



City of La Porte Board of Zoning Appeals Meeting Agenda

**Tuesday, May 9, 2023 at or after 6:00 PM
Immediately upon conclusion of Plan Commission meeting**

City Hall Council Chambers, 801 Michigan Ave.

www.cityoflaporte.com

(219) 362-8260

MEETING NOTES:

Individuals needing assistance, pursuant to the Americans with Disabilities Act, should contact the City of La Porte Office of Community Development & Planning at (219) 362-8260 by 10:00 am, Friday, preceding the meeting to make any necessary arrangements.

Regular Meeting Agenda Items

Members of the public should understand the Board of Zoning Appeals members may be unable to thoroughly review and consider materials delivered by the day of the public hearing. The order of business shall be:

- A. Applicant Presentation B. Staff Report Presentation C. Public Comment
D. Applicant Response E. Board Discussion/Action

ITEM 1. Call Meeting to Order

ITEM 2. Roll Call & Determination of Quorum

ITEM 3. Approval of Minutes: April 11, 2023 Meeting Minutes

ITEM 4. **VARIANCE OF DEVELOPMENT STANDARDS #23-06 PETITION: TO ALLOW 8 FOOT BY 19 FOOT OPEN UNENCLOSED DECK WITH ROOF IN MINIMUM FRONT YARD SETBACK AREA**

Applicant: Rasheed Ally

Property Owner: same

Location: 1406 Lincolnway

Staff Report: David Heinold

ITEM 5. **USE VARIANCE #23-09 PETITION: TO ALLOW ONE (1) FAMILY RESIDENTIAL DWELLING**

Applicant: Rasheed Ally

Property Owner: same

Location: 1406 Lincolnway

Staff Report: David Heinold

ITEM 6. **VARIANCE OF DEVELOPMENT STANDARDS #23-07 PETITION: TO SUBDIVIDE THE PARCEL TO CREATE A LOT WITH NO ROAD FRONTAGE AND TO REDUCE THE MINIMUM LOT AREA OF TWO LOTS TO LESS THAN 80,000 SQUARE FEET**

Applicant: Andrew Wert

Property Owner: Zayo Group LLC

Location: 195 Larson Street

Staff Report: David Heinold

ITEM 7. **VARIANCE OF DEVELOPMENT STANDARDS #23-08 PETITION: TO ALLOW A 30 FOOT TALL BILLBOARD WITH 189 SQUARE FEET OF ADVERTISING SPACE ON EACH SIDE**

Applicant: Industrial Development of LaPorte LLC (Dave Ambers, Attorney)

Property Owner: Industrial Development of LaPorte LLC

Location: Approximately located 0.25 mile southeast of the intersection of East Lincolnway and East Boyd Boulevard on the northeast side of East Boyd Blvd.

Staff Report: David Heinold

ITEM 8. Old Business

ITEM 9. New Business

ITEM 10. Other Business

A. Public Comments on Non-Agenda Items

ITEM 11. Adjournment

BOARD OF ZONING APPEALS

The Board of Zoning Appeals of the City of La Porte held a meeting on April 11th, 2023, at 6:00 p.m. with Chairperson Brian Kajer presiding and the following in attendance:

Vickie Gushrowski

Drew Buchanan

Approval of Minutes

Brian Kajer asked the board if they had reviewed the minutes from the March 14th, 2023, meeting and if there were corrections or additions. Drew Buchanan made the motion to approve minutes and Vickie Gushrowski 2nd the motion. Motion passed three to zero.

Item 4. VARIANCE OF DEVELOPMENT STANDARDS #23-05 PETITION: TO REDUCE THE MINIMUM SOUTH SIDE YARD SETBACK FROM 8 FEET TO 2 FEET WHERE PRECUIOUS ENCLOSED PORCH EXISTED AND TO ALLOW AN ADDITION TO THE SOUTHWEST CORNER OF THE EXISTING SINGLE-FAMILY RESIDENCE.

Dave Ambers approached and commented on how the petition the way it is worded might not be currently correct. Dave then passed out papers showing the measurements of setbacks and dimensions on the proposed build and the staff report on what was approved in the last meeting. He then explained his case and again positioned that they are still in adherence to the rules of the waterfront district.

Bill Nelson, the attorney for the demonstrators argued that because it is close enough to the same project as before that this petition should not even be heard for a year. He then talked about the last position and zoning of the property, he stated they are not opposed to them building but need to adhere to the waterfront district rules. He talked about protecting the lake views and why they shouldn't be built within the setback. Bill showed photos combatting Dave Ambers about the footprint of the home, stating the porch was not and is not part of the footprint of the home. Bill then brought up the waterfront standards and claims Dave didn't talk about any of those standards.

Dave Ambers approached to rebuttal about the layout and how they are positioning because it isn't an addition but a replacing what was existing and add a screened in porch on top that wouldn't obstruct views.

David Heinold then read the staff report.

Drew Buchanan asked why the petitioner could apply again.

The Attorney, Mark Worthley answered that the layout was different enough that he deemed that they could apply again. Vickie Gushrowski asked for clarification on what the difference is from the last petition to this one. The Attorney clarified that this request is different from the last one and explained the difference between what they approved last time to what is positioned now.

Dave Ambers and Bill Nelson argued about what is allowed to be built. Craig Phillips stepped in to clarify what is allowed. To be able to build a second story on what would be a replacement for what existed they would need to have an appropriate foundation. With the previous build they would not have the correct foundation for a second story and as it sits now, they are only approved to rebuild exactly what they had before.

Drew Buchanan motioned to deny the Variance of Development Standards Petition #23-05 and Vickie Gushrowski 2nd the motion. The motion to deny Variance of Development Standards Petition #23-05 passed 3 to 0.

Old Business

Brian Kajer asked if there was any old business. There was not any old business.

New Business

Brian Kajer asked if there was any new business. There was not any new business.

Other Business

Brian Kajer asked if there was any other business. There was not any other business.

Adjournment

Vickie Gushrowski made a motion to adjourn the meeting Drew Buchanan 2nd the motion. Motion passed 3 to 0.

Respectfully Submitted,
Brian Kajer, Vice Chairperson

Nickolas Owens, Secretary



ITEM 4. Variance of Development Standards # 23-06 Petition
 to allow 8 foot by 19 foot open unenclosed deck with roof in the
 minimum front yard setback area

Type of Request: Variance of Development Standards

Staff Report: David Heinold

APPLICANT

Name – Rasheed Ally

PROPERTY OWNER

Name – Rasheed & Savitri Ally

PREMISES AFFECTED

Parcel Number - 46-06-35-457-004.000-043				
Actual/approximate address or location from major streets – 1406 Lincolnway				
Total Acreage – 0.15 acre		Flood Zone on Site? - No		
Zoning of Subject Property – B2		Use of Subject Property – Residential Dwelling		
Zoning of Adjacent Properties	North: B2	South: R1C	East: B2	West: B2
Land Use of Adjacent Properties	North: Commercial/ Retail	South: Single Family Residential Dwelling	East: Commercial/ Retail	West: Single Family Residential Dwelling

SUMMARY: The petitioner proposes to construct an 8 foot by 19 foot open unenclosed deck with roof structure within the minimum front yard setback area.

HISTORY OF SITE: Per the site aerial image, the parcel is 0.15 acre and is currently zoned B2 (General Commercial District). Historically, the property has been a residential dwelling. Currently, the subject property is a residential dwelling. The petitioner proposes to construct an 8 foot by 19 foot open unenclosed deck with roof structure within the minimum front yard setback area.

DESCRIPTION OF PROPOSED VARIANCE OF DEVELOPMENT STANDARDS:

The petitioner is requesting a variance of development standards to allow the 8 foot by 19 foot open unenclosed deck with roof structure in the minimum front yard setback area. The approval of the requested variance of development standards would extend the front of the existing building 8 feet to the northwest towards the front property boundary.

