



CITY OF NOBLESVILLE  
BOARD OF ZONING APPEALS  
VARIANCE OF USE APPLICATION

Application Number: BZNA-0084-2019

The undersigned requests a Variance of Use as specified below. Should this variance request be approved, such approval shall only authorize the particular use described in this application and as further limited by reasonable conditions imposed upon such approval by the Board of Zoning Appeals.

Project Name or Occupant Name: Beaver Gravel Corporation

✓ Common Address 16336 Cherry Tree Road, Noblesville

**Applicant Name:** Church, Church, Hittle + Antrim by Andrew Wert for Beaver Gravel Corp.

Applicant Address: 2 North 9th Street

Applicant City/State/Zip: Noblesville, IN 46060 E-mail: awert@cchalaw.com

Applicant Phone #1: 317.776.5262 Phone #2: 317.773.2190 Fax: 317.773.5320

**Owner Name:** Carlene P Mallamo

Owner Address: 16336 Cherry Tree Road

Owner City/State/Zip: Noblesville, IN 46062 E-mail: \_\_\_\_\_

Owner Phone #1: \_\_\_\_\_ Phone #2: \_\_\_\_\_ Fax: \_\_\_\_\_

Property Location:  Not located in a recorded subdivision, see legal description attached.

Subdivision Name: \_\_\_\_\_

Subdivision Section: \_\_\_\_\_ Lot Number: \_\_\_\_\_ Last Deed of Record Number 2012078022

Existing Land Use: Residential

Common Description of Request: Mineral/Sand/Gravel Extraction

Zoning District of Property: R1 Code Section(s) Appealed: UDO § Appendix C

Date: 7/1/2019 Applicant's Signature: Andrew Wert

The Noblesville Board of Zoning Appeals (BZA) is authorized to approve or deny Variances of Use from the terms of the Unified Development Ordinance. The BZA may impose reasonable conditions as part of its approval. A Variance of Use may be approved only upon a determination in writing that the following five (5) statements are true (see Indiana Code § 36-7-4-918.4):

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. Explain why this statement is true in this case:

The health, safety, morals and welfare of the community will be served by this request  
because it is an incremental expansion of an existing gravel pit and will have no new entry/exit  
points onto a public road.

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 by the approval of this variance request. Explain why this statement is true in this case:

Adjacent property will not be affected adversely in that there is already an ongoing  
extraction operation next to it.

3. The need for the proposed variance arises from some condition peculiar to the property involved. Explain why this statement is true in this case:

The peculiar condition in this case is the geography of the area proposed for extraction.  
The existing pit is zoned I-2 and also falls under the "non-urban" statutory definition  
exempting it from the local zoning ordinance. While the subject area shares remote characteristics  
of the existing pit, it is zoned residential and does not fall under the "non-urban" definition.

4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which this variance is sought. Explain why this statement is true in this case:

The unnecessary hardship is that given the demand for aggregate material in  
Hamilton County, strict application of the zoning ordinance would require another  
gravel pit to be opened, possibly involving new entry/exit points onto public roads.

