

**Town of Clear Lake
Board of Zoning Appeals
Staff Report**

Variance Number: #2022-03 & 2022-04

Applicant/Owner: Tim and Lori Wagner

Location: 426 Point Park Drive

Zoning: LR (Lake Residential)

Current Use: Lake Home

Variations Requested: 2022-03

UDO Section 5.63 (A)(4)(b) General set back standards, Minimum Lake Yard Setback. The proposed project includes building an Accessory Structure that encroaches the Establish Building Setback by fifty-one (51) feet.

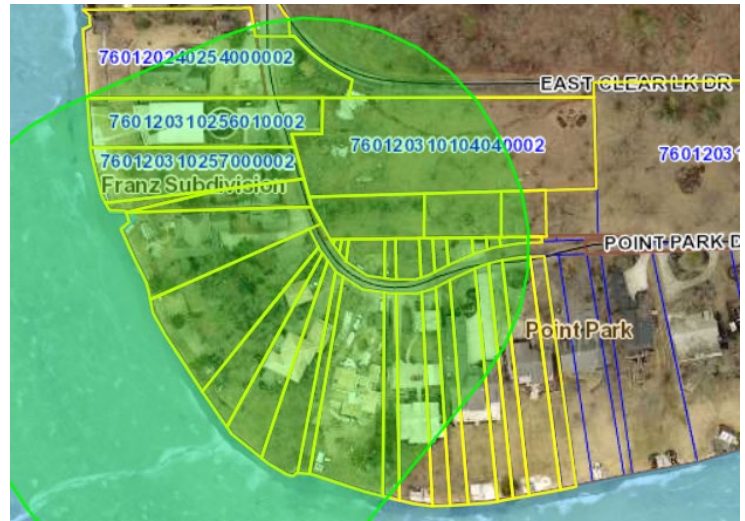
2022-04

UDO Section 5.08 (E) Lake Residential Accessory Structure Standards, Location. The proposed project includes building an Accessory Structure that is not permitted in the lake yard envelope.

