

DEKALB COUNTY DEPARTMENT OF DEVELOPMENT SERVICES

PLANNING • BUILDING • GIS

301 S. Union St., Auburn IN 46706

Planning: 260.925.1923 • Building: 260.925.3021 • GIS: 260.927.2356 • Fax: 260.927.4791

AGENDA

DeKalb County Board of Zoning Appeals
Commissioners Court – 2nd Floor DeKalb County Court House
Monday, March 10, 2025
6:00 PM

A livestream of the meeting can be found here: <https://tinyurl.com/YouTubeDCPC>

1. Call to order
2. Roll call
3. Approval of Minutes: February 10, 2025
4. Old Business: None
5. New Business:

Petition #25-05 – James Schmucker requesting a Use Variance to allow for a plant nursery. The property is located at 4043 County Road 46A, Auburn, Indiana and is zoned A2, Agricultural.

Petition #25-06 – Kurt & Katie Tompkins requesting a Development Standards Variance to allow for the reduction to the front yard setback for a covered front porch & garage addition. The property is located at 0384 County Road 19, Ashley, Indiana and is zoned A2, Agricultural.

6. Reports of Planning Staff, Officers, and/or Committees
7. Comments from Public in Attendance
8. Adjournment

Next Meeting: April 14, 2025

If you cannot attend, please contact Meredith Reith

mreith@co.dekalb.in.us | (260) 925-1923

***PLEASE ENTER THROUGH THE NORTH DOOR OF THE
COURTHOUSE LOCATED ON SEVENTH STREET***

****Cellphones, tablets, laptops, & weapons are prohibited****

MINUTES
DEKALB COUNTY BOARD OF ZONING APPEALS
Monday, February 10, 2025

A Meeting of the DeKalb County Board of Zoning Appeals was called to order at 6:00 p.m. in the Commissioner's Court of the DeKalb County Courthouse by Chairperson, Frank Pulver.

ROLL CALL:

Members present: Frank Pulver, Jason Carnahan, Andrew Provines, and Wayne Funk.

Members absent: Rory Walker

Staff Present: BZA Attorney, Andrew Kruse, Director/Zoning Administrator, Chris Gaumer, and Secretary, Meredith Reith

Public in Attendance: James Schmucker, Chad Fox, Kenneth Hummell, David McWilliams, and David Fisher.

APPROVAL OF MINUTES:

Motion was made by Andrew Provines and Seconded by Jason Carnahan to approve the Minutes of January 13, 2025 as submitted. None opposed. Motion carried.

OLD BUSINESS: None

NEW BUSINESS:

Petition #25-03 – Chad Fox requesting a Use Variance to allow for steel fabrication and manufacturing shop. The property is located at 1133 County Road 34 & 3588 State Road 327, Auburn, Indiana and is zoned A1, Conservation Agricultural & A2, Agricultural.

Chris Gaumer read the proposed petition and staff report stating why the proposed Use Variance to allow for a steel manufacturing and fabrication shop. The properties are located at 1133 CR 34 and 3588 SR 327. He stated that Chad Fox provided a letter describing the history of the business. He stated that in the A2 and A1 it doesn't allow for these types of uses. He addressed that the property located at 3588 SR 327 is currently a residence and will be renovated to office space. There will also be a proposed new manufacturing/fabrication shop built. On the property at 1133 CR 34 the existing office will be renovated to be used as a residence to rent. The existing pole barn will be used for warehouse storage. He stated that the pole barn was the existing fabrication shop. He stated that Mr. Fox doesn't own the property to the south yet. If this use variance was to get approved, he would purchase the property. He addressed that he did add a condition of approval because the property was combined. When SR 327 went through they did an eminent domain to take over that property. It was never officially split into two parcels. This parcel would need to go to the Plat Committee to officially split the property. He stated that Mr. Fox is here and can address any questions that the board may have.

Andrew Provines asked why the condition was added.

Mr. Gaumer stated that this is just to make sure it gets done. He addressed that Fox Contractors owns the property to the south, not Mr. Fox. Since these two parcels are split and Fox Contractors or a potential buyer ever wants to build, this would have to go through a RePlat anyway.

Frank Pulver asked if there were any more questions amongst the board. Hearing none. He asked Chad Fox to approach the podium.

Mr. Fox approached the podium stating that he builds all kinds of structures, staircases, conveyors, basically anything you can build out of steel he builds it. A good portion of his business is field work but when you're a contractor out of SDI they ask you to build something and bring it to them. That's why we need to have a place to do construction offsite.

Mr. Pulver asked so the new building you're proposing to tie into the drive on the south side from SR 327.

Mr. Fox stated that yes, the driveway running south would be the likely entrance. It seems to make the most sense being attached to the highway.

Mr. Provines asked about the existing building for storage. He assumed storage for this business back and forth. How would you transport. Would there be a lot of traffic back and forth.

Mr. Fox stated that it would be storage for his company. He stated that they will probably do offsite storage for SDI. They keep lots of refractory lines laying around. There are certain parts that they prefer not to sit out, especially once assembled. It potentially could become a storage facility like that. He stated that they have had conversations with some of their customers to see what the interest would be. He addressed that the one furnace lining that they keep for the one furnace out here is currently stored in Indianapolis.

Mr. Provines stated that as far as transporting those back and forth are you going to have those moved from the other warehouse.

Mr. Fox stated that the driveway does continue, and he doesn't really anticipate a lot of traffic. If it was it would be driving a truck over and throwing it on the flatbed and moving it. He addressed that he had taken the forklift down the road and over to his house when he needed to use it. He stated that the traffic is minimized as much as possible.

Mr. Provines stated that this would be a concern to him. He addressed that he would be okay with it if there wasn't a lot of traffic day in day out. This seemed risky to him. He addressed that the house used as office space on CR 34 will be renovated back to a house to rent. He asked if there were any signs.

Mr. Fox stated that this would be their intention. He addressed that one banner was located on the side of the existing shop. It would probably be the same thing. He's stated that he's not trying to put big billboards out anywhere or Walmart parking lot lights.

Mr. Pulver asked if there were any further questions or comments from the board. He opened the public portion of the hearing up to any comments for or against this petition.

Kenneth Hummell approached the podium stating that he is the current owner of the property at 3588 SR 327. He addressed that the building is not a house but an airplane hangar. That his wife and him converted one end into a house.

