



CITY OF FISHERS AGENDA

BOARD/COMMISSION: Board of Zoning Appeals - Fall Creek

DATE: 4/24/2025 at 6:00 PM

**DIRECTIONS: Fishers Municipal Center: Nickel Plate Conference Room,
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](mailto:kelly.lewark@fishers.in.us), 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. Approval of Previous Minutes

- a. FCBZA Minutes 10-10-24 - DRAFT

4. Public Hearings

a. **11215 E. 121st Street Land Use Variance**

Parcels: 13-11-33-00-00-011.000

Address: 11215 E 121st St

Case: VA-25-4

Request: Consideration of a Land Use Variance from Section 5.7.2.C. of the City's Unified Development Ordinance (UDO) to allow a landscaping company as a home occupation that will store five (5) vehicles and five (5) trailers on the property, where only one (1) home occupation vehicle is allowed.

Petitioner: Jeffery Heinzmann (jeff@heinzmannlaw.com)

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

b. **11215 E. 121st Street Development Standard Variance**

Parcels: 13-11-33-00-00-011.000

Address: 11215 E 121st St

Case: VA-25-5

Request: Consideration of a Development Standard Variance from Section 6.4.3. of the City's Unified Development Ordinance (UDO) to allow a 60 ft wide driveway entrance at back of curb or edge of pavement, where a 34 ft wide driveway entrance is allowed, and a 50 ft wide driveway at back of curb or edge of pavement, where a 24 ft wide driveway is allowed.

Petitioner: Jeffery Heinzmann (jeff@heinzmannlaw.com)

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

5. Old Business

6. New Business

- a. 2025 Rules of Procedure for FCBZA

7. Staff Communication

8. Board Signatures – Findings of Fact

9. Adjournment

[MEET_FOOT]

**CITY OF FISHERS
BOARD OF ZONING APPEALS- Fall Creek
MINUTES
Fishers Municipal Center - Nickel Plate Conference Room
October 10, 2024**

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

A roll call was taken. Members present: Rich Bassett, Joel Fenske, Chris Huck and Steve Richards.

Others present: Ross Hilleary, Kelly Lewark, Paul Walters, Gabrielle Herin, Rodney Retzner, Jeremiah Latta and Surmukh Singh.

Mr. Stevens confirmed quorum and called the meeting to order.

Mr. Richards asked for a Motion for the approval of the previous minutes for 8/22/24. The Minutes were approved, 3-0-1, with Mr. Richards abstaining due to his absence from that meeting.

Public Hearings:

a. 15892 Connecticut Ave Flat Roof Variance

Parcel: 13-16-08-00-00-002.000

Address: 15892 Connecticut Ave.

Case: VA-24-20

Request: Consideration of a Development Standards Variance from Section 6.3.4.B of the City's Unified Development Ordinance (UDO) to allow a flat roof on a proposed single family home.

Petitioner: Jeremiah Latta (Jeremiah.latta@yahoo.com)

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

Jeremiah Latta, on behalf of the property presented the variance request for a custom-built home to have a 0/12 roof pitch instead of the minimum required 5/12. The current home on the site will be demolished once the new home is built.

Gabrielle Herin presented the staff report for the variance request. Staff recommends approval with the condition the approval letter is recorded on the property.

Mr. Bassett noted he remembers a variance was granted in the past on this property for a mother-in-law's quarter to be built. Mr. Latta said it is still on the property but will not be used or rented out.

Mr. Richards opened the Public Hearing, seeing no one closed the Public Hearing.

Mr. Richards made a Motion to approve, with the approval letter to be recorded with the County, seconded by Mr. Fenske. The Motion was approved, 4-0.

New Business- none

Old Business -

Ross Hilleary, Director of Planning and Zoning, presented the FCBZA Rules and Procedures update.

Mr. Bassett made a Motion to approve the Rules and Procedures, seconded by Mr. Richards. The Motion was approved, 4-0.

Adjournment As there was no other business, the meeting was adjourned at 6:16 p.m.

Respectfully Submitted by:



Kelly Lewark, Recording Secretary



Fall Creek Board of Zoning Appeals Staff Report

Meeting Date: April 24, 2025

DEPARTMENT CONTACT:
Christy Cashin (cashinc@fishers.in.us)

CASE NUMBER:
VA-25-4

PETITIONER:
Jeffery Heinzmann (jeff@heinzmannlaw.com)

PROPERTY ADDRESS/LOCATION:
11215 E 121st St, Fishers, IN

REQUEST: Consideration of a Land Use Variance from Section 5.7.2.C. of the City’s Unified Development Ordinance (UDO) to allow a landscaping company as a home occupation that will store five (5) vehicles and five (5) trailers on the property, where only one (1) home occupation vehicle is allowed.

