

# INDIANA FIRE PREVENTION AND BUILDING SAFETY COMMISSION

Monday, November 15, 2021  
By Electronic Mail and U.S. Postal Mail

Randall L. Morgan  
Attorney for the Petitioner  
Snyder Morgan Federoff & Kuchmay LLP  
200 W. Main Street  
Syracuse, IN 46567  
[rlm@smfklaw.com](mailto:rlm@smfklaw.com)

Lawrence Shirk  
Petitioner  
Wisler Mennonite Church  
12745 W 800 S  
Rochester, IN 46975  
[lawrence@sunrisestructures.net](mailto:lawrence@sunrisestructures.net)

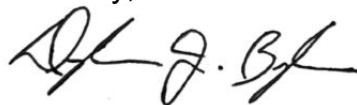
**Re: Petition for Administrative Review – IDHS Order of Denial of Variance No. 21-10-37 (Variance ID No. 21258) – Wisler Mennonite Church**

Dear Mr. Morgan and Mr. Shirk:

The Indiana Fire Prevention and Building Safety Commission (Commission) is in receipt of your electronically-filed petition for administrative review of Indiana Department of Homeland Security (IDHS) Order of Denial of Variance No. 21-10-37 (Variance ID No. 21258) – Wisler Mennonite Church, submitted by U.S. Postal Certified Mail on Wednesday, November 10, 2021. Pursuant to the requirements of Indiana Code § 4-21.5-3-7, your petition for administrative review is hereby granted by the Commission.

Your petition will now be forwarded to the Indiana Office on Administrative Law Proceedings (OALP) to be assigned to the Commission's administrative law judge. OALP or the judge will contact you directly to make arrangements for further proceedings. Should you have any questions, you may contact the Indiana Department of Homeland Security's deputy general counsel assigned to this matter, Justin Guedel, at [jguedel@dhs.in.gov](mailto:jguedel@dhs.in.gov) or (317) 234-9515.

Sincerely,



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

Indiana Government Center South, Room E-208  
302 W. Washington Street  
Indianapolis, IN 46204  
[dboyle@dhs.in.gov](mailto:dboyle@dhs.in.gov)

Enclosure

cc: Justin K. Guedel, Indiana Department of Homeland Security Deputy General  
Counsel – Legal Counsel for the Respondent (by electronic mail)

# SNYDER MORGAN FEDEROFF & KUCHMAY LLP

ATTORNEYS AT LAW

Stephen R. Snyder\*  
Randall L. Morgan  
Scott M. Federoff\*\*  
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James A. Federoff\*\*\*  
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\*Registered Civil Mediator  
\*\*Also Admitted In South Carolina  
\*\*\*Of Counsel

November 10, 2021

*Certified Mail No. 7018 0680 0001 7919 7592  
Return Receipt Requested*

Indiana Department of Homeland Security  
Fire Prevention and Building Safety Commission  
302 W. Washington St., Rm. E208  
Indianapolis, IN 46204

Re: Petition for Administrative Review of IDHS Denial of Variance No. 21-10-37  
Lawrence Shirk; Wisler Mennonite Church (Variance ID: 21258)

Dear Sir/Madam:

Enclosed is an original and one copy of a Petition for Administrative Review with respect to the above-referenced denial of Variance No. 21-10-37. I would appreciate it if you could return a file-stamped copy of the petition to me for our file. For convenience, I am enclosing a pre-addressed, postage-paid envelope for your use in this regard. Thank you.

Very truly yours,

SNYDER MORGAN  
FEDEROFF & KUCHMAY LLP



Randall L. Morgan  
[rlm@smfklaw.com](mailto:rlm@smfklaw.com)



RLM/jlb  
Enclosures



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

IN THE MATTER OF: )  
 )  
IDHS DENIAL OF VARIANCE NO. 21-10-37 ) CAUSE NO. \_\_\_\_\_  
LAWRENCE SHIRK )  
WISLER MENNONITE CHURCH )

**PETITION FOR ADMINISTRATIVE REVIEW**

Petitioners, Lawrence Shirk and Wisler Mennonite Church (may be collectively referred to herein as “Petitioner”), by counsel, respectfully petition for administrative review of IDHS’s denial of Petitioner’s application for a variance with respect to the Sprinkler system requirements under the applicable building code for the church building project at issue. In support of this Petition, Petitioner states:

1. On or about September 15, 2021, Petitioner filed the Application for Variance (Variance No. 21-10-37; Variance ID: 21258) (the “Variance Application”) with respect to the newly completed Wisler Mennonite Church building constructed in Kosciusko County at that real estate commonly known as 12745 W. 800 S., Rochester, Indiana (“Real Estate”). The completed church building includes a total approximate area of 9,824 square feet (comprised of an unfinished basement containing approximately 4,077 square feet and the first-floor level, with the sanctuary areas, containing approximately 5,747 square feet).
2. Through the Variance Application, Petitioner sought a variance from the Sprinkler system requirements under the applicable building code for a Group A-3 occupancy.
3. On October 26, 2021, Petitioner received the IDHS Order (“Order”) of the same date denying the Variance Application. A true and correct copy of the Order is attached hereto as Exhibit A.

4. The Order denying the Variance Application is directed to each Petitioner with respect to Variance No. 21-10-37 (SBC Project No. 419509). *See* Exhibit A.

