



VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: 1411-VS-14 FILING DATE: 10-6-14
FILING FEE: \$ FEE PLUS \$ PER ADDITIONAL VARIANCE (@ ) = \$

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Andrew Murray (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: James Meyers TELEPHONE: (317) 506-6458

ADDRESS: 140 East 161st Street, Westfield, Indiana 46074 EMAIL:

PROPERTY OWNER'S NAME: James Meyers TELEPHONE: (317) 506-6458

ADDRESS: 140 East 161st Street, Westfield, Indiana 46074 EMAIL:

REPRESENTATIVE'S NAME: Curtis J. Butcher Esq. TELEPHONE: (317) 846-2561

COMPANY: Law Offices of Curtis J. Butcher and Associates EMAIL: curtisbutcherlaw@sbcglobal.net

ADDRESS: 8 West Main Street, Carmel, Indiana 46032

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 140 East 161st Street, Westfield, Indiana 46074

COUNTY PARCEL ID #(S): 08-09-11-00-00-001.101

EXISTING ZONING DISTRICT(S): Single Family 1 District (AG-SF1) EXISTING LAND USE(S): Single Family Residence

VARIANCE REQUEST

[ ] VARIANCE OF LAND USE CODE CITATION:

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

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

See: Exhibit "A," attached hereto, incorporated herein, and made a part hereof.



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.

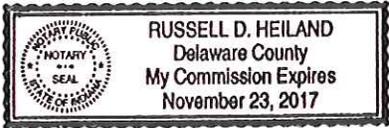
Curtis J. Butcher REP  
Applicant/Representative (signature)

CURTIS J. BUTCHER  
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 6th day of October, 2014.

State of INDIANA, County of HAMILTON, SS:



Russell D. Heiland  
Notary Public Signature

RUSSELL D. HEILAND  
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 Meyers  
\_\_\_\_\_  
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 \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

State of \_\_\_\_\_, County of \_\_\_\_\_, SS:

\_\_\_\_\_  
Notary Public Signature

\_\_\_\_\_  
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 USE)**

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. 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 use will not be injurious to the public health, safety, morals, and general welfare of the community because: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. The need for the variance arises from some condition particular to the property involved because: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

D. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

E. The variance of use does not interfere substantially with the Comprehensive Plan because: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



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: \_\_\_\_\_  
See: Exhibit "B," attached hereto, incorporated herein, and made a part hereof.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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: \_\_\_\_\_  
See: Exhibit "B," attached hereto, incorporated herein, and made a part hereof.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: \_\_\_\_\_  
See: Exhibit "B," attached hereto, incorporated herein and made a part hereof

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## 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<br>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](#):
1. **Newspaper Publication:** Notice of the hearing will be published in the Indy Star and The Times. The Department will handle the newspaper publication requirement.
  2. **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.
  3. **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.
  4. **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.

**STATEMENT OF INTENT**  
**AND**  
**EXPLANATION OF REQUEST**

**INTENT:**

1. Requirements of Westfield Washington Township Zoning Ordinance WC 16.04.030 B (AG-SF1):
  - a) AG-SF1 (WC 16.04.030 B (4) - requires Minimum Lot Area of three (3) acres.
  - b) AG-SF1 (WC 16.04.030 B (4) – requires Minimum Lot Frontage on Road of 250 feet.
  - c) Minimum Setback Requirements:
    - 1) Front Yard – 100 feet Expressways, Primary and Secondary Arterials – 80 feet on all other roads.
    - 2) Side Yard – 30 feet;
    - 3) Rear Yard – 30 feet; and
    - 4). Minimum Building With at Building Line – 100 feet.
2. Applicant is respectfully requesting variances in order to permit the following:
  - a) Lot Area – 1.76 acres;
  - b) Lot Footage on Road – 160 feet;
  - c) West side yard setback – residence garage – 13 feet from west property line; and
  - d) East side yard setback – pool house – 24 feet from east property line.

