



MEETING RESULTS ZIONSVILLE BOARD OF ZONING APPEALS

Wednesday, January 4, 2023

6:30 PM (Local Time)

THIS PUBLIC MEETING WAS CONDUCTED ONSITE AT ZIONSVILLE TOWN HALL IN ROOM 105 (COUNCIL CHAMBERS), LOCATED AT 1100 WEST OAK STREET:

The following items were scheduled for consideration:

- I. Pledge of Allegiance
- II. Attendance **5 of 5 members attended. (In-person - S. Mundy, C. Lake, A. Pickell, K. Postlethwait, L. Jones)**
- III. Election of Officers **S. Mundy – Chairman; L. Jones – Vice Chair; M. Dale – Secretary**
- IV. Approval of the December 7, 2022, Minutes **4 in Favor, 1 Abstention**
- V. Continuance or Withdrawal Requests

Docket Number	Name	Address of Project	Item to be considered
2022-66-DSV	C. Barnes	4757 Madras Court Zionsville, IN 46077	Automatic continuance to the February 1, 2023, BZA Meeting due to untimely publication notice. Petition for a Development Standards Variance to provide for an outdoor patio and amenities which exceeds the allowable lot coverage in the Urban Single-Family Residential Zoning District (R-SF-2).

VI. Continued Business

Docket Number	Name	Address of Project	Item to be considered
2022-57-DSV	M. Godbout	10703 Barrington Way Zionsville, IN 46077	Approved as presented & filed w/ exhibits & per staff report for a 15' rear setback. 5 in Favor, 0 Opposed Petition for a Development Standards Variance to decrease the rear setback to provide for a swimming pool in the Holliday Farms Planned Unit Development.

VII. New Business

Docket Number	Name	Address of Project	Item to be considered
2022-64-DSV	A. Miller	2626 S. 875 East Zionsville, IN 46077	<p>Approved as presented & filed w/ exhibits & per staff report subject to a recorded commitment for a completion date of the single-family residence. 5 in Favor, 0 Opposed Petition for a Development Standards Variance to provide for a detached barn in which the accessory structure is permitted prior to the primary structure on a parcel in the Rural Single-Family Residential Zoning District (R-1).</p>
2022-65-DSV	Chelsea Park	11400 Templin Rd (est.) Zionsville, IN 46077	<p>Approved as presented & filed w/ exhibits & per staff report. 5 in Favor, 0 Opposed Petition for a Development Standards Variance to provide for an increased height of the entry monument signs in the Rural Single and Two-Family Residential Zoning District (R-3).</p>
2022-67-DSV	L. Gangstad	8250 W. 96 th Street Zionsville, IN 46077	<p>Approved as presented & filed w/ exhibits & per staff report. 5 in Favor, 0 Opposed Petition for Development Standards Variance to provide for an accessory structure which: 1) Exceeds the permitted accessory square footage 2) Exceeds the allowable height for an accessory structure in the Rural Equestrian Zoning District (RE).</p>
2022-68-DSV	Brick Street Holdings LLC	175 S. Main Street & 70 E. Pine Street Zionsville, IN 46077	<p>Approved as presented & filed w/ exhibits & per staff report subject to the condition that the Petitioner approach Town Council to consider an ordinance establishing the temporary loading zone in the alley. 4 in Favor, 1 Opposed Petition for a Development Standards Variance to provide for a mixed-use development which: 1) Exceeds the allowable building height 2) Reduces the parking drive aisle width 3) Reduces the size of the loading space in the Urban Village Business Zoning District (VBD).</p>
2022-69-DSV	Courtyards of Russell Oaks	8901 & 9085 E. Oak Street Zionsville, IN 46077	<p>Approved as presented & filed w/ exhibits & per staff report subject to Plan Commission approval of the revised concept plan associated with 2022-53-PP / 2022-54-DP and a recorded commitment brought forth by the Petitioner. 5 in Favor, 0 Opposed Petition of a Development Standards Variance to reduce a front yard setback for a single-family residential development in the Rural Single Family and Two-Family Residential Zoning District (R-2).</p>

VIII. Other Matters to be considered:

Docket Number	Name	Address of Project	Item to be considered
			None.

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In Attendance: Steve Mundy, Chris Lake, Andy Pickell, Kathi Postlethwait, Larry Jones

Staff attending: Mike Dale, Janice Stevanovic, Suzanne Baker, Dan Taylor,
attorney

A quorum is present.

Mundy Call to order the January 4, 2023, not '22, meeting of the Board of Zoning Appeals. The first item on this agenda is the Pledge of Allegiance and we'll ask the audience to join us.

All Pledge of Allegiance.

Mundy The next item is attendance. Mr. Day, can I ask you to do that?

Dale Mr. Jones?

Jones Present.

Dale Ms. Postlethwait?

Postlethwait Present.

Dale Mr. Pickell?

Pickell Present.

Dale Mr. Lake?

Lake Present.

Dale Mr. Mundy?

Mundy Present. Thank you.

The next item is election of officers. It is January. We have a President, a Vice President and a Secretary and the Secretary is always the easy one. The President and Vice President would have to be one of the five of us. So even though I sit in that seat, I would invite anyone else who would like to have their turn at it to step forward and say so now.

Lake But you're doing such a good job.

Mundy The bar is not very high.

Postlethwait Is it appropriate to move to keep the same slate of officers as we've had in the last year? If so, I so move.

Pickell I'll second.

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Postlethwait You feel like you've been –

Mundy We, we have a motion and a second. Is there any further discussion? Hearing none, all those in favor of having Larry Jones remain Vice President, Michael Day remain as Secretary and myself remain as President, please say aye.

All Aye.

Mundy Opposed same sign.
[No response]

Well, thank you.

The next item is the approval of the December 7, 2022 minutes. Those are in your packet. Are there any corrections, changes or questions to those minutes? Hearing none, is there a motion?

Postlethwait So moved.

Mundy That's a motion to approve?

Postlethwait Yes.

Mundy Thank you Mrs. Postlethwait. Is there a second?

Pickell Second.

Mundy Thank you Mr. Pickell. All in favor please say aye.

All Aye.

Mundy Opposed –

Lake I'd like to abstain since I was not present at the meeting.

Mundy Thank you Mr. Lake. Duly noted. Those minutes are approved.

We do have a, an automatic continuance Docket Number 2022-66-DSV, C. Barnes at 4757 Madras Court in Zionsville, continuation to the February 1, 2023 meeting. The notice was not placed in the paper at the appropriate time so we will see that docket item next month.

That takes us to Docket Number 2022-57-DSV, M. Godbout, 10703 Barrington Way, Zionsville, Indiana. It is a, a continuance from November 2nd. It is a Petition for Development Standard Variance to decrease the rear setback to provide for a swimming pool in the Holliday Farms Planned Unit Development. Mr. Godbout, are you here? Are you going to be representing yourself?

M. Godbout Yes.

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Mundy We'll ask you to come to the podium please. If you would state your name and address please for the record.

M. Godbout Hey, we have someone else being on a call too so will they be able to get on the call here for the Zoom?

Mundy I'm sorry – you, you think there's – let me check. Do we have – someone was going to virtually attend?

M. Godbout He's calling in.

Mundy Oh. Do you have any, any online?

IT _____ inaudible off microphone 8:51

Mundy I'm sorry. Who, who is calling in?

M. Godbout His name is Ron Frushon.

?? Did they say? 9:08

_____ 9:12 Conversation off microphone

Mundy And do you know if he is calling in as a remonstrator? What is he?

?? What did you say?

Mundy Is he making a call in to speak to this petition?

?? Yeah to this petition.

Mundy Okay, all right. He will have his turn unless he is your representative.

M. Godbout No.

Mundy All right. He'll have his turn then to do that. And before we proceed also, I apologize but I think we should – also, I'm not sure how notices were all given but we have allowed for the use of First-Class mail in light of the pandemic versus certified mail so if we could have a motion to waive our rules and continue to allow for the use of First Class mail I would appreciate it.

Lake So moved.

Mundy Thank you Mr. Lake. Is there a second?

Pickell Second.

Mundy Thank you Mr. Pickell. All those in favor please say aye.

All Aye.

Mundy Opposed same sign.
 [No response]

Very good. We've got that matter covered. All right, now back to [excuse me] Docket Number 2022-57-DSV, Mr. Godbout, if you would for the sake of the minutes, state your name and address and then the request you are making of the Board of Zoning Appeals.

M. Godbout Okay. My name is Matt Godbout, we live at, are building a house at 10703 Barrington Way in Zionsville in Holliday Farms. So the variance is we were here back in November and met with you all and were actually surprised when we got an email from Janice here at the city or the town inviting us back to discuss the variance. We left with the instructions that you guys gave us in order to come back and get HOA approval and we were surprised when I got that email from Janice inviting us back saying that they will reiterate this original recommendation of approval for the variance without HOA approval. So, I called her because I was confused because I'm not sure – I hadn't talked, obviously, to anyone on the Board here so when she called and said we're inviting you back to do this, with a lot of miscommunication that's been going on I didn't want to come back in here and have you guys go what are you back here? You guys haven't done this and so I called her and we talked and she had mentioned that she is the town and met with you and counsel and discussed out situation, sent us an email inviting us back to come and talk about that variance again to seek approval on it. So –

Mundy And I think we were all present for the initial discussion. And I think that I'll rephrase – I think the message you got and that is that I think we were advised that we need to make that decision for ourselves. The, any decision that is done by the Architectural Review Board at Holliday Farms is their business and so that's the reason we suggested if you wished to come back now that would be fine.

M. Godbout Yeah, we understand that completely of what you guys, the, the variance has nothing to do with HOA approval. So, we understand that completely. That's two separate things, two separate situations but based on the building permit we were granted and the discussion I had with, with the, with the, with the town, it was recommended from the town that we come in front of you guys and get the, the variance approved or submitted based on that and to go through the proper steps in getting this thing, variance done so.

Mundy Very good. I'll ask if there's any questions from the Board members for Mr. Godbout?

Postlethwait Well I am, I'm confused because my recollection is that when, when they were here in November we determined that without the approval of the Architectural Committee and the HOA that we would not act and now do I understand that we would act independently of the Homeowners and the Architectural Committee of Holliday Farms?

Mundy I will ask our counsel to –

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- Postlethwait Okay.
- Mundy Go through an explanation.
- Postlethwait Okay. That would be great. Thank you.
- M. Godbout Can I say something? This is the confusion that we thought we were going to run into.
- Postlethwait Okay.
- M. Godbout It was my understanding when I called the town that she had made it sound like you guys had talked and the reason why we're coming back here – I was hoping that I wasn't going to hear that question.
- Postlethwait I apologize so.
- Taylor Yeah, so the, the HOA's Architectural Review is based upon the private covenants that run with the land when the Godbouts and the other property owners obtained their deeds it, it bound them to those private agreements and that's between those landowners. The HOA has the right to enforce those as does each private owner of each lot. What the, what the courts have said is that those private covenants are just that. They're private and they are beyond the authority of BZAs to consider. When considering variances, it may be for the same thing like in this case it is the same thing, but it's beyond our authority and so the BZA should consider the request without reference to the private covenants because that's really none of our business. In addition to that, it's not the town's job to administer those covenants so what, what I recommend you do is that you consider the request for a variance on its own. If you approve a variance that doesn't help the property owners with the Architectural Review Committee. They still have to solve that issue on their own and if you deny it then it's, it's the same thing. It doesn't affect the private covenants and so that's, that's my advice and it's, we encounter this – I, I encounter this everywhere I go so this is a common problem is what about those private covenants and the courts have said the BZA should steer clear of that issue entirely because it's not your issue.
- Postlethwait Okay. That helps me –
- Taylor Okay.
- Postlethwait Thank you very much.
- Taylor Thank you.
- Postlethwait I do have a second question which hopefully will be a little easier. I know that when you were here in November we talked about whether that the variance that you need is a consistent foot measurement because you had some doubts that perhaps it would be, if memory serves, is it 12 feet setback? I don't remember.
- M. Godbout It's 25.

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- Nielsen The setback is 25 foot.
- Postlethwait 25 feet but you were going to be and –
- Nielsen It's 16.
- Postlethwait The, the question was it was not consistent and had you, you were going to check to be sure that the pool was located in a way that it was –
- Majestic We, we checked and it's . Inaudible off microphone 16:15
- Mundy If you, if you could come to the microphone please and identify yourself.
- Postlethwait Yeah, I see 25 to 16.
- Majestic I'm sorry. My name is Dan Majestic. I represent the Perma Pools. So we did go back and do the measurement and we're 15, 15 feet from the, the back side of that property.
- Postlethwait Okay.
- Jones And that's the, the minimum, correct?
- Majestic I'm not sure.
- Jones The minimum dimension?
- Majestic Yes.
- Jones Okay. The plot plan that we have had a note on it of 16 foot.
- Majestic Yeah we, we went back and re-measured it and it, it was, it's like 15 feet 5 inches or so, so that's – and, and I, I do want to remind you guys the, the reason why we're here is that we weren't really, when we were designing the, the pool location for the Godbouts we, we didn't even know of this 25-foot setback to begin with so, so we were looking at it normally in most situations you look for about a 15 or a 10-foot variance between the end of that property.
- Postlethwait So there would have to be a change in our documentation because what we have here is a deviation to 16 feet –
- Lake Yeah, we'd have to change our motion.
- Postlethwait Right.
- Majestic Yes and, and we did make that change that we sent to you guys.
- Mundy Our, I think our information here still says the –
- Postlethwait Right.

Mundy Petitioner is requesting a 16-foot so that needs to be 15 feet.

Majestic Yes.

Lake To be safe.

Jones And just to add to what Kathi was saying, I think the real request we had at the November BZA meeting was to make, to see if you would go back and talk to the HOA and the Architectural Review Board to see if there would be any different outcome to what has previously been referenced. So it, I don't think there was a mandatory approval just that we, that it go back through again. I got something else but I'll wait for a minute to see if somebody else has something to say.

Lake No, I think the only thing I was noticing was the aerial photo that was submitted off of Think GIS shows an adjacent property owner with structures way closer to the property line than –

Jones Yeah.

Lake 25 or than 15 foot even so.

Majestic Yeah, I will tell you. I mean I did, I, I won't say I took a little peek over there, it's probably about 9 feet or so –

Lake Okay.

Majestic Away from the property line.

Lake So, again, I think that's between you guys and the –

Majestic Yeah, I mean, I mean –

Lake The HOA.

Majestic If, I was just, out of curiosity, I mean, here we're talking about all these things –

Lake Yeah.

Majestic And, and the reality is the neighbor right next door has already breached that, that issue.

Lake Okay. Thank you.

