

CASE SUMMARY

DEVELOPMENT STANDARD VARIANCE

Case: 2025-2250
Lucas Callahan, Petitioner

Request: Seeking a variance from Section 4.02.G.2.a (UDO) to allow a fence to be located within a drainage and utility easement

Location: 1122 Stubble Run (Lot 13, The Bevy)

Zoning: Planned Unit Development (PUD)

Staff Summary:

The Unified Development Ordinance (UDO) prohibits the placement of fences within drainage and utility easements (DUEs). This restriction, adopted one year ago, is intended to prevent obstructions that could impede water flow. Under the previous zoning ordinance, fences were permitted in easements provided they could be removed and replaced at the owner's expense if work was required. However, this allowance led to instances of water flow being obstructed.

In 2024, the petitioner installed a 4.5-foot-tall black aluminum wrought iron-style fence within a 15-foot DUE at the rear (west) of the property without obtaining a permit. This lot also contains a 30-foot Tree Preservation Easement (TPE) along the same rear boundary. From the rear façade of the residence to the property line measures 64.9 feet. With the 35-foot TPE and 15-foot DUE, only 14.9 feet remains between the patio and the easements, leaving minimal space for an enclosed yard.

The fence installation came to the Town's attention after another resident inquired about erecting a fence and the Code Enforcement Officer discovered it lacked a permit. The petitioner stated they relied on information from their HOA indicating that no permit was required.

There are 15 lots along the subdivision's western boundary likely affected by the combination of the DUE and TPE. Staff has met with other property owners who are considering variance requests for similar reasons—limited usable yard space.

In February 2025, the Board denied a variance request in Whisperwood Estates to place a fence within a DUE due to concerns about obstructing water flow. That lot, however, had greater dimensions—48 feet in depth and 75 feet in width—providing more potential for a fenced area than the subject property.

While staff generally does not support fences within drainage and utility easements, the limited buildable area on this lot may present a practical difficulty.

BZA options include the following:

- Approve the variance request
- Deny the variance request
- Approve the variance request with conditions or modifications



Danville BZA

49 North Wayne Street | Danville, IN 46122
317-745-4180 | www.danvilleindiana.org



Date of Hearing: 8-20-25
Board of Zoning Appeals Action: _____

App. No.: 2025-2250
Fee: \$350.00
Received By: LT

APPLICATION FOR APPROVAL (Check all that apply)

☐ Appeal ☐ Special Exception ☐ Use Variance ☒ Development Standard Variance

* Please fill out the form in its entirety

Applicant (s) Lucas Callahan
Address (s) 1122 Stubble Run Danville IN 46122
Phone (s) 317 431 2265 Email (s) lukeccallahan@gmail.com

Owners (s) Lucas & Taylor Callahan
Address (s) 1122 Stubble Run Danville IN 46122
Phone (s) 317-431-2265 Email (s) lukeccallahan@gmail.com

Owners' Representative (Subdivider, if any) and /or Registered Engineer or Land Surveyor: _____

Address (s) _____

Phone (s) _____ Email (s) _____

Address of Subject Property: 1122 Stubble Run Danville IN 46122

Area (in acres): .20 Number of Lots: 1

Parcel ID#: 32-06-35-478-013.000-003 Current Zoning District: PUD

Requested Action From The Danville BZA: Approval for 4.5 foot wrought iron style
(Aluminum) fence to be installed across drainage easement
(WOB) Section 4.02.G.Z.A

STATE OF INDIANA)
) SS:
HENDRICKS COUNTY)

The undersigned certifies that the above information is true and correct to the best of his (her) knowledge.

Signature of Owner/Applicant (s)

Lucas Callahan

Title of Applicant



Dear Board Members,

I am writing to formally request a variance to install a 4.5-foot wrought iron style aluminum fence across a drainage easement on my property. This request stems from a unique situation involving child safety concerns, changing regulations, and the specific topographical challenges of my lot.

