

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

**20-W-SE-2      SPECIAL EXCEPTION**  
Jeffrey & Amy Pyle  
6545 N. 900 East

**JANUARY 28, 2020  
AGENDA ITEM: 2**

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**SUMMARY OF PROPOSAL**

Current zoning: AG, Agricultural  
Property area: 36.6 acres

The petitioners are requesting special exception approval for a secondary dwelling unit on their property located at 6546 North 900 East in Smith Township. The petitioners propose construction of a 42'x70' two-story accessory building approximately 140' southwest of the existing single-family dwelling (constructed in 2017). As proposed, the building would contain an attached garage, and living space, two bathrooms, kitchen, loft, and office for use by a relative of the petitioners. Total living area would be approximately 1,260 sq. ft. with a 1,680 sq. ft. garage. Long-term, the petitioner stated that the dwelling area would be used by other family members.

Secondary dwelling units are defined by the zoning code as "either a portion of the principal building or a separate building, which is utilized as an independent living facility, or a Type II or III manufactured home, located on the same parcel and occupied exclusively by a relative of the family residing in the principal dwelling." In practice, these units are located in outbuildings or manufactured homes that may be removed or converted upon the conclusion of the secondary dwelling use. This is the significant difference between these units and a second full dwelling unit on a property.

In the AG, Agricultural District, secondary dwelling units require a special exception through the Board of Zoning Appeals. The requirements of Sections 10.9 Special Exception Standards apply.

**REVIEW CRITERIA**

Indiana Code §36-7-4-918.2 and Section 10.9(A) of the Zoning Code authorize the Board to review special exceptions and 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 special exception shall not involve any elements or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards;**  
Residences typically do not have such elements, cause such conditions, nor contravene the performance standards.
- 2. The special exception shall be sited, or oriented and landscaped to produce a harmonious relationship of building and grounds to adjacent buildings and properties;**  
The proposed building would be located in a wooded area some distance from the existing dwelling. Location of any building is limited by the topography of the property, but the proposed site does appear to be harmonious with adjacent buildings and properties.
- 3. The special exception shall produce a total visual impression and environment that is consistent with the environment of the neighborhood;**  
Given the location of the proposed structure in a wooded area, approximately 1,100' from the road and 750' from the nearest off-site dwelling, the visual impression and environment to the neighborhood should be largely unchanged.

**4. The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and**

The traffic volume and arrangement access of this use is unlikely to cause traffic congestion. Sufficient area exists to provide parking for the secondary dwelling unit.

**5. The special exception shall preserve the purpose of this Ordinance as stated in Section 1.4.**

The proposed secondary dwelling unit clearly falls into a permissible special exception of the Zoning Ordinance. Staff does have some reservation regarding the long-term usage of the building being compliant with the family member requirement of the code; however, similar secondary dwellings have been approved in the past without defined long-term plans without apparent issue. It is unlikely that, if strict conditions are imposed to protect the general welfare, the proposal would contravene the stated purposes of the Ordinance.

**SUGGESTED CONDITIONS**

Staff suggests the following conditions if the Board finds to approve the requested special exception:

1. The Special Exception is granted as presented.
2. In addition to the requirements in the Zoning Code definition of "Secondary Dwelling Unit", the dwelling shall not be used as an income-producing rental unit.
3. Ensure compliance with Health Department septic system and well regulations.

Date report prepared: 1/22/20

**BOARD OF ZONING APPEALS ACTION**

Motion:

By:

Second by:

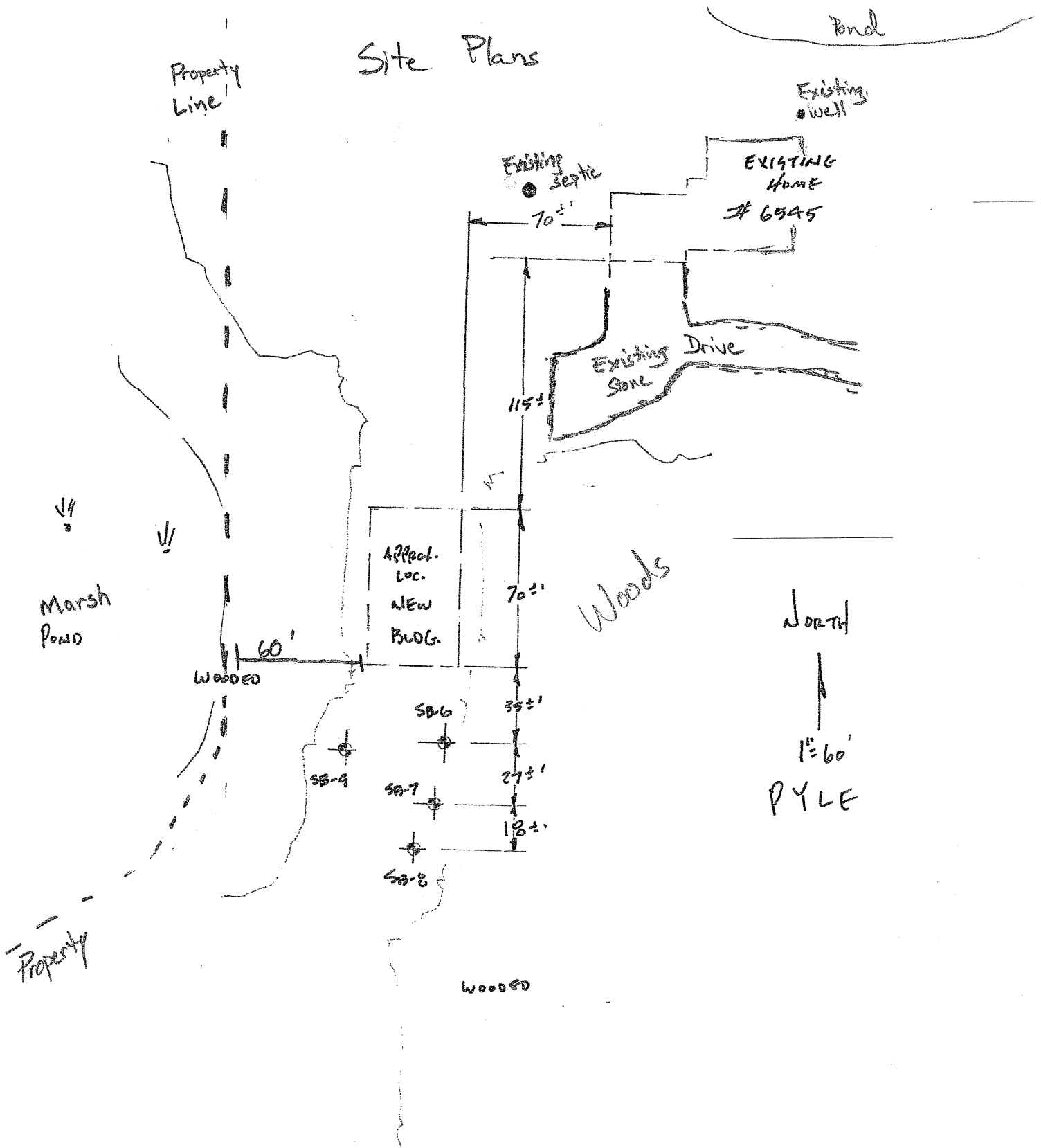
<i><b>Vote:</b></i>	<i><b>Wolf</b></i>	<i><b>Denihan</b></i>	<i><b>Lopez</b></i>	<i><b>Wilkinson</b></i>	<i><b>Wright</b></i>
<i>Yes</i>					
<i>No</i>					
<i>Abstain</i>					