Jones So the biggest issues I have is, is one, on the plot plan it does call out what the rear setback should be. So I'm, I'm always – I'm a little reluctant to grant a variance that overrides something where it's kinda clearly stated on the plot plan. Now, we disagree with the fact that it's not actually physically shown. Secondly, there's the outstanding issue that the granting of a permit does by the city, by the town does not require a HOA sign off. They're independently running operations and they, while they probably should overlap or, or sync up, they don't. Currently, either – is it with the BZA or the Plan Commission – we have another

plan proposal from Holliday Farms for an existing residence that one of the things we pushed back on is that while they are requesting some changes in their property line, we are aware of other structures that seem to also overlap the setbacks and we've asked them to clear up their own house. And finally, we as a town do not actively go out and look to enforce covenants, setbacks. We deal with them when they're brought before us but they're not an issue that we go and actively search out. Hence, when we look at our aerials, we can clearly see what should be considered a violation but it doesn't appear to be getting pursued and it's really not us, up to us to actually instigate anything one way or the other but it gives us a little bit of guidance as to what's going on and given the fact that this setback is arbitrary might be a little overstating, there's nothing that it's really butting up to that requires any kind of setback. There's no drainage easements, there's no utility easements, there's no roads, there's no other properties – it's, it's a setback from what isn't really considered common area since it's part of the golf course. It is a setback off of nothing.

Lake There is a 10-foot drainage and utility easement –

Jones Correct.

Lake On the back of the property.

Jones Correct. Sorry, yes, I see that.

Mundy Thank you Mr. Jones. That's probably, I think, what we have just heard from the property owner. If there are no other questions for Mr. Godbout are there any, is there anyone here or anyone online who has called in wish to remonstrate for or against this project?

IT We have one guy on.

Mundy Can you bring them up please? Okay.

Daniel
Majestic I'll probably just talk for him. Hey I had – my name is Daniel. I'm a part of Perma Pools.

Mundy Oh sorry – could you state your name again?

Daniel
Majestic Oh. My name is Daniel Majestic. The one question I had for you guys is on the plot plan, what are you, do you classify as a pool as a primary structure or a secondary structure or accessory structure? Because usually with those setback – in Carmel, Zionsville, usually the 25-foot is for the primary structure which is a house versus a, a secondary or accessory structure.

Mundy I'll refer to staff to answer that question but I think we, we consider it an accessory structure, a pool also.

Daniel
Majestic So –

Mundy Correct?

Taylor Well but it's, it's a, it's not under – it's a PUD. So the difference, the different treatment is because of the way the PUD was written. So it's not the Zionsville Ordinance which really applies, it's that PUD Ordinance which applies and the treatment of accessories under that and that's what I – I mean, I'm correct staff? Yeah. So that's the issue is that Holliday Farms is a PUD so you can't look to the Zionsville Ordinance to find out the rules about the, the accessory use and how a pool is classified because when the PUD was written by Holliday Farms, they, they didn't make such a distinction.

Daniel Majestic So it's a secondary versus a primary?

Taylor Correct.

Daniel Majestic Or accessory?

Taylor For how it would be treated what setback would be required.

Daniel Majestic Okay.

Taylor It's a good question and that, but that's, that's why there's difficulty there.

Mundy Thank you. Is there anyone else? Hearing none, and the staff have your report unchanged?

Baker I can give a brief overview. Like the petitioner said, this was continued from November 2nd. Since then they've re-noticed and are being heard this evening. As we mentioned previously, the pool permit was issued a permit in error. Why, while the setback was to be 25 feet, they showed a 16-foot setback and I also wasn't aware until this evening that it was a 15-foot, that it's actually 15 feet so we were under the impression that it was 16 feet. We recommended that the petitioner come to the BZA to remedy the situation. As was just discussed, in other zoning districts we allow for accessory structures to encroach further into the primary structure setback, however, in Holliday Farms it doesn't indicate that. Also, the pool is encroaching further into a common area or the golf course and not necessary, necessarily a residential lot. So with that, staff is in favor and supportive of the variance request and happy to answer any other questions.

Mundy Thank you. Are there any questions for staff?

Jones Just to clarify one thing – if the pool was coming up under our typical zoning classifications, it would be considered an accessory and not a primary?

Baker Correct.

Jones And then would be allowed?

Baker I think for a lot of zoning districts I think it would be like a 10-foot rear setback or 15-foot rear setback for accessory structure.

Jones So, part of the issue is also on Holliday Farm for not clarifying any kind of difference between primary and accessory structures which puts their PUD kind of at – the upside of PUDs is that they allow the developer to create his own set of rules and regulations but on the other side, he can also create a certain amount of confusion. Correct?

Baker You're correct. Yes.

Mundy Any other questions for staff? Any further discussion among the Board? Hearing none, is there a motion?

Weber _____ 27:09 inaudible off microphone

Mundy I'm sorry?

Weber _____ 27:12 inaudible off microphone

Mundy If you'd come – are you asking to speak, sir?

Weber Yeah.

Mundy Would you come to the, the podium please?

Weber My name is Brad Weber. I live at 10683 Barrington Way right next to Mr. Godbout's house. Good evening. I'd like to start by saying the placement of the Godbout pool negatively impacts my property by blocking the view of the second fairway. When we selected that lot based on this location and this is why we are against the variance. At one time my wife and I considered actually putting a pool in too but we were clearly made aware of the strict 25 setback, 25-foot setback rule and, therefore, we didn't feel there was room to put a large pool in. I understand that the decision by the BZA is independent and not contingent on the HOA's decision but I do understand that for the Godbouts to proceed, they need both the BZA and the HOA's approval. In their dealings with the HOA, the Godbouts and Perma Pools, were made fully aware of the setback requirements contained in the PUD Ordinances and the letters that came from the HOA clearly spelled those out. While your decision is independent of the HOA decision, the process that the HOA required and the letters that were sent out, clearly show that the Godbouts were aware of the setbacks. While you can argue that the Town of Zionsville made an error in granting the permit both to the homeowner and to Perma Pools, they knew the setback requirements of the property. Interestingly, at the last hearing in November, Perma Pools seemed unaware that neighborhoods had covenants and setbacks despite the fact that they've built hundreds, maybe thousands of pools in the areas of Carmel and Zionsville and Fishers. But the ultimate responsibility of knowing the ordinance and the covenants are the homeowners. While the permit was issued, the fact that the _____ 29:35, it is the homeowner and the installer, again, had to be aware of a setback through denial, I'm sorry, through the denial they received from the HOA. If not the homeowner, then Perma Pools would definitely know they

would need to have a variance for approval from the BZA. It appears to me that someone knowingly put the pool in in violation of the setback requirements in hopes that once the pool was in the ground the HOA and BZA would back down and simply approve it and the reason I back that statement up is the fact that just a little over a week prior to them digging a hole they again received notification from Phil Sundling who is one of the engineers from Henke Development that said your pool is not approved and yet Perma Pools and Matt Godbout went ahead and dug the hole and then for the next six weeks Henke Development continued to send them weekly emails saying your pool is not allowed and yet they pushed it through. In addition to the impact on our property, you must deny this variance for the simple reason this would set a very dangerous precedent that allows property owners to simply build things and then to come back here and ask for a variance later. Thank you.

Postlethwait I wonder – I have a question. May I ask you a question please?

Weber Sure.

Postlethwait You mentioned that in your comments that one of your complaints is that this pool is an obstruction in your view of this particular hole on the golf course. In what way? Are you talking about the landscaping that you anticipate will go in or are there, are there going to be other outbuilding structures or?

Weber In our PUD Ordinance, different sections have different setbacks and this was clearly identified. We used the same builders that Godbouts. We had multiple discussions with Sigma Builders of how far your porch can go back and if you put a pool in how far it can go back so the idea that they didn't know about the setbacks is simply ridiculous. In terms of obstruction, yes, if you want a pool in, fine, put a pool in, follow the rules. Don't put a pool in that goes to the back of your, of your lot because it's not just the pool but there's obviously landscaping that's going to go in around it too and both of those are going to contribute to the obstruction.

Postlethwait Okay but taking the role of the devil's advocate, it is also possible that even without a pool they would be putting landscaping in their yard that might obstruct your view of the particular golf hole you're talking about. Is that not right?

Weber Correct.

Jones I've said it before, I'll say it again tonight but I'll say it right now – you don't own the view and we hear it often in the BZA and the Plan Commission about people who enjoy the view of the woods, the creek or the pond or whatever but it was on someone else's property. The same situation here. While you may have purchased a lot anticipating a view, you don't own it and as much as whatever's going on next door is not particularly, oh I don't know, copacetic with what's going on, it, it's still, it's not, it's not the, the view of hole number 2 is not yours to claim. Anticipated –

Weber I agree 100%. You don't own a view but, but I also expect my neighbors to be considerate and respectful to follow the rules and, and the rules are you weren't

supposed to put in a pool unless it's abided by a 25-foot setback. I want to bring up one other point. I, I'm not trying to be a difficult neighbor. My wife and I moved to the neighborhood and want to get to know people, want to be considerate and want to be respectful and, interestingly, this is somewhat a separate issue but we're not bad neighbors and, and Sigma Builders, unfortunately, when they built the house somehow it was left out of the drawings that the driveway would have to sit on a water easement. So last June, Sigma Builders came to us and said we've got a problem with this lot. We have to put the driveway on a water easement and we could've fought it. I, I don't know if we would've won or not but we, so we said that's, that's not the Godbouts' fault that the house was designed that way and that the driveway was, was designed that way but we agreed to say sure, you can put your driveway on the water easement. Sigma Builders were going to sit down and put in a, some type of French drain after the driveway's there to protect both our property and also the driveway and, interestingly, about a week or two after we met with Sigma Builders I saw Matt and his soon-to-be wife, Sandra, out at the lot, went over and introduced myself to them and we talked about the driveway, placing this on the, the water easement. We also talked about the pool and at that time I even told them, yeah, my wife and I thought about putting in a pool but we didn't think it was going to fit because of the 25-foot setback. And they may not remember that conversation, but I truly believe they, they put the pool in, they were notified by Henke that it hadn't been approved and they tried to push it forward basically so, so that the BZA and the HOA would back down and just approve it and, and I don't think bad behavior should be rewarded.

Mundy Any ques, any other questions for Mr. Weber? Thank you Mr. Weber. Any other discussion among the Board? Are there any other remonstrators? I'm sorry, Mr. Weber, I thought that I had asked that already and wasn't aware that you had an interest. Seeing no others, is there a motion?

M. Godbout I'd like to say something.

Mundy Go ahead Mr. Godbout.

M. Godbout 36:09 inaudible a lot of that was not true and he, again, is questioning my character which he did last time we went through this –

Mundy Would you get –

M. Godbout And, and I don't, I don't appreciate that and it's going to be – for him to question my character like that and lay out some of that stuff that's simply not true is very, I, I mean, it – like I said last time, I'm a pretty even, even keeled guy but that, that's not, that's not the right way to handle this is to come up here and say those kind of things. That's questioning my integrity and my character in this situation.

Mundy Thank you. All right, I'm going to ask again – is there a motion then on this petition?

Nielsen To the Board members, my name is Cassandra Nielsen. I'm an attorney on behalf of the Godbouts, I'm here in a representative capacity as well. I also happen to be –

- Postlethwait Apologies – could you move closer to the mic?
- Nielsen Oh, I'm so sorry – normally my voice projects –
- Postlethwait Yeah, that's –
- Nielsen And normally this is never a problem as a swim coach so that's the first time that's ever happened. Again, my name is Cassandra Nielsen. I'm an attorney with Stoll Keenon & Ogden. I represent Mr. Godbout and Ms. Siegel in this matter. I am here in a representative capacity as well. I'm happy to answer any questions that the Board might have as well as to give kind of a brief summary as to what we're asking and why this variance should be granted as well and just kind of sum everything up if the Board would like to hear that or not.
- Mundy Are there any questions? I think the only point, I think, from a Board perspective we would like to – and it's already been said but that even if this is approved by this Board it still does require the approval of the Architectural Review Board of the development.
- Nielsen And that is, and that is absolutely correct as Mr. Taylor pointed out. You know, the setback requirement is contained solely within the PUD, it's enforceable solely by the Zoning Ordinance enforceable by the BZA. The BZA we would submit cannot make Architectural Review Board approval, a condition precedent to the grant of the variance. They're two, they're two separate things. So my clients certainly acknowledge that there is still this hurdle of, of ARB approval ahead of them but the issue here is that they have demonstrated the, the propriety of the variance for purposes of the BZA and for the grant and for the grant of the variance and I'll and I'll just kind of sum up here. There's been a lot of issue that has been raised about the procedural aspects of this variance petition, any alleged deficiencies of how Ms. Siegel and Mr. Godbout went about this process, etc., which even, even if they're true, which obviously, Mr. Godbout and Ms. Siegel vehemently deny, they're frankly irrelevant to the determination of the variance petition. The question is whether the request of relief meets the zoning standards? The standards for the grant of a development standards variance which we would submit that, that it does.
- Mundy Thank you. All right, we still are in need of a motion on this petition.
- Postlethwait Okay. I move that Docket Number 2022-57-DSV, Development Standards Variance to provide for a deviation of the rear yard setback to 15 feet for the construction of a swimming pool for the property located at 10703 Barrington Way in the Holliday Farms Planned Unit Development be approved as presented and described based on the Findings in the staff report and staff recommendations, submitted Finding of Fact and substantial compliance with the submitted site plan.
- Mundy Thank you Mrs. Postlethwait. Is there a second?
- Jones Second.

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Mundy Thank you Mr. Jones. Any further discussion? All those in favor please indicate by saying aye.

All Aye.

Mundy Opposed same sign.
[No response]

The motion is approved. Thank you.

The next item on the agenda is Docket Number 2022-64-DSV, A. Miller at 2626 South 875 East, Zionsville. Petition for a Development Standard Variance to provide for a detached barn in which the accessory structure is permitted prior to the primary structure on a parcel in the Rural Single-Family Residential Zoning District (R-1). Is Mr. Miller here or his representative?

Miller Yeah.

Mundy If you would give us your name and address please and then tell us about your project.

Miller Good evening. My name is A.J. Miller. We currently have the property at 2626 South 875 East in Zionsville, Indiana 46077 and what our request for the Development Standard Variance is is that we have a pole barn that is completed and a new home that is under construction and we'd like to utilize the pole barn at this time while the house is under construction.

Mundy And use it in what way?

Miller To house and hold lawn equipment as we are trying to make sure we maintain the property that's surrounded by our neighbors who do an excellent job for us to get back and forth and to maintain this property, both my wife and I who are senior citizens and have some other disabilities it's been an unnecessary hardship for us and the utilization of this pole barn will help alleviate those hardships.

Mundy You're not going to live there? It's all going to be used for storage?

Miller Yes.

Mundy Thank you. Any questions for the petitioner? Any online – remonstrators or anyone in the audience who wishes to speak for or against this petition? None? Thank you Mr. Miller. Could we get the staff report please?

Baker Yes, as Mr. Miller had stated, they are constructing a residence and a pole barn at this property. Essentially, the pole barn is near completion before the residence is completed and wishes to get a CO to put items in the barn and with that said, this would, if approved, this would just be a temporary noncompliance issue and they have, Mr. Miller has provided a commitment that the residence will be done by the end of August of this year. So with that said, staff is in favor of the request and I'm happy to answer any questions.

