding
2.0 (second)	Wood siding
Basement	Conc block

Interior Finish

Accomodations

Finished Rooms	8
Bedrooms	2

Heating and Air Conditioning

Primary Heat	YES
Air Conditioning	YES

Plumbing

Full Baths	2
Partial Baths	0

Fireplace

Fireplace Stacks	YES
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Basement Rec Room

Rec Room Type	
Rec Room Square Footage	0

Area/Square Footage (based on exterior eave to eave area)

Building Level	Base Area	Approx. Finished Area
1.0 (first)	1234	1234
2.0 (second)	946	946

1.0 (first)	Drywall	Basement	370	0
2.0 (second)	Drywall	Garage		
Basement	Unfinished	Garage Type		
		Garage Square Footage		
			0	

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RECEIVED

APR 02 2009

TOWN OF WESTFIELD, INDIANA

WESTFIELD COMMUNITY
DEVELOPMENT DEPARTMENT

Petition Number:

0905-VS-06

Date of Filing:

04/04/09

**Application for VARIANCE OF DEVELOPMENT STANDARD
Westfield – Washington Township
Board of Zoning Appeals (BZA)**

This application must be completed and filed with the Community Services Department of the Town of Westfield, Indiana in accordance with the meeting schedule.

1. Appellant's Name Paul Aaron Starr
Address 900 East Main Street
Westfield, Indiana 46074
Telephone Number 317-216-4399
E-Mail Address Talktostarr@hotmail.com
2. Landowner's Name Paul & Elizabeth Starr, Richard & Susan Brodhead
Address 900 E. Main Street
Westfield, Indiana 46074
Telephone Number 317-216-4399, 317-407-7569
3. *Representative N/A
4. Common description of property (address, location, etc.)
The property is located at 900 East Main Street, Westfield Indiana 46074. It is located on the north side of Main Street neighboring the Willow Creek Subdivision to the west and Neighboring east of the Lutheran Church.
5. Legal description of property (list below or attach)
Part of the Southwest Quarter of the Southeast Quarter of Section 31, Township 19 North, Range 4 East, in Hamilton County, Indiana, more particularly described as follows:

Beginning on the South line of the Southwest Quarter of the Southeast Quarter of Section 31, Township 19 North, Range 4 east, South 89 degrees 20 minutes 12 seconds West (assumed bearing) 1,854.08 feet from the Southeast corner of the Southeast Quarter of said Section 31; thence North 00 degrees 08 minutes 03 seconds West on and along an existing fence line 557.12 feet; thence North 88 degrees 02 minutes 21 seconds West 213.80 feet to a found iron pin at the Northeast corner of real estate conveyed to Robert

E. Hart, pre Deed Record 249, page 244; thence South 00 degrees 14 minutes 41 seconds East on and along the East line of said real estate 566.90 feet to the South line of said Southeast Quarter Section; thence North 89 degrees 20 minutes 12 seconds East on and along said South line 212.37 feet to the Beginning Point.

6. Complete description of the nature of the development standard variance applied for: A complete description of the nature of the development standard variance we are Applying for will be done in accordance to WC 16.04.010I. The variance of use standard would allow the commercial office to be used as an In-Law Quarters.

7. **ALL SITE PLANS SHALL BE LEGIBLE AND DRAWN TO SCALE.** Site plans Must accompany this application and must depict at a minimum:
 - a. **Lot shape and dimensions;**
See attached survey. Property is a rectangle with South property line 212.37', East property line 557.12', North property line 213.80', and West property line 566.90'.
 - b. **Location and dimensions of existing and proposed structures;**
See attached survey. No proposed structures.
 - c. **Location and dimensions of existing and proposed points of ingress and egress;**
See attached survey. Ingress and egress have been the same since atleast 1980. No changes will be made.
 - d. **All topographic and natural features and/or other unusual characteristics associated with the property.**
See attached pictures and Aerial photos

8. The applicant must address the following criteria and establish at the public hearing that each of the following is true in order to obtain a favorable determination from the BZA.