Mr. Provines stated that with all intents and purposes be considered residential at this point since it would meet the primary setbacks.

Andrew Kruse asked so you would be in favor of this happening. Mr. Hummell stated yes.

Mr. Pulver asked so because he purchased all of this from you.

Mr. Gaumer stated that he's still in the process of purchasing just the parcel to the north.

Mr. Hummell stated that the parcel to the south was taken by the state and sold to Fox Contractors.

Mr. Pulver asked if there were any further comments or questions from the public. Hearing none. He closed the public portion of the hearing.

Mr. Kruse went through the Findings of Fact for this petition with the board.

JURISDICTIONAL FINDINGS:

The petitioner has complied with the rules and regulations of the Board of Zoning Appeals in filing appropriate forms and reports.

1. Application completed and filed on **December 16, 2024**

2. Legal notice published in The Star on **January 31, 2025** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Health Department, dated **December 19, 2024**
5. Letter from the County Highway Department, dated **December 17, 2024**
6. Letter from the County Surveyor, dated **December 16, 2024**
7. Letter from the Soil & Water Conservation District, dated **December 18, 2024**
8. Letter from the DeKalb County Airport Authority, if applicable, dated **not applicable**

FINDINGS OF FACT:

1. Will the approval be injurious to the public health, safety, morals, and general welfare of the community? Yes ()* No (X)
The approval of the steel fabrication & manufacturing shop at 3588 State Road 327 and warehousing/storage at 1133 County Road 34, as proposed, should not be injurious to the community. The letter from the Highway Dept. states that this could make County Road 34 safer since access will be directed to SR 327. See conditions.
2. Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? Yes ()* No (X)
The property values adjacent to the property should not be affected negatively.
3. Does the need arise from some condition peculiar to the property involved? Yes (X) No ()*
The Use Variance is needed for reasonable use of the property due to the access to State Road 327 and the close proximity to the existing use. The letter from the Highway Dept. states that this could make County Road 34 safer since access will be directed to SR 327.
4. Will the strict application of the Unified Development Ordinance result in an unnecessary hardship if applied to the property for which the variance is sought? Yes (X) No ()*
The location for the proposed use will be better sited with access to SR 327. The existing building was built as a commercial building.
5. Will the approval interfere substantially with policies of the Comprehensive Plan?
 Yes ()* No (X)
The proposed use should not interfere with the Comprehensive Plan provided the petitioner meets the conditions and regulations set forth with this approval.

PLANNING STAFF RECOMMENDATIONS/COMMENTS:

1. The Board retains continuing jurisdiction of this Use Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. Use Variance is approved for a steel fabrication and manufacturing shop with storage/warehousing.
3. A Drainage Plan be submitted to and approved by the DeKalb County Surveyor and Drainage Board prior to any permits being issued for this project.
4. A RePlat of Country Cove Section II, Lot 5 be approved and recorded to subdivide the north parcel from the south parcel, divided by SR 327.
5. No offsite drainage, existing surface water or existing tiled water drainage crossing over said real estate should be obstructed by any development on this site. The Board of Zoning Appeals may enforce these conditions by injunctive relief with attorney fees.
6. No Certificate of Occupancy or Certificate of Completion shall be issued until the applicant files written evidence of compliance with any conditions of the DeKalb County Board of Health, DeKalb County Highway Dept., DeKalb County Drainage Board or DeKalb County Surveyor,

DeKalb County Airport, DeKalb County Soil & Water Conservation District, or other agency as applicable. File written evidence of compliance with Federal or State agencies that were identified in the findings or conditions. The Zoning Administrator to determine when conditions have been met.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS USE VARIANCE PETITION #25-03 IS HEREBY APPROVED WITH CONDITIONS ON THIS 10TH DAY OF FEBRUARY 2025.

Motion made by Jason Carnahan, Seconded by Wayne Funk.

Vote tally: Yes: 4 No: 0

Frank Pulver

Jason Carnahan

Andrew Provines

Wayne Funk

Petition #25-04 – James Schmucker requesting a Use Variance to allow for a self-storage facility. The property is located at 3920 County Road 46A, Auburn, Indiana and is zoned A2, Agricultural.

Mr. Gaumer read the proposed petition and staff report stating why the proposed Use Variance to allow for a self-storage facility. He addressed that the BZA on December 11, 2023, approved a lot size variance for this parcel to be less than 2 acres. He purchased this parcel wanting to build a pole barn there for his own storage. He has since then needed the building for self-storage to have people rent. He addressed that James Schmucker had assumed self-storage down the road would be allowed for him. He stated that on the site plan it shows the six units located inside the building. Due to the acreage of the property and at the request of the Health Department a covenant is on the plat which states: “There shall be no septic system placed on the property and no water plumbed to or from any structure on the property now or in the future.” He stated that Mr. Schmucker is requesting the Use Variance to bring the property into compliance. He’s here to address any questions or concerns the board may have.

Mr. Pulver asked James Schmucker to approach the podium. He addressed that originally you wanted to purchase this property to build a house, and we discovered that it was under the required acreage is that correct. He asked if he was going to build across the road.

Mr. Schmucker stated that he had intended to build a storage building for personal use. He added that he lives a quarter mile down the road where he built his house.

Mr. Gaumer stated that he lived just at the corner of CR 39 and 46A.

Mr. Provines asked when this barn was built and if the building was constructed to have six units to begin with.

Mr. Schmucker stated that this was constructed last summer in July. There were two units before and had to split the rest after the fact.

Mr. Provines stated that you intentionally built this for personal use, and you stumbled into a business.

Mr. Schmucker stated that there was interest in having storage. He had built the building to store construction equipment.

Mr. Provines questioned whether there was any intent to expand the building or do anything along those lines.

Mr. Schmucker stated yes, if it would be feasible in the future.

Mr. Provines asked what this would take to expand the building.

Mr. Gaumer stated that he would have to come back to the board for any expansion. The board could add a condition that if it's 20% more or 50% more it doesn't need to come back to the board because they're okay with the use. Typically, any expansion on an approved BZA case needs to come back for approval.

Mr. Provines stated that he just wanted to see if this would already be required.

Mr. Gaumer stated that he believed that it was listed in the UDO, stating that any expansion of an approved use would have to come back to the board.

