

IN THE MATTER OF THE APPLICATION)
OF **DANIEL GILMAN** FOR A VARIATION OF THE) #2022-044
UNIFIED DEVELOPMENT ORDINANCE OF)
McHENRY COUNTY, ILLINOIS)

WHEREAS, your Applicant, **DANIEL GILMAN**, has filed a petition with the McHenry County Hearing Officer, requesting a **variation** as it relates to the McHenry County Unified Development Ordinance and to the real property more fully described as:

LOT 1 IN THE FINAL PLAT OF KETCHMARK'S SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 43 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 22, 1996 AS DOCUMENT 1996R59764, IN MCHENRY COUNTY, ILLINOIS.

PIN # 18-05-401-007

More commonly known as **12419 Hensel Road, Huntley, Illinois.**

WHEREAS, the Application requests no reclassification of the subject property from its present classification which is **"E-2V" Estate District; but a variation be granted to the property to allow for an Ancillary Dwelling Unit to be a maximum of eleven hundred (1,100) square feet instead of the maximum nine hundred (900) square feet allowed.**

WHEREAS, the subject property consists of approximately **2.01 acres** in which no reclassification is contemplated.

WHEREAS, a hearing on said application was held before the Hearing Officer of McHenry County in the manner and the form as prescribed by the Ordinance and Statute; and

WHEREAS, as a result of said hearing, the taking of evidence, and the viewing of exhibits advanced thereat, the Hearing Officer of McHenry County **did recommend the granting of a variation to allow for an Ancillary Dwelling Unit to be a maximum of eleven hundred (1,100) square feet instead of the maximum nine hundred (900) square feet allowed.**

WHEREAS, the McHenry County Board has considered the recommendation as submitted by the Hearing Officer of McHenry County.

WHEREAS, the McHenry County Board has determined that the standards for a variation as set forth in the McHenry County Unified Development Ordinance and the Illinois Compiled Statutes have been met.

NOW, THEREFORE BE IT ORDAINED, that the Unified Development Ordinance and the Zoning Maps of McHenry County and such Ordinances and such maps as amended, be and the same are hereby amended to allow a **variation to allow for an Ancillary Dwelling Unit to be a maximum of eleven hundred (1,100) square feet instead of the maximum nine hundred (900) square feet allowed.**

This Ordinance shall be in full force and effect from and after its passage as by law provided.

DATED this _____ day of _____, 20_____.

Chairperson, McHenry County Board
McHenry County, Illinois

ATTEST:

County Clerk

NUMBER VOTING AYE: _____

NUMBER VOTING NAY: _____

NUMBER ABSTAINING: _____

NUMBER ABSENT: _____

Grafton Township
PLAN REVIEW REPORT
VARIATION REQUEST APPLICATION #2022-044

Hearing Date: November 22, 2022

Applicant: Daniel Gilman (Dawn Gilman, Owner of Record)

Request: **Variation** within the **E-2V Estate District** to allow for an Ancillary Dwelling Unit to be a maximum of eleven hundred (1,100) square feet instead of the maximum nine hundred (900) square feet allowed. (*McHenry County Unified Development Ordinance §16.56.030.O.12*)

Location: The subject property consists of approximately 2.01 acres and is located on the south side of Hensel Road, at its intersection with Cote Drive.
Common address: 12419 Hensel Road, Huntley, Illinois, in Grafton Township.
PIN: 18-05-401-007

Current Land Use: The property is designated **Single-Family Residential** on the Current Land Use map.

Adjacent Land Use: North: *Single-Family Residential* East: *Single-Family Residential*
South: *Single-Family Residential* West: *Single-Family Residential and Agriculture*

Current Zoning: The property is currently zoned **E-2V Estate with a Variation for a reduction in road frontage (on adjacent PIN)**.

Adjacent Zoning: North: *E-1 Estate* East: *E-2V Estate*
South: *E-2V Estate* West: *A-1 Agriculture*

2030 Plan: The property is designated **Agricultural** on the *McHenry County Land Use Plan Map*.

Municipal Plans Crystal Lake: No Designation Lakewood: No Designation
Huntley: Single-Family Estate (1+ acres)

Improvements: The subject property contains a two-story brick and frame residence, frame shed, 1-story frame garage/office, areas of concrete, and an asphalt driveway, according to the Plat of Survey.

Natural Resources: No wetlands are found on the subject property. Due to the size of the parcel, impact to natural resources from the proposed use is minimal, according to Natural Resources Inventory (NRI) Letter L22-060-4451.

Flood Hazard Areas: No floodplain was found on the site.

Flood-of-Record: No Flood of Record was found on the site.

SARA: The site IS NOT located in a zone with elevated aquifer contamination potential, according to the McHenry County Sensitive Aquifer Recharge Area (SARA) map.