- Mundy Thank you. Are there any questions of staff? If there are no questions then is there a motion?
- Lake I move that Docket Number 2022-64-DSV, a Development Standards Variance Petition to provide for occupancy of a detached barn in which the accessory structure is permitted prior to the primary structure for the property located at 2626 South 875 East, Zionsville in the Rural Single-Family Residential Zoning District (R-1) be conditionally approved as presented and described based on the Findings in the staff report and the staff recommendations, submitted Findings of Fact, substantial compliance with the submitted site plans and a recorded commitment that the primary dwelling be substantially completed by August 30, 2023 with the primary dwelling at a minimum being issued a, a temporary Certificate of Occupancy by the Town of Zionsville.
- Mundy Thank you Mr. Lake. Is there a second?
- Pickell Second.
- Mundy Thank you for that Mr. Jones or Mr. Pickell. Thank you. All those in favor please indicate by saying aye.
- All Aye.
- Mundy Opposed same sign.
[No response]
- The motion is approved. Best of luck Mr. Miller.
- The next item on the docket is, is Docket Number 2022-65-DSV, Chelsea Park at 11400 Templin Road in Zionsville. Petition for a Development Standard Variance to provide for an increased height of the entry monument signs in the Rural Single and Two-Family Residential Zoning District (R-3) and who is it that will be presenting that? If you'd give us your name and address please.
- Hayes Good evening. Thank you, yes. My name is Robert Hayes H-A-Y-E-S of Fischer Homes Grand Communities, 3940 Olympic Boulevard, Suite 400, Erlanger, Kentucky 41018.
- Mundy And if you could tell us about the project, the request you're making.
- Hayes Yes sir. I do have a presentation if you would like me to go through that. It is the same material that is in the staff report. We are requesting a Development Standards Variance for the height of our entry monumentation for the Chelsea Park Community on Templin Road. Our proposed monuments and the architectural features of our proposed monument are a maximum 8 feet 6 inches high and code allows our signage entry monumentation signage to be 5 feet high. The text of our signage is under 5 feet in height; however, these architectural features are greater than that and it is our request that we, that the Board grant us a variance for the construction of that monumentation.
- Mundy It is the trellis portion which is the 8 foot 6 inches? Is that correct?

Hayes Yes sir. The trellis portion is 8 feet 6 inches and then there are some columns that are taller than 5 feet as well.

Mundy Thank you. Are there any questions for the petitioner's representative? Hearing none, are there any remonstrators in the audience or online which would like to speak for or against this proposal? Seeing none, could we have the staff report please?

Baker Yes. As, as you know, Chelsea Park has been approved, is approved development off Templin Road and they are proposing a monument sign that is 7 feet in height with an 8-1/2 foot trellis when the maximum height allowed is 5 feet. Given the surrounding area with Lost Run Farms across the street, they have a 6-foot sign but a substantial wall around the property. Comparing those both together, I think it complements the surrounding uses and staff is in favor of that request. Happy to answer questions.

Mundy Thank you. Any questions for staff? Hearing none, is there a motion?

Pickell I move that Docket 2022-65-DSV, Development Standard Variance to provide an increased height of the entry monument signs at the property located at 11400 Templin Road, Zionsville, Indiana Rural Single and Two-Family Residential Zoning District (R-3) be approved as presented and described based on Findings in the staff report and staff recommendations, submitted Findings of Fact, substantial compliance with the submitted plan sites, site plans.

Mundy Thank you Mr. Pickell. Is there a second?

Lake Second.

Mundy Thank you Mr. Lake. All in favor please indicate by saying aye.

All Aye.

Mundy Opposed same sign.
[No response]

The motion is approved. Best of luck Mr. Hayes.

Hayes Thank you very much.

Mundy Next item on the agenda is Docket Number 2022-67-DSV, L. Gangstad at 8250 West 96th Street, Zionsville, Indiana. Petition for Development Standard Variance to provide for an accessory structure which: 1) Exceeds the permitted accessory square footage; 2) Exceeds the allowable height for an accessory structure in the Rural Equestrian Zoning District (RE). Mr. Gangstad here? Mr. and Mrs., is that correct? If you would state your name and your address please and then tell us about the project you hope to complete.

L. Gangstad My name is Laura Gangstad and this is my husband, David Gangstad, and we live at 8250 West 96th Street, Zionsville, Indiana and we are, we just recently

purchased property around our house so we now have a 3-acre lot and we would like to put in a rustic style pole barn that is bigger than is allowed. We have a small ranch and we are wanting to have a barn to have livestock and spread out some of our equipment that we will need to maintain this property.

Mundy Okay. So you will be using it for some agricultural –

L. Gangstad Yes.

Mundy And storage purposes?

L. Gangstad Yes, yes.

Mundy All right. Are there any questions for the petitioners? Seeing none, do we have any remonstrators who which to speak for or against this project? Any online? No? Okay. All right. Could we have the staff report, please?

Baker Yes. As the Gangstads said, they are wanting to do a detached barn. It will be taller in height than the primary structure and the accessory square footage will be more than the primary structure and given the overall area with the residential and agricultural history and also other properties in the immediate area also deviate from this requirement, staff is in favor of, of the request and happy to answer any questions.

Mundy Any questions for staff? Hearing none, is there a motion?

Lake As it pertains to variance #1, I move that Docket Number 2022-67-DSV, Development Standards Variance to provide for an accessory structure which exceeds the permitted accessory square footage at the property located at 8250 West 96th Street, Zionsville in the Rural Equestrian Zoning District be approved as presented and described based on the Findings in the staff report and staff recommendations, submitted Finding of Fact, substantial compliance with the submitted site plans.

Mundy Thank you Mr. Lake. Is there a second?

Jones Second.

Mundy Thank you Mr. Jones. All those in favor please indicate by saying aye.

All Aye.

Mundy Opposed same sign.
[No response]

That variance carries.

Lake For variance #2, I move that Docket Number 2022-67-DSV, Development Standards Variance to provide for an accessory structure which exceeds the allowable height for an accessory structure at the property located at 8250 West 96th Street, Zionsville in the Rural Equestrian Zoning District be approved as

presented and described based on the Findings in the staff report and staff recommendations, submitted Finding of Fact and substantial compliance with the submitted site plans.

Mundy Thank you Mr. Lake. Is there a second?

Pickell Second.

Mundy Thank you Mr. Pickell. All those in favor please indicate by saying aye.

All Aye.

Mundy Opposed same sign.
[No response]

Motion carries. Best of luck with your project.

L. Gangstad Thank you very much.

Mundy Next item on the agenda is Docket Number 2022-68-DSV, Brick Street Holdings LLC at 175 Main Street and 70 East Pine Street, Zionsville, Indiana. Petition for a Development Standard Variance to provide for a mixed-use development which: 1) Exceeds the allowable building height; 2) Reduces the parking drive aisle width; and 3) Reduces the size of the loading zone in the Urban Village Business Zoning District (VBD). Mr. Price, will you be the representative for this petition?

Price I will, Mr. Chairman. Good evening. Matt Price on behalf of Brick Street Holdings LLC in connection with the three variances that you just mentioned. Thank you to Jonah, first of all, for pulling up our presentation. I'm going to hand out a hard copy of it to each of you after I make our initial introductions of our development team that are here tonight to present each element of the project and, and be available to answer questions that you have. To let you know who's here — we have the owner of the Brick Street Inn, Paul Verzolles. He also works closely with his son, Nathaniel Verzolles and Gary Fair who are all part of the Brick Street Inn development team. Caroline Slota who is here in person and her partner, Scott Cyphers from Booth Hansen are here. Caroline, after Paul gives the initial vision for this project and a little bit of background for it, will take us through each of the elements of the proposed renovation and expansion and then I'll be doing a set of conclusory remarks and making our requests for each of the respective variances. We're very excited to be here tonight and look forward to making this presentation. Paul, I'll turn it over to you.

P. Verzolles Hi everyone and, and thank you to those of you on the Board of Zoning Appeals for the service that you provide for our community. I, I really appreciate that. It's a really important role that you're providing and I'd like to just start by giving a brief background about the Brick Street Inn. The Brick Street Inn has been in operation –

Mundy Let, let me interrupt – I don't believe you gave your name and address.

P. Verzolles Oh yeah.

Mundy If you could do that.

P. Verzolles I am Paul Verzolles. I'm the owner of Brick Street Inn and Brick Street Inn has been in operation for about 40 years. What started as a small frame house relocated from Eagle Village somewhere about the 1970s on to its current site at 175 South Main Street, was expanded and dramatically transformed in the early 2000s and I've been the owner since 2010. We operate a restaurant in there as well as the meeting and event space and 8 hotel rooms. Eight hotel rooms for over 30,000 people in Zionsville now. Just incidentally, in the U.S. we generate as a population about demand for one hotel room a night for every 100 people so a town like Zionsville is generating over 300 hotel rooms of demand on an average night. That's a function of business, travelers, people passing through, leisure people and people who are visiting family. But, for the most part, they cannot and do not stay in Zionsville. There are not the facilities to support them so they end up going 5 miles west to Whitestown, they go 5 miles south to Park 100 or they go southeast to 421/College Park area, for the most part and tax revenue goes with that as well. So we definitely need to have a professionally run, authentic, substantial hotel for the town to provide facilities that are needed for the days in the lives of people who, who are here, who depend on or would like to have people visit them, for their business, for their family. And everyone recognizes the benefit of the Village life of having wedding receptions and baby showers and 80th birthday parties and business meetings in a, a facility that's appropriate for that. We're trying to grow Creekside Business Park. We have Rahal Letterman. They have people from all over the world coming and we don't want to send them to Park 100. We want them to stay in our charming Village. Likewise for many other businesses and, and anyone who is passing through.

With respect to our project, I think we are unique in the extent to which we are providing really outstanding architecture. We recognize that the Village of Zionsville has particular requirements and we have chosen one of the styles that was represented in the suggested or required styles. It's a Georgian style and we found really good precedence and did the best to represent that at the highest possible level. You'll see, you'll have an opportunity to see some slides about that as well Caroline will be presenting next. Parking wise, I will mention in passing, we met with Village residents and Village merchants and uniformly our, we received uniform very strong support when we did so but repeated refrain was have you thought about underground parking? We said yes, we've thought about it but we'll see what we can do, however, the plan that we have designed comes up with providing 20% more parking than is required by ordinance which I think is probably fairly unique. I doubt that you often get people in the center of the Village proposing projects that have more parking than, than is required by ordinance.

And, you're going to hear a little bit about the height because we're asking for a height variance. The height of our building, if you include the mechanical, the screening for the mechanicals on the roof, is significant but it's no higher than the Carter Building or Old Town Hall and if you look at the scale of, you know, we have two buildings essentially that we're doing. We call them Building A and Building B. Building B is very comparable in scale to the Carter Building. Its

orientation along Pine Street, if you look at its visual mass, it's going to be the same as the Carter Building along Oak Street.

And then finally, before I pass it on to Caroline, I'll say there's significant requests in terms of a variance for the loading zone. As it exists currently, and maybe this is typical in the Village, but I'll only speak for my block, is that trucks are making deliveries all the time and blocking the alley. There is no loading zone. So if you're unfortunate to be there at the time and you're parked in a certain spot, you may have to wait a while to get that truck delivery to be completed but there are restaurants, there are multiple restaurants in our area that are served off of that alley – Salty Cowboy, Noah Grants, formerly Serenity and soon-to-be Topsy Mermaid and, and our restaurant as well as the pie shop. So, this is happening already. The alley is being blocked. The beauty of our project is we've designed it to improve the flow through the alley so that no one will be blocked, even though there will be a truck parked in the alley, we have an escape route. So, we have designed through our parking in the back of Building B on that southeast quadrant bounded by Elm Street and Pine Street, we've got a passthrough so that any car that's trying to make its way through the alley will have a way out. There's absolutely zero disruption of the flow of vehicular traffic through there. You take a slightly different route, you go out Elm Street instead of going out Pine Street but that preserves our opportunity to continue to service all the businesses that are on our block and the block to the north through the delivery mechanism which is currently in place but currently is blocking the alley on a daily basis. Now we'll have an improvement in that regard. So those are my comments. I'd be happy to take any questions but Caroline will be much more articulate and help us understand the plan if you're ready for that now.

Mundy Thank you. Any questions? Thank you very much.

Slota Thank you for that introduction. My name is Caroline Slota. I'm a principal at Booth Hansen, project architect for this expansion of the Brick Street Inn. I see that the presentation is on the screen. If you could please, Jonah, to the next slide. So I'd just like to introduce everyone to the project, orient you to what we're proposing here. So this is just a, a introductory image, a rendering of the, of the vision of the project.

Next slide please – so this is the site plan indicating which lots are involved in the project. The Brick Street Inn is on the north, the northern west portion of these, of this plot plan. The addition is going to expand to the south and to the east of the alley. So is whole project is bound by Main Street, Pine Street to the south and Elm Street to the east. It is bisected right now by a public right-of-way alley which we plan to maintain as Paul had alluded to.

Next slide please – here's a more detailed drawing of the site plan. So, as you can see, the existing Brick Street Inn is on the northwest side. We are developing Building A to the south which is a three-story masonry building and connecting it with a single-story solarium piece that is sort of a bridge between the two, the existing and the new.

I'd also like to point out that while the site plan is not very detailed in the landscaping, as part of this project we're going to be doing a lot of exterior

improvements along Main Street, particularly we'll be renovating the outdoor dining patio off of Main Street, we'll be improving the, the knee wall along the property line and we'll be developing the garden so there's definitely going to be more beautification in the landscape on Main Street.

As we go to the east side of the alley, this is what we're calling Building B. This is also a three-story masonry building. To the north of that is our parking plaza which Paul was describing. There are 19 parking stalls on the surface and then if you'll see in the upper righthand corner of that whole lot, there is a ramp going down to our proposed underground parking garage. One other feature of the site plan that I'll point out is a trash enclosure that we are currently developing with our neighbors to the north, Salty Cowboy and Dr. Nicholson. So this is an attempt to consolidate all of our trash collection and have one centralized location for trash pickup and storage.

Next slide please – so now I'd like to speak to the architecture and the, the elevations that were developed. So we, we approached the exterior in keeping with the architectural theme of the town. So we drew a lot from Georgian architecture to develop these elevations. You'll see there's a lot of masonry, a lot of brick – we, what we tried to convey here with expressing a Georgian theme is by symmetry, scale, proportion, stone detailing, brick detailing and breaking up the scale of the, of the building and elevation.

Building A is a little bit different from Building B and that was intentional. That was meant to create a little bit more variety along Pine Street. Building A has a brick base with a, a stone band and a horizontal stone datum, taller windows on the ground floor and then as you move up to the upper floors, we have some smaller windows with divided lights, brick detailing around the window openings with jack arches and then where the building meets the sky, we have a decorative stone cornice that is actually lower than the top of the building to try to help lower the expression of the building when you're looking at it in elevation.

Building B has a stone base around the entire perimeter. Fronting Pine Street you will see on both the lower elevations we have larger openings on the ground floor because this is where we'll have retail functions and then if you go to the next slide – you'll see sort of the elevations as you're turning the corner on Elm Street and then from the parking plaza the stone band continues all the way around Building B. The windows here on the ground floor are a little bit smaller because those are where we'll have guest suites. The upper two floors in both Building A and B are, will be guest rooms.

