



**CITY OF COLUMBUS
 BOARD OF ZONING APPEALS
 (December 15, 2015 Meeting)**

STAFF REPORT

Docket No. / Project Title: C/DS-15-27 (Phillip Burton)
Staff: Melissa Begley

Applicant: Phillip Burton
Property Size: 21.878 Acres
Current Zoning: AP (Agriculture: Preferred)
Location: The property is located on County Road 50 North, approximately 2,250 feet west of County Road 580 West, in Harrison Township.

Background Summary:

The applicant recently constructed a 16 ft. by 20 ft. (320 square foot) three sided agricultural structure for his tractor. The structure was constructed 6 feet from the property line, 24 feet closer than the 30 required setback. The applicant is retroactively seeking approval for the structure.

Preliminary Staff Recommendation:

Approval, all criteria have been met. The approval includes a condition that the applicant provides documentation to the Planning Department verifying that the structure is not located in the floodway.

Zoning Ordinance Considerations:

District Intent: The intent of the AP (Agriculture: Preferred) zoning district is intended to provide an area suitable for agriculture and agriculture-related uses. This district is further intended to preserve the viability of agricultural operations, and limit nonagricultural development in areas with minimal, incompatible infrastructure.

Development Standards: Section 3.5(C) – Side yard setback: Agricultural structures located in the AP (Agriculture: Preferred) zoning district shall be setback a minimum of 30 feet from all side and rear property lines.

Current Property Information:	
Land Use:	Agriculture
Site Features:	An agricultural structure, woods, agricultural fields, a pond, and Wolf Creek
Flood Hazards:	According to Flood Insurance Rate Map (FIRM) 18005C0110E, effective December 9, 2014, much of the subject property, including the agricultural structure, is located in Flood Zone A, which is an area of the 100 –year floodplain where the floodway has not yet been determined.

Vehicle Access:	50 North (Local, Residential, Rural)
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Surrounding Zoning and Land Use:		
	Zoning:	Land Use:
North:	AP (Agriculture: Preferred)	Large Lot Single Family Residential, Single Family Residential
South:	AP (Agriculture: Preferred)	Large Lot Single Family Residential
East:	AP (Agriculture: Preferred)	Large Lot Single Family Residential
West:	AP (Agriculture: Preferred)	Large Lot Single Family Residential

Interdepartmental Review:	
Flood Plain Administrator:	The structure is located in Flood Zone A (shown on FIRM 18005C0110E). According to Section 4.7(K) of the Zoning Ordinance, the applicant has to forward information to IDNR for review. Because the boundary between the floodway and the floodway fringe has not been determined at this location, more information from IDNR is required. They will either issue a permit for construction in a floodway or they'll provide a floodplain analysis/regulatory assessment citing the base flood elevation and recommended flood protection grade.
Code Enforcement:	Approval of this variance would not create any building code or safety issues.

Planning Consideration(s):

The following general site considerations, planning concepts, and other facts should be considered in the review of this application:

1. The applicant constructed a 16 ft. by 20 ft. (320 square foot) 3 sided structure on the subject property, the structure is located 6 feet from the property line. The applicant has indicated that the structure is used to store a tractor and protect it from the elements.
2. There are no other structures located on the subject property. The closest structure is located 180 feet directly to the north and is an accessory structure. The closest residence is located 300 feet to the north on the adjacent property.
3. The property has an existing access point on County Road 50 North, which is a Local, Residential, Rural Road. The agricultural structure will create little to no additional traffic onto 50 North.
4. The property is over 21 acres in size and is comprised of wooded areas, fields and a small pond. Wolf Creek runs along the entire southern boundary of the property. The applicant is attempting to place the structure as far from the creek as possible.
5. The structure is located in the Flood Zone A. In instances where a structure is proposed in Flood Zone A and the drainage area upstream of the site is greater than 1 square mile (which is the case here), the Zoning Ordinance requires that the applicant forward all application materials to the Indiana Department of Natural Resources (IDNR) for review and comment. Section 4.7(K) of the ordinance specifically states the following:
 - A. No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway (including letters of authorization) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended

Flood Protection Grade has been received from the Indiana Department of Natural Resources.

