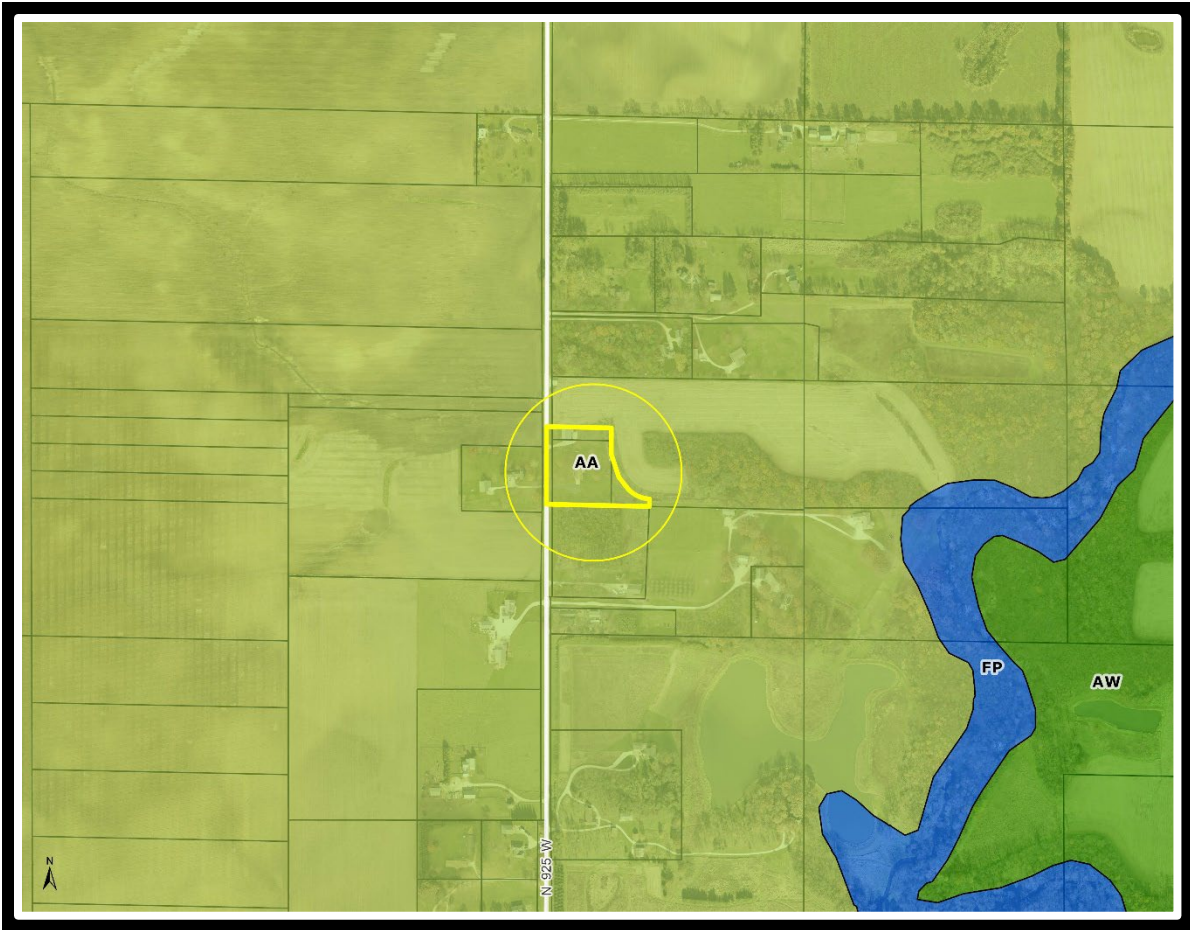

BZA-2094
WILLIAMS RUIZ RAMIREZ AND AMANDA RUIZ
(special exception)

STAFF REPORT
January 19, 2023



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Special Exception

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REQUEST MADE, PROPOSED USE, LOCATION:

Petitioners, who are also the property owners, are requesting a special exception to allow a general contracting business (SIC 15, concrete finishing company) in an AA zone operating 6am to 9pm Monday through Saturday. This 3.436-acre tract is commonly known as 2623 N 925 W, Shelby 10 (NE) 23-6. (UZO 3-2) This request is a result of a zoning violation filed in 2022 by a neighbor.

AREA ZONING PATTERNS:

The property is currently zoned AA. This area of the county has always been zoned agriculturally since 1965. This site was rezoned in 1998 to AA as part of a township-wide rezone, (Z-1331). Farther to the east is Flood Plain zoning associated with the Little Pine Creek.