No variance of development standard shall be granted unless the BZA finds all of the Following to be true:

- a. That the approval of such variance of development standard will not be injurious to the public health, safety, morals, and general welfare of the community:**

The variance of development standard will change use from Commercial to Residential. Previous owner for about 15 years used building as a commercial trucking dispatch Office, One bedroom apartment dwelling & dog kennel. The approval of variance of development standard will reduce traffic to and from property and reduce noise. With only two people occupying the one bedroom In laws-Quarters and commercial use abandoned, use and impact on current septic system will be dramatically reduced. Therefore approval of variance of development standard will not be injurious to the public health, safety, morals, and general welfare of the community.

- b. That the use and value of the area adjacent to the property included in the variance of development standard will not be affected in a substantially adverse manner:**

The use of the area adjacent to the property will not be adversely affected because the footprint of the building will not change and the closest neighboring property is residential which the variance would bring uses of these properties closer to the same. The value of the area adjacent to the property will not be negatively affected because the residential use is closer in line with the use of the closest neighboring property. Aesthetics of property are dramatically improved over prior poorly maintained, deteriorated exterior that had galvanized dog kennels along east side of building.

- c. That the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:**

If owners cannot use this as an In-Laws quarters for the parents of the primary owners, The property will have to be used for commercial use to produce income for the property. Commercial use would increase traffic to and from the property which would create practical difficulties in the use of the subject property. Primary Owners have three small children under 6 that use driveway in front of building for riding bikes and toys etc. Increased commercial traffic would pose a danger to residential occupants.

Exhibits

A.



B.



C.



D.



E.



F.



SURVEYOR LOCATION REPORT

THIS REPORT IS DESIGNED FOR USE BY A TITLE INSURANCE COMPANY WITH RESIDENTIAL LOAN POLICIES. NO CORNER MARKERS WERE SET AND THE LOCATION DATA HEREIN IS BASED ON LIMITED ACCURACY MEASUREMENTS. NO LIABILITY WILL BE ASSUMED FOR ANY USE OF THE DATA FOR CONSTRUCTION OF NEW IMPROVEMENTS OR FENCES.

Property Address: **900 E. Main Street
Westfield, IN 46074**

Date: **4/1/2009**



DESIGNATED PARTIES: **Aaron Starr**

MORTGAGEE
OR ASSIGNS:

TITLE CO.: **F.C. Tucker Company**

REFERENCE NO.:

I HEREBY CERTIFY TO THE PARTIES NAMED ABOVE THAT THE REAL ESTATE DESCRIBED HEREIN WAS INSPECTED UNDER MY SUPERVISION ON THE DATE INDICATED AND THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS REPORT CONFORMS WITH THE REQUIREMENTS CONTAINED IN SECTIONS 27 THROUGH 29 OF TITLE 865 I.A.C., ARTICLE 1, RULE 12, FOR A SURVEYOR LOCATION REPORT. THE ACCURACY OF ANY FLOOD HAZARD STATEMENT SHOWN ON THIS REPORT IS SUBJECT TO MAP SCALE UNCERTAINTY AND TO ANY OTHER UNCERTAINTY IN LOCATION OR ELEVATION ON THE REFERENCED FLOOD INSURANCE RATE MAP.

