

MEETING AGENDA

Valparaiso Board of Zoning Appeals
Tuesday, January 21, 2020, 7:00 PM
Valparaiso City Hall, 166 Lincolnway

1. Roll Call
2. Adoption of December 17th, 2019 Meeting Minutes
3. Election of Officers for 2020
4. Approval of 2020 Meeting Dates
5. Old Business
6. New Business

UV19-004/VAR19-019 – A petition filed by Evergreen Real Estate Group c/o Todd Leeth, 103 Lincolnway, Valparaiso IN, 46383. The petitioner requests a use variance from Article 11, Section 11.305 (C)(4) of the Valparaiso Unified Development Ordinance, to allow for Institutional Residential within the US 30 (Morthland Drive) Overlay District. A variance from Article 2, Section 2.518(D), to vary the required installation of a six-foot-high opaque fence constructed between an institutional residential use and lots zoned and or occupied by single-family dwelling units. A variance from Article 3, Table 3.301(B), to vary the Gross Floor Area (FAR) of .431, to allow for a Gross FAR of .68. A variance from Article 3, Table 3.301(B), to vary the NET FAR of .507, to allow for a NET FAR of .77. A variance from Article 3, Table 3.505, to vary the maximum building height of thirty-five (35) feet, to allow for a building height of thirty-six (36) feet. A variance from Article 9, Section 9.201, to vary the required 180 parking spaces, to allow for 90 parking spaces for the use of an Institutional Residential use. A variance from Article 9, Table 9.201, to vary the required six (6) loading berths, to allow for one (1) loading berth. The Property is located at 150 Morthland Dr, in the Commercial General (CG) Zoning District.

VAR19-023 – A petition filed by Terry and Harold Howie, 2502 William Dr., Valparaiso IN, 46383. The petitioner requests a variance from Article 2, Section 2.305(C)(2), of the Valparaiso Unified Development Ordinance, to vary the required side yard pool setback of eight (8) feet to allow for a pool setback of six (6) feet. A variance from Article 2, Section 2.302 (A)(3) to vary the required fence height of four (4) feet to allow for a fence height of five (5) feet. The Property is located at 2402 William Ct, in the Suburban Residential (SR) Zoning District.

7. Adjournment

Michael Micka, President – Board of Zoning Appeals
Tyler Kent, Planning Director
Next Meeting: **February 18th, 2020**

FILED

SEP 20 2019

Sharon Emerson Sherbourn

Clerk-Treasurer

Petition #: VAL19-019

PETITION TO VALPARAISO BOARD OF ZONING APPEALS

The Petition shall be filed in duplicate with the City Clerk-Treasurer a minimum of 25 days prior to the date of the next Board of Zoning Appeals ("BZA") meeting. The BZA meets every third Tuesday of the month at 7:00 PM in City Hall, 166 Lincolnway, Valparaiso. The Petitioner and/or his/her representative must be present at the public hearing. The filing fee must be paid to the City Clerk-Treasurer upon filing a complete Petition. Please submit nine (9) copies of this petition.

PLEASE COMPLETE THE FOLLOWING:

The undersigned Petitioner and owner(s) of real estate, identified within this application as property within the jurisdiction of the City, respectfully petition the Board of Zoning Appeals to consider;

- ☐ 1. Relief to an Administrative decision. (Exhibit No. ☐)
- ☒ 2. Variance(s) from the development standards.
- ☐ 3. Variance of the use from the terms of the Zoning Ordinances.
- ☐ 4. Petition for Special Exception.
- ☐ 5. Special Exception from Home Occupation.
- ☐ 6. Conditional Use.

In support of an application for **Variance(s) from the Development Standards**, the Petitioner states that the granting of such request:

- ☒ Will not be injurious to the health, safety, morals, and general welfare of the community;
- ☒ Will not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner; and arise from practical difficulties in the use of the property in conformity with the Zoning Ordinance.
- ☐ Petitioner will comply with all ordinance parking requirements.

In support of an application for a **Use Variance**, the Petitioner states that the granting of such request:

- ☒ Will not be injurious to the health, safety, morals, and general welfare of the community;
- ☒ Will not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner; and arise from practical difficulties in the use of the property in conformity with the Zoning Ordinance.
- ☒ Arise from a condition peculiar to the property;

____ Arises from unnecessary hardships if the Zoning Ordinance is strictly applied; and
____ Does not interfere substantially with the Comprehensive Plan adopted.
____ Petitioner will comply with all ordinance parking requirements.
In Support of an application for **Special Exception**, the Petitioner states that the granting of such request:

____ Will not generate excessive vehicular traffic on minor residential streets;
____ Will not create vehicular parking or traffic problems;
____ Appropriate access roads, drives, utilities, drainage, facilities, and other necessary facilities have been or will be installed;
____ Will make a substantial contribution to the neighborhood environment and will not infringe on the rights of properties in the vicinity of the expected use;
____ Will comply with the requirements of the district in which proposed use is to be located.
____ Petitioner will comply with all ordinance parking requirements.

In support of such application for **Special Exception for Home Occupation**, Petitioner states:

____ That no person other than members of the family residing on the premises will be engaged in the home occupation.
____ That the use of the dwelling unit for home occupation will be clearly incidental and subordinate to its use for residential purposes and not more than 25% of the floor area of the dwelling will be used in the conduct of the home occupation.
____ That there will be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than one sign-such sign not exceeding two square feet in area, non-illuminated and containing only the name and nature of the business.
____ That no home occupation will be conducted in any accessory building.
____ That there will be no sales area unless specifically permitted by the BZA.
____ That no traffic will be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation will be met by required or permitted parking spaces, and will not be in the front yard.
____ That no equipment or process will be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses which can be detected off premises.