Comments/ Conclusion:

- No zoning violations are currently open on the subject property.
- The residence on the property was constructed around 1930, according to the Grafton Township Assessor.
- Permit #K-3498 is currently pending for an ancillary dwelling unit on the subject property.
- The applicant should be aware that under **Section 16.20.020 (F)** of the **McHenry County Unified Development Ordinance**, several standards are cited, all of which must be met in order for a Variation to be granted. These standards include hardship in relation to the site conditions, that the request is unique to the property, that the purpose of the request is not based on any monetary gain, that the petitioners did not cause or create the hardship, that the request is not detrimental to the public welfare and safety, that the request will not impair adequate light and air to adjacent property, or increase congestion in the public streets, or increase danger of fire, and that the request not confer any special privilege to the applicant that is denied to others of the same zoning district.
- An Illinois Department of Natural Resources (IDNR) report was not required for this project.
- Historical records of the property indicate the structure in question has existed for over 50 years. The applicant does not plan to increase the area of the structure, but rather convert its use from an office/garage to an ancillary dwelling unit. Staff has no objections and recommends approval of the request.

Aerial Photo

12419 Hensel Road, Huntley, Illinois

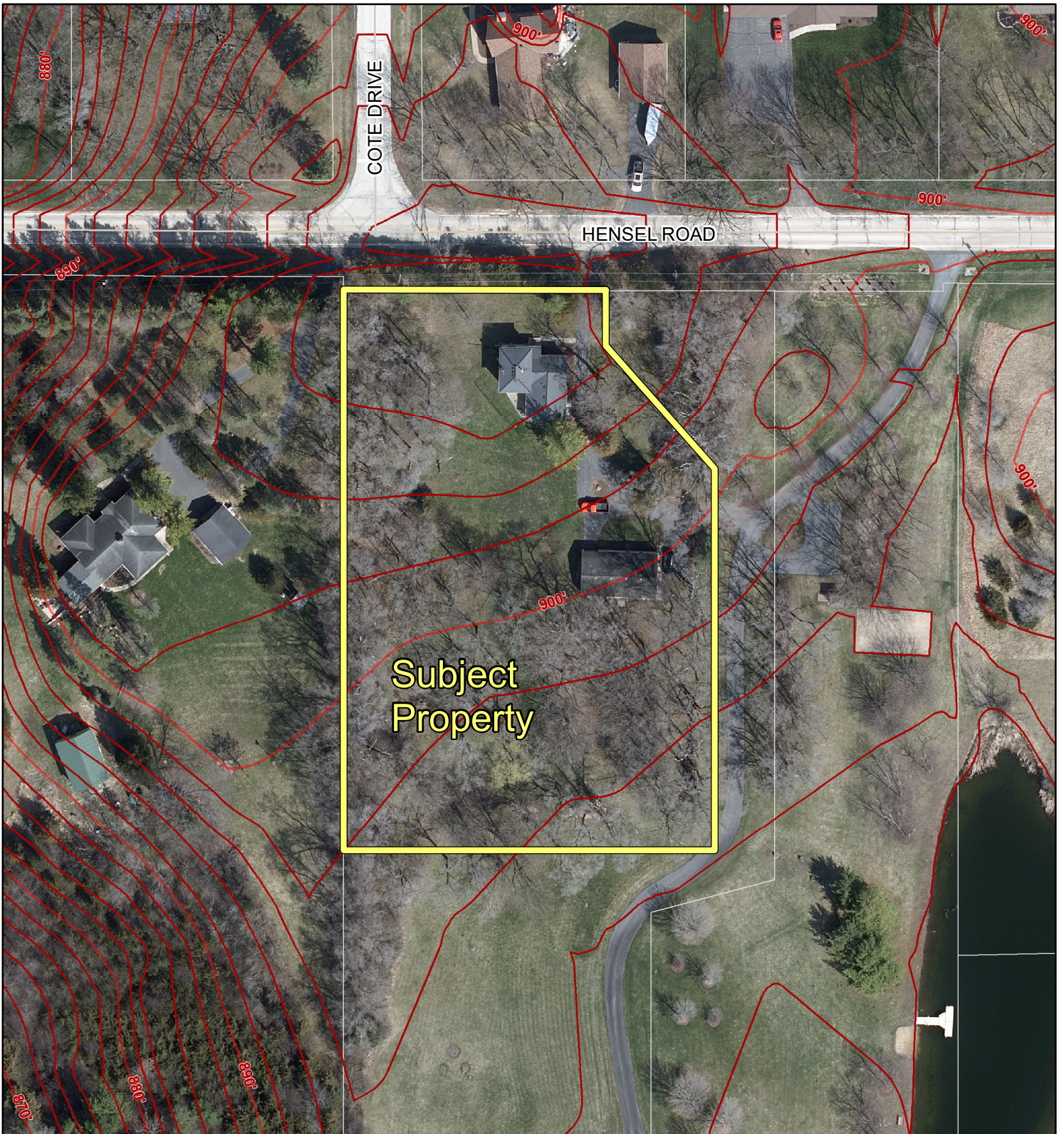
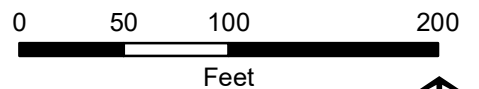


Photo: 2021

Any parcel lines depicted on the aerial photograph are for general reference only. Please refer to the plat of survey for the location of lot or parcel lines.

