

DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS

APPLICATION FOR APPEAL

Jurisdiction: (Check One)

☒ Delaware County

☐ City of Muncie

Submitted: 10/8/2024

Case No.: BZA 56-24

(1) Applicant: Earl George & Peggy Jane Clark

Address: 3528 14th St W Lot #K-1 Bradenton, FL 34205 Phone: 765-702-1277

(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.: DR 2002 pg 4929

Page: _____

Purchase Date: _____

Legal Description: (From the Deed or Abstract)

See attached

(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).

11301 Edgewater Dr, Albany, IN

(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.)

The owners are dividing this property to sell the home. This home was used as a rental property and they are no longer able to maintain it as a rental. Their intent in keeping the land with the home minimal is to preserve as much of the surrounding tillable land as possible. When dividing it in this way they will not meet the minimum requirements of the Delaware County Subdivision Control Ordinance Section XVII Section 28 B, which would require this property to be platted. They are asking for a variance form Section XVII Section 28 B to allow a parcel on a major road to be less than 5 acres.

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

F Farming Zone

(10) Present use of the property:

Residence & farming

(11) Describe the proposed use of the property:

Residence

(12) Is the property:

☐ Owner Occupied

☐ Renter Occupied

☒ Other: Home is currently vacant but has been rented in the past.

Answer to #7

BZA 56-24 Clark

Request for variances from the terms of the Delaware County Subdivision Ordinance, Article XVIII, Sections 28.B.3 and 28.B.4, to allow a division of land resulting in a 1.02 acre parcel with access along a Major Road and located in a flood plain area to contain the existing house and to separate the house from the surrounding tillable ground in a farm 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.

No

- (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?

Immediately

When will it be completed?

2 years

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

The new owner would occupy the home.

AFFIDAVIT

(I or We) Earl George Clark and Peggy Jane Clark
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.

Earl George Clark

SIGNATURES:

Peggy Jane Clark

Subscribed and sworn to before me this 20th day of Sept, 2024



Katherine M Vannice
Notary Public

2-11-2032
Commission Expires

Resident

of Delaware County

State of In

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 31 day of October, 2024.

Signed:

Tim D...

Date:

10.23-24

FILED FOR RECORD
Record 2002 Page 4929
11
3

DEED 2002 4929

HP

JUL 03 2002

017326

ae marlow
Recorder, Delaware County

QUIT-CLAIM DEED

THIS INDENTURE WITNESSETH, That Earl George Clark of Delaware County, in the State of Indiana, **RELEASES AND QUIT-CLAIMS** to Earl George Clark and Peggy Jane Clark, Husband and Wife, of Delaware County, in the State of Indiana, for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations, the receipt whereof is hereby acknowledged, the following described **Real Estate** in Delaware County, in the State of Indiana, to-wit:

00-11-100-001-000-004

The Northwest quarter (1/4) of the Northwest quarter (1/4) of Section eleven (11), Township twenty-one (21) North, Range eleven (11) East, containing forty (40) acres, more or less.

RECITAL

Taxes: 11601 E Edgewater Rd - Albany 47320

This conveyance is for the purpose of creating the estate of Tenants by the Entireties.

IN WITNESS WHEREOF, The said Earl George Clark has hereunto set his seal(s) this 2nd day of July, 2002.

Earl G. Clark (SEAL)
EARL GEORGE CLARK

STATE OF INDIANA, DELAWARE COUNTY)SS:

Before me, the undersigned, a Notary Public in and for said County and State, this 2nd day of July, 2002 came the within named Earl George Clark and acknowledged the execution of the above and foregoing instrument.

WITNESS MY HAND AND OFFICIAL SEAL.

MY COMMISSION EXPIRES:

July 2, 2009

Betty J. Dunnuck
NOTARY PUBLIC, Betty J. Dunnuck
A Resident of Delaware County, IN.

THIS INSTRUMENT PREPARED BY: Donald H. Dunnuck of DUNNUCK & ASSOC., Attorneys at Law, 114 South Walnut Plaza, Muncie, Indiana 47305 Tele: (765) 289-7379

Duly Entered for Taxation
Transfer Fees \$ 5.00

JUL 02 2002

Paul Rasmussen
DELAWARE CO. AUDITOR



- Point of Interest
- Base Flood Elevation Point
- POI
- 1.0
- ▨ FEMA Zone AE Floodway; FEMA Administrative Floodway
- ▨ FEMA Zone AE
- Additional Floodplain Area; DNR .2 Percent Flood Hazard
- Not Mapped

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OCT 15 2024
DELAWARE-MUNCIE
METROPOLITAN PLAN COMMISSION

Long: -85.25577236441804

Lat: 40.292188778037705

The information provided below is based on the point of interest shown in the map above.