5. Petitioner, Wisler Mennonite Church, is the owner of the church building constructed on the Real Estate. Petitioner, Lawrence Shirk, is a member and deacon of Wisler Mennonite Church and has acted for and on behalf of Wisler Mennonite Church with respect to the new church building, including as to the Variance Application. Petitioner is aggrieved or adversely affected by the Order for reasons that include: a) Wisler Mennonite Church has incurred significant expense to construct a new church building on the Real Estate and it is not feasible to utilize such church building for its intended purpose absent approval of a variance from the Sprinkler system requirements at issue consistent with that requested in the Variance Application; b) Petitioner relied on statements from the IDHS inspector/code official previously assigned to the Wisler Mennonite Church building project, Kevin Whitesel, with respect to the likely grant of a variance from the Sprinkler system requirements at issue based on the acknowledged hardship existing under circumstances; and c) the Order fails to provide any meaningful factual or legal detail supporting the denial of the Variance Application.

6. Petitioner established through the Variance Application that imposition of the Sprinkler system requirements at issue in the newly constructed church building, with its lack of a required water supply, would result in undue hardship because of excessive costs of the additional or altered construction elements (with the estimated cost of the Sprinkler system, absent a variance, to exceed fifty percent (50%) of the building cost and no indication in the Order as to consideration of any exception, as may be applicable, to Section 903.2.1.3 with respect to those fire areas “used primarily for worship with or without fixed seating areas” and/or other feasible conditions that

could have been imposed as part of granting the Variance Application). Petitioner further established that Petitioner would undertake alternative actions in lieu of compliance with the Sprinkler system requirements at issue to ensure the granting of the Variance Application would not be adverse to public health, safety or welfare.

7. Petitioners are represented in this proceeding by the undersigned counsel, Randall L. Morgan, of the law firm of Snyder Morgan Federoff & Kuchmay LLP, whose contact information is set forth below.

WHEREFORE, Petitioners, by counsel, respectfully petition for administrative review of IDHS Order dated October 26, 2021 denying the Variance Application, together with all other appropriate relief.

Respectfully submitted,

SNYDER MORGAN  
FEDEROFF & KUCHMAY LLP

By: /s/ Randall L. Morgan  
Randall L. Morgan, Atty. No. 18087-49  
200 West Main Street  
Syracuse, Indiana 46567  
Telephone: (574) 457-3300  
rlm@smfklaw.com  
Attorneys for Petitioners

CERTIFICATE OF SERVICE

I certify that, on November 10, 2021, a true and correct copy of the foregoing document was mailed to the following via U.S. certified mail, return receipt requested, postage prepaid:

Indiana Department of Homeland Security  
Fire Prevention and Building Safety Commission  
Attn: Chairperson  
302 W. Washington St., Rm. E208  
Indianapolis, IN 46204

I further certify that, on November 10, 2021, a true and correct copy of the foregoing document was served upon the following via electronic mail:

Marcus Ballenger, Building and Fire Code Specialist  
Division of Fire and Building Safety – Code Services  
Indiana Department of Homeland Security  
[MBallenger@dhs.IN.gov](mailto:MBallenger@dhs.IN.gov)

/s/ *Randall L. Morgan*  
Randall L. Morgan



ERIC J. HOLCOMB, Governor  
**STATE OF INDIANA**  
 DEPARTMENT OF HOMELAND SECURITY

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

October 26, 2021

LAWRENCE SHIRK  
 Wisler Mennonite Church  
 4920 E SR 110

ROCHESTER, IN 46975

Dear LAWRENCE SHIRK,

This letter provides notice of the action taken on your application(s) for a variance(s) from the Commission's rules under IC 22-13-2-11.

| Project Number | Project Name            | Variance Number |
|----------------|-------------------------|-----------------|
| 419509         | Wisler Mennonite Church | 21-10-37        |

**Conditions**

| Edition | Code                                  | Code Section                    | Action & Date              |
|---------|---------------------------------------|---------------------------------|----------------------------|
|         | Other Code (Not in the list provided) | 903.2.1.3 Group A-3<br>2014 IBC | Not Approved<br>10/26/2021 |

If you have any questions regarding this order, you may contact that Department at (317) 232-2222.

**ADMINISTRATIVE REVIEW**

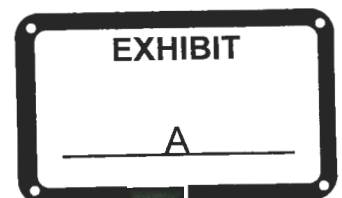
If you desire administrative review of this order, you must comply with the requirements of Indiana Code IC 4-21.5-3-7 and file a written petition for review within fifteen (15) days after receiving notice of this order. Your petition for review must state facts demonstrating that you are: (1) a person to whom the order is specifically directed; (2) aggrieved or adversely affected by the order; or (3) entitled to review under any law. You may submit your petition by one of the following methods:

**U.S. MAIL OR PERSONAL SERVICE**

Indiana Department of Homeland Security  
 Fire Prevention and Building Safety Commission  
 302 W. Washington Street, Rm. E208  
 Indianapolis, IN 46204

**ONLINE**

By completing the form at  
<https://www.in.gov/dhs/appeals.htm>





For additional information about the administrative review process and applicable templates that may be used for filings, visit the following link

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