Elevation (feet above sea level)

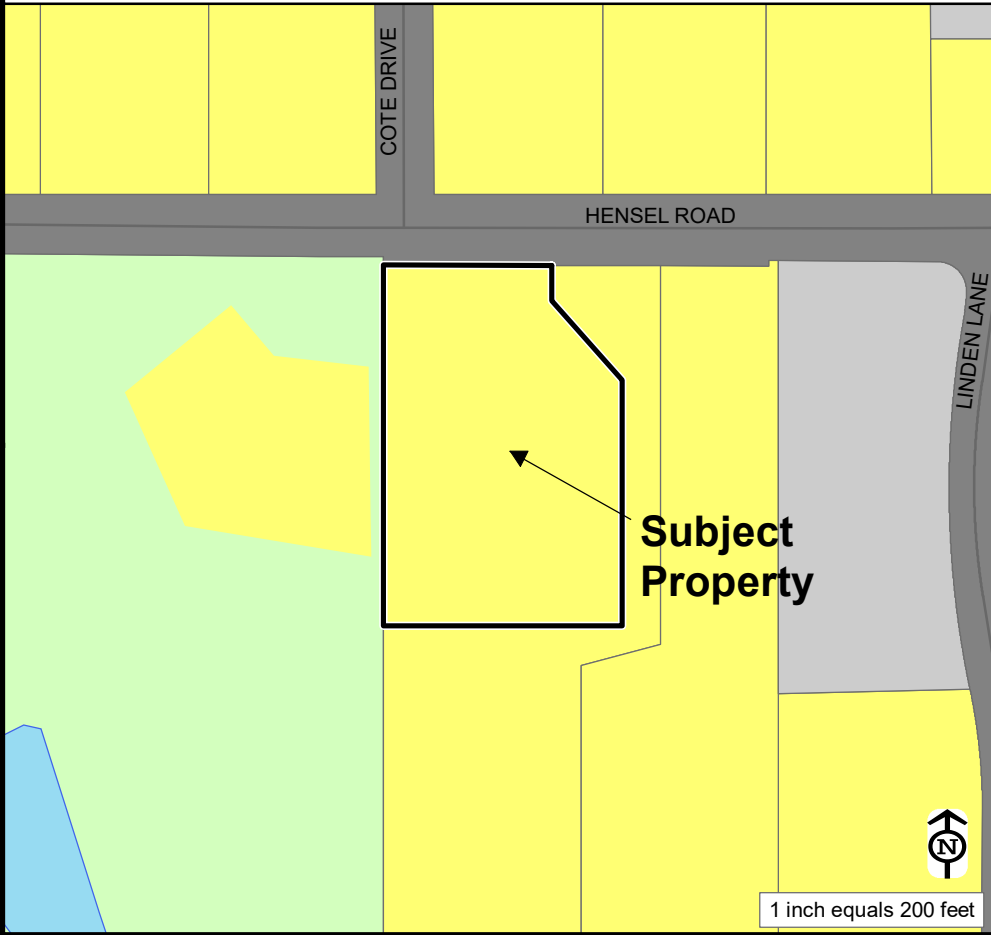
- 10-foot contours
- 2-foot contours



Prepared by the McHenry County
Department of Planning and Development



Current Land Use Map



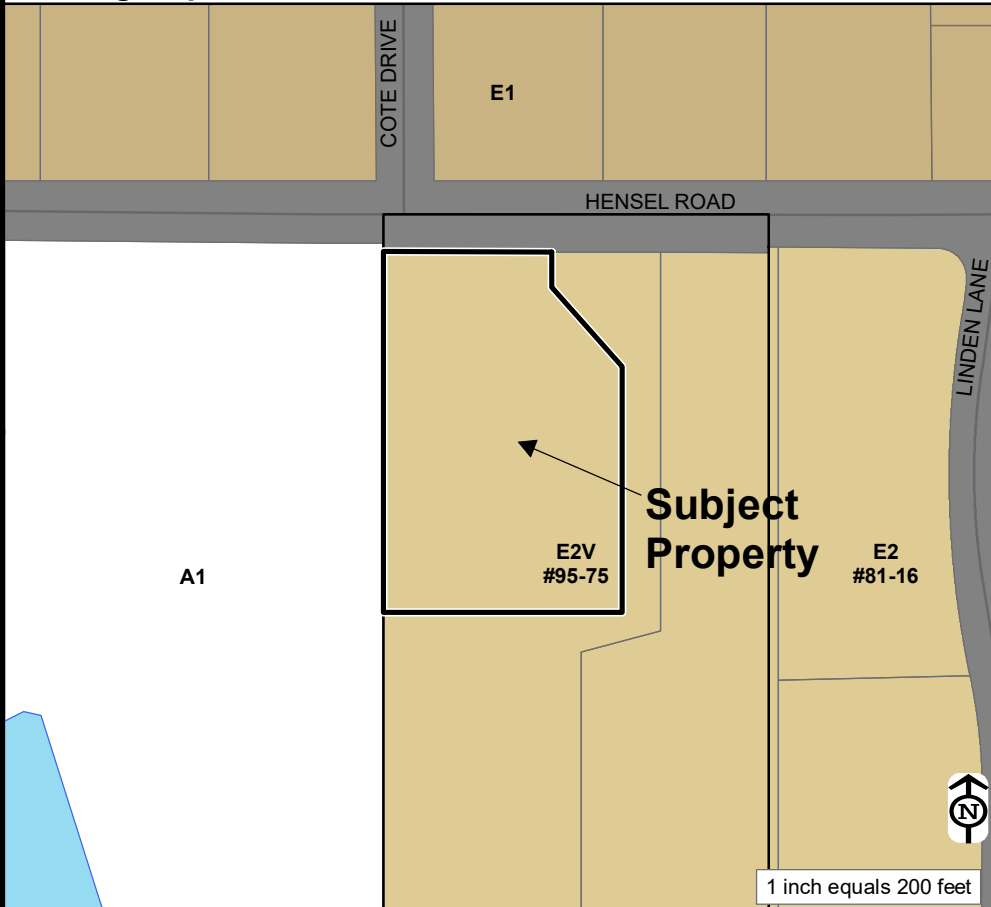
Current Land Use
Single-Family Residential

Land Use Adjacent to the PIQ

North: *Single-Family Residential*
 South: *Single-Family Residential*
 East: *Single-Family Residential*
 West: *Agriculture and Single-Family Residential*

- Agriculture
- MCCD Agriculture
- Single-Family Residential
- Multi-Family Residential
- Open Space
- Golf Course
- Commercial
- Office
- Industrial
- Mixed Use
- Earth Extraction
- Vacant
- Government / Institutional
- Transportation, Communication, Utilities
- Under Review