Signature: *Donn M. Scotten*

Job Number: 2-74109



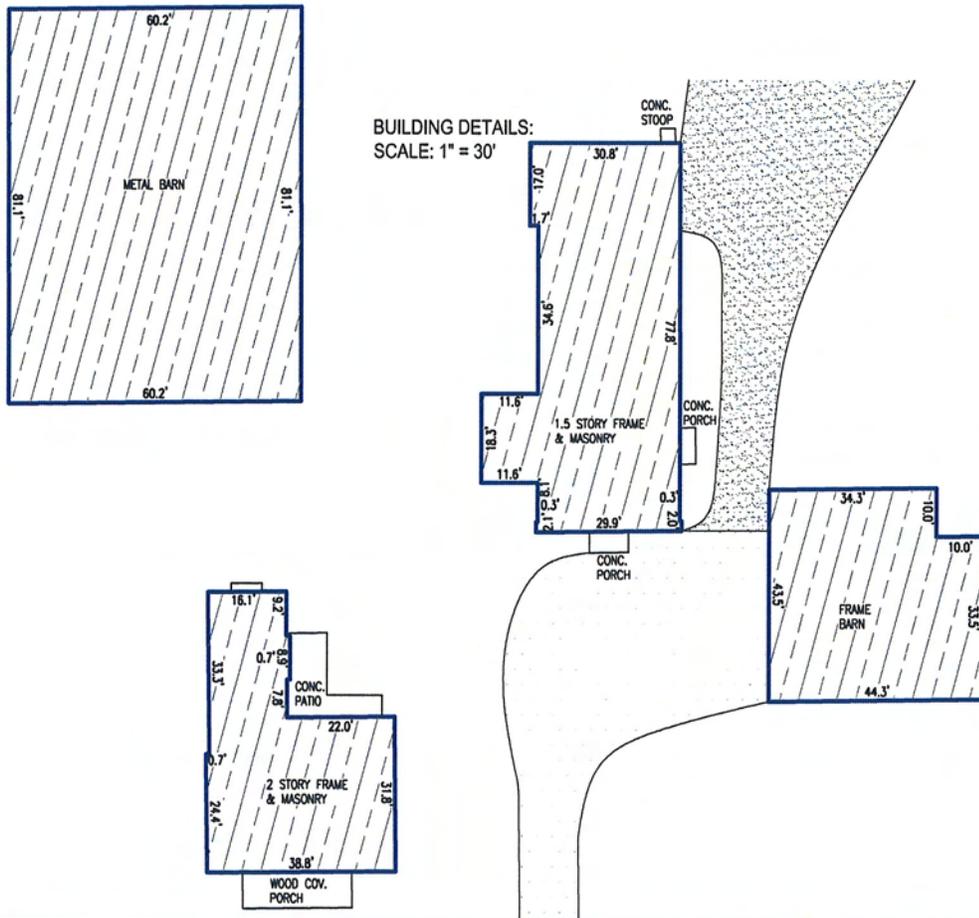
AXIS
SURVEYING, LLC

Surveying Services for Commercial – Construction – Residential

www.AXISIndy.com P.O. Box 502369 – Indianapolis, IN 46250

BUYER: Aaron Starr
PROPERTY ADDRESS: 900 E. Main Street
 Westfield, IN 46074
PROPERTY DESCRIPTION: Part of the Southwest Quarter of the Southeast Quarter of Section 31, Township 19 North, Range 4 East, in Hamilton County, Indiana, more particularly described as follows:

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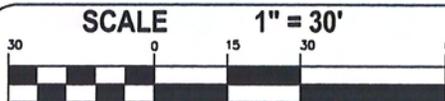
This Report is Designed For Use By A Title Insurance Company With Residential Loan Policies. No Corner Markers Were Set And The Location Data Hereon Is Based On Limited Accuracy Measurements.

*Note: Unless Otherwise Noted, No Substantial Physical Evidence Was Observed Along Perimeter Lines Of The Subject Tract.