APPLICABLE REGULATIONS: Unified Development Ordinance (UDO)	EXISTING ZONING: R2-Residential	FISHERS 2040: Suburban Residential
---	---	--

LOT SIZE: 1.3 Acres

LOCATION MAP



STAFF RECOMMENDATION

- Approve, with Condition
 Continue
 Deny
 No Recommendation

Meeting Date: April 24, 2025

Case Number: VA-25-4

ZONING HISTORY:

This property is zoned R2-Residential, regulated by the City of Fishers UDO. The property is not annexed to the City of Fishers.

SURROUNDING LAND USE & ZONING:

- North: PUDR – Hoosier Woods PUD (school)
- East: OS – Open Space (single-family & community center)
- South: R2 – Residential (single-family)
- West: PUDR – Hoosier Woods PUD (single-family)



FISHERS 2040 COMPREHENSIVE PLAN

The Fishers 2040 Plan identifies this area as Suburban Residential. The variance requests do not align with this vision.



Meeting Date: April 24, 2025

Case Number: VA-25-4

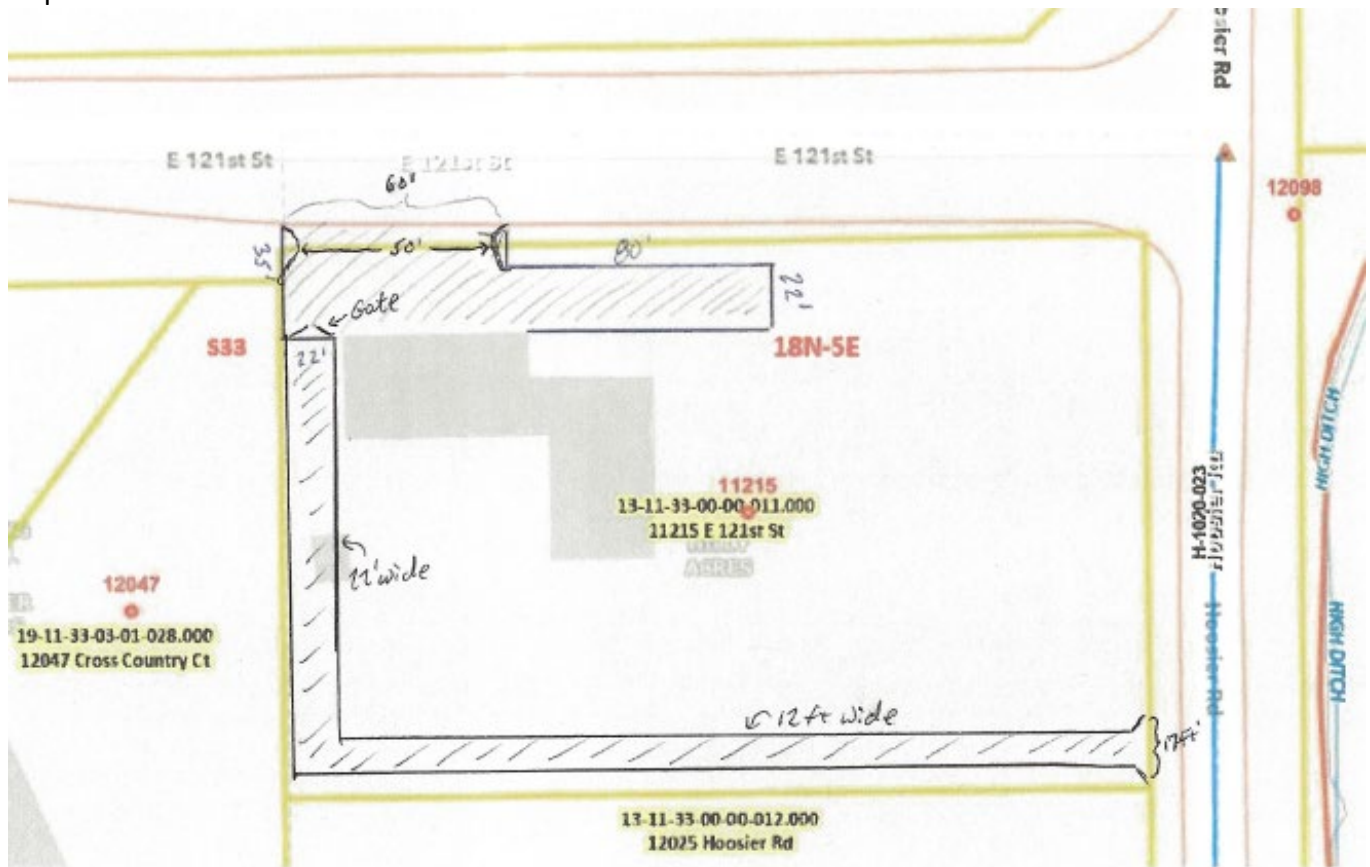
SUMMARY OF PUBLIC COMMENTS:

At the time of writing this Staff Report there has not been public comments.

