

DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS

APPLICATION FOR APPEAL

Jurisdiction: (Check One)

☒ Delaware County

☐ City of Muncie

Submitted: 2-7-24

Case No.: B2A 09-24

(1) Applicant: Dustin & Cortney Felton

Address: 105 S County Rd 550 E Selma, IN 47383 Phone: 765-748-6334

(2) Applicant's Status: (Check the appropriate response)

☒ (a) The applicant's name is on the deed to the property.

☐ (b) The applicant is the contract owner of the property.

☐ (c) Other: _____

(3) If Item (2)(c) is checked, please complete the following:

Owner of the property involved: _____

Owner's address: _____

(4) Record of Ownership:

Deed Book No.: 2021R19404

Page: 3

Purchase Date: 11/11/2021

Legal Description: (From the Deed or Abstract)

Please see attached Deed

(5) Common Address of the Property Involved: (Give full street address. If no address, give geographic location such as s. side of CR 400S, 500' west of SR 3).

8330 S SR 35 Muncie, IN 47302-recorded address of the entire parcel & 8440 S SR 35 Muncie, IN 47302 is the mailing address of this home we want to survey off

(6) Type of Appeal: (Check the appropriate response)

☐ (a) Request for an Appeal from the Decision of the Administrative Zoning Officer according to Article XXXII, Section 5-B-1. (Attach a copy of said decision/ruling).

☐ (b) Request for a Special Use according to Article XXXII, Section 5-B-2.

☒ (c) Request for a Variance according to Article XXXII, Section 5-B-3.

(7) State explanation of requested Appeal: (State what you want to do and cite the Article and Section of the Ordinance which applies and/or creates the need for this Appeal.)

SEE ATTACHED

(8) State reasons supporting the Appeal: (If filing for a variance, refer to the attached sheet entitled "Hardship Variance" for explanation/guidance.)

We are requesting a variance of standards to survey off one of the houses on our farm property into a parcel of it's own that is less than the current standard of 5 acres. It is currently included in a large parcel that includes another home, barns and farm ground and we would like to have it seperate to define the it's individual property line so we have the option to sell it in the future. There is currently a fence around the property that has always been used to define the property line we have always associated with that house and we would like to keep that same property line as displayed on the surveyor provided sketch to have it surveyed and recorded as a seperate parcel from our farm ground and other farm house.

(9) Present Zoning of the property: (Give exact classification)

F- Farming

(10) Present use of the property:

Residential

(11) Describe the proposed use of the property:

Residential

(12) Is the property:

☐ Owner Occupied

☐ Renter Occupied

☒ Other: Vacant

Answer to #7

BZA 09-24 Felton

Request for a variance from the terms of the Delaware County Comprehensive Zoning Ordinance, Article XII, Section 3, to allow a 26,136 sq. ft. (0.6 acre) lot area rather than 30,000 sq. ft. for a variance of 3,864 sq. ft. so that an existing house at 8440 S. US 35 may be separated from the tillable acreage through platting in a farming zone.

(13) Has the Applicant provided stamped, addressed envelopes to send notices of this Appeal to all property owners within 300 feet? yes

Has the Applicant discussed this Appeal with these owners personally? no

If answer is "YES", give their attitudes toward the proposal.

(14) Are there any restrictions, laws, covenants, governing the property which would prohibit its use for the purpose specified in this application? If answer is "YES", attach a copy.

No

(15) Has work for which this application is being filed already started? If answer is "YES", give details.

Yes - the surveyor has measured and completed a preliminary sketch.

(16) Has there been any previous appeal filed in connection with this property? If answer is "YES", give the date and the decision of the appeal.

no

(17) If the Appeal is granted, when will work commence?

We will have the surveyor complete the survey at their next availability.

When will it be completed?

April 2024 or whenever the surveyor has the availability to complete it.

(18) If the Appeal is granted, who will operate and/or use the proposed improvement for which this application has been filed?

We will use it as a rental property, allow a family member to live there or sell the property for a new owner to occupy.