Zoning Map

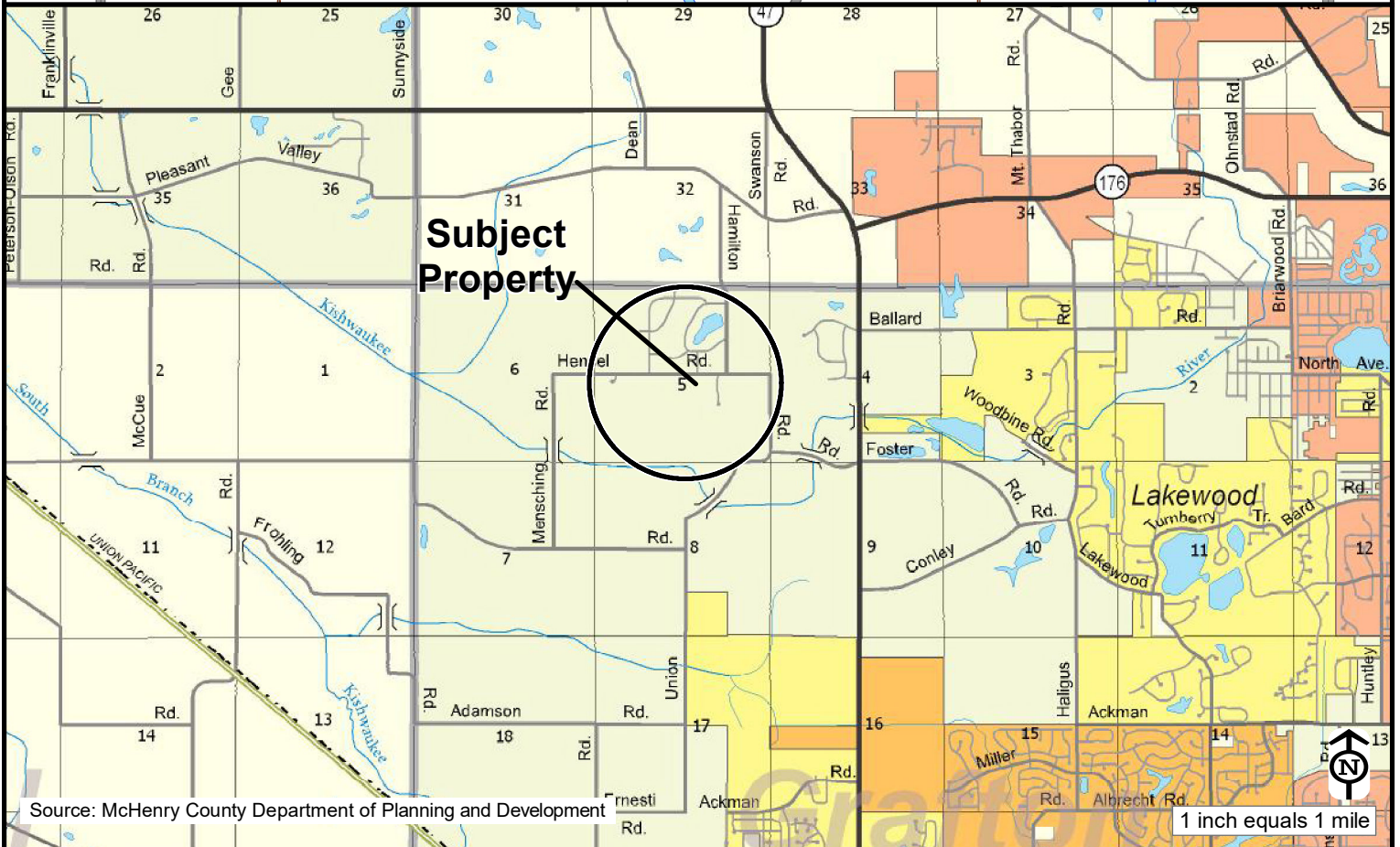
