

**STATE OF INDIANA  
BEFORE THE FIRE PREVENTION AND  
BUILDING SAFETY COMMISSION**

IN RE: ) ADMINISTRATIVE CAUSE NO.  
 )  
ERWIN RESIDENCE LP TANK. ) DHS-1903-FPBSC-003  
 )


**ORDER**

A telephonic status conference was held on May 8, 2019 at 11:00 a.m. (EDT). Petitioner participated via counsel, Jason Lopp, and respondent participated via counsel, Justin Guedel, staff attorney for the Department of Homeland Security. Various issues were discussed related to the course of the proceedings, resulting in the following prehearing order:

1. The deadline to file a motion for summary judgment is **July 22, 2019**. Motions for summary judgment and responses must be filed in accordance with Indiana Code § 4-21.5-3-23 and Indiana Trial Rule 56. If a party wishes to file a reply, it must do so within 14 days of service of the response (plus 3 days if served via US mail).
2. A final hearing is not scheduled at this time, as the parties have not yet decided whether to file motions for summary judgment.
3. The parties shall exchange witness and exhibit lists by **June 24, 2019**. All exhibits in a party's exhibit list must be produced to the opposing party at that time. A party's witness list must include the witness's contact information and a brief description of his/her anticipated testimony. Failure to disclose a witness or exhibit by the June 24 deadline may preclude the party from relying on the witness or exhibit in support of a motion for summary judgment or at a hearing, unless good cause can be shown for why the disclosure could not have occurred sooner.

4. There was brief discussion regarding the involvement of the petitioner's neighbors, the Russells. The Commission's meeting minutes from February 5, 2019 indicate that the Russells appeared before the Commission and objected to petitioner's request for a variance. The parties agreed that the Russells are aware of this petition for review. Given the Russells' prior participation in the variance application, the parties had no objection to including them on future distribution lists. This does not lead to the conclusion that the Russells were entitled to notice of any prior orders as a matter of law, or that they are considered parties to this petition for review or the underlying variance application. If any person(s) intends to move to intervene in this matter, he/she should file a petition in accordance with Indiana Code § 4-21.5-3-21 as soon as practicable.
5. The undersigned ALJ noted that the variance application on review, Variance # 19-02-16, was not provided to the undersigned when this matter was transferred from the prior ALJ. Petitioner stated his belief that two variance applications are potentially at issue, Variance # 18-10-27 and Variance # 19-02-16. Undersigned obtained copies of both variance applications from the DHS website,<sup>1</sup> which are attached to this order and made a part of the record.
6. A party who fails to attend or participate in a prehearing or status conference, hearing, or other stage of the proceeding may be held in default or have the proceeding dismissed pursuant to Indiana Code § 4-21.5-3-24.

DATE: 5/10/19

  
\_\_\_\_\_  
Brian L. Park  
Administrative Law Judge

---

<sup>1</sup> <https://oas.dhs.in.gov/dfbs/variance/start.do?method=viewApplications>

Office of the Indiana Attorney General  
302 W. Washington St., IGCS 5<sup>th</sup> Floor  
Indianapolis, IN 46204-3795  
Phone: (317) 232-6307 (direct)  
Fax: (317) 232-7979  
E-Mail: [brian.park@atg.in.gov](mailto:brian.park@atg.in.gov)

**Enclosures**

- Variance application and attachments for Variance # 18-10-27
- Variance application and attachments for Variance # 19-02-16

**Distribution:**

A copy of the foregoing was served to the following persons on the 10<sup>th</sup> day of May, 2019, via email and USPS:

Jason A. Lopp  
McNeely Stephenson  
318 Pearl Street, Suite 220  
New Albany, IN 47150  
[Jason.a.lope@msth.com](mailto:Jason.a.lope@msth.com)

Justin K. Guedel  
Indiana Department of Homeland Security  
302 W. Washington Street  
Indiana Government Center South, Room E208  
Indianapolis, IN 46204  
(317) 234-9515  
[jguedel@dhs.in.gov](mailto:jguedel@dhs.in.gov)

A copy of the foregoing was served to the following persons on the 10<sup>th</sup> day of May, 2019, via USPS only:

Benjamin Russell  
1001 Fox Hunters Point  
New Albany, IN 47150

**Owner / Applicant Information**

Eric Erwin

1005 FOX HUNTER'S POINT

NEW ALBANY IN 47150

Phone 5022169006

Email HDRIDER0749@YAHOO.COM

**Submitter Information**

Edwin Rensink  
RTM Consultants Inc  
6640 Parkdale Place

Indianapolis IN

Phone 3173297700

Email rensink@rtmconsultants.com

**Project Information**

Eric & Joyce Erwin Residence - LP Tank  
1005 Fox Hunter's Point

New Albany IN 47150

County FLOYD

**Project Type** New  Addition  Alteration  Existing  Change of Occupancy

**Project Status**  U F=Filed U or Null=Unfiled

**IDHS Issued Correction order?**  No **Has Violation been Issued?**  yes

**Violation Issued by:** CBD

**Local Building Official**

Phone:

Email:

**Local Fire Official**

Phone:

Email:

**Variance Details**

**Code Name:** 2005 Indiana Residential Code (675 IAC 14-4.3)  
G2412.2

**Conditions:** The recently constructed detached accessory garage structure is located approximately 6 feet from the below-ground 1,000-gallon LP tank on the property. IRC Section G2412.2 references the IFC (Sec. 6104.3) and NFPA 58 (Sec. 6.3.1). Both IFC and NFPA 58 require 10 feet of separation to a building.

**DEMONSTRATION THAT PUBLIC HEALTH, SAFETY, AND WELFARE ARE PROTECTED:**

- 1=Non-compliance with the rule will not be adverse to the public health, safety or welfare.
- 2= Applicant will undertake alternative actions in lieu of compliance with the rule to ensure that granting of the variance will not be adverse to public health, safety, or welfare. Explain why alternative actions would be adequate (be specific).

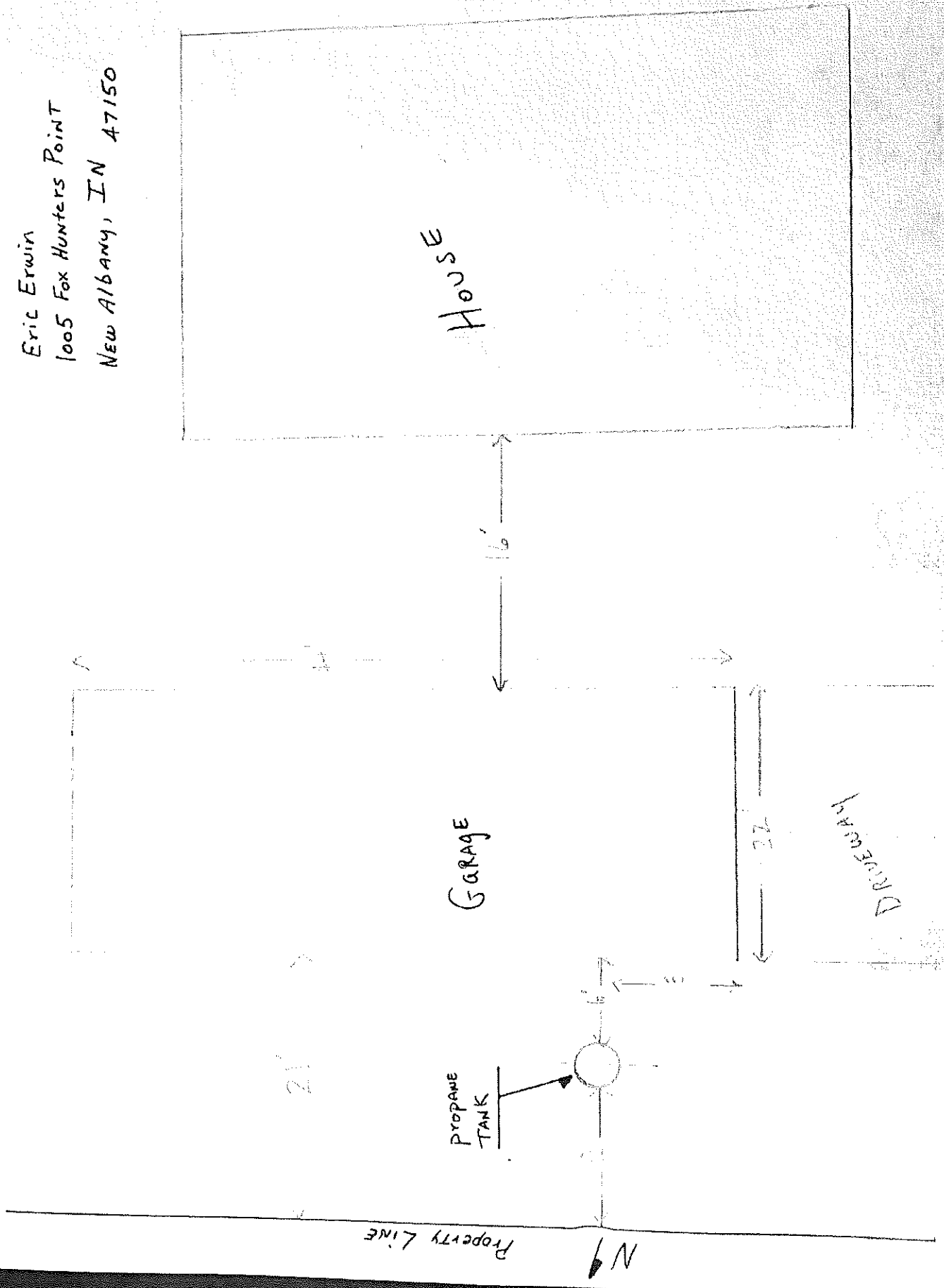
**Facts:** 1. The garage does not have any exterior equipment posing an ignition hazard, nor any air intakes or other hazards illustrated by the NFPA 58 Appendix - see attached.  
2. The LBO has indicated that they are not opposed to the variance - see attached.  
3. Based upon proximity to a normally unoccupied structure and lack of specific hazard addressed by the code, the lack of 10 feet of separation will not be adverse to safety.