AFFIDAVIT

(I or We) Cortney and Dustin Felton

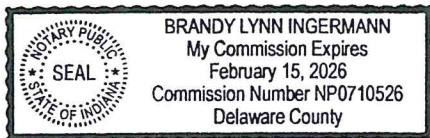
TYPE NAME(S) OF SIGNATORIES

being duly sworn depose and say that (I or We) (am or are) the (owner[s]) (contract owner[s]) of property involved in this application and that the foregoing signatures, statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of (my or our) knowledge and belief.

SIGNATURES:

Cortney Felton

Subscribed and sworn to before me this 7 day of February, 2024.



PRINT

Brandy L Ingermann
Notary Public

Commission Expires

Resident of Delaware County

State of Indiana

DO NOT WRITE IN THIS SPACE

The foregoing application has been inspected by me and was filed with the office of the Delaware-Muncie Metropolitan Board of Zoning Appeals in accordance with all the formal requirements and procedures.

If properly advertised by the applicant, the application will be heard in public

hearing on the 29 day of February, 2024.

Signed:

Date:

[Signature]
2-20-24

AFFIDAVIT

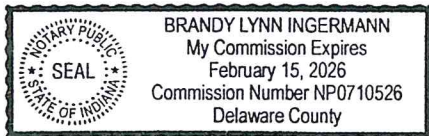
(I or We) Dustin A. Felton
TYPE NAME(S) OF SIGNATORIES

being duly sworn depose and say that (I or We) (am or are) the (owner[s]) (contract owner[s]) of property involved in this application and that the foregoing signatures, statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of (my or our) knowledge and belief.

SIGNATURES:

[Signature]

Subscribed and sworn to before me this 7 day of February, 2024



Brandy L Ingermann
Notary Public
2-15-26

Commission Expires

Resident of Delaware County

State of Indiana

DO NOT WRITE IN THIS SPACE

The foregoing application has been inspected by me and was filed with the office of the Delaware-Muncie Metropolitan Board of Zoning Appeals in accordance with all the formal requirements and procedures.

If properly advertised by the applicant, the application will be heard in public hearing on the

_____ day of _____, 20____.

Signed:

Date:

DULY ENTERED FOR TAXATION
TRANSFER FEES \$ 30.00
Nov 18 2021 - ER
Steve J. Cargill
DELAWARE COUNTY AUDITOR

2021R19404
MELANIE MARSHALL
DELAWARE COUNTY RECORDER
RECORDED ON
11/18/2021 09:14 AM
REC FEE 25.00
PAGES: 3
RECORDED AS PRESENTED

File Number: 20212568

CORPORATE WARRANTY DEED

Parcel No.: 18-16-07-126-001.000-020; 18-16-07-200-006.000-020; 18-16-07-200-003.000-020

THIS INDENTURE WITNESSETH, That Felton Family Farms, Inc., (Grantor), CONVEYS AND WARRANTS to Dustin A. Felton and Cortney S. Felton, husband and wife, (Grantee), for the sum of Ten & 00/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following described real estate in Delaware County, State of Indiana:

SEE EXHIBIT "A" ATTACHED HERETO

Subject to any and all easements, agreements and restrictions of record.

The undersigned persons executing this deed on behalf of Grantor represent and certify that they are duly elected officers of Grantor and have been fully empowered, by proper resolution of the Board of Directors of Grantor, to execute and deliver this deed, that Grantor has full corporate capacity to convey the real estate described herein and that all necessary corporate action for the making of such conveyance has been taken and done.

IN WITNESS WHEREOF, Grantor has executed this deed this 11th day of November, 2021.

FELTON FAMILY FARMS, INC.

Danny A. Felton

Danny A. Felton, Shareholder
Karen S. Johnson

Karen S. Johnson, Shareholder

Sherry L. Rathburn

Sherry L. Rathburn, Shareholder
Shelly Garrett

Shelly Garrett, Shareholder

State of Indiana

ss: ACKNOWLEDGEMENT

County of Delaware

Before me, a Notary Public in and for the said County and State, personally appeared Danny A. Felton, Sherry L. Rathburn, Karen S. Johnson, Shelly Garrett, as Shareholders of Felton Family Farms, Inc. who acknowledged the execution of the foregoing Instrument, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 11th day of November, 2021.