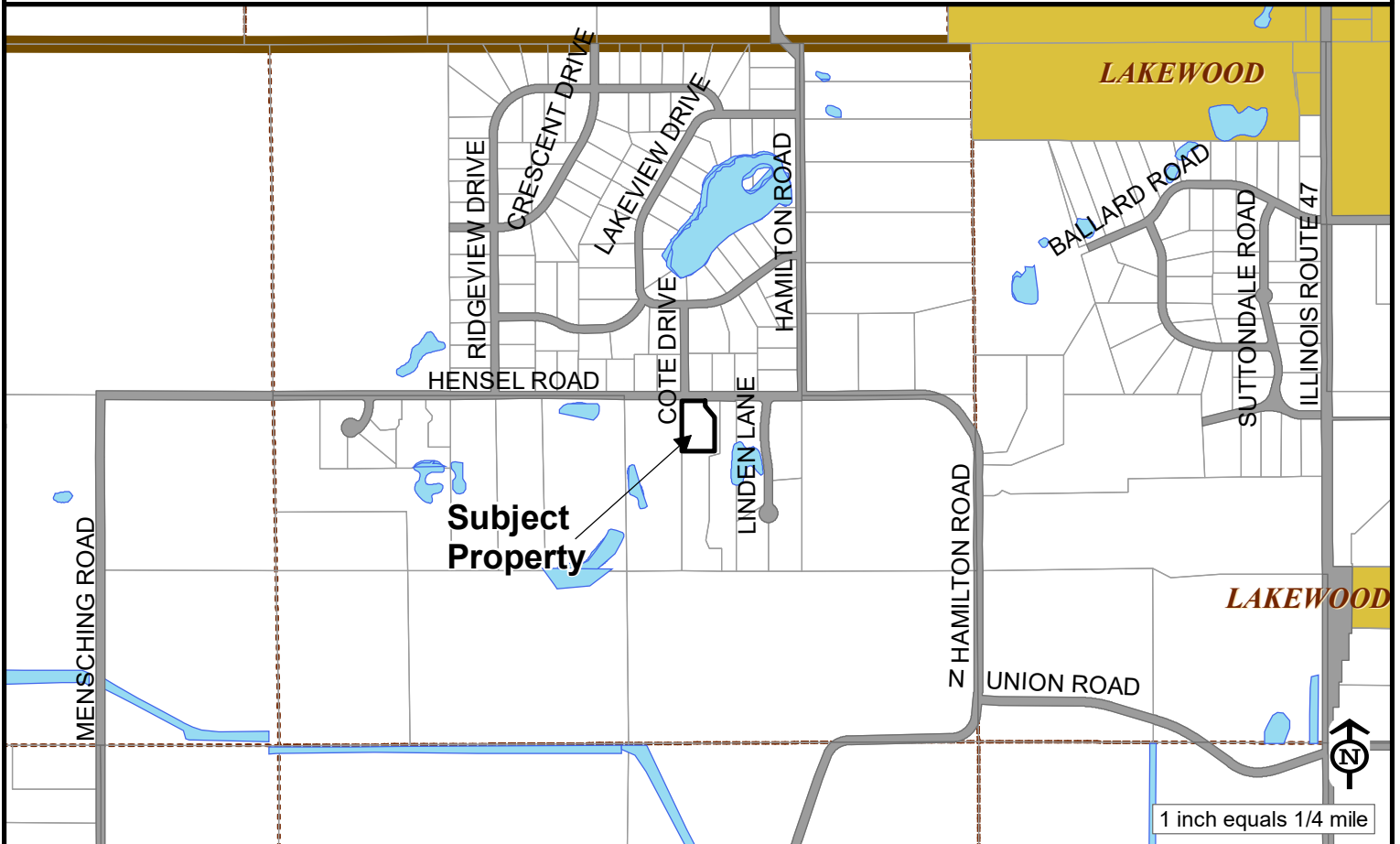