Next slide please – so these diagrams help demonstrate how we arrived at the building height that we have. So one of the key components here is that at the existing Brick Street Inn, the grade is at one elevation and at Pine Street the grade is at a lower elevation. There's roughly 3 foot plus of difference. It's very gradual. It's hard to perceive when you're looking at it but it is there and just by the nature of having to add to the existing building, we do need to connect the two floors of the old and the new so that we have a continuous floor surface without any steps so we set the building at a certain height at 39 feet from grade at the entry and then as the grade slopes down toward Pine Street, that pretty

much, it makes the building taller essentially by whatever grade change that ends up being which is 3 foot 2-1/2.

On the ground floor we have amenity spaces that support the hotel function such as an event room, a lounge/drawing room, a wine tasting room. Those programmatic elements needs a taller ceiling height in order to feel like a successful space for the hotel and, therefore, our ceiling height is taller. The upper two floors we've kept the ceiling height as little as, as low as we possibly can to both meet code, accommodate mechanical equipment for the guest rooms. You'll see that the, we also have mechanical equipment on the roof of the building. This is required to support the functions of the buildings. We are also required by the Zoning Ordinance to screen any mechanical equipment on the roof so we have introduced a screen for all that equipment. We have also introduced a parapet that helps to, to hide the screen from views. If you see a little, the diagram of the man to the other side of the street, the parapet helps to shield the view of the mechanical screen from across the street so that the screen is pulled back from the perimeter a significant amount, enough to, so that it's not readily visible.

Next slide please – this is a similar situation for Building B. We have retail functions on the ground floor which typically require a taller ceiling height, same ceiling height for the guest rooms and we have the parapet to help shield the mechanical screen.

Next slide please – these diagrams are to illustrate the scale of the buildings relative to some of the buildings that are already in the downtown. On the top you'll see a comparison to Old Town Hall, so Building A is just about to the second step of the elevation and it is about to the tippy top of the, of the Carter Building on the elevation on Pine Street.

Next slide please – this is a comparison of Building B elevation. Similarly, it is a little bit shorter than Building A just because of that grade change as I explained earlier.

Next slide – and then this is the elevation of Building B along Pine Street and how it compares to the Carter Building.

Next slide – and here I'll run through some renderings. So this is the view from Main Street sort of articulating how we're envisioning this development when it's constructed. So you'll see there's a, a new retractable awning over the outdoor dining space for the Auberge restaurant and you'll see Building A sort of in the background there.

Next slide – this is the view from Pine Street of Building A. You'll see all the intricate stone work that we're introducing at the entry, around the windows, see the jack arches around the openings, horizontal datum defining the base of the building and then the gradual change in height of the windows as you move up the building and then the cornice at the top.

Next slide – this will be the new front door of the Brick Street Inn. Right now it's currently underneath the overhang of the existing building so we're just shifting

it over to the side where you'll enter right off of the solarium off the alley. So, no real change there in terms of entry point but just shifting it down to the south a little bit.

Next slide – this is a view of Building B showing the retail frontage on the ground floor and the guest rooms above.

Next slide – and then the view from the parking plaza and you'll see the parking plaza we are treating as sort of an opportunity to introduce some more materials and really beautify the, the landscape there by using brick pavers for the surfacing.

Okay, next slide – so going back to the site plan, I wanted to just briefly introduce some of the other variances. I want to point out exactly where Paul was alluding to designating sort of a, a loading space. It's going to be right in between Building A and B in the existing alley. So you'll see that the parking plaza where the drive aisle occurs is just north of Building A. That will allow for the circulation of cars if it, if in any event there would be a truck blocking that alley.

And next slide – and then this is the floor plan of the parking garage underneath Building B. The ramp, you'll see, is on the upper portion of the plan. We have about two bays of parking and just by the nature of the size of Building B, we have the elevator core and the stair core going down to the basement. We also have structural walls that support the exterior wall above and we were just simply pinched a little bit for, in that access aisle. It's not for maneuverability, it's really just for accessing the two bays of parking so there won't be any cars backing out or trying to navigate the, the parking area so it's just one, one small area which we have ideas about how to address.

Any – I think that concludes everything. If there are any questions, I'm available for that.

Mundy Any questions? Thank you.

Slota Thank you.

Mundy I do have one question – back on I think the first elevation you showed, there is a shaded area in front of what you're calling the A Building. I, is that the existing home that is there now?

Slota Yes, yes, that is the Kogan Antiques Building.

Mundy Okay. Thank you.

Price Mr. Chairman, I'll just make a few closing remarks and then our team is available to answer any questions that the Board may have. At the, at the outset, Mr. Verzolles had a goal to make the Brick Street Inn relevant as a viable, ongoing business in the town center, both meeting the demands of the community for a high-end boutique/hotel. This is very much a product of the economic development success that the town is enjoying, both in terms of the development of Creekside Park but also a very robust hospitality district in our

downtown. This area, in particular, is experiencing a renaissance with the Topsy Mermaid being remodeled and redeveloped now to join Shari Jenkins' restaurant collection which kind of straddle both sides of the north-south alley which bisects the Brick Street Inn property and, and this, this development will serve as a, a welcoming point for the greater community as Paul mentioned.

In addition, it does some things from a master planning standpoint that are a rare opportunity for redevelopment in the Village. It creates an open parking plaza which, obviously, serves a useful function for parking but also provides an open space that could be used for other public gatherings as the town hosts those from, from time to time to complement Christmas in the Village, our fall festival parade and other, other events that take place downtown. It also promotes internal connectivity in a way which doesn't exist today around the north-south alley by creating that access point onto Elm Street and allowing for those surface areas to be resurfaced and made smooth and safe for both vehicular traffic and for pedestrian traffic. One of the things that I'll, I'll bring to your attention that you may notice or not notice but when you drive down Main Street, Main Street itself is very attractive and, and presents itself very well. The alleys behind the streets have some work to do to make them more passable and provide safe and convenient access for both travelers by foot and, and in vehicle and this presents an opportunity to really redevelop that area in a very significant way. We've also tried to be proactive. We are very much in favor of historic preservation. We feel like we're promoting the viability of the Brick Street Inn but it does promote a key slice of Zionsville's history. The Brick Street Inn building itself is, was built around 1873. It was relocated, as Paul mentioned, from Eagle Village to downtown and, and it serves as, as a, a well-known landmark in the community and this project helps maintain the existence of that historic structure and that slice of our collective history in Zionsville.

We feel that we're also very much champions of form-based zoning. We understand and are appreciative of the fact that the town is undertaking an effort to redo its Zoning Ordinances and transform those from their current condition to a form-based zoning and that a draft of that proposal may be available as early as February or March of this year at which time we'll begin the public hearing process and public comment process on that. We're very much in favor of form-based zoning and tried to reflect what a building would look like under form-based zoning by making it harmonious with surrounding structures and incorporating architectural features which express the building in proportion to the surrounding environment. For all those reasons, we believe that the project is not injurious to the public health, safety and welfare and will, in fact, improve all of those things. That it does not adversely affect the property values of adjoining properties but rather will enhance those property values and lastly, we feel like the, the project offers amenities and benefits for the public at large, both with respect to the increased connectivity and the fact that it parks itself with the addition of the underground parking and, and the surplus parking that is also generated as a result of, of this comprehensive plan.

We thank you for the opportunity and respectfully request approval of our variances this evening and, like I said, we're available to answer any questions that you have. Thank you.

- Mundy Thank you. Questions for the petitioner?
- Postlethwait Yeah, I have a couple of questions, Mr. Price. Regarding the, the parking specifically, according to my calculation, my grade school math, I, I think we're talking about the addition of 54 hotel rooms – 16+8+30? So, if that's the case, is it fair to say that the parking availability at some point may well be limited to only those people who are staying in the hotel and will not be open to the public?
- Price It's not 54 new but it is 54 total.
- Postlethwait Okay, well –
- Price So it's, it's 46 new hotel rooms and a total of 55 parking spaces, 49 of which would be brand new and the idea is that the parking, we'll have at least one space per room for overnight accommodations but the parking availability will rotate as with the occupancy levels and as with the time of day. One of the benefits of having a, a hotel-type project that's providing parking is that not all of that parking is used at any, at any one time of the day or, in particular, at any one time of the week.
- Verzolles I'll, I'll just add to that – it would be rare that the hotel itself for our guest room accommodations would need all of those spaces. Yes, a high percentage of people are arriving in their own personal vehicle but many times there, if there's a family, they're getting 2 rooms, 1 car; other time, like I often take Ubers, I'm sure many of us do when we're traveling, that will be the case for us as well so it would be unusual that all of those spaces would be needed for cars for overnight guests and as Matt said, as availability allows, we're not using those spaces, we don't anticipate using them for overnight guests, whatever portion is unallocated, that will be allocated to public parking.
- Postlethwait Okay, but it is fair to say that the priority would be given to your hotel guests?
- Verzolles Yes.
- Postlethwait Okay. My other question has to do with deliveries and in your information you mentioned the deliveries that are made to the restaurant branch, restaurant arm of the, along that alleyway and I have spent a lot of hours in that alleyway over the years. I've been here a long time and I buy lots of wine at The Wine Guys, putting in a plug for him, but the hotel would also have deliveries, am I wrong? I mean, I'm guessing that unless you have a –
- Verzolles Well, yes unless you primarily--
- Postlethwait Sorry – unless you would have a, a self-laundrying facility to do the laundry for the hotel, sheets, towels and so on and maybe that's your plan –
- Verzolles We do have that.
- Postlethwait Okay but there would, there would be deliveries for the hotel as well. Is that right?

Verzolles Yeah, incrementally, I mean, if we're using so many bars of soap a, a week that's not a frequent delivery but yeah, maybe over the course of a year we might have one extra delivery of bar soap and other toiletry products. There's going to be other things I'm sure – but on a daily, frequent replenishment basis, it's going to be what goes in and out of the restaurant itself.

Postlethwait Okay.

Verzolles To the extent that we have more people dining for breakfast, yes, we're going to have more eggs and butter and, but that's what's happening currently. Is there another extra delivery truck a week? Probably but we've also fixed the delivery situation to the extent that currently most delivery trucks block the alley whenever they deliver for 10 minutes or 20 minutes or whatever. With this improvement, they won't block the alley. They will technically block the alley – you won't be able to get out onto Pine Street but you'll always be able to exit the alley. Your vehicle won't be blocked in like it is today with this new position. We won't block parking. Today cars that are parked in the alley are blocked when a delivery is made and through traffic through the alley is blocked. That won't happen with the loading zone as designated.

Mundy I have a question – you've, you've talked about master planning. Is the intent that both Buildings A and B and the connection between the existing building that will all be done, that's going to be one continuous construction project? Is that correct?

Verzolles That's our envision. That's our hope. Projects like this you can't be 100% certain what's going to happen but we're moving forward in that expectation. That is our plan.

Mundy And that, that project, if approved, would start soon is that?

Verzolles Ideally. I would say the end of summer/early fall we'd want to start before we got into the holidays. That again, is an objective – there can't be any guarantees but the economy is constantly moving and, and supply chain and lots of planning prevention elements have to be addressed but, yes, our firm objective is to start by late 2023.

Mundy Thank you.

Jones When it comes to the façade materials, we heard your architect reference stone brick. So is it actually true limestone in the water table on the lower first floor or is it a cultured stone?

Lake Cast stone.

Jones Cast stone? There we go. It's like cultured.

Slota Yeah, we, we have been proposing cast stone for the material. We, we're certainly open to whatever will come in at a cost-effective manner.

Lake I will argue as an architect in Indiana when you specify cast stone, limestone comes in cheaper and when you specify limestone, cast stone comes in cheaper. I, I kid you, I kid you not.

Jones No, that's all right.

Verzolles _____ 1:25:07 cast in hopes it will go with the _____. 1:25:10

Lake And I'm, I'm serious in that statement.

Verzolles Okay, let's try it.

Lake It's that competitive in this market because of our limestone presence.

Jones But basically the first through third floors will all be either a, a stone or brick façade, metal clad windows. Now the, I'm assuming the, the fencing around the equipment on the top might be some other product but –

Slota Yes, the screen we, we intended not to have any sort of visual presence so it would just be a simple, a perforated metal screen that would be painted light so that it is not contrasting with the sky.

Jones And then one last question about the delivery and the access – and if I'm looking at this right from the site plan, the parking lot behind the buildings will always be accessible by –here we go. You know what I'm trying to find, don't you? From –

Mundy Elm Street?

Jones Yes.

Postlethwait Elm Street.

Jones So even with the existing alley being used for deliveries, they'll still be able to get out of the parking and the parking garage to Elm Street?

Slota Correct.

Mundy Any other questions?

Postlethwait I do have one additional question – and you mentioned, Mr. Price, the, the, the form-based zoning code that is currently being, I think, has gone through years of study and civic input and discussion here in the Town of Zionsville. My question is why would you not wait for that to be in place before you suggest a plan like this because I think you might have more civic buy in if the feeling was that this was going to be something that was generated as in compliance with that new system?

Price That's a fair question.

Postlethwait Thank you.

Price Let, let me do my – let me do my best to kind of articulate. We, we, we came through with phase 1 actually back in 2020 and COVID really put the project on pause. The town, I think to its credit, has dedicated the resources and, quite frankly, the effort. I know the effort that staff puts in on a weekly basis in, in developing this form-based code. As a practical matter, what, what we think is, is that once articulated that will go through a public vetting process including vetting by the business community and that that, even if most of the way there is going to take the better part of this year, maybe beyond, before that's finalized and quite frankly, we'd like to move forward with this project and so what we've done, although the drafts of that, to my knowledge, are not publicly available, what we've done is use our own sense of what form-based zoning would look like from an architectural standpoint and making the property harmonious with its neighbors and really tried to be proactive about the way we've designed it and so that's the way we've approached the project rather than waiting to see kind of what the end result of the form-based zoning process is at that time in the future when, in fairness, that becomes law which will be sometime in the future, I think.

Postlethwait Well I'm curious because you say that this is something that is in harmony with its neighbors but I'm looking and I'm, as an example across Pine Street there is a one-story arcade style group of shops and there's one, one of your schematics that drew my eye particularly because it shows a tiny little human standing in front of that series of arcade shops and probably could see the top of your building by, the, the point of, of view for that individual to be able to see over the top of the building is, is fairly elevated.

Price Sure.

Postlethwait So I'm not sure when you say in harmony with the other buildings – I'm, I'm not on – I don't see that.

Price What I meant by that was that what we anticipate the form-based code to be is one that encourages design elements that make, for example, the massing of the building express in a way that is consistent with the property owners around it and that's the elements that Caroline was describing. Those are the elements that Caroline was describing that we think do accomplish that in anticipation of that ordinance being finally adopted.

Postlethwait Bur, Mr. Price, that's what I'm pointing out to you because the buildings directly across the street from this would, are not of that same size or scale.

Price Not same dimension but the features are such that they are meant to highlight the, the dimensions that are, that are in keeping with the surrounding property. And so, for example, the, the eye line is drawn to the lower level retail in a way that is complementary of the lower level retail across the street. It, it may not be entirely consistent with the new development of the, the redevelopment of the lumberyard property but, but it, but it is, there are efforts being made from an architectural standpoint to make those, to make the, what catches the eye consistent.

