AREA BOARD OF ZONING APPEALS  
St. Joseph County, Indiana
AGENDA  
Wednesday, March 11, 2020 - 1:30 p.m.  
County-City Building-Fourth-Floor Council Chambers

PUBLIC HEARING:

1. **Owner:** SHIRLEY HEINZE LAND TRUST INC  
   **Location:** 25920 US 20 HWY  
   **Requested Action:** Variance(s): 1) from the required hard surface to gravel for parking areas, and 2) from the requirement to provide curbs and lines to none  
   **Zoning:** R: Single Family District (County)

2. **Owner:** CONNIE PAWLING  
   **Location:** 12491 BECKLEY ST  
   **Requested Action:** Variance(s): 1) from the minimum required front setback of 35’ to 27’  
   **Zoning:** R: Single Family District (County)

3. **Owner:** KAREN A & ERIC P BROCHHAUSEN  
   **Location:** 17113 HAGEY ST and 17091 STATE ROAD 23 HWY  
   **Requested Action:** Variance(s): 1) from the maximum allowed 1388 sq. ft. for accessory structures to 2120 sq. ft.  
   **Zoning:** R: Single Family District (County)

4. **Owner:** JOHN M KIME  
   **Location:** 61201 ELM RD  
   **Requested Action:** Variance(s): 1) from the minimum required side setback of 30’ to 5’  
   **Zoning:** A: Agricultural District (County)

5. **Owner:** JOSEPH J. AND PATRICIA A. NAHAS LIVING TRUST WITH JOSEPH J. AND PATRICIA A. AS TRUSTEES  
   **Location:** 51810 VILLAGER PKWY  
   **Requested Action:** Variance(s): 1) from the minimum required rear setback of 25’ to 0.9’ and 2) from the minimum required side setback of 6’ to 0.9’ along the south lot line and 4’ along the north lot line  
   **Zoning:** R: Single Family District (County)

ITEMS NOT REQUIRING A PUBLIC HEARING:

1. Findings of Fact  
   A. Approval of the Findings of Fact from the February 12, 2020 meeting.

2. Minutes  
   A. Approval of the minutes from the February 12, 2020 meeting.

3. Other Business  
   A. Area Board of Zoning Appeals Member Training

4. Adjournment

The Title VI Coordinator has made available at this meeting/hearing a voluntary Public Involvement Survey to collect demographic data to monitor and demonstrate St. Joseph County’s compliance with its non-discrimination obligations under Title VI and Federal Regulation 23CFR 200.9(b)(4), and more importantly, ensure that affected communities and interested persons are provided equal access to public involvement. Compliance is voluntary. However, in order to demonstrate compliance with the federal regulation, the information requested must be documented when provided. It will not be used for any other purpose, except to show that those who are affected or have an interest in proceedings or the proposed project have been given an opportunity to provide input throughout the process.
DATE: March 2, 2020

TO: Area Board of Zoning Appeals

FROM: Shawn Klein, Planner

SUBJECT: March 11, 2020 Area Board of Zoning Appeals Hearing

The following comments are being made concerning items to be heard at the Area Board of Zoning Appeals meeting on March 11, 2020. The absence of comments on any particular item should not be construed to mean that the staff agrees with the request.

Variances

A variance from any of the development standards of the Zoning Ordinance may only be approved upon the Board of Zoning Appeals making a written determination and adopting appropriate Findings of Fact, based upon the evidence presented at a public hearing, that:
(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community;
(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and,
(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property.

1. Petition of Shirly Heinze Land Trust (25920 US 20 HWY)
   The staff recommends approval of the variances. A paved drive exceeding 100’ in length will be provided from the street to the gravel parking area, ensuring that dust and debris will not be tracked into the public right-of-way. A smaller paved parking area which includes ADA accessible parking is expected to be adequate for the average daily parking demand of the nature preserve. Strict application of the terms of the Ordinance would result in unnecessary impervious surface and resulting stormwater runoff which undermines the purpose of the preserve.

2. Petition of Connie Pawling (12491 Beckley Street)
   The staff recommends approval of this variance. As the parcel in question is a narrow corner lot, requiring the petitioner to comply with the 35’ front setback along the southern property line would result in practical difficulty. Since the width of the Beckley Street right-of-way exceeds 60’, allowing a house to be constructed 8’ closer to the parcel line will have no significant adverse effect on the ability of the public to
utilize the street. Additionally, the requested setback is comparable to or exceeds other front setbacks along Beckley Street.

3. Petition of Karen A & Eric P Brochhausen (17113 Hagey Street)
The staff recommends denial of the variance. There is no practical difficulty which would support the petitioners’ desire for additional accessory structure space in excess of the development standards of the Ordinance. As these standards were amended in March of 2019, they are representative of the maximum residential accessory structure size which the Area Plan Commission and County Council consider reasonable, pending some possible unique circumstances which are not present in this case. Allowing a property owner to not comply with a development standard without sufficient justification creates a precedent for arbitrarily inconsistent application of the Zoning Ordinance and undermines neighborhood character.

4. Petition of John M Kime (61201 Elm Road)
The staff recommends denial of the variance. There is no adequate practical difficulty to support the variance, as the petitioner appears to have other options, such as removing the barn which is effectively being replaced prior to constructing the new barn, or simply constructing the barn elsewhere on the site. There appear to be other locations near the cluster of buildings which would result in only a slight loss of cultivated land. A structure 5' from the property line could adversely impact the use of the neighboring agricultural parcel near the edge of said parcel.