Background and Current Situation

My family entered a purchase agreement to build on this particular lot in 2023 with the specific intent to fence our entire yard for our children's safety. At the time of our purchase agreement, the current Unified Development Ordinance (UDO) had not yet been adopted or enacted. When we closed on our home in June 2024, new regulations had taken effect that significantly reduced our fence-able area by 63%, leaving only a steeply sloped backyard area (10-16% grade) suitable for fencing under current rules.

The situation became urgent when I was attacked by an escaped neighborhood dog on our move-in day (June 19, 2024). With young children and documented wildlife hazards in the area—including coyotes and snapping turtles—immediate fencing became a safety necessity rather than a preference.

Why This Variance Meets Variance Standards

Non-Injurious to Public Welfare: This variance will not harm the community because:

- A properly permitted fence already exists across the same drainage easement just a few houses north, establishing precedent
- The fence is non-solid per UDO specifications, ensuring proper drainage flow
- I commit to removing, repairing, or paying for any fence modifications needed for easement access

No Adverse Effect on Adjacent Properties: The fence enhances the area because:

- It's high-quality construction (black aluminum, wrought iron style) consistent with neighborhood standards
- It's HOA-approved and offset 1 foot from property lines
- The fence has been in place without causing any drainage issues, as confirmed by signed affidavits from all adjacent neighbors

Unnecessary Hardship: Strict application of current regulations creates genuine hardship because:

- We purchased this lot specifically for its fence-ability under previous regulations
- The only level, safe play area for our children exists beyond the drainage easement

- The remaining fence-able area consists of dangerously steep slopes unsuitable for children's play
- Local wildlife hazards make fencing a safety necessity, not a luxury

Proven Safety and Drainage Performance

The fence has already demonstrated its value and safety:

- It successfully prevented my daughter from attempting to pet a large snapping turtle that was lunging at the fence
- No drainage issues have occurred despite significant rainfall in April 2025
- Neighbor affidavits confirm no drainage problems
- The fence effectively contains our children while allowing water flow

Conclusion

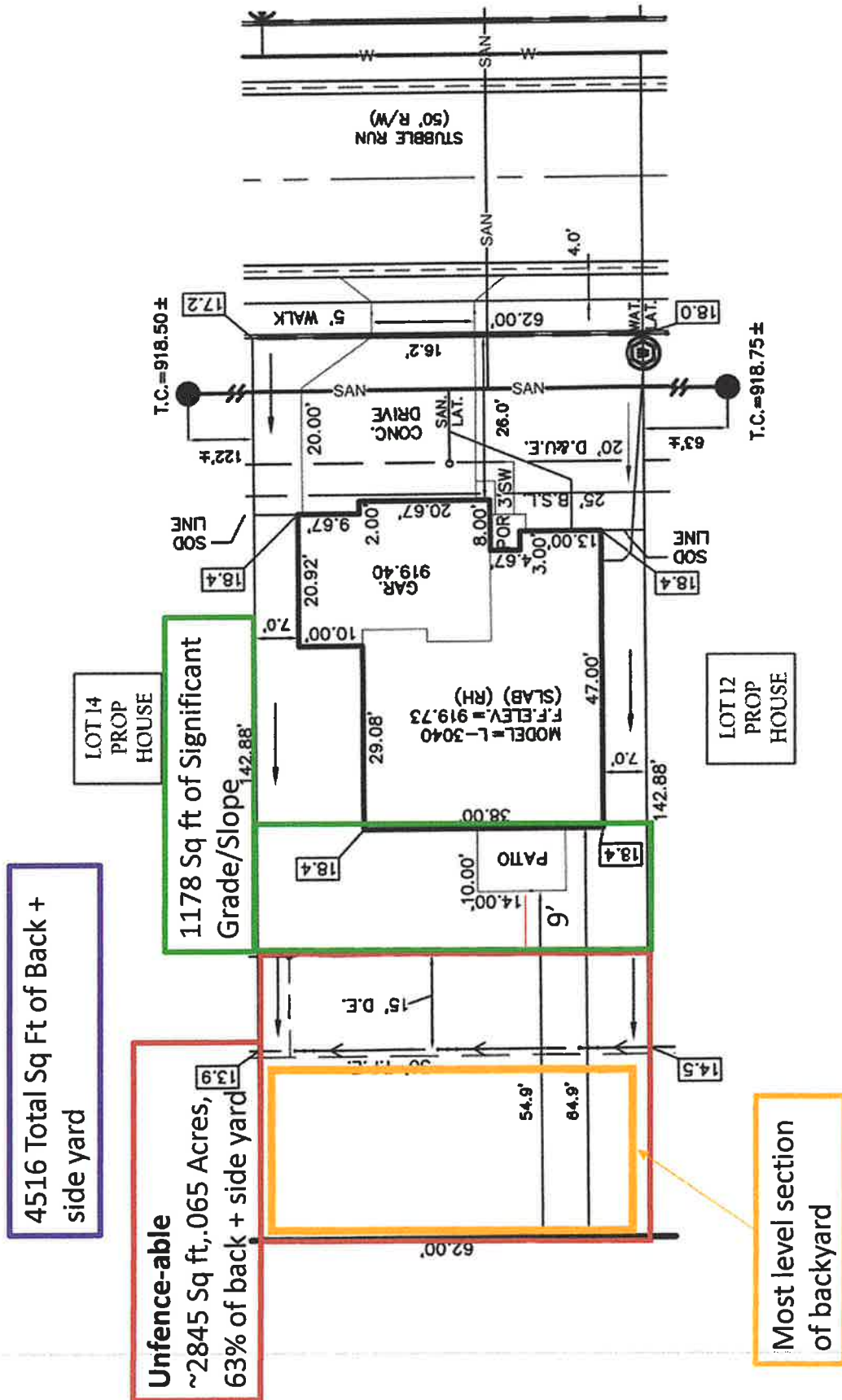
This variance request represents a reasonable accommodation for a family that made significant investment decisions based on previous regulations. The fence serves essential safety functions while meeting all technical requirements for drainage flow. With established neighborhood precedent and proven performance, I respectfully request your approval of this variance.