Postlethwait Okay. I'm, I'm not tracking with that but I, I respect that that's your, your point of view. The other thing I would mention is that the two buildings that have been cited as examples that are of that, that height and in excess of that height, I think

the Old Town Hall and one of our, I think something I read this morning that building was constructed in 1902 and there were no ordinances at that time so that building is probably, aside from being a cherished structure here in our Village. The other is the Carter Building and as many, I'm speaking only anecdotally from many of my contacts and, and friends, find that building to be tremendously out of scale with Main Street and not something that people would like to replicate, particularly when it was being built it seemed enormously large for that site on Main Street. This is just – I'm expressing my view. So, I'm not sure that either of those two buildings give credence to the discussion of the, the things that are being proposed here – at least as far as my view is concerned.

Price And, and certainly there are different views about both those buildings including the Carter Building. It's, it is a, it's a landmark today. It served as the home of, for, of Christmas receptions for the School Corporation, the Chamber of Commerce. They had over 200 children attend a cookie decorating party during Christmas in the Village and so that space is put to good use and is a, and is a solid part of our culture.

Postlethwait So true.

Mundy Any other questions? Thank you Mr. Price and we may be calling on you again.

Verzolles Thank you.

Mundy Is there any, anyone here or anyone online who wishes to remonstrate for or against this project? No one online? Okay. If you would give us your name and address please.

Thompson Gene Thompson, 60 Smith Lane, Zionsville. I am around this area every day for many hours at different times of the day. I have a responsibility as a volunteer with Lions Park as the Director of the Park. I am not here to speak for or against the project, nor am I speaking as a representative of the park itself. These are personal comments.

As to the deliveries in the alleyway, many times if you drive in that area there'll be a truck parked on Elm Street or a truck parked on Cedar Street blocking the whole street. If you are able to train those truck drivers to pull into that delivery alleyway between the two buildings, that'd be great but I'm not sure that that'll work all that many times. The Elm Street traffic, which is two-way traffic, is very pinched because of the, because of the narrowness of the road and the angled parking that's there. If, if there's a pickup truck, an F150 that parks in angle parking, you basically have about a quarter or a third of one of the lanes that is taken up at that point in time. So, the adding more traffic on Elm Street is going to be very difficult from a maneuverability standpoint. Earlier tonight someone said you don't own the view – well, Lions Park does kinda own the view right there and, and we're, and I'm sure the hotel guests would enjoy seeing that view and looking out at the 250-year-old oak tree that's right there. As you, as, as I look at the site plan – if you can pull up the site plan up here – yeah that works – is the curb cut at the southeast corner where Elm and Pine is, is that curb cut configuration exactly what's there now or is that in a different location? Same

location? Is that a sidewalk along Elm Street there leading back to the parking lot on the east side of the building?

Slota Yes.

Thompson Okay, okay. And then on the parking garage, where the alleyway currently is what typically would happen in the wintertime when there's a lot of snow, a plow would come down the alleyway and he'd push the snow directly across the street, across Elm Street into a little cutout that you have there on the east side of Elm Street down the stairway. That's where the old stairway was that was carved in. That has all been changed now. The Lions Park has taken and redone that, eliminated the stairway last year and redid the sidewalk all along the west side, I'm sorry, the east side of Elm Street so that drawing probably needs to be updated on that side there so. Is the ramp for the parking ramp is it walled off? In order words, what is the visibility coming out of the parking ramp looking either north or south on Elm?

Slota 1:37:06 inaudible off microphone.

Thompson Okay.

Mundy It may be worthwhile for answering the questions at the microphone.

Thompson I'm sorry.

Mundy Just so we can capture for the minutes.

Thompson Yeah.

Slota 1:37:27 inaudible off microphone.

Mundy If Mr. Thompson continues to ask questions of you –

Slota Okay. I can just stand here. Currently, the, the plan for the ramp is to have a retaining wall up to grade level and then an open railing above that wall to maintain visibility. The railing will also serve as a guardrail to prevent anybody to, from falling onto the ramp.

Thompson Thank, thank you. Thank you. So, again, I'm not speaking on behalf of Lions Park. Obviously, I came because of my interest in spending time there. I mean, it's a great place. Mrs. Price walks her dog down there just about every day and, and, and I'm not for or against the project, it's just very, very, very tight space there. Thank you.

Mundy Thank you Mr. Thompson. Is there anyone else who would like to speak? Yes ma'am?

Bender I don't know if this is really pertinent, I somewhat –

Mundy Can you state your name?

Bender Oh, you want to know who I am?

Mundy Yes I do.

Bender Mr. Steve, I'm Delores Bender and I guess in some ways some remark about the Carter Building I almost feel some guilt about that. My husband went to Steak & Shake and came back after he had lunch with Bob Carter and he said I sold the parking lot and I really think that Bob Carter himself really felt that he built the building too big. So I'm not sure that the fact that the Carter Building is so tall is a reason to make something else so tall. So that's just my little 5 cents' worth.

Mundy Thank you. Seeing no one else and there's no one online? Could we get the staff report please?

Baker Yes. So I think Mr. Price and his team did a good job summarizing the three requests before you. So I'll try to be brief here. The first request is regarding the height of the proposed buildings and based on the use of the structures, building code, mechanical screening requirements along with the proposed architecture, it's understood to staff to why the height is greater than 35 feet and with that staff is supportive of that request.

Regarding the parking aisle width in the under, underground parking garage, the project has found creative ways to meet off-street parking requirements which is, has been uncommon in the Village. Also, DPW has reviewed the layout and is favorable or acceptable to that proposed variance request so staff is supportive of that variance as well.

Then lastly, going to the loading area. Based on the gross floor area, there is a one parking space required. As discussed, it's not uncommon in the Village for those delivery trucks to make deliveries in alleyways. Staff is favorable of this variance request with the condition that the petitioner approach the Town Council to consider an ordinance to formalize this temporary loading zone.

And then my last, the last point is, is a procedural note in your packet. These are just, these are three substantial requests that petitioner is requesting this evening. They may have to come back to the Board of Zoning Appeals for other requests in the future. Obviously, go to development plan with the Plan Commission and then possibly Town Council with alley vacation. So I just wanted to make that note and the petitioner, I think is also aware of that. So with that I'm happy to answer any questions.

Mundy Thank you. When you say go to the Town Council regarding the, the time they're in the loading zone – that would be a request to officially designate it a loading zone and does it also include a maximum amount of time? Is that what you were suggesting there?

Baker I believe, yes. They would have to consider an ordinance to come up with those recommendations that they feel necessary.

Mundy Any questions for staff? Hearing none, is there any further discussion among the Board? Any elements of the three requested variances?

Lake Sure. I, I would note that I think the majority of us were appointed to these roles: A) Because of our passion for Zionsville but also because of some expertise that we bring. I happen to be an architect by training and there was an interesting stat about 30,000 people and you need one room per every 100 people. I can't go eat in downtown Zionsville on a Friday or Saturday night if I haven't thought about it six weeks ahead of time. You literally cannot get a seat, especially if you have kids because you can't seat your kids at a bar. And so as we want to keep downtown downtown but we want to serve 30,000 people, we are going to see the need for our buildings to become a little bit bigger and our sites to be a little bit more dense and we can either have a, a downtown that ends up not being vibrant because we can't accommodate our residents or we can find a way to accommodate them and I think that you're going to see that in the form-based code that the form, this building probably would fit well with the form-based code and so we can, you can wait on that but I in particular have clients that own property in Zionsville and they were trying to decide do we wait on the form-based code? Do we do a PUD? And they're spending \$20,000 a month in fees and interest on property in that waiting process and so I think this is something that we have to try and look at this holistically of what's best for, for Zionsville and for the vibrancy of downtown and I'm, as an architect, I'm very impressed with the design of the project. Thank you for, for putting forth, I think, what was a very thoughtful project. I think you've tried to address a lot of the comments that the residents and the business owners would have and so I appreciate that – that doesn't always happen. We try and get a lot of stuff, I think, rammed down the process here and, and I, I don't feel like that's, that's happening so I think just something for us to consider is if we want our downtown to continue to be vibrant in light of having the form-based code, we're going to have to, to look at some projects like this and understand that this is what's required to, to keep our downtown vibrant.

Mundy Thank you Mr. Lake. Any other comments by Board members?

Postlethwait Yeah, I would completely agree with that. I think that it is important that we have the space for people to be able to utilize restaurants and shops and so on but one of the, one of the things that makes the Villages, the Village so interesting to people that I, that I know who live in other parts of Indianapolis and Carmel, the reason they come here is because of the, the nature of the, of the spaces here. They're very diverse, they're not, I mean, I think, I look at Carmel and think there's been a lot that's been retro-fitted into that community because they didn't have a vibrant Main Street like, like Zionsville has. So I think we need to keep that in mind but we also don't want to lose the charm and the, and the sort of quirkiness that has been one of the most important aspects of the Town of Zionsville. I'm concerned about the scale of this. I find it –

Lake Sure.

Postlethwait I find it a bit, it's given me reason to pause and think about it so.

Lake And you know the Carter Building has been mentioned and I think if Main Street didn't jog right at the Carter Building and you saw so much of the side profile of that building, it would not feel so tall. If you had really only experienced it from

the front I, I think there's a little bit of an optical illusion that occurs there because of the way the road jogs and you see it in a format much differently than you see most of the other buildings that's along that, along that road.

Jones I got a couple items. One, I want to point out I've got sort of a business relationship with Mr. Verzolles. He's got his sales and marketing for a project in Chatham March downtown adjoining one of my property, or next to one of my properties and basically it's a, it's called Chatham Park. It's a 55-unit condo with 11 residential lots around the, the property and I hope sales are going well. I know from the standpoint of watching the construction and the quality of the construction and the difficulty of financing a condo-type project versus apartments, I, I fully support everything he's done and I hope he's successful because it's, it shows he's got the wherewithal to take on these kind of more difficult projects. But one of the more interesting lines or, or items is in Mrs. Zelonis' letter. She points out that when asking for a height variance, the petitioner uses the Old Town Hall as a comparison. This building was built in 1902 and besides being the only national registered listing in the Town of Zionsville, it was also built prior to any zoning ordinance being in place. Nothing I love better, I just went to Italy and I was just fascinated with Italy because you could not build Italy in America and comply with zoning and code and building in anything.

Postlethwait Would you want to?

Jones Uhh, yeah, it goes back – but the point of all that is, is that often to the most unique things about any area are the things that are, are different. Anybody that's listened to me I've been a big proponent of Sycamore Flats and the Little League and any of the other kind of developments, Creekside, and really all that is about trying to find ways to bring more business and more people and more opportunity to the old town part of Zionsville. The only thing that keeps that functioning is, is fresh money. I, I was going to use – I, I'm, I'm going to shy away from using that, that, that the death knell of every project, the word density, and say that we really need to work on creating more of what I would call walkable occupancy. It's, it's a hope that people would come to this, this place, shop, stay, visit the Village, go to the businesses in Creekside and never need the vehicle that creates the parking problems that usually is, is the biggest issue we have going on in all this stuff. So, in general, and the final piece is that as much as yes, it is, is a taller structure than most anything else in the Village, that face is facing Pine Street so it really won't have that effect on Mian Street and on the, on the viewshed up and down through there. So I, there's just a lot of positives for it and, and I generally am supportive so.

Mundy Thank you Mr. Jones. If there's no further discussion, I think we need to consider a motion on the three requested variances.

Pickell I'll try it.

Lake Go for it.

Pickell I move that Docket Number 2022-68-DSV, Development Standard Variance to provide for the mixed-used development which exceeds the allowable building

height for the property located at 175 South Main Street and 70 East Pine Street in the Urban Village Business District be approved as presented and described based on the Findings of the staff report and staff recommendations, submitted Finding of Facts, substantial completion, compliance and the submitted site plans.

Mundy Thank you Mr. Pickell. Is there a second?

Lake Second.

Mundy Thank you Mr. Lake. All those in favor please indicate by saying aye.

Mundy, Lake, Aye.
Pickell, Jones

Mundy Opposed same sign.

Postlethwait Nay.

Mundy Thank you. That motion carries 4 to 1. If you'd like to continue with variance #2.

Pickell In variance #2, I move that Docket Number 2022-68-DSV, Development Standard Variance to provide for the reduced parking drive aisle width which is reduced to 19 feet 4 inches for the property located at 175 South Main Street and 70 East Poplar Street in the Urban Village Business District (VBD) be, be approved and, as presented and described based on the Findings of the staff report and staff recommendations, submitted Findings of Facts and substantial compliance with the submitted site plan.

Mundy Thank you Mr. Pickell. Is there a second?

Lake Sec –

Jones Should we make that correction, make sure that it's 70 East Pine Street.

Lake It's Pine Street, yeah.

Mundy 70 Pine Street?

Lake Yes, but I second that for Pine Street.

Mundy With that correction is there a second?

Lake Second.

Mundy Thank you Mr. Lake. All those in favor please indicate by saying aye.

Mundy, Lake, Aye.
Pickell, Jones

Mundy Opposed?

- Postlethwait Nay.
- Mundy Again 4 for an approval and 1 opposed. The motion carries. And variance #3 –
- Pickell Variance #3, I move that Docket Number 2022, 20-, 2022-68-DSV, Development Standard Variance to provide for a reduction in the required loading space for the property located at 175 South Main Street, 70 East Pine Street in the Urban Village Business District (VBD) be approved as presented and described based on the Findings in the staff report and staff recommendations, submitted Finding of Fact and substantial compliance with the submitted site plan.
- Mundy Thank you Mr. Pickell. Is there a second?
- Lake Second.
- Mundy Thank you Mr. Lake. All in favor please indicate by saying aye.
- Mundy, Lake, Aye.
Pickell, Jones
- Mundy Opposed?
- Postlethwait Nay.
- Mundy Thank you. The motion carries 4 to 1. The project is approved. Best of luck with your venture.

The next item on the agenda is Docket Number 2022-69-DSV, Courtyards of Russell Oaks at 8901 and 9085 East Oak Street, Zionsville. Petition for a Development Standard Variance to reduce a front yard setback for a single-family residential development in the Rural Single-Family and Two-Family Residential Zoning District (R-2). Mr. Andreoli, are you presenting for the petitioner?

- Andreoli Yes, thank you Mr. President. For the record, Mike Andreoli, 1393 West Oak Street. With us tonight is the, the owner of the property of Kendalwood Realty, Mr. Jim Knighton and as well as Dale Pfeifer who works for Epcon Communities who would be the developer and the builder of the particular units in question. Also, I suspect attending by video would be Brett Huff from Kimley-Horn who is our engineer for the particular project in case any questions arise.

By, by way of procedural history, I think staff's done an excellent job with that, as you'll recall, and specifically those who are on the Plan Commission, we sought a rezoning of part of this ground. It was in two sections, an R-1 and an R-2, several years ago and we wanted to make them consistent so we, we zoned the, with your approval and recommendation and the Town Council's adoption, the part of the R-1 into an R-2 so that the entire project is an R-2, but it came with specific conditions with that. Most notably is that we could not have any doubles on the R-2 property. In the, in its current form you will see that there aren't any doubles being proposed on this property. In its prior form under the

R-2 zoning classification, you could have a, a high-density of doubles on that classification as a matter of right so, in order to obtain that rezoning, that commitment was made and recorded as part of the approval process.