5. Petition of Joseph J. and Patricia Nahas Living Trust with Joseph J. and Patricia A. as Trustees (51810 Villager Pkwy)
The staff recommends approval of the variances. Petitioners property is within a “Villa style” development, wherein the property lines are narrowly drawn around the structure. The property which effectively functions as the “yard” is a parcel surrounding petitioners’ property on each side under the ownership of the Homeowner’s Association, which supports the variances. The setback variances requested are from the interior property lines between petitioners’ property and the HOA property. The effective setback from the neighboring property abutting the rear of the HOA property, and therefore the actual impact upon adjacent properties, is equivalent to that required by the Ordinance.
ST. JOSEPH COUNTY (UNINCORPORATED)
PETITION FOR VARIA NCE and/or SPECIAL USE

PROPERTY INFORMATION:
The property Tax Key Number(s) is/are: 021-1037-060003

The property address:
25898 US 20
South Bend, IN 46628

If the application only includes a portion of the property listed above, provide the Legal Description for the petition area and the total site area: E201', S425.37', W200', N445.45' from NE corner Lot 1 Cybulski Minor Sec 25 38 1e 18/19 split trans #13927 5/31/17 deed#1713414 from 021-1037-060001

VARIANCE INFORMATION:
List each variance being requested. The variance request must specifically list the requirement and the desired request (e.g. From the required [enter requirement] to [enter request going to]). Additional examples can be found on our website. Please contact the Staff if you need assistance.

1) From "required offstreet parking areas to be provided as surface parking" to "surface parking in combination with a gravel area for overflow parking."

2) A statement on how each of the following standards for the granting of variances is met:

(a) The approval will not be injurious to the public health, safety, morals and general welfare of the community: There will be a paved entry drive and paved ADA accessible parking available. Gravel parking area will accommodate overflow parking and gravel will be self-contained.

(b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and: Gravel will be contained within the gravel area and will not spread to county roads because the entry drive and ADA accessible parking area will be paved.

(c) The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property: This is a public nature preserve and minimal paving is more environmentally friendly. Paved entry drive and paved ADA accessible parking will accommodate day-to-day public use. Gravel parking will be available for overflow on rare occasions that larger events will be held on the property.

SPECIAL USE INFORMATION (if the petition does not include a Special Use, please skip to next section):

1) The Special Use(s) being requested: Insert text

2) A statement on how each of the following standards for the granting of a Special Use is met:

(a) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare: Please explain how your Special Use petition addresses this criteri

(b) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein: Please explain how your Special Use petition addresses this criteri

(c) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein; and: Please explain how your Special Use petition addresses this criteri

(d) The proposed use is compatible with the recommendations of the Comprehensive Plan. Please explain how your Special Use petition addresses this criteri
PROJECT INFORMATION:
Provide a brief and descriptive narrative of the proposed project:
   Lydic Bog is an Indiana state-dedicated nature preserve open to the public.
   Shirley Heinze Land Trust seeks to include a gravel parking area for overflow parking
   off of the planned paved entry drive and ADA accessible parking area.
   Please see attached drawings.

PETITIONER INFORMATION:
Name and address of property owner(s) of the petition site:
   Shirley Heinze Land Trust
   109 West 700 North
   Valparaiso, IN 46304
   219-242-8558
   bhawksworth@heinzetrust.org

   Name and address of additional property owners, if applicable:

Name and address of petitioner(s), if different than the petitioner):
   Name
   Address
   City, State Zip Code
   Phone number with Area Code
   E-Mail Address

   Name and address of additional property owners, if applicable:

CONTACT PERSON:
   Kristopher Krouse, Executive Director
   Shirley Heinze Land Trust
   109 W 700 North
   Valparaiso, IN 46304
   219-242-8558

BY SIGNING THIS PETITION, THE PETITIONERS/PROPERTY OWNERS OF THE ABOVE-DESCRIBED REAL ESTATE AUTHORIZE THAT THE CONTACT PERSON LISTED ABOVE MAY REPRESENT THIS PETITION BEFORE THE AREA BOARD OF ZONING APPEALS AND COUNTY COUNCIL AND TO ANSWER ANY AND ALL QUESTIONS RELATED TO THIS PETITION.

Signature(s) of all property owner(s):

[Signature]

[Signature]
ST. JOSEPH COUNTY (UNINCORPORATED)
PETITION FOR VARIANCE and/or SPECIAL USE

PROPERTY INFORMATION:
The property Tax Key Number(s) is/are: 006-1025-0357
The property address: 12491 Beckley St Granger IN 46530
If the application only includes a portion of the property listed above, provide the Legal Description for the petition area and the total site area:
Lot 7 O.R. GRANGER SEC 7-38-4E

VARIANCE INFORMATION:
8712 Lot AREA
List each variance being requested. The variance request must specifically list the requirement and the desired request (e.g. From the required [enter requirement] to [enter request going to]) Additional examples can be found on our website. Please contact the Staff if you need assistance.

1) Seeking a 8' Front yard setback variance from 35' to 27'.
2) A statement on how each of the following standards for the granting of variances is met:
(a) The approval will not be injurious to the public health, safety, morals and general welfare of the community: The houses in the community must have front yard setbacks considerably less than 35'. Would be more consistent with the neighborhood.
(b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and: More would benefit from a new home being constructed in the neighborhood.
(c) The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property: Given the extremely large right of way, and fact that a home once set on the property, strict application would deem the property unbuildable.

