



ACKNOWLEDGEMENT OF VARIANCE

Document Cross Reference Number: 2010006827 (confirm)

This ACKNOWLEDGEMENT, made this 10th day of March, 2016, by Matthew S. Skelton, Economic and Community Development Director, City of Westfield, Indiana (the "Director") WITNESSETH:

Mayor
Andy Cook

City Council
Chuck Lehman
Jim Ake
Joe Edwards
Steven Hoover
Robert L. Horkay
Dr. Mark Keen
Cindy L. Spoljaric

Clerk Treasurer
Cindy J. Gossard

WHEREAS, on Tuesday, March 8, 2016, the Westfield-Washington Township Board of Zoning Appeals (the "Board") heard Petition No. 1603-VU-03 (the "Petition"), filed by Robert Esler of Esler Properties, LLC (d/b/a Bob's Garage) (the "Property Owner"), for a Variance of Use from the Westfield-Washington Township Unified Development Ordinance regarding property commonly known as 16708 Dean Road, Westfield, IN 46074 (Parcel No: 09-09-01-00-00-014.000) and more particularly described as (the "Property").

PART OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 18 NORTH, RANGE 3 EAST IN WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA, AND BEING THAT PART OF THE GRANTORS' LAND LYING WITHIN THE RIGHT OF WAY LINES DEPICATED ON THE ATTACHED RIGHT OF WAY PARVEL PLAT, MARKED EXHIBIT "B", DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTH LINE OF SAID QUARTER SECTION SOUTH 87 DEGREES 27 MINUTES 51 SECONDS WEST 1,978.42 FEET FROM THE SOUTHEAST CORNER OF SAID QUARTER SECTION WHICH POINT IS ON THE WESTERN BOUNDARY OF U.S. 31; THENCE CONTINUING SOUTH 87 DEGREES 27 MINUTES 51 SECONDS WEST 117.66 FEET ALONG SAID LING; THENCE NORTH 3 DEGREES 55 MINUTES 35 SECONDS WEST 301.55 FEET TO POINT "24901" ON SAID PLAT; THENCE NORTH 11 DEGREES 37 MINUTES 11 SECONDS WEST 72.89 FEET ALONG SAID GRANTORS' LAND; THENCE NORTH 87 DEGREES 27 MINUTES 51 SECONDS EAST 70.75 FEET ALONG SAID LINE TO THE WESTERN BOUNDARY OF U.S. 31; THENCE ALONG SAID BOUNDARY SOUTHEASTERLY 379.19 FEET ALONG AN ARC TO THE LEFT AND HAVING A RADIUS OF 11,546.02 FEET AND SUBTENDE BY A LONG CHORD HAVING A BEARING OF SOUTH 12 DEGREES 31 MINUTES 17 SECONDS EAST AND A LENGTH OF 379.17 FEET TO THE POINT OF BEGINNING, CONTAINING 0.765 ACRES MORE OR LESS.

TOGETHER WITH THE PERMANENT EXTINGUISHMENT OF ALL RIGHTS AND EASEMENTS OF INGRESS AND EGRESS TO, FROM, AND ACROSS THE LIMITED ACCESS FACILITY (TO BE KNOWN AS U.S. 31 AND AS PROJECT 0710215), TO AND FROM THE GRANTORS' ABUTTING LANDS, ALONG THE LINES DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTH LINE OF SAID QUARTER SECTION SOUTH 87 DEGREES 27 MINUTES 51 SECONDS WEST 2,016.68 FEET FROM THE SOUTHEAST CORNER OF SAID QUARTER SECTION, WHICH POINT IS ON THE SOUTH LINE OF SAID GRANTORS' LAND; THENCE NORTH 7 DEGREES 10 MINUTES 12 SECONDS WEST 78.09 FEET TO

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POINT "24902" ON SAID PLAT; THENCE NORTH 4 DEGREES 33 MINUTES 08 SECONDS WEST 34.31 FEET TO THE WESTERN BOUNDARY OF U.S. 31 DESIGNATED AS POINT "24910" ON SAID PLAT AND THE TERMINUS. THIS RESTRICTION SHALL BE A COVENANT RUNNING WITH THE LAND AND SHALL BE BINDING ON ALL SUCCESSORS IN TITLE TO THE SAID ABUTTING LANDS.

The Property Owner requested approval of a Variance of Use for an extension of time to continue to temporarily allow an automobile repair business within the U.S. Highway 31 Overlay District (Article 5.2).

WHEREAS, the Board voted five (5) to zero (0) to approve the Petition with the condition the Variance of Use would expire December 31, 2019.

NOW, THEREFORE, the Director hereby declares that all the Property as it is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, or occupied and improved, is subject to the Variance of Use approved by the Board on March 8, 2016. Unless otherwise modified herein, this Variance of Use shall run with the land, and shall be binding upon the owner, heirs and assigns, and all parties having an interest in and to the Property or any part or parts thereof subject to such Variance of Use, and shall inure to the benefit of the owner and every one of his/her successors in title to any real estate in the Property.

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Signature page follows.]

Administration

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WESTFIELD ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT

“DIRECTOR”

MATTHEW S. SKELTON, ESQ., DIRECTOR

Economic and Community Development Department, City of Westfield, IN

Esler Properties, LLC, the Property Owner, hereby acknowledges the accuracy of the information contained in this Acknowledgement of Variance and any conditions and limitations placed on the Petition and Property, as set forth herein.

IN WITNESS WHEREOF, the Property Owner has executed this instrument, on the ____ day of _____, 2016.

Esler Properties, LLC
By Robert Esler, Managing Member

Date

STATE OF _____)
) SS:
COUNTY OF _____)

Signed and acknowledged before me this ____ day of _____, 2016.

(SEAL)

Signature of Notary Public

Printed name of Notary Public

My County of Residence: _____

My Commission Expires: _____

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law: Amanda Rubadue

Prepared by: Amanda Rubadue, Associate Planner, City of Westfield
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