PETITIONER: Evergreen Real Estate Group
c/o Todd A. Leeth, Hoepfner Wagner & Evans LLP
103 E. Lincolnway
Valparaiso, Indiana 46383

Name (Please Print)	Address	Phone
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OWNER OF SUBJECT PROPERTY:

Trust No. 1	4451 Gulf Shore Blvd N., Naples, FL 34103	
Name (Please Print)	Address	Phone

ADDRESS OF SUBJECT PROPERTY: 150 U.S. Highway 30, Valparaiso
Subject property fronts on the North side between (streets) Hayes Leonard Drive and Cool Wood Drive.
in the _____ Zoning District.
Commercial, General (CG)

Legal Description of Subject Property: (Exhibit No. __)
See Attached

**DESCRIPTION OF PROPOSED PROJECT INCLUDING, NEW CONSTRUCTION,
ADDITION, ALTERATION, OR CHANGE OF USE:** (Exhibit No. __)

Section (3) of the Zoning Ordinance from which a Variance, Special Exception, or
Administrative Relief is sought:

Article: _____ Section: _____ Paragraph: _____ Item: _____
: _____ : _____ : _____ : _____
: _____ : _____ : _____ : _____

Attach a Site Plot Plan drawn to scale showing:

- a. scale
- b. lot: shape, location, dimension, and area
- c. existing improvements on the lot (including, structures, sidewalks, & driveways)
and the percent coverage of improvements on the lot
- d. distance for lot lines, right-of-way lines, or easements to any structure for: front,
back and side yards

Please fill in:

Front Setback _____ Rear Setback _____ Side Setbacks _____ / _____ Lot Coverage _____
Height _____

The powers and duties of the Board of Zoning Appeals are provided for and limited by Enabling Acts in Indiana Code 36-7-4-900 et. eq.. The public hearing procedures are similar to a courtroom hearing. Although it is not required that the Petitioner represented by legal counsel, information and documentation pertaining to the petitioner should be prepared as if it were to become part of a court hearing. **Although the office of the City Planner is available to assist the Petitioner, it is the Petitioner's responsibility to request and prepare the appropriate variance petition.** The Planning Department can be contacted Monday-Friday between 8:30 – 4:30 at (219) 462-1161.

Petitions will not be scheduled for public hearing unless all legal and procedural requirements have been met.

STAFF USE ONLY

Date Received _____

- ____ Names and Addresses of property owners within 300 feet provided
- ____ Signature notarized
- ____ Site Plan attached
- ____ Legal Description (Not Abbreviated) Provided
- ____ Petition Filed Complete
- ____ Written Description of Project
- ____ Petitioners Affidavit of Notice
- ____ Findings of Fact
- ____ Photo's of Property (Staff Request)
- ____ Landscape Plan (Staff Request)

Date approved for Public Hearing _____,

BZA Application Fees

____ Use Variance	\$200
____ Single Family Development Standards Variance	\$50
☒ Commercial Development Standards Variance	\$150
____ Special Exception/Special Use	\$200
____ Relief to an Administrative Decision	\$200
____ Special Meeting	\$1000
____ Conditional Use	\$100
____ Wireless Communications Facility Special Use – Major	\$500
____ Wireless Communications Facility RF Tech Study Fee	\$ Actual cost of study

TOTAL FEE \$150.00

Certificate of Petitioner

Please read and sign the following statement:

I, the Petitioner (and Property Owner, if separate), understand that I and/or my representative must be present at the public hearing. Should I fail to appear, the BZA, in my absence, may consider and take action on my Petition. If the Petitioner is not the owner of the property that is the basis of this Petition, the signature of the Property Owner(s) constitutes authorization for the Petitioner to speak and act on behalf of the Property Owner(s). The Petitioner certifies that neither the Petitioner nor any attachments or exhibits submitted contains any known intentional misrepresentations or intentionally misleading statements. All information submitted is accurate, true and correct to the best of the Petitioner's knowledge. The providing of false and/or inaccurate information on this Petition or during any proceedings before the BZA may result in the denial of the request or the revocation of the request, should a Petition be granted. Similarly, if as part of any granted Petition, the BZA places any restrictions and/or limitations, I acknowledge that my failure to comply with such restrictions/limitations shall be grounds to revoke any granted Petition. The Petitioner acknowledges that it bears the obligation to mail notice of any Public Hearing to all property owners within 300 feet of the property that is the subject of this Petition. Any errors by the Petitioner may result in the Petition being delayed, denied or revoked.

Todd A. Leeth
Signature of Petitioner

Todd A. Leeth, Attorney for Petitioner
Printed Name

Signature of Property Owner

Signature of Property Owner

Subscribed and sworn to before me, a Notary in and for said County and State, personally appeared: Todd A. Leeth, and
acknowledge the execution of the foregoing document, this 19 day of Sept, 2019.

Kimberly S. Werner
NOTARY PUBLIC

My Commission Expires: _____
Resident of _____ County

Type or Print name of Notary



DEVELOPMENT STANDARD VARIANCE REQUESTS

Evergreen Real Estate Group

Fence	§2.518(D)
No fence on North property line	
Density	Table 3.301.B
Code:	Gross .431 Net .507
Proposed:	.68 .77
Building Height	Table 3.505
Code:	35'
Proposed:	36'
Parking	Table 9.201
Standard spaces:	Code: 174 Proposed: 86
Handicap spaces:	6 4
Total:	180 90
(1.5 spaces x 120 units = 180)	
Loading Berths	Table 9.201
Code:	6
Proposed:	1

Affidavit of Consent of Property Owner

(To be presented with application for Board of Zoning Appeals)

_____, being dully sworn upon his/her oath, being of sound mind and legal age deposes and states:

1. That Trust No. 1 ("Owner") (~~is/are~~) the legal owner(s) of real property that is the subject of a Petition before the BZA.
2. That Owner authorizes Evergreen Real Estate Group ("Petitioner") to seek the relief sought in the Petition filed before the BZA. Petitioner is further authorized to commit to any reasonable restriction requested by the BZA or proposed by the Petitioner.

Property Owner

Date

Property Owner

Date

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

Notary Public

My Commission:

Date

Coolman Builders LLC
359 S Franklin St
Valparaiso IN 46383

Victoria Cortina
6469 W 86th Ave
Crown Point IN 46307

Carl Diaz
2558 Marshall Dr
Valparaiso IN 46385

Fina Bankcorp Inc
PO Box 1602
Attn Accounting Dept
South Bend IN 46634

First National Bank
PO Box 1602
Attn Accounting Dept
South Bend IN 46634

Good Investment Properties LLC
424 Lane St
North Judson IN 46366

Caleb J & Fletcher Clarisse E/ Hall
265 Sandstone Crossing
Valparaiso IN 46385

Lake County Trust #4989
PO Box 404
Valparaiso IN 46384

Marshall Street Llc
359 Lincolnway
Valparaiso IN 46383

MBIP LLC
PO Box 242
1351 Joliet Rd
Valparaiso IN 46384

Matthew McCann
2455 Marshall Dr
Valparaiso IN 46385

Kevin J & Debraj Pierotti
2551 Marshall Dr
Valparaiso IN 46385

School Valparaiso Multi-Bldg
In Fed Bldg Ste 401
Valparaiso IN 46383

Sommers Phyllis
692 S 150 E
Kouts IN 46347

Jeffrey R Torbitt
2553 Marshall Dr
Valparaiso IN 46385

Trust No 1
4451 Gulf Shore Blvd N
Naples FL 34103

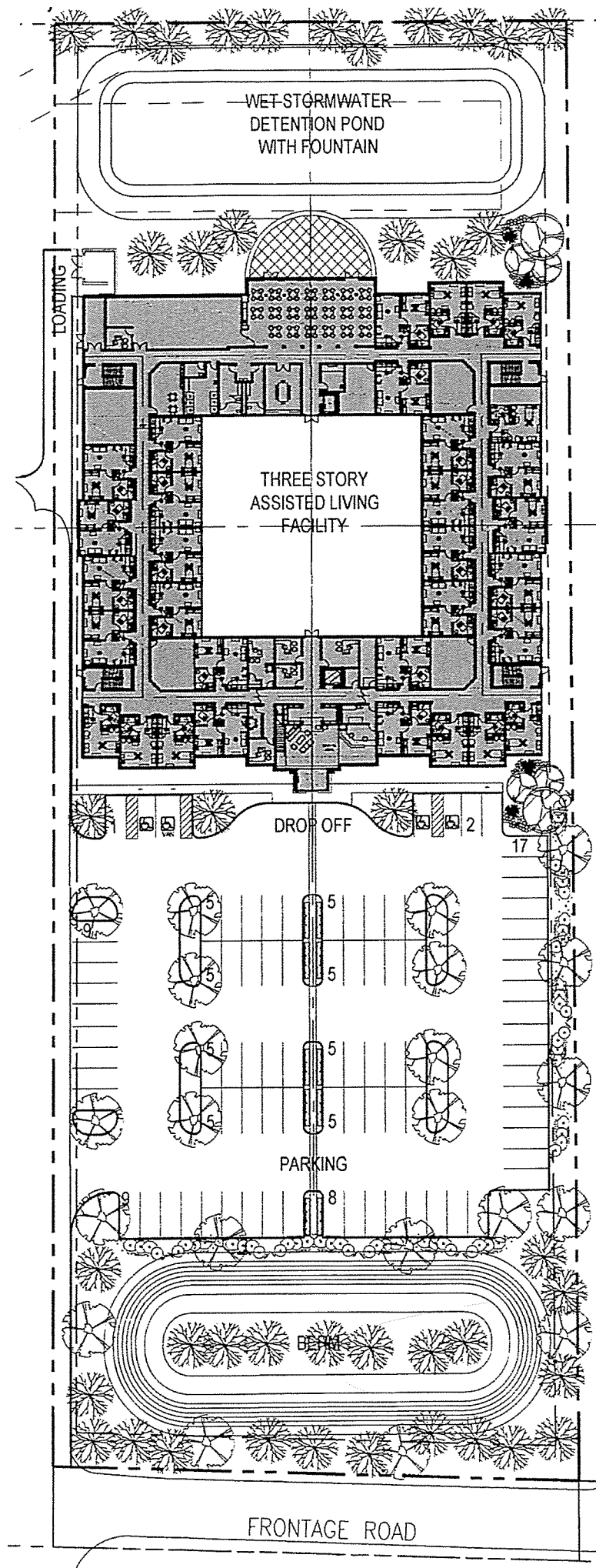
Valparaiso Church of Christ Inc
PO Box 309
Valparaiso IN 46384

Valpo 2454 LLC
2454 Morthland Dr
Valparaiso IN 46385

Peggy Smith Zaremba
1960 Loganberry Ln
Crown Point IN 46307

Legal Description

A parcel of land in the West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of Section 27, Township 35 North, Range 6 West of the 2nd Principal Meridian, in the City of Valparaiso, Porter County, Indiana, described as follows Commencing at the Northwest corner of said West $\frac{1}{2}$; thence South 89 degrees 56 minutes 14 seconds East, along said North line, 666.67 feet to the Northeast Corner of the West 666.67 feet of said West $\frac{1}{2}$; thence continuing South 89 degrees 56 minutes 14 seconds East, along said North line, 233.20 feet to the Point of Beginning; thence continuing South 89 degrees 56 minutes 14 seconds East, along said North line, 227.90 feet to the Northwest corner of the East 198 feet of said West $\frac{1}{2}$; thence South 00 degrees 03 minutes 05 seconds East, along the West line of said East 198 feet, 669.71 feet, more or less, to the North right-of-way line of U.S. Highway No. 30; thence North 88 degrees 03 minutes 58 seconds West, along said North right-of-way line, 230.79 feet; thence North 00 degrees 11 minutes 12 seconds East, 662.17 feet to the Point of Beginning.



**CITY OF VALPARAISO
BOARD OF ZONING APPEALS**

PETITIONER'S PROPOSED FINDINGS OF FACT

Petitioner: Evergreen Real Estate Group

Legal Description: Exhibit "A"

Location: 150 U.S. Highway 30, Valparaiso, Indiana

Current Zoning: Commercial, General (CG) District

Petition: Development Standards Variances:

1. Building Height Table 3.505

Code: 35'

Proposed: 36'

2. Fence §2.518(D)

Code: 6' high fence between
Institutional Residential
and abutting SF uses

Proposed: No fence on North
property line

3. Density Table 3.301.B

	<u>Gross</u>	<u>Net</u>
Code:	.431	.507
Proposed:	.68	.77

4. Loading Berths Table 9.201

Code: 6

Proposed: 1

5. Parking

Table 9.201

	<u>Code</u>	<u>Proposed</u>
Standard		
Spaces:	174	86
Handicap		
Spaces:	<u>6</u>	<u>4</u>
Total:	180	90

(1.5 spaces x 120 units = 180)

Case No.:

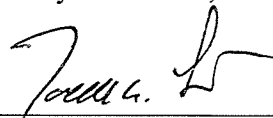
The above named Petitioner now makes the proposed Findings of Fact in support of Petitioner's petition for a development standards variances to allow for an assisted care living facility in accordance with general plans filed with the City pursuant to the provisions set forth above and found in the Unified Development Ordinance. After conducting a public hearing pursuant to I.C. 37-7-4-920 *et seq.* and the Unified Development Ordinance, and after hearing Petitioner's arguments and evidence in support of the variance, remonstrance and opposition or the opportunity for the receipt thereof, and comments, reports or recommendations of staff and others, the Board of Zoning Appeals for the City of Valparaiso, Indiana now finds as follows:

FINDINGS:

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:
 - a) The granting of the variances will not alter the essential character of the locality.
 - b) The variances will not adversely affect the aesthetic appeal or the cohesive development of the surrounding area.
 - c) The variances will not adversely affect the safety of vehicular traffic by reducing or obstructing the line of sight at intersections of public or private roads or driveways.
2. The use and value of the area adjacent to the property included in the variances will not be affected in a substantially adverse manner because:
 - a) The granting of the variances will in no recognizable way encroach on the enjoyment or use of the surrounding properties.