My commission expires: August 23, 2025

James W. Smith

James W. Smith, Notary Public
Residing in Hamilton County



Send Tax bills to and Grantee's street or rural route address is: 105 S CR 550E, Se/ma, IN 47383

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. James W. Smith, Attorney-at-Law

This instrument prepared by: James W. Smith, Attorney-at-Law

EXHIBIT "A" LEGAL DESCRIPTION

PARCEL 1

Part of the Southwest Quarter of the Northeast Quarter of Section 7, Township 19 North, Range 11 East, containing 19.25 acres.

ALSO, The North Half of the Northeast Quarter of Section 7, Township 19 North, Range 11 East, and all that part of the Northwest Quarter of said Section 7 that lies East of the public highway running Northwesterly through said Quarter Section; Excepting therefrom the right of way over and across said real estate heretofore conveyed to the Cincinnati, Richmond and Muncie Railroad Company, and excepting also the following tracts, to-wit:

(a) Commencing at the Northeast corner of the Northwest Quarter of Section 7, running thence South on a line at right angles to the North line of said Section 160 feet; thence West parallel to said North line 538.75 feet; thence Northwesterly along the East line of the C.R. & M.R.R. Right of Way 183 1/2 feet to the North line of said Section; thence East 628.7 feet to the place of beginning, estimated to contain 2.14 acres, more or less.

(b) Commencing at a point 20 feet West and 160 feet South of the Northeast corner of the Northwest Quarter of said Section 7; thence running South 175 feet at right angles to the North line of said Quarter; thence West 420 2/5 feet parallel to the North line of said Quarter to the East line of the Right of Way of the C.R. & M.R.R.; thence Northwesterly along said East line 200 3/4 feet; thence East 518 3/4 feet to the place of beginning, estimated to contain 1.88 acres, more or less.

(c) A part of the Northeast Quarter of Section 7, Township 19 North, Range 11 East, commencing at the Northeast corner of Lot 1 in Felton's First Addition to Medford and running thence East 239.43 feet; thence South 260 feet; thence West 239.43 feet; thence North 260 feet to the place of beginning.

(d) The East 60 acres of the North Half of the Northeast Quarter of Section 7, Township 19 North, Range 11 East.

(e) A part of the Northwest Quarter of the Northeast Quarter of Section 7, Township 19 North, Range 11 East, more particularly described as follows, to-wit: Beginning at a point in the North line of the Northwest Quarter of the Northeast Quarter of Section 7, Township 19 North, Range 11 East, 239.43 feet East of the Northeast corner of Lot #1 in Felton's First Addition to Medford; thence continuing East on the said North line 200.0 feet; thence South and parallel with the East line of said Lot #1, 281.17 feet; thence West and parallel with the said North line of the Northwest Quarter of the Northeast Quarter 200.0 feet; thence North and parallel with the East line of said Lot #1, 281.17 feet to the point of beginning. Estimated to contain 1.291 acres, more or less.

(f) A part of the Northwest Quarter of Section 7, Township 19 North, Range 11 East in Delaware County, Indiana, and more particularly described as follows: Beginning at the point of intersection of the center line of Indiana State Road No. 21 (now U.S. Highway No. 35) with the South line of the Northwest Quarter of Section 7; thence running Eastwardly on said South line a distance of 217.25 feet; thence deflecting 90 degrees to the left and running Northwardly on a straight line, a distance of 216.5 feet; thence running Westwardly on a straight line parallel with aforesaid South line of the Northwest Quarter of Section 7 to the point of intersection of said line with the aforesaid center line of Indiana State Road No. 21 (now U.S. Highway No. 35) a distance of 286.60 feet; thence running Southeastwardly on said center line to the place of beginning. Said tract of land estimated to contain 1.25 acres, more or less.

PARCEL 2

The East Half of the Southwest Quarter of the Northeast Quarter of Section 7, Township 19 North, Range 11 East, except the right of way of the C.R. & M. Railroad Company over and across the same; also excepting therefrom the following described real estate: A part of the East Half of the Southwest Quarter of the Northeast Quarter of Section 7, Township 19 North, Range 11 East, more particularly described as follows, to-wit: Commencing at the Southwest corner of said East Half; thence Northward on the West line

of said East Half, 315.5 feet to the Westward line of the C. & O. Railroad right-of-way; thence running in a Southeast direction on said line 369 feet to the South line of said East Half; thence West on said South line 187 feet to the place of beginning, containing .68 of an acre, more or less. Leaving after said exceptions 18.57 acres, more or less. Also the West Half of the Southeast Quarter of the Northeast Quarter of Section 7, Township 19 North, Range 11 East, containing 20 acres, more or less, and containing in all 38.57 acres, more or less.