**DEMONSTRATION OF UNDUE HARDSHIP OR HISTORICALLY SIGNIFICANT STRUCTURE:**

- Imposition of the rule would result in an undue hardship (unusual difficulty) because of physical limitations of the construction site or its utility services.
- Imposition of the rule would result in an undue hardship (unusual difficulty) because of major operational problems in the use of the building or structure.
- Y Imposition of the rule would result in an undue hardship (unusual difficulty) because of excessive costs of additional or altered construction elements.
- Imposition of the rule would prevent the preservation of an architecturally or a historically significant part of the building or structure.

**Facts:** Relocating the tank or the garage would be an excessive cost relative to the lack of hazard posed by the installation.

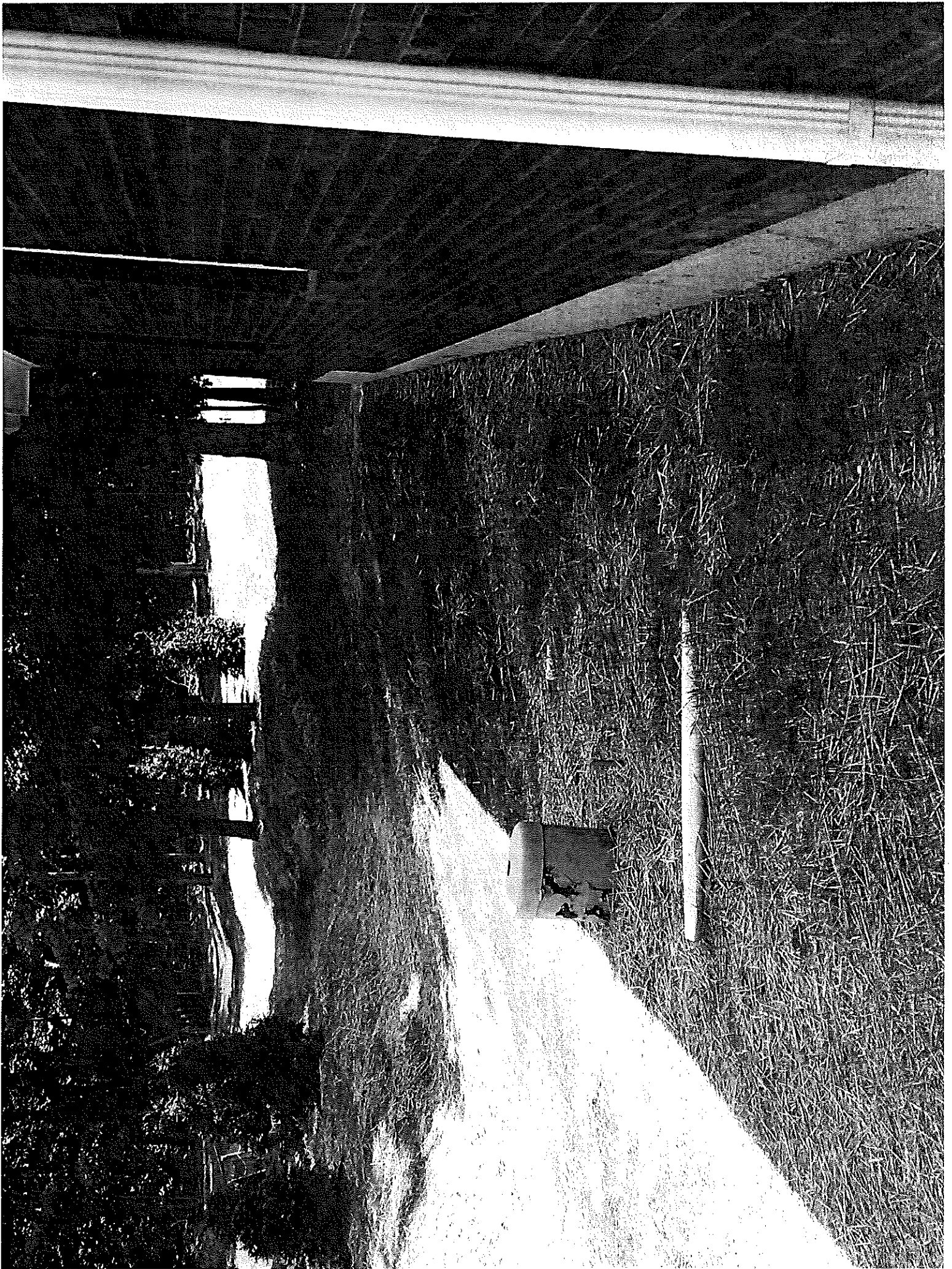
Eric Erwin  
1005 Fox Hunters Point  
New Albany, IN 47150











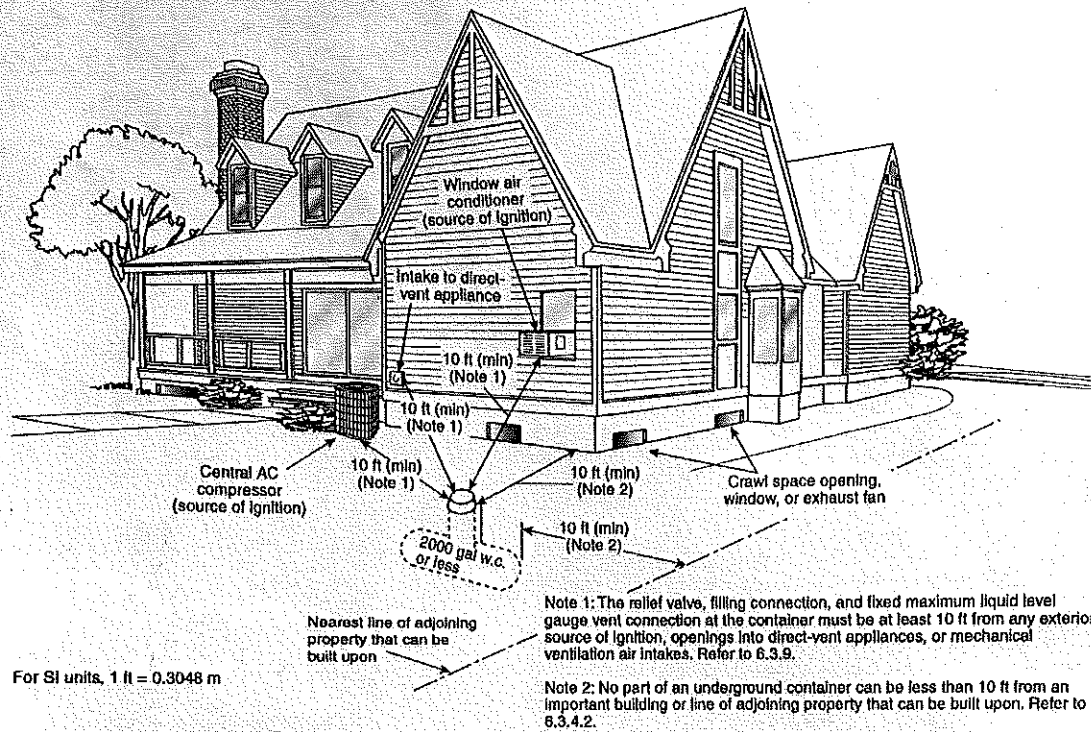


FIGURE I.1(c) Underground ASME Containers. (Figure for illustrative purposes only; code shall govern.)