Hearing Date: August 9, 2022

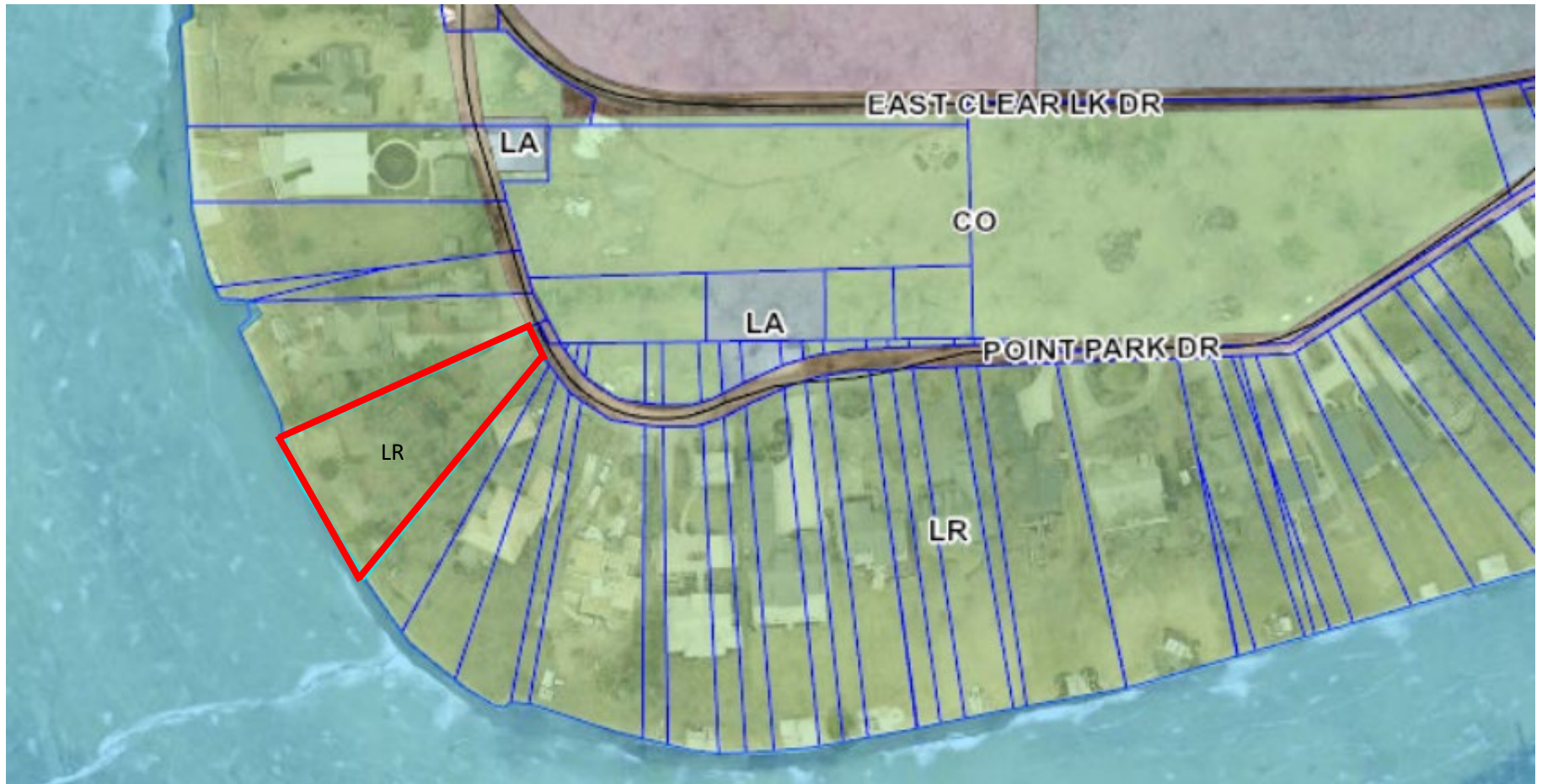
- Required Notice:**
- Publication of legal notice was published in the *Herald Republican* on July 27, 2022.
 - Legal Notice was also posted by the Zoning Administrator outside the Town Hall.
 - Two (2) adjacent owners were sent Legal Notices with a certificate of mailing.
 - Eight (8) interested property owners were sent “courtesy notices” by regular US mail.

Notification Sent to Adjacent and Property Owners within 300 feet:

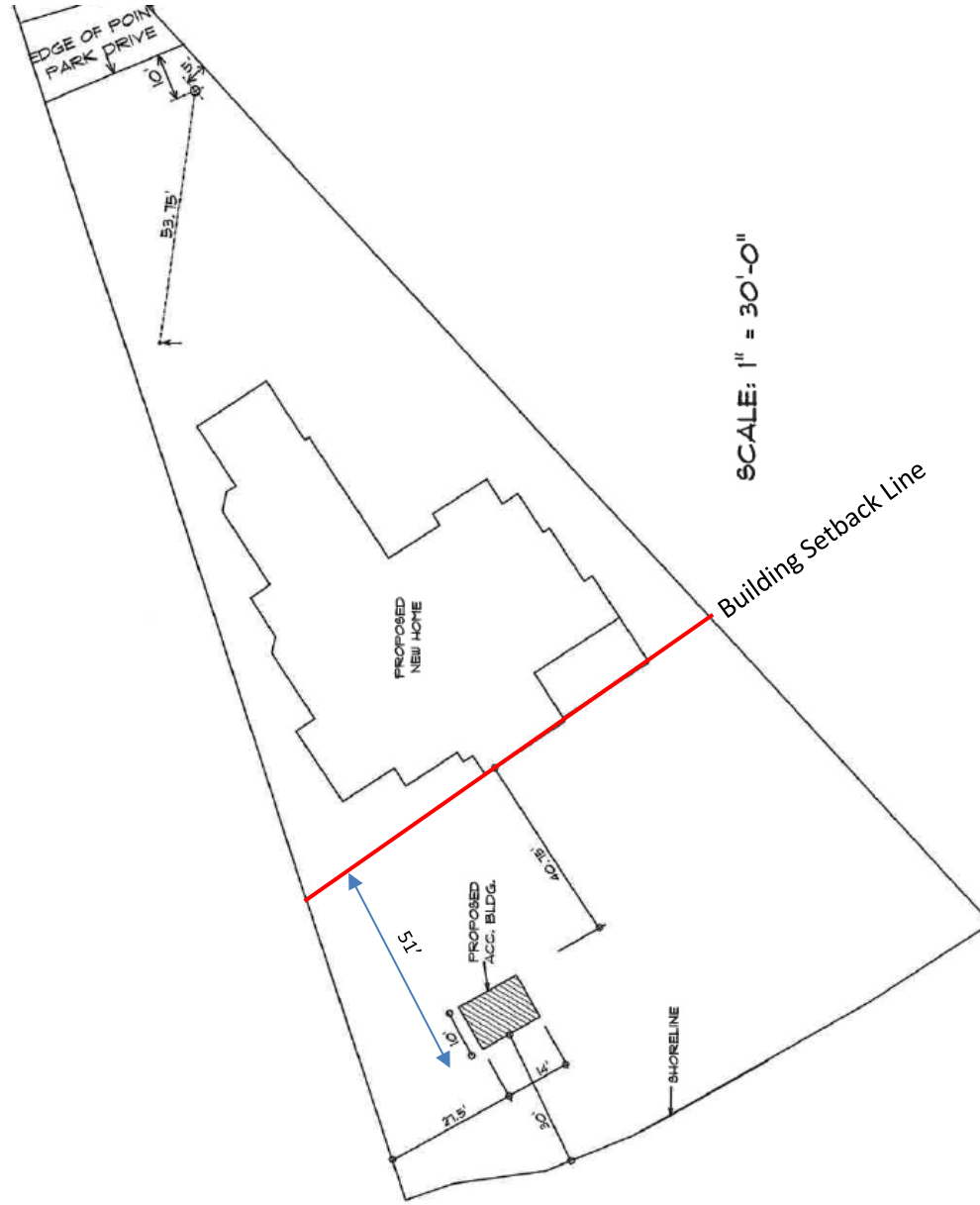


Property Owners within 300 feet to 426 Point Park Drive						
Lake Address	Owner Mail Address	City	State	Zip Code	Name	Cert
402 East Clear Lake Dr.	4200 W. Fox Chase Court	Muncie	IN	47304	Jim and Margaret Lowry	
416 Point Park Dr	6727 Mallard Cove Place	Fort Wayne	IN	46804	Skinner James W & M Anne	
420 Point Park Dr	338 N. Kenilworth Ave	Oak Park	IL	60302	Bill and Judy Greffin	
421 Point Park Dr	111 Gecowets Dr	Fremont	IN	46737	Clear Lake Township Land Conservancy Inc	
424 Point Park Dr	7639 Oakhurst Ln	Columbus	OH	43235	Mike and Pat Franz	x
428 Point Park Dr	1600 Runnymede Rd	Dayton	OH	45419	John Winch	x
430 Point Park Dr	647 West Melrose St Apt. 4	Chicago	IL	60657	Eric and Jennifer Rockhold	
432 Point Park Dr	432 Point Park Dr	Fremont	IN	46737	Todd and Barbara Rumsey	
434 Point Park Dr	434 Point Park Dr	Fremont	IN	46737	Jon and Janet Zachrich	
436 Point Park Dr	7145 East Tanglewood Road -92	Roanoke	IN	46783	John and Cindy McMillen	
Owner						
426 Point Park Dr	12405 St Joe Road	Grabill	IN	46741	Tim and Lori Wagner	

