



MEETING RESULTS ZIONSVILLE BOARD OF ZONING APPEALS
Wednesday, March 2, 2022
6:30 PM (Local Time)

THIS PUBLIC MEETING WILL BE CONDUCTED ONSITE AND ELECTRONICALLY AS ALLOWED BY VARIOUS EXECUTIVE ORDERS OF THE GOVERNOR OF INDIANA AND GOVERNOR HOLCOMB'S EXERCISE OF HIS POWERS UNDER INDIANA'S EMERGENCY MANAGEMENT AND DISASTER LAW, IND. CODE 10-14-3, et seq. ADDITIONAL INFORMATION REGARDING THE MEETING IS PROVIDED IN THE ANNEX PUBLISHED WITH THIS NOTICE.

The following items are scheduled for consideration:

- I. Pledge of Allegiance
- II. Attendance **5 of 5 members attended. (In-person S. Mundy, L. Jones, C. Lake, A. Pickell, K. Postlethwait)**
- III. New Members Oath of Office **Completed before the BZA Meeting for A. Pickell & K. Postlethwait**
- IV. Election of Officers **Steve Mundy- Chairperson, Larry Jones-Vice Chair, Wayne DeLong- Secretary**
- V. Approval of the January 5, 2022, Minutes
- VI. Continuance or Withdrawal Requests

Docket Number	Name	Address of Project	Item to be considered
2022-10-DSV	A. Wurster	9180 E. 350 South (est.) Zionsville, IN 46077	Due to a timely continuance request by an interested party the Petition was continued to the April 6, 2022, Meeting. Petition for a Development Standards Variance to provide for three lots that exceed the maximum Lot Width to Depth Ratio of 3:1 in the Rural Single and Two-Family Residential Zoning District (R-2).
2022-05-M	J. Davis	8150 E. 550 South Zionsville, IN 46077	Petitioner requested continuance to the April 6, 2022, Meeting. 5 in Favor, 0 Opposed Petition for Modification of the Recorded Commitments associated with Docket 2018-46-DSV in the Rural Single and Two-Family Residential Zoning District (R-2).

VII. Continued Business

Docket Number	Name	Address of Project	Item to be considered
2021-65-UV	J. Mullen	35 E. Poplar Street Zionsville, IN 46077	Approved as presented & filed w/exhibits & per staff report. 5 in Favor, 0 Opposed Petition for a Use Variance to provide for an existing use of a single-family residential home in the Urban Village Business Zoning District (VBD).
2021-66-DSV	J. Mullen	35 E. Poplar Street Zionsville, IN 46077	Approved as presented & filed w/exhibits & per staff report. 5 in Favor, 0 Opposed Petition for a Development Standard Variance to provide for an existing single-family residential home which: 1) Deviates from the required off-street parking requirements 2) Deviates from the required buffer yard requirements in the Urban Village Business Zoning District (VBD).
2021-67-DSV	R. Rose	1395 E. 550 South Lebanon, IN 46052	Approved as presented & filed w/exhibits & per staff report. 5 in Favor, 0 Opposed Petition for Development Standards Variance in order: 1) To provide for an accessory structure which results in exceeding the permitted accessory square footage 2) To provide for the establishment of an existing 1.06-acre lot (Minimum lot size is 2 acres) in the Rural Agricultural Zoning District (AG).

VII. New Business

Docket Number	Name	Address of Project	Item to be considered
2022-01-DSV	D. Damm	155 N. Main Street Zionsville, IN 46077	Approved as presented & filed w/exhibits & per staff report. 5 in Favor, 0 Opposed Petition for a Development Standards Variance to provide for a detached accessory building which: 1) Exceeds the allowable lot coverage 2) Deviates from the aggregate side yard setbacks 3) Deviates from the required ten (10) foot distance between two buildings 4) Exceeds the allowable 22' height for an accessory building 5) Memorialize an existing side yard setback of the single-family residential home in the Urban Village Residential Zoning District (R-V).
2022-02-SE	C. Zaring	10995 E. 100 North Zionsville, IN 46077	Approved as presented & filed w/exhibits & per staff report. 5 in Favor, 0 Opposed Petition for a Special Exception to provide for a new Single-Family Dwelling and related accessories on a parcel in the Rural General Agricultural Zoning District (AG).
2022-03-UV	D. Marlow	8280 E. 200 South Zionsville, IN 46077	Denied as presented & filed w/exhibits & per staff report. 4 in Favor, 1 Opposed Petition for a Use Variance to provide for a landscape contractor in the Rural Single and Two-Family Residential Zoning District (R-2).