Current Zoning
E-2V Estate District

Adjacent Zoning

North: E-1 Estate District
 South: E-2V Estate District
 East: E-2V Estate District
 West: A-1 Agriculture District

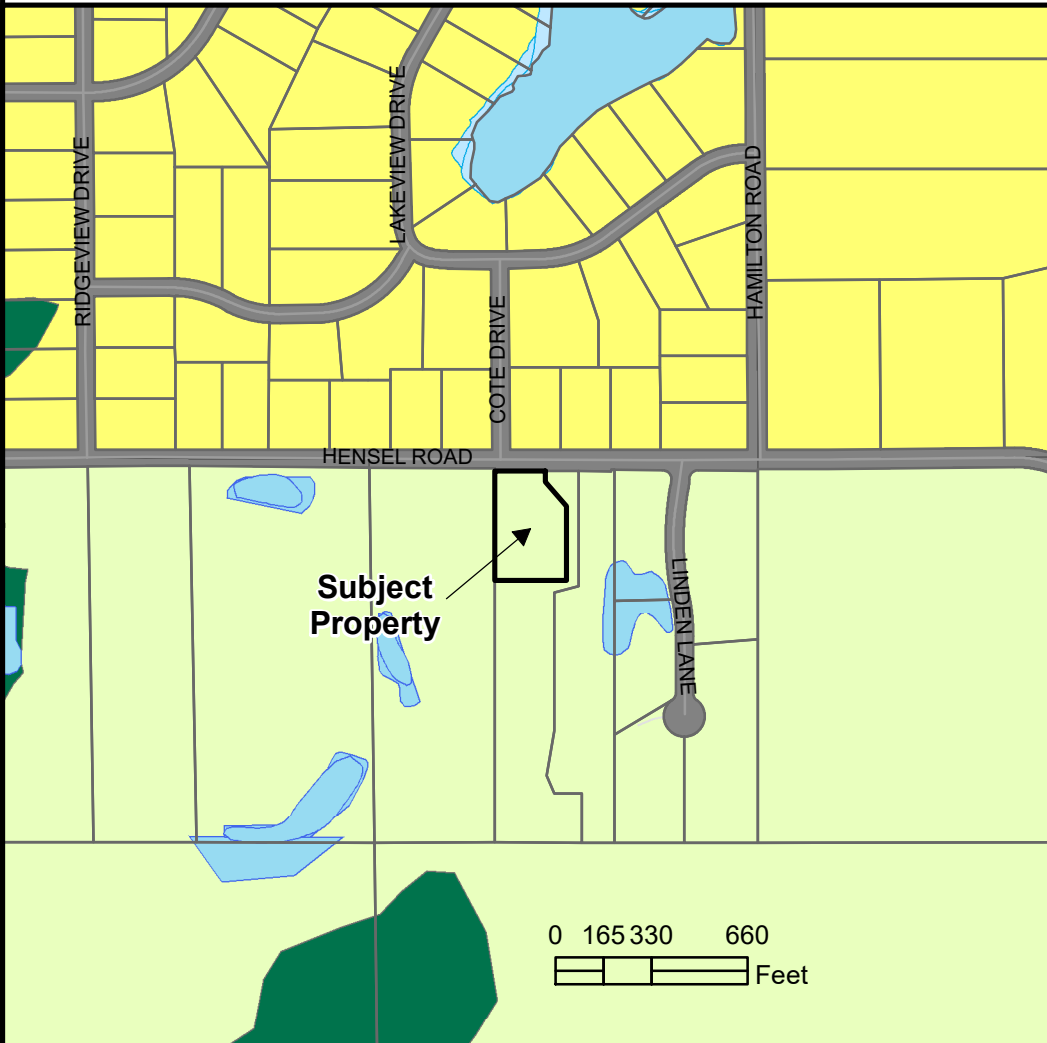
- A-1 Agriculture
- A-2 Agriculture
- E-5 Estate
- E-3 Estate
- E-2 Estate
- E-1 Estate
- R-1 Single-Family Residential
- R-2 Two-Family Residential
- R-3 Multiple-Family Residential
- B-1 Neighborhood Business
- B-2 Liquour Business
- B-3 General Business
- O Office / Research
- I-1 Light Industrial
- I-2 Heavy Industrial
- PD Planned Development
- C Conditional Use
- V Variation
- Incorporated



McHenry County 2030 Comprehensive Plan Future Land Use Map

Future Land Use Map Designation

Agricultural



- Agricultural
 - Open Space
 - Environmentally Sensitive Area
 - Estate
 - Isolated Estate
 - Residential
 - Isolated Residential
 - Retail
 - Mixed Use
 - Office, Research, Industrial
 - Gov't, Institutional, Utilities
 - R TOD Existing Rail Station
 - R TOD Future Rail Station
 - Active Earth Extraction Site
 - Municipality
- Scale: 1 inch = 1/8 mile

Municipal/Township Plan Designations

Grafton Township: Agriculture

Crystal Lake: No Designation

Huntley: Single-Family Estate (1+ acres)

Lakewood: No Designation

McHenry County 2030 Comprehensive Plan — Text Analysis

Land Use

AGRICULTURAL – represents existing agricultural acres, including cropland, pastureland, farm yards, and farmsteads, that should remain in agricultural use through the 2030 planning horizon. Development in the Agricultural District should be strictly limited to agriculture, agricultural residences, and agricultural support uses. (p. 134)

Sensitive Aquifer Recharge Areas

The site is not located in a zone with elevated contamination potential.