**Annex J Sample Ordinance Adopting NFPA 58**

This annex is not a part of the requirements of this NFPA document but is included for informational purposes only.

J.1 The following sample ordinance is provided to assist a jurisdiction in the adoption of this code and is not part of this code.

**ORDINANCE NO. \_\_\_\_\_**

An ordinance of the [jurisdiction] adopting the 2011 edition of NFPA 58, *Liquefied Petroleum Gas Code*, documents listed in Chapter 2 of that code; prescribing regulations governing conditions hazardous to life and property from fire or explosion; providing for the issuance of permits and collection of fees; repealing Ordinance No. \_\_\_\_\_ of the [jurisdiction] and all other ordinances and parts of ordinances in conflict therewith; providing a penalty; providing a severability clause; and providing for publication; and providing an effective date.

BE IT ORDAINED BY THE [governing body] OF THE [jurisdiction]:

SECTION 1 That the *Liquefied Petroleum Gas Code* and documents adopted by Chapter 2, three (3) copies of which are on file and are open to inspection by the public in the office of the [jurisdiction's keeper of records] of the [jurisdiction], are hereby adopted and incorporated into this ordinance as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the [jurisdiction]. The same are

hereby adopted as the code of the [jurisdiction] for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion and providing for issuance of permits and collection of fees.

SECTION 2 Any person who shall violate any provision of this code or standard hereby adopted or fail to comply therewith; or who shall violate or fail to comply with any order made thereunder; or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder; or failed to operate in accordance with any certificate or permit issued thereunder; and from which no appeal has been taken; or who shall fail to comply with such an order as affirmed or modified by or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by a fine of not less than \$ \_\_\_\_\_ nor more than \$ \_\_\_\_\_ or by imprisonment for not less than \_\_\_\_\_ days nor more than \_\_\_\_\_ days or by both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified the application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. Each day that prohibited conditions are maintained shall constitute a separate offense.



**FLOYD COUNTY DEPARTMENT OF BUILDING & DEVELOPMENT SERVICES**

Pine View Government Center • 2524 Corydon Pike, Suite 202 • New Albany, IN 47150  
Phone: (812) 981-7611 • Fax: (812) 948-4744 • E-mail: [building@floydcounty.in.gov](mailto:building@floydcounty.in.gov)

Tuesday, August 28, 2018

Eric & Joyce Lynn Erwin  
1005 Fox Hunter's Point  
New Albany, IN 47150

**Re: Building Code Violation at 1005 Fox Hunter's Point in New Albany, IN**

Mr. and Mrs. Erwin,

An accessory structure has been erected at the subject property in violation of the following Indiana codes:

- 2005 Indiana Residential Code – Section G2412.2
- 2014 Indiana Fire Code – Section 6104.3
- NFPA 58-11 – Section 6.3.1

Minimum required separation between an underground 1,000 gallon capacity LP-gas container and buildings, public ways, or lot lines of adjoining property that can be built upon is 10 feet. Upon investigation, it has been determined that the actual separation between the underground tank and the accessory structure is approximately 6 feet, which constitutes non-compliance with the building codes referenced above.

This letter shall serve as formal notice of violation and order to abate. You may choose to pursue any of the following options:

- A. Seek a variance from the building codes referenced above through the Fire Prevention & Building Safety Commission;
- B. Remove or relocate the underground LP-gas container to a location that is compliant with building code requirements;
- C. Remove or relocate the accessory structure to a location that is compliant with building code requirements

Through our discussions, it is my understanding that you would like to seek a variance through the Fire Prevention & Building Safety Commission. Please note that you are required to meet all submission deadlines to present your variance request at the next available meeting. This order to abate will be placed on hold, pending outcome of your variance request. The next available meeting appears to be October 2, 2018, with a variance submission deadline of September 11, 2018. Should the variance request be denied, abatement of the noted violations shall be achieved through another option within 30 days of the variance hearing.

Included below are links to the Fire Prevention & Building Safety Commission; a webpage which outlines the variance application process; and a webpage providing meeting and submission dates. Please inform our office once your variance request has been filed. Feel free to contact me in the office with any questions.

**Fire Prevention & Building Safety Commission Webpage**

<https://www.in.gov/dhs/2375.htm>

**Variance filing information**

<https://www.in.gov/dhs/3865.htm>

**Meeting Dates & Submission Deadlines**

<https://www.in.gov/dhs/2498.htm>

Respectfully,

Kelley Lang  
Building Commissioner  
Floyd County Building & Development Services



**FLOYD COUNTY DEPARTMENT OF BUILDING & DEVELOPMENT SERVICES**

Pine View Government Center • 2524 Corydon Pike, Suite 202 • New Albany, IN 47150

Phone: (812) 981-7611 • Fax: (812) 948-4744 • E-mail: [building@floydcounty.in.gov](mailto:building@floydcounty.in.gov)

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Tuesday, September 4, 2018

Eric & Joyce Lynn Erwin  
1005 Fox Hunter's Point  
New Albany, IN 47150

**Re: Variance Request - Building Code Violation at 1005 Fox Hunter's Point in New Albany, IN**

Mr. and Mrs. Erwin,

Floyd County Department of Building & Development Services is aware of your intent to file a variance request with the Indiana Fire Prevention & Building Safety Commission for non-compliance with the following Building Codes:

- 2005 Indiana Residential Code – Section G2412.2
- 2014 Indiana Fire Code – Section 6104.3
- NFPA 58-11 – Section 6.3.1

Floyd County Department of Building & Development Services does not oppose your request for this variance. Please feel free to contact me with any questions.

Respectfully,

A handwritten signature in black ink that reads 'Kelley Lang'. The signature is fluid and cursive, with the first letters of 'K' and 'L' being significantly larger and more prominent.

Kelley Lang  
Building Commissioner  
Floyd County Building & Development Services



ERIC J. HOLCOMB, Governor  
**STATE OF INDIANA**

DEPARTMENT OF HOMELAND SECURITY

**BRYAN J. LANGLEY, EXECUTIVE DIRECTOR**

Indiana Department of Homeland Security  
Indiana Government Center South  
302 West Washington Street  
Indianapolis, IN 46204  
317-232-3980

Eric Erwin

October 11, 2018

1005 FOX HUNTER'S POINT

NEW ALBANY, IN 47150

Dear Eric Erwin,

This letter provides notice below of the action taken by the Fire Prevention and Building Safety Commission on your application(s) for a variance(s) from the Commission's rules under IC 22-13-2-11 and 675 IAC 12-5. The Commission considered the application with all alternatives offered, as a part of its published agenda, at its regular meeting on October 2, 2018.

Project Number	Project Name	Variance Number
0	Eric & Joyce Erwin Residence - LP Tank	18-10-27

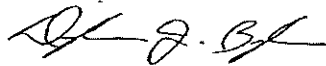
**Commission Conditions**

Edition	Code	Code Section	Commission Action & Date
2005 Indiana Residential Code (675 IAC 14-4.3)		G2412.2	Approved as submitted 10/02/2018

You are advised that if you desire an administrative review of this action, you must file a written petition for review at the above address with the Fire Prevention and Building Safety Commission. Your petition must fully identify the matter for which you seek review no later than eighteen(18) calendar days from the above stated date of this letter, unless such date is a Saturday, Sunday, legal holiday under state statute, or day that the Department of Homeland Security's offices are closed during regular business hours; in which case the deadline would be the first day thereafter that is not a Saturday, Sunday, legal holiday under state statute, or day that the Department of Homeland Security's offices are closed during regular business hours. If you do so, your petition for review will be granted and an administrative proceeding will be conducted by an administrative law judge appointed by the Fire Prevention and Building Safety Commission. If you do not file a petition for review, this action will be final.

Please be further advised that you may request an opportunity to informally discuss this matter prior to filing a petition for review. Such informal discussion, or request therefore, does not extend the deadline for filing a petition for review and, therefore, any request for an informal discussion should be made promptly, preferably by telephone or e-mail, upon receipt of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "D. J. Boyle". The signature is stylized with a large initial "D" and a long horizontal stroke.

Douglas J. Boyle  
Fire Prevention and Building Safety Commission  
Indiana Department of Homeland Security

# Variance Application(s)

**Steps:**

1. First search for the type of variances to be displayed using search options.
2. Use Sort buttons to sort the variances.
3. For old variances, select Processed Applications along with dates.

**Search for Applications**

\*\* Processed Applications

Fill these options below if you select \*\*Processed applications option above in the list box above.

To get best response times narrow down search criteria recommended

Example search for a county or search for a 3 month time period with owner name like.,

Enter Variance Number

Enter Project Name like  Example for Eli Lilly just enter lilly in the text box

\*\* Enter Application From Date

mm/dd/yyyy

\*\* Enter Application To Date  mm/dd/yyyy

\*\* Enter County Name

\*\* Enter Code Type

Use Arrow buttons to sort the results by the column name.