Mr. Pulver questioned if there's power in this building. He asked if the units were solid framed and not fenced.

Mr. Schmucker stated that there is one power source. Each unit has two outlets, and none are being used that he knows of. He stated that he did put heat in one unit. The units were constructed each with a metal roof and solid wood insulated.

Mr. Provines asked about their being no sewer on the property from the original approval.

Mr. Gaumer stated that this is correct. This condition has been addressed on the Plat.

Mr. Provines asked if there could be a well.

Mr. Gaumer stated that there can't be a well. No water is to be pumped on the property directed by the Health Department.

Mr. Pulver asked if there were any further questions or comments from the board. He opened the public portion of the hearing up to any comments for or against this petition.

David Fisher approached the podium stating that his property is located behind Mr. Schmucker's property. He addressed that there's possibly a couple more acres that will be potentially sold to Mr. Schmucker. Is there going to be more storage units built? He questioned the previous storage facility being built without detention ponds. He asked why a quarter mile west that the detention ponds had to be built for the other units? Without a detention pond his concern was the drainage. The main tile that runs and drains his land runs right along Mr. Schmucker's property. He stated that there possibly could be at some point drainage issues. He provided a map to the board showing the drain tile that runs through his property. He addressed that if more storage units are built will there be a detention pond added.

Mr. Gaumer stated that he can't say yes or no to detention ponds. This is a county Surveyor and Drainage Board decision. He added that this did get routed through technical review, there on that routing group. They didn't require anything, not knowing why it was required a quarter mile west. He stated that he wasn't here when this was approved. Intentionally he believed that there were plans to have six or eight buildings. They had to take the drainage from all those buildings and take that into account for the entire site.

Mr. Fisher asked if it might have not been required because it was supposed to be private and when it was built the six doors were put in.

Mr. Gaumer stated that the Surveyor's Office doesn't look as if it's commercial or residential, they look at the impervious surface that the building will take up. He addressed that he's not the Drainage Board or Surveyor. If you call them, they could have a different answer.

Mr. Pulver asked where Mr. Fisher's property was located.

Mr. Fisher stated that his property is on the other side of the railroad tracks towards the south.

Mr. Fisher stated that the drainage would be his biggest concern because at the end of CR 39 floods. This is already close to where the tile runs through.

Mr. Gaumer questioned so there's not a tile that runs through Mr. Schmucker's property. If he would expand or buy an additional parcel for storage units he would have to come back and have it approved.

Mr. Fisher stated that it wasn't and here again he's looking into the future. With him having this one here he's probably looking to buy the other two acres next door.

Mr. Provines asked so the other two acres are next door to Mr. Schmucker's property.

Mr. Gaumer stated that supposedly the property is for sale.

Mr. Provines stated that this would be a separate BZA hearing. What would happen if the properties were joined together.

Mr. Gaumer stated that it would have to go through a Replat by the Plat Committee to join the parcels together. He would need to come back to the BZA to request the expansion.

Mr. Provines stated that if another building was added the Surveyor would review before approving.

Mr. Fisher stated that there are three buildings on roughly two acres. The other two next door are close.

David McWilliams approached the podium and stated that he lives just around the corner from the proposed property. He wanted to address some of the incidents that went on this summer. He stated that this was a bad idea in how this turned into a commercial property. He stated that there was one very bad accident at Mr. Schmucker's property. During the construction they had their parking lot constructed. They didn't have enough room to get their equipment off the road and his son hit it. If you look at the road from both directions, there's hills and when cars come up and over that dip right after is Mr. Schmucker's property entrance. He addressed how dangerous it would be for people coming in and out of his driveway. He stated how the trees line up along there and when the semi was parked along the road with its flashing lights on you couldn't see it. With the shading from the trees this makes the area a blind spot. He addressed how hazardous it would be to have this property turned commercial.

Mr. Pulver asked if enlarging the driveway would be a solution.

Mr. McWilliams stated no, in not having a driveway there would be a much better solution. He stated that if you look on a map of CR 46A if you look where CR 37 ties into it. Approximately 500 yards that's where that big dip comes in and comes out by his property.

Mr. Provines asked about the existing driveway if there were any concerns with the site distance when the driveway was permitted.

Mr. Kruse stated that the Highway Department reviews the sight-distance lines when they approve a driveway. He added that commercial or not there should be like 500 feet of sight distance according to the rules he believed.

Mr. McWilliams stated that the original driveway was put in when Daniel Pfister had his equipment stored over there. Whether there's allowance or not the way that this particle area is set up its impossible to see anything parked coming out.

Mr. Provines stated that there's a driveway right across the way.

Mr. McWilliams stated that the driveway is visible and can see what's coming from both directions. You can't see Mr. Schmucker's property because of how the trees shade the driveway. When this was private storage, he would bring only one truck every two days. When this becomes a commercial storage facility you will have lots more traffic coming in and out.

Wayne Funk asked if the trees were part of the problem.

Mr. Mcwilliams stated that it's just a bad spot, whether the trees contribute to the problem yes. He stated that having the driveway there especially coming out of that dip that's where it becomes invisible until you come up out of it.

Mr. Funk asked if trimming or removing the trees would help with the invisibility.

Mr. Mcwilliams added that this would probably not address the problem but if you would move the driveway another 500 yards or something then maybe so. The biggest problem is the hill blocking your sight distance.

Mr. Pulver asked how far the dip is to that driveway after they come out of it.

Mr. Mcwilliams stated that roughly maybe 800 feet or more is just an estimate.

Mr. Gaumer stated that he did receive a driveway permit from the Highway Department. Ben would have checked the location of the driveway.

Mr. Mcwilliams questioned when the driveway was permitted.

Mr. Gaumer stated that it was done in 2023. He stated he may have used the existing driveway. The Highway Department is good at if there's an existing driveway there, they still want to get it permitted and approved.

Mr. Provines asked what the county's rules are for having a horseshoe driveway. He didn't imagine a storage facility with six units would see a whole lot of traffic. He addressed that maybe something longer like a boat coming out would take more room.

Mr. Gaumer stated that he wasn't sure that an 800 sq. ft. building would be able to hold much maybe just one boat. He addressed that even if you're storing your boat there, you're not taking it in and out all the time.

