

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

SPECIAL EXCEPTION APPLICATION



OFFICE USE ONLY

DOCKET #: 1808-SE-03
FILING FEE: \$

FILING DATE:

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Caleb Ernest (STAFF NAME) DATE: June 7, 2018

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: AMENDMENTS: DEVELOPMENT PLAN:

PRIMARY PLAT: SECONDARY PLAT: VARIANCE(S):

APPLICANT INFORMATION

APPLICANT'S NAME: Juliana Robertson TELEPHONE: 317 501 6237

ADDRESS: 3459 Heathcliff Court, Westfield, IN 46074 EMAIL: julianagr@aol.com

PROPERTY OWNER'S NAME: Same as above TELEPHONE:

ADDRESS: EMAIL:

REPRESENTATIVE'S NAME: Gary D. Sallee, Attorney at Law TELEPHONE: 317 416 9543

COMPANY: EMAIL: gdsallee@gmail.com

ADDRESS:

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 3459 Heathcliff Court, Westfield, IN 46074

COUNTY PARCEL ID #(S): 29-10-45-010-029.000-015 / 08-10-05-00-10-029.000

EXISTING ZONING DISTRICT(S): Oak Manor Planned Unit Development EXISTING LAND USE(S): Residential

SPECIAL EXCEPTION REQUEST

CODE CITATION: Section 10-3(b) FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY): See attached, paragraph 1.



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.

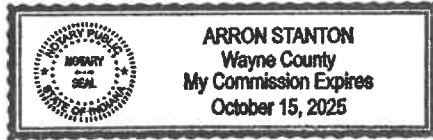
[Handwritten Signature]
Applicant/Representative (signature)

Juliana G. Robertson
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 29 day of June, 2018.

State of Hamilton, County of Indiana, SS:



[Handwritten Signature]
Notary Public Signature
Arron Stanton
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.

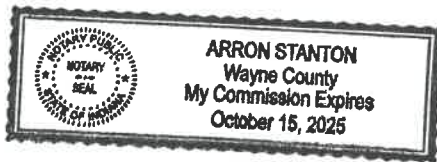
[Handwritten Signature]
Property Owner (signature)*

Juliana G. Robertson
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 29 day of June, 2018.

State of Hamilton, County of Indiana, SS:



[Handwritten Signature]
Notary Public Signature
Arron Stanton
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.

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM
FINDINGS OF FACT (SPECIAL EXCEPTION)



APPLICANT: Juliana G Robertson

DOCKET #: _____

In taking action on a special exception, the Board of Zoning Appeals uses the following decision criteria to approve or deny a special exception. The applicant must address the criteria below. The Board may impose reasonable conditions as part of its approval. A special exception may be approved by the Board only upon a determination that the Board finds all of the following to be true:

A. The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health safety morals or general welfare because: See attached, paragraph 2.

B. The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property value within the neighborhood because: See attached, paragraph 3.

C. The establishment of the special exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district because: See attached, paragraph 4.

D. Adequate utilities, streets drainage and other necessary facilities have been or are being improved: Not applicable.

E. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion: Not applicable.

F. The special exception will be located in a district where such use is permitted and that all other requirements set forth, applicable to such special exception, will be met: See attached, paragraph 5.

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM
SPECIAL EXCEPTION 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"/> Legal Description |
| <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"/> Covenants and commitments (if any) |
| <input type="checkbox"/> Copy of Property Deed | |
| <input type="checkbox"/> Elevations, photographs, service reports or other supporting information necessary to explain the nature of the special exception use | |
- C. **Filing Fee Check:** After the filing of an application, the Department will advise the applicant of the applicable filing fee amount, which is due and payable (checks made out to "City of Westfield") within two (2) weeks of filing.
- D. **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. 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.
- E. **Public Hearing and Notice:** All special exception 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 Hamilton County Reporter and The Times. The Department will handle the newspaper publication requirement.
 2. **Mailed Public Notice:** The applicant is responsible to send public notice by certified mail with proof of mailing (certificate of mailing) to all interested parties, 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.
- F. **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.
- G. **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.
- H. **Board's Consideration:** Following the public hearing, the Board may either approve, approve with conditions, deny or continue the petition.
- I. **Resource:** Please see the Board's [Rules of Procedure](#) for more detailed procedural information.

