



December 26, 2018

Douglas J. Boyle  
Director - Fire Prevention and Building Safety Commission  
c/o Office of the General Counsel  
Department of Homeland Security  
302 W. Washington Street Room E-208  
Indianapolis, Indiana 46204



BUILDING CODES  
♦  
FIRE PROTECTION  
♦  
JCAHO/CMS/HFAP

**Response to Petition for Sanctions to be Imposed  
Variance 18-10-27**

Dear Doug:

We are in receipt of your email notice dated December 19, 2018, regarding the Petition for Sanctions to be Imposed (hereafter referred to as "Petition") on previously granted Variance 18-10-27, in which notice is given that the petition will be discussed at the January 3, 2019 Commission hearing. A copy of the Petition was included in your email.

On behalf of Eric and Joyce Erwin, owners of the subject property at 1005 Fox Hunters Point, New Albany, Indiana, this letter is in response to certain statements in the Petition.

Based upon the facts as we understand them, we wish to refute or clarify certain statements in the Petition, as follows:

1. Regarding the statement in Items 8 and 9 from the Petition, the rules of the Fire Prevention and Building Safety Commission (hereafter referred to as "Commission") do not require adjoining property owners to be notified of variances filed from rules of the Commission.
2. Regarding Item 11 of the Petition, the LP tank in question has been in place for approximately 14 years, and is placed at a distance of approximately 13 feet (10 feet or greater) from the property line adjoining the residence at 1001 Fox Hunters Point, as required per the applicable code provision. Any grievance regarding the location of the LP tank with respect to said property line is in fact not based upon any applicable code requirement.
3. Regarding Items 12 and 13, variance exhibits including any drawings are uploaded using the online filing portal accessible from the Department of Homeland Security (DHS) website. The online filing system has been in place for over four (4) years.
4. Regarding Item 14, the distance between the edge of the buried LP tank and the foundation wall of the garage has been field-verified as 5'11". The variance states that the distance is "approximately 6 feet". We have attached a site plan, as well as photos of the measurements as they were taken. Note that the measurement is taken from the point identified as the edge of the tank, and not the edge of the fill cap cover. The statement in the variance regarding the distance is accurate, if we take a difference of 1 inch variance as "approximate".
5. Regarding Item 15, any objection to the statement of hardship on the previously approved variance is irrelevant when considering the imposition of a sanction per 675 IAC 12-5-9, as the validity of any hardship statement is not one of the specifically four (4) enumerated causes for the imposition of a sanction in Rule 5, Sec. 9c, unless it is a demonstrably "false or misleading statement". This is manifestly not the case with regard to the previously approved variance request.

6. Regarding Items 16, 17, and 18, it is true and correct that the New Chapel Fire Department is contracted to provide emergency response to the unincorporated portion of New Albany Township, in which the subject property is located. A corrected version of the previously approved variance application has been filed (Variance ID# 19050), which includes notification of the New Chapel Fire Department, as required.
7. Regarding Item 19, the owner's signature for the previously approved variance was obtained electronically (see Item 3 above in this letter).
8. Regarding Item 20, there is no requirement for the Commission to consider the interests of adjoining property owners as among those taken into consideration in granting a variance request. As noted above in Item 2, the specific violation cited in this instance does not in any way involve the location of the existing LP tank with respect to the property line adjoining the residence at 1001 Fox Hunters Point.

Thank you for your attention to this matter. If you have any questions, please let us know.

Very truly yours,

RTM Consultants, Inc.

*Edwin L. Rensink*

Edwin L. Rensink  
Principal

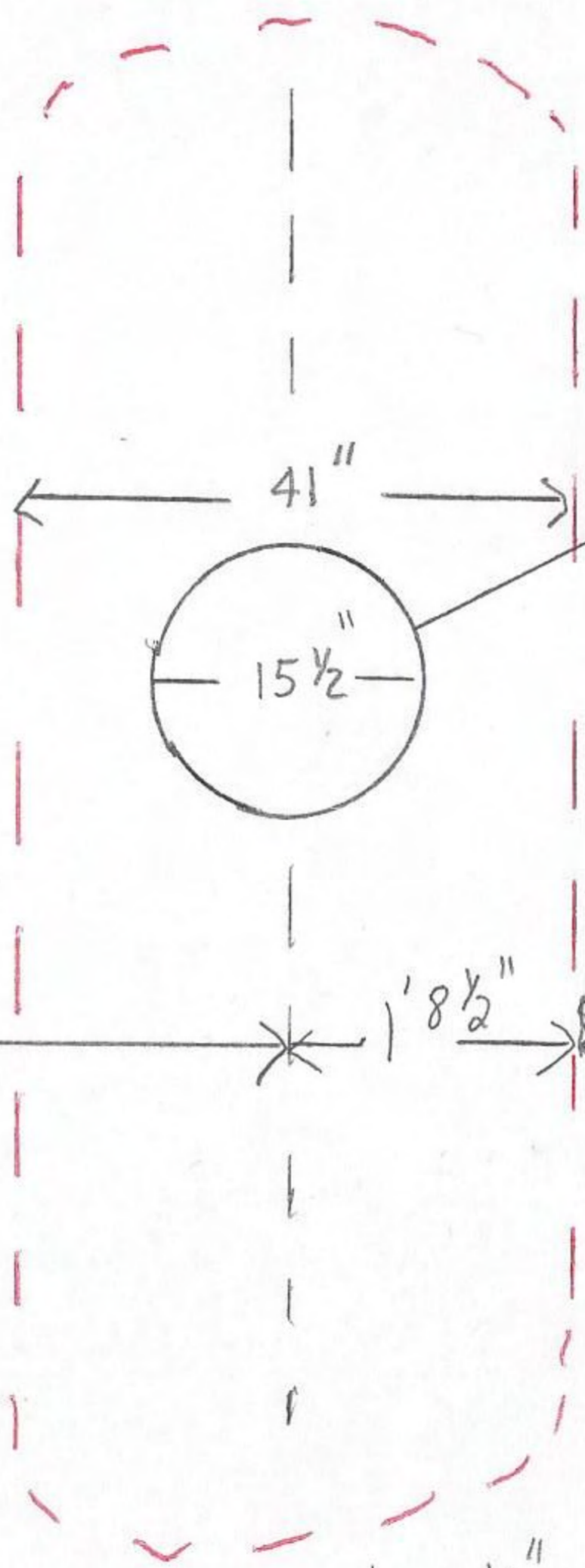
cc:

elr

PROPERTY LINE

SILT FENCE

GARAGE WALL



FILL VALVE COVER ABOVE GROUND

Grey Pipe Identifying Edge of TANK

14' 10"

1' 8 1/2"

5' 11"

22' 5 1/2"

15 1/2"

41"

## Ed Rensink

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**Subject:** FW: Measurement Photos

**From:** Eric Erwin [<mailto:hdriver0749@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 <[hdriver0749@yahoo.com](mailto:hdriver0749@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  
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