

Staff Report – Board of Zoning Appeals

Docket #:	BZA2024-062 Dev. Standard Variance	Hearing Date:	June 9, 2025
Applicant:	Avtar Singh, 1197 Maple Stone Drive, Greenwood, IN 46143		
Owner:	Avtar Singh, 1197 Maple Stone Drive, Greenwood, IN 46143		
Subject Property Address:	1197 Maple Stone Drive, Greenwood, IN 46143		
Staff Contact:	Gabe Nelson, nelsong@greenwood.in.gov, 317-887-5230		

Request:

Petitioner is requesting relief from the following section of the Unified Development Ordinance:

1. Section 10-02-14 (A) Residential Medium Lot Zone, Development Standards, to reduce the side/rear yard (accessory) setback from eight (8) feet to zero (0) feet

Location:

The subject property is located 600 feet west of the intersection of Maple Stone Drive and Shadow Trace Way. Parcel ID # 41-05-07-032-055.000-030

Exhibit A – Aerial Map and Exhibit F – Legal Description

Background:

- October 20, 2023 - Stop work order issued (already constructed without a permit)
- October 23, 2023 - Initial application submitted on 10/23/2023
- January 3, 2024 - BPWS approved an encroachment in the variable drainage & utility easement.
- August 25th, 2024 - DNR issued a Letter of Authorization.

Existing & Surrounding Zones/Land Uses:

Existing: Residential Medium (RM), Single Family Residential (Cherry Tree Walk)
 North: Residential Medium (RM), Single Family Residential (Cherry Tree Walk)
 South: Agriculture (AG), Large Lot Residential/Agriculture
 East: Residential Medium (RM), Single Family Residential (Cherry Tree Walk)
 West: Residential Large (RL), Single Family Residential (Cobblestone)

Exhibit B – Existing Zoning Map

Indiana Code Reference(s): Section 36-7-4-918.5 (Development Standards Variances)

Statutory Criteria:

- Indiana Code Section 36-7-4-918.5 Dimensional/Development Standard Variances may be approved only upon a determination in writing that:
 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
 3. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.
- Indiana Code Section 8-21-10-3 No Hazard to Air Navigation: **Not applicable**

VARIANCE #1: To reduce the side/rear yard (accessory) setback from eight (8) feet to zero (0) feet.

Greenwood Code References: Unified Development Ordinance, Section 10-02-14 (A) Residential Medium Lot Zone, Development Standards, Accessory structure setback shall be a minimum 8 feet from any lot line.

Petitioner's Detailed Statements of Reasons and Staff Comments:

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

It is installed in our backyard and it is just a gazebo where we can sit with family and enjoy fresh air. It's installed with keeping safety in mind.

Staff Comment: The concern in this situation is the proximity to the floodway. If it does infringe into the floodway, even the slightest, a flooding or heavy rainfall could cause the gazebo to be damaged or possibly collapse, adding debris to a potential flood and threatening the general welfare of the community.

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

We have taken approval from utility, water, electricity, and all other companies, and it would only affect the open area/common area behind the property.

Staff Comment: Staff agrees with the petitioner's statement. The structure should not have any negative affect on surrounding property values.

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

We live paycheck to paycheck and are a family of four. We did put our savings into this and we installed this gazebo with those strict application of the terms. It will affect us financially and we would not be able to afford the construction [without the variance].

Staff Comment: Although Staff is sympathetic to the financial situation of the petitioner, this cannot be the sole reason to grant a variance, particularly for a structure that was originally built without a permit. A practical difficulty cannot be created by the petitioner, which in this case is precisely the circumstance.

4. The structure is/is not regulated under Indiana Code 8-21-10-3 for hazard air navigation.

N/A

Recommendation and Proposed Conditions:

Staff is providing an unfavorable recommendation. The purpose of granting a variance is to relieve the property owner of a zoning regulation that may be otherwise difficult to meet. In this case, the structure was originally built without a permit, and in turn, there was no review by Staff as to whether this location would be appropriate. It would appear there is ample open space outside of the building setbacks that would accommodate such a structure. Additionally, this request should not meet the requirement of a practical difficulty as it is entirely self-inflicted.