SPECIAL USE INFORMATION (if the petition does not include a Special Use, please skip to next section):

1) The Special Use(s) being requested: Insert text
2) A statement on how each of the following standards for the granting of a Special Use is met:
(a) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare: Please explain how your Special Use petition addresses this criterion
(b) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein: Please explain how your Special Use petition addresses this criterion
(c) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein; and: Please explain how your Special Use petition addresses this criterion
(d) The proposed use is compatible with the recommendations of the Comprehensive Plan. Please explain how your Special Use petition addresses this criterion

* In the case of a Special Use, the petitioner shall be held to the representations made on the Preliminary Site Plan included with this petition.
PROJECT INFORMATION:
Provide a brief and descriptive narrative of the proposed project:

Insert narrative

Building new 11x65 sqft home on basement.

PETITIONER INFORMATION:

Name and address of property owner(s) of the petition site:

Name          Connie Pawling
Address       53056 Cebus Oaks DR.
City, State Zip Code  Elkhart, IN 46514
Phone number with Area Code  574-536-9262
E-Mail Address  connie.pawling@gmail.com

Name and address of additional property owners, if applicable:

Name and address of petitioner(s), if different than the petitioner:

Name
Address
City, State Zip Code
Phone number with Area Code
E-Mail Address

Name and address of additional property owners, if applicable:

CONTACT PERSON:

Name          Connie Pawling
Address       53056 Cebus Oaks DR.
City, State Zip Code  Elkhart, IN 46514
Phone number with Area Code  574-536-9262
E-Mail Address  connie.pawling@gmail.com

BY SIGNING THIS PETITION, THE PETITIONERS/PROPERTY OWNERS OF THE ABOVE-DESCRIBED REAL ESTATE AUTHORIZE THAT THE CONTACT PERSON LISTED ABOVE MAY REPRESENT THIS PETITION BEFORE THE AREA BOARD OF ZONING APPEALS AND COUNTY COUNCIL AND TO ANSWER ANY AND ALL QUESTIONS RELATED TO THIS PETITION.

Signature(s) of all property owner(s):

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

LED -

JAN 30 2020
NOTE: FOR MODEL DIMENSIONS, OUR STANDARDS AND STANDARDS OF THE
INDUSTRY GENERALLY INCLUDE A NOMINAL 4-FOOT ALLOWANCE FOR HITCH
LENGTH PLUS ALLOWANCE FOR OTHER APPURTENANCES FOR WIDTH AND FOR
LENGTH NORMALLY INCLUDED IN MEASUREMENTS FOR HIGHWAY MOVEMENT.
REAR BEDROOM DIMENSIONS INCLUDE BAY, UNLESS BAY IS OPTIONAL ON A
PARTICULAR UNIT OR IS OMITTED BY SPECIAL ORDER. ROOM SIZES ARE
NOMINAL AND SOMETIMES THE DIMENSION INCLUDES WALL THICKNESS. DESIGNS,
SPECIFICATIONS AND PRICES ARE SUBJECT TO CHANGE WITHOUT NOTICE. SOME
OPTIONAL ITEMS ARE SHOWN. SOME TIRES, WHEELS, BRAKES AND AXLES ARE
REUSED AFTER CAREFUL INSPECTION.
WARRANTY DEED

Property Address: 12491 Beckley Street
Granger, IN 46530

Tax Parcel No.: 71-05-07-454-004.000-011

This Indenture Witnesseth, That James Larkin and Rebecca Larkin
Convey(s) and Warrant(s) to Connie Pawling

for the sum of Ten & 00/100 Dollars ($10.00) and other valuable consideration, the following described real
estate in St Joseph County, in the State of Indiana:

Lot Numbered Seven (7) as shown on the Original Plat of the Town of Granger, recorded April 3, 1883, in the

Subject to real estate taxes not yet due and payable.

The warranties of each grantor are limited to the share owned by such grantor.

Subject To any and all easements, agreements, and restrictions of record, and to legal highways.

Signed this 10th day of December, 2019.

James Larkin
Rebecca Larkin

File No.: 4041-149056

Duly entered for Taxation
St. Joseph Co., Indiana
Subject to Final Acceptance
For Transfer

FILED -
JAN 30 2020
State of Indiana
County of Elkhart

Before me, a Notary Public in and for said County and State, personally appeared Sarah Williams as Personal Representative of The Estate of Phyllis E. Lightfoot, Deceased, who acknowledged the execution of the foregoing instrument, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 26th day of November, 2019.

Signature: ____________________________

Printed: ________________________________

Resident of: ___________________ County

State of: ______________________________

My Commission expires: ________________

Prepared By: Edward W. Hardig, Jr., Attorney at Law
401 W. High Street, Elkhart, IN 46516
IN19199-71/MIP60319 kib

Grantee's Address and Tax Billing Address:
53056 Colubus Oaks Dr
Elkhart, IN 46514-5226

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

Return To: Fidelity National Title Company, LLC
401 W. High Street, Elkhart, IN 46516

FILED-

JAN 30 2020
ST. JOSEPH COUNTY (UNINCORPORATED)
PETITION FOR VARIANCE and/or SPECIAL USE

PROPERTY INFORMATION:

The property Tax Key Number(s) is/are: 002-2061-2638

The property address:
17117 Hagey St
South Bend, IN 46635

If the application only includes a portion of the property listed above, provide the Legal Description for the petition area and the total site area: N/A

VARIANCE INFORMATION:

List each variance being requested. The variance request must specifically list the requirement and the desired request (e.g. From the required [enter requirement] to [enter request going to]) Additional examples can be found on our website. Please contact the Staff if you need assistance.

