



**Petition Number:** 1902-VS-03

**Subject Site Address:** 21250 Anthony Road (“the Property”)

**Petitioner:** Michael Graber (“the Petitioner”)

**Request:** The Petitioner requests a Variance of Development Standard to modify the South Side Yard Setback Line from thirty (30) feet to ten (10) feet to allow for the extension and reconfiguration of an attached garage (Article 4.2(E)(2))

**Current Zoning:** AG-SF1: Agriculture/Single Family Rural

**Current Land Use:** Agriculture

**Approximate Acreage:** 2.37 acres +/-

**Exhibits:**

1. Staff Report
2. Location Map
3. Site Plan
4. Existing Conditions

**Staff Reviewer:** Daine Crabtree, Associate Planner

---

### **OVERVIEW**

**Location:** The subject property is a 2.37 +/- acre parcel located at 21250 Anthony Road (see **Exhibit 2**).

**Requested Variances:** The Petitioner is requesting a Variance of Development Standard to modify the South Side Yard Setback Line from thirty (30) feet to ten (10) feet.

---

### **SUMMARY OF VARIANCE**

The Petitioner requests a Variance of Development Standard to modify the South Side Yard Setback Line from thirty (30) feet to ten (10) feet to allow for the extension and reconfiguration of an attached garage (see **Exhibit 3**).

---

### **PROCEDURAL**

**Public Notice:** The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the February 12, 2019, 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>1</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>2</sup> requires that the approval of the variance shall be memorialized in an acknowledgement of variance 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.

**Variances 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 underlying zoning 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.

---

**DEPARTMENT COMMENTS:**

**Recommended Findings for Approval:** If the Board is inclined to approve the variance, then the Department recommends the findings as set forth below, for each variance:

---

<sup>1</sup> Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

<sup>2</sup> Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



- 1) **Criteria:** 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 because the existing use and proposed improvements will otherwise comply with the applicable standards of the AG-SF1 zoning district.

- 2) **Criteria:** 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 proposed variance should not have a negative impact on surrounding properties because the use of the property will not change.

- 3) **Criteria:** The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:

**Finding:** The unique dimensions and characteristics of the Property, including but not limited to the home placement and topography changes make it difficult for the home to undergo any remodel and/or additions without requiring a variance.

**Recommended Conditions:**

- The Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Economic and Community Development Department.

**Denial:** If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings consistent with the public hearing evidence and Board discussion.