Mr. Provines stated that he was wondering about a way that we could alleviate that. He said that he didn't believe six units would cause that much traffic.

Mr. Gaumer stated that doing a horseshoe driveway would alleviate this. The BZA could request that he investigate a horseshoe driveway we just can't require a horseshoe driveway.

Mr. Mcwilliams stated that he started off with two units and now he's at six. How many more would he do after that.

Mr. Provines stated that unless he splits the existing ones, which would probably not be useful. None, unless he asks for permission to expand and is approved.

Mr. Pulver asked Mr. Schmucker to come back up. He asked if all the six units are rented or leased now.

Mr. Schmucker stated that they're currently all leased out.

Mr. Pulver asked if he had any ideas on how often people are coming and going.

Mr. Schmucker stated that he knows that two of them are paid six months in advance. There's a boat and an ATV stored there and he hasn't talked to them since. He didn't believe that they had been back. He stated that some of the other vehicles that are parked there. Originally when we bought this property, he asked about using the parking spot for Amish owned vehicles. Are churches don't allow parking at our houses. There's 3 to 4 vans and he wasn't sure how often there coming and going.

Mr. Pulver questioned so these vans are sitting in that parking lot.

Mr. Schmucker stated that yes there in the parking lot as of right now. He added that when this was reported there were quite a few vehicles there and that's what caused the concern to begin with.

Mr. Gaumer stated that we could ask him to investigate expanding the driveway. He added that again this would be something that the Highway Department.

Mr. Provines addressed that maybe the grave pad be bigger to park the vans in front of the units.

Mr. Pulver stated that it must be big enough that if you have vans sitting there it can't affect access of the units.

Mr. Schmucker stated that the vans sit at the east end of the property. He stated that he has a stone pad for the vans. He added that some of the tenants brought to his attention that it was a bad visibility getting out of there. He stated that he's removed some small brush and is open to removing any trees.

Mr. Pulver asked regarding the size of the building and would appear that the parking lot is about 40 feet as well. He asked if the little cut out on the east end is where the vans are sitting. He asked how many vans.

Mr. Schmucker stated yes, there's about 3 to 4 at a time.

Mr. Gaumer stated that we can regulate the vans due to this being like you parking in your driveway. With him parking vans on the east side it does not really affect the sight distance. On the west side is where the small brush and trees are located. You can't require that portion to be cleaned up since it's not on his property. The BZA can require him to remove the trees to make it safer.

Mr. Provines addressed that we make a condition to maximize the sight distance that the trees be removed.

Mr. Kruse stated that the sight distance problem is from the west. So, we can't really move the driveway any further east because it goes onto someone else's property.

Mr. Provines stated that on the road right of way towards the middle of the property is where the trees are located. This could help a decent amount by removing those trees.

Mr. Pulver asked what Mr. Schmucker's thoughts were about this.

Mr. Schmucker stated that he can remove any trees that may be an issue.

Mr. Pulver asked would we needed to include this in a condition.

Mr. Kruse stated that we should since he's willing to do it. This would maybe help the neighbor with the view situation.

Mr. Pulver asked if this would make any difference in drainage on the property by removing the trees.

Mr. Gaumer stated that the removal of the trees will depend on how the property gets graded. Let's just say that if he removes them, like in a wetland you can remove everything except the stumps and the roots. You could add that the stumps and the roots remain.

Mr. Funk stated that when you take the roots out it will increase the runoff.

Mr. Pulver stated that we will address this condition when we go through the Findings.

Mr. Pulver asked if there were any further comments or questions from the public. Hearing none. He closed the public portion of the hearing.

Mr. Carnahan added that the trees are located in the right of way. He asked if this would be a concern.

Mr. Gaumer stated that he didn't really see this as a concern. They will have to be removed anyways potentially by the Highway Department.

Mr. Kruse went through the Findings of Fact for this petition with the board.

JURISDICTIONAL FINDINGS:

The petitioner has complied with the rules and regulations of the Board of Zoning Appeals in filing appropriate forms and reports.

1. Application completed and filed on **January 21, 2025**
2. Legal notice published in The Star on **January 31, 2025** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Health Department, dated **January 23, 2025**
5. Letter from the County Highway Department, dated **January 22, 2025**
6. Letter from the County Surveyor, dated **January 22, 2025**
7. Letter from the Soil & Water Conservation District, dated **January 23, 2025**
8. Letter from the DeKalb County Airport Authority, if applicable, dated **not applicable**

FINDINGS OF FACT:

1. Will the approval be injurious to the public health, safety, morals, and general welfare of the community? Yes ()* No (X)
The approval of the self-storage facility, as proposed, should not be injurious to the community. The use of the property would only be able to be used for a storage building as there shall be no septic system placed on the property and no water plumbed to or from any structure on the property now or in the future. See conditions.
2. Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? Yes ()* No (X)
The property values adjacent to the property should not be affected negatively.
3. Does the need arise from some condition peculiar to the property involved? Yes (X) No ()*
The Use Variance is needed for reasonable use of the property. The property would only be able to be used for a storage building as there shall be no septic system placed on the property and no water plumbed to or from any structure on the property now or in the future.
4. Will the strict application of the Unified Development Ordinance result in an unnecessary hardship if applied to the property for which the variance is sought? Yes (X) No ()*
The Use Variance is needed for reasonable use of the property. The property would only be able to be used for a storage building as there shall be no septic system placed on the property and no water plumbed to or from any structure on the property now or in the future.
5. Will the approval interfere substantially with policies of the Comprehensive Plan?
Yes ()* No(X)
The proposed use should not interfere with the Comprehensive Plan provided the petitioner meets the conditions and regulations set forth with this approval.

PLANNING STAFF RECOMMENDATIONS/COMMENTS:

1. The Board retains continuing jurisdiction of this Use Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. Use Variance is approved for self-storage facility with six (6) units.
3. No offsite drainage, existing surface water or existing tiled water drainage crossing over said real estate should be obstructed by any development on this site. The Board of Zoning Appeals may enforce these conditions by injunctive relief with attorney fees.
4. No Certificate of Occupancy or Certificate of Completion shall be issued until the applicant files written evidence of compliance with any conditions of the DeKalb County Board of Health, DeKalb County Highway Dept., DeKalb County Drainage Board or DeKalb County Surveyor,

DeKalb County Airport, DeKalb County Soil & Water Conservation District, or other agency as applicable. File written evidence of compliance with Federal or State agencies that were identified in the findings or conditions. The Zoning Administrator to determine when conditions have been met.