- B. Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Section 4.7(E) through 4.7 (I)(1) of this Chapter have been met.
6. Because the structure is existing, the applicant will need to retroactively seek this determination from IDNR. The following are some scenarios based on the possible results from IDNR:
- A. IDNR determines that the structure is located in the floodway: Zoning Ordinance Section 4.7(I)(1) states that all development and land altering activities, including the construction of new buildings, the placement of fill, and the creation of any other potential obstructions to the flow of floodwater shall be prohibited in all floodways. The Ordinance provides a list of activities that are exempt from this prohibition, assuming a construction in a floodway permit is received from IDNR. However, the proposed structure does not fall within the list of exempted activities. Therefore, the structure will need to be removed if IDNR determines it is located in the floodway.
 - B. IDNR determines that the structure is in the 100-year floodway fringe and no building addition is proposed: The area of the existing structure is less than 400 square feet and would thus qualify as an accessory structure. If IDNR determines that the structure is located in the 100-year floodway fringe, the Planning Department will then need to ensure that it complies with all standards established for accessory structures in the floodway fringe. Those standards are as follows [Section 4.7(F)(7)]:
 - a. The structure shall not be used for human habitation.
 - b. The structure shall be constructed of flood resistant materials.
 - c. The structure shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
 - d. The structure shall be firmly anchored to prevent flotation.
 - e. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to the flood protection grade (two feet above the base flood elevation).
 - f. The structure shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 4.7(F)(4).

Provisional Findings of Fact/Decision Criteria:

The Board of Zoning Appeals may approve or deny variances from the development standards of the City of Columbus Zoning Ordinance. The Board may impose reasonable conditions as part of an approval. A variance from the development standards may only be approved 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.

Provisional Findings: The property is accessed through an existing driveway and sits behind other residential properties. The structure will not create any sight visible issues on County 50 North. The closest structure is over 180 feet to the north and the closest residential dwelling is over 300 feet to the north. *This criterion has been met.*

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.

Provisional Findings: The property is located within an area of large lot single family residential and agriculture. Many of the residences in this area have multiple agricultural structures and accessory structures of varying sizes. The closest residence on the adjacent property is over 300 feet to the north. *This criterion has been met.*

3. **The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.**

Provisional Findings: Due to the location of the Flood Zone A on this property, the best location for this structure is to be as far away from Wolf Creek as possible. Meeting the 30 foot setback would position the structure closer to Wolf Creek and closer to the proximity of the Floodway. *This criterion has been met.*

Board of Zoning Appeals Options:

In reviewing a request for development standards variance the Board may (1) approve the petition as proposed, (2) approve the petition with conditions, (3) continue the petition to a future meeting of the Board, or (4) deny the petition (with or without prejudice). Failure to achieve a quorum or lack of a positive vote on a motion results in an automatic continuance to the next regularly scheduled meeting.

Columbus – Bartholomew County Planning Department
Development Standards Variance Application

RECEIVED
OCT 20 2015
BY: ASK

Planning Department Use Only:

Jurisdiction: Columbus Bartholomew County

Zoning: AP
Docket No.: CIDS-15-27

Hearing Procedure: Hearing Officer Board of Zoning Appeals

Development Standards Variance Application:

Applicant Information (the person or entity that will own and/or execute what is proposed):

Name: Phillip Burton
Address: 10541 W 50 N Columbus IN 47201
(number) (street) (city) (state) (zip)
Phone No.: (812) 343-7310 Fax No.: _____ E-mail Address: phillip.burton@comcast.net

Property Owner Information (the "owner" does not include tenants or contract buyers):

Name: Phillip Burton
Address: 9761 W 50 N Columbus IN 47201
(number) (street) (city) (state) (zip)
Phone No.: (812) 343-7310 Fax No.: _____ E-mail Address: phillip.burton@comcast.net

Notification Information (list the person to whom all correspondence regarding this application should be directed):

Name: Phillip Burton
Address: 10541 W 50 N Columbus IN 47201
(number) (street) (city) (state) (zip)
Phone No.: (812) 343-7310 Fax No.: _____ E-mail Address: phillip.burton@comcast.net

How would you prefer to receive information (please check one): E-mail Phone Fax Mail

Property Information:

Address: 9761 W 50 N Columbus IN 47201
(number) (street) (city) (state) (zip)

or General Location (if no address has been assigned provide a street corner, subdivision lot number, or attach a legal description):

Northwest corner of property

Variance Requested:

I am requesting a variance from Section _____ of the Zoning Ordinance to allow the following:

I am wanting to attach two walls to the sides of three sided storage shed to park a tractor in. I want to keep it out of the elements. The three sided shed is 5-6 feet off line. Was placed there earlier with neighbors permission.

Variance Request Justification:

The Indiana Code and the Columbus & Bartholomew County Zoning Ordinance establish specific criteria that each must be met in order for a development standards variance to be approved. Describe how the variance request meets each of the following criteria.

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

This will keep a tractor out of elements and be more safe than just sitting out into the open. The tractor being inside a structure should keep children or people from seeing something to play on or around.