2022-04-DSV	T. Griffith	9765 Equestrian Way Zionsville, IN 46077	Approved as presented & filed w/exhibits & per staff report. 5 in Favor, 0 Opposed Petition for a Development Standards Variance to provide for a pool, covered pavilion, and paver patio which exceeds the allowable lot coverage in in the Urban Single-Family Residential Zoning District (R-SF-2).
2022-06-DSV	J. Gauger	560 Beech Street Zionsville, IN 46077	Petitioner requested continuance to the April 6, 2022, Meeting to obtain a drainage study. 5 in Favor, 0 Opposed Petition for a Development Standards Variance to provide for a pool, which exceeds the allowable lot coverage in in the Urban Village Residential Zoning District (R-V).
2022-07-SE	R. Alexy	8183 E. 50 South Zionsville, IN 46077	Approved as presented & filed w/exhibits & per staff report. 5 in Favor, 0 Opposed Petition for Special Exception to provide for a new Single-Family Dwelling and to provide for one existing Single-Family Dwelling and related accessories in the Rural Agricultural Zoning District (AG).
2022-08-DSV	R. Alexy	8183 E. 50 South Zionsville, IN 46077	Approved as presented & filed w/exhibits & per staff report subject to a commitment to not generate income on the dwellings. 5 in Favor, 0 Opposed Petition for a Development Standards Variance to provide for two primary single-family dwellings on one lot in the Rural Agricultural Zoning District (AG).
2022-09-SE	J. Artman	1580 N. 800 East (est.) Whitestown, IN 46075	Approved as presented & filed w/exhibits & per staff report subject to not generating income on the dwellings. 5 in Favor, 0 Opposed Petition for Special Exception to provide for a new Single-Family Dwelling and related accessories in the Rural Agricultural Zoning District (AG).

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

Staff attending: Janice Stevanovic, Suzanne Baker, Wayne DeLong and Darren Chadd, attorney.
A quorum is present.

Jones Welcome to the Zionsville Board of Zoning Appeals the March 2, 2022 meeting. The first item is the Pledge of Allegiance.

All Pledge.

Jones Uh, Janice are you going to take attendance? Or Wayne? Or –

DeLong I will take care of that.

Jones You will take care of it? Thank you very much.

DeLong From a formality standpoint do you want to introduce the new members first before we do a roll call?

Jones Yes, please.

DeLong So at the far end Kathi please introduce yourself.

Postlethwait My name is Kathi Postlethwait and I am a resident here in Zionsville and have been for about almost 30 years.

Pickell Andy Pickell also a resident of Zionsville lifelong.

DeLong That said, we'll start with roll call then.

Jones Welcome to the BZA.

DeLong So, Mr. Jones?

Jones Here.

DeLong Mr. Mundy?

Mundy Present.

DeLong Mr. Lake?

Lake Here.

DeLong Mrs. Postlethwait?

Postlethwait Here.

DeLong Mr. Pickell?

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Pickell Here.

Jones Okay. One of the first items on our docket is we need to, uh, elect a new chairperson of the BZA. Um, and uh, we have two options: 1) We've discussed kind of before the meeting if we want a take a minute, uh,–

Lake Do we need to do that first?

Jones The new members sworn in?

DeLong New members have already. That's been previously done.