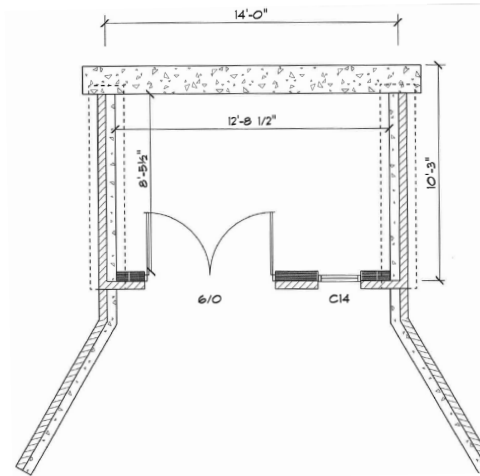
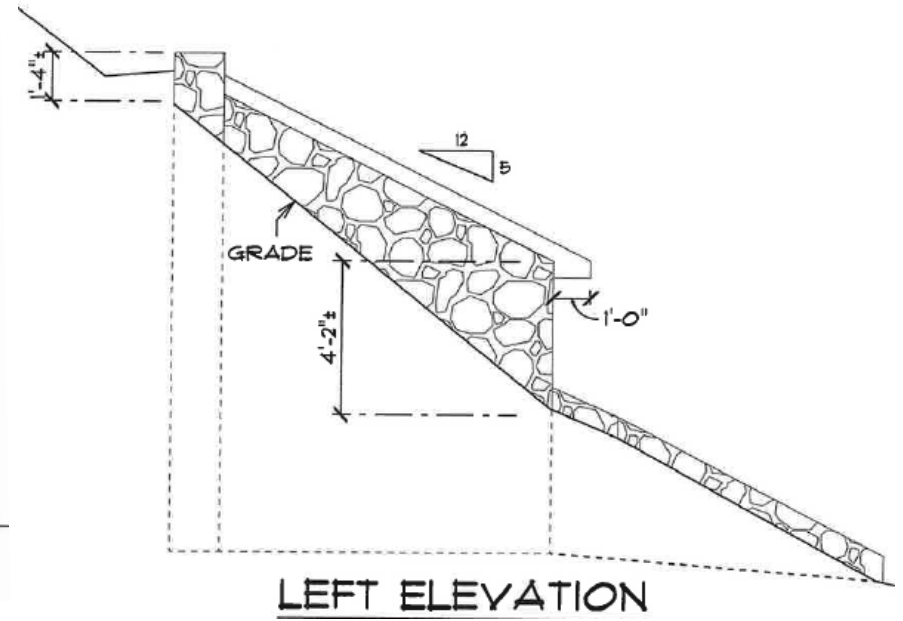
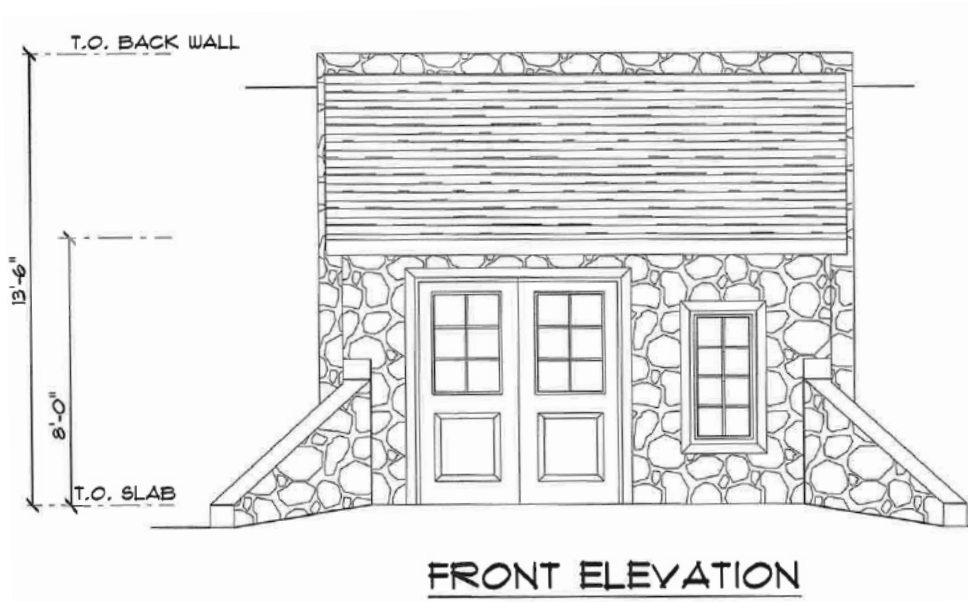
Contextual Land Use and Zoning:



Site Plan:



Structure Drawings:



Material List:

Natural stone will be use for the entire exterior wall veneer of the structure.

Asphalt or metal roof.

Comprehensive Plan Excerpts (Town objectives to consider when reviewing variances)

Policy 2.1: Balance the preservation of the lake environment with the needs of a growing year-round population.

Objective 2.1.1: Ensure development conforms to the Town's land use regulations recognizing that many lots around the lake possess unique and sometimes challenging features.

Objective 2.1.3: Encourage homeowners and builders to utilize professional architectural services and landscape design to develop and maintain appropriate aesthetics.

Policy 7.2: Ensure land use regulations have sufficient flexibility to allow property owners and the Town to propose measures to adapt development to unique and difficult site conditions, preserve open space and natural resources, and avoid negative impacts on surrounding properties.

Objective 7.2.2: Ensure that reconstruction and rehabilitation of properties in the Town of Clear Lake are consistent with a residential lake setting.

Zoning Administrator Recommendation:

#2022-03 and #2022-04 - Recommend approving variances based on:

- **The structure is built into the hill and does not affect the neighbors' views.**
- **This structure maintains appropriate aesthetics for the area.**
- **Having a storage structure at the base of the hill will keep the homeowner from having to carry difficult items up and down steep stairs.**

**Findings of Fact Worksheet
#2022-03 Wagner 426 Point Park Drive**

Variance: *UDO Section 5.63 (A)(4)(b) General set back standards, Minimum Lake Yard Setback.* The proposed project includes building an Accessory Structure that encroaches the Establish Building Setback by fifty-one (51) feet.

1. Legal notice of the petition **has been** provided in accordance with Indiana Code and Notice has been made to appropriate landowners.

YES, because...

- a. legal notice of the application was published in the Herald Republican Newspaper on July 27, 2022. Notice has been made to appropriate landowners as shown by the US Post Office return receipts (green cards) and a list of 1st class mail recipients that are in the Town’s possession.

NO, because...

- a. legal notice of the petition has **NOT** been provided in accordance with applicable Indiana Code and Notice to appropriate landowners because...
-

Acceptance: YES, Finding or NO Finding

- _____ Motion
- _____ Second
- _____ Vote

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

YES, the approval of the variance will not be injurious because...

- a. the proposed storage structure is consistent with the residential use of adjacent properties and will not impact the drainage or traffic along Point Park Drive.

NO, the approval of the variance will be injurious because.....

- a. the proposed storage structure is not appropriate for a lake side area.
- b. _____

Acceptance: YES, Finding or NO Finding

_____ Motion

_____ Second

_____ Vote

3. The use and value of the area adjacent to the property included in the variance **will not** be affected in a substantially adverse manner.

YES, the use and value of the adjacent area will not be affected in a substantially adverse manner because...

- a. the use of the subject property is consistent with the use of adjacent properties which is lake residential zoned and there will be no change in use as a result of this project.
- b. the proposed storage structure will be constructed of high-quality materials and are appropriately sized for the lot.

NO, the use and value of the adjacent area will be affected in a substantially adverse manner because...

- a. the proposed storage structure is not appropriate for a lake side area.
- a. _____

Acceptance: YES, Finding or NO Finding

_____ Motion

_____ Second

_____ Vote

4. The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property.

YES, because...