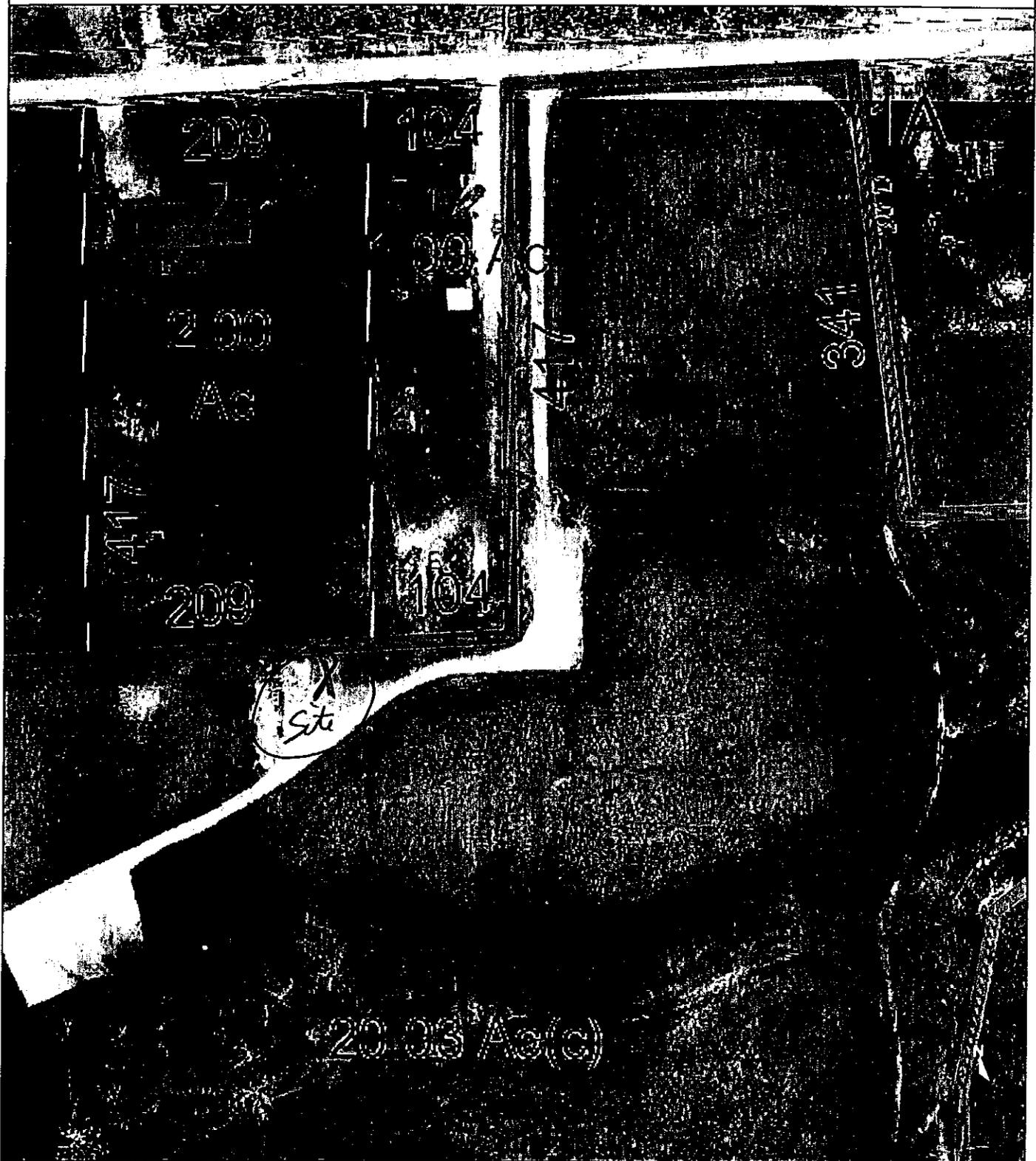
The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

This structure cannot be seen from the road and should in no way devalue property. The metal will match neighbors siding color to keep uniform and not stand out.

The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed; nor be based on a perceived reduction of, or restriction on, economic gain.

This will have no negative effect on property or surround property. Walls will be painted metal and look professional.

Bartholomew County, IN



Application Fee Refund Information:

The adopted Planning Department Schedule of Application Fees provides for the refunding of application fees for this request if it is approved by the Board of Zoning Appeals. The refund will be provided by mail in the form of a check. It may take several weeks after the Board of Zoning Appeals approval to process the refund and issue the check. Please indicate to whom the refund should be provided:

Name: Phillip Burton
Address: 10541 W 50 N Columbus IN 47201
(number) (street) (city) (state) (zip)

Applicant's Signature:

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

 10/12/15
(Applicant's Signature) (Date)

Property Owner's Signature (the "owner" does not include tenants or contract buyers):

I authorize the filing of this application and will allow the Planning Department staff to enter this property for the purpose of analyzing this request. Further, I will allow a public notice sign to be placed and remain on the property until the processing of the request is complete.

 10/12/15
(Owner's Signature) (Date)

(Owner's Signature) (Date)