Sensitive Aquifer Recharge Areas (SARA)



Sensitive Recharge Area

**McHENRY-LAKE COUNTY
SOIL & WATER
CONSERVATION DISTRICT**



1648 S. Eastwood Dr. Woodstock, Illinois 60098 (815) 338-0444 ext. 3 www.mchenryswcd.org

October 28, 2022

Daniel Gilman
12419 Hensel Road
Huntley, IL 60142

Re: Parcel # 18-05-401-007
Common Location: 12419 Hensel Road, Huntley, IL 60142
NRI# L22-060-4451
Zoning Change: E2 to E2 Variance

Dear Mr. Gilman:

The McHenry-Lake County Soil and Water Conservation District has carefully reviewed your application for Natural Resource Information Report on the Dawn Gilman property as applied for in Report #L22-060-4451. Due to the size of the parcel, the SWCD finds that impact to natural resources from the proposed use is minimal for the purposes of the NRI report. A full Natural Resource Information Report will not be necessary.

No wetlands, hydric soils, or floodplains were found on the site from office maps. Our inventories are for informational and planning purposes only. Any proposed drainage work, in wet areas, requires a certified wetland delineation. If drainage work is to occur, please contact the Army Corps of Engineers and McHenry County Department of Planning & Development for permit information.

This letter fulfills your requirement to notify the SWCD of land use changes as per the Illinois Compiled State Statutes, Chapter 70, Par. 405/1 et seq. Illinois Revised Statutes, Ch. 5, Par 106 et seq. and the McHenry County Stormwater Ordinance. If you have any questions concerning this letter, feel free to call our office.

Sincerely,

Ryan Bieber
Urban Conservation Specialist

cc. Kim Charlow, McHenry County Department of Planning and Development,
KBScharlow@mchenrycountyil.gov

**HEARING OFFICER REPORT TO THE MCHENRY
COUNTY BOARD IN THE MATTER OF PETITION #2022-044**

1. **Recommendation:** Approve
2. **Applicant:** Daniel Gilman (Dawn Gilman, Owner of Record)
3. **Request:** A Variation to allow for an Ancillary Dwelling Unit to be a maximum of eleven hundred (1,100) square feet instead of the maximum nine hundred (900) square feet allowed. (*McHenry County Unified Development Ordinance §16.56.030.O.12*)
4. **Location and size of property in question:** The subject property consists of 2.01 acres and is located on the south side of Hensel Road, at its intersection with Cote Drive, with a common address of 12419 Hensel Road, Huntley, Illinois, Grafton Township.
PIN: 18-05-401-007
5. **Present at hearing:**

Daniel Gilman, Applicant
Michael J. McNerney, Hearing Officer
Kim Scharlow, County Staff; Richard Marzec, Kristy Borchart, Dennis Zarnstorff
6. **Date, time and location of the hearing:** November 22, 2022 at 11:00 a.m. McHenry County Government Center, Ware Road Administration Building, Woodstock, IL 60098.
7. **Items of evidence:**
Official Site Plan, Application to allow variance, Natural Resource Information Report, McHenry-Lake County Soil & Water Conservation District Letter of L22-060-4451, Declaration of Covenants, Conditions, and Restrictions for Ketchmark's Subdivision.
8. **Summary of Testimony at the hearing:**

The Hearing Officer opened the meeting and described the property and the request.

Daniel Gilman stated that there is an existing structure on the subject property that he would like to remodel into an ancillary dwelling unit. He indicated that the structure will not be enlarged, but the existing building is already larger than what the Ordinance allows. Mr. Gilman pointed out that the subject property was purchased earlier this year, and the intention is to update the existing kitchen, bathroom and living space in the structure.

Mr. Gilman explained that the existing structure does not connect to a septic system and that it currently drains to a cess pit. He is currently working with the Health Department to obtain approval of a force main and septic tank to the existing residence's septic field in the northeast corner of the property.

Mr. Gilman addressed the Approval Standards for Variation, noting that he is not enlarging the existing structure, and would be improving the value of the property, which would also be a benefit to neighbors.