PARCEL 3

A part of the North Half of the Northeast Quarter of Section 7, Township 19 North, Range 11 East in Perry Township, Delaware County, Indiana, described as follows: Beginning at a nail on the North line of the North Half of the Northeast Quarter of Section 7, Township 19 North, Range 11 East, said nail being South 89 degrees 13 minutes 58 seconds West 935.41 feet (assumed bearing) from a 5/8 inch rebar marking on the Northeast corner of said Half-Quarter Section; thence along the center of Medford Drain the following 5 courses: 1) South 14 degrees 14 minutes 20 seconds West 96.57 feet; 2) South 23 degrees 35 minutes 14 seconds West 81.04 feet; 3) South 36 degrees 39 minutes 40 seconds West 90.98 feet; 4) South 29 degrees 20 minutes 40 seconds West 98.23 feet; 5) South 38 degrees 44 minutes 48 seconds West 186.94 feet; thence South 57 degrees 27 minutes 01 second East 431.05 feet along a line staked by a 5/8 inch rebar at the West bank of the Medford Drain to a 5/8 inch rebar at the terminus of the line; thence South 23 degrees 15 minutes 16 seconds West 689.13 feet to a 5/8 inch rebar on the South line of said Half-Quarter Section; thence North 89 degrees 35 minutes 37 seconds West 843.39 feet to a 5/8 inch rebar at the Southwest corner of the East Half of the Northwest Quarter of said Northeast Quarter; thence North 00 degrees 58 minutes 42 seconds West 1323.96 feet to a nail at the Northwest corner of the East Half of the Northwest Quarter of said Northeast Quarter; thence North 89 degrees 13 minutes 58 seconds East 1058.89 feet to the point of beginning, containing 29.36 acres, more or less.

B2A 09-24

Delaware County Health Department

125 North Mulberry St. Muncie, IN 47305
www.co.delaware.in.us



Phone: 765-747-7721
Fax: 765-747-7747

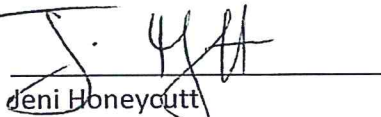
Public Health
Prevent. Protect. Promote.

December 8th, 2023

RE: 8440 S. US Highway 35
Muncie, IN 47302

The Delaware County Health Department has been asked to compile a letter regarding the property located at 8440 S. US Highway 35, Muncie, IN 47302. The property owner would like confirmation the property could handle an on-site sewage system should they or future property owners be so inclined. The property owner had a soil test completed on 12-5-2023 by Adams Environmental Corp. Attached is the soil test results as well as the soil map showing where the borings were taken from. This map indicates precisely where a future on-site sewage system could be installed. If the current or future property owners want the soil absorption field of the septic system to be in a different location on the property, they would be responsible for having another soil test completed to test the desired area. The soil test results show the property is suitable for an on-site sewage system in accordance with current Indiana Rule 410 IAC 6-8.3 for Residential On-site Sewage Systems. Should a system be installed in the future, the property owner will want to reference the Indiana Rule to insure full compliance with any changes in the Rule at that time. Should additional information be needed to facilitate this request please don't hesitate to reach out as I will respond accordingly.

Respectfully,



Jeni Honeycutt
Environmental Health Specialist
765-284-3259
jhoneycutt@co.delaware.in.us

BZA 09-24

ADAMS ENVIRONMENTAL CORP.
P.O. BOX 3206
ANDERSON, IN 46018

Telephone No.: 765-609-7810

Soil Scientist Tom Adams
IRSS CERT #72
IOWPA #591
Date of Assistance: 12/05/23

Name: Cortney Felton
Address: 105 S CR 550 E
Selma, IN 47383

• Telephone No.: Phone: 765-748-6334 Cortney Felton

• Location: County: Delaware Township: Perry

Site Address: 8440 S US Hwy 35, Muncie, IN 47302

Legal Description: T. 19N R. 11E Sec. 7

Longitude: 40° 7' 1" N Latitude: 84° 19' 24" W

Basement w/ Restroom: No

Acreage 0.5 Number of Bedrooms 2

Evidence of Subsurface Drainage: Unknown

• Brief Description of Site: Flat to gently sloping glacial till soil.