I am prepared to answer any questions and provide additional supporting documentation as needed. Thank you for your consideration of this matter.

Sincerely,

Lucas Callahan

RECEIVED
JUL 21 2025
BY: _____



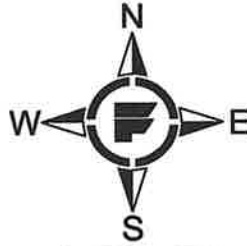
Desired Fence Layout

PLOT PLAN

THIS DOCUMENT HAS BEEN PREPARED AND BASED UPON THE CONSTRUCTION DOCUMENTS, RECORD DRAWINGS AND ADDITIONAL INFORMATION PREPARED FOR THIS DEVELOPMENT BY OTHERS. THIS DOCUMENT IS NOT BASED UPON A FIELD SURVEY AND FOREFRONT SURVEYING AND ENGINEERING DOES NOT WARRANT THE ACCURACY OR COMPLETENESS OF THIS INFORMATION

1122 STUBBLE RUN
DANVILLE, IN 46121
CENTER TOWNSHIP
HENDRICKS COUNTY

LOT 13
THE BEVY
SECTION 1
INST. #202310388
P.C. #9, SLIDE #30, PAGE #1 A-D



0 15 30
SCALE: 1"= 30'
LOT AREA: 8,859 Sq.Ft.