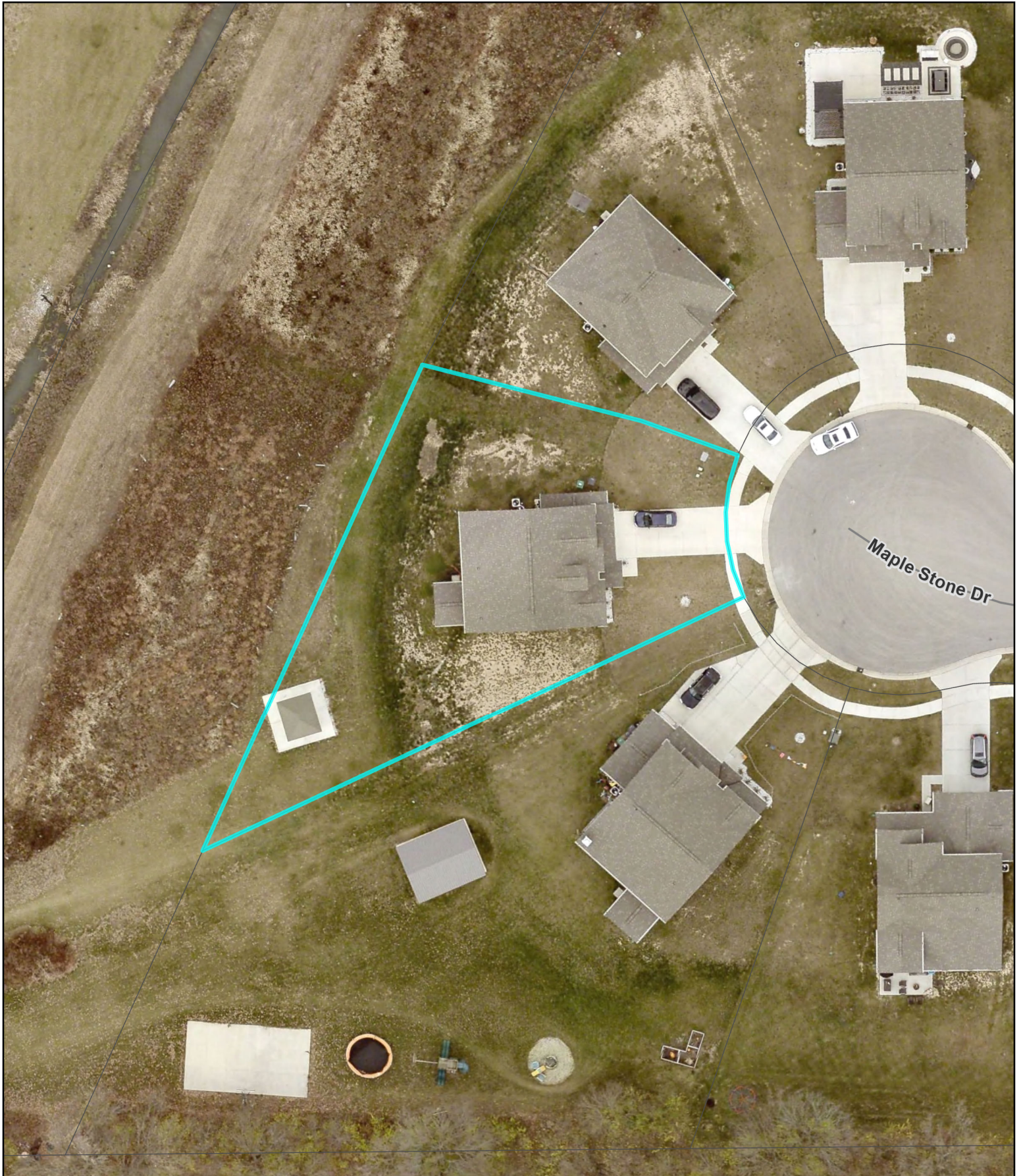
Staff recommends **denial** of this variance.

Attachments:

Exhibit A – Aerial Vicinity Map
Exhibit D – Violation Letter

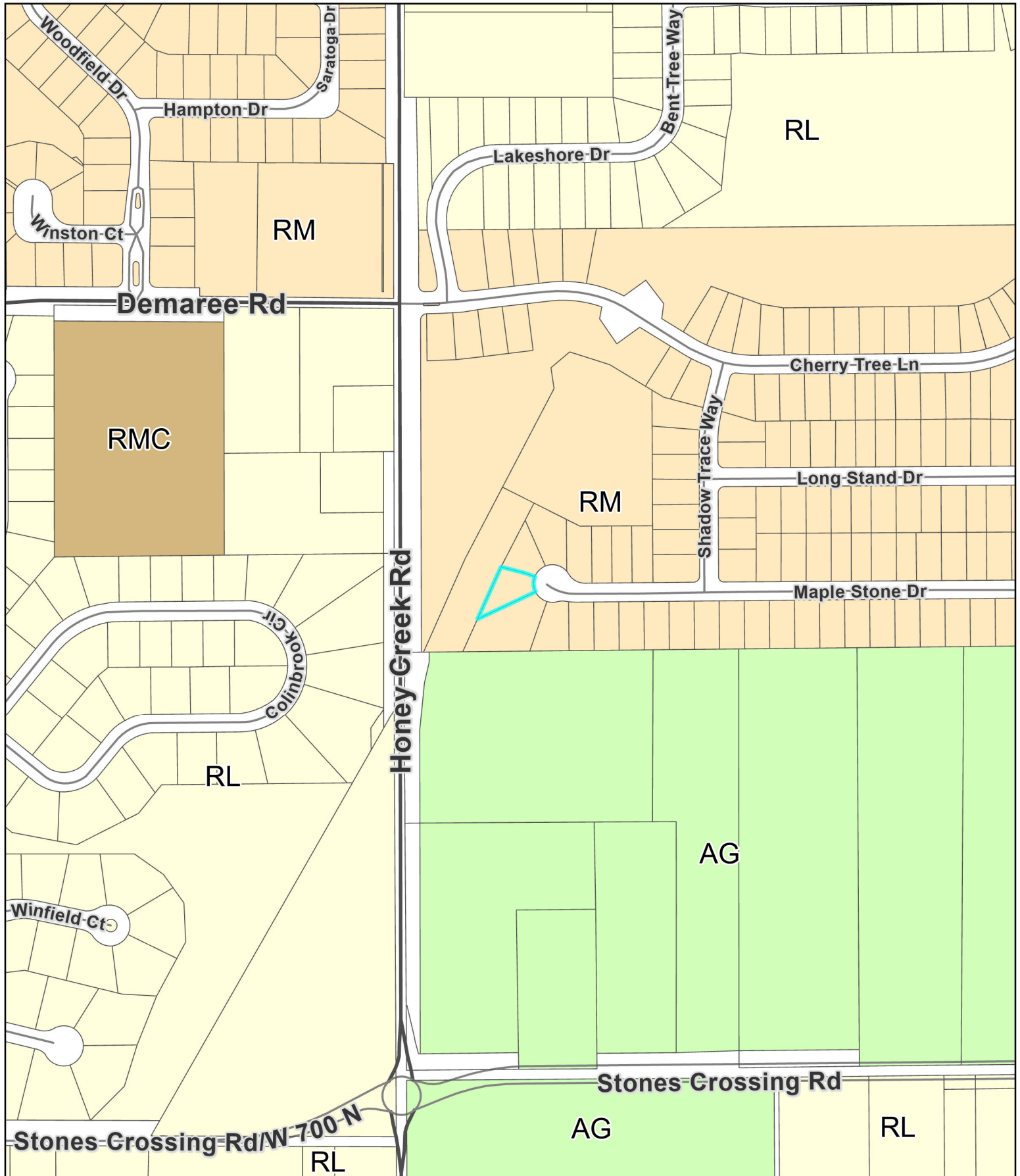
Exhibit B – Zoning Map
Exhibit E – Encroachment Approval