- b) The granting of the variances will secure or preserve adequate light, air, convenience of access, and safety from fire and other dangers.
 - c) There will be no substantial change in the use of the property that will result if the variances are granted.
 - d) The granting of the variances will preserve and enhance the scenic beauty, aesthetics and environmental integrity of the community and City.
 - e) The proposed building within the Commercial, General (CG) District uniquely addresses the general purposes of Section 1.409 by providing a community and regional scale commercial enterprise of an assisted care living facility through a creative building design envisioned by the Uniform Development Ordinance.
3. The strict application of the terms of the Zoning Ordinance will result in practical difficulties because:
- a) The granting of the variances will create a better overall site development for the community as a whole, provide a needed elder care facility for the City, which is duly licensed by the State of Indiana, and best protects the neighboring property owners' use and enjoyment of their businesses and homes as well.
 - b) The circumstances and conditions existing on or about Petitioner's property which prevent compliance with the Unified Development Ordinance are not self-created.
 - c) It is not economically feasible to comply with the ordinance while maintaining the quality and architectural features of the first class facility proposed by Petitioner.

Respectfully submitted;

By: _____

Todd A. Leeth
Hoeppner Wagner & Evans LLP
103 E. Lincolnway
Valparaiso, Indiana 46383

Attorneys for Petitioner

This Instrument Prepared By:

Todd A. Leeth
Hoeppner Wagner & Evans LLP
103 E. Lincolnway
Valparaiso, Indiana 46384-2357

**HOEPPNER
WAGNER &
EVANS LLP**
ATTORNEYS AT LAW

X:\Evergreen Real Estate Group 19652\US 30 Project -1\Documents\Findings of Fact - DSVariance 2019-09-19.docx

EXHIBIT "A"

A parcel of land in the West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of Section 27, Township 35 North, Range 6 West of the 2nd Principal Meridian, in the City of Valparaiso, Porter County, Indiana, described as follows Commencing at the Northwest corner of said West $\frac{1}{2}$; thence South 89 degrees 56 minutes 14 seconds East, along said North line, 666.67 feet to the Northeast Corner of the West 666.67 feet of said West $\frac{1}{2}$; thence continuing South 89 degrees 56 minutes 14 seconds East, along said North line, 233.20 feet to the Point of Beginning; thence continuing South 89 degrees 56 minutes 14 seconds East, along said North line, 227.90 feet to the Northwest corner of the East 198 feet of said West $\frac{1}{2}$; thence South 00 degrees 03 minutes 05 seconds East, along the West line of said East 198 feet, 669.71 feet, more or less, to the North right-of-way line of U.S. Highway No. 30; thence North 88 degrees 03 minutes 58 seconds West, along said North right-of-way line, 230.79 feet; thence North 00 degrees 11 minutes 12 seconds East, 662.17 feet to the Point of Beginning.

FILED

NOV 22 2019

R #49300
CK 101439
(H)

Petition #: W19-004

Sharon Emerson Sherhart
Clerk-Treasurer

PETITION TO VALPARAISO BOARD OF ZONING APPEALS

The Petition shall be filed in duplicate with the City Clerk-Treasurer a minimum of 25 days prior to the date of the next Board of Zoning Appeals ("BZA") meeting. The BZA meets every third Tuesday of the month at 7:00 PM in City Hall, 166 Lincolnway, Valparaiso. The Petitioner and/or his/her representative must be present at the public hearing. The filing fee must be paid to the City Clerk-Treasurer upon filing a complete Petition. Please submit nine (9) copies of this petition.

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- ☐ 2. Variance(s) from the development standards.
- ☒ 3. Variance of the use from the terms of the Zoning Ordinances.
- ☐ 4. Petition for Special Exception.
- ☐ 5. Special Exception from Home Occupation.
- ☐ 6. Conditional Use.

In support of an application for **Variance(s) from the Development Standards**, the Petitioner states that the granting of such request:

- ☐ Will not be injurious to the health, safety, morals, and general welfare of the community;
- ☐ Will not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner; and arise from practical difficulties in the use of the property in conformity with the Zoning Ordinance.
- ☐ Petitioner will comply with all ordinance parking requirements.

In support of an application for a **Use Variance**, the Petitioner states that the granting of such request:

- ☒ Will not be injurious to the health, safety, morals, and general welfare of the community;
- ☒ Will not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner; and arise from practical difficulties in the use of the property in conformity with the Zoning Ordinance.
- ☒ Arise from a condition peculiar to the property;

- ☒ Arises from unnecessary hardships if the Zoning Ordinance is strictly applied; and
☒ Does not interfere substantially with the Comprehensive Plan adopted.
☒ Petitioner will comply with all ordinance parking requirements.

In Support of an application for **Special Exception**, the Petitioner states that the granting of such request:

- ___ Will not generate excessive vehicular traffic on minor residential streets;
___ Will not create vehicular parking or traffic problems;
___ Appropriate access roads, drives, utilities, drainage, facilities, and other necessary facilities have been or will be installed;
___ Will make a substantial contribution to the neighborhood environment and will not infringe on the rights of properties in the vicinity of the expected use;
___ Will comply with the requirements of the district in which proposed use is to be located.
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In support of such application for **Special Exception for Home Occupation**, Petitioner states:

- ___ That no person other than members of the family residing on the premises will be engaged in the home occupation.
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___ That no equipment or process will be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses which can be detected off premises.