County: **Delaware**

Approximate Ground Elevation: **929.3 feet (NAVD88)**

Stream Name:

Base Flood Elevation: **929.2 Feet (NAVD88)**

Mississinewa River

Drainage Area: **Not Available**

Best Available Flood Hazard Zone: **FEMA Zone AE**

National Flood Hazard Zone: **FEMA Zone AE**

Is a Flood Control Act permit from the DNR needed for this location? **See following pages**

Is a local floodplain permit needed for this location? **yes-**

Floodplain Administrator: **Tom Fouch, Zoning & Building Commissioner**

Community Jurisdiction: **Delaware County, County proper**

Phone: **(765) 747-7799**

Email: **tfouch@co.delaware.in.us**

1.02 AC±

Delaware County Health Department

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



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

PublicHealth
Prevent. Promote. Protect.

October 1st, 2024

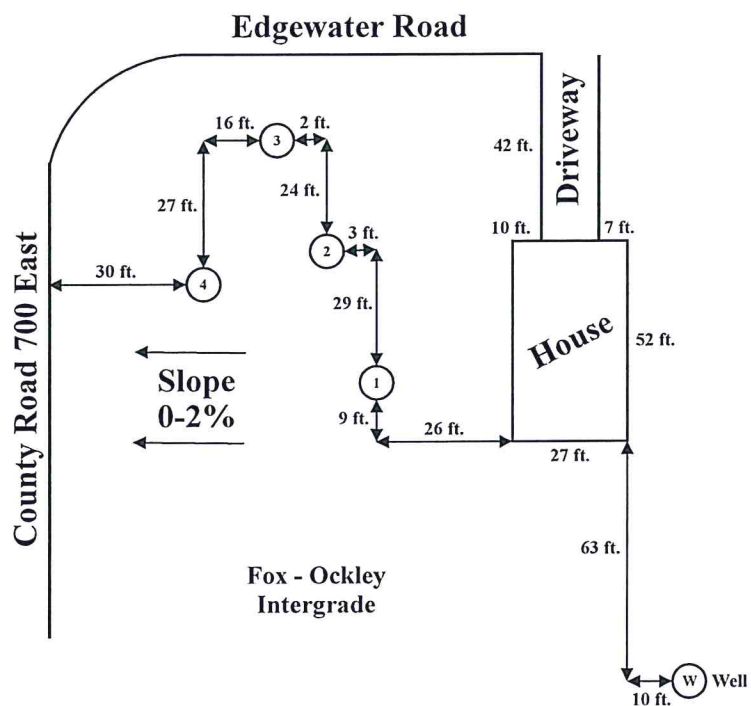
RE: 11301 E. Edgewater Rd., Albany, IN 47320

The aforementioned property is in the process of a real estate transaction. A soil test was completed by Adams Environmental Corp. on 9-30-24. The soil report shows the area tested is suitable for a residential onsite sewage system and is attached for reference. Should additional information be needed please don't hesitate to reach out as I will respond accordingly.

Thank you,

Jeni Honeycutt

Jeni Honeycutt
Environmental Health Specialist
Delaware County Health Department
125 N. Mulberry St.
Muncie, IN 47305



NORTH



Not to Scale

09-30-24

Earl & Peggy
Clark

11301 E Edgewater Rd.
Albany, IN 47320

| | |
|---|--------|
| Title: Earl & Peggy Clark | |
| Author: Adams Environmental Corporation | |
| Date: 09-30-24 | Sheet: |
| Revision: | |

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

Telephone No.: 765-609-7810

Soil Scientist Tom Adams
IRSS CERT #72
ARCPACS CERT #03442
Date of Assistance: 09/30/24

Name: Earl & Peggy Clark
Address: 3528 14th Street West, Lot # K-1
Bradenton, FL 34205

- Telephone No.: Phone: 765-702-1277 Earl & Peggy Clark
- Location: County: Delaware Township: Delaware
Site Address: 11301 E Edgewater Rd., Albany, IN 47320
Legal Description: T. 21N R. 11E Sec. 11
Longitude: 40° 17' 32" N Latitude: 85° 15' 20" W
Basement w/ Restroom: No
Acreage 0.75 Number of Bedrooms 2
Evidence of Subsurface Drainage Outlet: Unknown

- Brief Description of Site: Flat to gently sloping glacial outwash soil.