1) From Ordinance 154.070 C.1.a Accessory Uses(35-19), Buildings and Structures - Less than 1 acre a detached structure can only be 1x square footage of the ground floor of the primary structure, or 960 sf whichever is greater to a single story structure of 1200 sf. From the maximum allowable size for the accessory structures of 1388 to 2120 sq. ft.

2) A statement on how each of the following standards for the granting of variances is met:

(a) The approval will not be injurious to the public health, safety, morals and general welfare of the community: This structure will not be injurious to the public health, safety and general welfare of the community.

(b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and: With a shingled roof and vinyl siding this structure will not detract from the value of adjacent properties

(c) The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property: The structure would be too small for the intended use

SPECIAL USE INFORMATION (if the petition does not include a Special Use, please skip to next section):

1) The Special Use(s) being requested: Insert text

2) A statement on how each of the following standards for the granting of a Special Use is met:

(a) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare: Please explain how your Special Use petition addresses this criterion

(b) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein: Please explain how your Special Use petition addresses this criterion

(c) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein; and: Please explain how your Special Use petition addresses this criterion

(d) The proposed use is compatible with the recommendations of the Comprehensive Plan. Please explain how your Special Use petition addresses this criterion
PROJECT INFORMATION:
Provide a brief and descriptive narrative of the proposed project:
a 30' x 40' garage/storage area

PETITIONER INFORMATION:

Name and address of property owner(s) of the petition site:
Karen A. and Eric P. Brochhausen
17117 Hagey Street
South Bend, IN 46635
574-272-7842
ebsb123@aol.com

Name and address of additional property owners, if applicable:
John L. Coquillard Supplemental Needs Trust
17091 SR 23
South Bend, IN 46635

Name and address of petitioner(s), if different than the petitioner:
Name
Address
City, State Zip Code
Phone number with Area Code
E-Mail Address

Name and address of additional property owners, if applicable:

CONTACT PERSON:
Eric Brochhausen
17117 Hagey St
South Bend, IN 46635
574-272-7842
ebsb123@aol.com

BY SIGNING THIS PETITION, THE PETITIONERS/PROPERTY OWNERS OF THE ABOVE-DESCRIBED REAL ESTATE AUTHORIZE THAT THE CONTACT PERSON LISTED ABOVE MAY REPRESENT THIS PETITION BEFORE THE AREA BOARD OF ZONING APPEALS AND COUNTY COUNCIL AND TO ANSWER ANY AND ALL QUESTIONS RELATED TO THIS PETITION.

Signature(s) of all property owner(s):
Karen A. Brochhausen
Eric P. Brochhausen
Mall A. Moore, Trustee
ST. JOSEPH COUNTY (UNINCORPORATED)
PETITION FOR VARIANCE and/or SPECIAL USE

PROPERTY INFORMATION:

The property Tax Key Number(s) is/are: 014-1002-00236

The property address:
61201 Elm Road
Mishawaka, Indiana 46544

If the application only includes a portion of the property listed above, provide the Legal Description for the petition area and the total site area:

VARIANCE INFORMATION:

List each variance being requested. The variance request must specifically list the requirement and the desired request (e.g. From the required [enter requirement] to [enter request going to]) Additional examples can be found on our website. Please contact the Staff if you need assistance.

1) A variance from the required 30’ side yard setback to 5’

2) A statement on how each of the following standards for the granting of variances is met:

   (a) The approval will not be injurious to the public health, safety, morals and general welfare of the community: The construction of a new pole barn shall follow all standards and not affect the public health, safety, morals and general welfare of the community

   (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and: This new pole barn follows the continuity of the surrounding area and shall not reduce the value of the surrounding area

   (c) The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property: By not allowing the owners the most applicable use of their property.

SPECIAL USE INFORMATION (if the petition does not include a Special Use, please skip to next section):

1) The Special Use(s) being requested: n/a

2) A statement on how each of the following standards for the granting of a Special Use is met:
   (a) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare: n/a
   (b) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein: n/a
   (c) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein; and: n/a
   (d) The proposed use is compatible with the recommendations of the Comprehensive Plan. n/a

* In the case of a Special Use, the petitioner shall be held to the representations made on the Preliminary Site Plan included with this petition.

PROJECT INFORMATION:

Provide a brief and descriptive narrative of the proposed project:

The purpose of this variance request is for the construction of a new pole. Once the barn is completed the owner wishes to remove the oldest structure to the north, which is in disrepair. This proposed location is the best to not impede on existing drives, grain bin set and traffic flow of the site.
PETITIONER INFORMATION:

Name and address of property owner(s) of the petition site:

John M. Kime
6171 Elm Road
Mishawaka, Indiana 46544

Name and address of additional property owners, if applicable:

Name and address of petitioner(s), if different than the owner:

Name
Address
City, State Zip Code
Phone number with Area Code
E-Mail Address

Name and address of additional petitioner, if applicable:

CONTACT PERSON:

Lang, Feeney & Associates, Inc.
715 South Michigan Street
South Bend, Indiana 46601
574-233-1841
Terry@LangFeeney.com

BY SIGNING THIS PETITION, THE PETITIONERS/PROPERTY OWNERS OF THE ABOVE-DESCRIBED REAL ESTATE AUTHORIZE THAT THE CONTACT PERSON LISTED ABOVE MAY REPRESENT THIS PETITION BEFORE THE AREA BOARD OF ZONING APPEALS AND COUNTY COUNCIL AND TO ANSWER ANY AND ALL QUESTIONS RELATED TO THIS PETITION.

