



CITY OF FISHERS AGENDA

BOARD/COMMISSION: Board of Zoning Appeals – Fishers

DATE: 3/26/2025 at 6:00 PM

**DIRECTIONS: Fishers Municipal Center Theater,
1 Municipal Drive, Fishers, IN 46038**

Members of the public may [submit comments online](#) before 12pm on the day of the meeting.

In accordance with the Americans with Disabilities Act (ADA), the City of Fishers will, upon request, provide appropriate aid (i.e. interpreters) and/or assistance leading to effective participation for people with disabilities. Anyone who requires such assistance should [email Kelly Lewark](#), Office Manager, no later than 48 hours before the scheduled event or call at (317) 595-3487.

- 1. Call to order / Pledge of Allegiance**
- 2. Roll Call**
- 3. Elections, Appointments, and Designations**
 - a.
 - 1. Election of Chairperson**
 - 2. Election of Vice-Chairperson**
 - 3. Appointment of Secretaries (Ross Hilleary, Gabrielle Herin, Christy Cashin, Kevin Martín, Grace Wiley)**
 - 4. Appointment of Recording Secretary (Kay Prange and Kelly Lewark)**
 - 5. Designation of Plan Commission Legal Counsel (Krieg DeVault)**
 - 6. Designation of Commission Legal Publications (Noblesville Times, The Current, Hamilton County Reporter)**
- 4. Approval of Previous Minutes**
 - a. 1-22-25 Minutes

5. Public Hearings

6. Old Business

7. New Business

a. 13202 Nottingham Road Special Exception

Parcels: 14-11-30-01-03-018.000

Address: 13202 Nottingham Road

Case: SE-25-1

Request: Consideration of a Special Exception to allow for a short-term rental use (e.g., Airbnb, VRBO) on a single-family property zoned R2.

Petitioner: Biao Chen (benbiaochen@gmail.com)

Planner: Grace Wiley (wileyg@fishers.in.us)

b. John Swofford Accessory Building

Parcels: 13-16-06-00-02-010.000

Address: 15014 Geist Ridge Dr

Case: VA-25-1

Request: Consideration of a Development Standards Variance from the Unified Development Ordinance Section 6.2.2 to allow an increase in the maximum height of a proposed accessory structure from 18 feet to 24 feet.

Petitioner: Jay Christman (jaychristman@christmanbrosbuilders.com)

Planner: Gabrielle Herin (hering@fishers.in.us)

8. Staff Communication

a. Updated Rules and Procedures 2025

9. Board Signatures – Findings of Fact

10. Adjournment

**CITY OF FISHERS
BOARD OF ZONING APPEALS
MINUTES
FISHERS Municipal Center - Nickel Plate Conference Room
January 22, 2025**

The Board of Zoning Appeals convened at 6:00 p.m.

In attendance: Steve Ferrucci, Tom Grinslade, Howard Stevenson, Greg Lannan. Jeffrey Silvey was not present. Others in attendance: Rodney Retzner, Ross Hilleary, Christy Cashin, Craig Crowe, Eric Carter, Rob Warstler, Brian Dyke, Sue and Jack Follmar, Mark Leach, Peg Westland, Chris Rawlins, Eric Gleissner, Mindy Brown, Yasmin Badawi, Mathew Branz, David Schel.

Mr. Stevenson made a Motion to approve the Minutes from the 12-18-24 meeting, seconded by Greg Lannan. The Motion was approved, 4-0.

Public Hearings:

Bent Grass Marketplace CONTINUED

Parcels: 15-11-19-00-67-001.000

Address: 13682 Bent Grass Ln

Case: VA-24-26

Request: Consideration of a Development Standard Variance from Section 5.4.8.D.2.b of the City's Unified Development Ordinance (UDO) to allow a drive-up window, exterior menu board, and speakers, associated with a restaurant or coffee house, within 400 feet of any building zoned or used for residential purposes.

Planner: Christy Cashin (cashinc@fishers.in.us)

Petitioner: Mark Leach (mark.leach@faegredrinker.com)

Planner: Christy Cashin (cashinc@fishers.in.us)

This Variance was continued from December 2024. Mindy Brown from Faegre Drinker, with Mark Leach from Faegre Drinker, Eric Gleissner from Civil Site Group, and Rob Warstler from Warstler Realty presented the re-worked elevations. The plan has been flipped 180 degrees. The restaurant building and menu board is now closest to SR37. They are confident that the speakers cannot be heard from the neighboring apartments, especially with SR37 road noise. Rob Warstler said that the speaker is shielded by the shopping center, which is most of the building. Christy Cashin presented the Staff Report and noted that the Variance was denied in December by a 2-1 vote of the BZA. Staff has No Recommendation for the Board.

Mr. Ferrucci opened the Public Hearing.

Sue Follmar (13857 Canopy Lane)- representing Regency Windsor, is pleased to see changes. No longer opposed. She asked for ownership of Bent Grass to be clarified. Mindy Brown will clarify road ownership and maintenance.

Matthew Branz (9446 Ashlake Lane)- agrees with the site changes and withdraws opposition.

Mr. Ferrucci closed the Public Hearing.

Mr. Ferrucci asked for a Motion. Mr. Lannan made a Motion to approve with the recording of the approval letter with the County, seconded by Mr. Stevenson. The Motion was approved, 4-0.

b. NJS Gas Station Sign Variance

Parcels: 15-11-31-00-15-003.000

Address: 12571 Reynolds Dr

Case: VA-24-22

Request: Consideration of a Development Standards Variance from Section 6.17.6. E. Ground Signs Located on Lots with Non-Residential Uses to allow digital changeable copy on one (1) ground sign.

Petitioner: Brian Dyke (brian.dyke@gianteagle.com)

Planner: Christy Cashin (cashinc@fishers.in.us)

Bryan Dyke with Ricker Oil Co. presented the drawings of the signs. The sign will go from manual to digital sign changing on both sides of one ground sign. This is preferred in the industry since prices change 2-3 times a day.

Christy Cashin presented the Staff Report. There have been no public comments- Staff has No Recommendation.

Staff report details *:

A variance from Chapter 6.17 Signage Standards may be approved by the Board upon the determination that the Findings demonstrate the following: 1. That the location and placement of the sign will not endanger or distract motorists or pedestrians; and,

2. That the sign will not cover or blanket any prominent view of a structure or facade of historical or architectural significance; and,

3. That the sign will not obstruct views of users of adjacent buildings; and,

4. That the sign will not interfere with the visual quality of public open space ; and,

5. That the sign is compatible with building heights of the existing skyline; and

6. That the sign does not impose a foreign element to an existing skyline; and,

7. That the sign's illumination, lighting or digital character will not distract motorists or pedestrians nor contribute to hazardous or unsafe driving conditions for motorists; and,

8. That the sign size (e.g. height, width, distance between grade and sign, copy size), composition (e.g. materials, posts, poles), lighting or location conditions are consistent with the time, place and manner conditions imposed by the Unified Development Ordinance.

Mr. Ferrucci opened the Public Hearing. There was no one from the Public to speak and he closed the Public Hearing.

Mr. Ferrucci asked for a Motion. Mr. Grinslade made a Motion to approve the variance based on the determinations above, and that the approval letter be recorded with the County. Mr. Stevenson seconded. The Motion was approved, 4-0.

c. Vermeer Gravel Lot Variance

Parcels: 15-11-30-00-00-001.008

Address: 13402 Britton Park Rd

Case: VA-24-27

Request: Consideration of a Development Standard Variance from Article 6.11.3.A.1 Parking Lot Design of the City's Unified Development Ordinance (UDO) to allow for a temporary gravel parking lot for equipment storage.

Petitioner: Eric Carter (cartere@weihe.net)

Planner: Christy Cashin (cashinc@fishers.in.us)

Eric Carter with Weihe and Craig Crowe with Vermeer presented the plan for a temporary gravel lot. There is a 5-year plan in which it will be paved. They are adding landscaping and detention.

Christy Cashin presented the Staff Report. The Fishers 2040 Plan allows flex industrial uses and this is for a storage lot with fence. The petitioner is requesting a development standard variance to allow a 45522 sq. ft. gravel parking lot for equipment storage. In the future, the petitioner plans to build a 9000 sq. ft. building. They also plan to add paved parking along Britton Park Rd eventually. The lot will be fenced with a wooden fence, much like that one currently installed onsite and will be landscaped along Britton Park Rd.

Staff has No Recommendation for the Board.

2 Public comments have been received:

Colin Sherman- overnight noise- vehicle beeping

Eric Puckett – noise and lighting

Petitioner states that the lot closes at 5:00.

Mr. Ferrucci opened the meeting to Public Comment. Seeing no one present to comment, he closed the Public Comment portion of the meeting.

In Board discussion, Mr. Stevenson asked about precedent- is a 5 year period reasonable? The petitioners have made a voluntary commitment to pave in 5 years.

Mr. Ferrucci asked for a Motion. Mr. Stevenson made a Motion to approve with expiration on or before 5 years and that the letter of approval be filed with the County. Mr. Grinslade seconded. The Motion was approved, 4-0.

d. Walmart Fuel Station Sign Variance

Parcels: 15-11-30-00-41-006.000

Address: 9354 Ambleside Dr

Case: VA-24-28

Request: Consideration of a Development Standards Variance from Section 6.17.7.C. Wall Signs of the City of Fishers Unified Development Ordinance to allow five (5) wall signs, where three (3) wall signs are allowed. Signs will be placed on the primary frontage of the building and on the fuel canopy.