PETITION OVERVIEW:

The petitioner is requesting a Land Use Variance from Section 5.7.2.C. of the City’s Unified Development Ordinance (UDO) to allow a landscaping company as a home occupation that will store five (5) vehicles and five (5) trailers on the property, where only one (1) home occupation vehicle is allowed.

The petitioner would like a 60’ curb cut on E. 121st St, a 140’x22’ paved area along E. 121st Street, and a 22’ paved drive for storage and driving along the west property line. A 12’ paved drive on the southern property line is also proposed. The petitioner is working with the City of Fishers Engineering Department on a new curb cut on Hoosier Rd.



Proposed Site Plan

Meeting Date: April 24, 2025

Case Number: VA-25-4



Staff recommended maximum paved area, shown in red. All storage must be gated and remain behind the facade of the home and must be on a paved surface.



Current site conditions

Meeting Date: April 24, 2025

Case Number: VA-25-4

STAFF RECOMMENDATION:

Staff has NO RECOMMENDATION to the FCBZA for this variance request.

If the FCBZA approves this request, staff requests it is approved with the following conditions:

1. The property be annexed into the City of Fishers.
2. All driveway, parking and storage areas will need to be paved, and shall not exceed that drawn in the sketch provided by staff. The 60 ft curb cut is contingent on the approval of the development standard variance.
3. Any gravel that is currently installed outside of the allowed paved area, shall be removed and returned to grass.
4. No parking or storage will be allowed on grass.
5. The tree line on the southern edge of the property shall be preserved.
6. All vehicular and outdoor storage related to the business be stored behind the gate along 121st St. This includes employee vehicles (which cannot exceed 5, per the variance request).
7. All outdoor storage must comply with Section 6.10.4. of the City's UDO.
8. Outdoor storage must be screened from Hoosier Rd. This must be done in compliance with Section 6.10.4.D of the City's UDO.
 - a. Section 6.10.4.D: Screening shall be installed using at least one (1) of the following standards:
 - i. Screening shall be provided to reduce visibility of the outdoor displays from the parking lot and primary roadways by installing a two-foot (2') to three-foot (3') wall constructed from the same building material as the primary structure, and integrated into the design of the primary structure; or
 - ii. Screening shall be a 10-foot wide landscaped buffer with:
 1. One (1) evergreen tree planted every eight (8) feet; and
 2. One (1) shrub planted every 12 feet; and
 3. One (1) deciduous tree planted every 15 feet along the perimeter of the outdoor sales or outdoor display area.
 - iii. Required landscaping material may be arranged creatively for aesthetic purposes, but shall reasonably screen the permanent outdoor display area. The landscape materials shall be installed per Article 6.7. Landscaping Standards, and shall be in addition to the minimum landscaping requirements. The
9. Approval Letter and relative documentation be recorded on the property with the Hamilton County Recorder's Office.

STAFF RECOMMENDATION

Approve, with Condition Continue Deny No Recommendation

FALL CREEK TOWNSHIP BOARD OF ZONING APPEALS

FISHERS, IN

PETITION FOR DEVELOPMENT STANDARDS VARIANCE

VA-25-_____

Address: 11215 E. 121st Street, Fishers, IN 46037

Petitioner/Owner: Nathan E. Nocton

Petitioner's Counsel: Jeffrey M. Heinzmann
Heinzmann Law Office LLC
P.O. Box 336
Fishers, IN 46038
(317) 696-6031
jeff@heinzmannlaw.com

Request for Variance of Use

Legal Description:

Lot Numbered One (1) in Hilly Acres Subdivision, an addition in Hamilton County, Indiana, as per plat thereof recorded in Plat Book 2, page 70, in the Office of the Recorder of Hamilton County, Indiana.

Primary Zoning Classification: R2

Proposal:

Petitioner has owned the Property since February 25, 2013. He has owned and operated his business, Red Rabbit Landscaping out of the garage on the Property, first as Red Rabbit Construction, LLC, and since 2021 as Red Rabbit Landscaping LLC.

To bring this situation into compliance with the UDO, Petitioner seeks a Use Variance from Section 5.7.2 of the UDO for a Home Occupation. Petitioner and his family use the Property as their primary place of residence. The work of this home-based business is performed off-site. No non-residents work at the subject residential dwelling.

There are and shall be no signs, displays, outdoor storage, or other exterior evidence of business activity, with the exception of occasional meeting or employees to head to off-site work locations. Like VA-19-3, Petitioner has been at this address for more than ten (10) years, providing landscaping services to the residents of Fishers and the City itself.

Petitioner's services are performed offsite. The location is simply used for the storage of equipment.

The home occupation is and shall be conducted only within 50% of the garage.

There will be no outdoor business storage or warehousing of materials, supplies, or equipment.

The home occupation does not involve manufacturing operations.

No equipment, vehicle or process is or will be used that creates excessive noise, vibration, glare, fumes, odors, or electrical interference, or result in a change in the fire-safety class or occupancy classification of a residential structure or which otherwise violates any law.