Special Exception Request
Juliana G. Robertson
3459 Heathcliff Court
Westfield, IN 46074

1. STATEMENT OF INTENT

I am seeking a limited special exception to the City of Westfield Unified Development Ordinance (UDO) section which defines the keeping of four (4) or more dogs as a kennel. My home is located at 3459 Heathcliff Court, which is in the Oak Manor Planned Unit Development (PUD) District. I am seeking this exception (and also a variance of use or PUD amendment) so that I may keep the six senior greyhounds that have lived in my home for the past seven to ten years. Because of the special reason that I have these greyhounds, they will not be replaced as their number decreases by natural attrition. I am seeking a variance that will allow me to continue to live in my house with the greyhounds that I currently have and only these greyhounds. In the future, I will never have more than three. In the alternative, I am seeking a limited special exception that will allow me to keep my greyhounds in my home while I build a new home for them and my widowed mother on property that I currently own outside of Westfield. I would ask you to understand that we simply have no place else to go, and it is probably impossible for me to find a suitable place to rent if we have to leave. I really like my neighborhood and my neighbors. I am hoping that we can stay in our home.

2. THE ESTABLISHMENT, MAINTENANCE, OR OPERATION OF THE SPECIAL EXCEPTION WILL NOT BE DETRIMENTAL TO OR ENDANGER THE PUBLIC HEALTH, SAFETY, MORALS, OR GENERAL WELFARE BECAUSE:

My six senior greyhounds have lived in my home anywhere from six to ten years without complaint. They have never in any way been detrimental to or endangered the public health safety, morals, or general welfare of my neighborhood. They do not bark. They are not walked in the neighborhood. They do not run free in the neighborhood. They only go outside in groups of two or three to relieve themselves in a fenced backyard and sometimes to play for a couple of minutes. They are rarely seen by anyone in the community because they spend the vast majority of their time doing what greyhounds do - laying around or sleeping. They are gentle natured animals that pose a threat to no one. They are very closely supervised by me at all times because I work primarily from home.

The six senior greyhounds in my home range in age from eight to 12 years old, each having a life expectancy of about 12 years. I am a single female who lives alone, but for these greyhounds. I have absolutely no intent of replacing my greyhounds as they pass and would eventually comply with the current ordinance in any event. These greyhounds have resided in my Westfield home for the last seven to ten years without incident. Being typical senior greyhounds, they very rarely bark. They are never taken off of my property or walked in the neighborhood, nor will they be in the future. They are turned out five times a day, in groups of two or three, for no more than 10 minutes at a time. You have to make a concerted effort to figure out that there

are more than three because of the way that I manage them and because they all look alike. If a special variance is granted, I will continue being diligent so as not to advertise how many live with me. They are closely supervised whenever they are in their fenced yard and are not allowed to bark at other dogs in the area. I am very concerned about waking my neighbors at night, and I do not let them out if the lights in the neighbor's house are off. If it is an emergency, I will put them on a leash and take them out myself so that I can ensure that they do not disturb anyone. In the morning, I do not let them out before 6 am.

Their waste, which is actually very minimal because of the special home cooked diet that they are fed, is now picked up at least once every day. That waste is then placed into a sealed trash container in my garage so that there is no outside odor issue. This is a change in my procedure for cleaning the yard that I have made in response to the recent issue with my neighbor. Previous to that, I would pick up the waste and would store it in a closed container in my backyard until my trash pickup on Friday. I believe the container used to store waste might have been large part of any alleged odor issue. That entire issue is now resolved.

My greyhounds have all been spayed and are regularly seen by a veterinarian. They are probably better fed and get better medical care than your children do. They each have health insurance. They are very friendly, extremely gentle, love people, and are never allowed to be in a situation in which either they or someone else or someone else's pet would be placed in danger. They never behave in an aggressive manner and are always excited to meet a new person. Because of their breed, I make sure that they are always contained. I go to extreme lengths to make sure that they never get out of my house or their fenced backyard. To date, they never have.

I have also enclosed pictures of my house which show that it is properly maintained. I have my home professionally cleaned on a regular basis. I used to hire someone to clean my yard, but now I do that myself because I do a better job.

If anyone had said anything about having an issue with the way that I manage my greyhounds, I would have immediately resolved the situation. In this particular instance, no one said anything to me before making a complaint, even though I had asked each of my neighbors to tell me if my greyhounds were causing them an issue. Furthermore, after talking to my neighbors, and as evidenced by the letters that I have submitted in support of this exception, it is clear that the vast majority of my neighbors have never been bothered by my greyhounds. Most people only think that there are a couple of dogs at my home or none at all.