DRAWING NO: 2-74109
 DRAWN BY: J. COLVIN
 CHECKED BY: C. KIRBY
 ISSUE DATE: 04/01/2009

LEGEND:
 F.F.F.= Farm Field Fence
 S.R.= State Road

PAGE 1 OF 2



Map1

Survey Boundaries

— Township Lines

Transportation

Abc Interstate Hwy Text

Abc U.S. HwyText

Abc State HwyText

— Interstate Highways

— U.S. Highways

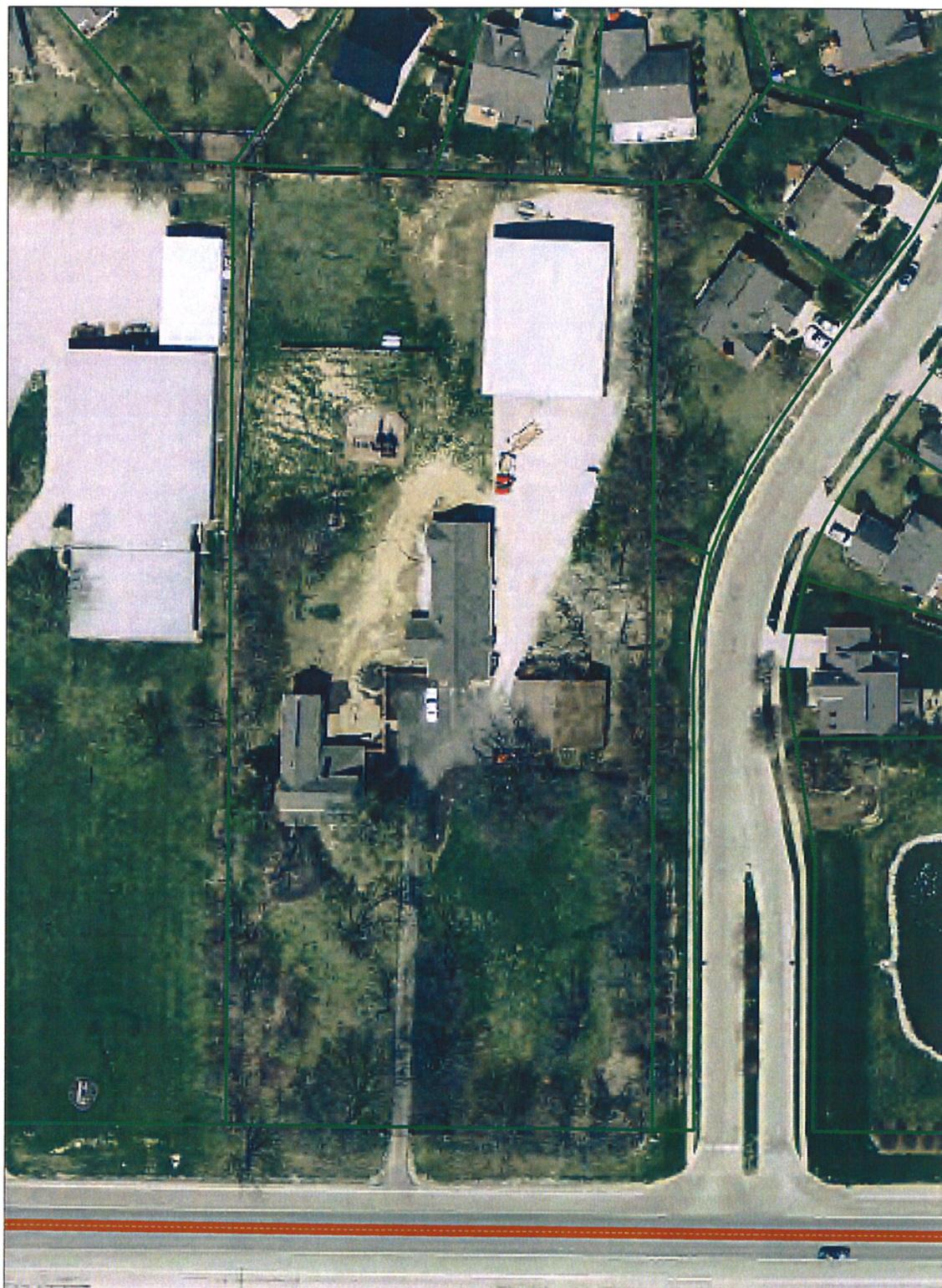
— State Highways

— Primary Roads

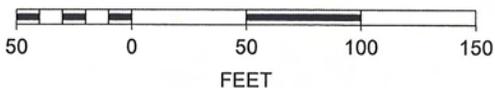
□ Parcels

2008 Aerial Photography

2008 Aerial Photos



SCALE 1 : 1,000



Map1

Survey Boundaries

— Township Lines

Transportation

Abc Interstate Hwy Text

Abc U.S. HwyText

Abc State HwyText

— Interstate Highways

— U.S. Highways

— State Highways

— Primary Roads

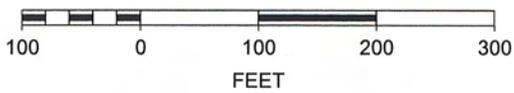
□ Parcels

2008 Aerial Photography

2008 Aerial Photos



SCALE 1 : 1,944



N



Parcel Information Report

1. report type

Reset

2. property search

new search

3. view reports

general parcel info.