Exhibit C – (Proposed) Site Plan
Exhibit F – Legal Description



Existing Zoning Map

Exhibit B



AC - Airport	IC - Interstate Commercial	OS - Open Space	RMC - Residential Multi-Unit Complex
AG - Agriculture	IL - Industrial Large	PUD - Planned Unit Development	RMH - Residential Mobile Home
CL - Commercial Large	IM - Industrial Medium	RL - Residential Large Lot	
CM - Commercial Medium	OT - Old Town	RM - Residential Medium Lot	
CS - Commercial Small	OTR - Old Town Residential	RA - Residential Attached Single-Family	



PROJECTS *plus*

GREENWOOD SURVEYING COMPANY

CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING - CONSTRUCTION MANAGEMENT
1257 AIRPORT PARKWAY, SUITE A - Greenwood, Indiana 46143
(317)-882-5003

FINISH FLOOR ELEV.(HOUSE) = 784.40
FINISH FLOOR ELEV.(GARAGE) = 784.07

ELEVATIONS:
PROPOSED YARD GRADE: 81.80
FOUNDATION: SLAB

SETBACK REQUIREMENTS:
MIN. S.Y.: 10'
MIN. R.Y.: 20'

SANITARY T/C
DOWNSTREAM: 778.75
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*BUILDER/CONTRACTOR TO
VERIFY THE DIMENSIONS OF
PROPOSED RESIDENCE AS
SHOWN PRIOR TO
CONSTRUCTION.

VERIFY SANITARY SEWER
LATERAL LOCATION PRIOR TO
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HOME SITE: 146
HOME ADDRESS: 187 MAPLE STONE DRIVE
GREENWOOD, IN 46143
RECORDED AS: INST. #2020-030512
P.C. E. SLIDE #472 A&B
CHERRY TREE WALK
SECTION FOUR
CITY OF GREENWOOD, INDIANA
SEC. 7 TWP. 13 N RGE. 4 E

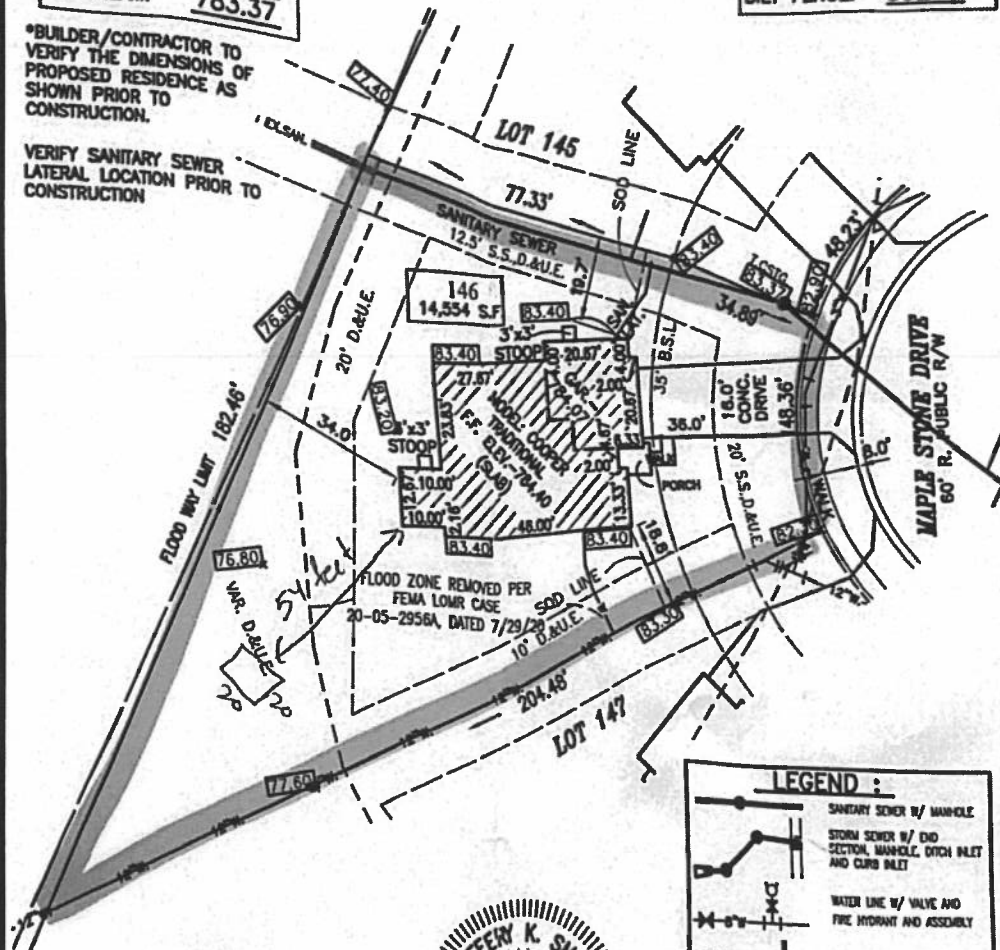
PLOT PLAN

SCALE: 1" = 30'



SQUARE FOOTAGE

LOT 146
SOD: 2152 s.f.
GRADED ONLY: 9927 s.f.
CONC. DRIVE: 831 s.f.
PRIVATE WALK: 36 s.f.
PUBLIC WALK: 118 s.f.
SLAB & GAR.: 2049 s.f.
SILT FENCE: 352 l.f.