AREA LAND USE PATTERNS:

Currently on site are two buildings: petitioners' single-family home and a pole building. The pole structure was recently expanded to allow for additional storage for the contracting business's vehicles which are stored here overnight. Additional storage of materials is currently in a gravel area behind the structure. After discussion with the petitioners, they agreed to keep all outside storage at least 200' from the front setback to meet an ordinance requirement.

The existing use, General Contracting (SIC group 15), is permitted in all three agricultural zones by special exception. Surrounding uses in the area are primarily single-family homes on large lots and row crop production. Over the last 15 years several homes have been built along CR 925 W.

TRAFFIC AND TRANSPORTATION:

This small stretch of 925 W is about 1.5 miles long and connects SR 26 W to CR 250 N. Staff can find no record of a commercial driveway permit from the county highway department. Petitioner needs to work with the county highway department and provide documentation for an improved driveway entrance.

Parking for this use is one space per employee on the largest shift, plus one per 200 sq. ft. of office, sales, or similar floor area. Petitioner has stated that the work trucks are parked in the building overnight and employees drive their vehicles to the site and get the trucks in the morning. During a site visit, employee parking was taking place in the front of the pole building; based on the site plan, future parked employee cars would be located

behind the structure. A single paved accessible parking space is also a requirement. The rest of the parking area can be gravel.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

Petitioner has requested a septic permit for a bathroom in the existing pole building; the structure was approved by the building commissioner as a pole barn for personal use. This building will also need to be approved by the state for commercial use according to the county building commissioner. Petitioner will also need to work with the county surveyor for drainage review.

STAFF COMMENTS:

This request is the result of a zoning violation. According to the petition, this company has been in operation since 2010, but not necessarily at this location. The pole structure is the primary storage facility for this business; the equipment and vehicles are stored on site. If approved by the Board the petitioners will need to get approvals from the county highway, building commissioner, health department, and county surveyor. The application states that only 5 employees will be on site plus the owner/operator; however, this special exception does not place a limit on future employees.

The primary complaint of the zoning violation was not the noise produced or lighting, but the outside storage of materials and traffic generated. Contracting businesses that have outside storage of materials on site have additional development standards when located in agricultural zones, (section 4-4-11, 4-9-9, and 4-11-7) and the site plan arguably meets all these requirements. The ordinance requires contractors to be located on properties with a minimum of two acres; this lot is 3.436 acres. The pole building is 2,750 square feet, well below the maximum of 8,000 square feet that the UZO stipulates. An additional requirement necessitates a bufferyard or 6' tall opaque fencing to separate outside storage from adjacent residences or residential zones. Since there is no adjacent residences or residential zones, except for a house across the street and a house to the south beyond a large, wooded area, petitioners' property meets this requirement. Lastly, the UZO requires the outside storage of materials be at least 200' from the front property line and 100' from all other property lines when adjacent to a residence or residential zone. Petitioners' revised site plan shows the "equipment parking," basically several small trailers and a 40' x 8' shipping container to be relocated to 200' from the front property line. While this meets the letter of the law, it unfortunately means the outside storage will be in open view of the county road because of the flat, open farm fields to the east and north.

Staff recommends an opaque 6' tall fence, berm or bufferyard to surround the outside storage area to limit future nuisances in an increasingly residential area along the county road. This would be required if the property to the north was ever used residentially.

At its meeting on January 4, 2023, the Executive Committee of the Area Plan Commission voted that granting this request would not substantially adversely affect the Comprehensive Plan.

Regarding the ballot items:

1. Section 3.1 of the Unified Zoning Ordinance **DOES** authorize the special exception for a general contracting business in the AA zoning district.

And it is staff's opinion that:

2. The requirements and development standards for the requested use as prescribed by the Unified Zoning Ordinance **WILL** be met. Because the petitioner is storing the materials at least 200' from the front property line this plan meets all the requirements of the zoning ordinance's development standards.
3. Granting the special exception **WILL NOT** subvert the general purposes served by the Ordinance. Legitimizing an existing small construction company benefits this area by requiring proper permitting for a small business. This process also requires review from additional departments to ensure compliance.
4. Granting the special exception **WILL NOT** materially and permanently injure other property or uses in the same district and vicinity because of:
 - a. Traffic generation: 4 employees plus the petitioner would produce a minimal amount of traffic in this rural area of the county.
 - b. Placement of outdoor lighting: There are three lights on the building, one above the south facing garage door and two on the east side of the building. This lighting is similar in intensity to what is commonly used in this agricultural area.
 - c. Noise production: Petitioner indicates that noise will be limited to loading and unloading of equipment in the morning and evening. This would be similar in nature to noise generated by farming equipment.
 - d. Hours of operation: 6am to 9pm Monday thru Saturday is standard for a contracting business.