**Staff Recommendations Notations Explanation:**

"A" category = staff recommendation is for approval with no equal alternatives because of noncompliance is not adverse. "B" category = staff recommendation is for approval with equal alternatives as stated by the proponent. "C" category = reserved, meaning staff believes Commission needs to discuss entirety. "D" category = recommendation is for denial. "I" category = incomplete (with permission of the Chairman). "NVR" category = no variance required. "T" category = tabled.

<b>Variance Number/Id</b> <input type="button" value="v"/> <input type="button" value="v"/>	<b>Project Name</b> <input type="button" value="v"/> <input type="button" value="v"/>	<b>County</b> <input type="button" value="v"/> <input type="button" value="v"/>	<b>Variance Codes</b> <input type="button" value="v"/> <input type="button" value="v"/>
<b>18-10-27</b> (Online) Application Date:09/10/2018 Name Eric Erwin Variance Exhibits.pdf Date:09/10/2018 <input type="button" value="View Plan"/>  Name Floyd County LBO Citation and Letter of Non- opposition.pdf Date:09/10/2018 <input type="button" value="View Plan"/>	Eric & Joyce Erwin Residence - LP Tank 1005 Fox Hunter's Point New Albany 47150 <input type="button" value="[ view application in html ]"/> <input type="button" value="[ view app in pdf for IE ]"/>	FLOYD	<b>Code Name:2005 Indiana Residential Code (675 IAC 14-4.3)</b> <input type="button" value="[view code Details]"/> <b>Specific Section:</b> G2412.2 Staff Recommendation:C (explanation key at the top of the table) <b>Staff Comments:</b> 18822 The code requires underground 1000-gallon LP tanks to have a minimum of 10 feet separation distance between buildings. The request is to allow a detached garage accessory to a dwelling to have 6 feet between it and a 1,000-gallon LP tank. The proponent states the garage does not have any exterior equipment posing an ignition hazard, nor any air intakes. Local building official does not oppose this variance. <input type="button" value="[ Commission Letter in pdf for IE ]"/>

**Owner / Applicant Information**

Eric Erwin

1005 FOX HUNTER'S POINT

NEW ALBANY IN 47150

Phone 5022169006

Email HDRIDER0749@YAHOO.COM

**Submitter Information**

Edwin Rensink  
RTM Consultants Inc  
6640 Parkdale Place

Indianapolis IN

Phone 3173297700

Email rensink@rtmconsultants.com

**Project Information**

Eric & Joyce Erwin Residence - LP Tank  
1005 Fox Hunter's Point

New Albany IN 47150

County FLOYD

**Project Type** New  Addition  Alteration  Existing  Change of Occupancy

**Project Status**  U F=Filed U or Null=Unfiled

**IDHS Issued Correction order?**  No **Has Violation been Issued?**  yes

**Violation Issued by:** CBD

**Local Building Official**

Phone:

Email:

**Local Fire Official**

Phone:

Email:



**Variance Details**

**Code Name:** 2005 Indiana Residential Code (675 IAC 14-4.3)  
G2412.2

**Conditions:** The recently constructed detached accessory garage structure is located approximately 6 feet from the below-ground 1,000-gallon LP tank on the property. IRC Section G2412.2 references the IFC (Sec. 6104.3) and NFPA 58 (Sec. 6.3.1). Both IFC and NFPA 58 require 10 feet of separation to a building. See attached email from the LBO with pictures of measurements.

The LP tank has been existing in this location for approximately 14 years. The garage was constructed approximately 1.5 years ago.

**DEMONSTRATION THAT PUBLIC HEALTH, SAFETY, AND WELFARE ARE PROTECTED:**

- 1=Non-compliance with the rule will not be adverse to the public health, safety or welfare.
- 2= Applicant will undertake alternative actions in lieu of compliance with the rule to ensure that granting of the variance will not be adverse to public health, safety, or welfare. Explain why alternative actions would be adequate (be specific).

**Facts:**

1. This same variance was approved for this condition in October, 2018 (18-10-27). That application was inadvertently sent to the incorrect LFO. This application is to correct the discrepancy.
2. The garage does not have any exterior equipment posing an ignition hazard, nor any air intakes or other hazards illustrated by the NFPA 58 Appendix - see attached.
3. The LBO has indicated that they are not opposed to the variance - see attached.
4. Based upon proximity to a normally unoccupied structure and lack of specific hazard addressed by the code, the lack of 10 feet of separation will not be adverse to safety.

**DEMONSTRATION OF UNDUE HARDSHIP OR HISTORICALLY SIGNIFICANT STRUCTURE:**

- Imposition of the rule would result in an undue hardship (unusual difficulty) because of physical limitations of the construction site or its utility services.
- Imposition of the rule would result in an undue hardship (unusual difficulty) because of major operational problems in the use of the building or structure.
- Y Imposition of the rule would result in an undue hardship (unusual difficulty) because of excessive costs of additional or altered construction elements.
- Imposition of the rule would prevent the preservation of an architecturally or a historically significant part of the building or structure.

**Facts:** Relocating the tank or the garage would be an excessive cost relative to the lack of hazard posed by the installation.

## Ed Rensink

---

**Subject:** FW: Measurement Photos

**From:** Eric Erwin [mailto:[hdrider0749@yahoo.com](mailto:hdrider0749@yahoo.com)]

**Sent:** Friday, December 14, 2018 10:39 AM

**To:** Ed Rensink

**Subject:** Fwd: Measurement Photos

Kelley Lang, Floyd County Building Commissioner made two visits to my home.

First time to measure, second was with John Reid of the state. My measurements that I submitted to you Ed came from the county, provided by the documented pictures of Mr. Lang. The silt fence you see in the picture is approximately six inches this side of the property line. We are well outside the required 10'. This tank has been here in the ground for 14 years, the garage foundation has been there 1.5 years.

E

Sent from my iPad

Begin forwarded message:

**From:** Kelley Lang <[klang@floydcounty.in.gov](mailto:klang@floydcounty.in.gov)>

**Date:** December 14, 2018 at 9:48:46 AM EST

**To:** Eric Erwin <[hdrider0749@yahoo.com](mailto:hdrider0749@yahoo.com)>

**Subject:** Measurement Photos

Mr. Erwin,

Per your request, attached are measurement photos taken during my site visit on 8/21/18. You will have to zoom in to see the numbers on the tape, but they are visible once zoomed in.