PETITIONER: Evergreen Real Estate Group
c/o Todd A. Leeth, Hoeppner Wagner & Evans LLP
103 E. Lincolnway
Valparaiso, Indiana 46383

Name (Please Print)	Address	Phone
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OWNER OF SUBJECT PROPERTY:

Trust No. 1	4451 Gulf Shore Blvd N., Naples, FL 34103	
Name (Please Print)	Address	Phone

ADDRESS OF SUBJECT PROPERTY: 150 U.S. Highway 30, Valparaiso
Subject property fronts on the North side between (streets) Hayes Leonard Drive and Cool Wood Drive.
in the _____ Zoning District.
Commercial, General (CG)

Legal Description of Subject Property: (Exhibit No. 1)
See Attached

DESCRIPTION OF PROPOSED PROJECT INCLUDING, NEW CONSTRUCTION, ADDITION, ALTERATION, OR CHANGE OF USE: (Exhibit No. 2)

To allow an assisted elder care living facility, permitted in the base zoning district of General Commercial, but is a prohibited use in the Morthland Drive overlay standards.

Section (3) of the Zoning Ordinance from which a Variance, Special Exception, or Administrative Relief is sought:

Article: _____ Section: _____ Paragraph: _____ Item: _____
: _____ : _____ : _____ : _____
: _____ : _____ : _____ : _____

See Attached

Attach a Site Plot Plan drawn to scale showing:

- a. scale
- b. lot: shape, location, dimension, and area
- c. existing improvements on the lot (including, structures, sidewalks, & driveways) and the percent coverage of improvements on the lot
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Height _____

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STAFF USE ONLY

Date Received _____

- ____ Names and Addresses of property owners within 300 feet provided
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- ____ Site Plan attached
- ____ Legal Description (Not Abbreviated) Provided
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- ____ Written Description of Project
- ____ Petitioners Affidavit of Notice
- ____ Findings of Fact
- ____ Photo's of Property (Staff Request)
- ____ Landscape Plan (Staff Request)

Date approved for Public Hearing _____, _____

BZA Application Fees

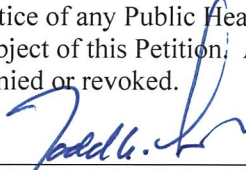
☒	Use Variance	\$200
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☐	Special Exception/Special Use	\$200
☐	Relief to an Administrative Decision	\$200
☐	Special Meeting	\$1000
☐	Conditional Use	\$100
☐	Wireless Communications Facility Special Use – Major	\$500
☐	Wireless Communications Facility RF Tech Study Fee	\$ Actual cost of study

TOTAL FEE \$200.00

Certificate of Petitioner

Please read and sign the following statement:

I, the Petitioner (and Property Owner, if separate), understand that I and/or my representative must be present at the public hearing. Should I fail to appear, the BZA, in my absence, may consider and take action on my Petition. If the Petitioner is not the owner of the property that is the basis of this Petition, the signature of the Property Owner(s) constitutes authorization for the Petitioner to speak and act on behalf of the Property Owner(s). The Petitioner certifies that neither the Petitioner nor any attachments or exhibits submitted contains any known intentional misrepresentations or intentionally misleading statements. All information submitted is accurate, true and correct to the best of the Petitioner's knowledge. The providing of false and/or inaccurate information on this Petition or during any proceedings before the BZA may result in the denial of the request or the revocation of the request, should a Petition be granted. Similarly, if as part of any granted Petition, the BZA places any restrictions and/or limitations, I acknowledge that my failure to comply with such restrictions/limitations shall be grounds to revoke any granted Petition. The Petitioner acknowledges that it bears the obligation to mail notice of any Public Hearing to all property owners within 300 feet of the property that is the subject of this Petition. Any errors by the Petitioner may result in the Petition being delayed, denied or revoked.



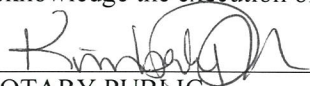
Signature of Petitioner

Todd A. Leeth, Attorney for Petitioner
Printed Name

Signature of Property Owner

Signature of Property Owner

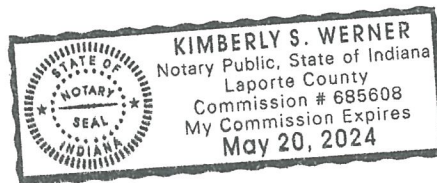
Subscribed and sworn to before me, a Notary in and for said County and State, personally appeared: Todd A. Leeth, and
acknowledge the execution of the foregoing document, this 22 day of November, 2019.



NOTARY PUBLIC

My Commission Expires: _____
Resident of _____ County

Type or Print name of Notary



BOARD OF ZONING APPEALS
PETITION FOR USE VARIANCE

Evergreen Real Estate Group

Exhibit 2

US 30 (Morthland Drive) Standards	§11.305 (C)(4)
Code: Prohibited Use – Institutional residential	
Proposed: Allow the use of Institutional residential	

(To be presented with application for Board of Zoning Appeals)

_____, being dully sworn upon his/her oath, being of sound mind and legal age deposes and states:

1. That Trust No. 1 ("Owner") (is/~~are~~) the legal owner(s) of real property that is the subject of a Petition before the BZA.

2. That Owner authorizes Evergreen Real Estate Group ("Petitioner") to seek the relief sought in the Petition filed before the BZA. Petitioner is further authorized to commit to any reasonable restriction requested by the BZA or proposed by the Petitioner.

Steph Hugg
Property Owner

9/20/19
Date

Property Owner

Date

Subscribed and sworn to before me this 20th day of September, 20 19.

Shenetha S. Gholston
Notary Public

My Commission:

July 29, 2023
Date

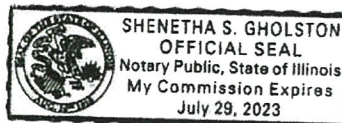


Exhibit 1

Legal Description

A parcel of land in the West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of Section 27, Township 35 North, Range 6 West of the 2nd Principal Meridian, in the City of Valparaiso, Porter County, Indiana, described as follows Commencing at the Northwest corner of said West $\frac{1}{2}$; thence South 89 degrees 56 minutes 14 seconds East, along said North line, 666.67 feet to the Northeast Corner of the West 666.67 feet of said West $\frac{1}{2}$; thence continuing South 89 degrees 56 minutes 14 seconds East, along said North line, 233.20 feet to the Point of Beginning; thence continuing South 89 degrees 56 minutes 14 seconds East, along said North line, 227.90 feet to the Northwest corner of the East 198 feet of said West $\frac{1}{2}$; thence South 00 degrees 03 minutes 05 seconds East, along the West line of said East 198 feet, 669.71 feet, more or less, to the North right-of-way line of U.S. Highway No. 30; thence North 88 degrees 03 minutes 58 seconds West, along said North right-of-way line, 230.79 feet; thence North 00 degrees 11 minutes 12 seconds East, 662.17 feet to the Point of Beginning.