Signature(s) of all property owner(s):

X

John M. Kime
(3) GRAIN BINS

LAWN AREA

310.00' D

34.5'

76.4'

285.00' D

52.2'

81.3'

55.00' M

147'

5'

35.9'

61.8'

20'

996.49' D

51.56' D

N 00° 20' 18" W 1201.15'

HOUSE ADDRESS:
61171 ELM ROAD

ELM ROAD

A BARN TO BE REMOVED ONCE NEW POLE BARN IS COMPLETE

B PROPOSED 56' x 80' POLE BARN

1" = 100'
ST. JOSEPH COUNTY (UNINCORPORATED)
PETITION FOR VARIANCE and/or SPECIAL USE

PROPERTY INFORMATION:
The property Tax Key Number(s) is/are: 002-2236-9652
The property address:
51810 Villager Parkway
Granger, IN 46530

If the application only includes a portion of the property listed above, provide the Legal Description for the petition area and the total site area:

VARIANCE INFORMATION:
List each variance being requested. The variance request must specifically list the requirement and the desired request (e.g. From the required [enter requirement] to [enter request going to]) Additional examples can be found on our website. Please contact the Staff if you need assistance.

1) 1a) 154.107 (C ) (3) Rear Yard Setback: 25 feet for Lot on Municipal Sewer. Reduce Setback to 0.9 feet.
   1b) 154.107 (C ) (2) Rear Yard Setback: Side Yard and Building Setback: 6 feet or the width of an existing, recorded easement, whichever is greater for Lots having an area of less than 12,000 square feet. Reduce Setback to 0.9 feet. (South Lot Line)
   1c) 154.107 (C ) (2) Rear Yard Setback: Side Yard and Building Setback: 6 feet or the width of an existing, recorded easement, whichever is greater for Lots having an area of less than 12,000 square feet. Reduce Setback to 4 feet. (North Lot Line)

2) A statement on how each of the following standards for the granting of variances is met:
   (a) The approval will not be injurious to the public health, safety, morals and general welfare of the community: The change does not affect public health, safety, morals, or general welfare of the community. The drainage of the lot and the adjacent lots will not be affected.
   (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and: The replacement of deteriorated old decks with a new deck will improve the appearance of the property in question and thus improve the value of the area. It will consequently only improve any effects on any surrounding property.
   (c) The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property: The property in question is in the Villages at Farmington Square which is a Villa type development where the individual house lots are sized to contain the house only. The surrounding front, side, and rear yards are owned by the Villages at Farmington Square Home Owners Association (VaFS HoA) (Tax Key Number 002-2236-9656).

The petition is to replace the current two deteriorated small decks on the rear of the house with a single deck which will be no wider or deeper than the current two decks.

The rear setback for the deck proper on the house lot, the lot in question, is currently and will continue be 5.5 feet. The setback for the stairs to the deck (the old deck stairs are not shown on the site plan) will decrease from about 4 feet to 0.9 feet. However, if the VaFS HoA lot is included in the setback calculation, the total rear setback will decrease from about 24.5 feet to 21.5 feet. Note that it would not be possible to use the old stairs with the new deck.

The side (south) setback for the deck on the house lot, the lot in question, is currently and will continue be 0.9 feet. However, if the VaFS HoA lot is included in the setback calculation, the total rear setback will continue to be 32.9 feet.

The side (north) setback for the deck on the house lot, the lot in question, is currently and will continue be 4 feet.

Without the variances, the replacement of the deteriorated decks with the new single deck cannot be made.
SPECIAL USE INFORMATION (if the petition does not include a Special Use, please skip to next section):

1) The Special Use(s) being requested: Not Applicable

2) A statement on how each of the following standards for the granting of a Special Use is met:

   (a) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare:

   (b) The proposed use will not injure or adversely affect the use of the adjacent area or property values therein:

   (c) The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein; and:

   (d) The proposed use is compatible with the recommendations of the Comprehensive Plan.

* In the case of a Special Use, the petitioner shall be held to the representations made on the Preliminary Site Plan included with this petition.

-FILED-
FEB 10 2020
PROJECT INFORMATION:
Provide a brief and descriptive narrative of the proposed project:

The house on the property in question currently has two decks on the rear. The larger deck, on the south end is approximately 14 feet wide by 9 feet deep. The smaller deck on the north end is approximately 8 feet wide by 6 feet deep. Both are in somewhat deteriorating condition and may be over 30 years old. The two decks will be replaced with a single deck which will have the same depth as the larger of the old decks at its deepest and the width of from one end of the larger deck to the other end of the smaller deck..

The rear of the property in question slopes from north to south. Placing the stairs on the shallower north could affect the drainage of the property. Placing the stairs on the south end, which is much higher off the ground, would protrude significantly more into either the back or side yard. The middle of the deck is a sweet spot. Note that the landscaping moves the drainage “channel” to the east at the location of the old deck so the stairs in the middle of the deck would not affect the drainage.