Petitioner: Lisa Collins (lisa.collins@brrarch.com)

Planner: Christy Cashin (cashinc@fishers.in.us)

Yasmin Badawi with BRR Architecture presented 5 signs on the fuel canopy where only 3 are allowed. Christy Cashin presented the Staff Report and No Recommendation to the Board. The same Staff Report details * as Item b apply.

Mr. Ferrucci opened the Public Hearing. Seeing no one present to comment, he closed the Public Comment portion of the meeting.

Mr. Ferrucci asked for a Motion. Mr. Grinslade made a Motion to approve, with the letter of approval filed with the County. The Motion was seconded by Mr. Stevenson. The Motion was approved, 4-0.

Adjournment As there was no other business, the meeting was adjourned at 6:40 p.m.

Respectfully Submitted by:

Kay Prange, Recording Secretary



Board of Zoning Appeals Staff Report

Meeting Date: March 26, 2025

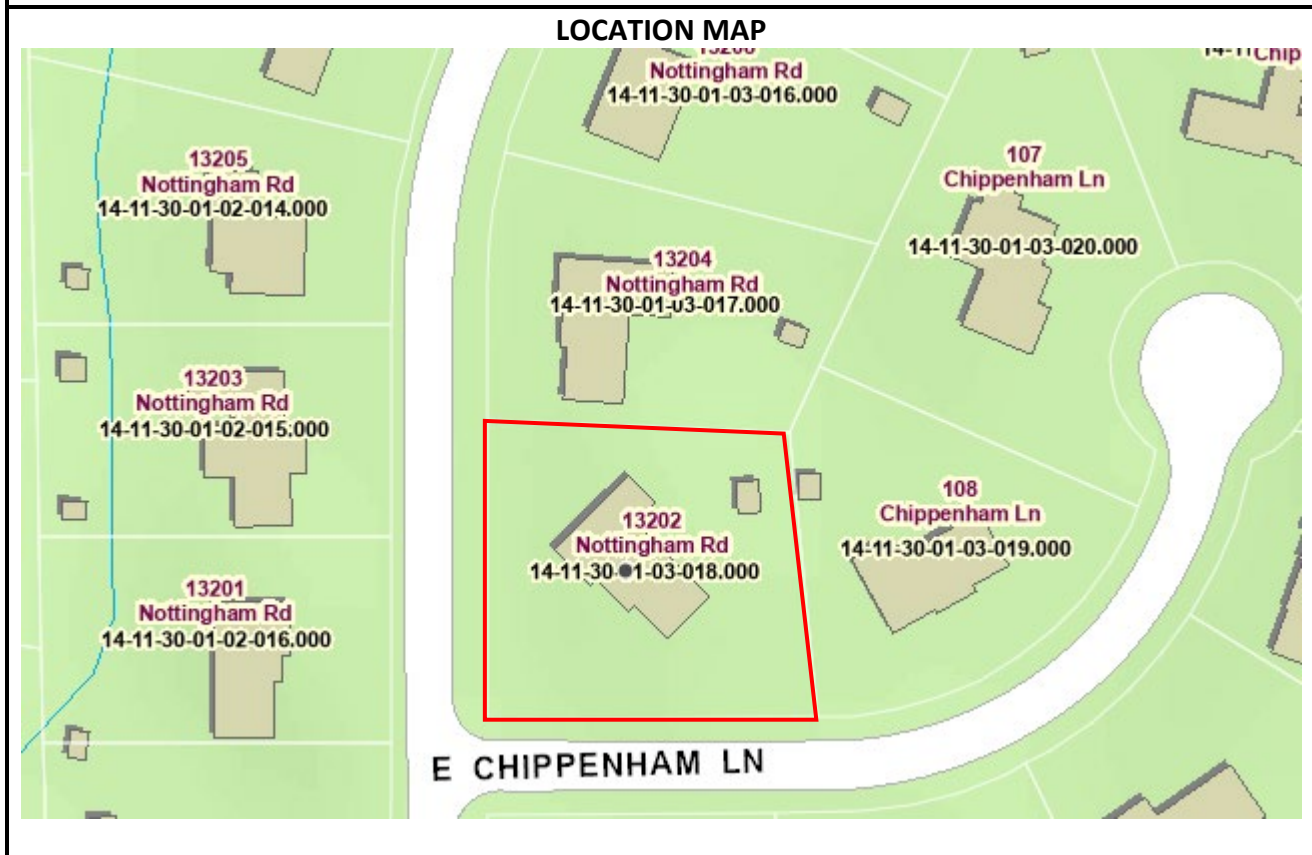
DEPARTMENT CONTACT: Grace Wiley (wileyg@fishers.in.us)	CASE NUMBER: SE-25-1
--	--------------------------------

PETITIONER: Biao Chen (benbiaochen@gmail.com)	PROPERTY ADDRESS/LOCATION: 13202 Nottingham Rd
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REQUEST: Consideration of a Special Exception to allow for a short-term rental use (e.g., Airbnb, VRBO) on a single-family property zoned R2.

APPLICABLE REGULATIONS: Unified Development Ordinance (UDO)	EXISTING ZONING: R2 - Residential	FISHERS 2040: Low Density Suburban Residential
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LOT SIZE: 0.57 Acres



STAFF RECOMMENDATION

☐ Approve ☐ Continue ☐ Deny ☒ No Recommendation

ZONING HISTORY:

The zoning is based on the Unified Development Ordinance (UDO), which was approved in 2018 (Ord. #07618F).

SURROUNDING LAND USE & ZONING:

North: R2 (Single Family Residential)

East: R2 (Single Family Residential); Nickel Plate Trail Overlay

South: R2 (Single Family Residential)

West: R2 (Single Family Residential)



Zoning Map

SUMMARY OF PUBLIC COMMENTS:

At the time of the writing of this staff report, no public comments have been received.

PETITION OVERVIEW:

Ben Biao Chen, the property owner, has requested a special exception from the Unified Development Ordinance to allow for a short-term rental (e.g., Airbnb, VRBO). The State of Indiana does not allow municipalities to limit short-term rentals when it relates to home-occupation, meaning the property owner must live at the residence.

This does not meet our home-occupation standards and therefore requires this special exception to allow short-term rentals.

The property owner lives out-of-state and the property rental is managed by a third part, HomeBase.



STAFF RECOMMENDATION:

Per County Records, Biao and Pan Xuguang Chen have owned this property since November 2020. A code enforcement case was opened on this property in July 2024 after a neighbor submitted a complaint that an unauthorized short-term rental was being operated.

Meeting Date: March 26, 2025

Case Number: SE-25-1

The property is currently listed on Airbnb as an entire home rental (6 guests, 3 bedrooms, 3 beds and 2 baths) with 43 reviews (4.72 average star rating) as of March 17, 2025. The listing can be found at: https://www.airbnb.com/rooms/730982803138658699?check_in=2025-03-24&check_out=2025-03-29&guests=1&adults=1&s=67&unique_share_id=3a13f79e-4599-4f43-a504-4f4281f73cdd

The petitioner provided pictures of the outside and inside of their home. They also submitted a plot plan and aerial map showing the location of the property.

Staff has NO RECOMMENDATION.

If the Board approves this Special Exception for short-term rental, Staff requests the following conditions, and any others sought by the Board:

1. The special exception is tied to the user and specific use. If the current property owner was to sell or vacate the property, the special exception would be void.
2. The Approval Letter and relative documentation be recorded on the property with the Hamilton County Recorder's Office.