STATEMENT OF COMPLIANCE: The 2017 City of La Porte Revised Joint Zoning Ordinance, Section 7.04 requires a minimum 25 foot front yard setback for new additions to the existing building in the B2 General Commercial District. Section 15.05 allows permitted building projections into required yards for decks, unroofed porches and stoops 10 feet into the required front yard setback area. The applicant shall comply with the minimum 25 foot front yard setback area for new additions on the front of the existing building because of the roof structure.

SITE REVIEW FINDINGS: Site review was not required for the requested variance.

DECISION CRITERIA:

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

The approval of the requested variance of development standards to allow projection of the proposed 8 foot by 19 foot open unenclosed deck with a roof structure will not be injurious to the public health, safety, morals, and general welfare of the community. The proposed 8 foot building addition the front of the existing building to construct the 8 foot by 19 foot open unenclosed deck with roof structure will not negatively impact surrounding properties in the B2 General Commercial District. The proposed building addition to allow the 8 foot by 19 foot open unenclosed deck with a roof structure will provide positive benefits to enhanced public safety and general welfare of the community.

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

The use and value of the area adjacent to the property will not be affected in a substantially adverse manner with the proposed construction of an 8 foot by 19 foot open unenclosed deck with roof structure. The surrounding properties have similar open unenclosed deck additions on the front of the existing residential single family dwellings along the Lincolnway street frontage. The petitioner's request to allow the 8 foot by 19 foot open unenclosed deck with a roof structure is compatible with the adjacent residential properties and conforms to the general character in the immediate vicinity with comparable open unenclosed decks with roof structures.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

The strict application of the terms of the zoning ordinance with the 25-foot minimum front yard building setback will result in practical difficulties in the use of the property. The 25 foot front yard building setback would otherwise make development of the narrow parcel difficult to achieve with the additional site development requirements for landscaping, parking, impervious surface, and stormwater regulations. The existing residential house is set back 20 feet from the front property line, which limits the petitioner's ability to add any building additions with a covered roof structure. The strict application of the zoning ordinance to allow a permitted building projections into required yards for decks, unroofed porches and stoops 10 feet into the required front yard setback area would result in practical difficulties in the petitioner's ability to improve the front of the existing residential single family dwelling and provide the minimum amount of open space required in the B2 General Commercial District.

STAFF RECOMMENDATION:

Staff finds that the requested variance of development standards petition is the minimum necessary to develop the subject property according to the 2017 City of La Porte Revised Joint Zoning Ordinance. Staff recommends **approval** of the petitioner's request to allow the 8 foot by 19 foot open unenclosed deck with roof structure within the minimum front yard setback area.

Submitted to the Board of Zoning Appeals May 4th, 2023.

Petition #23-06



City of La Porte Board of Zoning Appeals Location Map

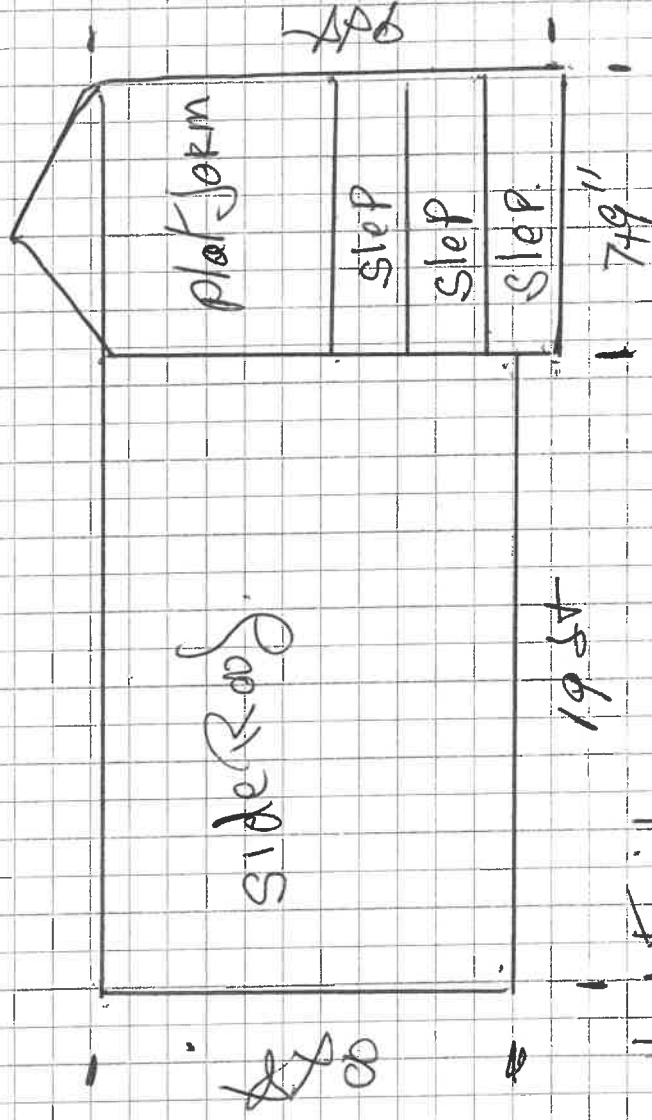
-  Subject Property
-  City Limits



Date Created: April 24, 2023 Created By: David Heimold
Document Path: \\City Planning\GIS\Map Documents\Board of Zoning Appeals\2023\BZAP_23-06
Map Disclaimer: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

Propose for shed in front of step and house

1406 Lincoln Way
H6350



all material

- ① 2x4 double
- ② 5/8 ply wood for roof
- ③ Single Rafter
- ④ gutter and leader
- ⑤ Floor Concrete Slab.

Attachment D: Standards for Evaluating a Variance

Use the following form or attach a separate sheet (s) to explain the Variance request. The BZA's decision shall be based upon how each of the following statutory requirements is justified in the request. Attach additional sheets if necessary.

Project Name:

Petition Information

Describe the proposed use of the property (type of use, hours of operation, access, necessary construction, employees, etc.)

Deck with roof open unenclosed
8FT x 19 FT

Standards for Evaluation

1. The variance will not be injurious to the public health, safety, morals, and general welfare of the community because.....

Make the house look beautiful

2. The use or value of the area to the property included in the variance will not be affected in a substantially adverse manner because.....

No impact to the neighbor or the public

3. The strict application of the terms of the Ordinance will continue the unusual and unnecessary hardship as applied to the property for which the variance is sought because...

I believe this deck would bring value to my house.
Also this would improved the look of my house



Board of Zoning Appeals Application VARIANCE OF DEVELOPMENT STANDARDS

City Planner
David Heinold, AICP
dheinold@cityoflaportein.gov
www.cityoflaporte.com

City Hall
801 Michigan Ave.
La Porte, IN 46350
(219) 362-8260

For Office Use Only	
Fee: 80 ⁰⁰	Receipt: 479
File Date: 4/6/2023	File #: 2023-VAR-06
Site Review: N/A	
Date of BZA mtg: 5/9/2023	
Decision:	

This application is being submitted for a Variance of Development Standards

Applicant

Name <u>Rasheed Ally</u>	
Street Address <u>1406 Lincoln way</u>	
City, State, Zip <u>La Porte IN 46350</u>	
Primary Contact regarding this petition	
Phone <u>917-921 6016</u>	Email <u>NYBE Home LLC@aol.com</u>
Engineer Preparing Plans	Email
Others to be Notified	Email
Applicant is (check one): <input type="checkbox"/> Sole Owner <input type="checkbox"/> Joint Owner <input type="checkbox"/> Tenant <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	

Property Owner (if different than above)

Name <u>Rasheed Ally</u>	
Street Address <u>1305 Carriage Ct</u>	Phone <u>917-921-6016</u>
City, State, Zip <u>La Porte IN 46350</u>	Email

Premises Affected

Parcel ID Number <u>46-06-35-457-004-000-043</u>				
Address or General Location <u>1406 Lincoln way, LaPort IN 46350</u>				
Total Acreage <u>.15 ac</u>	Flood Zone? <u>No</u>			
Zoning <u>B2 \$</u>	Land Use <u>1. family, Resendital</u>			
Request <u>To allow 8ft x 19ft open unenclosed deck with roof.</u>				
Zoning of Adjacent Properties	North: <u>B2</u>	South: <u>B2</u>	East: <u>B2</u>	West: <u>B2</u>
Land Use of Adjacent Properties	North: <u>B2</u>	South: <u>B2</u>	East: <u>B2</u>	West: <u>B2</u>
	<u>Com.</u>	<u>Resendital</u>	<u>Com.</u>	<u>Resendital</u>

The above information and attached exhibits to my knowledge and belief, are true and correct.