# Site Plans

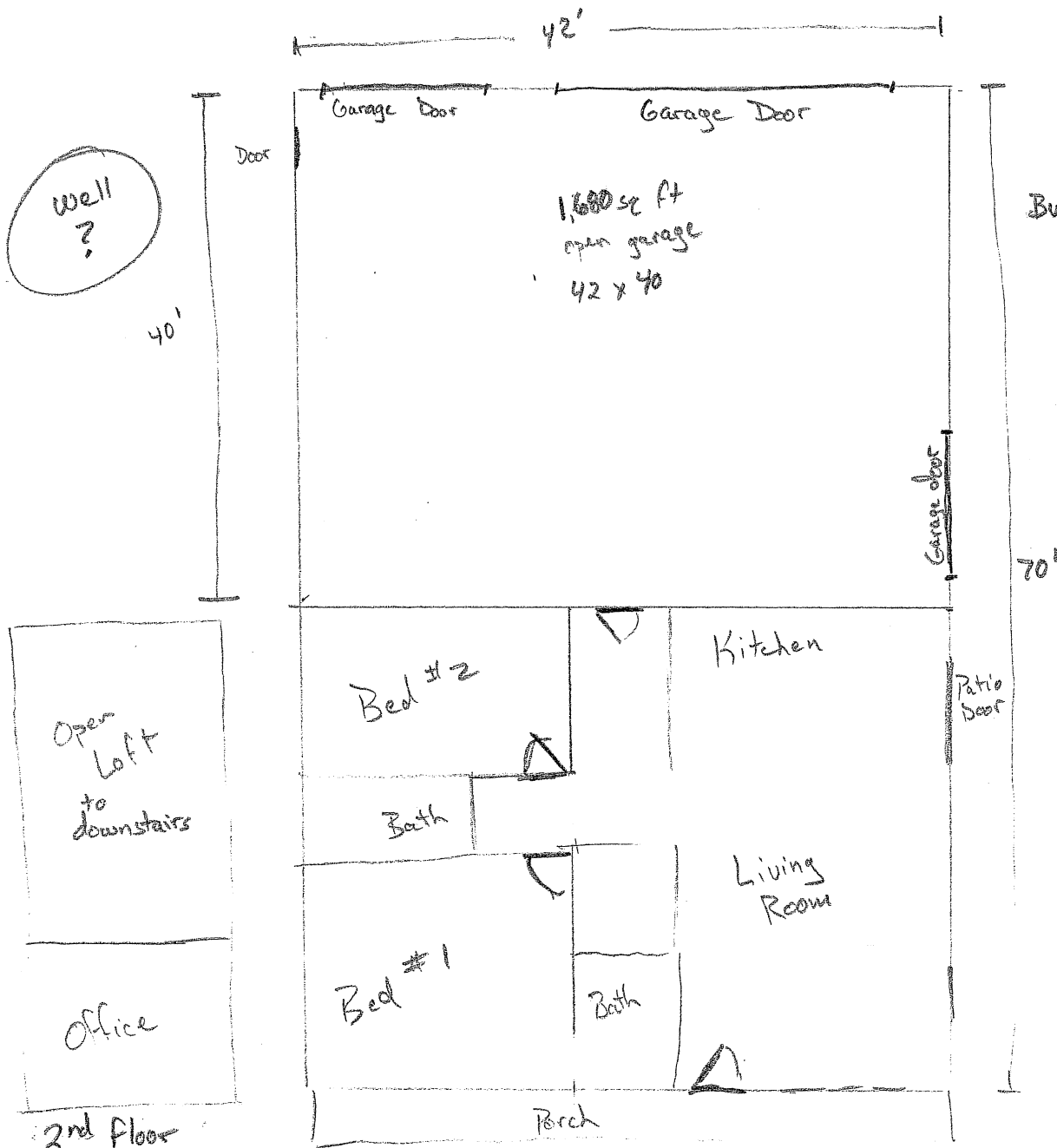


Jeff & Amy Pyle  
6545 North 900 East  
Churubusco, IN 46723

Proposed Building

Existing  
Drive

N  
W E  
S



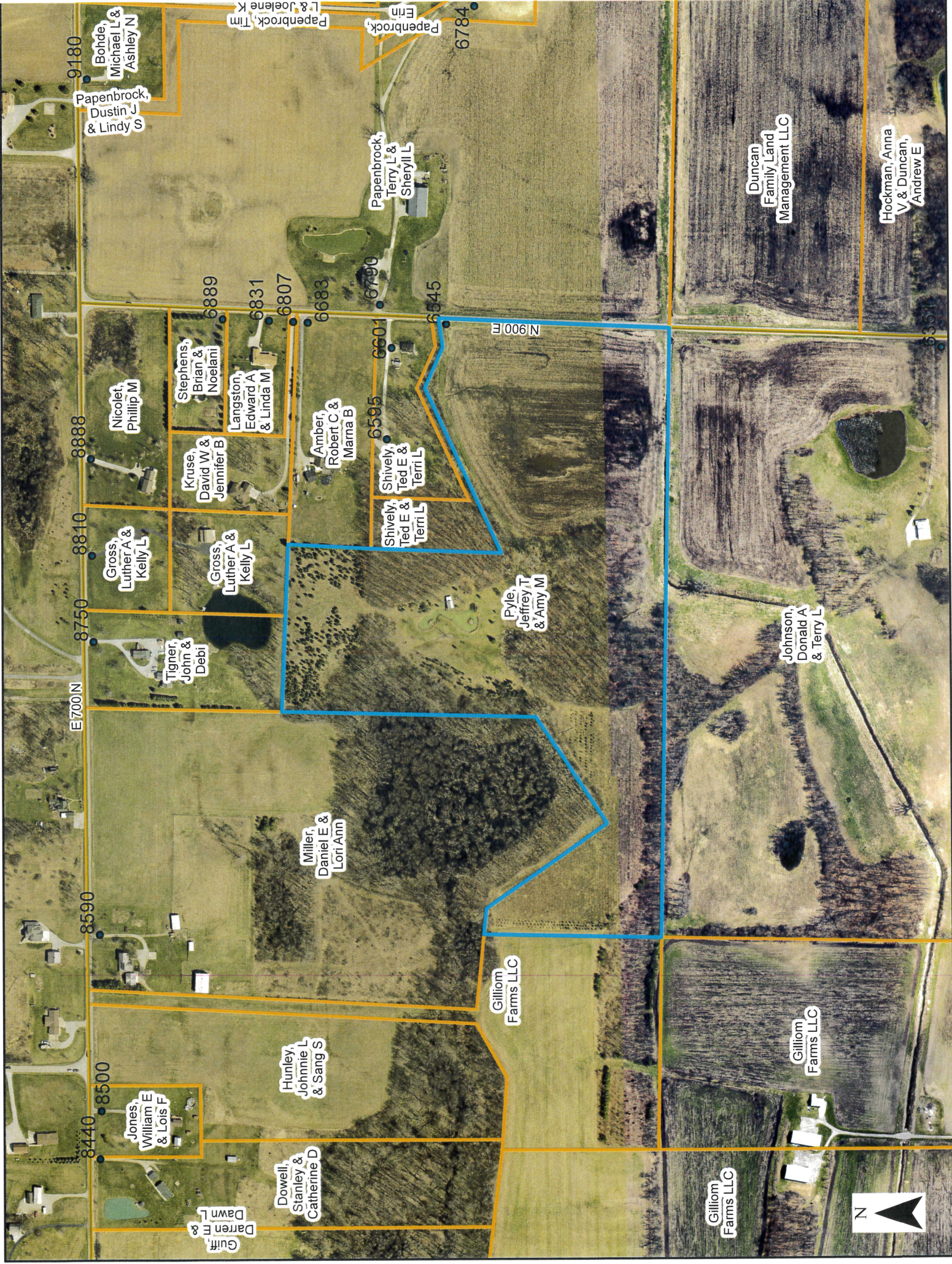
Building roughly  
42 x 70

Septic System  
to the South



Septic





Bohde, Michael L & Ashley N  
Papenbrock, Dustin J & Lindy S

Papenbrock, Tim L & Joelle K

Papenbrock, Erin

Papenbrock, Terry L & Sheryl L

Duncan Family Land Management LLC

Hockman, Anna V & Duncan, Andrew E

Nicolet, Phillip M

Stephens, Brian & Noelani

Kruse, David W & Jennifer B

Gross, Luther A & Kelly L

Langston, Edward A & Linda M

Amber, Robert C & Marna B

Shively, Ted E & Terri L

Shively, Ted E & Terri L

Pyle, Jeffrey T & Amy M

Johnson, Donald A & Terry L

Tigner, John & Debi

Gross, Luther A & Kelly L

Miller, Daniel E & Lori Ann

Gilliom Farms LLC

Jones, William E & Lois F

Hunley, Johnnie L & Sang S

Dowell, Stanley & Catherine D

Guff, Dawn E & Darren L

Gilliom Farms LLC

Gilliom Farms LLC