Coolman Builders LLC
359 S Franklin St
Valparaiso IN 46383

Victoria Cortina
6469 W 86th Ave
Crown Point IN 46307

Carl Diaz
2558 Marshall Dr
Valparaiso IN 46385

Fina Bankcorp Inc
PO Box 1602
Attn Accounting Dept
South Bend IN 46634

First National Bank
PO Box 1602
Attn Accounting Dept
South Bend IN 46634

Good Investment Properties LLC
424 Lane St
North Judson IN 46366

Caleb J & Fletcher Clarisse E/ Hall
265 Sandstone Crossing
Valparaiso IN 46385

Lake County Trust #4989
PO Box 404
Valparaiso IN 46384

Marshall Street Llc
359 Lincolnway
Valparaiso IN 46383

MBIP LLC
PO Box 242
1351 Joliet Rd
Valparaiso IN 46384

Matthew McCann
2455 Marshall Dr
Valparaiso IN 46385

Kevin J & Debraj Pierotti
2551 Marshall Dr
Valparaiso IN 46385

School Valparaiso Multi-Bldg
In Fed Bldg Ste 401
Valparaiso IN 46383

Sommers Phyllis
692 S 150 E
Kouts IN 46347

Jeffrey R Torbitt
2553 Marshall Dr
Valparaiso IN 46385

Trust No 1
4451 Gulf Shore Blvd N
Naples FL 34103

Valparaiso Church of Christ Inc
PO Box 309
Valparaiso IN 46384

Valpo 2454 LLC
2454 Morthland Dr
Valparaiso IN 46385

Peggy Smith Zaremba
1960 Loganberry Ln
Crown Point IN 46307

**CITY OF VALPARAISO
BOARD OF ZONING APPEALS**

PETITIONER'S PROPOSED FINDINGS OF FACT

Petitioner: Evergreen Real Estate Group

Legal Description: Exhibit "A"

Location: 150 U.S. Highway 30, Valparaiso, Indiana

Current Zoning: Commercial, General (CG) District

Petition: Allow an assisted elder care living facility (Institutional Residential) within the Morthland Drive Overlay.

Case No.:

The above named Petitioner now makes the proposed Findings of Fact in support of Petitioner's petition for a variance of use to allow an assisted elder care living facility on the above described real estate. After conducting a public hearing pursuant to I.C. 37-7-4-920 *et seq.* and the Unified Development Ordinance, and after hearing Petitioner's arguments and evidence in support of the variance, remonstrance and opposition or the opportunity for the receipt thereof, and comments, reports or recommendations of staff and others, the Board of Zoning Appeals for the City of Valparaiso, Indiana now finds:

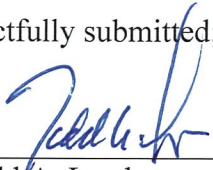
FINDINGS:

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:
 - a. The granting of the variance will not adversely affect the safety of vehicular traffic by reducing or obstructing the line of sight at intersections of public or private roads or driveways. The vision is unobstructed both east and west. There are no hills or valleys in the road to limit visibility of oncoming traffic or to obstruct the view of entering vehicles.
 - b. The granting of the variance will not restrict or hamper access by emergency apparatus or personnel to the proposed structure or any other structure.

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:
 - a. The granting of the variance will not substantially increase noise, light, traffic, drainage or other development standards.
 - b. The proposed use is to be located in front of a residential subdivision, providing a source of buffer from US 30.
 - c. The granting of the variance is the most restrictive and the minimum relief available to the Petitioner.
3. The need for the variance arises from some condition peculiar to the property involved because:
 - a. The Petitioner's property is of sufficient size to accommodate the proposed use without negative impacts to the US 30 corridor.
 - b. The granting of the variance will provide a needed elder care facility for the City, which will be duly licensed by the State of Indiana, and best protects the neighboring property owners' use and enjoyment of their businesses and homes.
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 because:
 - a. The granting of the variance will allow the Petitioner's property to be used in the best economical and practical way without frustrating or infringing on the use or enjoyment of neighboring properties.
 - b. The proposed use will better serve as a transition use to existing homes immediately to the North of the subject property.
5. The approval does not interfere substantially with the comprehensive plan because:
 - a. The granting of the variance will not alter the essential character of the locality and will provide for the orderly growth and development of the area.

- b. Access to and enjoyment of all abutting property is not made difficult or frustrated by the granting of the variance.
- c. The proposed use does not pose any negative impacts with the US 30/Morthland Drive corridor and is an allowable Permitted Uses in the underlying Commercial, General (CG) District under the Unified Development Ordinance.

Respectfully submitted;

By: 
Todd A. Leeth
Hoeppner Wagner & Evans LLP
103 E. Lincolnway
Valparaiso, Indiana 46383

Attorneys for Petitioner

This Instrument Prepared By:

Todd A. Leeth
Hoeppner Wagner & Evans LLP
103 E. Lincolnway
Valparaiso, Indiana 46384-2357

**HOEPPNER
WAGNER &
EVANS LLP**
ATTORNEYS AT LAW

EXHIBIT "A"

A parcel of land in the West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of Section 27, Township 35 North, Range 6 West of the 2nd Principal Meridian, in the City of Valparaiso, Porter County, Indiana, described as follows Commencing at the Northwest corner of said West $\frac{1}{2}$; thence South 89 degrees 56 minutes 14 seconds East, along said North line, 666.67 feet to the Northeast Corner of the West 666.67 feet of said West $\frac{1}{2}$; thence continuing South 89 degrees 56 minutes 14 seconds East, along said North line, 233.20 feet to the Point of Beginning; thence continuing South 89 degrees 56 minutes 14 seconds East, along said North line, 227.90 feet to the Northwest corner of the East 198 feet of said West $\frac{1}{2}$; thence South 00 degrees 03 minutes 05 seconds East, along the West line of said East 198 feet, 669.71 feet, more or less, to the North right-of-way line of U.S. Highway No. 30; thence North 88 degrees 03 minutes 58 seconds West, along said North right-of-way line, 230.79 feet; thence North 00 degrees 11 minutes 12 seconds East, 662.17 feet to the Point of Beginning.