Jones Jumping in – so that's been taken care of? We have that issue off the docket. So we, we briefly spoke amongst ourselves up here and there is a potential that we might have somebody nominated to take over the chairperson right off the bat and if that's the case, then I will shift back to my normal spot on the end of the bench or if we need to take a month to kind of sort it out, we could put it out until the April meeting if that is somehow agreeable. But, discussion amongst ourselves?

Lake I would nominate Mr. Mundy to be chairperson.

Jones I would second that.

Mundy A reluctant willingness.

Jones Okay, um. It so be. Shall we take a vote?

DeLong So we can do a – or would you like to put together a slate?

Jones Ahh – yes we need a slate. So we need a –

Mundy Vice President, right?

Lake So I would nominate Larry, Mr. Jones for the Vice President.

Jones I would accept that role.

Mundy I'll second that.

Jones And we need a secretary?

DeLong Correct.

Lake I would nominate Wayne DeLong for that role.

Jones I'd second that. Do you accept?

DeLong Happy to serve.

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Jones There we go.

Lake Those are our only three spots, right?

Jones I think so. We don't have a treasurer. Do we have a social chairman?

Lake I would vote for that.

Jones All right. So. We have a, a what did we call it – a docket – a, uh –

DeLong/Lake/
Mundy A slate.

Jones A slate. So all in favor of the slate, I guess we vote on that?

DeLong We are all here so we do not need, it's not necessary to do a roll call.

Jones Okay. Uh, so we just, uh –

Postlethwait Call the question.

Jones Call the question? All those in favor of the slate as proposed say aye.

All Aye.

Jones All opposed, any opposed?
[No response]

 That's it. All right. Here we go. So we're good to go.

Mundy Your work is done.

Jones My job is done. Thankfully.

Mundy My condolences to the group tonight, uh, so this is a maiden voyage, uh, so I'll try to get it right. Uh, the first thing I guess is to ask if are any petitioners here who are going to request a continuance this evening? Will you come to the podium please?

Davis Jay Davis, um, I'm second, I think on there. It's 2022-05-M. Requesting a continuance to the April 6th meeting so that I can get a letter from the engineer who originally proposed the work that we did. He is currently in Florida, so. Gary Ladd was the engineer, so.

Mundy Mr. Davis is requesting a continuance for one month to the April 6th meeting for Docket Number 2022-05-M.

Jones I'd make a motion we accept the request for a continuance.

Lake I'll second.

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Mundy Made and seconded. Any discussion? All in favor say aye.

All Aye.

Mundy Opposed same sign.
[No response]

 Motion carries. We'll see you back on April the 6th.

Davis Thank you sir.

Mundy And now we'll back up and, uh, review the minutes from our January 5, 2022 – I think there are three of us who were here for that meeting. Uh, are there any changes to those minutes? No changes? Is there a motion to approve?

Lake So moved.

Mundy I have a motion to approve. Is there a second?

Postlethwait Second.

Mundy. And a second. All those in favor say aye.

All Aye.

Mundy Opposed same sign.
[No response]

 Minutes are approved.

DeLong Well, Mr. Mundy I would pause for a second. You do typically ask if there's anybody online who would like to be recognized.

Mundy Thank you.

DeLong So this is an opportune time to do that.

Mundy And do we have anyone online, Mr. Rust?

Rust [Inaudible.]

Mundy Thank you. If, uh, we'll ask you to promote them if they wish to speak at any point during the meeting. We also have had a request to Mr. DeLong I'll ask that you verify a request that 2022-10-DSV, 9180 East 350 South in Zionsville, uh, had requested a continuance to April the 6th. Is that correct?

Baker That one, they requested a continuance and it met the automatic continuance schedule so that's why there's nobody here this evening.

Mundy All right. Thank you. That takes us to Continued Business. First, uh, item on the Docket is 2021-65-UV, J. Mullen and it looks like Mr. Andreoli will be representing them. Is that correct?