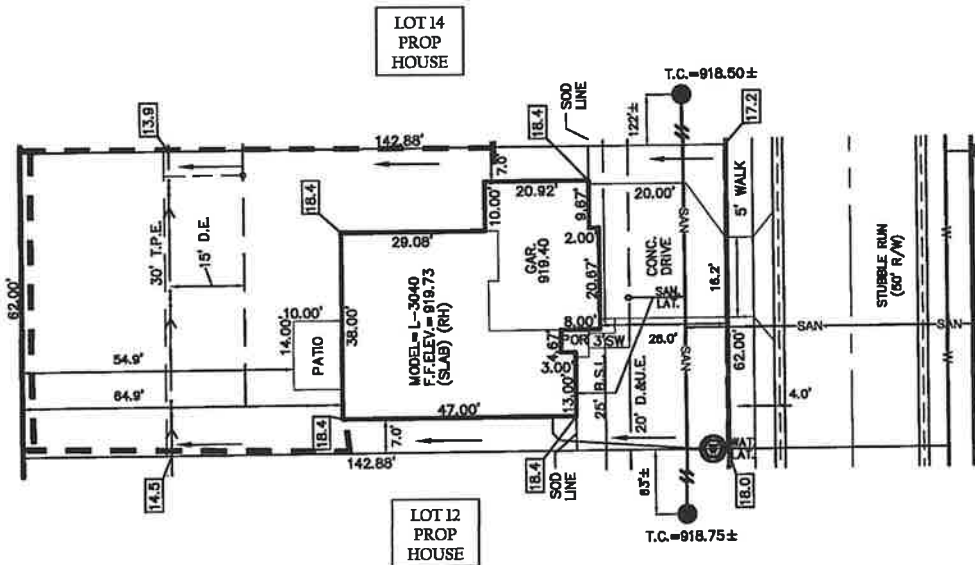
LEGEND

- AS APPLICABLE
- XXX ELEVATION PER PLAN
 - ⊙ SANITARY MANHOLE
 - ⊙ WATER METER
 - ⊙ WATER VALVE
 - ⊙ FIRE HYDRANT
 - ⊙ STORM STRUCTURE
 - ▬ CURB INLET
 - ▲ END SECTION
 - SITE BENCHMARK
 - B.L. BUILDING LINE
 - D.&U.E. DRAINAGE & UTILITY EASEMENT

Fence indicated
by dotted line

Fence to be
offset by 1 ft
from property
lines on all sides

BUILDING SETBACK LINES:
6' MINIMUM SIDE YARD
25' MINIMUM FRONT YARD
15' MINIMUM REAR YARD



SOD:	1,220	Sq.Ft.
SEED:	4,582	Sq.Ft.
PRIVATE WALK:	34	Sq.Ft.
PUBLIC WALK:	229	Sq.Ft.
DRIVEWAY:	860	Sq.Ft.
IMPERVIOUS:	2,973	Sq.Ft.
LOT COVERAGE:	33.6%	

Certified this 18th day of January, 2024

Dewey L. Witte

Dewey Witte
Professional Land Surveyor
Indiana No. LS29800022



PREPARED FOR: PYATT BUILDERS
JOB #: 24SE-021

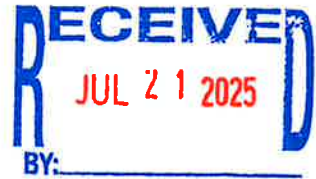


FOREFRONT
SURVEYING + ENGINEERING

17241 Foundation Pkwy, Westfield, IN 46074
requests@forefrontse.com

REV. NO.	DATE	REVISIONS	DRAWN BY: JCS
			CHECKED BY: JLT
			DATE: 08/20/2023
			PAGE 1 OF 2

**Finding of Fact
Development Standard Variance
Address: 1122 Stubble Run Danville IN 46122**



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

- The approval would not be injurious to public health, safety, morals, and general welfare of the community because there is precedence in a properly permitted fence crossing the same drainage easement in a similar style
- Fence is non-solid (per UDO pg 82 definition) as not to impede drainage
- I am willing to remove, repair, or pay for fence at own cost for any easement access or modification
- Fence has not impeded drainage or caused water pooling during historically heavy rainfall in April 2025 and neighbors have signed affidavits to affirm that fact

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

- The use and value of the area adjacent to the property included in the variance will not be adversely affected in a substantially adverse manner because we would be consistent with fencing precedent in the neighborhood
- Fence is of high quality (Black aluminum, wrought iron style 4.5' tall)
- Fence is Non-Solid (Per UDO Pg 82 Definition) as to not impede drainage
- Other fences in same style exists in neighborhood
- Fence is style is approved by HOA standards
- Fence is offset from property line by 1 ft
- Fence has not impeded drainage or caused water pooling during historically heavy rainfall in April 2025 and neighbors have signed affidavits to affirm that fact

3. 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:

- The plot was selected and under contract with a purchase agreement in 2023 for a semi-custom home build by myself and wife with intent to fence the whole yard
 - At the time of this purchase agreement to build on this lot, The UDO was not adopted or in effect
 - The entire lot could be fenced when we entered our contract, but when we closed on our home in June 2024, the guidance had changed
- The Plot was selected from a wide variety of available lots in the neighborhood and one of the primary reasons was the ability to fence the whole backyard for our children to have a safe play area (This area is on the other side of the drainage easement)
- The UDO went into effect mid-building process and under the new rules and regulations our "fence-able" area of yard has shrunk 63% per plot plan
- The majority of our remaining "fence-able" area of our yard exists on a steep slope grade of 10-16%
- The only approximately level or low slope area of backyard suitable for child play is on the other side of the easement

Finding of Fact
Development Standard Variance
Address: 1122 Stubble Run Danville IN 46122

- Child Safety risks exists that are mitigated by a fence
 - 25lb snapping turtle (one removed from just outside the fence)
 - Large Neighborhood Dog (attacked myself when moving boxes into home June 19, 2024)
 - Coyotes



Beacon™

Hendricks County, IN

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JUL 21 2025
BY: _____



Overview



Legend

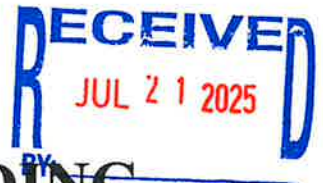
- Parcels
- Road Centerlines

Parcel ID	32-06-35-478-013.000-003	Alternate ID	17-1-35-61W 478-013	Owner Address	CALLAHAN LUCAS C & TAYLOR RAE H/W
Sec/Twp/Rng	0035-0016-1W	Class	RESIDENTIAL VACANT PLATTED		1122 STUBBLE RUN
Property	1122 STUBBLE RUN		LOT		DANVILLE, IN 46122
Address	Danville	Acreage	0.2		
District	Town Of Danville				
Brief Tax Description	LOT 13 THE BEVY SECONDARY PLAT				
	0.20 AC				
	24/25 PT FROM 017-135612-400007 AND 017-135612-400013				
	(Note: Not to be used on legal documents)				

Date created: 7/18/2025

Last Data Uploaded: 7/18/2025 5:25:32 AM

Developed by  **SCHNEIDER**
GEOSPATIAL



AFFIDAVIT REGARDING FLOODING AND DRAINAGE

1. I am over the age of eighteen (18) years and am competent to make this affidavit based on my personal knowledge and observations.
2. I am the owner/resident of the property located at 1130 Stubble Run Danville IN 46122 ("My Property").
3. My Property is adjacent to the property located at 1122 Stubble Run Danville IN 46122 ("Neighbor's Property").
4. I have resided at My Property for approximately 1 year, from August 2024 to present.
5. During my occupancy of My Property, I have had the opportunity to observe the drainage patterns and water flow on and around both My Property and Neighbor's Property during various weather conditions, including periods of light rain, moderate rain, and heavy rainfall.
6. A fence is currently installed along the property line between My Property and Neighbor's Property. Said fence has been in place since approximately July 2024.
7. Based on my personal observations over the period of my residency, I have NOT observed any flooding, standing water, or drainage issues on My Property before, during, or after rainfall of any amount that can be attributed to the presence of the fence along our shared property line.
8. Specifically, I have observed that: a. Water drainage patterns have remained consistent and unimpeded by the fence; b. No water has pooled or accumulated on My Property as a result of the fence; c. The fence has not caused any diversion of water flow that has resulted in flooding or standing water on My Property; d. During periods of heavy rainfall, water has continued to drain properly from My Property without interference from the fence.
9. I have no knowledge of any flooding, standing water, or drainage problems on My Property that have been caused by or can be attributed to the presence of the fence.
10. This affidavit is made voluntarily and is based on my personal observations and experience as a property owner adjacent to the fence in question.
11. I understand that this affidavit may be used in legal proceedings and that any false statements made herein could subject me to penalties for perjury.