STAFF RECOMMENDATION

☐ Approve ☐ Continue ☐ Deny ☒ No Recommendation

EXHIBIT A

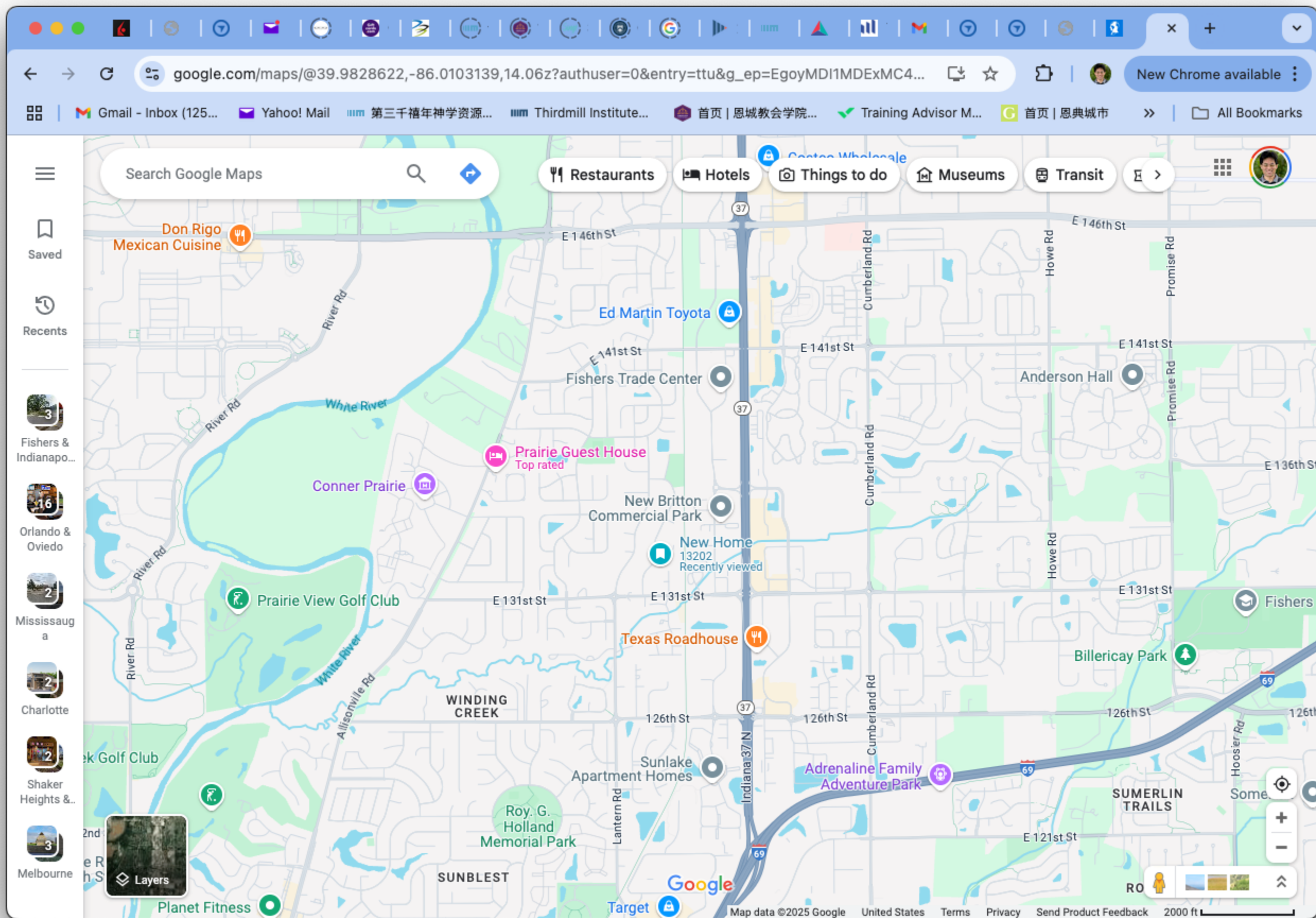
- Does not fit character of neighborhood/affects quality of life 8
- Enclave Neighborhood HOA is in the voting process of amending their Short Term Rental policy 6
- Cars block the sidewalk and homes 6
- Parking issues 6
- Increased traffic 5
- Increased noise 3
- Unfamiliar people 3
- Enclave neighborhood HOA covenant amendment to prevent short term rentals has the support of 90% of homeowners 2
- Local rules disregarded by tenants 2
- Additional parking will be a hazard 2
- Main blvd already has heavy traffic 2
- Objects to any stay of less than 30 days 2
- Mail truck can't deliver 2
- Concerned about the potential problems a less than 30-day stay will incur 2
- Several young children live nearby 2
- Every rental has had more than 3 cars 1
- Close to the school bus stop 1
- Safety issues because of unknown parties 1
- Property values will be affected 1
- The Enclave Neighborhood HOA at Avalon of Fishers is updating their documents regarding rentals. Short term rentals will be prohibited once the 60 day short term rental of the subject property is up. A Noblesville family is living there until their home is repaired. Their lease expires October 20. 1
- Additional information regarding the pending Enclave HOA Covenant amendment. Will include "rental limitations within the community (e.g. bans on short term rentals within the community). Vote will occur November 2. More than likely it will pass and be filed at the Recorder's Office. 1
- Absentee owners are not invested in the community and do not know whether their tenants follow the Enclave neighborhood rules 1
- Security concern 1
- Concerned it will house drug users like home in City of Carmel that was vacated by police in mid summer 1
- Overcrowded streets 1

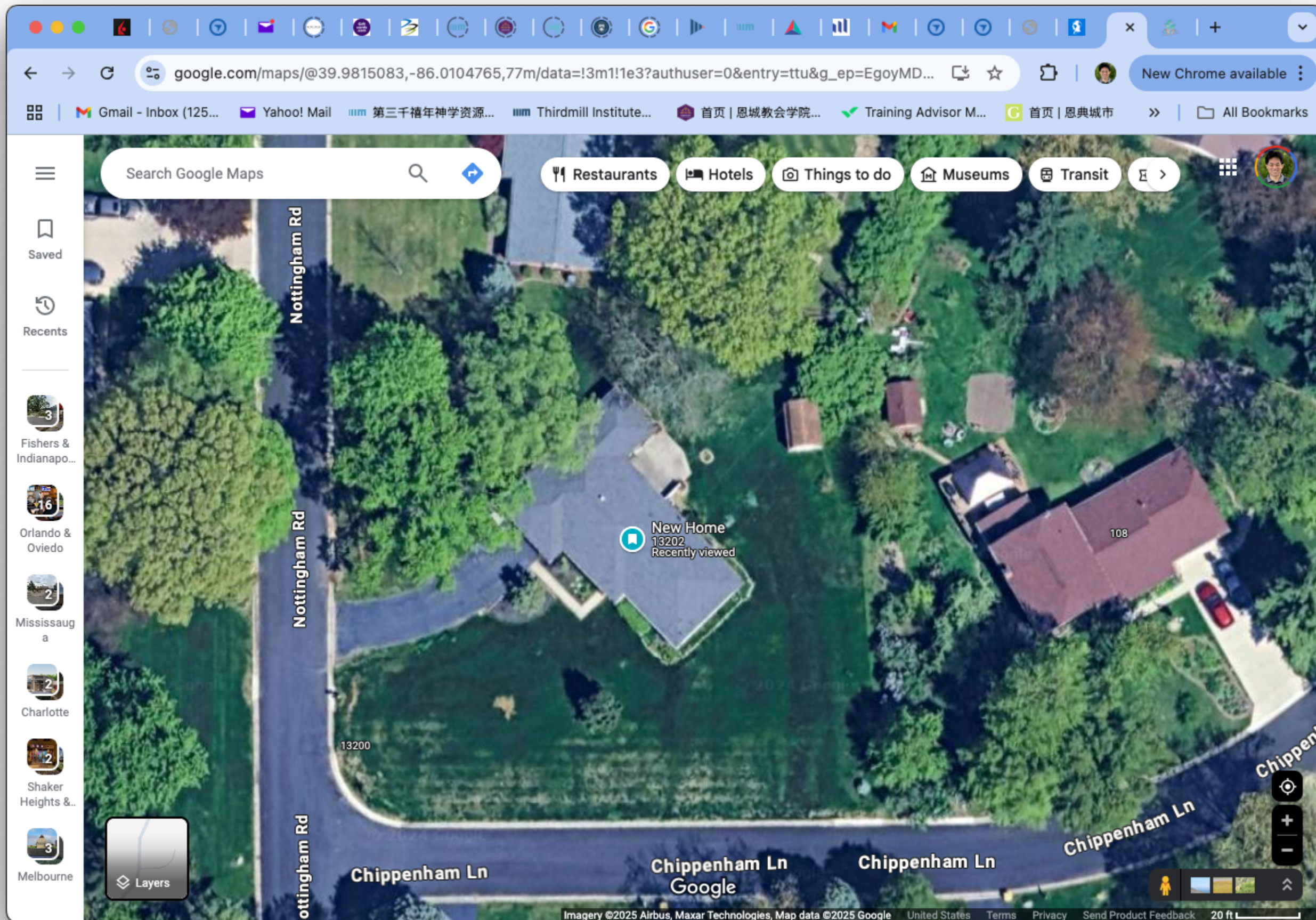
Meeting Date: March 26, 2025

Case Number: SE-25-1

- Approximately 20 hotels are located within 10 miles of the community, providing accommodation to visitors 1
- Not fair to people who live in Enclave permanently 1
- Litter 1
- Concerned if this one is approved, more short term rentals will be approved 1
- Will be frequent complaints to the Fishers Police Department during concert season due to parties 1
- Potential for Incidences 1
- Several cars are typically associated with short term rentals 1
- Below is a picture of 4 cars in the subject property's driveway. The driveway is blocked requiring pedestrians to walk in the street 1







← → ↺

google.com/maps/@39.9814845,-86.0109196,3a,75y,89.22h,89.38t/data=!3m7!1e1!3m5!1sy6mb-083fN2...

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Gmail - Inbox (125...)

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13202 Nottingham Rd

Fishers, Indiana

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Aug 2024 See more dates

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Map

Knoll Ridge Dr

Lantern Rd

Nottingham Rd

E 131st St

New Britton Commercial Park

+

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Satellite

13202

Dunkin'

Fishers Executive Offices

Golden Gear

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Image capture: Aug 2024

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Fishers, IN

Feb 17 - 19

Add guests



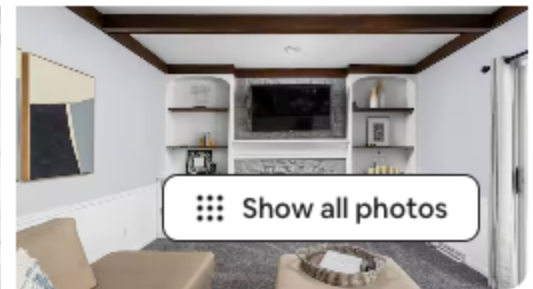
Airbnb your home



The City Escape, Suburban Retreat in Fishers

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Board of Zoning Appeals Staff Report

Meeting Date: March 26, 2025

DEPARTMENT CONTACT:

Gabrielle Herin, Senior Planner

hering@fishers.in.us

CASE NUMBER:

VA-25-1

PETITIONER:

Jay Christman,

jaychristman@christmanbrosbuilders.com

PROPERTY ADDRESS/LOCATION:

15014 Geist Ridge Dr, Fishers, IN 46040

REQUEST: Consideration of a Development Standards Variance from the Unified Development Ordinance Section 6.2.2 to allow an increase in the maximum height of a proposed accessory structure from 18 feet to 24 feet.