PETITIONER INFORMATION:

Name and address of property owner(s) of the petition site:
Joseph J. and Patricia A. Nahas Living Trust
Joseph J. and Patricia A. Nahas, Trustees
3824 Gentle Breeze Terrace
Austin, TX 78731
512-663-8465
joe-nahas@austin.rr.com or pat-nahas@austin.rr.com

Name and address of additional property owners, if applicable:

Name and address of petitioner(s), if different than the petitioner):

Name and address of additional property owners, if applicable:

CONTACT PERSON:
Sean or Maegan Heil
851 N Philip Rd
Niles, MI 49120
269-340-4162
seanheil@buildingsmarter.com or maeganheil@buildingsmarter.com

BY SIGNING THIS PETITION, THE PETITIONERS/PROPERTY OWNERS OF THE ABOVE-DESCRIBED REAL ESTATE AUTHORIZE THAT THE CONTACT PERSON LISTED ABOVE MAY REPRESENT THIS PETITION BEFORE THE AREA BOARD OF ZONING APPEALS AND COUNTY COUNCIL AND TO ANSWER ANY AND ALL QUESTIONS RELATED TO THIS PETITION.

Signature(s) of all property owner(s):

________________________________

________________________________

________________________________
PETITIONER INFORMATION:

Name and address of property owner(s) of the petition site:
Joseph J. and Patricia A. Nahas Living Trust
Joseph J. and Patricia A. Nahas, Trustees
5824 Gentle Breeze Terrace
Austin, TX 78731
512-663-8463
joe-nahas@austin.rr.com or pat-nahas@austin.rr.com

Name and address of additional property owners, if applicable:

Name and address of petitioner(s), if different than the petitioner:

CONTACT PERSON:
Sean or Magan Heil
851 N Philip Rd
Niles, MI 49120
269-340-4162
seanheil@buildingsmarter.com or maganheil@buildingsmarter.com

BY SIGNING THIS PETITION, THE PETITIONERS/PROPERTY OWNERS OF THE ABOVE-DESCRIBED REAL ESTATE AUTHORIZE THAT THE CONTACT PERSON LISTED ABOVE MAY REPRESENT THIS PETITION BEFORE THE AREA BOARD OF ZONING APPEALS AND COUNTY COUNCIL AND TO ANSWER ANY AND ALL QUESTIONS RELATED TO THIS PETITION.

Signature(s) of all property owner(s):

[Signature]
[Signature]

[Signature]
To Whom It May Concern:

The Board of Directors of The Villages at Farmington Square Homeowners Association approved the proposed deck on the Nahas property at 51810 Villager Parkway, Granger, IN 46530 at its Nov. 13, 2019 regular meeting.

Charles L. Kureth, Jr.
President, The Villages at Farmington Square HOA
ckureth@gmail.com
248-767-8381
Requested Variances

(A) 154.107 (C) (3) Rear Yard Setback: 25 feet for Lot on Municipal Sewer. Reduce Setback to 0.9 feet.

(B) 154.107 (C) (2) Rear Yard Setback: Side Yard and Building Setback: 6 feet or the width of an existing, recorded easement, whichever is greater for Lots having an area of less than 12,000 square feet. Reduce Setback to 0.9 feet.

(C) 154.107 (C) (2) Rear Yard Setback: Side Yard and Building Setback: 6 feet or the width of an existing, recorded easement, whichever is greater for Lots having an area of less than 12,000 square feet. Reduce Setback to 4 feet.

Dimensional Information From:
MACOG and
Site Development Plan
Marbach-Palm Inc.
Anthony D. Hiatt
Reg. P.S. 21700004
2/4/2020

Drawing by
Joseph J. Nahas
Retired P.E.
Trustee of
Joseph J. and Patricia A. Nahas
Living Trust
Owner of
51810 Villager Parkway
Granger, IN 46530
Cell: 512-663-8465
Email: joe-nahas@austin.rr.com
Date: 20 February 2020
FINDINGS OF FACT

TERRY LEE SZCZYPIORSKI & ANDREA CASTLE
30560 OSBORNE RD
St. Joseph County

On Tuesday, February 12, 2020, the Area Board of Zoning Appeals took the following actions on the variances from the Development Standards of the St. Joseph County Zoning Ordinance:

APPROVED 1) from the minimum required lot area of 20 acres to 16.40 acres for proposed Lot 1
APPROVED 2) from the minimum required frontage of 200' to 80.19' of frontage for proposed Lot 1
APPROVED 3) from the minimum required lot area of 20 acres to 6.00 acres for proposed Outlot A
APPROVED 4) from the minimum required frontage of 200' to 0' for proposed Outlot A

(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community.

The variances and subsequent subdivision will not result in the creation of new buildable lots in the agricultural district, and will therefore not place additional strain on public services, nor interfere with agricultural production. The variances would be beneficial to public safety, as the purpose of the variances are to transfer property to the abutting owner which will allow farm equipment to be move between parcels without using public right-of-way.

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

Adjacent property will not be affected. The variances simply allow the creation of a non-buildable outlot which will be transferred to an abutting property owner to allow said owner to transport farm equipment between agricultural parcels.

(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property.

The strict application of the terms of this Chapter would hamper a farmer's ability to move machinery between non-contiguous portions of productive agricultural property.