In addition to that, we had to have a, a limitation on the number of lots and in, in effect, that limitation carries forward with regard to the plan that's in, in front of you tonight. We have, we have filed for a, a primary plat and development plan approval but we've not actually gone to public hearing with that and don't intend to, obviously, until this variance would clear but, more importantly, we're doing some additional design on the, on the development itself, most notably, potentially looking at another entrance other than the second Oak Street emergency entrance per staff's comments and for working with the Fire Department which we think while it's a change from the concept plan, will be remarkably better, a better improvement to, to access as well as allowing us an opportunity to loop our water system which is extremely important to Fire in that regard. So, we've been working intently with staff with regard to those types of things. We have an agreement in principle with the adjacent landowner but that will have to be reduced to a purchase agreement and an owner's authorization for us to go forward with our, our development plan and plat and that, that's in the works at, at this particular point in time.

We're seeking a, a variance, essentially a blanket variance as set out regarding the streets. These are things that you've done many times customarily and we don't anticipate that we're going to need any other variances for this project other than that particular variance. Originally with regard to the concept plan, it had not been totally engineered from a drainage standpoint and drainage on this particular site was the biggest challenge that, that we've, that we've had with regard to moving forward with the site itself. We think we've got all of that accomplished and, and handled. Early on in the process as I represented to the Plan Commission and Town Council at the time before we got started with moving forward with the development plan, we talked to the neighbors that were most concerned with our project. As we were going through the rezoning, we met with people from, from Thornhill and we met with an adjacent owner that was involved in the project and, and concerned about the project from the get go in Russell Lake and then the Esras who live on lake, the, immediately adjacent to our project on the northeast and, and, in addition, the Armstrongs. And we had a, we had a meeting with those folks and showed them what we were going to do and what we were proposing.

Epcon will be developing a 55 and older community. It will be, it won't be specifically limited to 55 and older but it will be that by way of the covenants and those types of things. They have a project currently over in Carmel, the Courtyards of Carmel, the average prices to the extent you're, you're interested in that, I'd be happy to answer that – more of a Plan Commission matter than it would be a Board of Zoning Appeals, but I'd be happy to answer that if you have any questions with regard to that. That project is over on Smoky Row, in the event that the members of the Plan Commission that are also members of this Board will want to take a look at that before the, before the Plan Commission meeting to see what that project is all about.

Originally the concept plan had three different sections. It had some high end to the, to the west and, and northwest. It had some smaller lot development to the northeast in this particular project off of Oak and then it had essentially a single-family residential development in the, in the middle. This will be all one product which will offer a number of, a number of different advantages, I think, to the surrounding communities that were concerned about noise and, and those types of things, even traffic, which we think will be helped because generally those of 55 or older don't have the same traffic patterns as those who would have young kids and maybe get off to work and those types of things. So, we, we think it has a number of advantages including the price points of these, these products.

Essentially, when we first got involved, in talking with the Esras, they had an engineer and they wanted to, they wanted to look at some of the engineering as it related to the drainage. So we, we were happy to go ahead and, and provide that, connect up our engineer, Mr. Huff, with, with the, Mr. Jacob, Jeff Jacob, who is representing the Esras, a long-time legal representative for them, and so we coordinated all of that and any, any approval that you would give tonight should be subject to the commitments that we've made to those and I told Mr. Jacob that we, we'd make those commitments and tailor make them not to the Board of Zoning Appeals but at the development plan approval and at the platting approval and that's actually in the commitments themselves. They essentially do, do two things these commitments: It provides for a tree preservation area at the northeast part of our development. That's a much bigger area than was contained in the original concept plan and that, that will be maintained as part of that tree preservation area and that was significant to the Esras and I think it has collateral benefits to the Armstrongs who are adjacent to the Esras, in terms of making sure that all of that foliage along Oak Street will be, will be maintained and not be, not be emasculated in the development process. So that was something that was very much of a concern to the Esras, so we agreed to a tree preservation area as outlined in the commitments.

The second thing we did is they had some concerns as to how the drainage was going to transpire. We connected up our, as I say, our engineer and provided answers to a number of questions that they had with specific details and a couple of the things that were suggested in terms of the silt fencing that, that they had wanted we had committed to that and, in addition, they also had requested a dry sock drainage system that helps with regard to collection of water and moves it in the right direction. It wasn't, it's not required under the ordinance but that was a suggestion that made. We, we looked at it and not only did we include it for the area by the Esras, we included it all the way down our eastern boundary where the Armstrongs have, have their property as well all the way back to our lake to try to make sure that in essence we weren't dumping water into the, into the drain and that we were collecting all of the water in, in that, in that regard. A couple other things I want to bring up because the Armstrongs have 2:03:04 inaudible off microphone I think it's probably appropriate to take it up with the Plan Commission –

Mundy If you, if you can get back, yeah, close to the mic.

Andreoli Here's the, there's the essence of it. This is our original concept plan that was approved and attached as part of our commitments. Originally, we had a

connection coming in here as an emergency entrance and our road system was along the outside. The Armstrong's property is right here. They bought that property and it's almost immediately adjacent to the property being developed. It, it's always carried a residential classification. At some point they knew it was going to be developed residentially but, nonetheless, we felt they were the most affected people by this particular development. So, and perhaps, you know, no good deed goes unpunished but in our new development plan we have houses to the back of this and the road is on the inside because the concern that was raised at that point when we did our concept plan was how are we going to prevent traffic? How are we going to prevent lights? How were we going to prevent all of that from getting back into the, into the backyards of the, of the Armstrong family with their house right next to our property? So, we decided to go ahead and move the road on the interior and move the houses on the backside for several reasons, not the least of which these are going to be older homes, they're not going to have playgrounds in the back, they're not going to have playground equipment in the back, those will all be restricted by way of covenants and so it's a much quieter environment to have the house there. They're not going to have the road. The road will be on the interior and that, that is a, we believe, a much better proposal when we received the concern that they had we reached out and said do you want us to move the road back? No, we, we really like the configuration of where the road is but we think we've lost a little area in terms of greenspace and we'll deal with that but I just wanted to give you a little preliminary insight as to how that came about and we don't view that to be a, a, a substantial deviation from the master plan because we're trying to make things better for them but that'll be a decision that the Plan Commission will have to make at some point.

And, essentially, with regard to drainage and the street layout of this particular development, it is necessary to try to reduce these, this, the front yard setbacks. These are going to be longer houses, narrower houses but longer in the back and they're going to have side courtyards and that's where most of the activities of the houses will be taking place. You should've received brochures. We had brochures that we had passed out with regard to the product but its, most of the activity will be in the side yards, not in the, in the rear yards and all the rear yards of these houses will have fences so that it adds additional protection and quiet to our neighbors. We were actually able to push the, in the new plan, the development farther away from the Thornhill development just by way that it's laid out in, in, in terms of the drainage and the wet, wet retention. So, we, we'd be happy to answer any questions you have. That's, that's in essence is just a blanket street variance given the size of these lots and given the actual product line, this is what would be necessary in order to be able to go ahead and appropriately move in and out. We're not changing and we're not narrowing the streets. We're just narrowing the front yard setbacks in order to locate these houses so I just wanted to make sure you were clear on that. Be happy to answer any questions and be happy to respond to any comments members of the public might have.

Mundy

Thank you Mr. Andreoli. Questions for the petitioner's representative?

Postlethwait Of course. Thank you Mr. Andreoli. I do have a couple of questions for you. You mentioned just now and I also saw in the, the petitioner's narrative that there were, there was a brochure that was supposed to be with our –

Andreoli I'm sorry?

Postlethwait I understood there was supposed to be a brochure about these houses. You just mentioned it and it was also in the narrative that the petitioner submitted about this area and what the houses would be like and I don't remember having gotten any – I mean, I didn't receive it so can you give us an idea please? Are these, this setback are these garages front-load garages? All of them are going to be facing the street?

Andreoli I'll have a, I'll have Mr. Pfeifer talk about those.

Postlethwait Okay.

Andreoli That's, that's a fair question.

Postlethwait Okay.

Mundy I think what Mrs. Postlethwait just mentioned is true for all of us. I didn't get a brochure either so I have not seen any elevations or anything with respect to the houses.

Pfeifer Good evening. I'm Dale Pfeifer with Epcon Communities, brand spanking new to Epcon Communities so I'll try to answer and articulate it as best as possible but, yes, our, our design communities of our single-family homes are one-story product, first of all, and they are front loaded with garages and the, the copyrighted courtyard design entails a courtyard off the side of the house and, and connects with the adjacent house and it's, with a fence connecting each of the houses.

Andreoli The courtyards connect.

Pfeifer The courtyards connect.

Postlethwait Okay, so these are two-car garages?

Pfeifer Correct.

Postlethwait And the, the 20-foot setback that we're discussing, this is 20 feet between the entrance to the garage and the sidewalk? Are there sidewalks in this?

Andreoli No, it's, it's, it's the right-of-way, yeah.

Lake So can I ask an adjacent question to that?

Postlethwait Please do.

Lake So, you've got a 60-foot road right-of-way, 30-foot back of curb to back of curb, so you got 15 foot on either side. I assume the road is centered in the right-of-way – so what's that 15-foot consist of? Is it 5 foot planting easement for street trees and a 5-foot sidewalk and then 5 foot of their front yard and that's the edge of the right-of-way? I, I guess where I was going with that is, I've got an F150 and if I'm not, if staff has suggested that the, the setback be 25 foot where there's a front-load garage, but I want to make sure that that F150 is not blocking the sidewalk. That there's still clear passage of the sidewalk.

Postlethwait And to be fair, these are all front-load garages so the question would be why –

Lake Yes.

Postlethwait Are we not at least thinking about a 25-foot setback if, in fact –

Lake Yeah.

Postlethwait That's what the recommendation of staff would be.

Lake Yeah.

Pfeifer I'd, I'd like to get our engineer on the line. He's, he's dialed into –

Lake Sure.

Pfeifer Zoom video call.

Lake If we can pull him up that'd be great.

Andreoli That's a good question.

Pfeifer He could answer that technical question.

Andreoli You don't, you don't want, you don't want cars out in the middle of the –

Pickell Sidewalk.

Andreoli In the middle of the sidewalk.

Postlethwait So the people would have to go into the street.

Lake Yeah, I mean –

Andreoli That's a fair question.

Lake My mom's elderly. She's fallen walking around her community try to skirt around a car so.

Andreoli 2:10:35 inaudible off microphone

Mundy Brett Huff, is that that right person?

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- Pfeifer Yes, correct.
- Mundy Okay.
- Lake So Brett did you understand our question?
- Pfeifer He's on mute.
- Huff Yeah, hi. This is Brett Huff, Kimley-Horn, office 250 East 96th Street in Indianapolis. Yes, I understand the question. So the, the 20-foot setback is from the outside of the right-of-way so the sidewalk and the roads are all inside of the right-of-way. The sidewalk actually sits one foot inside the right-of-way so, to answer your question, it would be 21 feet from the back of the sidewalk to the front of the garage.
- Lake Okay. Thank you.
- Mundy How big is an F150?
- Taylor That's a fair question.
- Lake 19 foot 11-3/4 actually.
- Postlethwait So, I mean, but what we're talking about is, is a comment of, that staff made about it would be better to have this setback be 25 feet rather than 20 feet in order to accommodate two cars, not even an F150, but two cars sitting –
- Pickell Nose to nose.
- Postlethwait Nose to tail in the, in the driveway.
- Lake Yeah, that would, that would allow them to fit in the driveway but it would still block the sidewalk, two cars because a normal passenger car is 14 foot long so you're looking at 28 with two of them and, and I know we, we've had several neighborhoods that have come before maybe it was Plan Commission and not necessarily BZA where we've had the same exception where front-load garages, you know, they've requested the same 20-foot setback and those primarily were side-load garages but we've said in the situation of a front-load it needs to be at least 25. So, yeah, I'm wondering, wondering why if they're all front-load garages why we just don't require 25 out of the gate –
- Postlethwait Right.
- Lake As opposed to, yeah.
- Postlethwait And the other question would be if you are diminishing what the setback or what the setback is, are you elongating the houses? Will the footprint of the house be larger than it would've been is the setback were as it was?
- Andreoli No, I think there are, I, you have an answer to that?

- Pfeifer Maybe Brett might have an –
- Andreoli Pardon?
- Pfeifer I think Brett might have an answer to that.
- Andreoli You gotta answer up here.
- Huff Yes, I, I can answer that. So, I guess this, the further you push the houses back in a neighborhood like this where you're, you're 55 and older, I mean, you want a more traditional neighborhood. You want the houses kind of up closer to the road. We do agree with making sure that a, an F150 or a car can fit in there and not block the sidewalk but we don't want to push them back any further than we really need to. We kinda want a nice walkable area, not, not these huge, long, longer driveways. The additional 5 feet I don't think gains us any realistic extra parking area or, or helps with the sidewalk walkability and, and I, I think it just kinda pushes the houses further back than they need to be. The, the standard – I'm going off memory here – but I believe it's like 70, it's almost like a 70-foot setback is what the, the standard calls for which, obviously, in a neighborhood like this I think we can all agree needs, should be reduced but the, the 20 foot is the preferable setback that we, we're asking for.
- Lake I think maybe where you were going with that Kathi was, is lot coverage going to be a higher percentage –
- Postlethwait Right.
- Lake With a 20-foot setback than a 70-foot setback.
- Postlethwait Right. Does it alter what the lot coverage will be?
- Lake I mean I think the lot –
- Huff I can, I can –
- Lake Go ahead.
- Huff I'm sorry. I didn't mean to interrupt. I'll let you finish if you want.
- Lake No, go ahead Brett.
- Huff So we do have, I, I mean we have several, most of products are the same depth. The front façade changes. We usually try to line up the backs of the homes so all the backs of the homes are consistently in a, lined up but the fronts when you're driving down the road that you'll see some inconsistencies and some different setbacks and elevation changes but we do have a larger product. I think we have 20 lots in this particular layout that, that do accommodate Epcon's largest product which is a little bit nicer, a little bit more high end. The additional 5-foot setback probably, most likely, reduces the amount of those so we may go from 20 of those larger products down to maybe 10 because we're losing – you, you take

5 feet across this entire layout, you know, 5 feet at every lot you increase the setback you lose 5, 10, 15, 20, 30 feet across the site in setbacks, if that makes sense.

Lake Are those larger products front-load garages or side-load garages?

Huff Yeah, all, all the products are front-load, every, every one of them.

Lake Okay.

Andreoli Primarily those would be the lots that overlook [REDACTED] 2:16:03 inaudible off microphone that might have a little bit more room in the back and we would certainly not be able to do that, that type of product throughout the entire development given the, given the areas of wet retention that we have and the actual buildable ground that we have with regard to [REDACTED] 2:16:22 so.

Postlethwait Just for the record, an elevation of one of these would've been useful probably at least –

Andreoli Pardon me?

Postlethwait Just for the record, an elevation of one of these houses, speaking for myself, would've been useful for consideration.