STAFF RECOMMENDATION:

Approval with the following conditions with a timeline to be set by the Board:

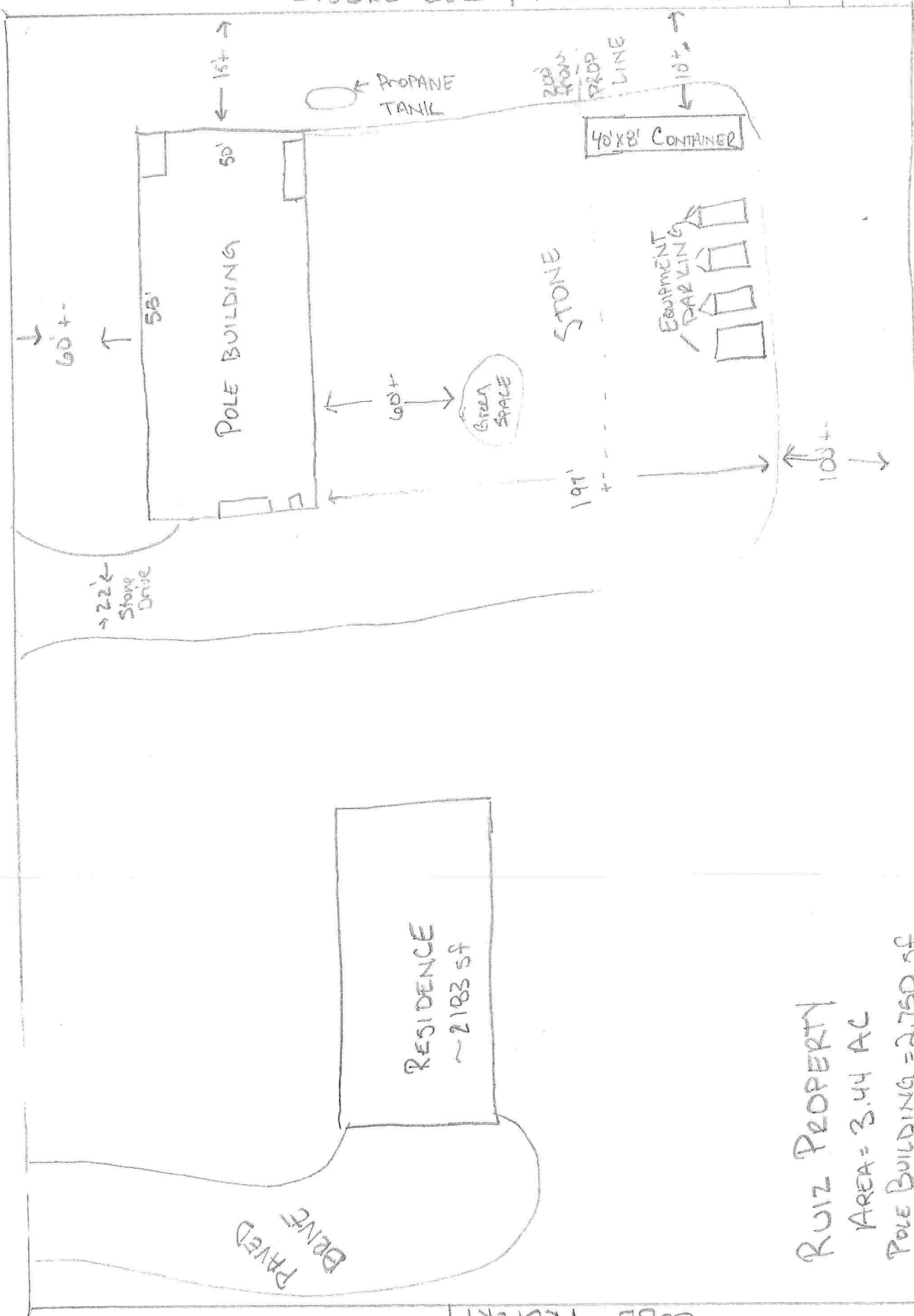
1. Obtain any necessary approvals from the county surveyor, building commissioner, county health department and highway department;
2. Install either an opaque six' tall fence, berm or bufferyard to surround the outside storage area with a location approved by the administrative officer.

Note: A special exception approval ceases to be valid if the use is not established within one year of the date that the special exception was granted.

SISBRO LLC / Michelle Cline Property



925 W



RESIDENCE
~2183 sf

RUIZ PROPERTY

AREA = 3.44 AC

POLE BUILDING = 2,750 sf

STONE DRIVE ≈ 17,000 sf

COBB PROPERTY