Eli Reinbold X 7-20-25

Rose Reinbold 7-20-25

Eli Reinbold

Rose Reinbold



AFFIDAVIT REGARDING FLOODING AND DRAINAGE

1. I am over the age of eighteen (18) years and am competent to make this affidavit based on my personal knowledge and observations.
2. I am the owner/resident of the property located at 1114 Stubble Run Danville IN 46122 ("My Property").
3. My Property is adjacent to the property located at 1122 Stubble Run Danville IN 46122 ("Neighbor's Property").
4. I have resided at My Property for approximately 1 year, from April 2024 to present.
5. During my occupancy of My Property, I have had the opportunity to observe the drainage patterns and water flow on and around both My Property and Neighbor's Property during various weather conditions, including periods of light rain, moderate rain, and heavy rainfall.
6. A fence is currently installed along the property line between My Property and Neighbor's Property. Said fence has been in place since approximately July 2024.
7. Based on my personal observations over the period of my residency, I have NOT observed any flooding, standing water, or drainage issues on My Property before, during, or after rainfall of any amount that can be attributed to the presence of the fence along our shared property line.
8. Specifically, I have observed that: a. Water drainage patterns have remained consistent and unimpeded by the fence; b. No water has pooled or accumulated on My Property as a result of the fence; c. The fence has not caused any diversion of water flow that has resulted in flooding or standing water on My Property; d. During periods of heavy rainfall, water has continued to drain properly from My Property without interference from the fence.
9. I have no knowledge of any flooding, standing water, or drainage problems on My Property that have been caused by or can be attributed to the presence of the fence.
10. This affidavit is made voluntarily and is based on my personal observations and experience as a property owner adjacent to the fence in question.
11. I understand that this affidavit may be used in legal proceedings and that any false statements made herein could subject me to penalties for perjury.

Elizabeth Ryan x 7/19/25

Elizabeth Ryan

Kevin Summerlot x 7-19-25

Kevin Summerlot

RECEIVED
JUL 21 2025
BY: _____



Shorts Tear from Loose Large Dog



RECEIVED
JUL 21 2025
BY: _____



**BOARD OF ZONING APPEALS
DANVILLE, INDIANA**

**ACTION ON PETITION FOR A VARIANCE
FROM DEVELOPMENT STANDARDS**

MOTION

I move that we **approve / deny** the variance sought by Lucas Callahan, petitioner in BZA petition 2025-2250 to allow a fence to be located within a drainage and utility easement (UDO Section 4.02.G.2.a.) in the PUD zoning district. This petition has **satisfied / not satisfied** the requirements for variances under state law for the following reasons:

1. The approval ***will / will not*** be injurious to the public health, safety, morals, and general welfare of the community
 - a) **for the reason(s) stated in the staff report;**
 - b) **for the reason(s) stated in Petitioner's proposed findings of fact; and/or**
 - c) **because:** _____

2. The use and value of the area adjacent to the property included in the variance ***will / will not*** be affected in a substantially adverse manner
 - a) **for the reason(s) stated in the staff report;**
 - b) **for the reason(s) stated in Petitioner's proposed findings of fact; and/or**
 - c) **because:** _____

3. The strict application of the terms of the Zoning Ordinance ***will / will not*** result in practical difficulties in the use of the property
 - a) **for the reason(s) stated in the staff report;**
 - b) **for the reason(s) stated in Petitioner's proposed findings of fact; and/or**
 - c) **because:** _____

[note #1: An adverse finding on any one of the above requires Board denial of the variance.]

[note #2: None of the words in bold italics should be used if the motion is to approve a variance.]

And, I move that this approval be made subject to the following conditions:

[note #3: If the majority votes against a motion to approve a variance, a subsequent motion should be made for findings of fact to reflect that the Petitioner did not establish the three requirements of state law to have been met. This motion should indicate which requirement(s) were not met or cite reasons stated in the staff report, if the staff recommendation was against approval.]

DECISION

(After a second is made to the motion and a vote is taken, the presiding officer makes the following announcement): “It is therefore the decision of this body that this variance petition is **approved / *denied*** (and if conditions have been imposed)...**subject to the conditions made a part the adopted motion.**”