• Purpose for Assistance:

Residential

Proposed
Expansion

Repair X
Replacement X

Commercial

• People at Site: Tom Adams, Cortney Felton

• Location of well/drinking
water source: Well not located
City water
Other X See sketch

• Landscape Position:

X Upland, does it pond water?	Yes	No	Unknown X
Terrace, does it pond water?	Yes	No	Unknown
Does it flood?	Yes	No	Unknown
Flood plain			

• Observation/Comments:

GENERAL SITE INFORMATION

FELTON, Cortney 12-05-2023

Soil Symbol on Sketch: CrA (Crosby silt loam, 0 to 2% slopes)
 Present Land Use: Yard
 Present Vegetation: Grass

Landscape Position:
 Percent Slope:
 Kind of Slope:
 Shape of Slope:
 Direction of Slope:

Hole # 1	Hole # 2
Upland	Upland
0-2%	0-2%
Cont.	Cont.
Linear	Linear
East	East

• Depth to limiting layer:

	Hole # 1	Hole # 2
Compact Till	35 in.	None
Poor Filter		
Bedrock		
Fragipan		

• Depth to seasonal high water table:

	Hole # 1	Hole # 2
	17 in.	18 in.

FeMnC = Iron & Manganese Concretions	Cont. = Continuous
C.C. = Carbonate Coats	S.S. = Sideslope
S.C. = Silt Coats	1 = Weak
O.C. = Organic Coats	2 = Moderate
C.L. = Clayskins	3 = Strong
SA/GR = Sand and Gravel	ALLUV. = Alluvium
H.SiL = Heavy Silt Loam	O.W. = Outwash
% Coarse = % Coarse Fragments	

SOIL PROPERTIES

HOLE # 1	Depth (inches)	Soil Horizon	USDA Texture	% Coarse	Matrix	Color* Mottles	Coatings	Grade	Structure Size	Shape	Consis- tency	Efferves- cence	Parent Mat'l
	0-10	Ap	SiL	1%	4/3	None	None	2	F M	GR	FR	None	TILL
	10-17	AB	SiL	1%	5/3	None	None	2	M	GR/SBK	FR	None	TILL
	17-35	Bt	CL	2%	4/4	5/2	FeMnC	2	M	SBK	FI	None	TILL
	35+	Cd	L	<10%	5/3	None	None	None	MASSIVE	None	VFI	STRONG	TILL

HOLE # 2	Depth (inches)	Soil Horizon	USDA Texture	% Coarse	Matrix	Color* Mottles	Coatings	Grade	Structure Size	Shape	Consis- tency	Efferves- cence	Parent Mat'l
	0-10	Ap	SiL	1%	4/3	None	None	2	F M	GR	FR	None	TILL
	10-18	AB	SiL	1%	5/3	None	None	2	F	GR/SBK	FR	None	TILL
	18-36	Bt1	SiCL	1%	4/4	4/6 5/1	FeMnC	2	M	SBK	FI	None	TILL
	36-60	Bt2	CL	3%	4/4	6/1	FeMnC	2	M	SBK	FI	None	TILL

* All colors are 10YR unless stated otherwise.

** Relic Structure - Fill material that has soil structure.

Observation/Comments:

GENERAL SITE INFORMATION

FELTON, Cortney 12-05-2023

Soil Symbol on Sketch: CrA (Crosby silt loam, 0 to 2% slopes)
 Present Land Use: Yard
 Present Vegetation: Grass

Landscape Position: Hole # 3 Upland
 Percent Slope: 0-2%
 Kind of Slope: Cont.
 Shape of Slope: Linear
 Direction of Slope: East

• Depth to limiting layer:

	Hole # 3	Hole #
Compact Till	None	
Poor Filter		
Bedrock		
Fragipan		

• Depth to seasonal high water table:

	Hole # 3	Hole #
16 in.		

