



## BOARD OF ZONING APPEALS FINDINGS OF FACT

APPLICATION(S): BZNA-0154-2023

PROPERTY ADDRESS: 19043 Cumberland Road (10-07-30-04-02-009.000),  
Noblesville, Indiana

A Variance of Use application was submitted to the Noblesville Planning Department for the above referenced location. The application submitted by Gojuki and Ann Baloski requested that approval be granted to a variance of use pursuant to Unified Development Ordinance §8.B.3.B. and Appendix C to permit an autism center on a property within the R2 (low to moderate density single family residential) zoning district. The Noblesville Board of Zoning Appeals conducted a hearing regarding this application on December 4, 2023. After testimony was given and evidence was presented to the Board, a motion to APPROVE was made, and the motion carried 5-0.

### VARIANCE OF USE FINDINGS

In its deliberations, the Noblesville Board of Zoning Appeals weighed the evidence associated with the following criteria and made the following findings in granting the request for a variance of use. Indiana Code §36-7-4-918.4 states that a variance of use may be approved only upon a determination in writing that the following are true:

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

**It is likely that this variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. The proposed clinic will operate in a manner similar to the previously approved daycare at this location and is not likely to be injurious to the community.**

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:

**It is likely that the use and value of real estate adjacent to the subject site will NOT be affected in a substantially adverse manner by allowing the requested variance. Nearby property owners may remonstrate against this petition if they believe this request will have significant adverse effects on adjacent properties; no remonstrance was received.**

3. The need for the variance arises from some condition peculiar to the property involved:

**The need for the variance does arise from a condition peculiar to the property involved. The site was previously approved for, and subsequently improved as, a non-residential use. The site is planned for institutional uses.**

4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought:

**The strict application of the terms of the zoning ordinance WILL result in practical difficulties in the use of the property because the site is improved with a 7,544-square foot institutional facility and associated site improvements and is thus not likely to be converted to an R2 single-family residential use. The autism clinic will operate in a similar manner as the previously approved daycare.**

5. The approval does not interfere substantially with the comprehensive plan adopted by the Noblesville Plan Commission and Council:

**The approval does not interfere substantially with the comprehensive plan. The subject site is planned for institutional uses to include a mixture of civic spaces such as museums, government services and administration and schools. An autism clinic would not interfere substantially with furthering the recommendations of the comprehensive plan.**

The findings of fact contained herein are adopted by the Noblesville Board of Zoning Appeals on January 2, 2024. In addition, the Board of Zoning Appeals hereby adopts the following conditions to its approval with the petitioner must adhere by; failure to adhere by any of these conditions is a violation of this variance and could subject petitioner to additional action permitted by law:

1. A variance of use application shall be made for the daycare if more than 365 calendar days elapses from when the previous daycare ceased operations.
2. All signage shall conform to the Unified Development Ordinance.
3. The Applicant shall sign the Acknowledgement of Variance document prepared by the Planning and Development Department Staff within 60 days of this approval. Staff will then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.
4. Any alterations to the approved building plan or site plan, other than those required by the Board of Zoning Appeals (BZA), shall be submitted to the Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

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Mike Field, Chairman

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Caleb Gutshall, Secretary