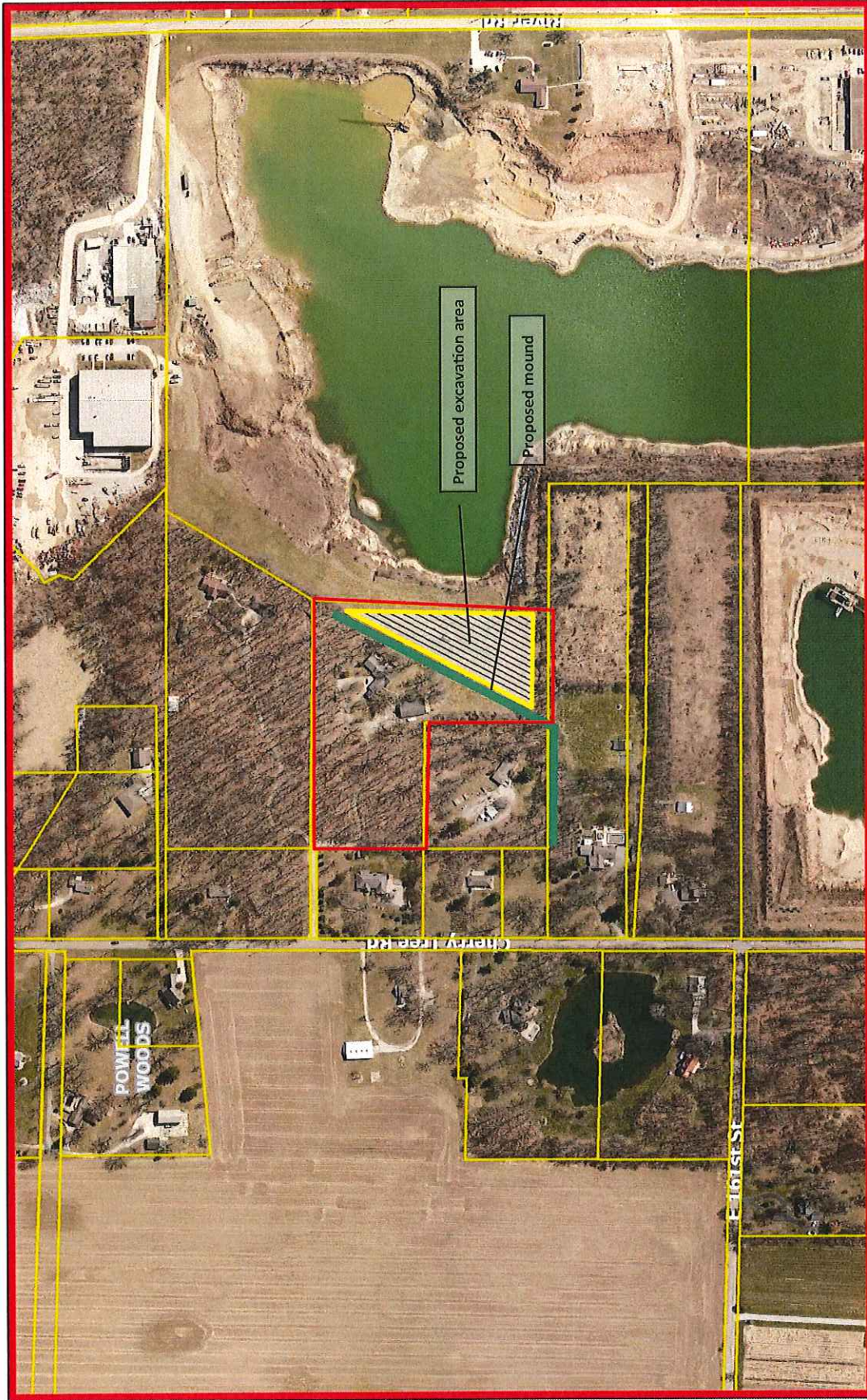
5. The approval of this variance does not interfere substantially with the provisions of the Comprehensive Master Plan for the City of Noblesville, Indiana. Explain why this statement is true in this case:

The Future Land Use Map in PLANoblesville shows the subject area as  
being on the edge of the Industrial classification. The limited, incremental  
expansion of the existing gravel pit is consistent with an Industrial use.

---

---

16336 Cherry Tree Rd



## **BEAVER GRAVEL VARIANCE OF USE – NARRATIVE STATEMENT**

Beaver Gravel Corporation is entering into a purchase agreement for property located at 16336 Cherry Tree Road. The property is composed of one parcel with a residence. The proposal is to expand the existing extraction operation to the east into the southeastern portion of the subject property. In that the zoning of this property is R-1, a Variance of Use is being sought. The intent is for the existing residence to remain.

The property to the east is zoned I-2. This is the existing gravel pit owned by the petitioner. North and west are residential uses zoned R-1. To the south is a residence and property which was granted, in February of 2019, a Variance of Use for mineral extraction.

DULY ENTERED FOR TAXATION

Subject to final acceptance for transfer *LR 20.00*

13 day of December, 2012

*Dawn Coverdale* Auditor of Hamilton County

Parcel # 10-10-11-00-00-010.