Roll Call:
Daniel J. Caruso - Yes
Robert Hawley - Yes
John O'Brien - Yes
Joe Velleman - Yes
Sidney Shafer - Yes
Michael Urbanski - Absent
Jack Young - Yes

The Minutes of the February 12, 2020 meeting of the Area Board of Zoning Appeals are hereby incorporated by reference herein.

Adopted by the Area Board of Zoning Appeals of St. Joseph County, Indiana, on

Michael Urbanski, Chairman
Area Board of Zoning Appeals
St. Joseph County, Indiana

ATTEST:

Lawrence P. Magliozzi, Executive Director
FINDINGS OF FACT

RICHARD D CARR & BARBARA J CARR TRUSTEE & DONALD & JANA INGLE
66501 & 66521 MIAMI HWY
St. Joseph County

On Tuesday, February 12, 2020, the Area Board of Zoning Appeals took the following actions on the variances from the Development Standards of the St. Joseph County Zoning Ordinance:

**APPROVED**

1) from the minimum required lot area of 20 acres to 0.59 acres for proposed Lot 1

2) from the minimum required rear setback of 30' to 10' for proposed Lot 1

3) from the minimum required 600' of frontage to 365.96' for proposed Lot 2

(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community.

- No additional buildable lots will be created in the agricultural district through the grant of these variances and the subsequent subdivision. Therefore these variance will not result in any additional strain on public services.

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

- No properties will be affected other than those involved in the variance request, and even then that impact is not substantial, as the reduced rear yard setback for accessory structures is appropriate for adjacent residential uses and only affects the residentially used portion of Lot 2.

(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property.

- Strict application would prevent petitioners from bringing their properties closer to conformance with current development standards. Lot 2 would not be able to acquire additional street frontage which will potentially improve the agricultural productivity of this site.

Roll Call:

- Robert Hawley - Yes
- Sidney Shafer - Absent
- Michael Urbanski - Absent
- Jack Young - Yes
- Joe Velleman - Yes
- Daniel J. Caruso - Yes
- John O’Brien - Yes

The Minutes of the February 12, 2020 meeting of the Area Board of Zoning Appeals are hereby incorporated by reference herein.

Adopted by the Area Board of Zoning Appeals of St. Joseph County, Indiana, on

Michael Urbanski, Chairman
Area Board of Zoning Appeals
St. Joseph County, Indiana

**ATTEST:**

Lawrence P. Magliozzi, Executive Director
FINDINGS OF FACT

STEVEN & DOMINIQUE FUTA AND PAUL W JR FUTA
28725 STATE ROAD 23
St. Joseph County

On Tuesday, February 12, 2020, the Area Board of Zoning Appeals took the following actions on the variances from the Development Standards of the St. Joseph County Zoning Ordinance:

APPROVED

1) from the minimum required side setback of 30' to 18'

(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community.

Reducing the required setback for an accessory structure will have no impact on public health, safety, morals and general welfare of the community.

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

Approval of the setback variance will not be a substantial deterrent to the continued agricultural and residential use of the adjacent area or the value of neighboring properties.

The owner of the property immediately abutting the relevant side lot line is in favor of the variance, suggesting that he does not anticipate any adverse effect on his agricultural operation. The variance will allow the structure to be placed beyond the reach of a neighboring irrigation pivot, potentially preventing future conflict between the residential use of this property and the agricultural use of the abutting property.

(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property.

Site topography coupled with spray from a preexisting irrigation pivot result in drainage issues which render much of the parcel unsuitable for structures.

Roll Call:
Daniel J. Caruso - Yes
Robert Hawley - Yes
John O’Brien - Yes
Joe Velleman - Yes
Sidney Shafer - Yes
Michael Urbanski - Absent
Jack Young - Yes

The Minutes of the February 12, 2020 meeting of the Area Board of Zoning Appeals are hereby incorporated by reference herein.

Adopted by the Area Board of Zoning Appeals of St. Joseph County, Indiana, on

Michael Urbanski, Chairman
Area Board of Zoning Appeals
St. Joseph County, Indiana

ATTEST:

Lawrence P. Magliogetti, Executive Director
MINUTES

Wednesday, February 12, 2020
1:30 p.m.

AREA BOARD OF ZONING APPEALS
ST. JOSEPH COUNTY, INDIANA

4th Floor, Council Chambers
County-City Building, South Bend, IN

MEMBERS PRESENT:    MEMBERS ABSENT:    ALSO PRESENT:
Dan Caruso             Michael Urbanski      Lawrence P. Magliozzi
Robert Hawley          Shawn Klein          Ryan Fellows
John O'Brien           Sidney Shafer        Samantha Keultjes
Joe Velleman           Ryan Fellows         Brandie Ecker
Jack Young             Shawn Klein          Ryan Fellows

PUBLIC HEARINGS:

1. The petition of STEVEN & DOMINIQUE FUTA AND PAUL W JR FUTA seeking the following variance(s): 1) from the minimum required side setback of 30' to 18', property located at 28725 STATE ROAD 23, Greene Township. Zoned A: Agricultural District (County).  
   (Audio Position: 2:09)

PETITIONER

STEVEN FUTA, residing at 28725 State Road 23, North Liberty, IN, presented the petition as the petitioner.