APPLICABLE REGULATIONS:

Unified Development
Ordinance (UDO)

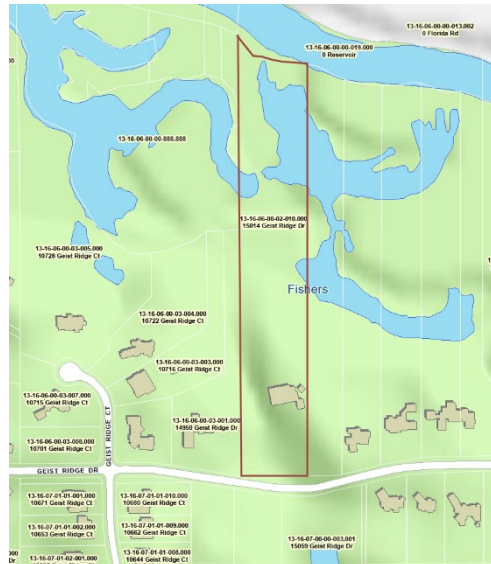
EXISTING ZONING:

Unified Development
Ordinance (UDO)

FISHERS 2040:

Estate Residential

LOT SIZE: 7.29 acres

LOCATION MAP**STAFF RECOMMENDATION**

☐ Approve

☐ Continue

☐ Deny

☒ No Recommendation

ZONING HISTORY:

The zoning is based on the Unified Development Ordinance (UDO), which was approved in 2018 (Ordinance #: 071618F).

SURROUNDING LAND USE & ZONING:

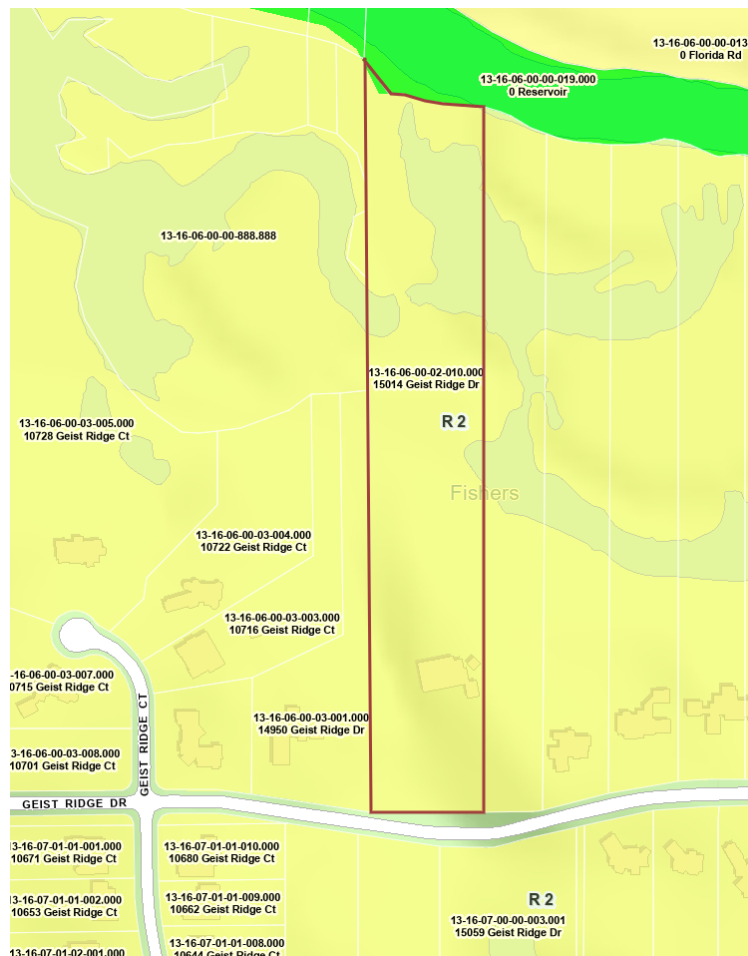
North: OS, R2 (Geist Reservoir, Geist Park)

South: R2 (Traditional Single Family)

East: R2 (Traditional Single Family)

West: R2 (Traditional Single Family)

Zoning Map



SUMMARY OF PUBLIC COMMENTS:

There have been no public comments at the time of writing this staff report.

PETITION OVERVIEW:

Summary of Request

Jay Christman is applying on behalf of John and Mina Swofford, the property owners. The request is for a Development Standards Variance to allow an increase in the maximum height of a proposed 3,200 square feet accessory structure. The new pole barn will be used as equipment and trailer storage (for example: 2 enclosed trailers, a flatbed trailer, a small tractor, snowmobiles, a truck, a lawn mower, a trimmer, a blower, shovels, etc.)

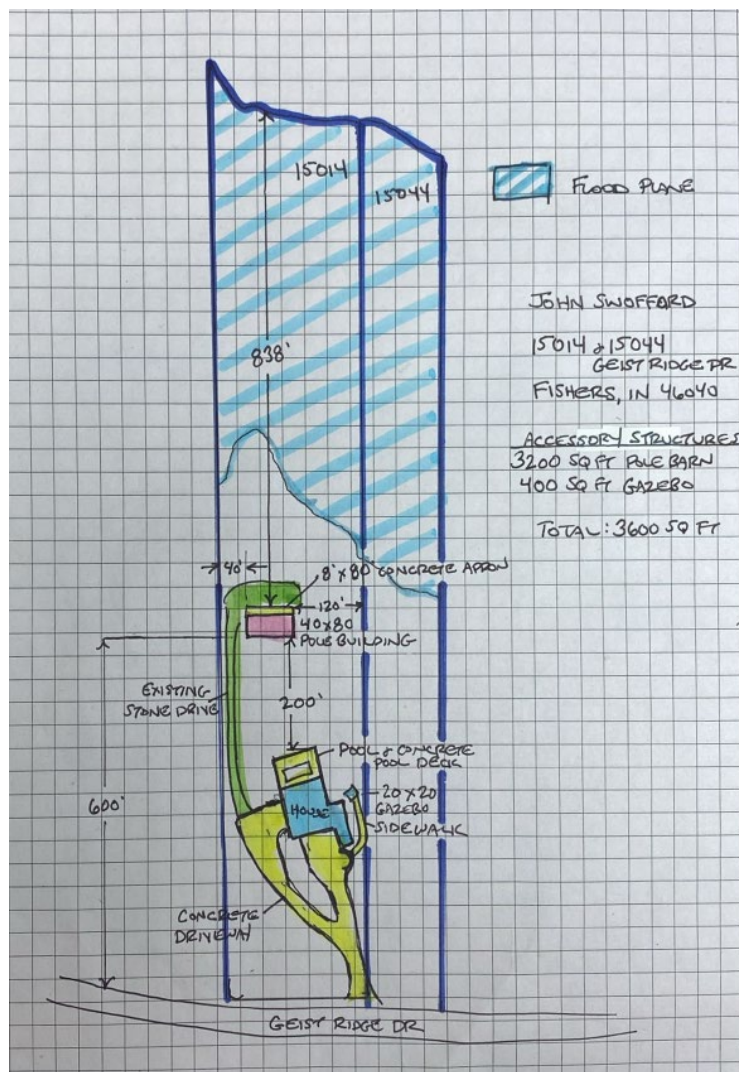


Figure 1. Site Plan

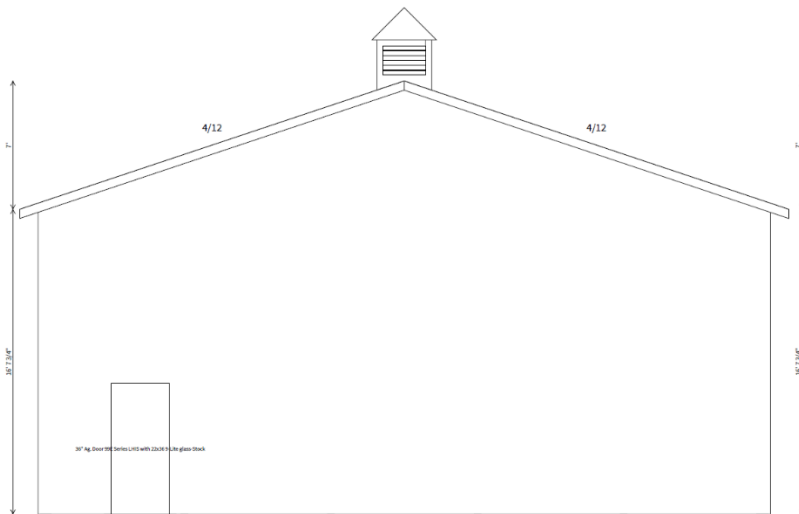
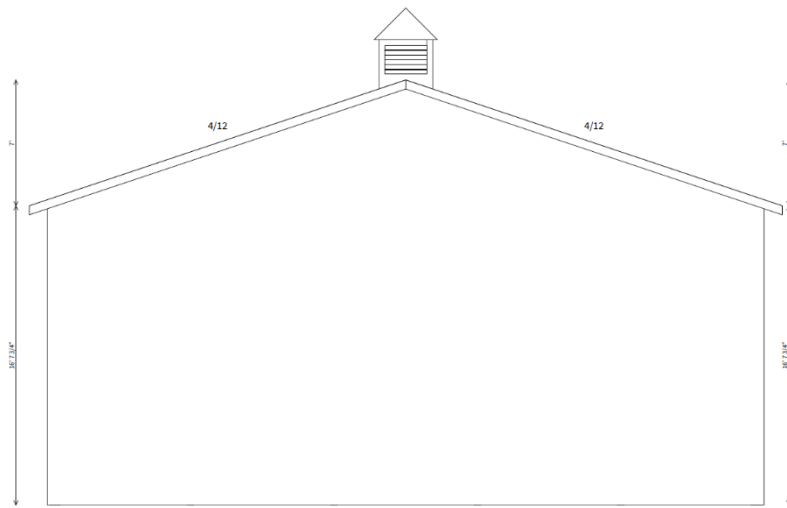


Figure 2. East and west elevations of proposed pole barn.