Regarding the waste issue, an allegation that I find terribly embarrassing and totally regret, I have always checked to see if I could smell anything in my backyard. The neighbor directly beside me, who is the closest down wind home, has told me that he has not smelled anything this entire year. I did get behind with maintaining my yard because of several overwhelming events. The person that I hired to clean my yard failed to show up on multiple occasions. Then, starting at the end of last year, a close friend died a couple of months after a

cancer diagnosis, and I was one of her main care givers; my widowed mother, who lives in Avon, had four surgeries; I had pneumonia; and, both of my horses died after multiple hospitalizations at Purdue, one at the end of March, the other at the end of May. It has been a daily thing dealing with one loss after another that required me to spend a lot of time either at hospitals or at Purdue's Large Animal Hospital. These losses have had a tremendous impact on me and continue to do so. In spite of this, I have totally resolved the waste issue and will never let it happen again. I personally clean up my backyard every day without exception and will continue to do so. Since I will not be getting any more horses, I now have even more time to devote to the maintenance of my home and my greyhounds. And, as I have been cleaning my bark yard every day, I have discovered that is actually easier and quicker to do it daily than once a week.

I would also note that I am trying for the fourth time to get permission from my HOA to do some landscaping in my backyard. If I can get approval, it will go a long way toward solving any issue that I may have with the neighbor immediately behind me.

It was never my specific intent to run afoul of the zoning ordinances by having this many greyhounds. I am not a breeder, nor am I a random adopter or hoarder of animals. My greyhounds are all the offspring of my CoCo who passed away several years ago. She was a famous racing greyhound who lost a rear leg in an horrific accident at the breeding farm in Kansas. (One summer night, CoCo got out of the kennel and did not return. Just by chance they found her three days later, hanging over a fence on the edge of a bluff, suspended by the barbed wire that was wrapped around her rear leg. She was unconscious and almost dead.) Because she was famous, they amputated her leg so that they could breed her, which they did three times. I fought for several years to get CoCo before finally succeeding. Two years after I got her, she developed osteosarcoma (bone cancer) in her remaining rear leg and eventually died a few months later. Trying to make some sense out of the suffering that she had endured, a friend and I set out to ensure that all of her babies found homes. For years, we literally begged to get them from the racetracks. Against tremendous odds, we got them and found homes for all but three of CoCo's 18 babies. The three that could not find homes have lived with me for the past seven years. The others were never in my home. CoCo is the only reason that I have this number of greyhounds. After this group, I will never have more than two or three.

After working with retired racing greyhounds for 16 years, I can state without reservation that, now that mine are senior dogs, their chance of being adopted from a rescue or shelter is zero. No one wants the senior dogs, especially when, like mine, they already have ailments and issues. Osteosarcoma is the great killer of greyhounds. Unfortunately, mine, due to their breeding, are at a very high risk to develop cancer. If they do, I, unlike most, will fight to give them every possible day. They are probably only alive today because of the way that I care for them. And they are so close to me and to one another, that it would be absolutely devastating to them and their health to break us up. And putting them in a shelter to waste away or be killed would be an absolute travesty that would in no way serve any community's greater good. I would like to stay in my home with the greyhounds that I currently have, especially since I have spent a lot of money doing upgrades to my home, and because this situation is temporary. If that

is not possible, I am prepared to move out of Westfield. In that case, I am asking for a limited variance that would allow me to keep my greyhounds while I build a home for them and my elderly mother who currently lives in Avon. I already own the property on which I would build.

Greyhounds really are not dogs, and you cannot judge them like you would other dogs. Six greyhounds are certainly less work and less intrusive than three of any other breed of any size. And, from what I have seen, my six greyhounds are less intrusive than my neighbors' dogs who bark frequently and are in yards that are cleaned far less often than my own. Since I have a fence, it is likely that someone with dogs will purchase my property. Those dogs (or dog) will surely be more disruptive to the neighborhood than my six have ever been, especially given various comments made by my neighbors about how the other dogs in the neighborhood bark.

Having multiple greyhounds in one household is very common. The frequent saying amongst greyhound people is that three greyhounds in a home equal one cat. Having had both animals, I absolutely agree with that statement. Greyhounds do not shed. They do not bark. They are incredibly gentle. They are not destructive. They are extremely clean. They come crate-trained. They do not require very much exercise. When they are awake, they are extremely quiet. They sleep 20 hours a day.

My greyhounds, due to their advanced age, sleep probably closer to 21 hours a day, especially since my household is extremely quiet and low key. At any given moment, there are six sleeping greyhounds somewhere in my house not bothering anyone. It is like that every day, all day long. They are so quiet that they do not interfere with the phone calls that I make daily to clients, courts, and other attorneys. The fact that they are there, sound asleep, only going out to relieve themselves, in no way impacts the health or welfare of anyone else in my neighborhood.