LEGEND :

- SANITARY SEWER W/ MANHOLE
- STORM SEWER W/ END SECTION, MANHOLE, DITCH INLET AND CURB INLET
- WATER LINE W/ VALVE AND FIRE HYDRANT AND ASSEMBLY
- 6" SERVICE LATERAL
- FLOWLINE
- FLOW DIRECTION
- SPOT ELEVATION
- DRAINAGE AND UTILITY EASEMENT
- BUILDING SETBACK LINE
- RIGHT-OF-WAY
- SANITARY SEWER, DRAINAGE & UTILITY EASEMENT

JEFFERY K. SMITH
REGISTERED
No. 19419
STATE OF INDIANA
PROFESSIONAL ENGINEER

Jeffery K. Smith 12/16/20
JEFFERY K. SMITH, P.E. 19419

NOTE: BUILDER TO ESTABLISH POSITIVE DRAINAGE AWAY FROM RESIDENCE.
DRIVERWAYS TO BE CONSTRUCTED OF 6" PLAIN CONCRETE OR 1" BITUMINOUS SURFACE ON 2" BITUMINOUS BASE ON 4" TYPE "P" COMPACTED AGGREGATE OR 1" BITUMINOUS SURFACE ON 4" BITUMINOUS COATED AGGREGATE BASE WITH 50 STONE A MINIMUM WIDTH OF 12" WITH 5' BY 5' FLARES WITHIN THE RIGHT-OF-WAY IN ACCORDANCE WITH D.C.A.M. STANDARD PLAN 18-01. ALL LOTS IN THIS SUBDIVISION SHALL CONNECT TO THE PUBLIC WATER AND SANITARY SEWERS, UNLESS OTHERWISE APPROVED WITHOUT PUBLIC ACCESS.

PREPARED FOR:

ARBOR HOMES

HOUSE MODEL: COOPER 'TRADITIONAL'

12/16/20 20-271 JPI

Exhibit C

Note: Gazebo was not built in the location shown on site plan



October 20, 2023

SINGH AVTAR & KAUR KAMALPREET
1197 Maple Stone Dr
Greenwood IN 46143

NOTICE OF VIOLATION
Reference Number BGV2023-018
1197 MAPLE STONE DR

It has been brought to our attention that there has been activity on your property that requires obtaining a building permit from the City of Greenwood. Please see the information below regarding the applicable sections from the Greenwood Municipal Code, and how it may apply to your project.

Sec. 7-11 Permit Required

(Gazebo in rear yard requires a building permit)

A permit shall be obtained before beginning construction, alteration, or repair of any building or structure, as required by The Greenwood Zoning Ordinance, using forms furnished by the Building Commissioner. All permits shall be issued by the Building Commissioner, or other designated personnel of the Department of Planning and Zoning, and all fees provided for herein shall be paid to the City. (Ord. No. 81-38, § 7, 12-22-81; 1983 Greenwood Municipal Code, § 4-26; Ord. No. 11-37, §1, 11-21-11)

Sec. 7-13. Three (3) Inspections Required

After the issuance of any building permit hereunder, the Building Commissioner shall make, or shall cause to be made, such inspections of the work being done under such permit as are necessary to insure full compliance with the provisions of this Article and the terms of the permit. It shall be the responsibility of the person or persons obtaining a permit to notify the Building Commissioner that the building or structure for which the permit has been obtained is ready for inspection. The permit holder shall notify the Building Commissioner for a minimum of three (3) inspections: Footing, Rough-in, and Final. (Ord. No. 81-38, § 13, 12-22-81; 1983 Greenwood Municipal Code, § 4-28)

By order of the Building Commissioner, you will be provided ten days from receipt of this notice to correct the violation cited above. This includes either scheduling your required inspection, stopping work completely, obtaining your permit, or paying any fines applied to your case. Failure to comply with this order *will* result in additional action and or fees as prescribed by the Greenwood Municipal Code.

Should you wish to appeal the above listed violations or fees you may do so in writing within 10 days of receipt of this notice to the City of Greenwood Plan Commission. Information or assistance with that procedure can be provided if requested.

Authority for this action is; Section 7-5 (Ord. No. 88-29, § 2, 6-6-88),

A handwritten signature in black ink, appearing to read "Kenneth Seal", is written over a light gray rectangular background.

KENNETH SEAL
BUILDING COMMISSIONER
DEPARTMENT OF COMMUNITY
DEVELOPMENT SERVICES
317-887-5230
sealk@greenwood.in.gov

corream



EST 1864

Exhibit E

Board of Public Works & Safety - Easement Encroachments

We have examined these request(s) on January 3, 2024

Location	Approve	Deny
1197 Maple Stone Drive; Cherry Tree Walk, Section 4, Lot 146	X	

Kevin Hoover

Jeffrey A. Colvin

Shan Rutherford

Engineering



Summary of Easement Encroachment Requests

January 4, 2024

[illegible]

MEMORANDUM

TO: THE BOARD OF PUBLIC WORKS AND SAFETY
FROM: JEFF WEAVER, COMMUNITY DEVELOPMENT SERVICES,
ENGINEERING DIVISION
DATE: 1/3/2024
RE: GAZEBO ENCROACHMENT REQUEST

The Residents of 1197 Maple Stone Drive also known as lot 146 located in Cherry Tree Walk Section 4 are requesting approval from the Board of Public Works and Safety to keep a constructed gazebo (existing) built in their back yard. The owner has encroached into a platted variable Drainage and Utility Easement (Var. D. & U.E.) located adjacent to their west property line. There is an existing sanitary main located along the north side of property but the gazebo was not constructed close to said sanitary main. I have included an aerial photo of the existing condition of this lot along with a plot plan showing the EXISTING location of said gazebo (green highlight), existing sanitary line (red highlight). The property owner has notified all required utility companies and provided an approval letter from the home owners association.