10-10-11-00-00-009.001

2012078022 WARR DEED \$20.00  
12/13/2012 10:00:34A 3 PGS  
Mary L. Clark  
HAMILTON County Recorder IN  
Recorded as Presented

13323

## WARRANTY DEED

THIS INDENTURE WITNESSETH, That **Brian S. Campbell and Melinda J. Campbell, husband and wife** ("Grantor") of Hamilton County, in the State of Indiana, CONVEYS AND WARRANTS to **Carlene P. Mallamo** ("Grantee") of Hamilton County, in the State of Indiana, for the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described real estate located in Hamilton County, in the State of Indiana:

*Part of the Northeast Quarter of Section 11, Township 18 North, Range 4 East located in Noblesville Township, Hamilton County, Indiana, being more specifically described as follows: Commencing at the Southwest corner of the Northeast Quarter of Section 11, Township 18 North, Range 4 East, thence North 00 degrees 19 minutes 44 seconds West (assumed bearing) 1250.37 feet on and along the West line of said Northeast Quarter to the center line of a Right-of-way for ingress and egress for use by public utilities (Deed Record 243, page 265); thence South 89 degrees 16 minutes 59 seconds East 272.50 feet parallel with the South line of a tract of ground described in Miscellaneous Record 62, page 489 and on and along the center line of said Right-of-way for ingress and egress for use by public utilities to the point of beginning of this description; thence South 89 degrees 16 minutes 59 seconds East 711.10 feet; thence South 02 degrees 43 minutes 16 seconds West 686.24 feet to a point on the line described in the 4<sup>th</sup> course of land described in Miscellaneous Record 62, page 489; thence North 89 degrees 16 minutes 59 seconds West 319.15 feet to a point on the East line of land described in Deed Record 243, page 265; thence North 00 degrees 19 minutes 44 seconds East 356.14 feet on and along the East line of said land to its Northeast corner; thence North 89 degrees 16 minutes 59 seconds West 363.30 feet on and along the North line of said land to its Northwest corner, thence North 00 degrees 19 minutes 44 seconds East 329.70 feet to the point of beginning, containing 8.00 acres, more or less.*

*Together with an undivided one-half interest in the following real estate: Eighteen feet by parallel lines off the North side of real estate described in that certain Quitclaim Deed dated September 9, 1989 and recorded October 13, 1989 as Instrument No. 8923132 in the Office of the Recorder of Hamilton County, Indiana, as follows:*

*A part of the Northeast Quarter of Section 11, Township 18 North, Range 4 East described as follows: Begin at a point 920.67 feet North of the Southwest Corner of the North East Quarter of Section 11, Township 18 North, Range 4 East, run thence East 272.5 feet to an iron pin; thence North parallel to the West line of said North East Quarter 319.7 feet to an iron pin; thence West 272.5 feet to the intersection with the West line of said North East Quarter; thence South along this West line 319.7 feet to the place of beginning, containing 2.0 acres; more or less.*

*This conveyance is subject to all rights-of-way, easements, agreements, restrictions and limitations of record; and all real estate taxes due and payable after the date of this instrument.*

IN WITNESS WHEREOF, Grantor has executed this Warranty Deed this 10 day of December, 2012.

Brian S. Campbell  
Brian S. Campbell

Melinda J. Campbell  
Melinda J. Campbell

STATE OF INDIANA )  
COUNTY OF Hamilton )SS:

Before me, a Notary Public in and for said County and State, personally appeared **Brian S. Campbell and Melinda J. Campbell, husband and wife**, who acknowledged the execution of the foregoing Warranty Deed, and who, being duly sworn, stated that any representations therein contained are true. Witness my hand and Notarial Seal this 10 day of Dec, 20 12.