- a. the proposed storage structure relieves carrying difficult items up and down steep stairs.

NO, the strict application of the terms of the zoning ordinance will not result in practical difficulties in the use of the property because...

- a. the proposed storage structure is not essential to the use of the property for residential purposes.
- b. _____

Acceptance: YES, Finding or NO Finding

- _____ Motion
- _____ Second
- _____ Vote

**Decision for Case #2022-03
#2022-03 Wagner 426 Point Park Drive**

Variance: *UDO Section 5.63 (A)(4)(b) General set back standards, Minimum Lake Yard Setback.* The proposed project includes building an Accessory Structure that encroaches the Establish Building Setback by fifty-one (51) feet.

Approved / Approved with Conditions / Denied

Vote of the Board	Approve	Deny	Abstain
Kit Tyler			
Cecil Fleeman			
Scott Lazur			
Walter Mokey Grabowski			
Jim McClain			

Conditions:

- a. If granted, a certification of the decision shall be created and recorded at the office of the Steuben County Recorder.

Findings of Fact Worksheet
#2022-04 Wagner 426 Point Park Drive

Variance: UDO Section 5.08 (E) Lake Residential Accessory Structure Standards, Location. The proposed project includes building an Accessory Structure that is not permitted in the lake yard envelope.

1. Legal notice of the petition **has been** provided in accordance with Indiana Code and Notice has been made to appropriate landowners.

YES, because...

- a. Legal notice of the application was published in the Herald Republican Newspaper on July 27, 2022. Notice has been made to appropriate landowners as shown by the US Post Office return receipts (green cards) and a list of 1st class mail recipients that are in the Town's possession.

NO, because...

- a. Legal notice of the petition has **NOT** been provided in accordance with applicable Indiana Code and Notice to appropriate landowners because...
-

Acceptance: YES, Finding or NO Finding

_____ Motion

_____ Second

_____ Vote

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

YES, the approval of the variance will not be injurious because...

- a. The proposed storage structure is consistent with the residential use of adjacent properties and will not impact the drainage or traffic along Point Park Drive.

NO, the approval of the variance will be injurious because.....

- a. The proposed storage structure is not appropriate for a lake side area.
- b. _____

Acceptance: YES, Finding or NO Finding

_____ Motion

_____ Second

_____ Vote

3. The use and value of the area adjacent to the property included in the variance **will not** be affected in a substantially adverse manner.

YES, the use and value of the adjacent area will not be affected in a substantially adverse manner because...

- a. The use of the subject property is consistent with the use of adjacent properties which is lake residential zoned and there will be no change in use as a result of this project.
- b. The proposed storage structure will be constructed of high-quality materials and are appropriately sized for the lot.

NO, the use and value of the adjacent area will be affected in a substantially adverse manner because...

- a. The proposed storage structure is not appropriate for a lake side area.
- b. _____

Acceptance: YES, Finding or NO Finding

_____ Motion
_____ Second
_____ Vote

4. The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property.

YES, because...

a. the proposed storage structure relieves carrying difficult items up and down steep stairs.

NO, the strict application of the terms of the zoning ordinance will not result in practical difficulties in the use of the property because...

a. The proposed storage structure is not essential to the use of the property for residential purposes.

b. _____

Acceptance: YES, Finding or NO Finding

_____ Motion

_____ Second

_____ Vote

**Decision for Case #2022-04
Wagner 426 Point Park Drive Variance:**

Variance: UDO Section 5.08 (E) Lake Residential Accessory Structure Standards, Location. The proposed project includes building an Accessory Structure that is not permitted in the lake yard envelope.

Approved / Approved with Conditions / Denied

Vote of the Board	Approve	Deny	Abstain
Kit Tyler			
Cecil Fleeman			
Scott Lazur			
Walter Mokey Grabowski			
Jim McClain			

Conditions:

- a. If granted, a certification of the decision shall be created and recorded at the office of the Steuben County Recorder.
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