All utility companies have been notified via certificate of mailing and been invited to attend said meeting to present comments, for or against, this encroachment.

The Engineering Division recommends approval of the encroachment request, subject to the following conditions:

1. That the gazebo was constructed to allow for adequate drainage, and if it is determined by the Engineering Division and or the Stormwater Dept. that a drainage issue has been created the homeowner will be responsible to correct said drainage issue.
2. Should work within any easement be necessary by any of the utilities or the City of Greenwood , the Owner shall be responsible for removal and replacement of the gazebo at their sole expense, and owner further holds harmless all utilities and City of Greenwood for any damage to said gazebo.
3. The gazebo was constructed in a local flood plain. Property owner must apply for a Local Flood Plain Permit form the City of Greenwood Planning Department.

PROJECTS *plus*

GREENWOOD SURVEYING COMPANY

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LAND PLANNING - CONSTRUCTION MANAGEMENT
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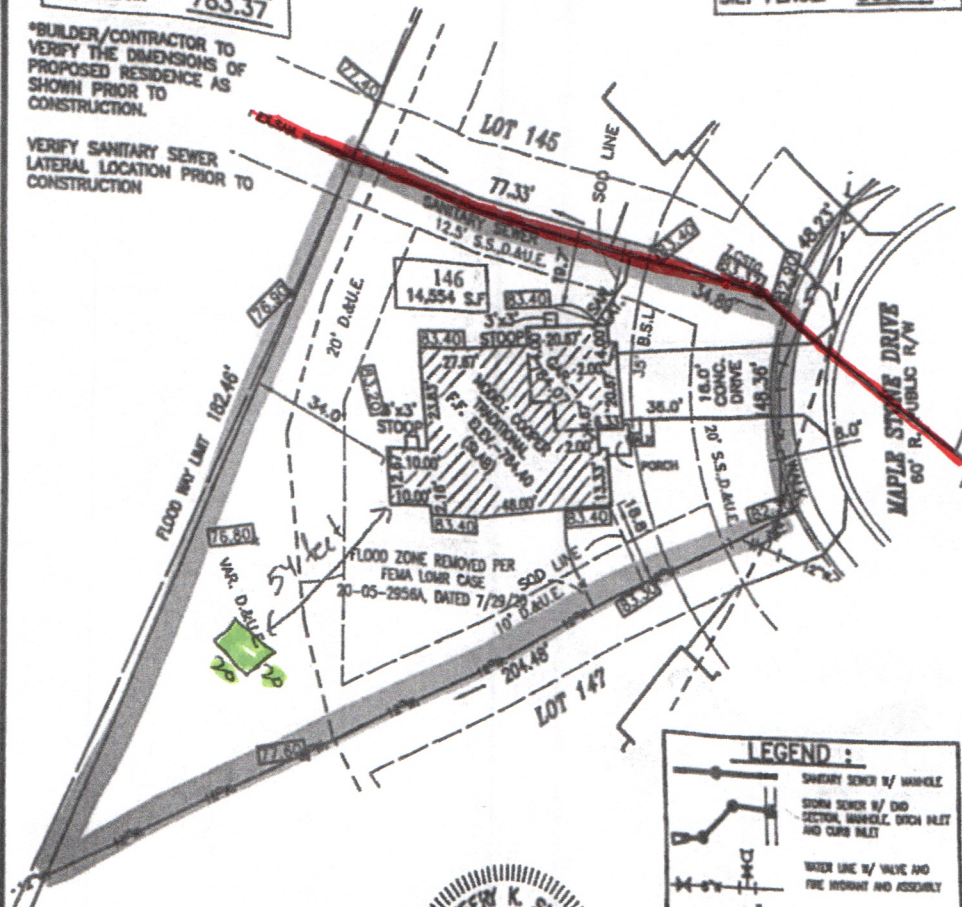
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Jeffery K. Smith
JEFFERY K. SMITH, P.E. 19419

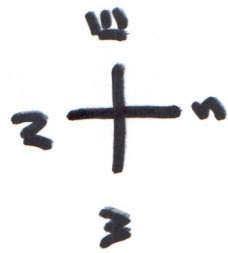
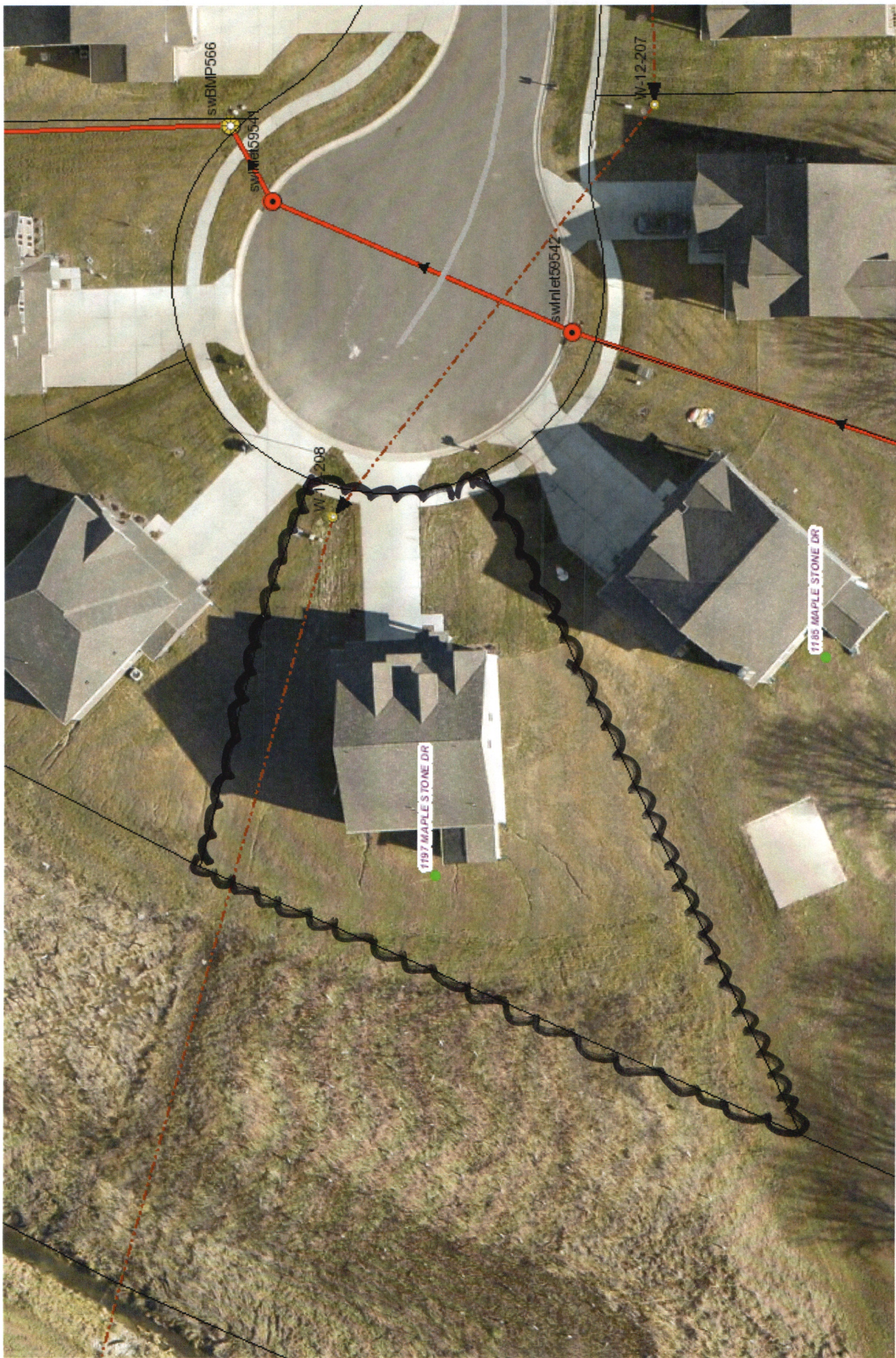
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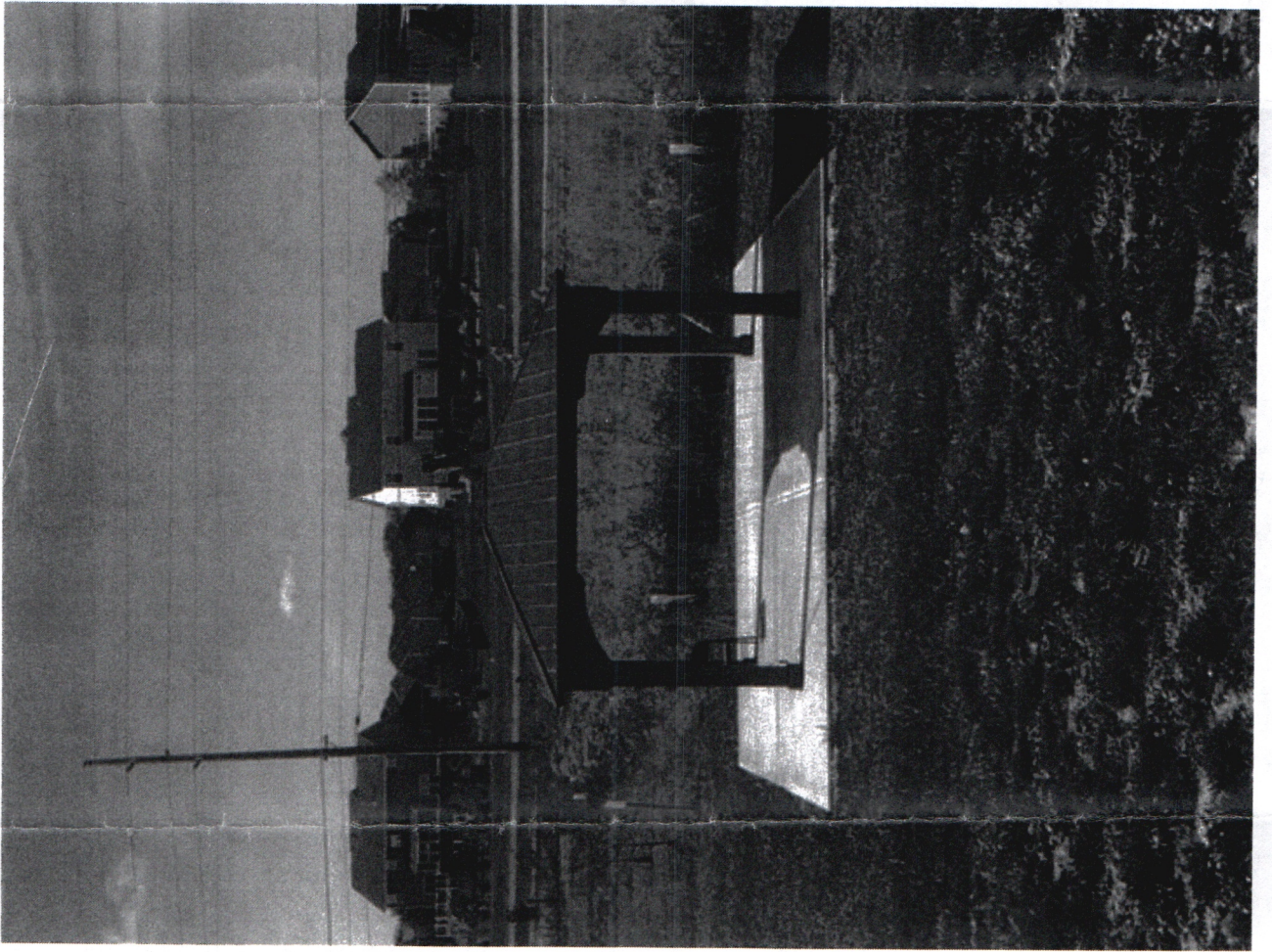
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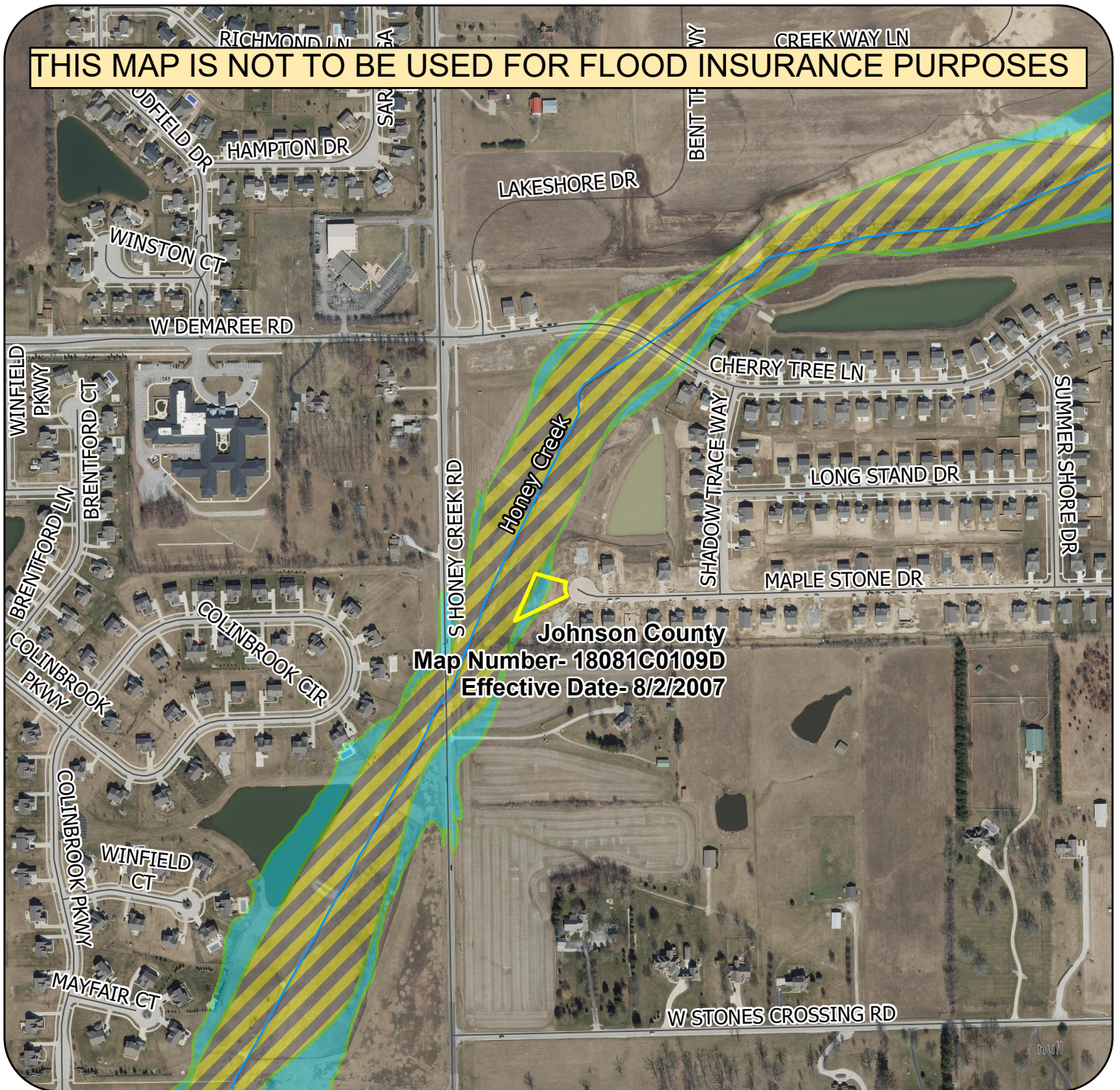
HOUSE MODEL: COOPER TRADITIONAL

12/16/20 30-3771 JPM





THIS MAP IS NOT TO BE USED FOR FLOOD INSURANCE PURPOSES



The floodway and fringe were derived from the best available data from DNR Division of Water

While this map is provided for information, the FIRMs as published by FEMA are the authoritative documents for the National Flood Insurance Program.

Copies of those maps can be found at <http://msc.fema.gov>

Map Source: Best Available Data from DNR Division of Water
(Not for Flood Insurance purposes)

File Number: CT-5276




Note

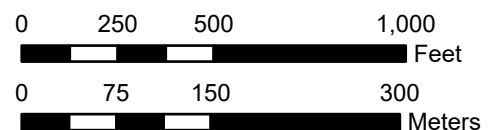
This map does not reflect changes or amendments which may have been made subsequent to the effective date



MAP SCALE: 1" = 500'

Legend

-  DNR Detailed Floodway
-  FEMA Zone A
-  Not Mapped



Date:6/13/2024



**State of Indiana
Department of Natural Resources**



LETTER OF AUTHORIZATION

Issue Date: 7/25/2024

File #: CT-5276-0

Waterbody: Honey Creek

County: Johnson

Requestor: Avtar Singh, 1197 Maple Stone Drive, Greenwood, IN 46142

Request: A gazebo has been constructed on a 20' by 20' concrete slab. There is approximately 4" of No. 53 stone compacted and 4" of concrete poured on top. The gazebo is 12' wide, 14' long, and approximately 10.5' tall. It is constructed out of wood and has an aluminum roof.

Location: 1197 Maple Stone Drive at Greenwood

RESPONSE

This is in response to your request regarding the proposed project listed above.

The Department's staff has determined that if the project is followed as described in the submitted information, the impacts, in conjunction with previously approved or currently proposed projects, will be negligible to the efficiency or capacity of the floodway and will not be unreasonably detrimental to fish, wildlife, and botanical resources. Therefore, the project is approved. Please be aware that the below conditions must be met in order for your project to be in compliance.

AUTHORIZATION CONDITIONS

- 1) Except for the material used as backfill as shown on the plans submitted for the permit application, place all excavated material landward of the floodway*.
- 2) Do not leave felled trees, brush, or other debris in the floodway*.
- 3) Upon completion of the project, remove all construction debris from the floodway*.
- 4) Do not place any walls or screens around the open sides of the building without the prior written approval of the Department of Natural Resources.
- 5) Obtain the prior written approval of the Department for any additional construction, excavation or filling in or on the floodway* beyond the scope of the project.
- 6) Do not convert the structure into a residential building/residential use.
- 7) Revegetate all bare and disturbed areas with a mixture of grasses (excluding all varieties of tall fescue) and legumes as soon as possible upon completion.
- 8) Appropriately designed measures for controlling erosion and sediment must be implemented to prevent sediment from entering the waterbody or leaving the construction site; maintain these measures until construction is complete and all disturbed areas are stabilized.

* Note: For regulatory purposes, the floodway is defined on the attached Floodway Map.

A copy of this Letter must be displayed at the construction site.

RIGHT TO ADMINISTRATIVE REVIEW

A party may appeal this Department of Natural Resources Action through the administrative review procedures found in the Administrative Orders and Procedures Act, IC 4-21.5, and the rules promulgated thereunder 312 IAC 3-1. If an appeal is filed, the final agency determination will be made by the Natural Resources Commission following a legal proceeding conducted before an Administrative Law Judge. The Department of Natural Resources will be represented by legal counsel at all stages of administrative review.

In order to obtain an administrative review, a written petition must be filed with the Division of Hearings within 18 days of the Mail Date of the Action. The petition must contain specific reasons for the appeal and indicate the portion or portions of the project to which the appeal pertains. The petition must be addressed to the Division of Hearings, Indiana Government Center North, Room N103, 100 North Senate Avenue, Indianapolis, Indiana 46204

Point of Contact: Katelyn Salzer, Division of Water

This information in this document was prepared by the staff name listed as the Point of Contact. If you have any questions, contact that staff person at the Division of Water by email at water_inquiry@dnr.in.gov or by telephone at 317-232-4160 or toll-free at 1-877-928-3755 and select 1 during the recorded menu narrative.

Issued By:



Markita Shepherdson, CFM, Division of Water

Attachments: CT-5276_FloodplainMap_BestAvailable.pdf

Copies Provided To:

Avtar Singh, 1197 Maple Stone Drive, Greenwood, IN 46142

Interested Parties:

Johnson County Drainage Board, County Surveyor, Courthouse Annex 86 West Court Street, Franklin, IN 46131

Richard Hoover, Courthouse Annex 86 West Court Street, Franklin, IN 46131

US Army Corps of Engineers, Louisville District, PO Box 59, Louisville, KY 40201

Gabriel J Nelson, 300 South Madison Avenue, Greenwood, IN 46142

Indiana Department of Natural Resources, Division of Law Enforcement District 6 Headquarters PO Box 282, Nineveh, IN 46164

Johnson County SWCD, Kathy Haste, 550 East Jefferson Street, Suite 202, Franklin, IN 46131

ADDITIONAL PERMITTING AGENCIES:

This is not a waiver of any local ordinance or other state or federal law and does not relieve the permittee of any liability for the effects which the project may have upon the safety of the life or property of others.

This does not relieve the permittee of the responsibility of obtaining permits, approvals, easements, etc. under other regulatory programs administered by, but not limited to, the U.S. Army Corps of Engineers, County Drainage Board, Indiana Department of Environmental Management and local, city, or county floodplain management, planning or zoning commissions.

Exhibit "A"

Exhibit F

Property 1:

Lot 146 Cherry Tree Walk, Section Four, a subdivision in Johnson County, Indiana, as per plat thereof, recorded October 26, 2020 in Plat Cabinet E, Slide A472 A&B, as Instrument No. 2020-030512, in the Office of the Recorder of Johnson County, Indiana.