Thanks,

-Kelley

Kelley Lang

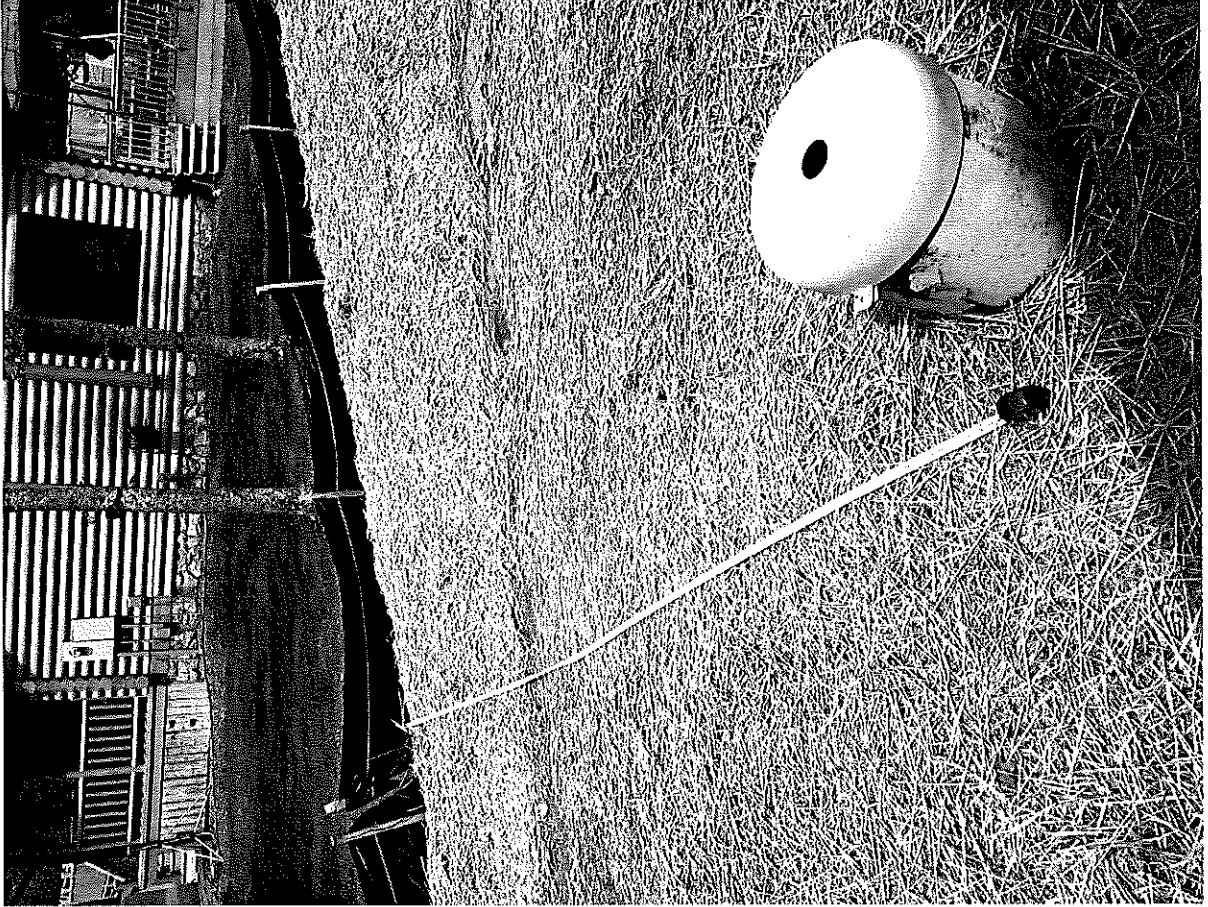
Building Commissioner

Floyd County Building & Development Services

Tel: 812-948-5442

Fax: 812-948-4744

Web: [www.floydcounty.in.gov](http://www.floydcounty.in.gov)







**FLOYD COUNTY DEPARTMENT OF BUILDING & DEVELOPMENT SERVICES**

Pine View Government Center • 2524 Corydon Pike, Suite 202 • New Albany, IN 47150  
Phone: (812) 981-7611 • Fax: (812) 948-4744 • E-mail: [building@floydcounty.in.gov](mailto:building@floydcounty.in.gov)

Tuesday, August 28, 2018

Eric & Joyce Lynn Erwin  
1005 Fox Hunter's Point  
New Albany, IN 47150

**Re: Building Code Violation at 1005 Fox Hunter's Point in New Albany, IN**

Mr. and Mrs. Erwin,

An accessory structure has been erected at the subject property in violation of the following Indiana codes:

- 2005 Indiana Residential Code – Section G2412.2
- 2014 Indiana Fire Code – Section 6104.3
- NFPA 58-11 – Section 6.3.1

Minimum required separation between an underground 1,000 gallon capacity LP-gas container and buildings, public ways, or lot lines of adjoining property that can be built upon is 10 feet. Upon investigation, it has been determined that the actual separation between the underground tank and the accessory structure is approximately 6 feet, which constitutes non-compliance with the building codes referenced above.

This letter shall serve as formal notice of violation and order to abate. You may choose to pursue any of the following options:

- A. Seek a variance from the building codes referenced above through the Fire Prevention & Building Safety Commission;
- B. Remove or relocate the underground LP-gas container to a location that is compliant with building code requirements;
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Through our discussions, it is my understanding that you would like to seek a variance through the Fire Prevention & Building Safety Commission. Please note that you are required to meet all submission deadlines to present your variance request at the next available meeting. This order to abate will be placed on hold, pending outcome of your variance request. The next available meeting appears to be October 2, 2018, with a variance submission deadline of September 11, 2018. Should the variance request be denied, abatement of the noted violations shall be achieved through another option within 30 days of the variance hearing.

Included below are links to the Fire Prevention & Building Safety Commission; a webpage which outlines the variance application process; and a webpage providing meeting and submission dates. Please inform our office once your variance request has been filed. Feel free to contact me in the office with any questions.

**Fire Prevention & Building Safety Commission Webpage**

<https://www.in.gov/dhs/2375.htm>

**Variance filing information**

<https://www.in.gov/dhs/3865.htm>

**Meeting Dates & Submission Deadlines**

<https://www.in.gov/dhs/2498.htm>

Respectfully,

A handwritten signature in black ink that reads 'Kelley Lang'.

Kelley Lang  
Building Commissioner  
Floyd County Building & Development Services



**Floyd County Government**  
**Floyd County, Indiana**



**FLOYD COUNTY DEPARTMENT OF BUILDING & DEVELOPMENT SERVICES**

Pine View Government Center • 2524 Corydon Pike, Suite 202 • New Albany, IN 47150  
Phone: (812) 981-7611 • Fax: (812) 948-4744 • E-mail: [building@floydcounty.in.gov](mailto:building@floydcounty.in.gov)

---

Tuesday, September 4, 2018

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1005 Fox Hunter's Point  
New Albany, IN 47150

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Floyd County Department of Building & Development Services does not oppose your request for this variance. Please feel free to contact me with any questions.

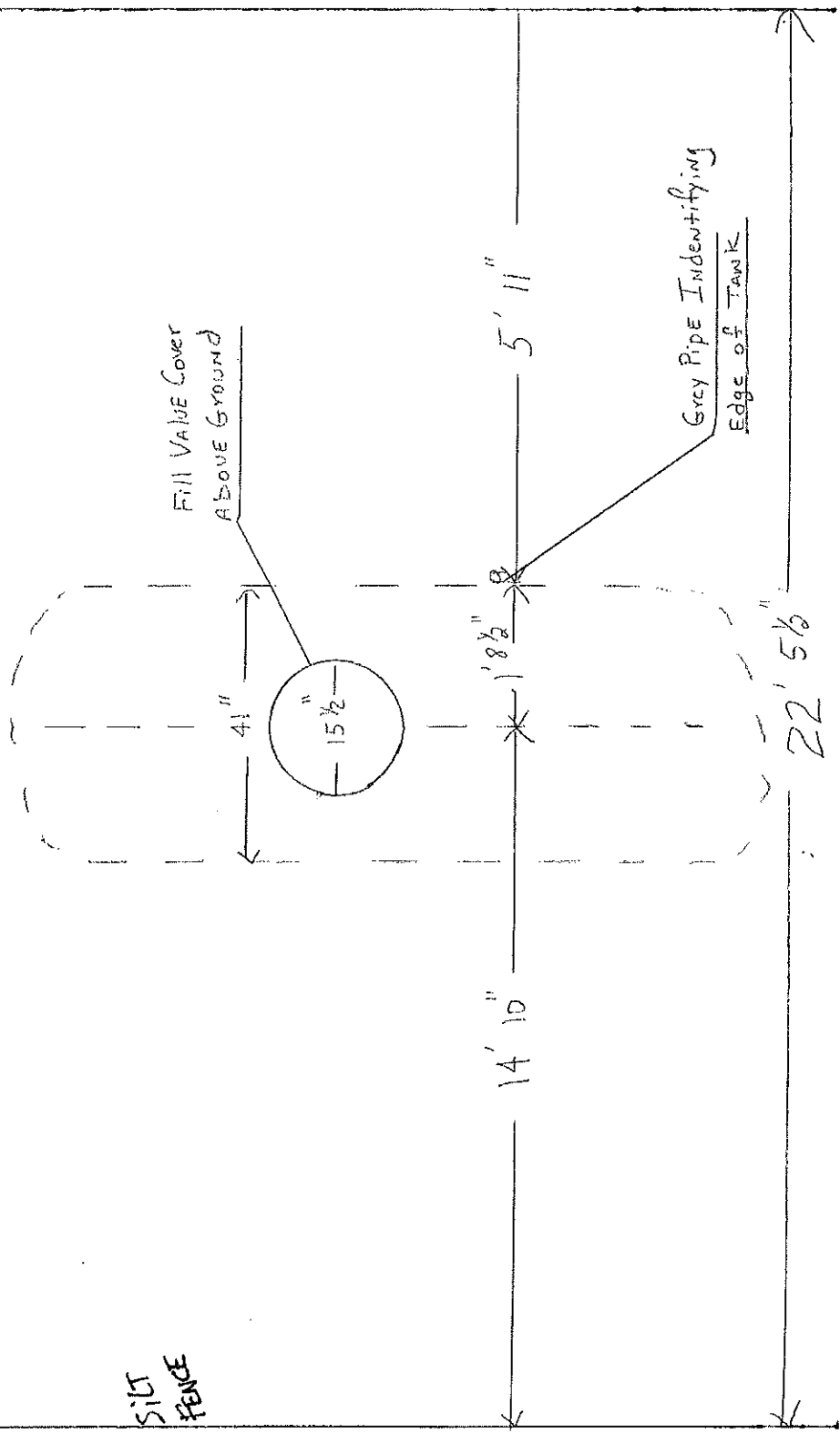
Respectfully,

Kelley Lang  
Building Commissioner  
Floyd County Building & Development Services

GARAGE WALL

SILT FENCE

PROPERTY LINE



—

## Ed Rensink

---

**Subject:** FW: Measurement Photos

**From:** Eric Erwin [mailto:[hdrider0749@yahoo.com](mailto:hdrider0749@yahoo.com)]

**Sent:** Friday, December 14, 2018 10:39 AM

**To:** Ed Rensink

**Subject:** Fwd: Measurement Photos

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Sent from my iPad

Begin forwarded message:

**From:** Kelley Lang <[klang@floydcounty.in.gov](mailto:klang@floydcounty.in.gov)>

**Date:** December 14, 2018 at 9:48:46 AM EST

**To:** Eric Erwin <[hdrider0749@yahoo.com](mailto:hdrider0749@yahoo.com)>

**Subject:** Measurement Photos

Mr. Erwin,

Per your request, attached are measurement photos taken during my site visit on 8/21/18. You will have to zoom in to see the numbers on the tape, but they are visible once zoomed in.

