

**WHITLEY COUNTY BOARD OF ZONING APPEALS  
STAFF REPORT**

**20-W-VAR-3      DEVELOPMENT STANDARDS VARIANCE**  
Micropulse, Inc.  
5865 E. SR 14

**MAY 26, 2020**  
**AGENDA ITEM:    2**

---

This petition was delayed due to COVID precautions. Updated notice has been provided.

**SUMMARY OF PROPOSAL**

Current zoning: IPM, Industrial Park/Manufacturing  
Property area: 20.3± acres

The petitioner is requesting a development standards variance to modify and relocate the required buffering landscaping for their IPM-zoned property located at 5865 East State Road 14. The property has frontage on both SR 14 and 600 East.

This request is based on the previously granted variance in 19-W-VAR-19 and incorporates several changes based on the input of adjacent property owners. While this request essentially modifies the previous request, it still must stand on its own merits. However, for conciseness, this report will summarize the previous request and highlight the changes proposed.

Per Section 5.6 of the zoning code, the following buffer yard standards apply when an IPM-zoned district is adjacent to an AG, RR, LR, VC, or GC district:

1. The owner of the subject property is responsible for installing the buffer yard.
2. The adjacent property owner shall not have to participate in installing the buffer yard.
3. An additional 10' of setback is required in addition to the normal setback on the yard(s) abutting the other zoning district.
4. One deciduous canopy tree planted a minimum of every 30', or coniferous tree every 20'.
5. All trees must be planted within 5 to 15 feet from the property line and on the subject property.
6. All trees must have at least a 1 ½" caliper, be properly maintained, and be replaced if the tree dies, is diseased, or is damaged.

The previous variance was granted with the following conditions:

1. The variance is granted as presented and per the submitted landscape plan.
2. Hazen Properties, LLC, owner of 5798 S. 600 East, and Kenneth and Barbara Emerick, owners of 5901 E. State Road 14, provide for the record a statement waiving the required buffering along their frontages with the petitioner's property.
3. One deciduous canopy tree planted a minimum of every 30', or coniferous tree every 20', where the landscape buffer is proposed.
4. Petitioner may place an 8' wooden fence with 1" spacing between slats in lieu of the above landscaping, or may combine or alternate said fence with the landscaping.
5. All trees must be planted within 5 to 15 feet from the property line and on the subject property where the landscape buffer is proposed.
6. Petitioner will be responsible for maintenance of trees, fence, or any combination of the two, where the landscape buffer is proposed.

After the grant of the variance, the petitioner discussed the option of a fence or landscaping with the owners of the adjacent properties to the east. It was found that several owners preferred not to have either fencing or landscaping, despite the requirements of the zoning code and variance conditions. To allow for

these preferences, the petitioner is seeking a variance to allow for the landscaping as shown on the submitted site plan.

#### **REVIEW CRITERIA**

Indiana Code §36-7-4-918.5 and Section 10.10 of the Zoning Code state the criteria listed below upon which the Board must base its review. Staff's comments/proposed findings of fact under each criterion.

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

The requested variance will not be injurious to the public health, safety, or morals, as landscaping does not generally have such impacts. The general welfare is not likely injured as the parties affected have come to agreement on the specifics of the arrangement.

**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; and**

As stated in the previous case, the proposed location of the buffer removes it from the middle of a field that straddles the AG-IPM zoning district and places it along the property line of adjacent residences. This configuration is intended to better buffer those residences from views of the industrial facility than if the buffer were installed per the code specification. So, the use and value of these residential properties may be enhanced over what might be expected with a letter-of-the-code installation. This is reinforced by the agreement of the owners on the proposed alternate buffering standards.

**3. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction or restriction of economic gain.**

Because the adjacent property owners have shown they do not desire the provisions of the code nor the conditions of the previous variance, there is a practical difficulty created that is not self-imposed by the petitioner, in addition to those described in the previous variance.

#### **SUGGESTED CONDITIONS**

If the Board moves to grant the variance, the following are suggested conditions of the approval:

1. The variance is granted as presented and per the submitted landscape plan.
2. Hazen Properties, LLC, owner of 5798 S. 600 East, and Kenneth and Barbara Emerick, owners of 5901 E. State Road 14, provide for the record a statement waiving the required buffering along their frontages with the petitioner's property.

Date report prepared: 3/18/20; updated 5/19/20.

### BOARD OF ZONING APPEALS ACTION

#### Findings of Fact Criteria

---

	<b>Vote: Denihan</b>		<b>Lopez</b>		<b>Wilkinson</b>		<b>Wolf</b>		<b>Wright</b>	
	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>
<i>Criterion 1</i>										
<i>Criterion 2</i>										
<i>Criterion 3</i>										

Motion:

By:

Second by:

---

<b>Vote:</b>	<b>Denihan</b>	<b>Lopez</b>	<b>Wilkinson</b>	<b>Wolf</b>	<b>Wright</b>
<i>Yes</i>					
<i>No</i>					
<i>Abstain</i>					