Petitioner will park no more than 5 vehicles and 5 trailers used for the home occupation, and none shall be over 6,000 lbs., as listed on the vehicle registration form. This is five vehicles and three trailers fewer than VA-19-3.

The requirements for shipping and receiving of materials for the business does not and shall not create excessive noise or traffic.

Petitioner has operated the business without complaint from this location and has in fact been engaged by the city and numerous HOAs to do work in Fishers, and is viewed as a good neighbor by both nearby residents, including Hoosier Road Elementary School.

PROPOSED FINDINGS OF FACT:

1. The approval would not be injurious to the public health, safety, morals, and general welfare of the community as there has been a history of the current use of the Property for over ten (10) years showing a history of use without injury.
2. The use and value of the area adjacent to the property included in the Variance has not been and would likely continue to not be affected in a substantially adverse manner by the proposed, continued use in the manner presented. Moreover, the second Variance requested will result in a freshly paved driveway that will be compatible with and complement the City’s planned roundabout construction at the corner intersection adjacent to the Property.
3. The need for the variance does not arise from some condition peculiar to the Property, however, the code applicable to the Property is being violated without the Variance even though the facilities are already in place and the use of such facilities for the landscaping business has historically been done on the Property.
4. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property in that, again, the code applicable to the Property requires a variance for the log-existing use of the Property.
5. The approval does not interfere substantially with the comprehensive plan adopted under the 500 series of the Indiana Code (I.C. 26-7-4-500), and would align with the Fishers Comprehensive Plan.

IT IS THEREFORE the decision of the Fall Creek Board of Zoning Appeals that the variance request and application for docket number VA-25-_____, as filed by Petitioner, is hereby APPROVED, subject to the conditions: (1) the commitments stated above, (2) an approval letter of the City of Fishers to be recorded with the Recorder of Hamilton County, Indiana, (3) the Variance will run with the current ownership of the Property, only, and (4) any other conditions and/or stipulations hereinafter stated in the official meeting minutes of the Board meeting, which are incorporated herein by reference and made a part hereof.

ADOPTED THIS _____ DAY OF MARCH 2025.

_____ Board President	_____ Board Vice-President	_____ Board Member
_____ Board Member	_____ Board Member	_____ Board Member

ATTEST:
_____, Board Secretary

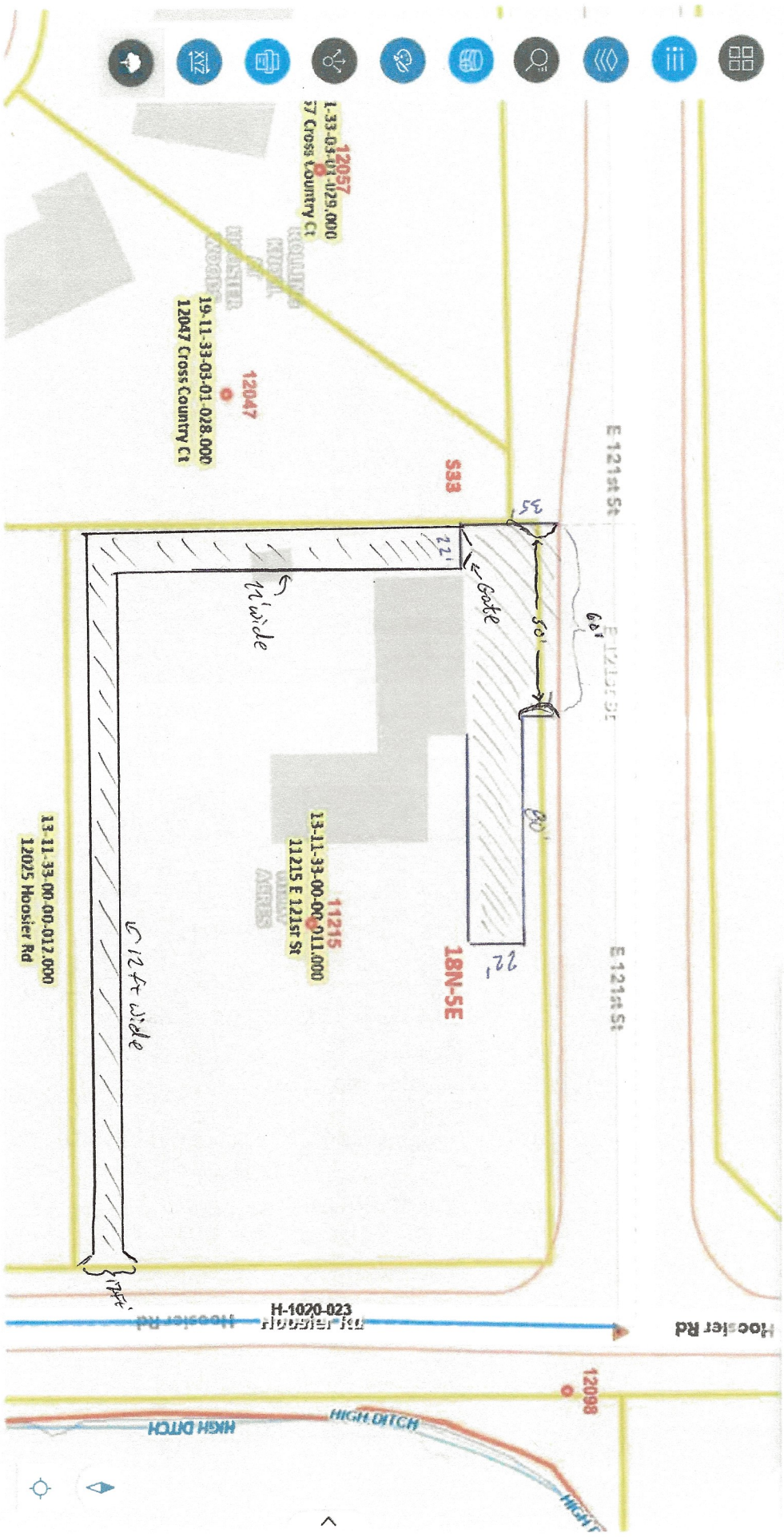


Hamilton County Map Viewer

19-11-33-00-00-024.101
0E 121st St

11215 E. 121st St.

Search result



50 ft

Selected features: 0



Imagery ©2025 Airbus, Maxar Technologies, Map data ©2025 Google 50 ft

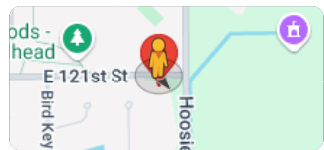
Fishers, Indiana

 Google Street View

Sep 2007 [See latest date](#)



Image capture: Sep 2007 © 2025 Google



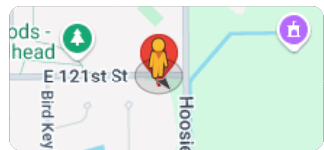
Fishers, Indiana

 Google Street View

Apr 2012 [See latest date](#)



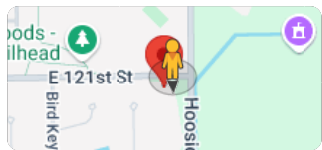
Image capture: Apr 2012 © 2025 Google





Fishers, Indiana
Google Street View
Sep 2017 [See latest date](#)

Image capture: Sep 2017 © 2025 Google



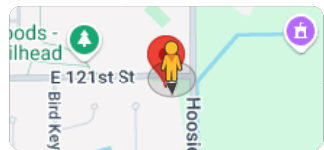
Fishers, Indiana

 Google Street View

Aug 2024 [See more dates](#)



Image capture: Aug 2024 © 2025 Google



Fall Creek Board of Zoning Appeals Staff Report

Meeting Date: April 24, 2025

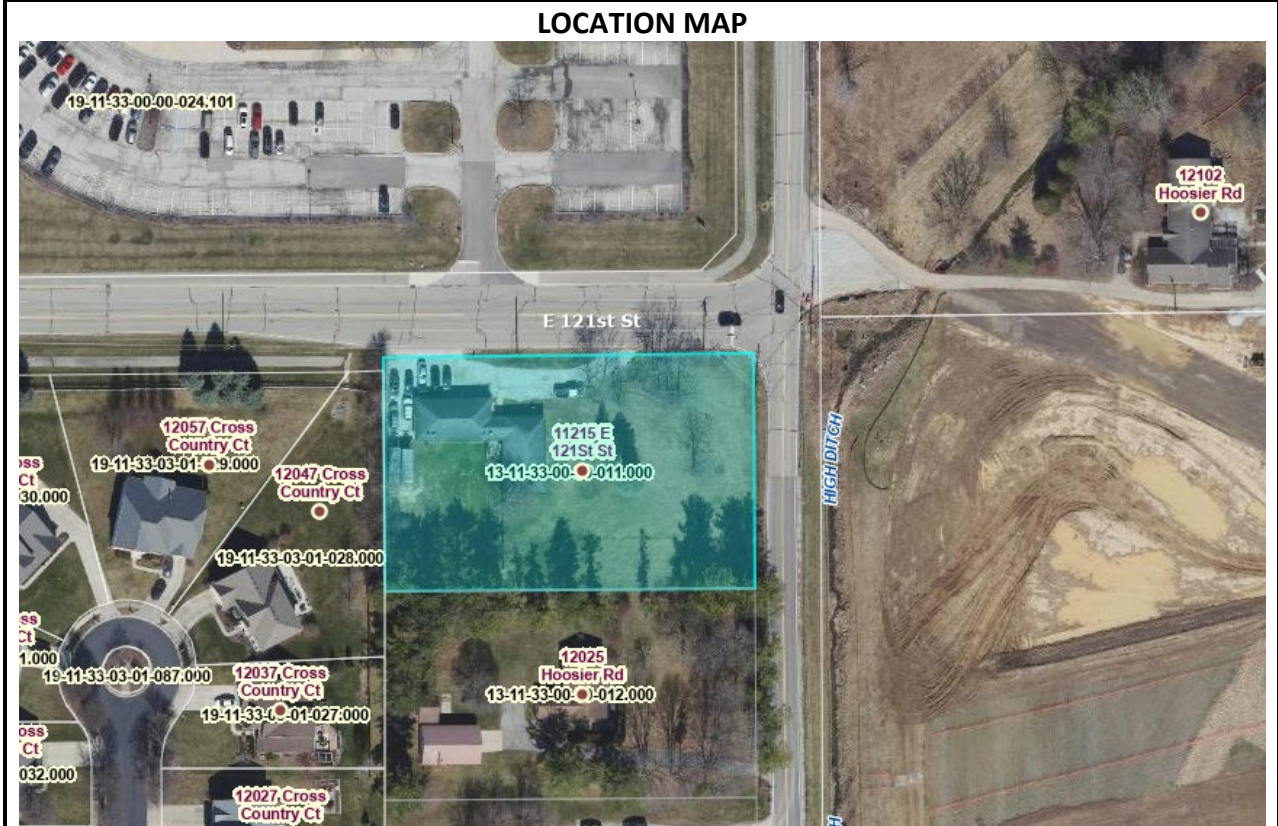
DEPARTMENT CONTACT: Christy Cashin (cashinc@fishers.in.us)
CASE NUMBER: VA-25-5