FeMnC = Iron & Manganese Concretions	Cont. = Continuous
C.C. = Carbonate Coats	S.S. = Sideslope
S.C. = Silt Coats	1 = Weak
O.C. = Organic Coats	2 = Moderate
C.L. = Clayskins	3 = Strong
SA/GR = Sand and Gravel	ALLUV. = Alluvium
H.SIL = Heavy Silt Loam	O.W. = Outwash
% Coarse = % Coarse Fragments	

SOIL PROPERTIES

	Depth	Soil	USDA	%	Color*			Structure			Consis-	Efferves-	Parent
	(inches)	Horizon	Texture	Coarse	Matrix	Mottles	Coatings	Grade	Size	Shape	tency	cence	Mat'l
HOLE # 3	0-10	Ap	SiL	1%	4/3	None	None	2	F M	GR	FR	None	TILL
	10-16	AB	SiL	1%	5/3	None	None	2	F M	GR/SBK	FR	None	TILL
	16-31	Bt1	CL	2%	4/6	5/2	FeMnC	2	M	SBK	FI	None	TILL
	31-60	Bt2	CL	2%	4/6	4/4 6/2	FeMnC	2	M	SBK	FI	None	TILL
HOLE #													

* All colors are 10YR unless stated otherwise.
 Observation/Comments:

** Relic Structure - Fill material that has soil structure.

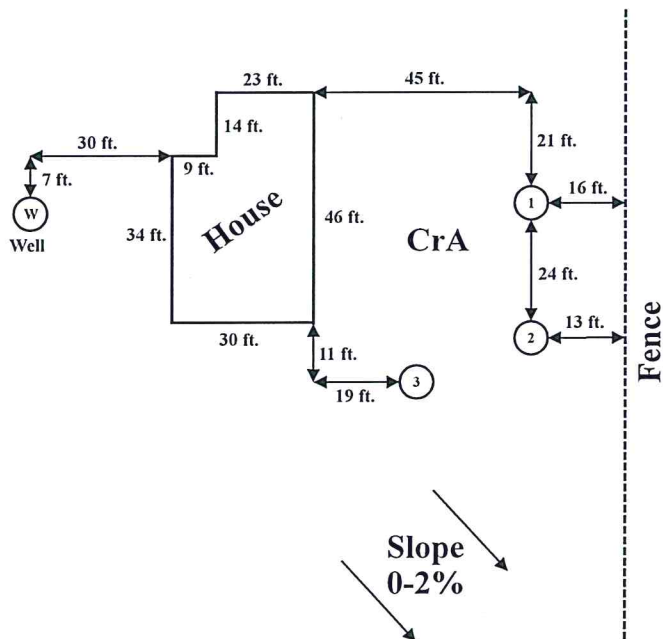
NORTH



Not to Scale

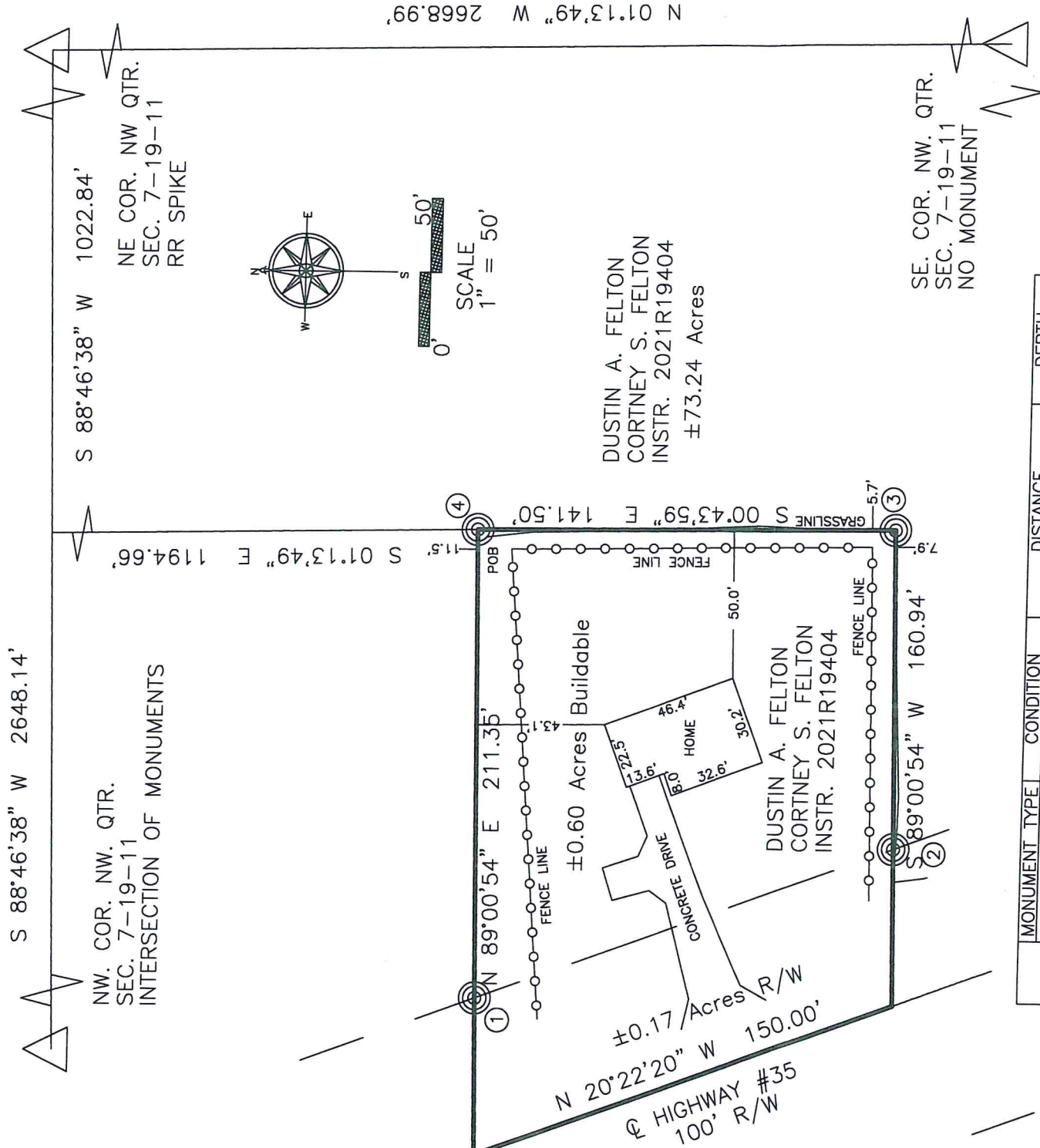
12-05-23

Cortney Felton



8440 S US Hwy 35
Muncie, IN 47302

Title: Cortney Felton	
Author: Adams Environmental Corporation	
Date: 12-05-23	Sheet:
Revision:	



MONUMENT TYPE	CONDITION	DISTANCE	DEPTH
① 5/8" HLA	SET	ON ROAD R/W	AT GRADE
② 5/8" HLA	SET	ON ROAD R/W	AT GRADE
③ 5/8" HLA	SET	ON PROPERTY CORNER	AT GRADE
④ 5/8" HLA	SET	ON PROPERTY CORNER	AT GRADE

This Instrument Prepared by: Haldon L. Ashton
Accuracy or completeness of subsurface features is not certified.

Revisions

Date:	
Reason:	
Date:	
Reason:	
Drawn: CLG	
Date: 01/24/24	
Job: 2023808	
Client: Dustin Felton	
Owner: Dustin A. Felton	
Crew: GB	
Electronic Field Book	
Field Date: 01/18/24	
IUPPS REF. # 2401173114	

VARIANCE DRAWING
8330 S SR. 35
MUNCIE, IN

RECEIVED
FEB 01 2024

SECTION CORNER COORDINATES ARE BASED ON
INDIANA STATE PLANE EAST ZONE (NORTH AMERICAN
DATUM OF 1983, CORRS 96 EPOC 2002.000)

I AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN
REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS
DOCUMENT, UNLESS REQUIRED BY LAW (HALDON L. ASHTON),



425 West Washington Street, Muncie, IN 47305
Ph: (765) 282-5504 Fax: (765) 282-5504
Email: ashtonlandsurveyors.com