- Purpose for Assistance:

Residential
Proposed
Expansion

Repair X
Replacement X

Commercial

- People at site: Tom Adams, Earl Clark
- Location of well/drinking water source: Well not located
City water
Other X See sketch

- Landscape Position:

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

- Observation/Comments:

GENERAL SITE INFORMATION

CLARK, Earl & Peggy 09-30-2024

Soil Symbol on Sketch: Fox - Ockley Intergrade
 Present Land Use: Yard
 Present Vegetation: Grass

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

| Hole # 1 | Hole # 2 |
|----------|----------|
| Terrace | Terrace |
| 0-2% | 0-2% |
| Cont. | Cont. |
| Linear | Linear |
| West | West |

• Depth to limiting layer:

| | Hole # 1 | Hole # 2 |
|--------------|----------|----------|
| Compact Till | | |
| Poor Filter | 34 in. | 41 in. |
| Bedrock | | |
| Fragipan | | |

• Depth to seasonal high water table:

| Hole # 1 | Hole # 2 |
|----------|----------|
| None | None |

| | |
|--------------------------------------|--------------------|
| 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 (inches) | Soil Horizon | USDA Texture | % Coarse | Matrix | Color* Mottles | Coatings | Grade | Structure Size | Shape | Consis- tency | Efferves- cence | Parent Mat'l |
|----------|-------------------|-----------------|-----------------|-------------|----------|-------------------|----------|-------|-------------------|-------|------------------|--------------------|-----------------|
| | | | | | | | | | | | | | |
| HOLE # 1 | 0-10 | Ap | SiL | 1% | 4/3 | None | None | 2 | F M | GR | FR | None | ALLUV. |
| | 10-20 | EB | SiL | 1% | 5/3 | None | None | 2 | F M | GR | FR | None | ALLUV. |
| | 20-34 | Bt | CL | 5% | 7.5YR4/4 | None | None | 2 | M | SBK | FI | None | ALLUV. |
| | 34+ | 2C | SA/GR | 100% | 5/4 | None | None | 0 | C | SGR | LOOSE | STRONG | O.W. |
| | | | | | | | | | | | | | |

| | Depth (inches) | Soil Horizon | USDA Texture | % Coarse | Matrix | Color* Mottles | Coatings | Grade | Structure Size | Shape | Consis- tency | Efferves- cence | Parent Mat'l |
|----------|-------------------|-----------------|-----------------|-------------|----------|-------------------|----------|-------|-------------------|-------|------------------|--------------------|-----------------|
| | | | | | | | | | | | | | |
| HOLE # 2 | 0-11 | Ap | SiL | 1% | 4/3 | None | None | 2 | F M | GR | FR | None | ALLUV. |
| | 11-20 | BE | SiL | 1% | 5/3 | None | None | 2 | F M | SBK | FR | None | ALLUV. |
| | 20-41 | Bt | CL | 4% | 7.5YR4/4 | None | None | 2 | M | SBK | FI | None | ALLUV. |
| | 41+ | 2C | SA/GR | 100% | 5/4 | None | None | 0 | C | SGR | LOOSE | STRONG | O.W. |
| | | | | | | | | | | | | | |

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

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

GENERAL SITE INFORMATION

CLARK, Earl & Peggy 09-30-2024

Soil Symbol on Sketch: Fox - Ockley Intergrade
 Present Land Use: Yard
 Present Vegetation: Grass

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

| Hole # 3 | Hole # 4 |
|----------|----------|
| Terrace | Terrace |
| 0-2% | 0-2% |
| Cont. | Cont. |
| Linear | Linear |
| West | West |

• Depth to limiting layer:

| | Hole # 3 | Hole # 4 |
|--------------|----------|----------|
| Compact Till | | |
| Poor Filter | 43 in. | 45 in. |
| Bedrock | | |
| Fragipan | | |