I am submitting several letters supporting my request for an exception. One of those letters is from my neighbors Jean and Curtis Ray who live in the other half of my paired patio home and essentially share the same backyard. Since we share a common wall and yard, if anyone is going to be disturbed, it would be the Rays. They have noted on their letter that my greyhounds have never bothered them.

I would finally like to point out that no one is alleging that my greyhounds have done anything to interfere in any way with anyone in my neighborhood. The only complaint is that six is not three, and that I, not them, did not clean up my backyard. Given the fact that my greyhounds are less intrusive than other dogs in the neighborhood and that I have been cleaning my backyard each day without exception, if this special exception is granted, my greyhounds, just like during the previous ten years, will not impact the public health, safety, morals, or general welfare of the community. I will continue to do all in my power to make sure that is true. I am confident that I will be successful.

3. THE SPECIAL EXCEPTION WILL NOT BE INJURIOUS TO THE USE AND ENJOYMENT OF OTHER PROPERTY IN THE IMMEDIATE VICINITY FOR THE PURPOSES ALREADY PERMITTED, NOR SUBSTANTIALLY DIMINISH AND IMPAIR PROPERTY VALUE WITHIN THE NEIGHBORHOOD BECAUSE:

For all the reasons stated above, and the supporting letters that I have included with my application, it is clear that my greyhounds have not injured the use and enjoyment of properties in the immediate vicinity nor have they substantially diminished or impaired property values in the neighborhood. They have resided in my home for the past six to ten years. There has only been one complaint, and that issue has been resolved. That issue will be even further resolved if I am allowed to landscape my backyard. During the time that my greyhounds have been here, the property values in my neighborhood have increased substantially. A unit next to me that originally sold for \$180,000 recently sold for \$234,000. My own home has increased in value from \$209,000 to \$263,000, and that does not take into consideration the numerous improvements that I have made to my house. When I built my house, I was the fourth person on my street and no homes were beside or behind me. My greyhounds have been here from the beginning. In that time, all the lots in the neighborhood have sold. Given the presence of my fence and my greyhounds, those purchases were made with knowledge that there were dogs on the property. If there had been something injurious going on, I am sure people would not have purchased their homes. In fact, I talked with Jessica, the sales representative at the Fischer model home that is two houses down from the back of my house. She was surprised to hear about any complaints because she only thought that I had two dogs, had never smelled anything, and had never heard any comments from anyone about my greyhounds. Clearly, there has been nothing going on at my home or in my backyard or with my greyhounds that truly discourages people from purchasing lots on which to build the \$400,000 homes that now back up on to my property. Given these facts, and the discussion above, it is clear that the number of greyhounds on the property has had no significant impact on the enjoyment or value of the neighborhood nor will they in the future. Please remember that I have taken such good care of my greyhounds that most people do not even know that I have them, or think that I have only a couple.

I have been canvassing my neighborhood to get support so that we can stay in our home. When I tell neighbors how many greyhounds I have, they are all surprised because they had no idea that I had more than a couple of animals, if any at all. And, as I have talked with them, no one has complained to me about any problems that my greyhounds have caused in the neighborhood. As shown by the letters that I am submitting with this request, my neighbors are supportive of the granting of this exception. And I have reiterated with them all that they should always feel free to contact me if they perceive an issue so that I can remedy it immediately.

4. THE ESTABLISHMENT OF THE SPECIAL EXCEPTION WILL NOT IMPEDE THE NORMAL AND ORDERLY DEVELOPMENT AND IMPROVEMENT OF SURROUNDING PROPERTY FOR USES PERMITTED IN THE DISTRICT BECAUSE:

Again, I incorporate the above information. My greyhounds are totally confined to my house and backyard. They never run free in the neighborhood, nor do they bark. They have been here for the past six to ten years. We were the fourth house sold on my street. After moving in, I immediately built a fence in my backyard, and my greyhounds have been going out into that yard since the fence was installed. During that time, all the empty lots have sold, and now there are houses built on each of them. I have talked to a lot of my neighbors, and none of them feel like my greyhounds have interfered in any way. In fact, a lot of them spend considerable time outdoors and have never said anything to me. Since the surrounding property has been fully developed while my greyhounds have been here, it is clear that they are not a deterrent in any way to the development and improvement of the surrounding property. And, since I have resolved the waste issue, there is absolutely nothing that they do that extends beyond the confines of my property.