spring tax statement

tax payments

property card

fall tax statement

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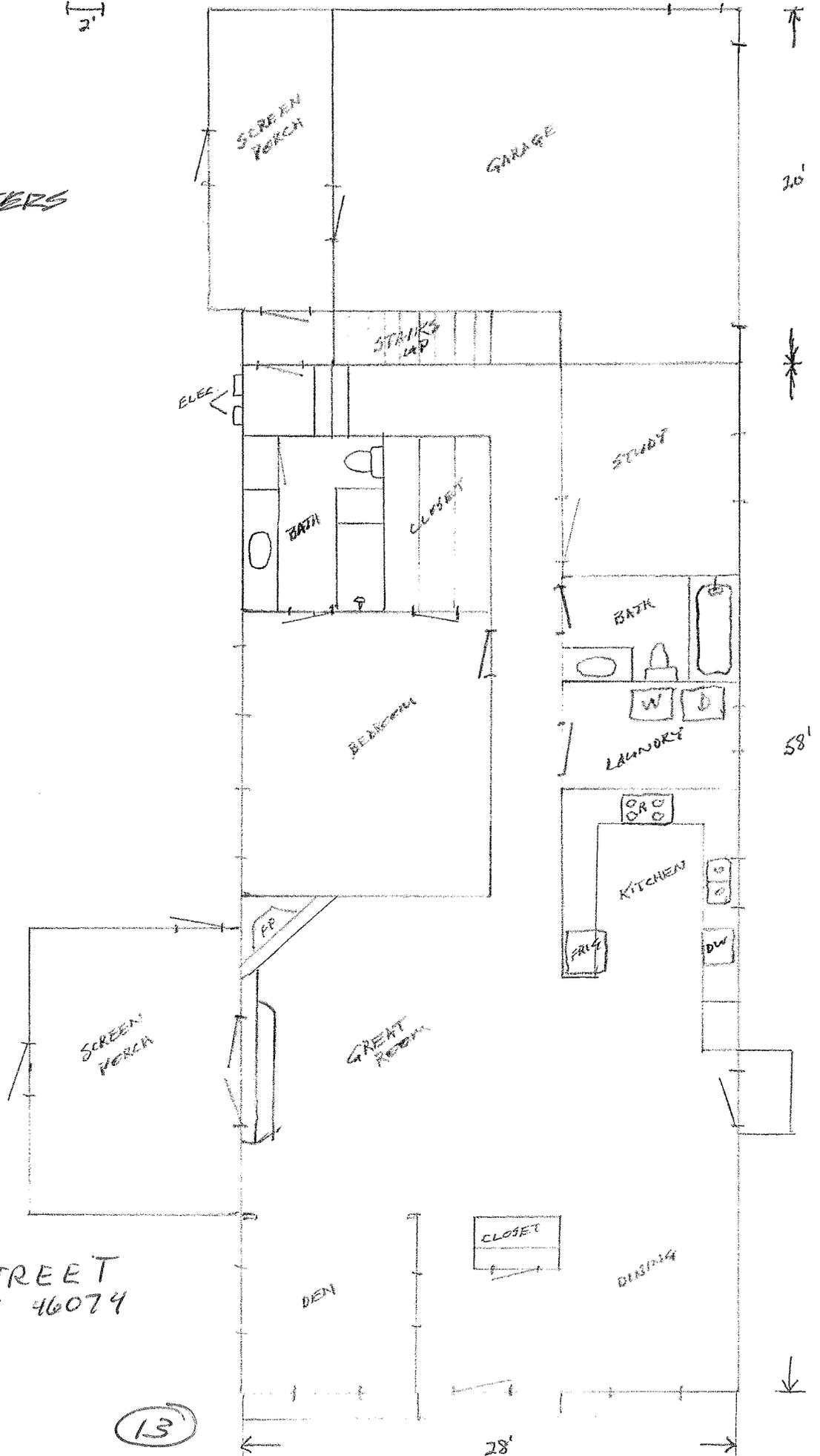
County Parcel No: 09-06-31-00-00-016.000	State Formatted Parcel No: 29-06-31-000-016.000-015
Property Address: 900 Main St E WESTFIELD, IN 46074	Deeded Owner: Starr, Paul Aaron & Elizabeth Louise 75%int, Richard Curtis & Susan Kay Brodhead 25% int TC Owner Address: 900 Main St E WESTFIELD, IN 46074
Legal Description: 12/2/87 FROM ECKERT A ANNEXED 5/11/89 4/7/92 FROM RILEY	
Section/Township/Range: 31/19/04	
Subdivision Name:	
Block:	
Deeded Acres: 2.75	
Political Township: Washington	
Lot Number(s):	
Recorded Date: 5/12/2008 The Recorded Date might be due to a variety of changes; such as annexation, right-of-way, split, or deed.	
Check the Transfer History Report for details.	