FILED

NOV 21 2019

R# 49286
CK# 3109
DKC

Petition #: VAR19-023

Sharon Emerson Schubert

Clerk-Treasurer

PETITION TO VALPARAISO BOARD OF ZONING APPEALS

The Petition shall be filed in duplicate with the City Clerk-Treasurer a minimum of 25 days prior to the date of the next Board of Zoning Appeals ("BZA") meeting. The BZA meets every third Tuesday of the month at 7:00 PM in City Hall, 166 Lincolnway, Valparaiso. The Petitioner and/or his/her representative must be present at the public hearing. The filing fee must be paid to the City Clerk-Treasurer upon filing a complete Petition. Please submit nine (9) copies of this petition.

PLEASE COMPLETE THE FOLLOWING:

The undersigned Petitioner and owner(s) of real estate, identified within this application as property within the jurisdiction of the City, respectfully petition the Board of Zoning Appeals to consider;

- ☐ 1. Relief to an Administrative decision. (Exhibit No. ☐)
- ☒ 2. Variance(s) from the development standards.
- ☐ 3. Variance of the use from the terms of the Zoning Ordinances.
- ☐ 4. Petition for Special Exception.
- ☐ 5. Special Exception from Home Occupation.
- ☐ 6. Conditional Use.

☒ In support of an application for **Variance(s) from the Development Standards**, the Petitioner states that the granting of such request:

- ☒ Will not be injurious to the health, safety, morals, and general welfare of the community;
- ☒ Will not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner; and arise from practical difficulties in the use of the property in conformity with the Zoning Ordinance.
- ☒ Petitioner will comply with all ordinance parking requirements.

In support of an application for a **Use Variance**, the Petitioner states that the granting of such request:

- ☐ Will not be injurious to the health, safety, morals, and general welfare of the community;
- ☐ Will not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner; and arise from practical difficulties in the use of the property in conformity with the Zoning Ordinance.
- ☐ Arise from a condition peculiar to the property;

- _____ Arises from unnecessary hardships if the Zoning Ordinance is strictly applied; and
- _____ Does not interfere substantially with the Comprehensive Plan adopted.
- _____ Petitioner will comply with all ordinance parking requirements.

In Support of an application for **Special Exception**, the Petitioner states that the granting of such request:

- _____ Will not generate excessive vehicular traffic on minor residential streets;
- _____ Will not create vehicular parking or traffic problems;
- _____ Appropriate access roads, drives, utilities, drainage, facilities, and other necessary facilities have been or will be installed;
- _____ Will make a substantial contribution to the neighborhood environment and will not infringe on the rights of properties in the vicinity of the expected use;
- _____ Will comply with the requirements of the district in which proposed use is to be located.
- _____ Petitioner will comply with all ordinance parking requirements.

In support of such application for **Special Exception for Home Occupation**, Petitioner states:

- _____ That no person other than members of the family residing on the premises will be engaged in the home occupation.
- _____ That the use of the dwelling unit for home occupation will be clearly incidental and subordinate to its use for residential purposes and not more than 25% of the floor area of the dwelling will be used in the conduct of the home occupation.
- _____ That there will be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than one sign-such sign not exceeding two square feet in area, non-illuminated and containing only the name and nature of the business.
- _____ That no home occupation will be conducted in any accessory building.
- _____ That there will be no sales area unless specifically permitted by the BZA.
- _____ That no traffic will be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation will be met by required or permitted parking spaces, and will not be in the front yard.
- _____ That no equipment or process will be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses which can be detected off premises.

PETITIONER:

Terry + Harold Howie 2502 William Dr., Valparaiso, Indiana 46383 (219) 462-1480
 Name (Please Print) Address Phone

OWNER OF SUBJECT PROPERTY:

The Mattie Minard GST Exempt Trust, 3256 Ridge Road, The Chicago Trust Co., (708) 418-2122
 Name (Please Print) Address Phone

ADDRESS OF SUBJECT PROPERTY: 2402 William Court, Valparaiso, Indiana 46383
 Subject property fronts on the _____ side between (streets) _____
 in the _____ Zoning District.

Legal Description of Subject Property: (Exhibit No.____)

Lot 58 in Manchester Meadows, in the City of Valparaiso, as
per plat thereof, recorded in Plat File 18-F-1, in the office of
the Recorder of Porter County, Indiana.

DESCRIPTION OF PROPOSED PROJECT INCLUDING, NEW CONSTRUCTION,
ADDITION, ALTERATION, OR CHANGE OF USE: (Exhibit No.____)

The plan involves a private swimming pool with dimensions of 16ft. x 32ft.
and depth of 3ft to 5ft.. The pool will have an automatic cover, a concrete pad
around and an aluminum fence. Bushes and trees will be planted for privacy.
This project was approved by the Manchester Meadows Property Owners Association
August 9, 2019.

① Section (3) of the Zoning Ordinance from which a Variance, Special Exception, or
Administrative Relief is sought:

Article:_____ Section:_____ Paragraph:_____ Item:_____
:_____ :_____ :_____ :_____
:_____ :_____ :_____ :_____

Attach a Site Plot Plan drawn to scale showing:

- scale
- lot: shape, location, dimension, and area
- existing improvements on the lot (including, structures, sidewalks, & driveways)
and the percent coverage of improvements on the lot
- distance for lot lines, right-of-way lines, or easements to any structure for: front,
back and side yards

Please fill in:

Front Setback_____ Rear Setback_____ Side Setbacks_____/_____ Lot Coverage_____
Height_____

The powers and duties of the Board of Zoning Appeals are provided for and limited by Enabling
Acts in Indiana Code 36-7-4-900 et. eq.. The public hearing procedures are similar to a
courtroom hearing. Although it is not required that the Petitioner represented by legal counsel,
information and documentation pertaining to the petitioner should be prepared as if it were to
become part of a court hearing. **Although the office of the City Planner is available to assist
the Petitioner, it is the Petitioner's responsibility to request and prepare the appropriate
variance petition.** The Planning Department can be contacted Monday-Friday between 8:30 –
4:30 at (219) 462-1161.

Petitions will not be scheduled for public hearing unless all legal and procedural requirements
have been met.