PETITIONER: Jeffery Heinzmann (jeff@heinzmannlaw.com)
PROPERTY ADDRESS/LOCATION: 11215 E 121st St, Fishers, IN

REQUEST: Consideration of a Development Standard Variance from Section 6.4.3. of the City’s Unified Development Ordinance (UDO) to allow a 60 ft wide driveway entrance at back of curb or edge of pavement, where a 34 ft wide driveway entrance is allowed, and a 50 ft wide driveway at back of curb or edge of pavement, where a 24 ft wide driveway is allowed.

APPLICABLE REGULATIONS: Unified Development Ordinance (UDO)	EXISTING ZONING: R2-Residential	FISHERS 2040: Suburban Residential
---	---	--

LOT SIZE: 1.3 Acres



STAFF RECOMMENDATION

- Approve, with Condition
 Continue
 Deny
 No Recommendation

Meeting Date: April 24, 2025

Case Number: VA-25-5

ZONING HISTORY:

This property is zoned R2-Residential, regulated by the City of Fishers UDO. The property is not annexed to the City of Fishers.

SURROUNDING LAND USE & ZONING:

- North: PUDR – Hoosier Woods PUD (school)
- East: OS – Open Space (single-family & community center)
- South: R2 – Residential (single-family)
- West: PUDR – Hoosier Woods PUD (single-family)



FISHERS 2040 COMPREHENSIVE PLAN

The Fishers 2040 Plan identifies this area as Suburban Residential. The variance requests do not align with this vision.



Meeting Date: April 24, 2025

Case Number: VA-25-5

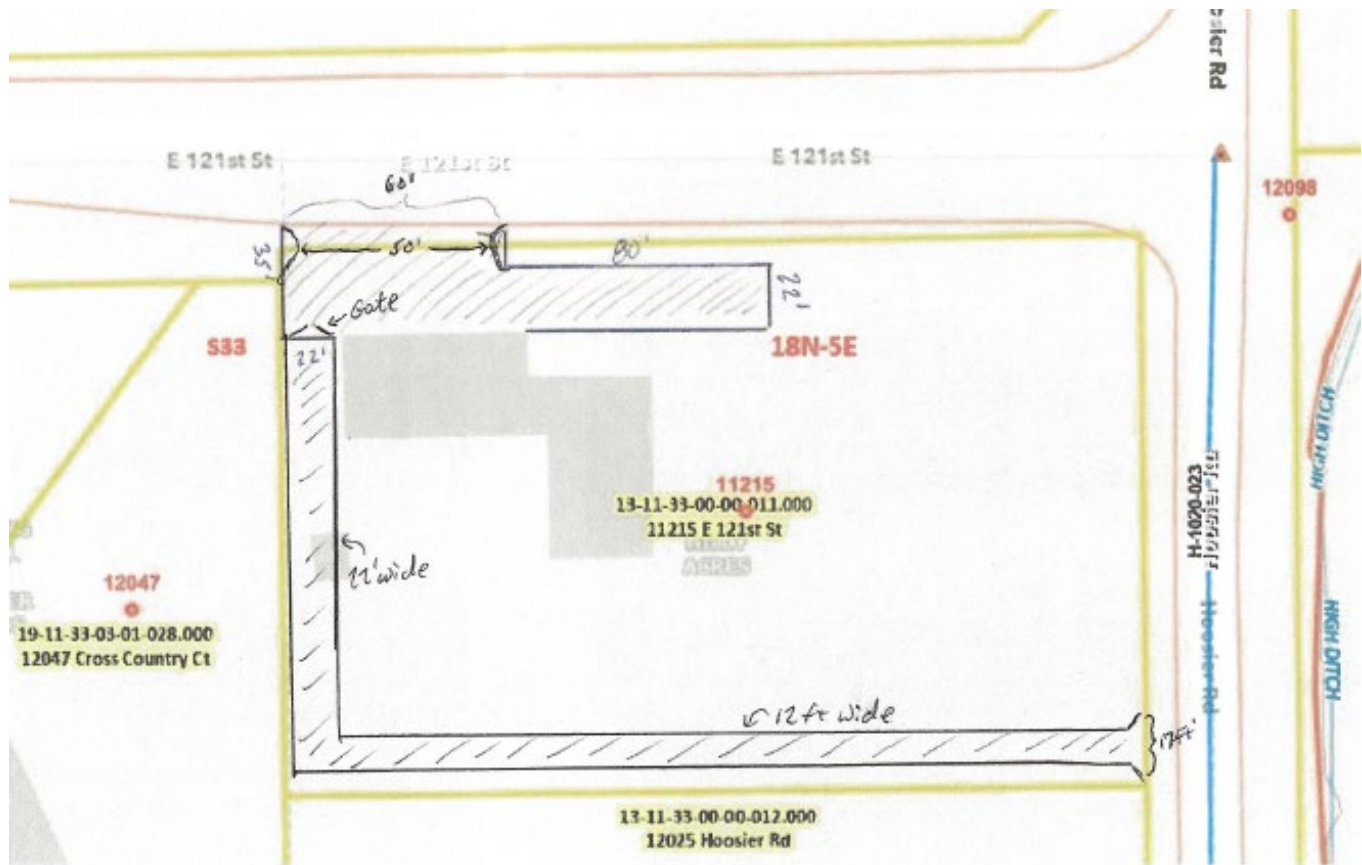
SUMMARY OF PUBLIC COMMENTS:

At the time of writing this Staff Report there has not been no public comments.

PETITION OVERVIEW:

The petitioner is requesting a Development Standard Variance from Section 6.4.3. of the City’s Unified Development Ordinance (UDO) to allow a 60 ft wide driveway entrance at back of curb or edge of pavement, where a 34 ft wide driveway entrance is allowed, and a 50 ft wide driveway at back of curb or edge of pavement, where a 24 ft wide driveway is allowed.

The petitioner would like a 60’ curb cut on E. 121st St, a 140’x22’ paved area along E. 121st Street, and a 22’ paved drive for storage and driving along the west property line. A 12’ paved drive on the southern property line is also proposed. The petitioner is working with the City of Fishers Engineering Department on a new curb cut on Hoosier Rd.



Proposed Site Plan

Meeting Date: April 24, 2025

Case Number: VA-25-5



Staff recommended maximum paved area, shown in red. All storage must be gated and remain behind the facade of the home and must be on a paved surface.



Current site conditions

Meeting Date: April 24, 2025

Case Number: VA-25-5

STAFF RECOMMENDATION:

Staff recommends DENIAL of this variance request.

If the FCBZA approves this request, staff requests it is approved with the following conditions:

1. The property be annexed into the City of Fishers.
 2. All driveway, parking and storage areas shall be paved, and shall not exceed that drawn in the sketch provided by staff.
 3. Any gravel that is currently installed outside of the allowed paved area, shall be removed and returned to grass.
 4. The tree line on the southern edge of the property shall be preserved.
 5. The Approval Letter and relative documentation be recorded on the property with the Hamilton County Recorder's Office.
-

STAFF RECOMMENDATION

Approve, with Condition Continue Deny No Recommendation

FALL CREEK TOWNSHIP BOARD OF ZONING APPEALS

FISHERS, IN

PETITION FOR DEVELOPMENT STANDARDS VARIANCE

VA-25-_____

Address: 11215 E. 121st Street, Fishers, IN 46037

Petitioner/Owner: Nathan E. Nocton

Petitioner's Counsel: Jeffrey M. Heinzmann
Heinzmann Law Office LLC
P.O. Box 336
Fishers, IN 46038
(317) 696-6031
jeff@heinzmannlaw.com

Request for Variance from Development Standards

Legal Description:

Lot Numbered One (1) in Hilly Acres Subdivision, an addition in Hamilton County, Indiana, as per plat thereof recorded in Plat Book 2, page 70, in the Office of the Recorder of Hamilton County, Indiana.

Primary Zoning Classification: R2

Proposal:

Petitioner has owned the Property since February 25, 2013. He has owned and operated his business, Red Rabbit Landscaping out of the garage on the Property, first as Red Rabbit Construction, LLC, and since 2021 as Red Rabbit Landscaping LLC. Petitioner has filed a request for a Variance of Use to permit a Home Occupation contemporaneous with this Petition.