• Depth to seasonal high water table:

| | Hole # 3 | Hole # 4 |
|--|----------|----------|
| | None | None |

| | |
|--------------------------------------|-------------------|
| 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 |
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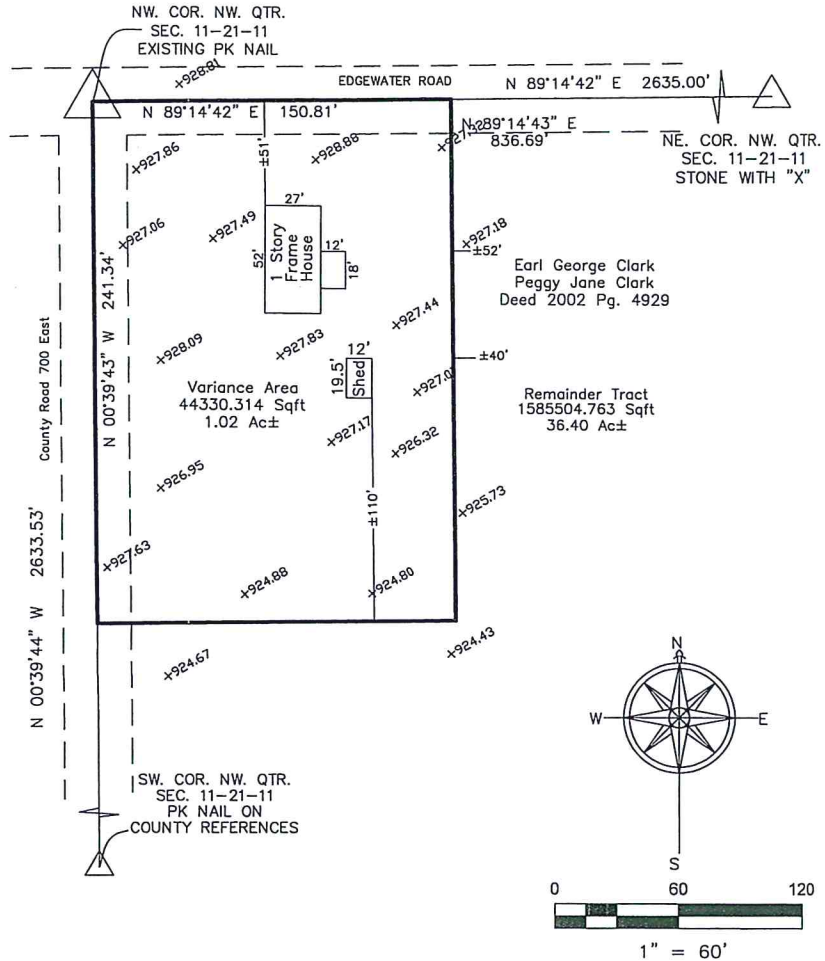
SOIL PROPERTIES

| | 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 | GR | FR | None | ALLUV. |
| | 10-19 | BE | SiL | 1% | 5/3 | None | None | 2 | F M | SBK | FR | None | ALLUV. |
| | 19-34 | Bt1 | CL | 5% | 7.5YR4/4 | None | None | 2 | M | SBK | FI | None | ALLUV. |
| | 34-43 | Bt2 | SaCL | 5% | 7.5YR3/4 | None | None | 2 | M | SBK | FI | None | ALLUV. |
| | 43+ | 2C | SA/GR | 100% | 5/4 | None | None | 0 | C | SGR | LOOSE | STRONG | O.W. |
| | | | | | | | | | | | | | |

| | Depth | Soil | USDA | % | Color* | | | Structure | | | Consis- | Efferves- | Parent |
|----------|----------|---------|---------|--------|----------|---------|----------|-----------|-------|-------|---------|-----------|--------|
| | (inches) | Horizon | Texture | Coarse | Matrix | Mottles | Coatings | Grade | Size | Shape | tency | cence | Mat'l |
| HOLE # 4 | 0-10 | Ap | SiL | 1% | 4/3 | None | None | 2 | F | GR | FR | None | ALLUV. |
| | 10-20 | EB | SiL | 1% | 5/3 | None | None | 2 | F M | SBK | FR | None | ALLUV. |
| | 20-45 | Bt | CL | 4% | 7.5YR4/4 | None | None | 2 | M | SBK | FI | None | ALLUV. |
| | 45+ | 2C | SA/GR | 100% | 5/4 | None | None | 0 | C | SGR | LOOSE | STRONG | O.W. |
| | | | | | | | | | | | | | |