Thanks,

-Kelley

Kelley Lang

Building Commissioner

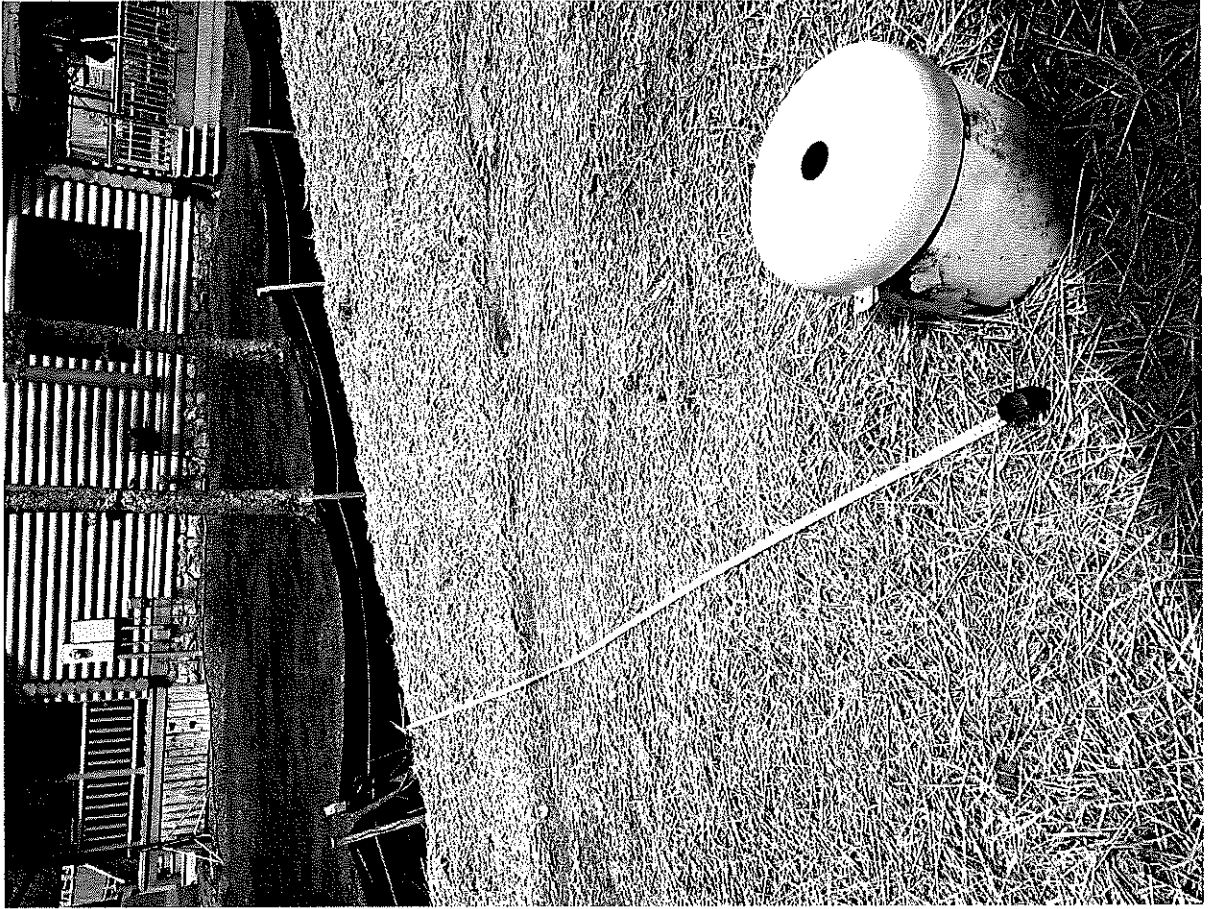
Floyd County Building & Development Services