To bring this situation into compliance with the UDO, Petitioner seeks a Development Standards Variance from Section 6.4.3 of the UDO for a driveway wider than 34 feet. Petitioner and his family use the Property as their primary place of residence.

An examination of the photos available on Google Maps show that the property has used two access points on 121st Street since at least 2007. Photos submitted as additional documents with this Petition. The new roundabout planned by the City makes that no

longer a feasible option and the City Engineering department has indicated a desire to prohibit multiple access points to the Property at this time.

Petitioner proposes a paved driveway 60 feet wide from the western boundary of the Property on 121st Street to a point still west of the current mailbox, as set forth on the drawing submitted herewith.

PROPOSED FINDINGS OF FACT:

1. The approval would not be injurious to the public health, safety, morals, and general welfare of the community as there has been a history of the current use of the Property for over ten (10) years showing a history of use without injury. The wider driveway entrance will permit easier ingress to and egress from the Property as had been the case with the historical two access points, but do so with one access point in a manner that will not interfere with traffic flow within the City’s new proposed roundabout.
2. The use and value of the area adjacent to the property included in the Variance has not been and would likely continue to not be affected in a substantially adverse manner by the proposal, and in fact will likely be improved by the existence of a fully paved driveway as opposed to the current driveway.
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property in that the existing home occupation use for which approval is sought by the concurrently filed use variance has been able to operate with a dual access point drive that will not be possible without city approval and with the new roundabout; the requested wider driveway entrance will facilitate the safe operation of the home occupation and reduce the impact on traffic flow.

IT IS THEREFORE the decision of the Fall Creek Board of Zoning Appeals that the variance request and application for docket number VA-25-_____, as filed by Petitioner, is hereby APPROVED, subject to the conditions: (1) the commitments stated above, (2) an approval letter of the City of Fishers to be recorded with the Recorder of Hamilton County, Indiana, (3) the Variance will run with the current ownership of the Property, only, and (4) any other conditions and/or stipulations hereinafter stated in the official meeting minutes of the Board meeting, which are incorporated herein by reference and made a part hereof.

ADOPTED THIS _____ DAY OF MARCH 2025.

Board President

Board Vice-President

Board Member

Board Member

Board Member

Board Member

ATTEST:

_____, Board Secretary



Imagery ©2025 Airbus, Maxar Technologies, Map data ©2025 Google 50 ft

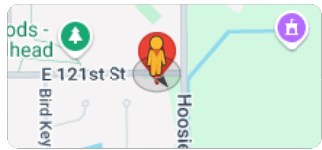
Fishers, Indiana

 Google Street View

Sep 2007 [See latest date](#)



Image capture: Sep 2007 © 2025 Google



Fishers, Indiana

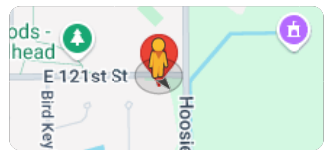
 Google Street View

Apr 2012 [See latest date](#)



Google

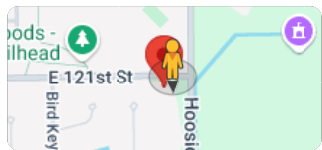
Image capture: Apr 2012 © 2025 Google





Fishers, Indiana
Google Street View
Sep 2017 [See latest date](#)

Image capture: Sep 2017 © 2025 Google



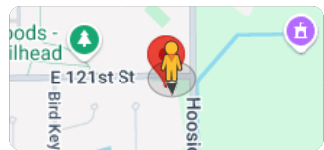
Fishers, Indiana

Google Street View

Aug 2024 [See more dates](#)



Image capture: Aug 2024 © 2025 Google



**RULES AND PROCEDURES
OF THE
FISHERS BOARD OF ZONING APPEALS
And
FALL CREEK BOARD OF ZONING APPEALS**

March 26, 2025

Table of Contents

ARTICLE I GENERAL GOVERNING RULES	2
ARTICLE II OFFICERS, MEMBERS AND DUTIES	3
ARTICLE III MEETINGS	5
ARTICLE IV VACANCIES	10
ARTICLE V NOTICE OF HEARINGS	11
ARTICLE VI HEARING AND REHEARING	13
ARTICLE VII DECISIONS	15
ARTICLE VIII RECORDS	16
ARTICLE IX AMENDMENT OF RULES	17

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.

DRAFT

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.

DRAFT

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.

DRAFT

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

Speak 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.

DRAFT

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.

DRAFT

ADOPTION OF RULES AND PROCEDURES

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

These rules of procedure were adopted by the City of Fishers Fall Creek Board of Zoning Appeals on April 24, 2025.

Chairperson

Vice-Chairperson

Member

Member

Member

Secretary

DRAFT