IN FAVOR

PAUL W FUTA JR, residing at 28550 State Road 23, North Liberty, IN spoke in favor of the petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Robert Hawley, being seconded by Jack Young and unanimously carried, a petition by STEVEN & DOMINIQUE FUTA AND PAUL W JR FUTA seeking the following variance: 1) from the minimum required side setback of 30' to 18' was approved as presented, and the Area Board of Zoning Appeals will issue written Findings of Fact.
2. The petition of TERRY LEE SZCZYPIORSKI & ANDREA CASTLE seeking the following variance(s): 1) from the minimum required lot area of 20 acres to 16.40 acres for proposed Lot 1; 2) from the minimum required frontage of 200' to 80.19' of frontage for proposed Lot 1; 3) from the minimum required lot area of 20 acres to 6.00 acres for proposed Outlot A and 4) from the minimum required frontage of 200' to 0' for proposed Outlot A, property located at 30560 OSBORNE RD, Liberty Township. Zoned A: Agricultural District (County). (Audio Position: 13:23)

PETITIONER

TERRY LANG of Lang Feeney & Associates, with offices located at 715 S. Michigan St., South Bend, IN spoke on behalf of the petitioner.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Jack Young, being seconded by Robert Hawley and unanimously carried, a petition by TERRY LEE SZCZYPIORSKI & ANDREA CASTLE seeking the following variances: 1) from the minimum required lot area of 20 acres to 16.40 acres for proposed Lot 1; 2) from the minimum required frontage of 200' to 80.19' of frontage for proposed Lot 1; 3) from the minimum required lot area of 20 acres to 6.00 acres for proposed Outlot A and 4) from the minimum required frontage of 200' to 0' for proposed Outlot A was approved as presented, and the Area Board of Zoning Appeals will issue written Findings of Fact.

Daniel J. Caruso - Yes
Robert Hawley - Yes
John O'Brien - Yes
Joe Velleman - Yes
Jack Young - Yes
Sidney Shafer - Yes
Michael Urbanski - Absent
Jack Young - Yes

3. The petition of RICHARD D CARR & BARBARA J CARR TRUSTEE & DONALD & JANA INGLE seeking the following variance(s): 1) from the minimum required lot area of 20 acres to 0.59 acres for proposed Lot 1; 2) from the minimum required rear setback of 30' to 10' for proposed Lot 1 and 3) from the minimum required 600' of frontage to 365.96' for proposed Lot 2, property located at 66501 & 66521 MIAMI HWY, Union Township. Zoned A: Agricultural District (County).

(Audio Position: 18:55)

PETITIONER

TERRY LANG of Lang Feeney & Associates, with offices located at 715 S. Michigan St., South Bend, IN spoke on behalf of the petitioner.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Jack Young, being seconded by Robert Hawley and unanimously carried, a petition by RICHARD D CARR & BARBARA J CARR TRUSTEE & DONALD & JANA INGLE seeking the following variances: 1) from the minimum required lot area of 20 acres to 0.59 acres for proposed Lot 1; 2) from the minimum required rear setback of 30' to 10' for proposed Lot 1 and 3) from the minimum required 600' of frontage to 365.96' for proposed Lot 2 was approved as presented, and the Area Board of Zoning Appeals will issue written Findings of Fact.

Robert Hawley - Yes
Sidney Shafer - Yes
Michael Urbanski - Absent
Jack Young - Yes
Joe Velleman - Yes
Daniel J. Caruso - Yes
John O'Brien - Yes
ITEMS NOT REQUIRING A PUBLIC HEARING


   A. Approval of the Findings of Fact from the January 8, 2020 meeting

      Upon a motion by Robert Hawley, being seconded by Jack Young and
      unanimously carried, the Findings of Fact from the January 8, 2020 meeting were
      approved.

   B. Approval of the Findings of Fact from the November 13, 2019 meeting

      Upon a motion by Jack Young, being seconded by Robert Hawley and
      unanimously carried, the Findings of Fact from the November 13, 2019 meeting
      were approved.

2. Minutes (Audio Position: 23:00)

   A. Approval of the Minutes from the January 8, 2020 meeting

      Upon a motion by Jack Young, being seconded by Robert Hawley and
      unanimously carried, the minutes from the January 8, 2020 meeting were
      approved.

   B. Approve of the Minutes from the October 9, 2019 meeting

      Upon a motion by Robert Hawley, being seconded by Jack Young and
      unanimously carried, the minutes from the October 9, 2020 meeting were
      approved.

3. Other Business (Audio Position: 23:45)

   A. Discussion and approval of new Area Board of Zoning Appeals bylaws

      Ryan Fellows announced that there would be two training sessions taking place.
      One is February 18th, after the Area Plan Commission meeting, and the other is
      after the Area Board of Zoning Appeals meeting on March 11th.

      Brandie Ecker pointed out that if four members attend the February 18th training,
      a public meeting needs to be advertized.
Larry Magliozzi explained that as a trial run, the format of the agenda has changed. He also stated that with less petitions, the staff will try to comment on each petition now to explain the recommendation.

After careful consideration, the following action was taken:

Upon a motion by Jack Young, being seconded by Robert Hawley and unanimously carried, the Area Board of Zoning Appeals bylaws were approved.

4. Adjournment at 2:06 p.m.

RESPECTFULLY SUBMITTED,

______________________________
MICHAEL URBANSKI,
CHAIRMAN OF THE BOARD

ATTEST:

______________________________
LAWRENCE P. MAGLIOZZI,
SECRETARY OF THE BOARD