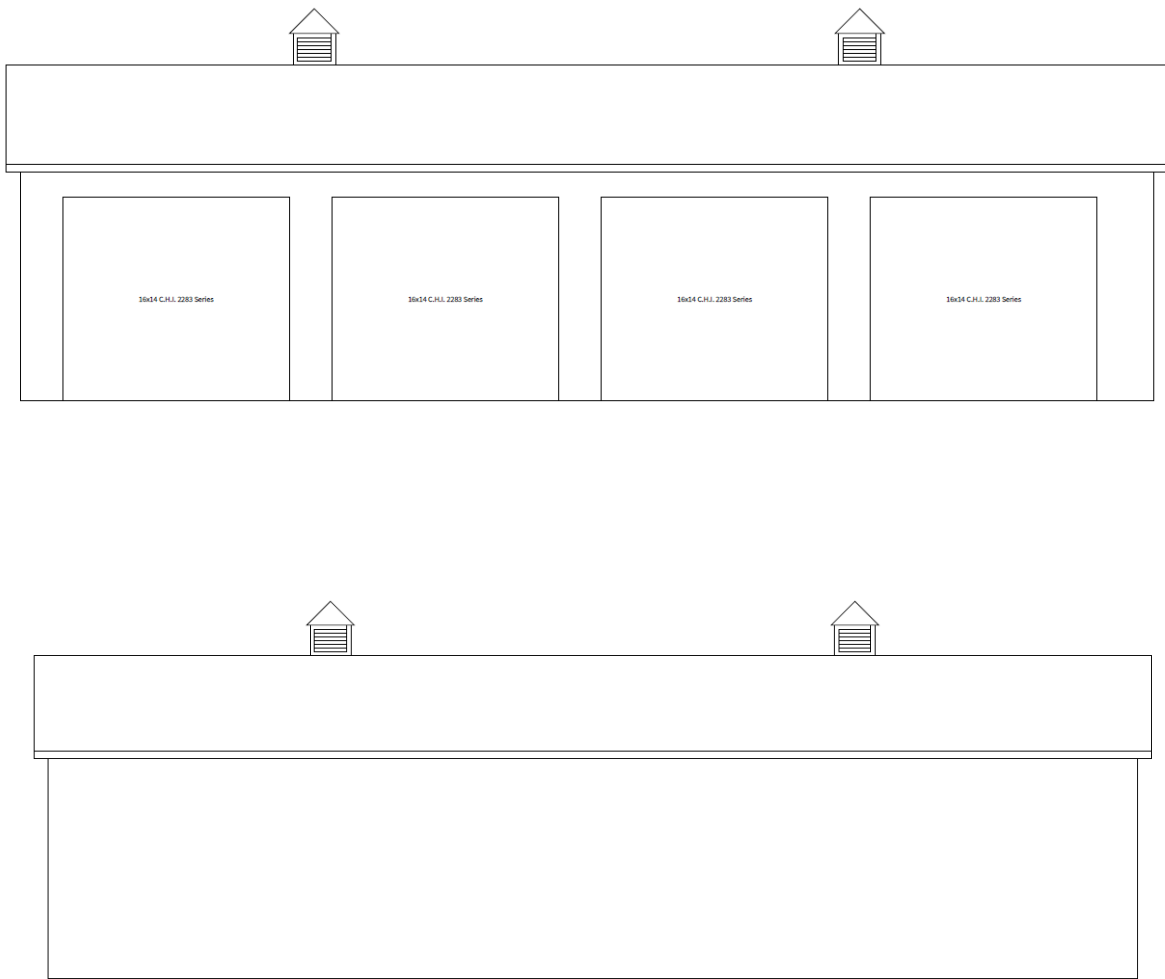
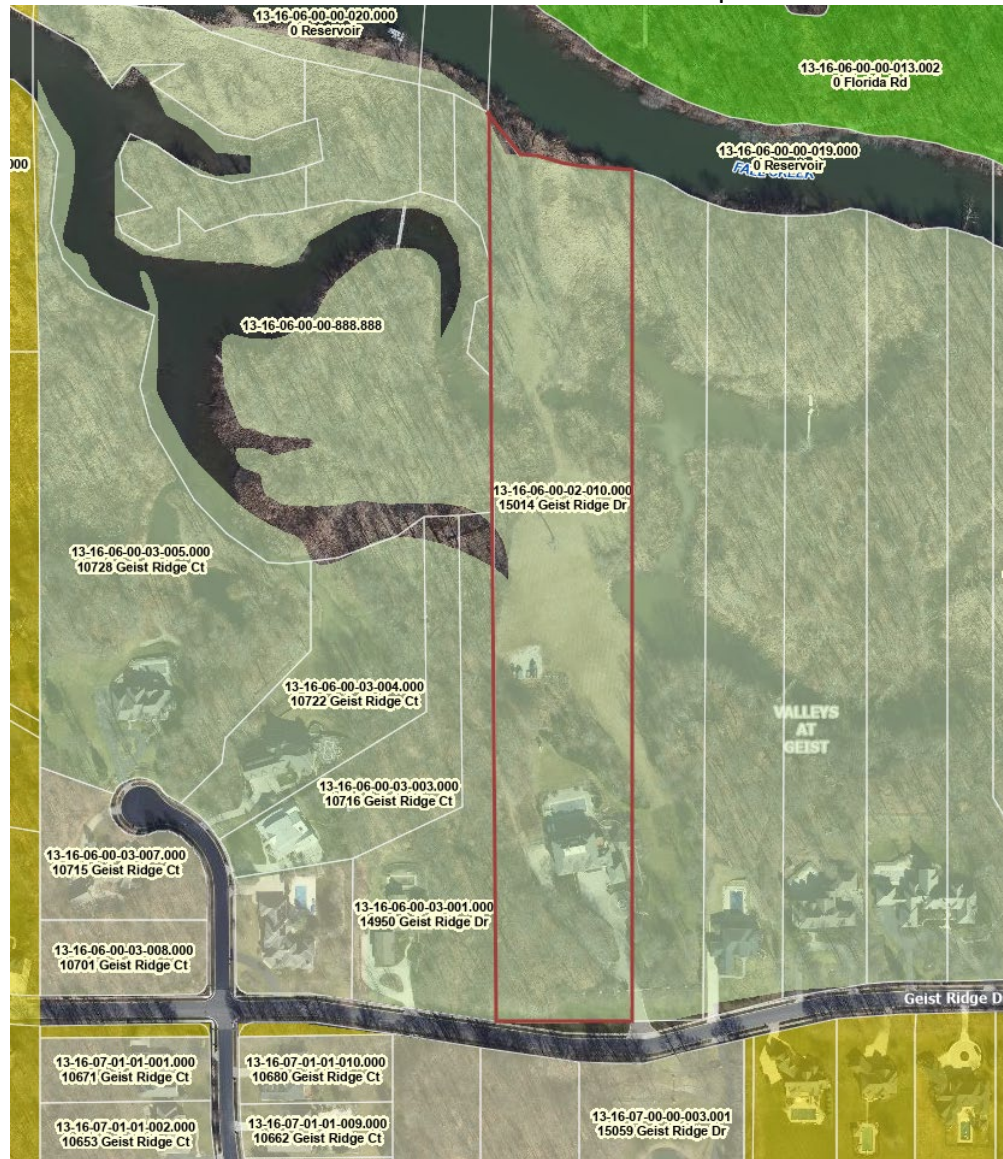


Figure 3. North and south elevations of proposed pole barn.

Fishers 2040

Fishers 2040 identifies the future land use of this lot to be estate residential.

Fishers 2040 Future Land Use Map



STAFF RECOMMENDATION:

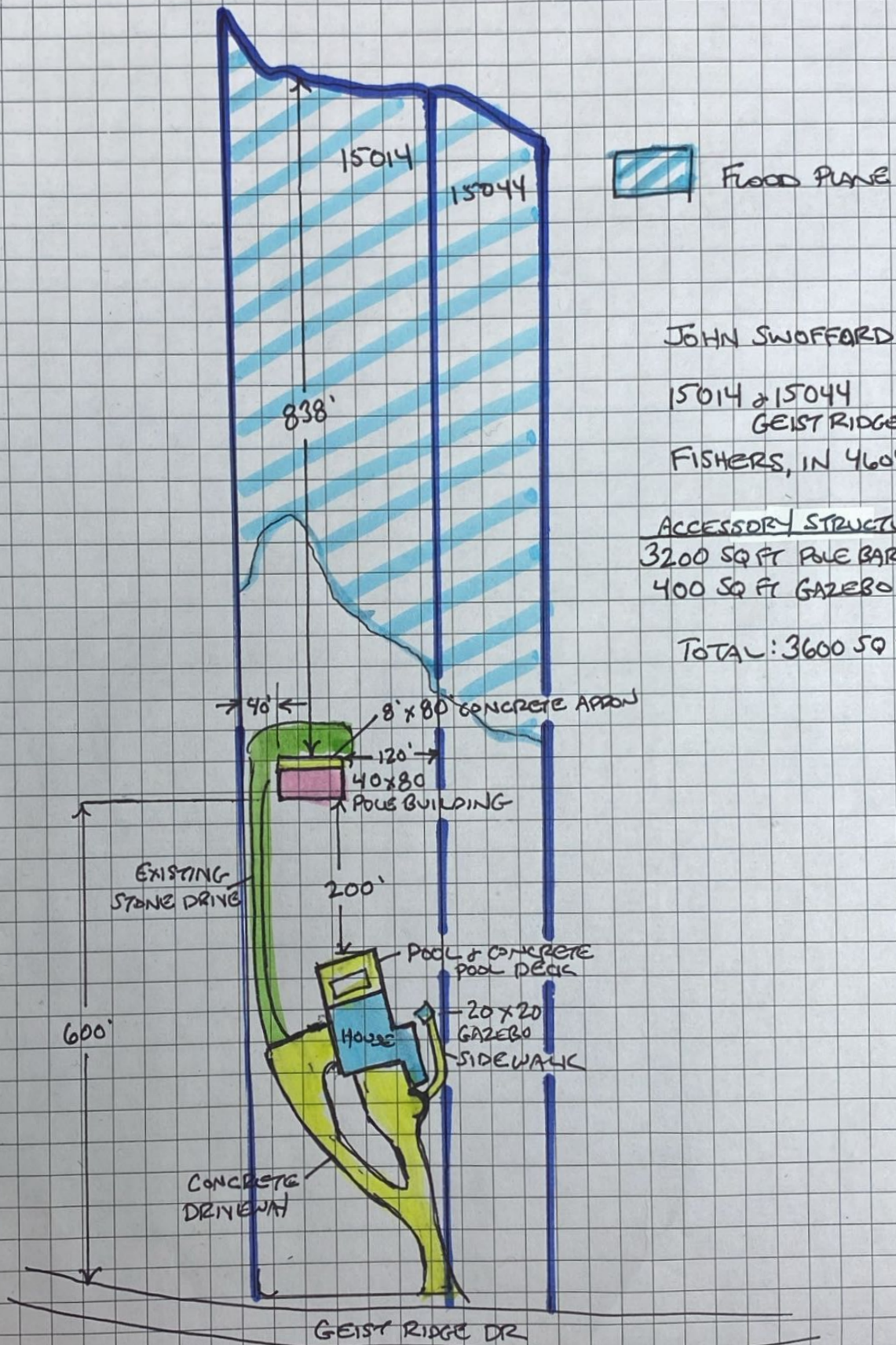
Staff has no recommendation for this request.

If the Board approves this Variance Staff requests the following conditions, and any others sought by the Board:

1. The Approval Letter and relative documentation be recorded on the property with the Hamilton County Recorder's Office.