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

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



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OCT 15 2024

DELAWARE-MUNICE
METROPOLITAN PLAN COMMISSION

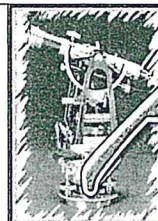
This Instrument Prepared by: Haldon L. Ashton
Accuracy or completeness of subsurface features is not certified.

| Revisions |
|--|
| Date: Reason: |
| Date: Reason: |
| Drawn: SMK Date: 10/07/24 Job: 2024681A Client: Earl & Peggy Clark Owner: Earl & Peggy Clark |

Variance Drawing for Division
11301 East Edgewater Road
Albany, IN

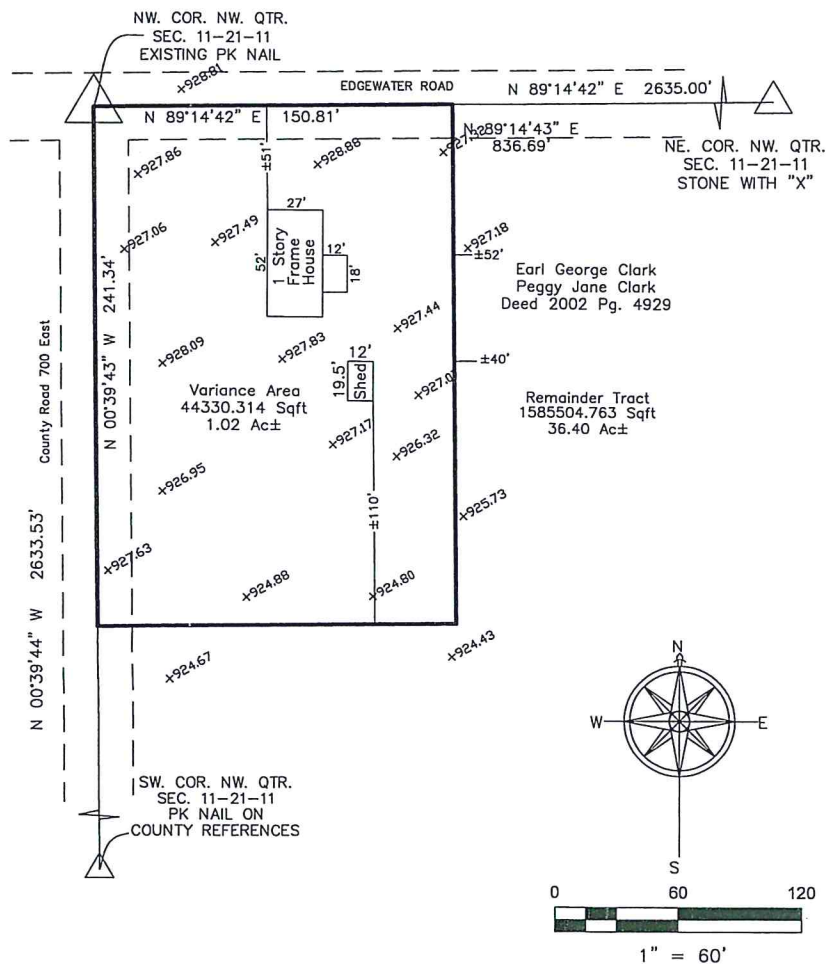
SECTION CORNER COORDINATES ARE BASED ON
INDIANA STATE PLANE EAST ZONE (NORTH AMERICAN
DATUM OF 1983, CORS 96 EPOC 2002.000)

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),



175 West Washington Street, Albany, IN 47003
PH: (317) 938-5508 Fax: (317) 938-5509
Email: hal@ashtonsurveyors.com

Sheet



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OCT 15 2024

DELAWARE-MUNCIE
METROPOLITAN PLAN COMMISSION

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

| Revisions |
|--|
| Date: Reason: |
| Date: Reason: |
| Drawn: SMK Date: 10/07/24 Job: 2024681A Client: Earl & Peggy Clark Owner: Earl & Peggy Clark |

Variance Drawing for Division
11301 East Edgewater Road
Albany, IN

SECTION CORNER COORDINATES ARE BASED ON
INDIANA STATE PLANE EAST ZONE (NORTH AMERICAN
DATUM OF 1983, CORS 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),



315 West Washington Street, Muncie, IN 47304
Ph: (317) 282-5594 Fax: (317) 282-5594
Email: haldon@ashtonsurveyors.com

Sheet