**Exhibit “A”**  
**To**  
**Variance Application**

## LOT AREA AND LOT FRONTAGE ON ROAD

### HISTORY OF PROPERTY AT 140 EAST 146<sup>th</sup> STREET (the "140 Property"):

1. In 1974 Lee and Susan Butts (collectively "Butts") operated a business at the 140 Property that included excavating, landscaping and concrete work.
2. Carl R. Wiegand and/or an entity in which he was one of the primary owners (collectively "Wiegand") later acquired the 140 Property and continued to operate a business that encompassed the services Butts offered.
3. James Meyers ("Meyers") worked for Wiegand.
4. Meyers rented the 140 Property approximately one year prior to its purchase by Meyers.
5. In or about 1995, Meyers entered into a land contract (the "Land Contract") with Wiegand for the purchase of the 140 Property.
6. On November 16<sup>th</sup>, 1999, Meyers obtained a mortgage and paid the Land Contract off. The 140 Property was deeded to Meyers at that time (copy of deed marked as Exhibit "A," attached hereto, incorporated herein, and made a part hereof).
7. Wiegand recorded or had someone record the deed.
8. Meyers thought he was purchasing 3.00 acres – see copy of Appraisal Letter from Wynne Real Estate Services dated October 19, 1999 (copy marked as Exhibit "B," attached hereto, incorporated herein, and made a part hereof).
9. A few weeks after purchasing the 140 Property Meyers discovered that he had only been deeded 1.76 acres.
10. Wiegand informed Meyers that he had to keep the adjoining 3.74 acres with the pole barn and could only deed him 1.76 acres with the residence.

11. Meyers felt that he could not challenge Wiegand due to the fact that he was dependent on Wiegand for his employment, and he was not in a position financially to challenge.
12. The residence was already on the 140 Property when Meyers purchased the property, and Meyers was unaware that the smaller acreage would cause him zoning problems.
13. Meyers continued to work for Wiegand for approximately three more years before quitting and starting his own start-up business. Meyers did not purchase Wiegand's business.
14. When Meyers started his own business, he continued to operate a business that encompassed the services that were offered by the Butts and Wiegand.
15. Prior to Meyers purchase of the 140 Property, Wiegand owned both what is now parcel 08-09-11-00-00-001.001 containing 3.24 acres and parcel 08-09-11-00-00-001.101 containing 1.76 acres (the two parcels were held by Wiegand as one parcel -the 1.76 acres was split off and deeded to Meyers).
16. Wiegand informed Meyers that when he retired he would sell the rest of the real estate adjacent to the west property line of the 140 Property to him (the "Adjacent Property").
17. Wiegand keep telling Meyers that he would sell the Adjacent Property to him up to the date of Wiegand's death on July 19<sup>th</sup>, 2012.
18. Upon Wiegand's death the Adjacent Property went to Wiegand's son, Ronald C. Wiegand leaving Meyers with only 1.76 acres.
19. The 140 Property is zoned Agriculture – Single Family 1 District ("AG-SF1").
20. The City of Westfield maintains that Meyers has expanded his business over the years, and that it is now a construction business and that the operation of a construction business is not permitted in the AG-SF1 District.

21. In consideration of the City of Westfield's position, the changing demographics of the area, and his neighbors, Meyers has agreed to move his business to another location at considerable immediate and increased yearly expense to Meyers. .
22. Meyers has removed all business equipment, machinery, forms, tools, and supplies to a new location at 343 First Avenue Southwest, Suite 8, Carmel, Indiana 46032.

The home on the 140 Property is and has been the Meyers family residence (the "Residence") since approximately one year prior to Meyers's acquisition of the property by land contract in 1995. Meyers was an employee of Wiegand and trusted Wiegand to abide by and fulfill both the written and verbal agreements he made with Meyers. Upon learning that Wiegand deeded only 1.76 acres to him, Meyers felt that his financial position was not sufficient for him to challenge Wiegand.

Although Meyers believed that he was purchasing 3.00 acres, Meyers did not realize that he needed 3.00 acres in order to be in compliance with the City of Westfield's Zoning Ordinance. The Residence was already in existence on the 140 Property, having been constructed sometime in the 1970's, and Meyers trusted Wiegand to make a proper and legal transfer to him. Meyers felt that the 1.76 acres was large enough to fulfill his immediate needs, and he was assured by Wiegand that Wiegand would sell him the Adjacent Acreage upon Wiegand's retirement.

Meyers has no feasible way that he can comply with the Minimum Lot Area of three (3) acres or the Minimum Lot Frontage on Road of 250 feet (AG-SF1 (WC 16.04.030 B [4])). Meyers is requesting a Hardship Variance with respect to both in order to avoid severe financial hardship involving the loss of his Residence. Special circumstances exist that does not apply to other properties in the AG-SF1 District.

## **DETACHED RESIDENCE GARAGE AND POOL HOUSE SETBACK**

The approximately 13 feet setback of the residence garage (the "Residence Garage") from the west property line involves the Adjacent Acreage owned by Ronald C. Wiegand, son of Carl Wiegand, the seller of the 140 Property to Meyers. The Adjacent Acreage's only improvement consists of a metal pole barn that appears to have been added onto a couple of times. If Carl Wiegand had deeded the agreed upon 3.00 acres to Meyers and/or if he had sold the Adjacent Acreage to Meyers as he promised, this would not be an issue. Ronald C. Wiegand, the current owner of the Adjacent Acreage has stated the he will support Meyers's variance requests set forth in this Variance Application. Without the detached Residence Garage, the Residence will be left without any garage to serve the residence requiring their cars to set out year round.

The pool house is twenty four (24) feet from the east property line. AG-SF1 (WC 16.04.030 B (4) requires a 30 feet setback. Barbara A. Simpson's property is adjacent to the entire east side of the 140 Property. Barbara Simpson has indicated that she will not object to a variance for the pool house. If the variance is not granted, Meyers will be required to either move the pool house or tear approximately 6 feet off of the east end at considerable cost and expense to the Meyers and the substantially the useful value of the pool house will be substantially reduced.

## ASSESSORY BUILDINGS SQUARE FOOTAGE

The square footage of the Residence is approximately 2850 square feet (detached Residence Garage not included). The approximate square footage of the Accessory Buildings is as follows:

<u>Accessory Building</u>	<u>Square Footage</u>
1. Detached Residence Garage	595
2. Barn	2,677
3. Pool House	<u>1,037</u>
Total Accessory Building Square Footage	4,309

The detached Residence Garage is separated from the Residence by 14.5 foot with walk way to the Residence and is the garage for the Residence. Even though the Residence Garage is technically detached from the Residence, it is the garage for the Residence and should be counted as part of the Residence. If the detached Residence Garage is counted as part of the Residence, the square footage of the Residence becomes 3,445 square feet and the square footage of the Accessory Buildings becomes 3,714 square feet leaving an excess square footage for the Accessory Buildings of 269 square feet.

The Barn is in good condition and it is believed to have been built prior to 1970. The pool house was built by James Meyers after he acquired the property.

The City of Westfield has indicated that since the total square footage of the Accessory Buildings exceed the square footage of the residence, a variance would be needed. If the variance is not granted the Meyers may be required to tear part of or all of one of the Accessory Buildings depriving the owner of the use of same.

**REQUEST:**

Meyers is respectfully requesting variances in order to permit the following:

- a) Lot Area – 1.76 acres;
- b) Lot Footage on Road – 160 feet;
- c) West side yard setback – Residence Garage – 13 feet from west property line;
- d) East side yard setback – pool house – 24 feet from east property line; and
- e) Accessory Building excess square footage.

12.00  
2  
L. D. [unclear]

**WARRANTY DEED**

199909968416  
Filed for Record in  
HAMILTON COUNTY, INDIANA  
MARY L. CLARK  
On 11-24-1999 At 01:30 pm.  
WARRANT DEED 12.00

**KNOW ALL MEN BY THESE PRESENTS;** That Carl R. Wiegand and Margaret K. Wiegand, husband and wife, of Hamilton County, State of Indiana for Ten Dollars (\$10.00) and other good and valuable consideration paid, grant with general warranty covenants, to James Meyers the following Real Property:

Situated in the County of Hamilton, in the State of Indiana and in the Town of Westfield:

See Exhibit "A" attached hereto and made a part hereof.

Parcel No. 08-09-11-00-00-001.001  
Known as: 140 East 161 Street, Westfield, IN 46074

Tax Mailing Address: James Meyers  
140 East 161 Street, Westfield, IN 46074

Subject to conditions, restrictions and easements, if any, contained in prior instruments of record; legal highways and zoning ordinances.

Except taxes and assessments, if any, now a lien and thereafter due and payable.

Prior Instrument Reference: 92-21861 of the Deed Records of Hamilton County, Indiana

Witness their hand(s) this 16th day of November, 1999.

Signed and acknowledged in presence of:

\_\_\_\_\_  
Carl R. Wiegand

\_\_\_\_\_  
Margaret K. Wiegand

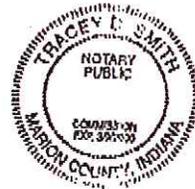
State of Indiana, County of Hamilton, SS:

**BE IT REMEMBERED,** That on this 16th day of November, 1999, before me, the subscriber, a Notary Public in and for said state, personally came, Carl R. Wiegand and Margaret K. Wiegand the Grantor(s) in the foregoing deed, and acknowledged the signing thereof to be their voluntary act and deed.

**IN TESTIMONY WHEREOF,** I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

\_\_\_\_\_  
Tracey Smith  
Notary Public

This instrument prepared by:  
Thomas M. Flaherty, Esq.  
310 East 96th Street, #150  
Indianapolis, IN 46240



DULY ENTERED FOR TAXATION  
Subject to final acceptance for transfer  
24 day of Nov 19 99

H. J. M. Ogle Auditor Hamilton County

Parcel # \_\_\_\_\_

Exhibit "A"  
to  
Statement of Intent

FILE NO. 01016860

EXHIBIT "A" - LEGAL DESCRIPTION

Situated in the State of Indiana, County of Hamilton and in the Town of Westfield:

Part of the Northwest Quarter of Section 11, Township 18 North, Range 3 East, Hamilton County, Indiana, and being more particularly described as follows:

Beginning at the Southeast corner of said Quarter Section; thence South 90 degrees 00 minutes West along the South line of said Quarter Section 160 feet; thence North 00 degrees 45 minutes East, parallel with the East line of said Quarter Section, 478.70 feet; thence North 90 degrees 00 minutes East, parallel with said South line, 160 feet to said East line; thence South 00 degrees 45 minutes West along said East line 478.70 feet to the point of beginning.

Parcel No.: 08-09-11-00-00-001.001

# Wynne Real Estate Services

9247 North Meridian Street  
Suite #120  
Indianapolis, Indiana 46260  
PHONE: 317-574-1161 FAX: 317-574-0252

October 19, 1999

Mr. Mark McCallum  
Amerivest Financial Corporation  
8888 Keystone Crossing, Suite 750  
Indianapolis, Indiana 46240

RE: Single-Family Residential Property  
Borrower: James Meyers  
140 East 161<sup>st</sup> Street  
Westfield, Indiana 46074

Dear Mr. McCallum:

As you requested, we have performed the necessary research to provide you with an appraisal of the referenced property. The purpose of this appraisal is to estimate the market value as of a current date of the estate in fee simple to this property, subject to the conditions and limitations stated in this report.

The subject property consists of approximately 3.00 acres (more or less) with a one-story 2,117 gross square foot single-family dwelling (built in 1973) and related site improvements. An inspection of the subject property was performed on October 18, 1999.

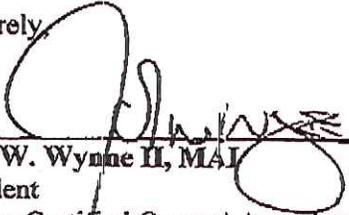
In the enclosed report are details of the analysis and methods used to determine the estimated Market Value. The methodology used to estimate the defined value consisted of the utilization of the Cost and Sales Comparison Approaches. The sales comparison approach is the most commonly used and the preferred method to value single-family dwellings. In this technique, data on similar residences are analyzed, compared, and adjusted to account for any dissimilarities between the comparables and the subject property.

As a result of the analysis and pertinent data considered relevant thereto, which are included within this report, the estimated market value of the subject property's Fee Simple Estate, as defined herein as of October 18, 1999, the date of inspection, is

**TWO HUNDRED THOUSAND DOLLARS**

**(\$200,000)**

Sincerely,

  
\_\_\_\_\_  
John W. Wynne II, MAI  
President  
Indiana Certified General Appraiser, #CG49400340  
Member of the Appraisal Institute

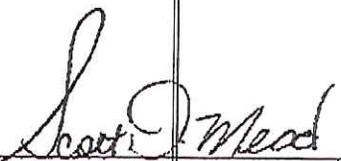
  
\_\_\_\_\_  
Scott D. Mead  
Vice President  
Indiana Licensed Residential Appraiser  
#LR49700024

Exhibit "B"  
to  
Statement of Intent

**FINDINGS OF FACT**  
**VARIANCE OF DEVELOPMENT STANDARDS**

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

1. Although the 1.76 acre lot size is less than the 3 acres required under the zoning classification AG-SF-1, it is still a substantial size lot for a single residence. The 1.76 acre lot size will not be injurious to the public health, safety, morals or general welfare of the community;
2. The lot is not a corner lot and the 160 foot road frontage will not be injurious to the public health, safety, morals or general welfare of the community;
3. The 13 feet setback of the residence garage from the west property line involves the Adjacent Acreage owned by Ronald C. Wiegand, son of Carl Wiegand, the seller of the 140 Property to Meyers. The Adjacent Acreage's only improvement consists of a metal pole barn, located on the west side of the acreage, which appears to have been added onto a couple of times. The 13 feet setback is a lot more than exists in Countryside Subdivision, will not be injurious to the public health, safety, morals or general welfare of the community, will not be injurious to the adjoining property, and is not opposed by the adjoining property owner, Ronald C. Wiegand,
4. The setback of the pool house is 24 feet from the east side of the property line of the subject property. The adjoining property to the east contains a single family residence situated on 10 acres. The granting of the variances with respect to the setback of the pool house will not be injurious to the public health, safety, morals or general welfare of the community.
5. If the square footage of the detached residence garage is counted as part of the residence the excess square footage of the Accessory Buildings is only 269 square feet. The subject property is large enough (1.76 acres) to accommodate the additional square footage without causing any injury to the public health, safety, morals or general welfare of the community;
6. The backside of the subject property (north side) is adjacent to the Countryside Subdivision. The Countryside Subdivision is zoned SF3 Cluster Homes. Countryside Subdivision is adjacent to the entire north side of the subject property, the north side of the adjoining property to the west, and wraps around

**Exhibit "B"**  
**To**  
**Variance Application**

the west side of the adjoining property to the west. The following Countryside Subdivision two lots are adjacent to the north side of the subject property:

- a) Lot 09-09-11-00-14-011.000, owned by Jeremy D. and Amy C. Kinnett, containing 0.27 acres; and
- b) Lot 09-09-11-00-14-011.000, owned by Keith and Noelle M. Otto, containing 0.48 acres.

The closest Accessory Building to the two Countryside Subdivision lots is approximately 103 feet from the north property line of the subject property. The granting of the variance will not be injurious to Countryside Subdivision or the public health, safety, morals or general welfare of the community.

Meyers has moved his business to another location. The intent of this variance application is to make it possible for Meyers to maintain the subject property as the Meyers family residence. One of the goals of the Spring Mill Station Study Group is to prevent commercial creep down the 161<sup>st</sup> street and Spring Mill Road corridors. The action taken by Meyers in moving his business is in line with the Spring Mill Group's goal and is in harmony with the Westfield-Washington Township Comprehensive Plan.

In order to maintain the subject property as the Meyers family residence and prevent further hardship and cost to Meyers beyond that caused by moving his business to a new location, the variance request set forth herein is needed. The requested variance:

- a) Does not go beyond the minimum necessary to afford relief, and does not constitute the grant of a special privilege inconsistent with the limitations upon other property owners in the zoning district in which the subject property is located;
- b) Will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located; and
- c) Will not in any manner vary the provisions of the city zoning ordinance, the Westfield-Washington Township Comprehensive Plan.

For further explanation see Statement of Intent (attached to the Application as Exhibit "A," incorporated herein, and made a part hereof).

- C. The Strict application of the ordinance will result in practical difficulties in the use of the property because:
  - 1. Meyers has no feasible way that he can comply with the Minimum Lot Area of three (3) acres or the Minimum Lot Frontage on Road of 250 feet (AG-SF1 (WC 16.04.030 B [4]). Meyers is requesting a Hardship Variance with respect to both in order to avoid severe financial hardship involving the loss of his home. Special circumstances exist that does not apply to other properties in the AG-SF1 District.

2. Without the detached resident garage, the residence will be left without any garage to serve the residence requiring their cars to set out year round.
  3. The pool house is 24 feet from the east property line. If the variance is not granted, the owner will be required to either move the pool house or tear approximately 6 feet off of the east end at considerable cost and expense to the owner (James Meyers) which would substantially reduce the useful value of the pool house.
  4. If the variance with respect to the Accessory Building square footage is not granted the owner may be required to tear down part of or all of one of the Accessory Buildings depriving the owner of the use of same.
- See: Statement of Intent, incorporated herein and made a part hereof, for further details regarding strict application of the ordinance and the resulting practical difficulties in the use of the property.