Andreoli And, and we're sorry. We had submitted some brochures but I don't know that I included a specific brochure in the packet that was sent out to you but they're, they're available. They're quite nice. The, I, I would certainly encourage members of the, of the Plan Commission who will sit to hear this further to go over to the Courtyards at, at Carmel and, and take a look at the product itself. It's, it's exceedingly high end, it's very nicely done and will, will be much higher in terms of the average price points than what we had proposed with regard to the original concept plan.

Lake So, Stonegate for reference has 20 or 25-foot front yard setback where there's an alley in the back and I think they go up to like a 30 or 35 foot where there's a side-load in the front that 20 is not – it kind of hearkens back to that older era of house which has become more common in Clay Terrace or, sorry – Village of West Clay –

Postlethwait Right.

Lake Stonegate, these are smaller lots – I'd say most of them are a little on the smaller side compared to, to Stonegate but the houses are also probably smaller –

Postlethwait Right.

Lake So I don't know that it changes the lot coverage necessarily. It just shifts where your greenspace is from the front to the back so.

Postlethwait Same for the sides.

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- Lake And, and the side, yeah, and, and I know the comment in the letter we received was more relating to hard surface and drainage –
- Postlethwait Right.
- Lake And, you know, percent of hard surface runoff.
- Andreoli These will be maintained in terms of all the yard landscaping by the HOA so there will not be any maintenance responsibilities by the individuals who will be living there. All of those maintenance responsibilities will be maintained by the HOA in terms of the landscaping, yards, snow removal, all of those types of things. In terms of individual sidewalks and those types of things.
- Mundy I have a little different question. I, you, you mentioned your one product and it's the materials we received has also indicated that. There are, these other, I think it's 9 or 10 lots, which are much larger are, will those be different entirely? Are those part of the one product?
- Andreoli I, I don't, I don't think so. They're not gonna, I know the garages won't change. The, the product may be slightly –
- Postlethwait I think –
- Pfeifer May I interject?
- Andreoli Hmm?
- Pfeifer I believe you're referring to the, what we're calling the estate lots –
- Mundy Yes.
- Pfeifer Which Jim Knighton is here. He'll, he will be developing. These are custom homes on private, gated estate lots –
- Mundy So they, they are not the same –
- Pfeifer Facing the lake.
- Mundy Not the –
- Pfeifer Not the same.
- Mundy All right.
- Pfeifer They're custom homes.
- Andreoli That product, that product does not change in terms of concept plan. Kendalwood Realty will maintain those, sell those and develop those independently as custom, custom building lots. They're quite nice on the lake and, and we, we figured it a little differently in terms of the total number of lots but, in essence, those haven't, haven't changed in terms of the lake lots.

- Mundy Any other questions from the Board?
- Jones I guess I'm back at trying to review what everybody's saying about this 20, 25-foot setback. So we really aren't provided with a street cross section. So if what I'm hearing is correct, there's out of the 60-foot right-of-way, 9 feet either side is going to be taken up by a 5-foot grass strip and a 4-foot sidewalk? Is that what we heard?
- Lake Well, it's gotta be more than that because the, they're saying 30 foot back of curb to back of curb –
- Jones Okay.
- Lake And then they're saying that the backside of the sidewalk is one foot in from the right-of-way line so that leaves you with 28 foot total – 14 foot on either side – for the sidewalk and then the greenspace between the curb and the sidewalk.
- Jones So then the back of the sidewalk is 14 feet from the back of curb?
- Lake Yeah, if I'm doing my math right.
- Jones Okay. So, in other words –
- Lake 15, yeah 14 foot.
- Jones So from back of curb to front of garage, there's going to be 34 feet including the sidewalks and the green and everything else? Is that correct?
- Lake From the back of what they were saying is from the back of the curb, or sorry –
- Jones I understand.
- Lake He said back of the curb, yeah, it'd be 34 foot.
- Jones Okay. Which is that what everybody else's – because that's substantially more than what initially it sounded like. It sounded like it was just going to be 20 feet.
- Lake Yeah, it's, it's –
- Pickell Driveway to the door.
- Lake It's misleading, yeah –
- Pickell Right.
- Lake Because you, in your mind the 20-foot setback you're thinking curb but it's –
- Postlethwait Right.
- Lake Right-of-way and right-of-way is –

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- Jones You know, you know, Mr. Andreoli, if you have a client who does this again, providing a street cross section and an example of the house kinda helps the process.
- Andreoli Yeah, I'm sorry?
- Jones Nothing. I'm just being a, me. So the question is, so the question is from back of curb to the front of the house will really be more like 34 feet.
- Lake Yeah.
- Jones So the issue is, if you park in front of your house, in front of the garage, will 20 feet be enough to keep the rear of the vehicle out of the sidewalk?
- Lake And you'll actually have 21 feet because you get, their sidewalk is a foot short of the right-of-way.
- Jones So it's –
- Lake So you pick up the foot plus the 20-foot setback –
- Jones Okay.
- Lake So it'll be 21 foot –
- Jones Which –
- Lake Accommodates an F150.
- Jones With a hitch?
- Lake With a hitch.
- Jones Should be –
- Lake You won't knock your shins on a hitch.
- Jones All right, but overall, from the front of house to the back of curb should be more like 34 feet?
- Lake Yeah.
- Jones So it's a fairly wide strip along the – and then the street will be 30 feet?
- Lake That's what it says – 30 foot back of curb to back of curb. That was part of the comments –
- Jones Oh –
- Lake In the staff's questions to the civil engineer.

- Jones They don't really have enough room for parking on the street.
- Lake It probably has a roll curb on it and so you'd park, you could park on the street but anywhere where you had two cars parked across from each other you'd be down to a one-lane –
- Jones Single lane.
- Lake Driving section which is all that any neighborhood that I've, I've driven through in Zionsville so.
- Jones Okay.
- Lake That's not atypical.
- Jones Right.
- Mundy Any further questions?
- Huff Sorry – could I bring up one more point if that's all right?
- Lake Sure.
- Mundy Go ahead.
- Huff And, might want to verify this with Dale – this is the same products as the Courtyards of Carmel, correct?
- Andreoli I'm sorry?
- Lake Brett just asked Dale if this is the same product as the Courtyards of Carmel.
- Pfeifer Yes.
- Lake Yes it is.
- Huff So the Courtyards of Carmel, so those, those garages are actually recessed also from the façade so the front of the house is the most prominent feature and the garages are recessed so that's going to be an even longer driveway than 21 feet.
- Postlethwait Okay.
- Mundy Thank you.
- Lake Thanks for that clarification.
- Pickell Yes, that helps.
- Postlethwait That helps. Thank you.

Lake Again, house drawings.

Postlethwait Yeah, it would help. Just sayin'.

Mundy Is there anyone here or anyone online who wishes to speak for or against this project? If you would state your name and address please.

J. Armstrong Yeah, good evening Board. Josh Armstrong. I'm here with my wife, Eliana Armstrong. We live at 650 Spring Hills Drive. As Mr. Andreoli indicated, we're the property that's in the northeast section adjacent to the proposed development. I believe our, yes, our counsel's behind me. Tom Perkins, he submitted some documentation to the Board earlier today. We'd like to speak to some of that, highlight some of the text in that documentation.

I'll draw your attention to what's on page 2. We, we wanted to start by talking about Finding #2 that the, in the petitioner's draft which states that the substantial buffer exists with surrounding properties. That's a, that's a quote from the, from the Finding. At that meeting that Mr. Andreoli referred to on September 29th, the petitioner provided a plan depicting a substantial buffer zone that consisted of an open greenspace to the west of our property and we referred to that as Figure B in the documents that we submitted and I actually have, it's, it's an excerpt from a larger printout that they provided during that meeting on September 29th. However, we were surprised because the materials that have been currently submitted by the petitioner in support of the requested variance entirely omit this buffer zone. Now, I want to make it clear, we are quite pleased with the movement, the displacement of the road to the west of the homes away from our house but we disagree that this change necessitates eliminating that buffer area between our house and the developed area. Now the petitioner's proposed variance would have an unnecessary and substantial adverse impact on the use and value of our adjacent property and we would request that any BZA variance approval be conditional upon reinstatement of that buffer zone as depicted both in the original concept plan as well as that document, that figure that was provided to us at the, the neighborhood meeting. And then I'll ask Eliana to speak to the, to the next –

E. Armstrong Thank you Josh. I will also try to be brief, although I have the section with all the big words. Our second objection refers to two emergency flood routes which would cross our property to reach Irishman's Run and those are labeled A and B in Figure C of the latest packet that we provided. The proposed variance increases the built-up area in the Irishman's Run basin and that, in turn, increases the rate of flow discharge from currently labeled Lots 15 to 19 and 35 to 46 on our adjacent property. The petitioner's initial written response to staff comments regarding the unmitigated rate of water flow and off-site flood risk was inaccurate and inadequate. It has been partially superseded by a draft commitment addressing EFRB only. However, no design specifications are provided, no hydrological assessment is provided, the location of the proposed swales within the proposed lots and/or within the existing pipeline right-of-way is unresolved, therefore, compliance with county and town planning requirements for prevention of off-site flows cannot actually be determined. The petitioner's proposed variance would, therefore, have an unnecessary and substantially adverse impact on the use and value of our adjacent property. Therefore, we

continue to object to implementing the proposed variance within the, specifically within the Irishman's Run catchment area. We request that any BZA variance approval be conditional upon revisions to the petitioner's proposed commitment to ensure that emergency flood routes A and B are diverted within the property as, within the property by swales compliant with county and town planning requirements just as was – I don't know what's wrong with my voice, sorry – just as was required of the Liberty Village Development in Lebanon in 2021. Thank you.

Mundy Thank you.

Lake Can I interject for a minute?

Mundy Yeah.

Lake Can I get, so this – the comments that I'm hearing right now are Plan Commission comments, not BZA comments and this setback request still is going to cause them to have to go back and – if they're changing the development plan from whatever was presented – I wasn't on Plan Commission at that point.

Taylor Yeah, if, if you were to, if you were to grant the variance to allow 20 feet or some other distance, that's all it does. That's all a variance does. It would not relieve the developer from any commitments he's made or any concept, plan approvals that he's received from the Plan Commission, DPR approval, plat approval – it doesn't relieve them of that and, yes, at least in terms of my reading of the submission today, it does sound like things that we get into as the Plan Commission side not here and I think that the, I would respectfully disagree that the granting of a variance has the impact proffered by the Armstrongs, with, with all due respect that would be my position.

Lake So, if I can – hold on give me just a second. Where does this stand with Plan Commission?

Stevanovic It has not yet –

Lake In the time I've been on Plan Commission I haven't seen it so I just –

Stevanovic You haven't yet.

Lake Okay.

Stevanovic You'll see it next month or this next month coming up –

Lake Okay.

Stevanovic This next meeting. It's, it's gone through TAC and at TAC we identified the front yard issue. That's why it's at BZA.

Lake Okay.

- Stevanovic So that actually is up to the petitioner when he prefers to be heard by the Plan Commission.
- Lake Well, and hearing some of the history of this and, and concept plans, I wanted to make sure that there wasn't something that happened in Plan Commission before I was on Plan Commission that I wasn't aware of because, again, those comments sounded like Plan Commission comments –
- Stevanovic Right.
- Lake So I'm just trying to make sure that my context is –
- Stevanovic You're exactly correct.
- Lake Set correctly.
- Taylor Yeah, and, obviously, compliance with landscape plans, ordinance agreements, commitments, you know that's Plan Commission –
- Lake Yeah.
- Taylor Drainage –
- Lake Yep.
- Taylor You know, they have to comply with all of the, the Zoning Ordinance and the Stormwater Ordinance and the town will review that strictly as they do. If you've had a plan reviewed you know how strict they are. Those are issues that are, again, respectfully I would say are, are later at a future meeting and not at this meeting –
- Lake Okay.
- Taylor And will be addressed thoroughly at that time.
- Perkins So if, if I can – and I'm, I'm sorry, but it's just – my name is Tom Perkins with the Paganelli Law Group and, unfortunately, I'm the one that sorted the order that we would go in. I probably should've started off in saying that we recognize this is a, a BZA variance discussion today and that's why my comments were going to start off with the fact that the – and this is evolving – the concept plans aren't the same as construction plans aren't the same as development plans aren't the same as built, all that kind of stuff. So, all we can do is make a presentation tonight based on what's available to us tonight and in that regard, and there was some confirmation of that earlier when, I believe, it was the engineer stated that moving the setback up towards the road will allow for a larger footprint home to be built on at least some of these parcels or a greater percentage of the parcels. I don't know which parcels are intended to be affected that way but our point is that for parcels 15 to 19 and 35 or 39 to 45 there's an impact of that larger footprint home on the drainage and on the, the buffer with the Armstrongs. So, with respect to the Armstrong's property, it does make a difference if those larger footprint homes are on those parcels and, and maybe that's something the

engineer or Mr. Andreoli can speak to but that's what prompted our remonstrance about this variance.

Taylor Well, but again, that, that may, may increase the size of homes on a lot. All, all it does is allows variance from our ordinance. It doesn't guarantee any design outcome. I mean, we don't know and we won't know until the development plan is submitted which is two steps from now which is much later and it's in front of different people.

Lake Some different people.

Taylor The Plan Commission, not the BZA, where the developer has to come in and provide you those details. But to say that the granting of the variance will result in A, B and C, those are design decisions that haven't been made. It may or it may not – so when will we have that conversation? Development plan review. And so, again, I, I'm not trying to disagree, I want to try to provide clarity and, and, again, you could, you're welcome, you and your clients are welcome to say what you would like at this meeting –

Perkins Right.

Taylor I just don't want there to be misunderstanding about what the BZA's doing tonight versus what a Plan Commission may do in two or three additional meetings and I just, I want to, I want to provide clarity. I'm not trying to be argumentative.

Lake And, and I didn't want my questioning to diminish what the Armstrong's concerns are. Please understand that's not my, my intent. I just was trying to understand if I had missed something before I was on Plan Commission that this is then retroactively trying to change a setback line so, just –

Taylor And Chris is on both so you'll get another shot at him.

Perkins All right.

Taylor So you'll, you'll be able to share these concerns. He's heard them but –

Lake Yeah.

Taylor You'll get another shot at him and Larry down on the end because they'll be at that next meeting.

Perkins Very good. So just to kind of tie up my portion of this. I, I think it would be appropriate as a BZA looking at this variance to put conditions on it that do recognize while it doesn't establish the design criteria that might be developed, it certainly influences it. Right? The lot size influences what the footprint can be and what the lot coverage can be. So, that cascade of issues is why we're here tonight which is why we will be present at the Plan Commission. So, this was an opportunity to share our perspective.

Lake Thank you.

Perkins Do you guys have anything to add?

Mundy Thank you.

E. Armstrong Do you want to share our proposed condition with – is that something
2:35:27 inaudible off microphone

Perkins So, this is in the materials that were sent to staff but a proposed condition would be that to the extent the setback is moved forward, that the rear property line also be moved, allow for the drainage as a condition. It's already mentioned that a condition is conformance with the Plan Commission and whatever the, the substantial compliance is with that but to the extent the setback is moved forward, to have a similar requirement on the back side for these lots.

Mundy Is there anyone else who would like to – we have someone online?

IT 2:36:16 inaudible off microphone

Lake That'd be great.

Mundy Okay.