My Commission Expires:

County of Residence:

Signature  
Printed

Deborah K. Bates

Notary Public



Parcel No.: **10-10-11-00-00-009.001 (State # 29-10-11-000-009.001-012)**

- Send tax statements to Grantee's address (Common Address of Property): **16336 Cherry Tree Road, Noblesville, IN 46062**
- Send tax statements to Grantee's Address: \_\_\_\_\_

This instrument was prepared by: David A. Schmitz, Attorney at Law  
9201 N. Meridian Street, Suite 100, Indianapolis, IN 46260 (317) 571-6969

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 Deborah K. Bates

## EXHIBIT A

Part of the Northeast Quarter of Section 11, Township 18 North, Range 4 East located in Noblesville Township, Hamilton County, Indiana, being more specifically described as follows: Commencing at the Southwest corner of the Northeast Quarter of Section 11, Township 18 North, Range 4 East, thence North 00 degrees 19 minutes 44 seconds West (assumed bearing) 1250.37 feet on and along the West line of said Northeast Quarter to the center line of a Right-of-way for ingress and egress for use by public utilities (Deed Record 243, page 265); thence South 89 degrees 16 minutes 59 seconds East 272.50 feet parallel with the South line of a tract of ground described in Miscellaneous Record 62, page 489 and on and along the center line of said Right-of-way for ingress and egress for use by public utilities to the point of beginning of this description; thence South 89 degrees 16 minutes 59 seconds East 711.10 feet; thence South 02 degrees 43 minutes 16 seconds West 686.24 feet to a point on the line described in the 4<sup>th</sup> course of land described in Miscellaneous Record 62, page 489; thence North 89 degrees 16 minutes 59 seconds West 319.15 feet to a point on the East line of land described in Deed Record 243, page 265; thence North 00 degrees 19 minutes 44 seconds East 356.14 feet on and along the East line of said land to its Northeast corner; thence North 89 degrees 16 minutes 59 seconds West 363.30 feet on and along the North line of said land to its Northwest corner, thence North 00 degrees 19 minutes 44 seconds East 329.70 feet to the point of beginning, containing 8.00 acres, more or less.

Together with an undivided one-half interest in the following real estate: Eighteen feet by parallel lines off the North side of real estate described in that certain Quitclaim Deed dated September 9, 1989 and recorded October 13, 1989 as Instrument No. 8923132 in the Office of the Recorder of Hamilton County, Indiana, as follows:

A part of the Northeast Quarter of Section 11, Township 18 North, Range 4 East described as follows: Begin at a point 920.67 feet North of the Southwest Corner of the North East Quarter of Section 11, Township 18 North, Range 4 East, run thence East 272.5 feet to an iron pin; thence North parallel to the West line of said North East Quarter 319.7 feet to an iron pin; thence West 272.5 feet to the intersection with the West line of said North East Quarter; thence South along this West line 319.7 feet to the place of beginning, containing 2.0 acres; more or less.

For information purposes only:

Common Address:	16336 Cherry Tree Road, Noblesville, IN 46062
TSLLC File #:	13323
Tax Parcel #:	10-10-11-00-00-009.001

10/13/89



church church hittle + antrim  
ATTORNEYS AT LAW



Date: July 1, 2019

<b>To:</b> Noblesville Department of Planning 16 S 10 <sup>th</sup> Street, Suite 150 Noblesville, IN 46060  <b>Attention:</b> Denise Aschleman	<b>RE:</b> Beaver/Mallamo Variance of Use
---	---

<input type="checkbox"/>	Prints	<input type="checkbox"/>	Plans	<input type="checkbox"/>	Specifications
<input type="checkbox"/>	Copy of Letter	<input type="checkbox"/>	Report	<input checked="" type="checkbox"/>	Other

Copies	Date	Description
1	7/1/2019	Variance of Use application package
1	7/1/2019	Check for \$1080.00

THESE ARE TRANSMITTED as checked below:

<input checked="" type="checkbox"/>	For Approval	Submit	Approved as Submitted	Copies for Approval
<input type="checkbox"/>	For Your Use	Return	Approved As Noted	Copies for Distribution
<input type="checkbox"/>	As Requested	Not Approved	Reviewed for Compliance	Signature Requested
<input type="checkbox"/>	Resubmit	Corrected Prints	For Review & Comment	

Remarks:

Signed: Andy Wert [awert@cchalaw.com](mailto:awert@cchalaw.com)

Received:

