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2 The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday,  
3 December 15, 2009 at Westfield City Hall. Members present included Dan Degnan, Randy  
4 Graham, Bill Sanders, and Craig Wood. Also present were Kevin Todd, Senior Planner; and  
5 City Attorney, Brian Zaiger.

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8 Sanders reviewed the Public Hearing Rules and Procedures.

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11 **APPROVAL OF MINUTES**

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13 Wood moved to approve the June 9, 2009 minutes as presented.

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15 Graham seconded, and the motion passed by voice vote.

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18 **NEW BUSINESS**

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20 Sanders announced the continuance of 0912-VS-10 to the January 12, 2010 meeting.

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22 Degnan recused himself from 0912-VS-11 and 0912-VS-12.

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24 **0912-VS-11 17531 Spruce Lane; Brad & Lori Hutson**

25 The Appellant is requesting a Variance of Standard from the Westfield-  
26 Washington Zoning Ordinance for the following:

- 27  
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- (WC 16.04.030, B4) to reduce the minimum lot area from 3 acres to 1.2  
29 acres;
  - (WC 16.04.030, B5) to reduce the minimum lot frontage from 250 feet to 0  
30 feet;
  - (WC 16.04.030, B6a) to reduce the minimum front yard setback from 80 feet  
31 to 46 feet.
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35 **0912-VS-12 17529 Spruce Lane; Brad & Lori Hutson**

36 The Appellant is requesting a Variance of Standard from the Westfield-  
37 Washington Zoning Ordinance for the following:

- 38  
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- (WC 16.04.030, B5) to reduce the minimum lot frontage from 250 feet to 0  
40 feet;
  - (WC 16.04.030, B6a) to reduce the minimum front yard setback from 80 feet  
41 to 26 feet.
- 42  
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44 Todd reviewed the petitions stating the two properties (8.5 acres and 1.2 acres) in question are  
45 located on Spruce Lane, which is a private drive, not a public street. He stated that the property  
46 is zoned AG-SF1, and essentially the petitioner is asking for three requests: 1). To continue the  
47 use of the mobile home on the large property; 2). To continue the use of the single family home

1 on the small property; and 3). To allow a room addition to the single family home on the small  
2 property. He explained the zoning issues that come along with such requests are: 1). The large  
3 property with mobile home use does not meet the minimum road frontage standard of 250 feet;  
4 2). The mobile home on the large property does not meet the front yard set back requirement of  
5 80 feet; 3). The small property does not meet the minimum road frontage standard of 250 feet;  
6 4). The small property does not meet the minimum lot size requirement of 3 acres; and 5). The  
7 single family home on the small property does not meet the front yard set back requirement of 80  
8 feet.

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10 Todd reviewed the history of the 1991 variance for the property and the condition that tied the  
11 use of the mobile home structure to a particular family member. He stated since said family  
12 member no longer resides in that mobile home, but another family member does today,  
13 technically that condition has been violated, which raises the issue of needing to address the non-  
14 conformity issues. He stated that the basic question the Board needs to wrestle with regarding  
15 the large property is, whether or not the Board will stick to the original conditions imposed or be  
16 more flexible and allow a different resident in the mobile home.

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18 Todd then addressed the smaller parcel, stating that the home existed prior to zoning in  
19 Westfield-Washington Township. At that time, there was one, single parcel. Then sometime  
20 between 1977 and 1991, the parcel was split into the two parcels that exist today.

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22 Todd spoke regarding the part of the request having to do with the setback for the room addition  
23 to the existing single family home. He stated that staff does not have a problem with the setback  
24 reduction; however, the result of that setback reduction will create new value to a residential  
25 property that is identified in the Comprehensive Plan as commercial property in the future. He  
26 stated that staff believes that any improvement in a residential manner is not getting any closer to  
27 achieving the goal in the Comprehensive Plan. Todd said that the fundamental question to be  
28 answered regarding this request is whether or not the Board wants to allow a residential room  
29 addition which will on some level impede the progress of the Comprehensive Plan that was  
30 approved in 2007.

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32 Zaiger explained that the first variance would allow the petitioner to use the property as it is used  
33 today and allow for the addition of the non-conforming use. He stated that the second variance  
34 would be whether or not to amend the variance granted in 1991, to allow the current resident to  
35 stay in the mobile home or make a decision that the condition is no longer met and not in  
36 compliance.

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38 Graham asked about the relevance of the length of time the condition from the 1991 variance has  
39 been in violation is to this proposal.

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41 Todd responded that the only thing that would matter regarding the length of the violation would  
42 be any enforcement measures the City would want to take.

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44 Mr. Hutson reviewed the history of the property dated back to 1954.

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46 Todd stated, as a point of clarification, that staff could not verify that the mobile home was on  
47 the property since 1954, stating that it did not appear in a 1974 aerial.

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1 Sanders discussed the difference between tax parcel maps and property maps.

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3 Wood asked about the current physical condition of the mobile home.

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5 Hutson stated it is in decent condition and that a new floor was installed.

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7 Sanders moved to approve 0912-VS-11 as requested.

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9 Wood seconded, and the motion passed 3-0.

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11 Graham moved to adopt staff's finding of fact with the deletion of last sentence in Finding #3.

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13 Wood seconded, and the motion passed by voice vote.

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15 Wood moved to approve 0912-VS-12 as requested with the following conditions:

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- 17 1. That the existing mobile home may be used for the brother of the owner only;
- 18 2. That if the brother vacates, or if the mobile home is determined to be uninhabitable, that
- 19 the mobile home be removed from the property and cannot be replaced; and,
- 20 3. That this variance is granted for no more than five (5) years.

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22 Graham seconded, and the motion passed 3-0.

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25 The meeting adjourned at 8:09 p.m.

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Chairman

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Secretary