



**Petition Number:** 1503-VS-01

**Subject Site Address:** 17130 Joliet Rd (the "Property")

**Petitioner:** Sterling M. & Jessica R. Strickland (the "Petitioner")

**Request:** The petitioner is requesting: (i) a modification of a condition of approval for a previously approved Variance of Standard for a reduction in the Minimum Lot Frontage (0102-VS-07) (Article 4.4(D)); and (ii) the termination of a previously approved Special Exception to allow a riding stable and associated setback variances (0801-SE-01, 0801-VS-01) (Chapter 13: Use Table).

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

**Current Land Use:** Vacant

**Approximate Acreage:** 3.76 acres +/-

**Related Petitions:** 0102-VS-07 (Minimum Lot Frontage Variance)  
0403-VS-02 (Minimum Lot Frontage Variance)  
0801-SE-01 (Special Exception to allow riding stable)  
0801-VS-01 (Setback Variance for riding stable)

**Exhibits:** 1. Staff Report  
2. Location Map  
3. Application  
4. Historic Site Plan  
5. Proposed Site Plan

**Staff Reviewer:** Pam Howard

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**Petition History**

This petition is scheduled to receive a public hearing at the March 10, 2015, Board of Zoning Appeals meeting.

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**Analysis**

**Location:** The Property is approximately 3.76 acres in size and is located at 17130 Joliet Road. The Property is vacant and zoned AG-SF1. All adjacent properties are also zoned AG-SF1. The subject Property is labeled as "Parcel B" on the Historic Site Plan, attached hereto as **Exhibit 4**, and the parcel to the north, as further described herein, is labeled as "Parcel A" on the Historic Site Plan (collectively, the "Properties").

**Minimum Lot Frontage Variance:** On February 20, 2001, the Board of Zoning Appeals approved a Variance of Development Standard (0102-VS-07) to reduce the minimum Lot Frontage for both Properties. That approval allowed for the Properties to be split into the two (2) existing parcels. As a condition of that variance, the Board of Zoning Appeals required that access to the Properties be via an access easement



extending from the north end of the Properties' Joliet Road frontage (along the north side of the subject Property) to ensure no additional drive cuts would occur onto Joliet Road. The Petitioner desires to modify the condition to instead allow access to the subject Property via an access easement on the south side of the subject Property (labeled as "Proposed Access Easement" on the Proposed Site Plan (Exhibit 5)). The proposed alternative access would utilize an existing driveway and would not result in a new drive cut onto Joliet Road.

Riding Stable Special Exception: On February 12, 2008, the Board of Zoning Appeals approved a Special Exception to allow a riding stable (0801-SE-01) and a related Variance of Development Standard for a reduced setback of the riding stable (0801-VS-01) for the Properties. A condition of that approval included that the Properties would combine the two parcels and not be subdivided again in the future.

The parcels (as they exist today) were never combined and the Petitioner has since acquired the subject Property. As a result, the approved Special Exception and related Variance of Development Standard is in effect null and void as the Properties can no longer comply with the condition of approval. As part of this request and because a riding stable was never constructed, the Petitioner, as owner of the Subject Property, and the owner of "Parcel A" have agreed to terminate the previously approved Special Exception and related Variance of Development Standards.

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan (the "Comprehensive Plan") identifies this Property within the "Rural Northwest and Northeast"<sup>1</sup> land use classification. "Shared private streets or driveways"<sup>2</sup> are contemplated in the Comprehensive Plan as appropriate characteristics for subdivisions within this area of the township.

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## **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.

Conditions: The UDO<sup>3</sup> and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO<sup>4</sup> requires that the approval of the variance shall be memorialized in an acknowledgement of variance

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<sup>1</sup> Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (pg. 24).

<sup>2</sup> Westfield-Washington Township Comprehensive Plan, Rural Northwest and Northeast Development Implementation Tools (pg. 33)

<sup>3</sup> Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

<sup>4</sup> Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

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.

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### **Department Comments**

**Recommendations for Approval:** If the Board is inclined to approve the request to modify its imposed condition of approval for the Property, then the Department recommends the modified condition related to the access state: “A driveway shall be prohibited along the Property’s Joliet Road frontage. The Property’s access shall be provided via a shared access on an adjacent property.”

In addition, the Department recommends the following written findings of fact related to the modified condition:

**Recommended Findings for Approval:** 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 proposed modified condition still maintains shared access with another property and does not result in any new driveway cuts onto Joliet Road.

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. The residential use of the property is permitted and consistent with the character of the surrounding area. The Lot would otherwise comply with all other applicable standards.



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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:** Strict adherence to the zoning ordinance would result in the inability to improve the Property with any sort of structure and the proposed modification continues to allow access to the Property without creating additional driveways onto Joliet Road.. The proposed use is permitted in the AG-SF1 District, and the Lot would otherwise comply with all other standards of that district.