# EXHIBIT "A"

APPROVAL

PRINTED NAME: \_\_\_\_\_

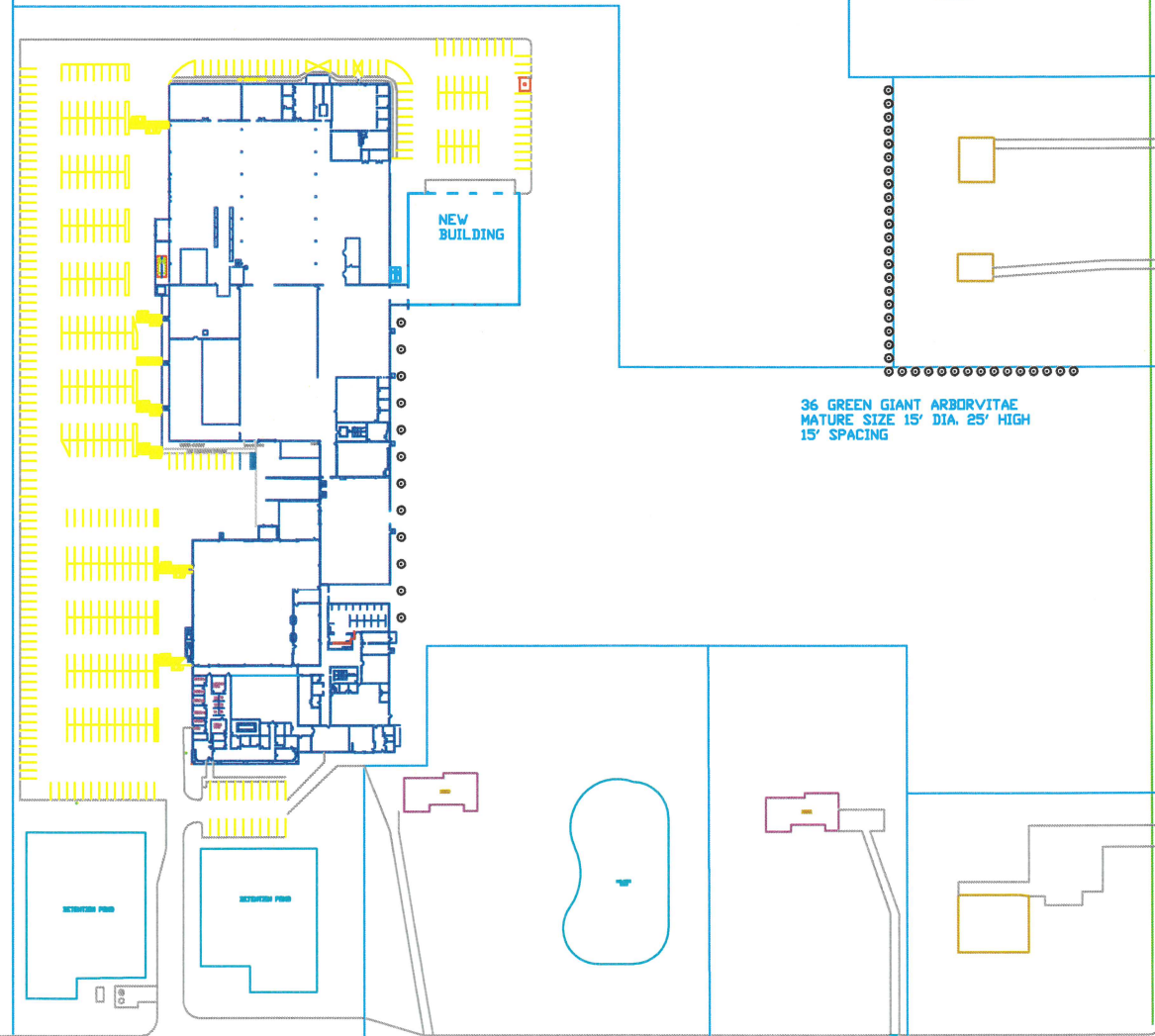
SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

9 GREEN GIANT ARBORVITAE  
MATURE SIZE 15' DIA. 25' HIGH  
10' SPACING

36 GREEN GIANT ARBORVITAE  
MATURE SIZE 15' DIA. 25' HIGH  
15' SPACING



MICROPULSE, INC.







Hinen,  
Michael A  
& Sally A

Hinen,  
Michael A  
& Sally A

Davies,  
LuAnn

Emerick, Brian  
G & Emerick,  
Sonya M

Emerick, Brian  
G & Emerick,  
Sonya M

Micropulse,  
Inc

Emerick, Brian  
G & Emerick,  
Sonya M

Emerick,  
Kenneth E &  
Barbara L

Hazen  
Properties  
LLC

Evilsizer,  
William  
& Ann

Bull, Larry  
R & Carol L

Davis,  
Donald D &  
Roberta A

Davis,  
Thomas Jr  
& Bonnie

Lamle, Gary  
D Revocable  
Trust

Mannes,  
Stefan

Smock,  
Phil &  
Elaine

Travelbee,  
Stuart W &  
Roxane L

Zoda,  
Joseph W &  
Maryna O

Byall,  
Ned S &  
Delores J

Zoda,  
Joseph W

Zoda,  
Joseph W

Bechtold,  
Melvin E  
& Doris I

Emerick, Brian  
G & Sonya M

Emerick, Brian  
G & Emerick,  
Sonya M

6110

5901

5920

5888

5865

5637

S 600 E

5978

6085

6041

5800

5840

5730

5680

5625

Trahin, Cindy  
K & Robert L