Rasheed Ally
Signature of Applicant

Jennifer Barker
Signature of Notary
Notary Public's Name (printed)
Subscribed and sworn to before me this 6th day of 02





ITEM 5. Use Variance # 23-09 Petition to allow One (1) Family Residential Dwelling
Type of Request: Use Variance
Staff Report: David Heinold

APPLICANT

Name – Rasheed Ally

PROPERTY OWNER

Name – Rasheed & Savitri Ally

PREMISES AFFECTED

Parcel Number - 46-06-35-457-004.000-043				
Actual/approximate address or location from major streets – 1406 Lincolnway				
Total Acreage – 0.15 acre		Flood Zone on Site? - No		
Zoning of Subject Property – B2		Use of Subject Property – Residential Dwelling		
Zoning of Adjacent Properties	North: B2	South: R1C	East: B2	West: B2
Land Use of Adjacent Properties	North: Commercial/ Retail	South: Single Family Residential Dwelling	East: Commercial/ Retail	West: Single Family Residential Dwelling

SUMMARY: The petitioner proposes to allow a one family residential dwelling in the B2 General Commercial District.

HISTORY OF SITE: Per the site aerial image, the parcel is 0.15 acre and is currently zoned B2 (General Commercial District). Historically, the property has been a non-conforming residential dwelling in the B2 General Commercial District. The existing building has been vacant for over one year. The petitioner proposes to re-establish the proposed use of the subject property as a one family residential dwelling.

DESCRIPTION OF PROPOSED USE VARIANCE:

The petitioner is requesting a use variance to allow a one family residential dwelling.

STATEMENT OF COMPLIANCE: Article 7 shall be met for the proposed convenience store with gasoline sales. Article 16 shall be met for accessory buildings, structures, and uses except for the 8 foot by 19 foot open unenclosed deck with a roof structure on the front of the existing building. Article 17 shall be met for the proposed site development plan.

SITE REVIEW FINDINGS: Site review was not required due to the nature of the request.

DECISION CRITERIA:

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

The approval of the use variance to re-establish the use of the subject property as a one family residential dwelling will not be injurious to the public health, safety, morals, and general welfare of the community. The proposed use as a one family residential dwelling is comparable with uses on surrounding properties in the immediate vicinity.

(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;

The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner with the approval of the requested variance to re-establish the one family residential dwelling because there are other similar uses on adjacent properties. The majority of the adjacent land uses are residential dwellings with a mix of multi-family residential dwellings along Jefferson Avenue and commercial retail businesses along Lincolnway.

(3) The need for the variance arises from some condition peculiar to the property involved;

The need for the variance arises from a condition peculiar to the property involved because it has originally existed as residential dwelling that became vacant for more than one year. The approval of the requested variance would allow the petitioner to use the property for the original intended use to be a one family residential dwelling.

(4) The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.

The strict application of the terms of the zoning ordinance to prohibit a one family residential dwelling will constitute an unnecessary hardship because it would be difficult for the property to be developed as commercial retail business due to the site development requirements on a small lot. The existing building on the subject property was developed as residential dwelling.

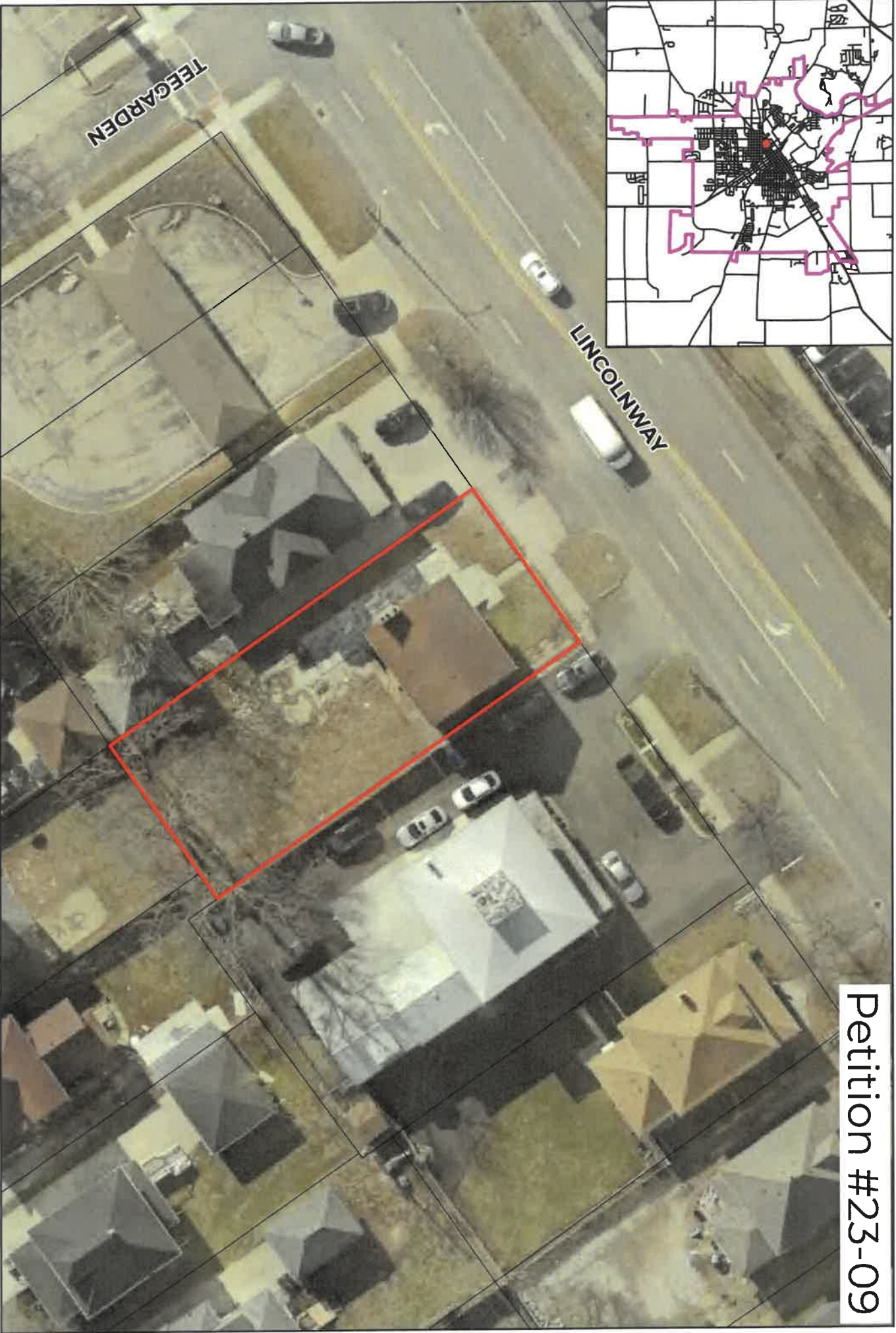
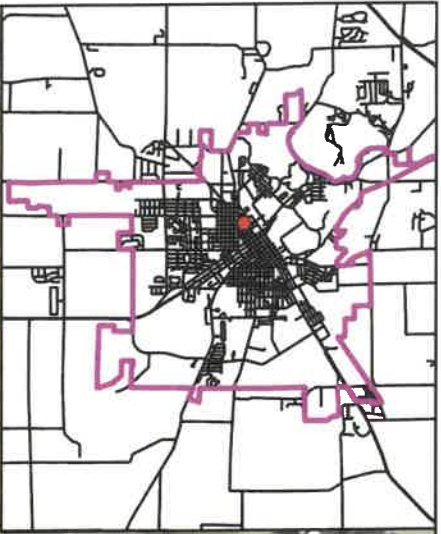
(5) The approval does not interfere substantially with the Comprehensive Land Development Plan.

The approval of the variance to allow a one family residential dwelling in the B2 General Commercial District does not interfere substantially with the Comprehensive Land Development Plan. The Comprehensive Development Plan encourages full use of land in established communities and to eliminate unintended regulatory impediments to residential infill development that is consistent with the established neighborhood patterns and character. The surrounding properties in the immediate vicinity are mostly single family residential dwellings.

STAFF RECOMMENDATION:

Staff finds that the requested use variance to allow a one family residential dwelling is compatible with the neighborhood character. Staff recommends **approval** of the petitioner's request to allow a use variance for the one family residential dwelling.

Submitted to the Board of Zoning Appeals May 4th, 2023.



Petition #23-09

LINCOLNWAY

TEEGARDEN

 Subject Property
 City Limits

0 12.5 25 50
Feet



City of La Porte

Board of Zoning Appeals

Location Map

Date Created: May 2, 2023
Created By: David Helmold
Document Path: K:\City Planner\GIS\Map Requests\Board of Zoning Appeals\2023\MAR_23\09
Map Disclaimer: This product is for informational purposes only and may not have been prepared for, or used in, any other application. It is provided "as is" without warranty of any kind, either expressed or implied, including, but not limited to, the accuracy, reliability, or completeness of the information. The user should consult the primary data and information sources to ascertain the usability of the information.

Attachment D: Standards for Evaluating a Use Variance

Use the following form or attach a separate sheet(s) to explain the Use Variance request. The BZA's decision shall be based upon how each of the following statutory requirements is justified in the request.

Petition Information

Describe the proposed use of the property (type of use, hours of operation, access, necessary construction, employees, etc.):

1 family Residential home.

Standards for Evaluation

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

Residential use

2. The use and value of the area adjacent to the property included in the Use Variance will not be affected in a substantially adverse manner because....

It would not impact the use of my neighbors.

3. The need for the Use Variance arises from some condition peculiar to the property involved, and is more clearly described as....

changing from 5 family to a 1 family

4. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought, and is more clearly described as....

because both neighbors are Residential

5. The approval does not interfere substantially with the Comprehensive Plan because...

I feel the neighborhood is both mix use.



Board of Zoning Appeals Application USE VARIANCE

City Planner
David Heinold, AICP
dheinold@cityoflaporte.in.gov
www.cityoflaporte.com

City Hall
801 Michigan Ave.
La Porte, IN 46350
(219) 362-8260

For Office Use Only	
Fee: 80 ⁰⁰	Receipt: 482
File Date: 4/18/2023	File #: 2023-VAR-09
Site Review:	—
Date of BZA mtg:	5/9/2023
Decision:	—

This application is being submitted for a Use Variance

Applicant

Name <u>Rasheed Ally</u>	
Street Address <u>1406 Lincolnway</u>	
City, State, Zip <u>La Porte IN 46350</u>	
Primary Contact regarding this petition	
Phone <u>917-921-6016</u>	Email <u>NYBE Homes LLC@aol.com</u>
Engineer Preparing Plans	Email
Others to be Notified	Email
Applicant is (check one): <input type="checkbox"/> Sole Owner <input type="checkbox"/> Joint Owner <input type="checkbox"/> Tenant <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	

Property Owner (if different than above)

Name <u>Rasheed Ally</u>	
Street Address <u>1305 Carriage CT</u>	Phone <u>917-921-6016</u>
City, State, Zip <u>La Porte IN 46350</u>	Email

Premises Affected

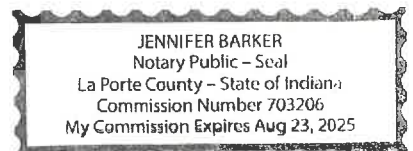
Parcel ID Number <u>46-06-35-457-004-000-043</u>				
Address or General Location <u>1406 Lincolnway, La Porte IN 46350</u>				
Total Acreage <u>.15 ac</u>	Flood Zone? <u>NO</u>			
Zoning <u>B2</u>	Land Use <u>1. Family Residential</u>			
Request <u>To turn the building into a 1 Family</u>				
Zoning of Adjacent Properties	North: <u>com 82</u>	South: <u>B2</u>	East: <u>B2</u>	West: <u>B2</u>
Land Use of Adjacent Properties	North:	South:	East:	West:

The above information and attached exhibits, to my knowledge and belief, are true and correct.

[Signature]
Signature of Applicant

[Signature]
Signature of Notary
Jennifer Barker
Notary Public's Name (printed)

Subscribed and sworn to before me this 27 day of 23





ITEM 6. Variance of Development Standards # 23-07 Petition to Subdivide the Parcel to Create a Lot with No Road Frontage and to Reduce the Minimum Lot Area of Two Lots to Less Than 80,000 Square Feet
Type of Request: Variance of Development Standards
Staff Report: David Heinold

APPLICANT

Name – Andrew Wert

PROPERTY OWNER

Name – Zayo Group LLC

PREMISES AFFECTED

Parcel Number - 46-06-25-454-001.000-043				
Actual/approximate address or location from major streets – 195 Larson Street				
Total Acreage – 65,000 square feet		Flood Zone on Site? - No		
Zoning of Subject Property – M2		Use of Subject Property – Two Industrial Buildings		
Zoning of Adjacent Properties	North: R1D	South: M2	East: M2	West: R1D
Land Use of Adjacent Properties	North: Residential	South: Industrial	East: Industrial	West: Residential

SUMMARY: The petitioner proposes to allow a reduction in the minimum lot area of two (2) lots less than 80,000 square feet and allow a lot with no road frontage. The petitioner included a 15 foot wide easement on the attached plat drawing that will be used for mutual access and public utilities to the two lots described in the requested variance.

HISTORY OF SITE: Per the site aerial image, the subject property is shown to be located at 195 Larson Street and is currently zoned M2 (Heavy Industrial District). Historically, the property has been used for industrial purposes. The subject property contains about 65,000 square feet, which is considered a nonconforming lot according to the zoning ordinance.

DESCRIPTION OF PROPOSED VARIANCE OF DEVELOPMENT STANDARDS:

The petitioner is requesting a variance of development standards to allow a reduction in the minimum lot area of two (2) lots less than 80,000 square feet and allow a lot with no road frontage.

STATEMENT OF COMPLIANCE: The provisions listed in Article 9 shall be met for the subject property except for Table 9.03 (c) and Section 9.03 (c) as it pertains to the requested variance of development standards.

SITE REVIEW FINDINGS: Site review was not required for the proposed use due to the nature of the proposed variance of development standards petition on the subject property.

DECISION CRITERIA:

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

The approval of the requested variance of development standards to allow a reduction in the minimum lot area of two (2) lots less than 80,000 square feet and allow a lot with no road frontage will not be injurious to the public health, safety, morals, and general welfare of the community. The written narrative describes that there will not be any future development on the subject property with the existing industrial buildings.

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

The use and value of the area adjacent to the property will not be affected in a substantially adverse manner with the proposed reduction in the minimum lot area of two (2) lots less than 80,000 square feet and creating a lot with no road frontage. The subdivision of the current nonconforming, 65,000 square foot lot, into two (2) smaller lots will not significantly impact the use and value of the area adjacent to the subject property requesting approval of the variance of development standards.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

The strict application of the terms of the zoning ordinance with the minimum lot area requirement of 80,000 square feet on a nonconforming lot will result in practical difficulties with regard to the property owner's current use of the subject property with two existing separate buildings on a 65,000 square foot lot.

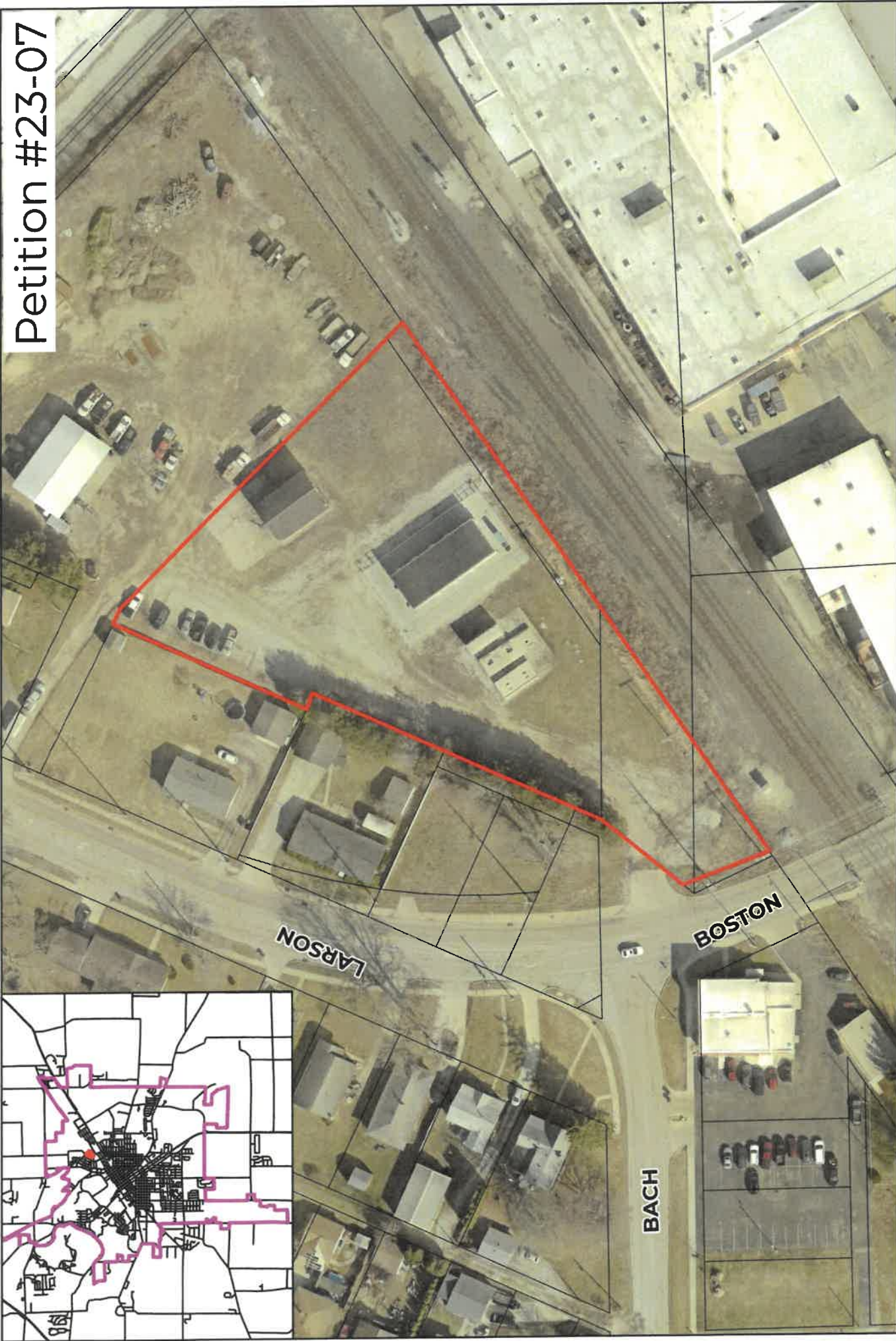
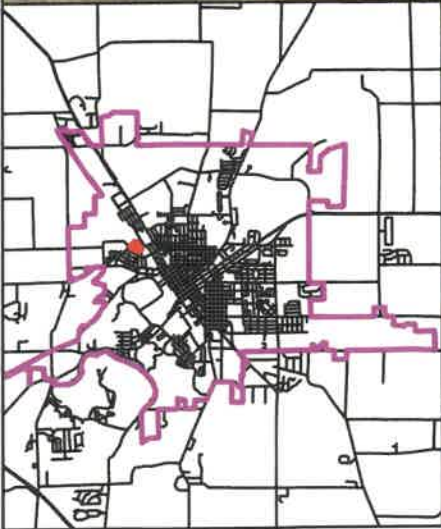
STAFF RECOMMENDATION:

Staff finds that the requested variance of development standards petition meets the standards set forth in the 2017 City of La Porte Revised Joint Zoning Ordinance. Staff recommends **approval** of the petitioner's request to allow reduction in the minimum lot area of two (2) lots less than 80,000 square feet and allow a lot with no road frontage with the following condition:

- 1.) That a fifteen (15) foot mutual access easement shall be recorded on the final plat for ingress/egress and public utilities for both lots.

Submitted to the Board of Zoning Appeals May 4th, 2023.

Petition #23-07



City of La Porte
Board of Zoning Appeals
Location Map

 Subject Property
 City Limits

0 25 50 100 Feet



Date Created: April 21, 2023
Created By: David Heinoide
Document Path: \\CityPlanner\GIS\Map Requests\Board of Zoning Appeals\023\VAR_23-07
This map is for informational purposes only and is not intended to be used for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

Project Summary

Zayo Subdivision, development standards variance petition

195 Larson Street

Zayo Group is a provider of communications infrastructure services. They occupy the main building at 195 Larson Street. Also on this property is a smaller building to the north. The owner desires to create a subdivision plat that will allow the smaller building and surrounding property to be split off and sold to another party.

This split will leave the new lot with no frontage on public road as required by the M2 zone district. A development standards variance is being sought to reduce this standard. An access easement is being proposed as part of the plat to facilitate legal access to the new lot. A variance is also being sought to reduce the minimum lot area from 80,000 square feet to 49,166 square feet and 21,822 square feet respectively. No new construction is being proposed. The site is currently served with City water and sewer.

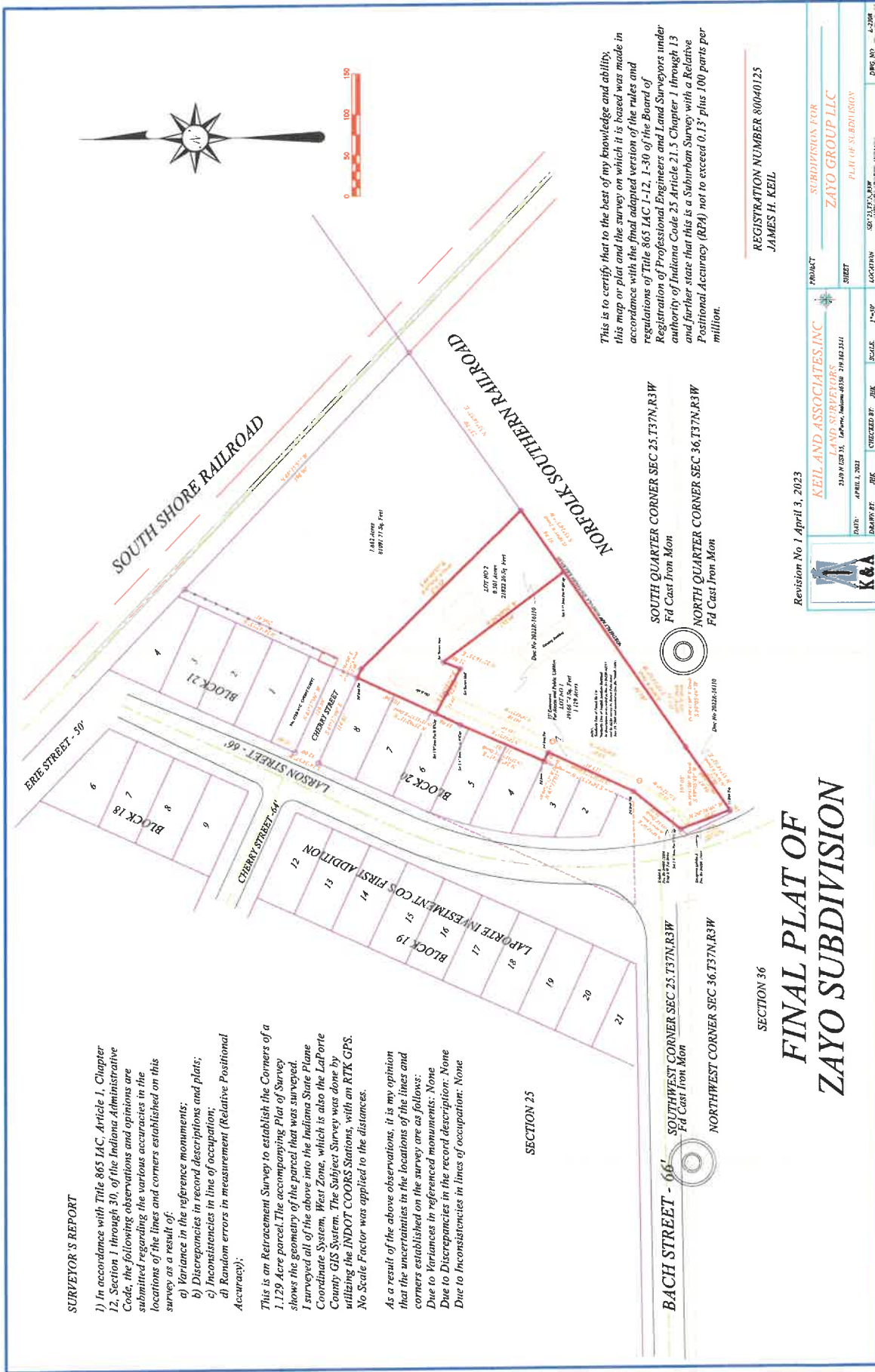
SURVEYOR'S REPORT

1) In accordance with Title 865 IAC, Article 1, Chapter 12, Section 1 through 30, of the Indiana Administrative Code, the following observations and opinions are submitted regarding the various accuracies in the locations of the lines and corners established on this survey as a result of:

- a) Variance in the reference monuments;
- b) Discrepancies in record descriptions and plats;
- c) Inconsistencies in line of occupation;
- d) Random errors in measurement (Relative Positional Accuracy);

This is an Retracement Survey to establish the Corners of a 1.129 Acre parcel. The accompanying Plat of Survey shows the geometry of the parcel that was surveyed. I surveyed all of the above into the Indiana State Plane Coordinate System, West Zone, which is also the LaPorte County GIS System. The Subject Survey was done by utilizing the INDOT COORS Stations, with an RTK GPS. No Scale Factor was applied to the distances.

As a result of the above observations, it is my opinion that the uncertainties in the locations of the lines and corners established on the survey are as follows:
 Due to Variances in referenced monuments: None
 Due to Inconsistencies in lines of occupation: None



This is to certify that to the best of my knowledge and ability, this map or plat and the survey on which it is based was made in accordance with the final adapted version of the rules and regulations of Title 865 IAC 1-12, 1-30 of the Board of Registration of Professional Engineers and Land Surveyors under authority of Indiana Code 25 Article 21.5 Chapter 1 through 13 and further state that this is a Suburban Survey with a Relative Positional Accuracy (RPA) not to exceed 0.13' plus 100 parts per million.

SOUTH QUARTER CORNER SEC 25.T37N.R31W
 Fd Cast Iron Mon
 NORTH QUARTER CORNER SEC 36.T37N.R31W
 Fd Cast Iron Mon

BACH STREET - 66'
 SOUTHWEST CORNER SEC 25.T37N.R31W
 Fd Cast Iron Mon
 NORTHWEST CORNER SEC 36.T37N.R31W

SECTION 36

**FINAL PLAT OF
 ZAYO SUBDIVISION**

Revision No 1 April 3, 2023

		PROJECT KEIL AND ASSOCIATES, INC. 3139 N US 74, LaPorte, Indiana 46340 519.82.1411	SUBDIVISION FOR ZAYO GROUP LLC	REGISTRATION NUMBER 80040125 JAMES H. KEIL
DATE: APRIL 3, 2023	DRAWN BY: JEC	CHECKED BY: JJK	SCALE: 1"=10'	SHEET: PLAT OF SUBDIVISION
LOCATION: SEC 25, T37N, R31W, NE 1/4, NW 1/4		DRAWING NO.: 2-2308 CADD FILE: 8-2314		

Attachment D: Standards for Evaluating a Variance

Use the following form or attach a separate sheet (s) to explain the Variance request. The BZA's decision shall be based upon how each of the following statutory requirements is justified in the request. Attach additional sheets if necessary.

Project Name: Zayo Subdivision

Petition Information

Describe the proposed use of the property (type of use, hours of operation, access, necessary construction, employees, etc.)

Zayo Group is a provider of communication infrastructure services. They occupy the main building located at 195 Larson Street. Also on this property is a smaller building to the north. The owners desire to create a subdivision plat that will allow the smaller building and surrounding property to be split off and sold to another party. This will leave the new lot with no frontage on a public road as is required in the M2 zone district. An access easement is being proposed to facilitate legal access to the property. No new construction is proposed.

Standards for Evaluation

1. The variance will not be injurious to the public health, safety, morals, and general welfare of the community because..... safe access to the property will be provided via an access easement. No new construction is being proposed.

2. The use or value of the area to the property included in the variance will not be affected in a substantially adverse manner because..... the proposed use of the current building to the north is personal storage. No new construction is being proposed.

3. The strict application of the terms of the Ordinance will continue the unusual and unnecessary hardship as applied to the property for which the variance is sought because... there are no physical changes being proposed for the property. The proposed plat will allow for economic efficiencies with no ill effect to the general public.



Board of Zoning Appeals Application

VARIANCE OF DEVELOPMENT STANDARDS

City Planner
 David Heinold, AICP
dheinold@cityoflaportein.gov
www.cityoflaporte.com

City Hall
 801 Michigan Ave.
 La Porte, IN 46350
 (219) 362-8260

For Office Use Only	
Fee: <u>80⁰⁰</u>	Receipt: <u>Openion Payment</u>
File Date: <u>4/18/2023</u>	File #: <u>2023-VAR-07</u>
Site Review: _____	
Date of BZA mtg: <u>5/9/2023</u>	
Decision: _____	

This application is being submitted for a Variance of Development Standards

Applicant

Name Zayo Group LLC	
Street Address 195 Larson Street	
City, State, Zip LaPorte, IN 46350	
Primary Contact regarding this petition Andrew Wert	
Phone 317.776.5262	Email awert@cchalaw.com
Engineer Preparing Plans James H. Keil, PS	Email jim@keilandassoc.com
Others to be Notified	Email
Applicant is (check one): <input checked="" type="checkbox"/> Sole Owner <input type="checkbox"/> Joint Owner <input type="checkbox"/> Tenant <input type="checkbox"/> Agent <input type="checkbox"/> Other _____	

Property Owner (if different than above)

Name Zayo Group LLC	
Street Address 1401 Wynkoop St Ste 500	Phone 720.797.5923
City, State, Zip Denver, CO 80202	Email brittany.mcnamara@zayo.com

Premises Affected

Parcel ID Number 46-06-25-454-001.000-043				
Address or General Location 195 Larson Street, LaPorte, IN 46350				
Total Acreage 1.63	Flood Zone? X			
Zoning M2	Land Use Industrial			
Request reduction of minimum lot width standard, LaPorte Zoning Ordinance Sec. 9.03				
Zoning of Adjacent Properties	North: M2	South: M2	East: M2	West: R1D
Land Use of Adjacent Properties	North: industrial	South: industrial	East: industrial	West: residential

The above information and attached exhibits, to my knowledge and belief, are true and correct.

 Signature of Applicant

 Signature of Notary

 Notary Public's Name (printed)

Subscribed and sworn to before me this _____ day of 20____



ITEM 7. Variance of Development Standards # 23-08 Petition to Allow a 30 Foot Tall Billboard with 189 Square Feet of Advertising Space on Each Side

Type of Request: Variance of Development Standards

Staff Report: David Heinold

APPLICANT

Name – Industrial Development of LaPorte LLC (Dave Ambers, Attorney Representative)

PROPERTY OWNER

Name – Industrial Development of LaPorte LLC

PREMISES AFFECTED

Parcel Number - 46-07-31-100-032.000-053				
Actual/approximate address or location from major streets – 0.25 mile southeast of East Boyd Boulevard & East Lincolnway intersection				
Total Acreage – 12.5 acres		Flood Zone on Site? - No		
Zoning of Subject Property – M2		Use of Subject Property – Vacant		
Zoning of Adjacent Properties	North: B2	South: M2	East: B2	West: M2
Land Use of Adjacent Properties	North: Commercial	South: Industrial	East: Vacant	West: Industrial

SUMMARY: The petitioner proposes to allow a 30 foot tall billboard sign with 189 square feet of advertising space on each side.

HISTORY OF SITE: Per the site aerial image, the proposed billboard sign is shown to be located in the northwest part of the 12.5 acre parcel and is currently zoned M2 (Heavy Industrial District). Historically, the property has been used for agricultural purposes. The property was recently sold by the City of La Porte Redevelopment Commission to Industrial Development of LaPorte, LLC for future industrial development on the 12.5 acre parcel.

DESCRIPTION OF PROPOSED VARIANCE OF DEVELOPMENT STANDARDS:

The petitioner is requesting a variance of development standards to allow a 30 foot tall billboard sign with 189 square feet of advertising space on each side.

STATEMENT OF COMPLIANCE: Article 19 shall be met for the proposed billboard sign. Section 19.04 (b) (3) states that new billboard signs are not permitted on sites within the City of La Porte boundary.

SITE REVIEW FINDINGS: Site review was not required for the proposed use due to the nature of the proposed variance of development standards petition on the subject property.

DECISION CRITERIA:

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

The approval of the requested variance of development standards to allow a new 30 foot tall, 189 square foot two-side billboard would not be injurious to the public health, safety, and general welfare of the community because there is a similar billboard sign that was permitted in 2020 about 3,000 feet to the southeast of the subject property located along East Boyd Boulevard. The petitioner's requested total sign area, 189 square feet, will maintain and enhance the physical appearance of the community by encouraging signs of consistent size which are compatible with and complementary to related buildings and uses, and harmonious with their surroundings.

There are existing large manufacturing businesses, retail commercial buildings, and fast-food restaurants in the surrounding area with a mix of different signage. The intent of this objective is accomplished by establishing the minimum amount of regulations concerning the size, placement, construction, illumination, and other aspects of signs within the City of La Porte in order to protect the public health, safety, and general welfare of the community. The proposed billboard sign meets all of the requirements listed under Section 19.04 of the 2017 City of La Porte Revised Joint Zoning Ordinance.

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

The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the surrounding area consists of manufacturing and other business-related uses. In addition, the proposed billboard sign is located along a roadway classified as a Minor Arterial on property zoned M2 Heavy Industrial District. The surrounding area consists of manufacturing, other commercial business-related uses, and an existing billboard sign on Boyd Boulevard just over a half mile from the subject property.

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

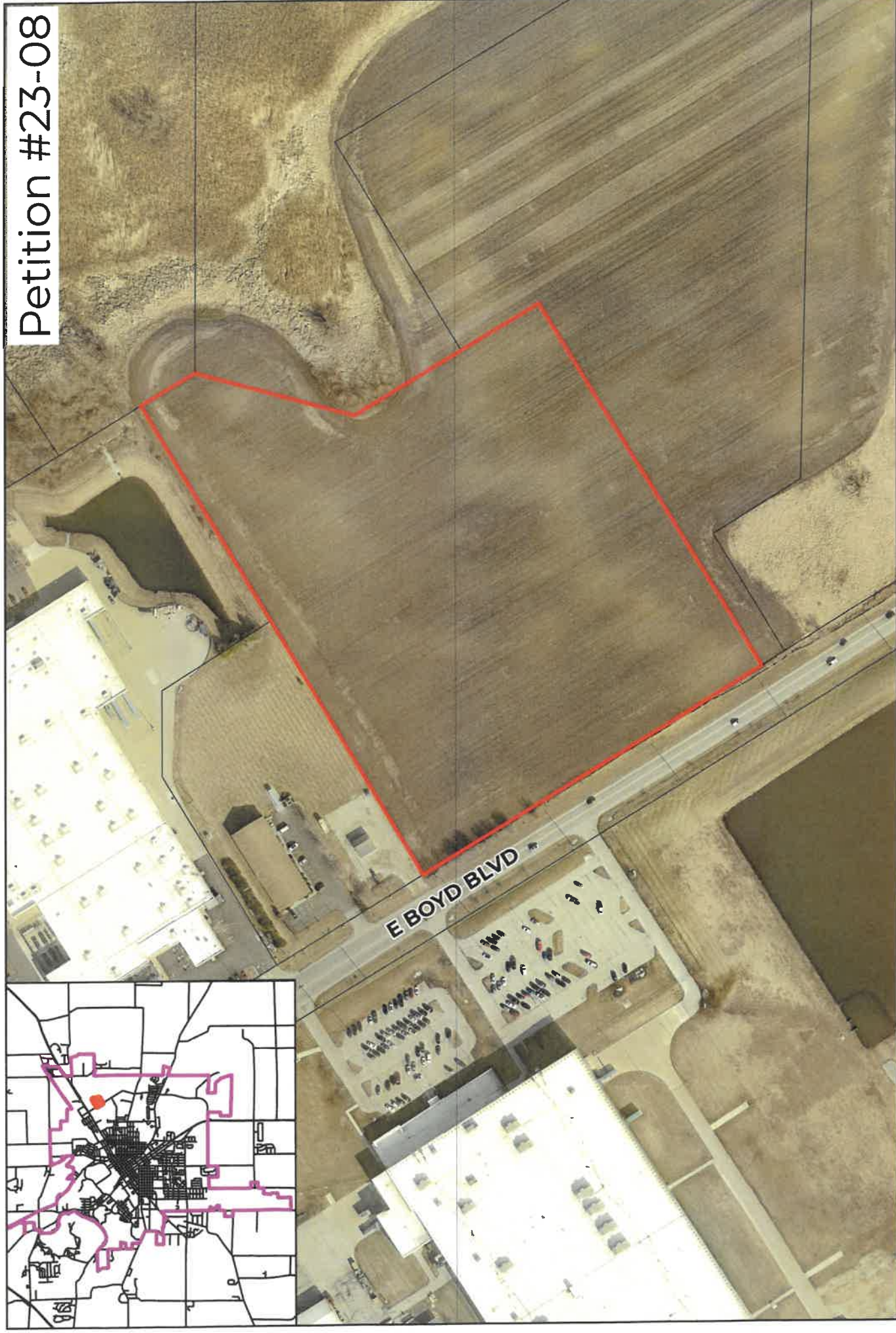
The petitioner states that the subject property was sold to them by the City of La Porte Redevelopment Commission for industrial development and appropriate signage is necessary. First, the Board of Zoning Appeals should consider that the City of La Porte amended Article 19 Signs on April 5, 2021 to prohibit the construction of new billboard signs on sites within the city limits where billboard signs were previously permitted by-right. Prior to this zoning ordinance amendment in 2021, the City permitted a 10'x8' billboard sign about 3,000 feet southeast on Boyd Boulevard of the subject property location for the proposed 189 square foot billboard sign. The proposed billboard sign in this location meets the minimum spacing requirements identified in Section 19.04 d. 1. that states a billboard shall maintain at least 1,320 feet measured along the same road in both directions from any other existing billboard. The strict application of the terms of the zoning ordinance to not allow new billboards in city limits will result in practical difficulties with regard to the petitioner's request for appropriate signage on the subject property.

STAFF RECOMMENDATION:

Staff finds that the requested variance of development standards petition meets the standards set forth in the 2017 City of La Porte Revised Joint Zoning Ordinance. Staff recommends **approval** of the petitioner's request to allow a 30 foot tall billboard sign with 189 square feet of advertising space on each side.

Submitted to the Board of Zoning Appeals May 8th, 2023.

Petition #23-08



City of La Porte
Board of Zoning Appeals
Location Map

 Subject Property
 City Limits



Date Created: April 24, 2023 Created By: David Heinold
Disclaimer: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.



Overview

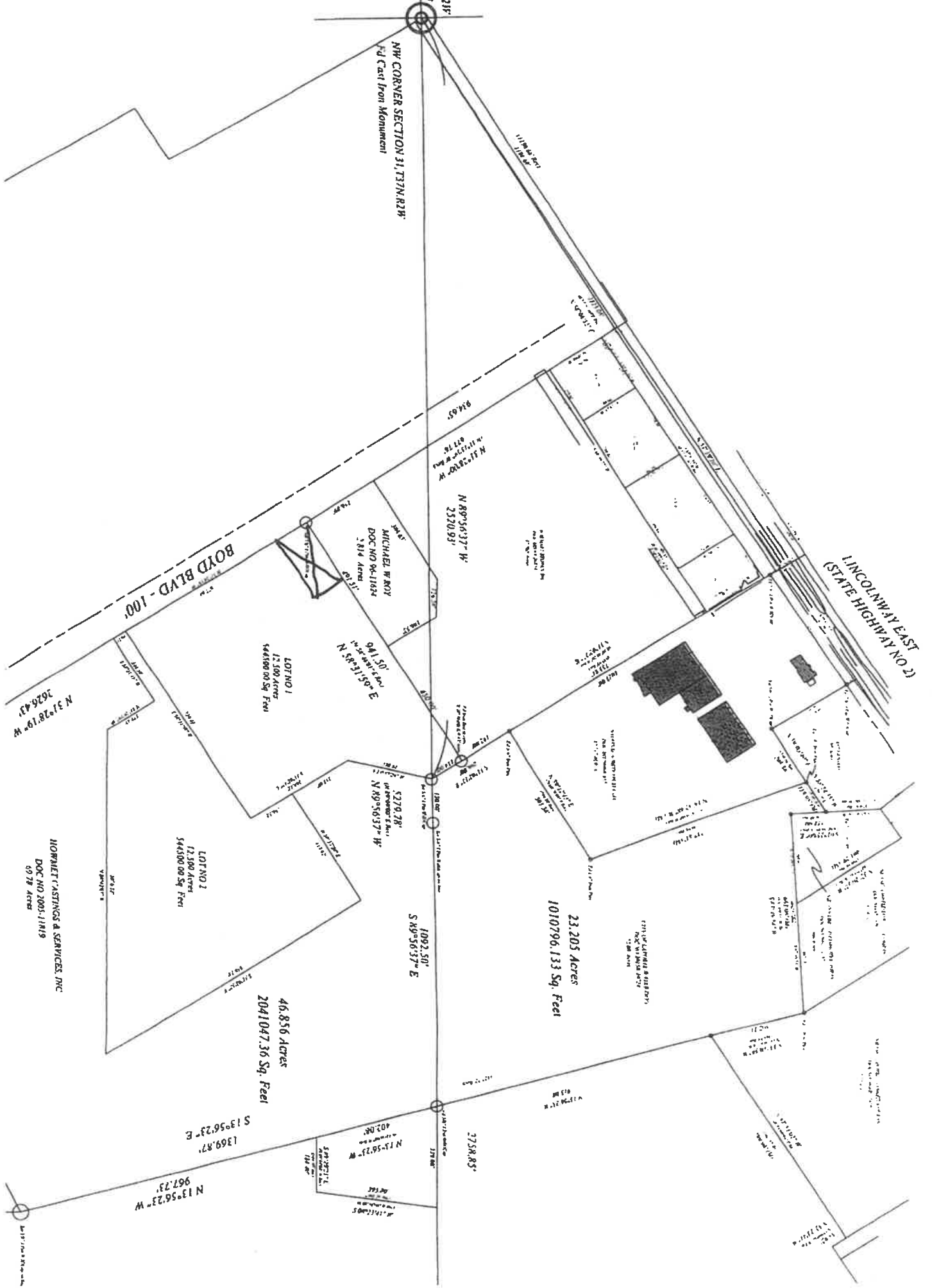


Legend

- Road Centerlines
- Geographic Townships
- Parcels
- Zoning Labels

Date created: 4/18/2023
Last Data Uploaded: 4/18/2023 6:50:12 AM

Developed by  Schneider
GEOSPATIAL



NW CORNER SECTION 31, T37N, R21W
Full Cor from Monument

BOYD BLVD - 100'

LINCOLNWAY EAST
STATE HIGHWAY NO 2

MICHAEL W ROY
DOC NO 06-11024
2.814 Acres

LOT NO 1
12.300 Acres
444500.00 Sq Feet

LOT NO 2
12.300 Acres
444500.00 Sq Feet

46.856 Acres
2041047.36 Sq. Feet

23.205 Acres
1010796.133 Sq. Feet

N 13°56'23" W 967.73'

S 13°56'23" E 1369.87'

N 13°56'23" W 402.00'

2758.85'

HORNLET CASTINGS & SERVICES, INC.
DOC NO 2001-11819
69.78 Acres

N 31°28'19" W 2626.43'

Attachment D: Standards for Evaluating a Variance

Use the following form or attach a separate sheet(s) to explain the Variance request. The BZA's decision shall be based upon how each of the following statutory requirements is justified in the request.

Petition Information

Describe the proposed use of the property (type of use, hours of operation, access, necessary construction, employees, etc.):

Petitioner purposes to place a double sided billboard upon its property which is zoned M-2
Petitioner to construct a 105,000 square foot industrial building on site.

Standards for Evaluation

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

There are similar billboards on Boyd Blvd and property is zoned M-2

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 because....

The surrounding area consists of manufacturing and other business uses

3. The need for the Variance arises from some condition peculiar to the property involved, and is more clearly described as....

There are other billboards on Boyd Blvd

4. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought, and is more clearly described as...

The property was sold to Petitioner by the City of LaPorte Redevelopment Commission for industrial development. Appropriate signage is necessary.

5. The approval does not interfere substantially with the Comprehensive Plan because...

The property was sold to Petitioner by the City of LaPorte Redevelopment Commission for industrial development. Appropriate signage is necessary.



**Board of Zoning Appeals Application
VARIANCE OF DEVELOPMENT STANDARDS**

City Planner
David Heinold, AICP
dheinold@cityoflaporte.org
www.cityoflaporte.com

City Hall
801 Michigan Ave.
La Porte, IN 46350
(219) 362-8260

For Office Use Only

Fee: 80⁰⁰ Receipt: 481
File: 4/18/23 File #: 2023-VAR-08
Date: 4/18/23
Site Review: n/a
Date of BEA mtg: 5/9/2023
Decision:

This application is being submitted for **VARIANCE OF DEVELOPMENT STANDARDS**

Applicant

Name	Industrial Development of LaPorte LLC				
Street Address	3535 South Monroe Street				
City, State, Zip	LaPorte, Indiana 46350				
Primary Contact regarding this petition	David Ambers, Attorney at Law				
Phone	(219) 325-9917	Email	david.ambers@amberslaw.com		
Engineer Preparing Plans		Email			
Others to be Notified		Email			
Applicant is (check one)	<input checked="" type="checkbox"/> Sole Owner	<input type="checkbox"/> Joint Owner	<input type="checkbox"/> Tenant	<input type="checkbox"/> Agent	<input type="checkbox"/> Other

Property Owner (if different than above)

Name	Industrial Development of LaPorte LLC	
Street Address	3535 South Monroe Street	Phone (219) 324-3728
City, State, Zip	LaPorte, Indiana 46350	Email

Premises Affected

Parcel ID Number	460731100032000053				
Address or General Location	Vacant Land Boyd Blvd				
Total Acreage	12.5	Flood Zone?	No		
Zoning	M2	Land Use	Industrial Development		
Request	Billboard				
Zoning of Adjacent Properties	North: B2	South: M2	East: B2/M2	West: M2	
Land Use of Adjacent Properties	North: Business	South: Vacant	East: Vacant	West: Manufacturing	

The above information and attached exhibits, to my knowledge and belief, are true and correct.

Signature of Applicant: *[Signature]*
 Signature of Notary: *Kathya A. Podkul*
 Notary Public's Name (printed): **KATHYA A. PODKUL**
 Subscribed and sworn to before me this 18th day of 2023