STAFF USE ONLY

Date Received _____

- _____ Names and Addresses of property owners within 300 feet provided
- _____ Signature notarized
- _____ Site Plan attached
- _____ Legal Description (Not Abbreviated) Provided
- _____ Petition Filed Complete
- _____ Written Description of Project
- _____ Petitioners Affidavit of Notice
- _____ Findings of Fact
- _____ Photo's of Property (Staff Request)
- _____ Landscape Plan (Staff Request)

Date approved for Public Hearing _____, _____

BZA Application Fees

_____ Use Variance	\$200
- _____ Single Family Development Standards Variance	\$50 -
_____ Commercial Development Standards Variance	\$150
_____ Special Exception/Special Use	\$200
_____ Relief to an Administrative Decision	\$200
_____ Special Meeting	\$1000
_____ Conditional Use	\$100
_____ Wireless Communications Facility Special Use – Major	\$500
_____ Wireless Communications Facility RF Tech Study Fee	\$ Actual cost of study

TOTAL FEE _____

Certificate of Petitioner

Please read and sign the following statement:

I, the Petitioner (and Property Owner, if separate), understand that I and/or my representative must be present at the public hearing. Should I fail to appear, the BZA, in my absence, may consider and take action on my Petition. If the Petitioner is not the owner of the property that is the basis of this Petition, the signature of the Property Owner(s) constitutes authorization for the Petitioner to speak and act on behalf of the Property Owner(s). The Petitioner certifies that neither the Petitioner nor any attachments or exhibits submitted contains any known intentional misrepresentations or intentionally misleading statements. All information submitted is accurate, true and correct to the best of the Petitioner's knowledge. The providing of false and/or inaccurate information on this Petition or during any proceedings before the BZA may result in the denial of the request or the revocation of the request, should a Petition be granted. Similarly, if as part of any granted Petition, the BZA places any restrictions and/or limitations, I acknowledge that my failure to comply with such restrictions/limitations shall be grounds to revoke any granted Petition. The Petitioner acknowledges that it bears the obligation to mail notice of any Public Hearing to all property owners within 300 feet of the property that is the subject of this Petition. Any errors by the Petitioner may result in the Petition being delayed, denied or revoked.

Terry L. Howie
Signature of Petitioner

Terry L. Howie
Printed Name

Stephanie McDonald, Trustee for The Chicago Trust Company, N.A. Acting on behalf
Signature of Property Owner of the Mattie Minerd GST Exempt Trust

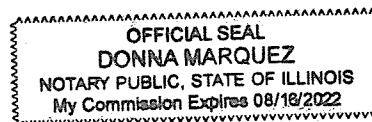
Signature of Property Owner

Subscribed and sworn to before me, a Notary in and for said County and State, personally appeared: Stephanie McDonald, Trustee, and acknowledge the execution of the foregoing document, this 8th day of Nov, 2019.

Donna Marquez
NOTARY PUBLIC

My Commission Expires: 8/16/22
Resident of Cook County

Donna Marquez
Type or Print name of Notary



Affidavit of Consent of Property Owner

(To be presented with application for Board of Zoning Appeals)

Stephanie McDonald being dully sworn upon his/her oath, being of sound mind and legal age deposes and states:

1. That the Mattie Minard GST Exempt Trust ("Owner") (is/are) the legal owner(s) of real property that is the subject of a Petition before the BZA.
2. That Owner authorizes Terry and Harold Howie ("Petitioner") to seek the relief sought in the Petition filed before the BZA. Petitioner is further authorized to commit to any reasonable restriction requested by the BZA or proposed by the Petitioner.

The Chicago Trust Co., NA; Stephanie McDonald 11-18-19
Property Owner Trustee Date

The Mattie Minard GST Exempt Trust
Property Owner Date

Subscribed and sworn to before me this 15th day of November, 2019.

Donna Marquez
Notary Public

My Commission:

8/16/22
Date



SURROUNDING PROPERTY OWNER LIST

List the name and address of all property owners who have received notification below
(Use Additional Sheets if Necessary):

(Please Print)

Name

Address

Ashwani & Shobha Kumar 2603 William Dr. Valparaiso, IN 46385 Lot #60
Thomas & Debra Collins 2404 William Ct. Valparaiso, IN 46385 Lot #57
David & Lisa Hauser 2502 Old Oak Dr. Valparaiso, IN 46385 Lot #100
Molly M. Healy 2207 Wynnewood Dr. Valparaiso, IN 46385 Lot #64
Kathleen Mosak 2506 William Dr. Valparaiso, IN 46385 Lot #63
Krishna K. Velavarthi 1854 Hampstead Court Valparaiso, IN 46385 Lot #66
Kevin & Diane Carlson 2405 William Dr. Valparaiso, IN 46385 Lot #55
Ahmad Shughoury & Halah Hamzeh 2504 Old Oak Dr. Valparaiso, IN 46385 Lot #101
Charles & Roberta Woods 2403 William Ct. Valparaiso, IN 46385 Lot #56
Blair Gardner & Deborah Herndon 2404 William Dr. Valparaiso, IN 46385 Lot #67
Clay Patton & Jeri Pat Gabbert 2403 William Dr. Valparaiso, IN 46385 Lot #54
Angeline Paul 2609 William Dr. Valparaiso IN 46385 Lot #102
Michael Trima & Deanne Sasser 2503 William Dr. Valparaiso, IN 46385 Lot #59
Richard & Marsha Anderson 2607 William Dr. Valparaiso, IN 46385 Lot #103
Thomas & Mary Cavanaugh 2209 Wynnewood Dr. Valparaiso IN 46385 Lot #65
John & Amy Wiktor 2406 Old Oak Dr. Valparaiso, IN 46385 Lot #51
Christopher & Monice Gall 2402 Old Oak Dr. Valparaiso, IN 46385 Lot #52
Howie Family Trust 2502 William Dr. Valparaiso, IN 46385 Lot #65
Mangalore J. Subba Rao 280 Joliet Rd. Valparaiso, IN 46385 ^{RE!} Lot #64

Variance from Development Standards
Findings of Fact
(Please Print)

Petitioner submits that:

A. The proposed variance from the Development Standards will not be injurious to the public health, safety, morals, and general welfare of the community because: _____

The proposed project is a private family swimming pool that will have an automatic safety cover, surrounding fence and complete privacy landscape.

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

The proposed project will not be viewed by adjacent homes due to the privacy landscaping that will be put in around the perimeter of the pool. This should not affect values and has already been approved by the Manchester Meadows Property Owners Association.

C. The strict application of the terms of the zoning ordinance will result in particular difficulties in the use of the property included in the proposed variance because: _____

There are no particular difficulties with this proposed project due to the fact that the proposed outside wall of the pool will be measured 6 ft. off the property line and the fence will be 5 ft. in height. The pool will be directly located behind the principle building

The Petitioner carries the burden of proving to the Board of Zoning Appeals the existence of each and every one of the elements listed above.



Perimeter ?

97.3 ft ▾