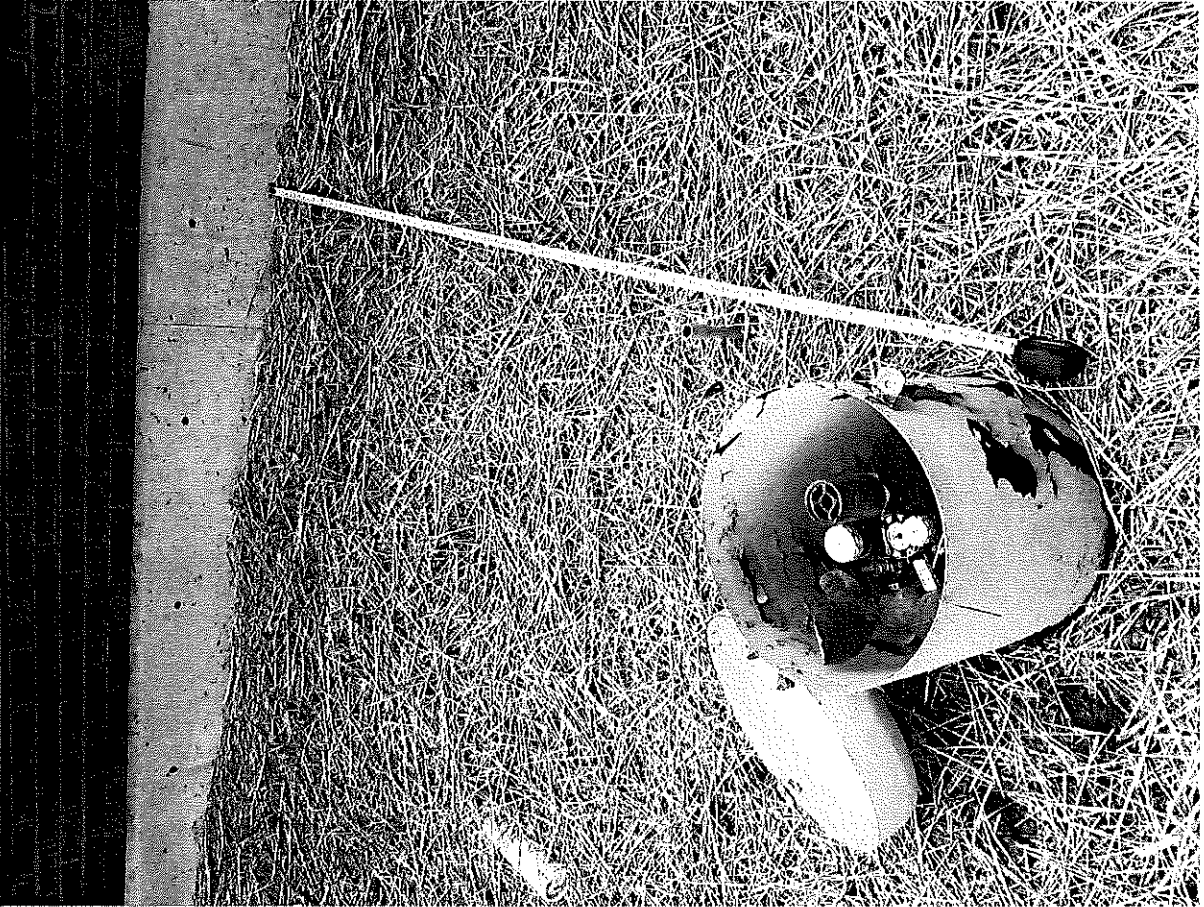
Tel: 812-948-5442

Fax: 812-948-4744

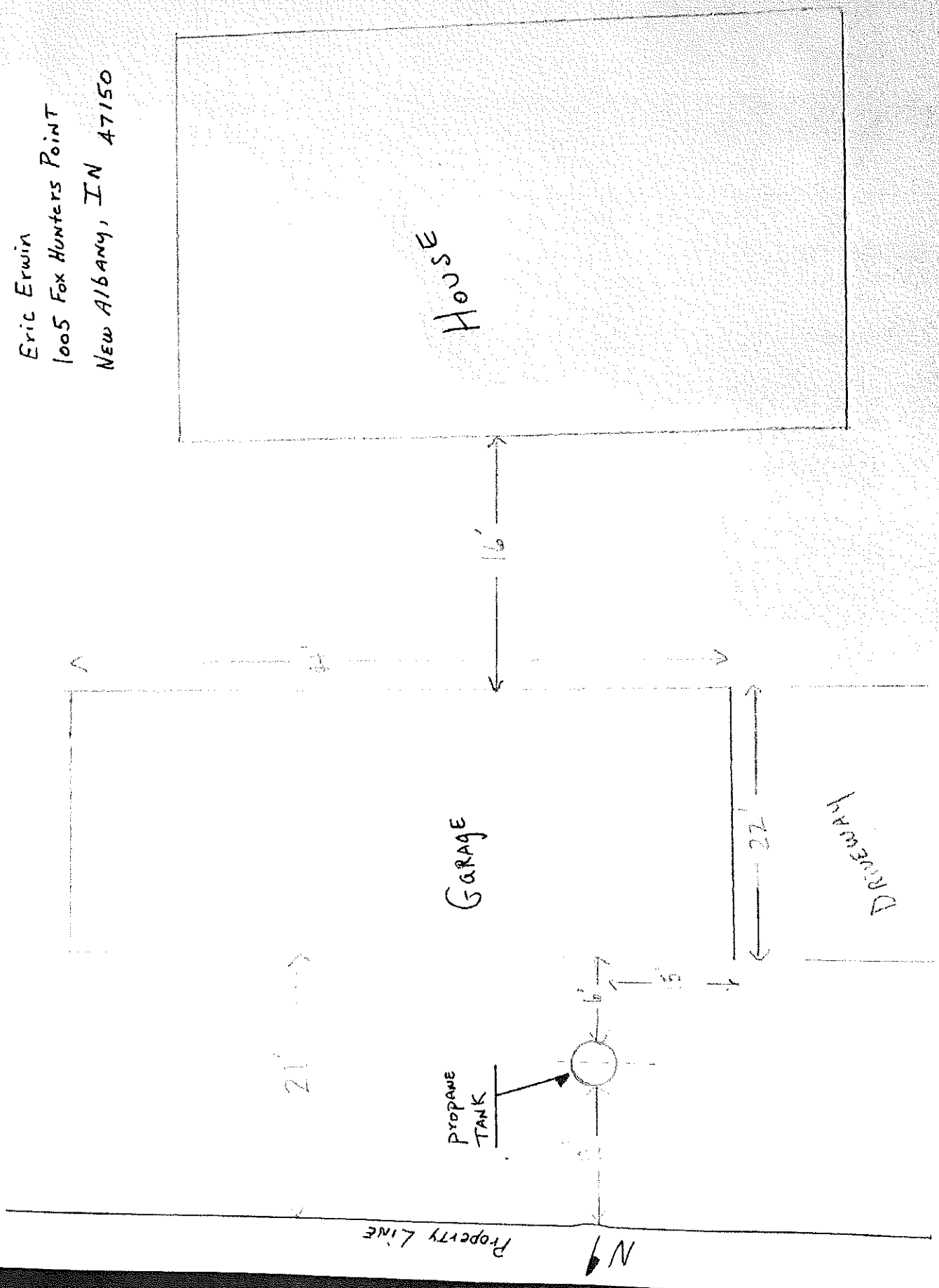
Web: [www.floydcounty.in.gov](http://www.floydcounty.in.gov)