STAFF RECOMMENDATION

☐ Approve ☐ Continue ☐ Deny ☒ No Recommendation



JOHN SWOFFORD

15014 & 15044
GEIST RIDGE DR
FISHERS, IN 46040

ACCESSORY STRUCTURES
3200 SQ FT POLE BARN
400 SQ FT GAZEBO

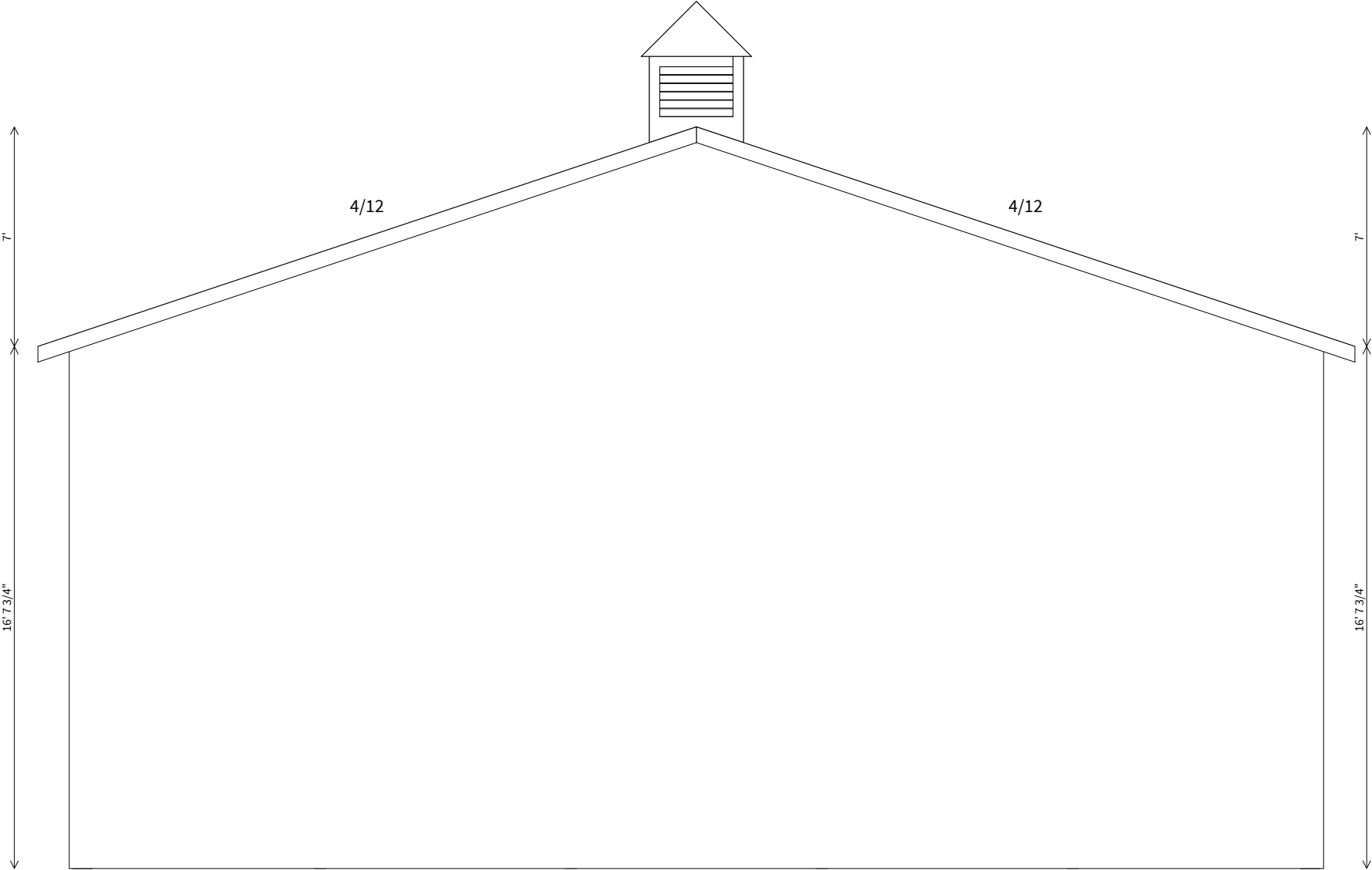
TOTAL: 3600 SQ FT

Left Elevation



Front Elevation

Job: John Swofford 40x80x16 - Steel truss
Date: 1/8/2025
Time: 4:02 PM

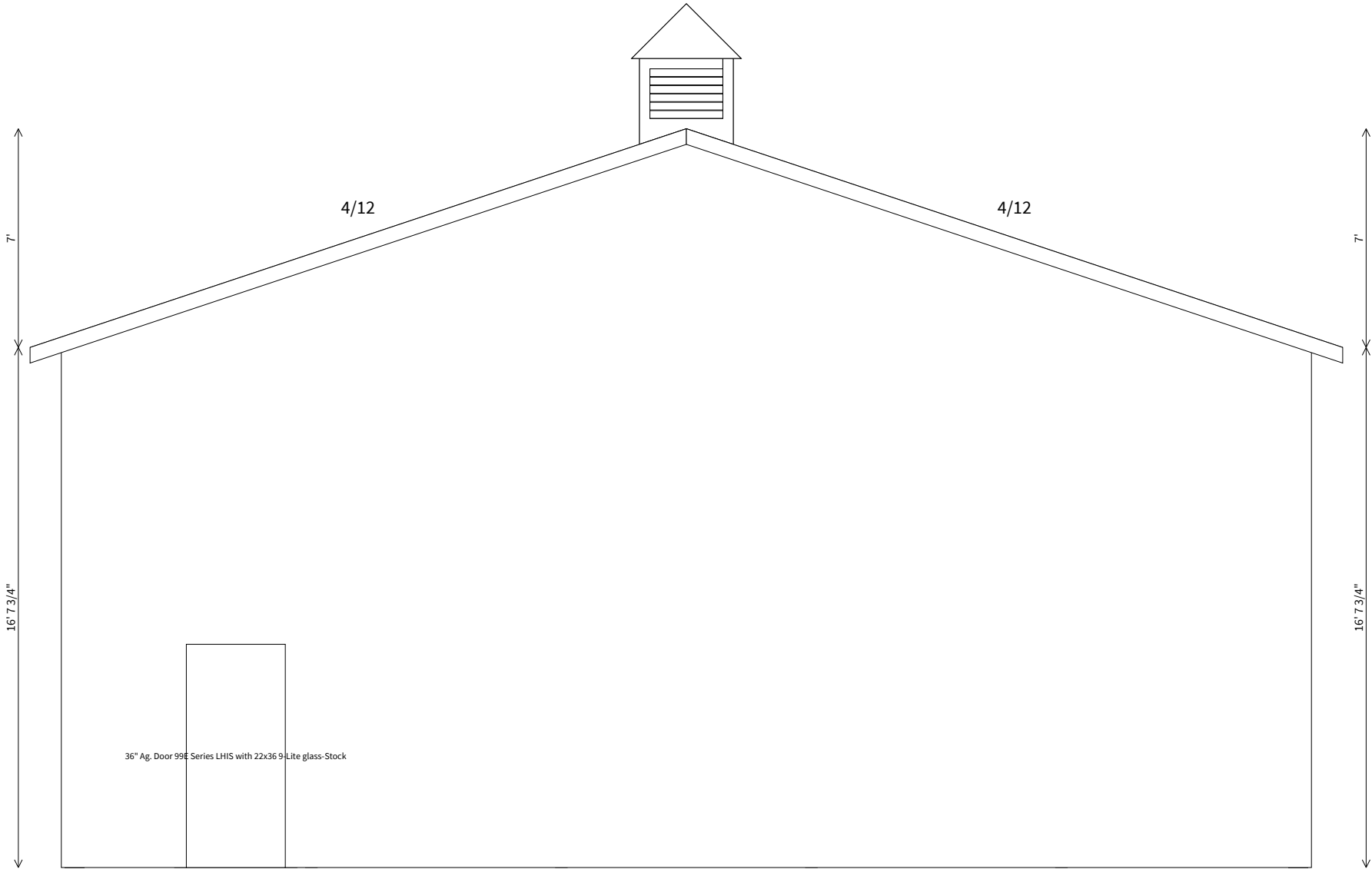


Right Elevation

Job: John Swofford 40x80x16 - Steel truss
Date: 1/8/2025
Time: 4:02 PM



Back Elevation



**RULES AND PROCEDURES
OF THE
FISHERS BOARD OF ZONING APPEALS**

March 26, 2025

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ARTICLE I

GENERAL GOVERNING RULES

1. The City of Fishers Board of Zoning Appeals (hereinafter referred to as the Board) shall be governed by Indiana's Planning and Zoning Statutes, Ind. Code §36-7-4 et seq., as amended, the Unified Development Ordinance of the City of Fishers, as amended, and the Rules of Procedures set forth herein, as adopted and amended by the Board.
2. Any member of the Board who has a conflict of interest in a matter before the Board shall not vote thereon as defined under Article III.
3. Nothing herein shall be construed to give or grant to the Board the power of authority to alter or change the UDO, including all official zoning maps; this authority is reserved to the Common Council of the City of Fishers.
4. The Fishers Board of Zoning Appeals Attorney shall be consulted in cases where the powers of the Board are not clearly defined.
5. The office of the Board shall be located in the office of the City of Fishers, Planning & Zoning Department, One Municipal Drive, Fishers, Indiana, 46038-1574.

ARTICLE II

OFFICERS, MEMBERS AND DUTIES

1. The Board shall elect a Chair and Vice Chair (who shall be acting in the absence of the Chair) annually at its first meeting of each year.
2. In the case of death or resignation of the Chair, the Vice Chair shall succeed to the Chair and a new Vice Chair shall be selected from the membership.
3. A temporary Chair shall be elected in case both Chair and Vice Chair are absent.
4. The Chair (or in his/her absence the Vice Chair) shall preside at all meetings and hearings of the Board and decide all points of order and procedure. The Board may provide for an oath to be administered to all witnesses in cases before the Board.
5. The Department of Planning and Zoning of the City of Fishers shall serve as the office of the Board. The Secretary of the Board shall be appointed at the beginning of each calendar year. The Secretary shall conduct all correspondence of the Board. A Recording Secretary shall also be appointed at the beginning of each calendar year. The Recording Secretary shall be responsible to keep minutes recording attendance, the vote of each member upon each question, or, if absent or failing to vote, indicating such fact; and records of examinations and hearing and other official actions; and shall carry other official duties as may be assigned by the Board. Records and minutes of all such procedures shall be filed in the office of the Board.
6. The Board shall consist of five (5) members, appointed in accordance with the statutes governing such appointments.
7. The jurisdiction of the Board shall be the territory within the corporate boundaries of the City of Fishers as from time to time extended by annexation. The Board shall also exercise jurisdiction two (2) miles outside of its corporate boundaries pursuant to IC 36- 7-4-205 or under an interlocal agreement with another municipality pursuant to IC 36-7- 4-1208.
8. Major responsibilities of the Board are:
 - a. To render a decision on variances of development standards.
 - b. To render a decision on a variances of use.
 - c. To render a decision on a special exceptions.

- d. To render a decision on appeals of an Administrative Determination of the City of Fishers, Department of Planning & Zoning on matters arising from the exercise of Powers within its jurisdiction.

DRAFT

ARTICLE III

MEETINGS

1. The regular meeting of the Board shall be held monthly at a standard meeting date established at a regular meeting. The Board will designate the standard meeting dates and times from January to the following January. From time to time these regular meeting dates may be modified. Such modifications shall be determined with as much advanced notice as reasonably practical. Meetings will be held at 6:00 p.m., in the Fishers Municipal Center, or at such other place as will accommodate the public unless there is no cause for holding such meeting. If there is to be no regular meeting, the Secretary shall make every effort to inform the members of the Board at least 48 hours in advance.
2. Special meetings may be called by the Chair, by written request of two (2) members, or as determined at a regular meeting provided at least 48 hours' notice of such meeting is given to each member. Only matters included in the call for special meeting shall be considered except by unanimous approval of all members of the Board.
3. A quorum shall consist of a majority of the appointed members of the Board. No action shall be taken by less than a quorum of the Board. Such public hearings shall be continued until a quorum is present.
4. Each case to be publicly heard before the Board shall be filed in proper form by the required date set by the Planning & Zoning Department and shall be numbered serially and placed on the agenda of the Board by the Secretary. The case numbers shall begin anew on January 1 of each year. As soon as the case receives a number, it shall be placed on the agenda of the Board and a date set for a hearing by the Secretary. Cases shall come before the Board in the regular order of their consecutive numbers unless otherwise directed by the Board.
5. Conflict of Interest. No member of the Board shall be qualified to hear or vote upon a petition or appeal in which they are directly or indirectly interested in a personal or financial way. Further, no member of the Board shall hear or vote upon a petition or appeal in which they are biased or prejudiced or otherwise unable to be impartial. Board members are required to fully disclose any conflict of interest as defined herein on any matter appearing on the Board's agenda during its public meeting. The Secretary of the Board shall note in the minutes that a member has been disqualified for a conflict of interest. When a member is recused in a particular matter due to a conflict of interest, they may exit the room for that item of business.

6. Conduct of Meetings. All meetings shall be open to the public. The Chair or, in his/her absence, the Vice Chair may administer oaths or compel the attendance of witnesses. The order of business at meetings shall be as follows:
 - a. Call to order/Pledge of Allegiance
 - b. Swearing in of new member(s) (when appropriate)
 - c. Roll Call
 - d. Election of Officers (when appropriate)
 - e. Appointments (when appropriate)
 - f. Approval of Previous Minutes
 - g. Public Hearings
 - h. Old Business
 - i. New Business
 - j. Staff Communications
 - k. Board Signatures - Findings of Fact
 - l. Adjournment
7. Adjourned Meetings. The Board may adjourn a regular meeting if all business cannot be disposed of on the day set, and no further public notice shall be necessary for such a meeting if the time and place of its resumption is stated at the time of adjournment and is not changed after adjournment.
8. **Continuances** may be granted at the discretion of the Board in any case for good cause shown, as follows:
 - a. New cases appearing for the first time on the agenda--continuances may be granted upon request.
 - b. Continued cases. All cases which have previously appeared on the agenda of the Board constitute continued cases. A request for the further continuance of a case may be granted by the Board for any of the following reasons:
 - i. At the request of a Petitioner because they will be unable to proceed with their evidence at this hearing to allow time to answer questions or modify the petition.
 - ii. At request of staff to allow time for research or modification to the Petition.

9. **Failure of petitioner to appear:**
- a. The Chair may entertain a motion from the Board to dismiss the case for failure of the petitioner to appear. In the absence of a motion by the Board, the Petition shall be continued to the next regular meeting.
 - b. In cases which are dismissed for failure of the Petitioner to appear, the Petitioner will be furnished written notice by the Secretary of the Board.
 - c. The Petitioner shall have 30 days from the date of the notice of dismissal to apply for reinstatement of the case. In such cases, the Petitioner must file a written request with the Secretary for reinstatement. Reinstatement shall be at the discretion of the Chair for good cause shown, and upon payment of the appropriate fee by the Petitioner.
 - d. In all cases reinstated in the above-described manner, the case will be docketed and readvertised in the usual manner prescribed for new cases.
10. No matter requiring a vote will be placed upon the regular meeting agenda unless received by the Secretary or designee by the deadline set by the Planning & Zoning Department. Items may be added to the agenda at any regular meeting if agreed to through a majority vote of the Board.
11. The Board shall continue any case(s) that are not called onto the floor by 10:30 pm. Such cases shall be continued to either the next regular meeting or to a special meeting. The Board shall adjourn the meeting no later than 11:30 pm. This rule can be suspended by simple majority vote.
12. **Electronic Participation Policy:**
- a. The provisions of P.L. 88-2021 (HEA 1437) (the "Act"), including definitions, are hereby incorporated into this Policy, per IC 5-14-1.5-3.5.
 - b. Subject to the following sections, any member may participate in a meeting by any electronic means of communication that: (i) allows all participating members of the governing body to simultaneously communicate with each other; and (ii) allows the public to simultaneously attend and observe the meeting.
 - c. A member who participates by an electronic means of communication: (i) shall be considered present for purposes of establishing a quorum; and may participate in final action only if the member can be seen and heard.
 - d. All votes taken during a meeting at which at least one (1) member participates by an electronic means of communication must be taken by roll call vote.