Huff I'm sorry, I can barely hear that but did somebody say go ahead and share the rendering?

Lake Yes, please do.

Mundy Yep.

Huff Okay, all right. Let me see if I can get this. Is this coming through?

Mundy Yes.

Lake Yes.

Huff Okay. Let me scroll down to the renderings here so. Here's a few renderings of the fronts of the homes. You know, the front of the house is sitting quite a bit ahead of the garage in most of these configurations. I'll just scroll through a few. I mean, this has a pretty prominent front porch on it and the garage sits back. This is sort of the configuration of the, the homes at the side courtyard areas that they were talking about earlier and it, it also illustrates the rear of the homes lining up linear along the parallel line. So, real quick on that point, as far as the, the front setback getting – if, if it were increased, I guess what I'm saying is the back of the homes are going to sit at a certain point and if we increase the front setback, the fronts of the homes are going to get shorter, not the backs of the homes getting further away. It, we, we'd pull the front of the homes of because all the backs are going to line up and in the courtyard area you can, you can see the, the back yards aren't really used. In fact, I'm not even sure there's a gate in the back to even go back beyond the backs of the homes. So there's clearly going to be a buffer back there beyond the natural drainage swale or the

drainage swale that we have to, to design but, again, some Planning Commission items but just, just to kind of give you guys a little bit better picture of the layout.

Lake No that was, that's helpful.

Mundy Yeah.

Lake Thank you.

Mundy And, and there is, you say there is one or more that are slightly longer and how do you stage those while you're still telling to maintain the same rear housing line?

Huff Yeah, they're not necessarily longer. They're, they're wider.

Mundy Oh, okay.

Huff So we have, we have 20 lots in this, in this layout that are almost 70 feet wide instead of 60 or whatever it is but there's, there's, there's 20 larger wider lots, not necessarily deeper.

Mundy Okay. Thank you.

Jones So I, I've got a question – so are, is this product what we'd consider a, a zero-lot line development where one side of the property, one side of the residence sits hard on the property line? You're speaking about these courtyards connecting to the adjoining property which would kind of mean that a person's side yard would be half on their property and half on their neighbors? Am I hearing that correctly?

Huff That's correct. There's a shared –

Jones Which is correct? Is it a zero lot line where one side of the residence sits hard on the property line or is it, is the side yards are they shared? My question –

Huff It's, there is a side yard setback to the structure. We, we have 6-foot minimum side yard setbacks from the lot lines to the structure so there's 12 feet between the structures.

Lake So likely what happens is that's all just plantings. So it's one person, it's landscape on the one person's property –

Pickell Right.

Lake But not usable, but the property next to it gets the advantage of the neighbor's landscaping is probably the way that happens.

Jones But let's, so when you look at the typical courtyard picture and you look at the kind of site plan below, they don't – I'm usually pretty good at figuring these out but one isn't equal to the other.

Huff Here, here's a picture here in the bottom right.

Jones Okay, so who owns on the land on the right?

Lake So like where's the property line relative to those two building faces?

Huff So it's right down the –

Lake Is it right down the middle?

Huff Right down the middle.

Lake Okay.

Jones So the sidewalk to your neighbor's house goes across your property?

Huff Yes, there's a shared, yeah, shared property line.

Lake Shared easement.

Huff Shared ease – yeah.

Lake Yeah and part of that because they're, they're no maintenance anyway so –

Pickell Uh huh –

Lake It's a third party maintaining all of them.

Pickell Yeah.

Jones What was the project done over by the church?

Lake Which church?

Jones By –

Pickell The Catholic Church.

Jones Yeah, behind the Catholic Church?

Postlethwait Courtyards of Zionsville?

Jones Yeah. That was a similar product.

Pickell Close. They're a little different.

Huff Yeah those, those are very similar, the Courtyards of Zionsville, yes. That was, that was done by a franchisee of Epcon.

Lake Okay.

Huff And then the side, the side of that adjacent home because, obviously, there's no windows or anything. It's all blocked and private but, again, this just kind of give you guys an idea of the renderings they were, I don't know if it's related to the, the front setback but –

Jones Well, it's, it's relevant because you've got an adjoining property owner complaining about the buffer yard coming and going and what we're trying to figure out is what is – are the lot sizes there's a rear utility and drainage easement on the back but then does the house go all the way back to that rear utility and drainage line or is it somewhere else?

Huff Yes, they'll basically be lined up on the, probably the rear yard setback or the drainage easement, whatever is probably more restrictive.

Lake So there's basically a 15-foot built-in –

Jones Hmm.

Lake Buffer and in some cases there's a pipeline.

Jones Mr. Andreoli, I've got a question for you please.

Andreoli Yes sir.

Jones With the development plan is there any proposed request to deviate from the Zionsville drainage requirements?

Andreoli No, I believe we were all in, in compliance with the preliminary drainage plan. It was, that's, that's a good question, Mr. Jones. It was extensive – the preliminary drainage plan and final drainage plans and we were not, we were not deviating from the Stormwater Management Ordinance at all and, in fact, with regard to the drainage going east off our property towards the Armstrongs and, and the Esras, we were eliminating a lot of the surface runoff that was going that way. It actually helped in the drainage situation as it went to the east because we were collecting all of that and putting it in our wet detention ponds and wrapping it around not only with a, with a swale but also with these, with these socks and the silt fences and we agreed as far as our commitments, to maintain those and keep those in place until that, that particular sections are all developed. So, that dry sock and, and all of the, all of the siltation fences will have to be maintained. I, I think that's implicit in your ordinance anyway but the Esras made that particular request that we maintain those and keep those in place until the specific sections dealing with that are no longer applicable or necessary for, from a drainage standpoint. In other words, all of that is in and completed before we would tamper with the silt fences. That's, that not only goes to the Esra's property, it takes care of the Armstrong's property because the siltation fences and the dry sock goes along our entire eastern border to the Armstrong's south. So, that was a suggestion that was made by the Esras as well to provide help and benefit to them. So we've, we've included all of that in our, in our proposed commitments and as far as the, as far as the staff report, we've worked through a lot of these issues with staff and we wholeheartedly agree with staff's recommendation to go ahead and, and approve the, our setback variances subject to the Plan

Commission determining that, that we, we are in substantial compliance with the master plan.

Let me, let me give you a, and this is always why we're a little reluctant about coming up with words like substantial compliance to a master plan. Our master plan and our concept plan initially showed a road next to the Armstrongs. We decided we didn't want to put a road there because of the concerns that they had expressed before, probably at my suggestion. Not, not sure it was the best thing to do now if they're raising concerns, but that's what we did to make sure that they did, they had houses there, they did not have a roadway there. The other limiting factor in terms of what we can do with regard to the roadway over there is, there is a 50-foot gas line easement along the common boundary between our property and Armstrong's and we can't put anything in there. So if we had our road right up to the boundary, which we could do, there's a 50-foot strip in there that we couldn't plant in so that's why we juxtaposed everything and put the houses there, put the road on the inside so that we didn't have to worry about them having a 50-foot strip that could not be trimmed or maintained. It would have to be kept at a, at a, at low level. We couldn't go in there and tamper with that so that's, that was another limiting factor.

Jones Just to clarify a couple of things – so this parcel's been in front of me a couple times over the decade, one of the first issues they ran is trying to get any kind of road paralleling the larger pipeline easement. They couldn't get to work because of the two bodies of water and the soils and the pipeline, hence, the reason the road kind of loops around. Secondly, what Mr. Andreoli was talking about – there's also another pipeline on the east boundary that they have the same constraints they can't do anything with. I, I, I know in the past we've had other developments at other sites where one of the reasons it got declined was that they had put their roadway to the outside – I'm speaking about the parcel just to the east of the Enclave development. They wanted to do kind of a commercial-type development and then they wanted to add – it was going to be like a, a, a retirement single, retirement home – and the, the concern that showed up there is that they were putting all of their commercial traffic, you know, laundry service, deliveries and whatever basically in the backyard of the adjoining residential parcels, hence, the reason, one of the reasons it got turned down. So, in general, I am very supportive of any time you can bring the road and all the road activity more into the property. You're putting like-kind uses along the Armstrong's property line and that the rear of these new homes will also match up to the rear of their homes so they've got like-kind uses and finally, it, it appears just from a, a, a general review is that the original development plan disturbed more site than what this current one was. So, yes, we had the same number of lots, the lots are smaller, hence, the amount of developed house on each lot will be large proportionately but I think, overall, it shows a reduction of, of the overall kind of drainage –

Lake Impact.

Jones Impact on the overall site. So, and finally as to what Dan was telling us, a lot of what is being brought up right now is actually a Plan Commission issue and has no real bearing on what's in front of us right now.

Mundy Thank you.

Lake Another remonstrator.

Mundy I think we have another person who would like to speak, is that correct sir?

Wood Yes, my name is Mark Wood and my wife and I live at 665 East Russell Lake Drive. We've lived in that home for 35 years so you can imagine our surprise when we saw this development and one of the things to, to answer Larry's question – the previous developer didn't have the lake lot homes on the northwest corner. None of those homes. So that was a huge difference, especially for the residents of Russell Lake Addition. So my house is, is in the western side. One of the things that we're concerned about with is, is drainage. Their roadway to go to those lake lot homes goes right over the top of an old lake. You can even see the, the bed of the lake on the drawing there. They completely ignore that there was a spillway that failed that drained that lake into the big lake years ago under the previous owner. The last thing that I have to say that we had knew, we knew nothing about until this meeting tonight is the fact that they're talk, now talking about an emergency roadway to go into Russell Lake Addition. That just happens to be in between my neighbor and my house. It's a yard. It is a yard and now you're talking about putting a road through there? With all these questions tonight I can't believe you guys would accept this at all. This is just nuts.

Mundy Thank you. I'll say again what's been said. We are considering only the setback to the front of these homes so that's valid points but it is not something that we have any control over.

Lake And I think to expound on that, I think, I think those are comments to share with the Plan Commission when this comes before Plan Commission.

Wood 2:51:53 inaudible off microphone.

Lake Correct. Plan Commission does as well. That's all I'm saying.

Mundy You've just telegraphed to two of the Plan Commission members what you'll be there to say at that meeting.

Postlethwait And I would also suggest to you that if you, if your neighbors feel similarly that you would do well to be sure that you, your remonstrance, your letters of interest –

Wood 2:52:14 inaudible off microphone.

Postlethwait Oh.

Wood 2:52:20 inaudible off microphone.

Postlethwait Okay.

Mundy There's no one else here to speak for or against the project? Could we get the staff report please?

Baker Yes, I'll be brief on this because I think you all discussed this and we circled back a few times but the request before you tonight is a setback variance to accommodate the request is for 20 feet. The requirements in this zoning district is 70 feet from the centerline or 20 feet from the property line, whichever is greater. Like I said, the concept plan that will be sorted out at Plan Commission as we discussed. There was mention about the 25 foot for the front-loaded garages. Staff just wanted to ensure that, like you all discussed, that the cars parked in the driveway wouldn't intrude into a sidewalk or the right-of-way so that is where that recommendation comes from just ensuring that any vehicles won't intrude into the right-of-way where that 25-foot comment came into place. With that said, staff is supportive of the request given the conditional approval that the Plan Commission approves the, the revised concept plan for the primary plat and development plan which would be determined substantial compliance with the commitments associated, associated with 2020-24-Z and happy to answer any questions from there.

Mundy Thank you. Would you consider the discussion we've had with respect to the distance that will, individuals will have to park in be sufficient?

Baker I think so based on, based on the numbers and what you guys were going through, I think, I think we're agreeable that that meets the, the intent of staying out of the sidewalk and right-of-way.

Mundy All right. Any questions for staff? Any further discussion among the Board?

Dale I have a quick comment for the Board and there was a lot of conversation about back of curb to back of curb versus the half-width of, of the right-of-way. You have the engineer here that can probably provide you some more information better, an exhibit of a street profile or street section. If you had more questions or if there was any ambiguity in your mind about what actually the street layout or the street section would look like.

Jones I got one more question for Mr. Andreoli – you've seen our recommended motion. Is there any issues with the complying with the 2022-53-PP and 2022-54-DP as well as the 2020-24-Z, the previous commitments? Is there issues out there with complying with that?

Andreoli Sir?

Jones So –

Andreoli _____ 2:55:28 inaudible off microphone are fine with the previous commitments.

Jones Correct.

Andreoli No, no. I, I think, I think _____ 2:55:34 inaudible off microphone do we have to comply with those as part of our, of our rezoning of that particular ground and, and, again, the, the question is how do you determine that? And that's best left up to the Plan Commission. We think we do. If others think we

don't they can make that case to the Plan Commission I think legitimately. So if, if, if you want to use that, that language, I think that language is absolutely appropriate because I think that's our obligation, Larry. Just to go ahead and make sure we substantially comply and it would be up to the Plan Commission to make that determination whether we do.

Jones You want a motion?

Mundy Please.

Jones I move that Docket 2022-69-DSV, a Development Standard Variance Petition to provide for a reduced front yard setback to a minimum of 20 feet for the property located at 8901 and 9085 East Oak Street, Zionsville in the Rural Single Family and Two-Family Residential Zoning District (R-2) be conditionally approved as presented and described based on the Findings in the staff report and the staff recommendations, submitted Findings of Fact, substantial compliance with the submitted site plans, Plan Commission approval of the revised concept plan associated with Petitions 2022-53-PP and 2022-54-DP in which it would be determined is in substantial compliance with the commitments associated with 2020-24-Z.

Mundy Thank you Mr. Jones. Is there a second?

Lake Second.

Mundy Thank –

Andreoli Can I make one additional suggestion? I know this is unusual for me to do this but I, I made a representation to Mr. Jacob that your approval would be also conditioned upon those commitments that we had made to the Esras about the silt fencing, the drainage, the protection area be part of your approval process so, I apologize. I should've said, stated that upfront but I want to make sure since he had requested that we do that as part of your approval.

Mundy Mr. Jones, would you be amenable to including those additional commitments in –

Jones Yes.

Mundy In your motion?

Jones Yes I would.

Mundy Thank you. Thank you Mr. Andreoli.

Mundy Is there a second to the modified motion?

Jones We're good?

Lake Yeah.

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Pickell We're good.

Lake I'm good.

Jones All right.

Lake Sorry.

Mundy We're good?

Lake Yeah.

Mundy Is there a second?

Lake Yeah, I seconded already.

Mundy Oh, you did?

Lake Yeah.

Mundy Okay, sorry.

Lake I'm fine with the amendments.

Mundy Thank you Mr. Lake.

Lake Yeah.

Mundy All in favor please indicate by saying aye.

All Aye.

Mundy Opposed same sign.
[No response]

 The motion carries. Best of luck.

Mundy That, that concludes the agenda. Uh, Mr., Mr. Jones –

Pickell Larry.

Mundy Mr. Jones, would you like to make a motion to adjourn?

Jones I'll make a motion we adjourn.

Lake Second.

Mundy We have a, all in favor say aye.

All Aye.

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Mundy We're adjourned. I will announce to the Board I will not be here, well I don't plan to be here in February so –

Postlethwait I also will not be here so.

Mundy So it'll be the three of you. It's going to be pretty necessary that you're here.