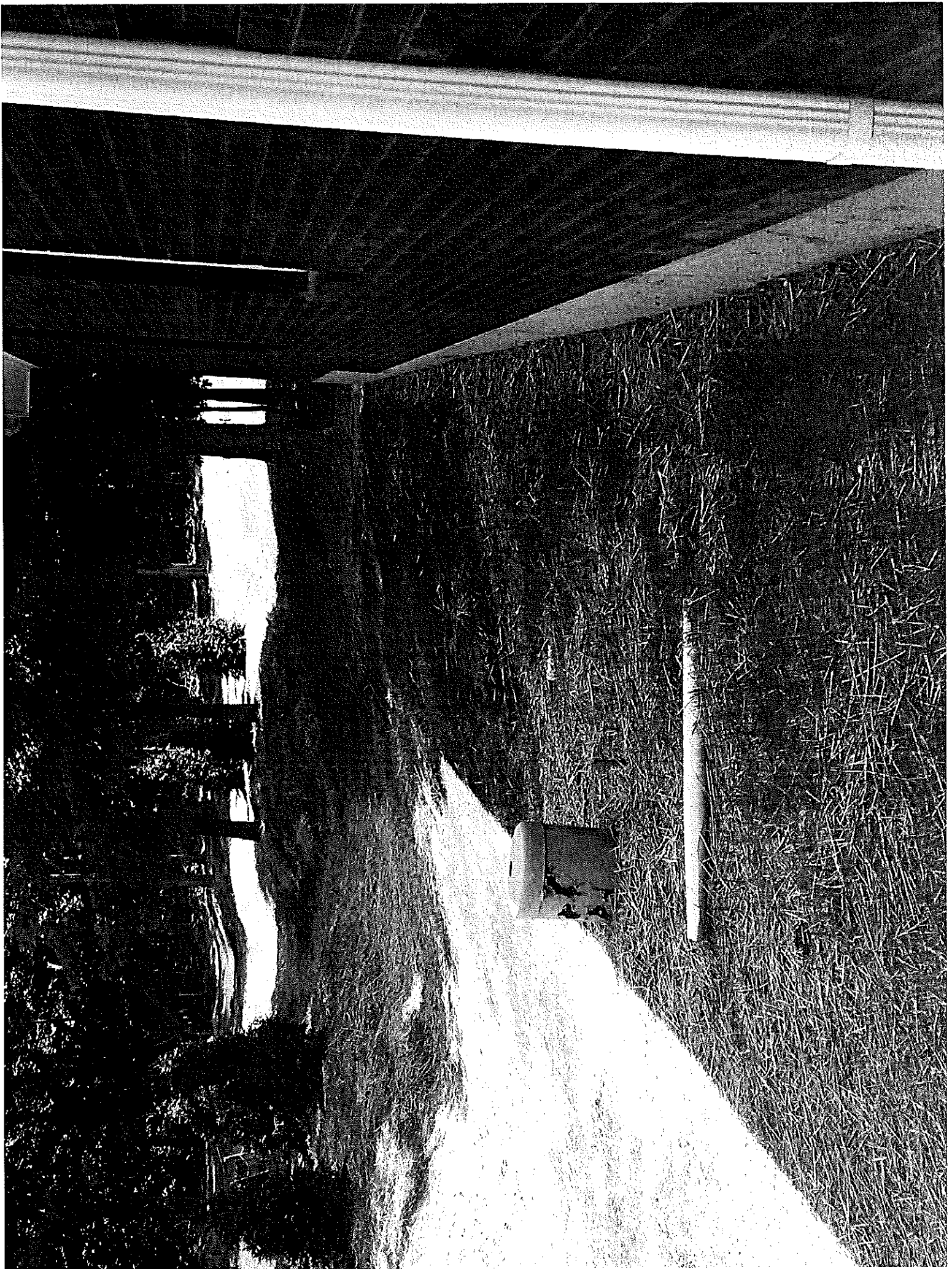


Eric Erwin  
1005 Fox Hunters Point  
New Albany, IN 47150









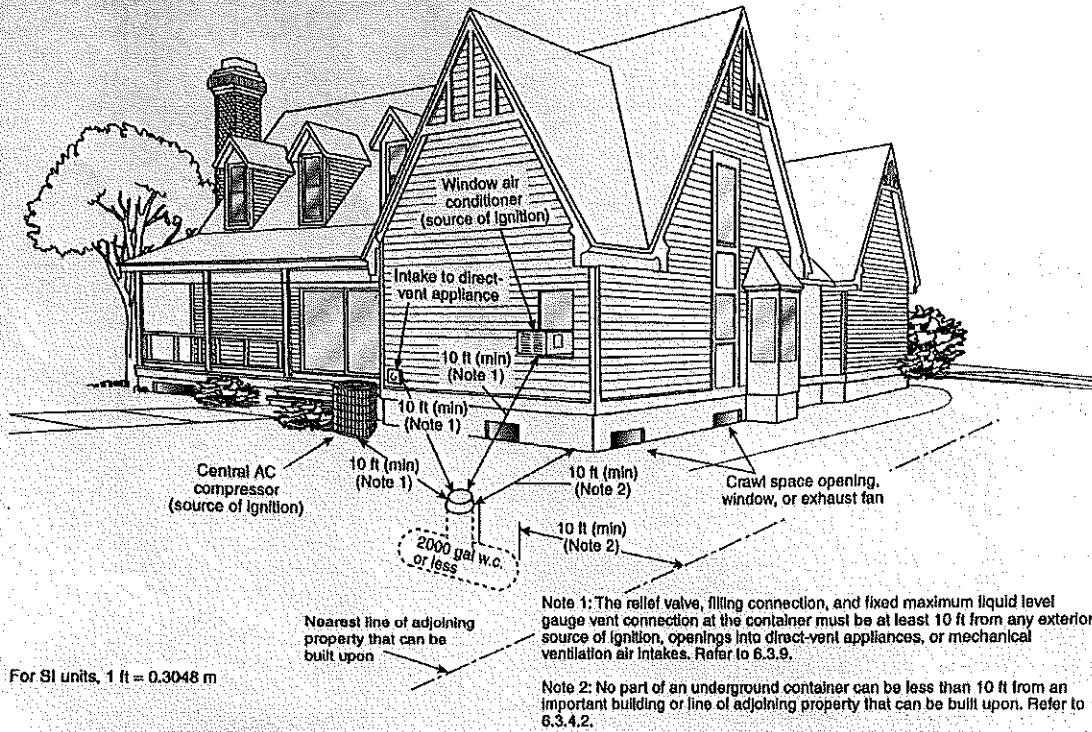


FIGURE I.1(c) Underground ASME Containers. (Figure for illustrative purposes only; code shall govern.)

**Annex J Sample Ordinance Adopting NFPA 58**

This annex is not a part of the requirements of this NFPA document but is included for informational purposes only.

**J.1** The following sample ordinance is provided to assist a jurisdiction in the adoption of this code and is not part of this code.

**ORDINANCE NO. \_\_\_\_\_**

An ordinance of the [jurisdiction] adopting the 2011 edition of NFPA 58, *Liquefied Petroleum Gas Code*, documents listed in Chapter 2 of that code; prescribing regulations governing conditions hazardous to life and property from fire or explosion; providing for the issuance of permits and collection of fees; repealing Ordinance No. \_\_\_\_\_ of the [jurisdiction] and all other ordinances and parts of ordinances in conflict therewith; providing a penalty; providing a severability clause; and providing for publication; and providing an effective date.

BE IT ORDAINED BY THE [governing body] OF THE [jurisdiction]:

SECTION 1 That the *Liquefied Petroleum Gas Code* and documents adopted by Chapter 2, three (3) copies of which are on file and are open to inspection by the public in the office of the [jurisdiction's keeper of records] of the [jurisdiction], are hereby adopted and incorporated into this ordinance as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the [jurisdiction]. The same are

hereby adopted as the code of the [jurisdiction] for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion and providing for issuance of permits and collection of fees.

SECTION 2 Any person who shall violate any provision of this code or standard hereby adopted or fail to comply therewith; or who shall violate or fail to comply with any order made thereunder; or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder; or failed to operate in accordance with any certificate or permit issued thereunder; and from which no appeal has been taken; or who shall fail to comply with such an order as affirmed or modified by or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by a fine of not less than \$ \_\_\_\_\_ nor more than \$ \_\_\_\_\_ or by imprisonment for not less than \_\_\_\_\_ days nor more than \_\_\_\_\_ days or by both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified the application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. Each day that prohibited conditions are maintained shall constitute a separate offense.



ERIC J. HOLCOMB, Governor  
**STATE OF INDIANA**

DEPARTMENT OF HOMELAND SECURITY

**BRYAN J. LANGLEY, EXECUTIVE DIRECTOR**

Indiana Department of Homeland Security  
Indiana Government Center South  
302 West Washington Street  
Indianapolis, IN 46204  
317-232-3980

Eric Erwin

February 7, 2019

1005 FOX HUNTER'S POINT

NEW ALBANY, IN 47150

Dear Eric Erwin,

This letter provides notice below of the action taken by the Fire Prevention and Building Safety Commission on your application(s) for a variance(s) from the Commission's rules under IC 22-13-2-11 and 675 IAC 12-5. The Commission considered the application with all alternatives offered, as a part of its published agenda, at its regular meeting on February 5, 2019.

Project Number	Project Name	Variance Number
0	Eric & Joyce Erwin Residence - LP Tank	19-02-16

**Commission Conditions**

Edition	Code	Code Section	Commission Action & Date
2005 Indiana Residential Code (675 IAC 14-4.3)		G2412.2	Not Approved 02/05/2019

You are advised that if you desire an administrative review of this action, you must file a written petition for review at the above address with the Fire Prevention and Building Safety Commission. Your petition must fully identify the matter for which you seek review no later than eighteen(18) calendar days from the above stated date of this letter, unless such date is a Saturday, Sunday, legal holiday under state statute, or day that the Department of Homeland Security's offices are closed during regular business hours; in which case the deadline would be the first day thereafter that is not a Saturday, Sunday, legal holiday under state statute, or day that the Department of Homeland Security's offices are closed during regular business hours. If you do so, your petition for review will be granted and an administrative proceeding will be conducted by an administrative law judge appointed by the Fire Prevention and Building Safety Commission. If you do not file a petition for review, this action will be final.



Please be further advised that you may request an opportunity to informally discuss this matter prior to filing a petition for review. Such informal discussion, or request therefore, does not extend the deadline for filing a petition for review and, therefore, any request for an informal discussion should be made promptly, preferably by telephone or e-mail, upon receipt of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "D. J. Boyle". The signature is fluid and cursive, with a large initial "D" and "J".

Douglas J. Boyle  
Fire Prevention and Building Safety Commission  
Indiana Department of Homeland Security

# Variance Application(s)

**Steps:**

1. First search for the type of variances to be displayed using search options.
2. Use Sort buttons to sort the variances.
3. For old variances, select Processed Applications along with dates.

**Search for Applications**

\*\* Processed Applications

**Fill these options below if you select \*\*Processed applications option above in the list box above.**

**To get best response times narrow down search criteria recommended**

**Example search for a county or search for a 3 month time period with owner name like..**

Enter Variance Number

Enter Project Name like  Example for Eli Lilly just enter lilly in the text box

\*\* Enter Application From Date

mm/dd/yyyy

\*\* Enter Application To Date  mm/dd/yyyy

\*\* Enter County Name

\*\* Enter Code Type

Use Arrow buttons to sort the results by the column name.

**Staff Recommendations Notations Explanation:**

"A" category = staff recommendation is for approval with no equal alternatives because of noncompliance is not adverse. "B" category = staff recommendation is for approval with equal alternatives as stated by the proponent. "C" category = reserved, meaning staff believes Commission needs to discuss entirety. "D" category = recommendation is for denial. "I" category = incomplete (with permission of the Chairman). "NVR" category = no variance required. "T" category = tabled.

<b>Variance Number/Id</b> <input type="button" value="v"/> <input type="button" value="v"/>	<b>Project Name</b> <input type="button" value="v"/> <input type="button" value="v"/>	<b>County</b> <input type="button" value="v"/> <input type="button" value="v"/>	<b>Variance Codes</b> <input type="button" value="v"/> <input type="button" value="v"/>
<p><b>19-02-16</b> (Online) Application Date:12/21/2018 Name Eric Erwin Variance Exhibits.pdf Date:12/21/2018 <input type="button" value="View Plan"/></p> <p>Name Floyd County LBO Citation and Letter of Non-opposition.pdf Date:12/21/2018 <input type="button" value="View Plan"/></p> <p>Name LBO Email and Pictures.pdf Date:12/21/2018 <input type="button" value="View Plan"/></p> <p>Name Erwin Residence Updated Site Plan.pdf Date:12/26/2018 <input type="button" value="View Plan"/></p>	<p>Eric &amp; Joyce Erwin Residence - LP Tank 1005 Fox Hunter's Point New Albany 47150 [ <a href="#">view application in html</a> ] [ <a href="#">view app in pdf for IE</a> ]</p>	<p>FLOYD</p>	<p><b>Code Name:2005 Indiana Residential Code (675 IAC 14-4.3)</b> [ <a href="#">view code Details</a> ] <b>Specific Section:</b>G2412.2 Staff Recommendation:C (explanation key at the top of the table) <b>Staff Comments:</b>19050 The code requires underground 1000-gallon LP tanks to have a minimum of 10 feet separation distance between buildings. The request is to allow a detached garage accessory to a dwelling to have 6 feet between it and a 1,000-gallon LP tank. The proponent states the garage does not have any exterior equipment posing an ignition hazard, nor any air intakes. The LP tank has been existing in this location for approximately 14 years. The garage was constructed approximately 1.5 years ago. Local building official does not oppose this variance. This variance application is to fix the discrepancy on Variance 18-10-27 where the incorrect local fire official was listed. [ <a href="#">Commission Letter in pdf for IE</a> ]</p>