- e. A member who participates by an electronic means of communication shall strive to notify the Secretary at least 48 hours in advance of the meeting, unless emergency circumstances dictate otherwise.
- f. Restrictions:
 - i. At least fifty percent (50%) of the members must be physically present at a meeting at which a member will participate by means of electronic communication. Not more than fifty percent (50%) of the members may participate by an electronic means of communication at that same meeting.
 - ii. A member may not attend more than a fifty percent (50%) of the meetings in a calendar year by an electronic means of communication, unless the member's electronic participation is due to:
 - 1. military service;
 - 2. illness or other medical condition;
 - 3. death of a relative; or
 - 4. an emergency involving actual or threatened injury to persons or property.
 - iii. A member may attend two (2) consecutive meetings (a "Set") by electronic communication. A member must attend in person at least one (1) meeting between a Set that the member attends by electronic communication, unless the member's absence is due to:
 - 1. military service;
 - 2. illness or other medical condition;
 - 3. death of a relative; or
 - 4. an emergency involving actual or threatened injury to persons or property.
- g. Minutes/Memoranda: The minutes or memoranda of a meeting at which any member participates by electronic means of communication must:
 - i. Identify each member who:
 - 1. was physically present at the meeting;
 - 2. participated in the meeting by electronic means of communication; and
 - 3. was absent; and
 - ii. identify the electronic means of communication by which:
 - 1. members participated in the meeting; and

2. members of the public attended and observed the meeting.

h. Declaration of Emergency: If an emergency is declared by (i) the governor under Ind. Code § 10-14-3-12; or (ii) the mayor under Ind. Code § 10-14-3-29; members are not required to be physically present for a meeting until the emergency is terminated. Members may participate in a meeting by any means of communication provided that:

- i. At least a quorum of the members participate in the meeting by means of electronic communication or in person.
- ii. The public may simultaneously attend and observe the meeting.
- iii. The minutes or memoranda of the meeting must comply with the above section.
- iv. All votes taken during a meeting at which at least one member participates by an electronic means of communication must be taken by roll call vote.

ARTICLE IV

VACANCIES

The Chair shall inform the appropriate appointing official as promptly as possible when a member fails to attend three consecutive meetings or three of any seven meetings for the purpose of considering the replacement of said member so that the appointing official may appoint a replacement to fill out the unexpired term. Other vacancies occurring in office shall also be reported to the appropriate official for similar action.

ARTICLE V

NOTICE OF HEARINGS A Public Hearing is required for all variances of development standards, variances of use, special exceptions, ordinance interpretations, and appeals of administrative determination by the Planning & Zoning Department.

1. Timing: When a Public Hearing is required, public notice through newspaper and/or mailed notices shall be given not less than ten (10) calendar days (not counting the day of the hearing) prior to said Public Hearing, or as otherwise specified by State law. The meeting agenda shall be published at least 48 hours before the meeting, or as otherwise required by State code.
2. Mailed Notice: Names and addresses of the adjacent property owners must be obtained by the Planning & Zoning Department from the Hamilton County Real Property Department and/or City of Fishers Geographic Information System (GIS) Department.. This list should be obtained not more than ninety (90) days prior to the date of the hearing. The adjoining list must be requested for the entire parcel if no deed has been recorded for smaller parcels. The Planning & Zoning Department must mail notice to every entity on the adjoining list through certified mail or a certificate of mailing.
3. Newspaper Notice: Notice by publication shall be made by the Planning & Zoning Department in accordance with Ind. Code §5-3-1, as amended. Newspapers recognized for publishing notice are the Times of Noblesville, The Current in Fishers, the Current in Lawrence/Geist and the Hamilton County Reporter.
4. Proof: Proof of newspaper publication and public notice mailing must be obtained by the Planning & Zoning Department at least two (2) business days before the scheduled hearing.
5. Re-notice: If, for any reason, the petition is not heard within seventy (70) days of the date of the published hearing date, a new or updated list of adjacent property owners from the Hamilton County Real Property Department and/or City of Fishers Geographic Information System (GIS) Department must be obtained, and a revised notice stating the new public hearing date shall be sent at least ten (10) calendar days (not counting the day of the hearing) before the hearing to any new or revised adjacent property owners.
6. All means of notice shall include:
 - a. The case number assigned;
 - b. The time, place, and date of the hearing;
 - c. A description of the petition, and requested action;
 - d. A description of the subject property location or address;

- e. A statement that the full legal description is on file with the Department of Planning and Zoning, City of Fishers, One Municipal Drive, Fishers, IN 46038, (317) 595-3155;
 - f. A brief description of the general procedure concerning submission of public comments; and,
 - g. The name of the Petitioner.
7. On-Site Notice: The Department of Planning and Zoning shall place a notice sign on the affected property, where applicable. Notices shall be large enough to be legible from the road and shall be placed in a conspicuous place on the property.
8. Exception. The notice requirements herein shall be applicable to all petitions except those initiated by the City. In this case, the City shall determine the notice requirements, if any.

ARTICLE VI

HEARING AND REHEARING

1. Variance Applications shall be heard within 60 days from the filing of the completed application with the Secretary unless it is withdrawn. If amended, it shall be heard within 60 days from filing of completed application. Cases will be heard in the order of their assigned case number; amended cases will have priority according to date of amendment.
2. At the public hearing, the Petitioner or any other party may appear on his/her own behalf or be represented by agent or by legal counsel. In the event that remonstrators retain counsel to represent them at a hearing before the Board, then such counsel shall state that they has so been retained and is present to object.
3. Order of the Hearing shall be:
 - a. The petitioner or their representative may make a statement outlining the nature of the request and introduce such evidence as they may wish.
 - b. Staff will present the Staff Report including recommendations to the Board to Approve, Deny, or give No Recommendation.
 - c. The floor shall be open for public hearing. Persons wishing to address the Board shall state their name and address and make such remarks as they wish, pertinent to the subject matter of the application.
 - d. The Petitioner may reserve time for rebuttal at the conclusion of the public hearing as they carry the burden of proof.
 - e. The Chair shall formally close the public hearing and permit the members of the Board to direct questions to the Petitioner or any other persons.
 - f. The Chair shall ask for any staff comments, concerns or recommendations.
 - g. The Chair shall call for a motion and, upon motion duly made and seconded following discussion by members of the Board only, the matter shall be concluded by recorded vote on the motion.

Witnesses may be called and factual evidence and exhibits submitted by either Petitioner, remonstrator, or those in favor of the petition.

The Chair may establish appropriate time limits for arguments, but such time limits shall be equal for both sides. The Chair may request representatives of each side to

speaking for the entire group or portions of the group but shall not require such representation against the wishes of the group involved. General guidelines are as follows:

Presentation by Petitioner	15 minutes
Public Hearing	
Individuals	2 minutes
Spokesperson	5 minutes
Petitioner Rebuttal	5 minutes
Staff	As needed for complete response

The Board may, at the discretion of the Chair, extend any or all time limits.

4. The Board shall not be bound by strict rules of evidence and may exclude irrelevant, immaterial, incompetent, or repetitious testimony.
5. A Petitioner or remonstrator, or the agent or attorney of either, may submit a list of persons favoring or opposing the petition. Such list will be accepted as an exhibit if it contains nothing more than a brief statement of the position of the persons favoring or opposing the petition together with the signatures and addresses of the persons subscribing to such statement.
6. The Chair may rule on all questions relating to the admissibility of evidence, which may be overruled by the majority of the Board.
7. The Petitioners and remonstrators must present all evidence they possess concerning the case at the public hearing. No further oral testimony will be accepted after the public hearing is closed. Only a written response by Petitioners or remonstrators to the staff report, prepared solely for the case under consideration, will be accepted by the Secretary after the close of the public hearing. Statements will be accepted no later than the day on which the Board's decision is made on the specific case in question.
8. Roberts Rules of Order shall apply in the absence of specific procedures established herein.
9. Application for rehearing may be in the same manner as the original application. Application for rehearing may be denied by the Board if from the record it shall appear that there has been no substantial change in facts, evidence, or conditions. However, any matter not previously reviewed may be heard again on motion adopted by unanimous vote of all members at a meeting at which a quorum is present.

ARTICLE VII

DECISIONS

1. The Board shall conduct its vote in public session.
2. All decisions of the Board shall be made at a public meeting by a motion made, seconded, and determined by a roll call vote by the Secretary. Exception: approval of minutes, adjournment, and other procedural items may be made by a voice vote.
3. The motion shall include explicitly, or by reference, any findings-of-fact of the Board. If conditions are imposed in the recommendation, such conditions shall be implicitly included in the motion.
4. Any motion deciding in favor of the Petitioner on any petition, shall require the concurring vote of the majority of the members on the Board. The motion shall include the reasons for the determination made, and if in favor of the Petitioner, shall set forth any conditions and/or safeguards required, and any time limitations prescribed.
5. When a vote of the Board does not result in an official action of the Board, the petition shall be automatically continued and heard at the next regularly scheduled meeting.

A case may not be withdrawn by the Petitioner after the vote has been ordered by the Chair. No case which has been withdrawn by the Petitioner shall again be placed on the agenda for consideration by the Board within a period of three months from the date of said withdrawal, except upon the motion of a member, and adopted by the majority vote of all members in attendance at a regular or special meeting.

ARTICLE VIII

RECORDS

1. A file of materials and decision relating to each case, including notation concerning the decision, shall be kept in the office of the Board.
2. All records of the Board are to be considered public documents.

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ARTICLE IX

AMENDMENT OF RULES

1. Amendments to these rules of procedure may be made by the Board following the circulation of said amendment to the total membership prior to a regular meeting. The amendment may then be adopted upon an affirmative vote of a simple majority of the membership of the Board.
2. The proposed amendment must be presented in writing at a regular or special meeting preceding the meeting at which the vote is taken.
3. These rules may be suspended for due cause upon the affirmative vote of all members present.

ADOPTION OF RULES AND PROCEDURES

These rules of procedure were adopted by the City of Fishers Board of Zoning Appeals on March 26, 2025.

Chairperson

Vice-Chairperson

Member

Member

Member

Secretary

DRAFT