Richard Marzec, resident to the south of Mr. Gilman, stated that he has lived there for nine (9) years. He explained that he is opposed to the request, because there are no other rental housing units in the area. He pointed out that the Ketchmark's Subdivision Covenants, Conditions, and Restrictions state that "Living units shall mean and refer to any portion of a structure situated on the property designated for occupancy by a single family" and "...no trailer, mobile home, or recreational vehicles, tent, shack or other structure and no temporary building or structure of any kind shall be used for a residence either temporary or permanent." Mr. Marzec explained that there is a shared driveway, and they do not want additional people utilizing the driveway.

Kristy Borchart, owner of Lot 3 in Ketchmark's Subdivision, also stated that she was opposed to the request for similar reasons. Mr. Gilman pointed out that he could have an ancillary dwelling unit limited to 900 square feet, and the zoning variance was merely being sought to increase the square footage of habitable area in the structure. He stated that he was not given a copy of the Covenants for the subdivision at the time he purchased the lot. Staff pointed out that the County does not have the ability to enforce Covenants or Restrictions of a subdivision, and that it would be regulated through the Homeowners Association. The Hearing Officer admitted a copy of the Covenants into evidence, but further explained that they could not be taken into consideration as part of the County's zoning hearing and that it was a private matter for the homeowners to pursue if they wished to.

The Hearing Officer found that the Standards had been met and recommended approval of the request.

9. Planning and Development Report – comments and conclusions:

Current Land Use: The property is designated Single-Family Residential on the Current Land Use map.

Adjacent land use:

North: Single-Family Residential
South: Single-Family Residential
East: Single-Family Residential
West: Agriculture and Single-Family Residential

Current Zoning: the property is currently zoned E-2V Estate District with a Variation

Adjacent zoning:

North: E-1 Estate
South: E-2V Estate
East: E-2V Estate
West: A-1 Agriculture

2030 Plan: The property is designated Agricultural on the McHenry County Land Use Plan Map.

Municipal Plans within 1.5 miles:

Crystal Lake: No Designation
Huntley: Single-Family Estate (1+ acres)
Lakewood: No Designation

Improvements: The subject property contains a 2-story brick and frame residence, frame shed, 1-story frame garage/office, areas of concrete, and an asphalt driveway, according to the plat of survey.

Natural Resources: No wetlands were found on site. Due to the size of the parcel, the Soil and Water Conservation District finds that impact to natural resources from the proposed use is minimal, according to Natural Resources Inventory (NRI) Letter L22-060-4451.

Flood Hazard Areas: No flood hazard areas were found on the site.

Flood-of-Record: No floods-of-record were found on the site.

SARA: The site is not located in a zone with elevated aquifer contamination potential, according to the McHenry County Sensitive Aquifer Recharge Area (SARA) map.

The Affidavit of Posting, mailings and legal notice were checked and found to be acceptable. The McHenry-Lake County Soil & Water Conservation District determined that a full report was not necessary.

10. STAFF COMMENTS & CONCLUSIONS:

- * No zoning violations are currently open on the subject property.
- * The residence on site was built around 1930, according to the Grafton Township Assessor.
- * Permit #K-3498 is currently pending for an ancillary dwelling unit on the subject property.
- * An Illinois Department of Natural Resources (IDNR) report was not required for this Project.

11. Recommended findings of fact as to the Request for the Variation:

The Standards for Variation, listed in Sec. 16.20.020.F of the McHenry County Unified Development Ordinance, have been met and granting this variation is recommended.

Sec. 16.20.020F.1: The particular surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

Witness testified that the structure is existing and he does not propose to increase the square footage of the building.

Sec. 16.20.020F.2: The conditions upon which the application for a variation are based are unique to the property for which the variation is sought and are not

generally applicable to other property within the same zoning district.

The Witness testified that is true.

Sec. 16.20.020F.3: The purpose of the variation is not based exclusively upon a desire to increase the monetary gain realized from the property.

The Witness testified that is true, as he is merely intending to improve use of his property by allowing the building to be utilized as a dwelling.

Sec. 16.20.020F.4: The alleged difficulty or hardship is caused by the Ordinance and has not been created by any person presently having an interest in the property.

Witness testified that the structure existed long before he purchased the property.

Sec. 16.20.020F5: That the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

The Witness testified that the proposed improvement would not be injurious to adjacent properties.

Sec. 16.20.020F6: The proposed variation will not impair an adequate supply of light or air to the adjacent property or substantially increase congestion in the public streets or increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the adjacent neighborhood.

Witness testified that the proposed variation would have no negative impact on public streets or public safety and would not negatively impact neighboring property values.

Sec.16.20.020F.7. The granting of the variation requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings of the same zoning district.

The evidence establishes that the property owner would not be gaining a special privilege by the granting of this request, as it is a reasonable request that should be granted to other property owners, if they so requested, as was also attested to by the witness.

The Witness has met their burden of establishing the necessary ordinance requirements. Accordingly, it is my recommendation that the petitioner's request be granted.

Respectfully submitted,

/S/: *Michael J. McNerney*
Michael J. McNerney