- 5. Trees along CR 46A are removed and the stumps and roots remain.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS USE VARIANCE PETITION #25-04 IS HEREBY APPROVED WITH CONDITIONS ON THIS 10TH DAY OF FEBRUARY 2025.

Motion made by Jason Carnahan, Seconded by Wayne Funk.

Vote tally: Yes: 4 No: 0

Frank Pulver

Jason Carnahan

Andrew Provines

Wayne Funk

REPORTS OF PLANNING STAFF, OFFICERS, OR COMMITTEES

None

COMMENTS FROM PUBLIC IN ATTENDANCE

None

ADJOURNMENT

There being no further business to come before the board, the meeting was adjourned at 7:00 p.m.

Frank Pulver, Chairperson

Meredith Reith, Secretary

DeKalb County Department of Development Services
Planning, Building & GIS
301 S. Union St.
Auburn, IN 46706
Ph: 260-925-1923
Fax: 260-927-4791

FOR OFFICE USE ONLY:
File Number: 25-05
Date Application Filed: 1/24/2025
Fee Paid: _____

Application for USE VARIANCE (Section 9.28)

This application must be completed and filed with the DeKalb County Department of Development Services in accordance with the meeting schedule.

APPLICANT INFORMATION

Applicant's Name: JAMES SCHMUCKER
Address: 4043 COUNTY RD 46A
AUBURN IN 46706
Telephone Number: 260 310 2211 E-Mail: JHS4416290@gmail.com

OWNER INFORMATION (if different from applicant information)

Owner's Name: _____
Address: _____
Telephone Number: _____ E-Mail: _____

REPRESENTATIVE INFORMATION (if different from applicant information)

Representative: _____
Address: _____
Telephone Number: _____ E-Mail: _____

Legal Ad Payment & Public Hearing Notifications: Applicant Owner Representative _____

Zoning Classification of Property: A2

Overlay District of Property (if applicable): ACT

Address or common description of property: 4043 CR 46A
AUBURN IN 46706

Legal description of property affected (or provide property deed):

What use(s) are you requesting to have on the property and why:
IM AM LOOKING TO START A PLANT & TREE NURSERY
ON THE NORTHWEST PROPERTY LINE OF MY PROPERTY
WAS IN CONTACT WITH DNR ABOUT USING SOME OF THE
FLOOD WAY GROUND. THEY SEEM TO BE OK WITH IT, AS LONG AS
NO STRUCTURES OR CONCRETE WAS PLANNED TO BE USED

Please provide the following information to the best of you ability if it pertains to your petition to the BZA. All of this information should be located on the site plan as well.

A. Lighting (if any):

- 1. Style: _____
- 2. Height: _____
- 3. Location: _____

B. Signage (if any):

- 1. Dimensions: 4x6
- 2. Materials: TREATED
- 3. Placement: AT RD BY DRIVE 4043 CR 46A
- 4. Lighting: NONE

C. Hours of Operation (if any):

- MON - FRI 8:00 - 4:00
- SAT 8:00 12:00

D. Parking/Access (if any):

EXISTING DRIVE

Parking Classification (office use only) _____

E. Landscaping/Buffer yards (if any):

NONE

Bufferyard Classification (office use only) _____

F. Number of Employees (if any): 2 PROPERTY OWNERS

The Applicant must answer the following questions and establish reasons for each answer at the public hearing in order to obtain an accurate determination from the BZA. Please answer each question and give reasons for your answer.

A. Will the approval of this Use Variance request be injurious to the public health, safety, morals, and the general welfare of the community?

Yes () No (X) Why? Explain below:

ITS A NATURAL HABITAT

B. Will the use and value of the area adjacent to the property included in the Use Variance request be affected in a substantially adverse manner?

Yes () No (X) Why? Explain below:

IT WILL BE TREES, PLANTED IN ROWS ON THE BOUNDARY LINE, ACTING AS A PRIVACY SCREEN

C. Does the need for the Use Variance request arise from some condition peculiar to the property involved?

Yes (X) No () Why? Explain below:

BECAUSE IM LOOKING FOR THE APPROVAL TO START A PLANT NURSERY.

D. Will the strict application of the terms of the Unified Development Ordinance result in an unnecessary hardship if applied to the property for which the Use Variance is sought?

Yes () No (x) Why? Explain below:

WITH THE FLOOD RESTRICTIONS MAKING THE LAND UNBUILDABLE
I WOULD THINK THE USE OF A NURSERY FITS WITH THIS
PARTICULAR PIECE OF PROPERTY. BEING I CANT BUILD ANYTHING
ON IT

E. Will the approval of this Use Variance request interfere substantially with the Comprehensive Plan?

Yes () No (x) Why? Explain below:

By my signature, I acknowledge the above information and attached exhibits, to my knowledge and belief, are true and correct. I also give permission for the Zoning Administrator to enter onto the petitioned property for inspections and take photos for the public hearing.

Applicant's Signature: James Slawson
(If signed by representative for applicant, state capacity)

This Staff Report is prepared by the DeKalb County Department of Development Services to provide information to the Board of Zoning Appeals to assist them in making a decision on this Application. It may also be useful to members of the public interested in this Application.

SUMMARY FACTS:

PROPERTY OWNER: James Schmucker

SUBJECT SITE: 4043 County Road 46A, Auburn

REQUEST: Use Variance

PURPOSE: To allow for a plant nursery

EXISTING ZONING: A2, Agricultural

SURROUNDING LAND USES AND ZONING: North: Single Family Residential (A2)
 South: Single Family Residential/Farm Ground (A2)
 East: Single Family Residential (A2)
 West: Farm Ground (A2)

ANALYSIS:

In an A2, Agricultural, Zoning District, the UDO does not permit for or allow for a a plant nursery.

- The petitioner is requesting a Use Variance to allow for a plant nursery. The portion of the property being used for the nursery is undevelopable land due to the floodplain classification.

JURISDICTIONAL FINDINGS:

The petitioner has complied with the rules and regulations of the Board of Zoning Appeals in filing appropriate forms and reports.

1. Application completed and filed on **January 21, 2025**
2. Legal notice published in The Star on **February 28, 2025** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Health Department, dated **February 26, 2025**
5. Letter from the County Highway Department, dated **February 20, 2025**
6. Letter from the County Surveyor, dated **February 18, 2025**
7. Letter from the Soil & Water Conservation District, dated **February 18, 2025**
8. Letter from the DeKalb County Airport Authority, if applicable, dated **not applicable**
9. Letter from the Indiana Department of Natural Resources, dated **February 7, 2025**
10. Letter from the Army Corps of Engineers, dated **February 8, 2025**

PROPOSED FINDINGS OF FACT:

*These Findings of Fact proposed by staff are based off the knowledge and understanding of the proposed project. If any one of **your** answers is followed by an asterisk, under State Law (IC 36-7-4-918.4) and Section 9.28 G(3) of the DeKalb County Unified Development Ordinance you must deny the request.*

1. Will the approval be injurious to the public health, safety, morals, and general welfare of the community?
 Yes ()* No (X)
The approval of the plant nursery, as proposed, should not be injurious to the community. This portion of the land is undevelopable due to the floodplain classification. Letters from the Indiana Dept. of Natural Resources and Army Corps of Engineers approves the use in the floodplain.

2. Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? Yes ()* No (X)
The property values adjacent to the property should not be affected negatively.

3. Does the need arise from some condition peculiar to the property involved? Yes (X) No ()*
The Use Variance is needed for reasonable use of the property. This portion of the land is undevelopable due to the floodplain classification. Letters from the Indiana Dept. of Natural Resources and Army Corps of Engineers approves the use in the floodplain.

4. Will the strict application of the Unified Development Ordinance result in an unnecessary hardship if applied to the property for which the variance is sought? Yes (X) No ()*
The Use Variance is needed for reasonable use of the property. This portion of the land is undevelopable due to the floodplain classification. Letters from the Indiana Dept. of Natural Resources and Army Corps of Engineers approves the use in the floodplain.

5. Will the approval interfere substantially with policies of the Comprehensive Plan?
Yes ()* No(X)
The proposed use should not interfere with the Comprehensive Plan provided the petitioner meets the conditions and regulations set forth with this approval.

PLANNING STAFF RECOMMENDATIONS/COMMENTS:

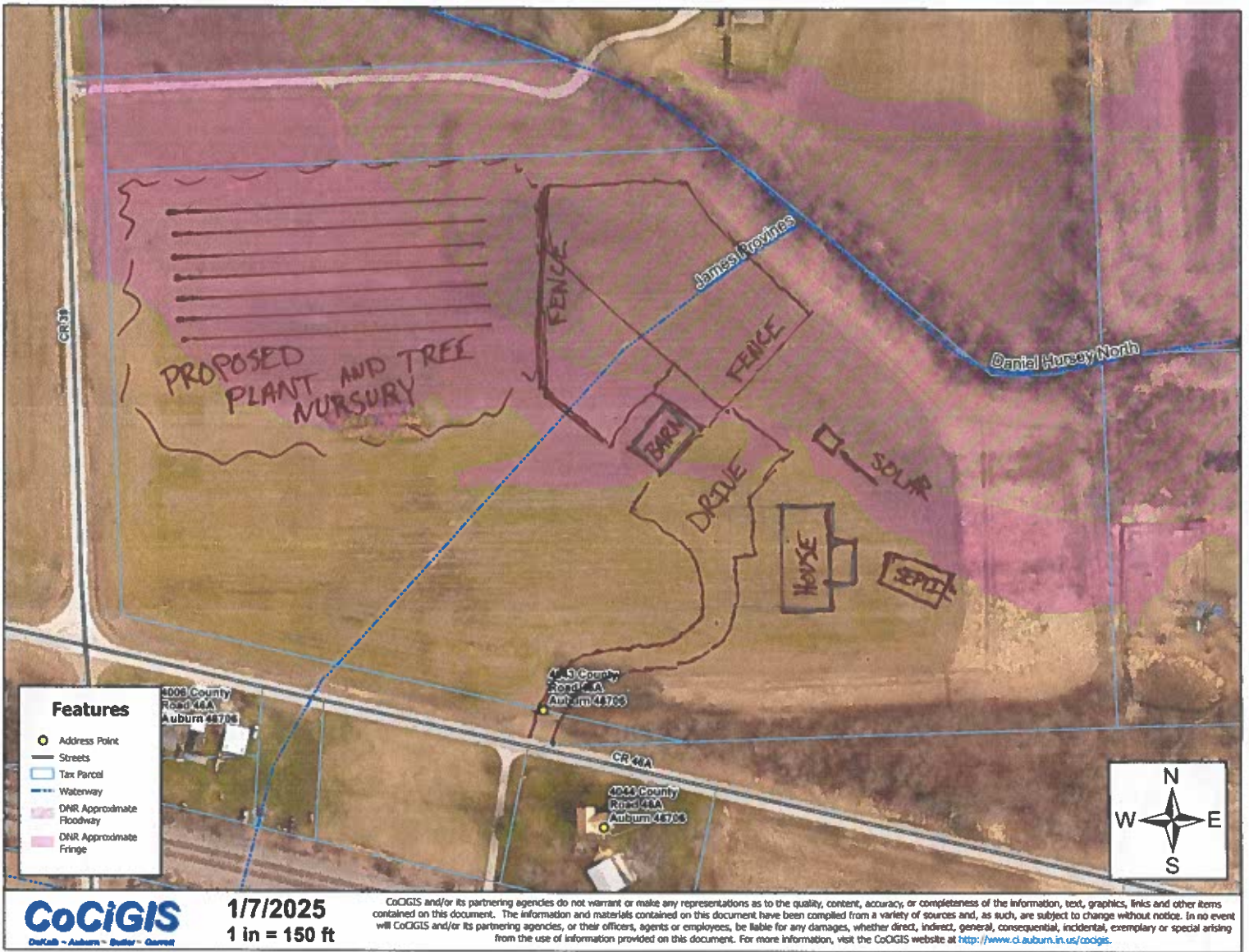
Conditions of Approval:

Staff is recommending approval for this Use Variance and recommends the following conditions:

1. The Board retains continuing jurisdiction of this Use Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. Use Variance is approved for a plant nursery
3. No offsite drainage, existing surface water or existing tiled water drainage crossing over said real estate should be obstructed by any development on this site. The Board of Zoning Appeals may enforce these conditions by injunctive relief with attorney fees.
4. No Certificate of Occupancy or Certificate of Completion shall be issued until the applicant files written evidence of compliance with any conditions of the DeKalb County Board of Health, DeKalb County Highway Dept., DeKalb County Drainage Board or DeKalb County Surveyor, DeKalb County Airport, DeKalb County Soil & Water Conservation District, or other agency as applicable. File written evidence of compliance with Federal or State agencies that were identified in the findings or conditions. The Zoning Administrator to determine when conditions have been met.

Commitments of Approval:

Staff is recommending approval. If the Board assigns commitments, they shall be given, signed, and recorded with the DeKalb County Recorder's Office.



4013 CR 46A AUBURN IN

DeKalb County Department of Development Services
Planning, Building & GIS
301 S. Union St.
Auburn, IN 46706
Ph: 260-925-1923
Fax: 260-927-4791

FOR OFFICE USE ONLY:

File Number: 25-06

Date Application Filed: 1/13/2025

Fee Paid: 150 pd/c

**Application for DEVELOPMENT STANDARDS VARIANCE
(Section 9.09)**

This application must be completed and filed with the DeKalb County Department of Development Services in accordance with the meeting schedule.

APPLICANT INFORMATION

Applicant's Name: Kurt J. and Katie B. Tompkins
Address: 0384 County Road 19
Ashley, IN 46705
Telephone Number: (260) 541-0205 E-Mail: kurttompkins@hotmail.com

OWNER INFORMATION (if different from applicant information)

Owner's Name: _____
Address: _____
Telephone Number: _____ E-Mail: _____

REPRESENTATIVE INFORMATION (if different from applicant information)

Representative: _____
Address: _____
Telephone Number: _____ E-Mail: _____

Legal Ad Payment & Public Hearing Notifications: Applicant Owner Representative

Zoning Classification of Property: A2

Overlay District of Property (if applicable): _____

Address or common description of property:
0384 County Road 19, Ashley, IN 46705

Legal description of property affected (or provide property deed):
(See attached Property Deed)

What Development Standard are you seeking a variance for (setback, height, parking, etc.) and how to what extent (acreage, square footage, distance, number of lots, etc) BE SPECIFIC:

Seeking a front setback variance for an addition of a covered front porch and attaching a garage to the existing house. We are seeking a setback variance for the porch of approx. 53' from center of road and approx. 75' for the attached garage, (center of road).

Standards of Zoning Ordinance requesting Variance from Developmental Standards from (Zoning Section Number and/or Specific Section from Article 5):

Sec 2.06 - Setback Standards

The Applicant must answer the following questions and establish reasons for each answer at the public hearing in order to obtain an accurate determination from the BZA. Please answer each question and give reasons for your answer.

A. Will the approval of this variance request be injurious to the public health, safety, morals, and the general welfare of the community?

Yes () No (X) Why? Explain below:

There are other structures on our county road that are closer than the setback we are seeking; those structures do not pose any risk to public health, welfare, etc.

B. Will the use and value of the area adjacent to the property included in the variance request be affected in a substantially adverse manner if the petition is approved?

Yes () No (X) Why? Explain below:

This setback variance impacts only the property at 0384 County Road 19.

C. Will the strict application of the terms of the Unified Development Ordinance result in practical difficulties in the use of the property involved in the petition?

Yes (X) No () Why? Explain below:

A variance is needed due to the setback of the existing home to the center of the road. No other location for a front porch is available.

By my signature, I acknowledge the above information and attached exhibits, to my knowledge and belief, are true and correct. I also give permission for the Zoning Administrator to enter onto the petitioned property for inspections and take photos for the public hearing.

Applicant's Signature: K. B. Tompkins Katw B. Tompkins
(If signed by representative for applicant, state capacity)

This Staff Report is prepared by the DeKalb County Department of Development Services to provide information to the Board of Zoning Appeals to assist them in making a decision on this Application. It may also be useful to members of the public interested in this Application.

SUMMARY FACTS:

APPLICANT: Kurt & Katie Tompkins

SUBJECT SITE: 0384 County Road 19, Ashley

REQUEST: Development Standards Variance

PURPOSE: To allow for the reduction to the front yard setback for a covered front porch & garage addition

EXISTING ZONING: A2, Agricultural

SURROUNDING LAND USES AND ZONING: North: Farm Ground/Single Family Residential (A2)
 South: Farm Ground (A2)
 East: Farm Ground (A2)
 West: Farm Ground (A2)

ANALYSIS:

UDO Standards: Section 2.06: A2 District Development Standards:
Minimum Front Yard Setback: 50 feet for primary & Accessory Structures
Minimum Side Yard Setback: 30 feet for primary structures & 10 feet for accessory structures
Minimum Rear Yard Setback: 30 feet for primary structures & 10 feet for accessory structures

- When determining the front yard setback, we look at and review Section 5.43: Setback Standards: B. Minimum Front Yard Setback: The dimensions are to be taken from the center of the road. Adding together the right-of-way, as determined by the DeKalb County Thoroughfare Plan, plus the minimum front yard setback per each two-page layout in *Article 02: Zoning Districts*.
- County Road 19 = 60 foot right of way (30 feet on each side of the center of the road)
- In this case, the total setback from the center of the road is 80 feet (50 feet building setback + 30 feet ROW = 80 feet from center of road).
- The petitioner is requesting to build a new porch and attached garage. The porch will be approximately 54 feet to the center of County Road 19. Thus, requesting a variance for 26 feet.
- The variance is needed due to the existing home location being approximately 63 feet from the center of the road.

JURISDICTIONAL FINDINGS:

The petitioner has complied with the rules and regulations of the Board of Zoning Appeals in filing appropriate forms and reports.

1. Application completed and filed on **January 13, 2025**
2. Legal notice published in The Star on **February 28, 2025** with the publisher’s affidavit and receipt received.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Board of Health, dated **January 14, 2025**
5. Letter from the County Highway Department, dated **January 14, 2025**
6. Letter from the Soil & Water Conservation District, dated **January 14, 2025**
7. Letter from the County Surveyor or Drainage Board, dated **January 14, 2025**
8. Letter from the DeKalb County Airport Authority is **not applicable**.

PROPOSED FINDINGS OF FACT:

*These Findings of Fact proposed by staff are based off the knowledge and understanding of the proposed project. If any one of **your** answers is followed by an asterisk, under State Law (IC 36-7-4-918.5) and Section 9.09 G (3) of the DeKalb County Unified Development Ordinance you must deny the request.*

- 1. Will the approval of the variance request be injurious to the public health, safety, morals and general welfare of the community? Yes ()* No (X)
The proposed reduction to the front yard setback will not be injurious to the public. The front porch & garage addition will not impede any line of site for neighboring properties. Also, see letters from the various county departments without objection.
- 2. Will the use and value of the area adjacent to the property included in the variance request be affected in a substantially adverse manner? Yes ()* No (X)
The proposed reduction to the front yard setback will not adversely affect the neighboring properties. The neighboring properties are vacant land used for farming.
- 3. Will the strict application of the terms of the Unified Development Ordinance result in practical difficulties in the use of the property? Yes (X) No ()*
The proposed reduction to the front yard setback is needed due to the existing home being approximately 63 feet from the center of County Rod 19.

PLANNING STAFF RECOMMENDATIONS/COMMENTS:

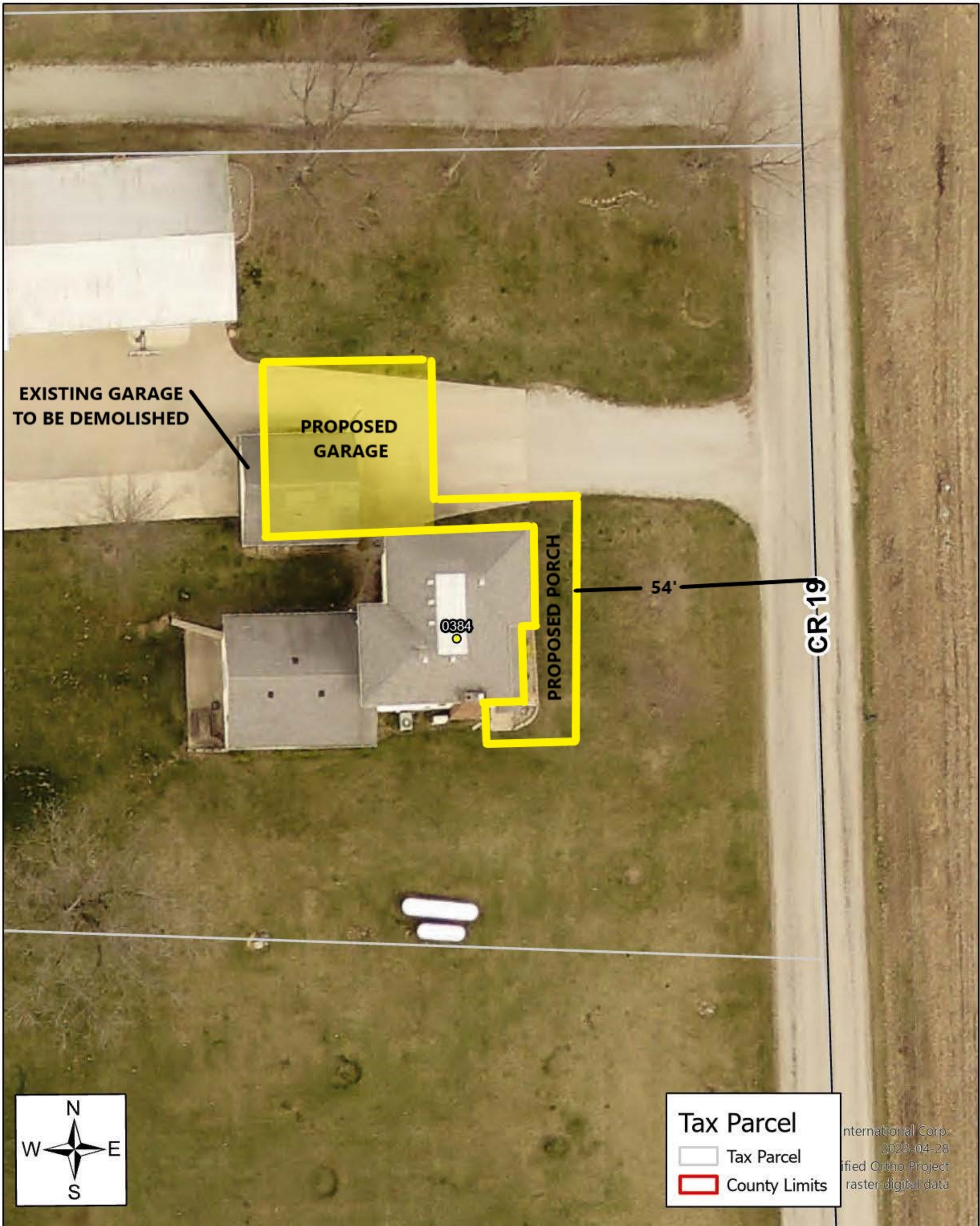
Conditions of Approval:

Staff is recommending approval and is recommending the following conditions:

- 1. The Board retains continuing jurisdiction of this from Development Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
- 2. A Development Standards Variance to allow the reduction to the front yard setback to 54 feet is approved.
- 3. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.
- 4. No offsite drainage crossing said real estate should be obstructed by any development on this site.
- 5. No Certificate of Occupancy or Certificate of Completion shall be issued until the applicant files written evidence of compliance with any conditions of the DeKalb County Board of Health, DeKalb County Highway Dept., DeKalb County Drainage Board or DeKalb County Surveyor, DeKalb County Airport, DeKalb County Soil & Water Conservation, or other agency as applicable. File written evidence of compliance with Federal or State agencies where identified in the findings or conditions. The Zoning Administrator to determine when conditions have been met.

Commitments of Approval:

Staff is recommending approval. If the Board assigns commitments, they shall be given, signed and recorded with the DeKalb County Recorder’s Office.



EXISTING GARAGE
TO BE DEMOLISHED

PROPOSED
GARAGE

PROPOSED PORCH

54'

CR-19

0384



Tax Parcel

Tax Parcel

County Limits

International Corp.
2023-04-28
Digitized Ortho Project
raster digital data