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STARR -
IN-LAW QUARTERS

GROUND
FLOOR

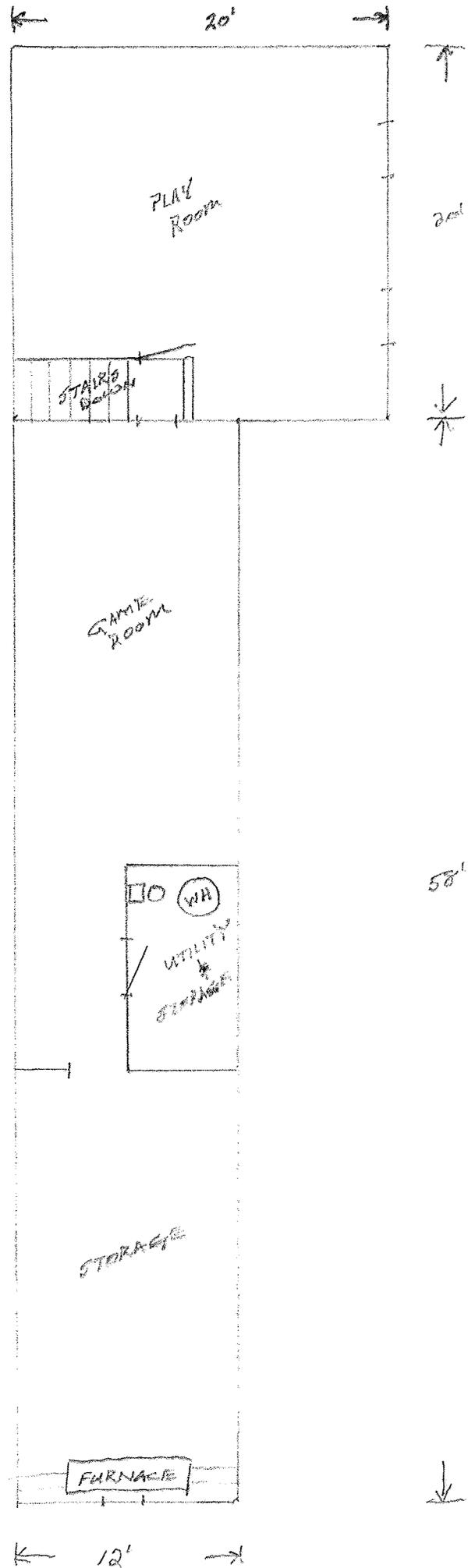


900 E. MAIN STREET
WESTFIELD, IN 46074

(13')

28'

SECOND
FLOOR



900 E. MAIN STREET
WESTFIELD, IN 46074

19