Andreoli Yes, thank you, Mr. President. Uh, for the record, Mike Andreoli, 1393 West Oak Street. I'm here tonight, uh, with Jeff Mullen. Jeff owns the property at 35 East Poplar Street, uh, here in Zionsville. To kind of get your bearings with regard to that, it's, it's on Poplar, uh, immediately adjacent and east of the, of the former Nancy Noel, uh, studio that is being converted and was approved to, uh, have some improvements made in a different, uh, moving into a different use. Uh, I've not quite had a, a request like this before. Uh, in many instances we have explored opportunities to try to create, uh, into the Village Residential District perhaps move some of the Village Business Districts into that and the Boards have been reluctant over the years to modify the Village Business District or move it into the Village Residential District. Uh, it's been something that hasn't been done for many, many years. In this particular situation, the uh house that's being occupied by Mr. Mullen is a very old structure. The staff report, I think, does an excellent job with calling it out and giving you the facts that you need to know so I won't belabor them and, and go over those but suffice it to say that, uh Mr. Mullen wants to continue to live there. It's in the Village Business District, a single-family home is not permitted in that zoning classification right next to it to the, uh, uh, immediately to the east is a, a is the Village Residence District so if he was in that district it wouldn't be a problem but he's in the Village Business District. And, uh, and uh, utilizing a single-family home that has never been used for business but he went in to get a mortgage and the mortgage company called him, refinancing the mortgage company called him out on it because it's not a permitted use under the ordinances. Now Zionsville has a procedure that allows you to go ahead and get, a, essentially a grandfathered nonconforming use of status but in this situation, the, the problem with that is if the residence would burn down that, that would no longer be appropriate. So, the, the mortgage company has denied him. He wants to continue to operate and live in the house and use this as a, as a residential structure even though it's in the Village Business District. Rather than do this by re-zoning, this is a, this is a perfect example of why Use Variances can be, can be appropriate so we don't have to re-zone a piece of land that would otherwise, uh, uh, remain in the, in the Village Business District, we can just grant a Use Variance if this Board would, would approve that.

So that's essentially what we're asking for is a Use Variance to operate this and use this as a single-family, uh, residence. In addition, uh, along with that, there were two, and I'll go right to that and mention that so that I could do them together. There were originally two, uh, Development Standard Variances that would be necessary in order to comply with that requirement, uh, one, uh, that shows in the staff report deviated from required buffer yard requirements in the Urban Village District. We are withdrawing that. We, we participated with staff and worked with staff with regard to that and staff has determined that that particular, uh, Variance from Development Standard is not necessary in this particular situation. So we are asking that, uh, the required off-street parking – there has never been off-street parking, or, off-street parking for this particular, uh, home. It's one-tenth of an acre. It's not a very large home at all but, uh, Mr. Mullen has never had off-street parking for this particular home. He has always

parked right in front of the residence there and always been able to snag a, snag a spot for his house there. So, at this particular point in time I'd be happy to answer any questions. It's simply no more elaborate than, than that and I think as, again, staff has done an excellent job of, of providing all of the background facts that you need without me having to, uh, to go through those. Thank you.

Mundy Mr. Mullen is aware that he's going to have a, a busy neighbor?

Mullen Yes.

Mundy Parking –

Mullen It's already busy.

Mundy Parking, yes.

Andreoli Yes he is and he knows that and he hopes to be able to go over there and perhaps sit on the patio and have something to drink when that, when that opens at some point. But he did work with them. They needed some, they needed some access through, between his house and theirs and, uh, he uh, worked with them and has a good relationship with those folks and worked with them to provide that, that access sometime ago and that's, that's shown on the, on the actual surveys and site plan. So, thank you.

Mundy Any questions for the petitioner's representative? Hearing none are there any, is there anyone in the audience or online which would like to speak to this petition? If you would state your name and address please.

Lusk Hi there. I'm Heather Lusk. I am, I live at 285 West Hawthorne Street and I am president of the Village Residents Association. I would like to speak in favor of granting this request. Um, you have more than once seen the opposite situation as Mr. Andreoli mentioned where businesses have tried and succeeded many times in coming into the residential area, um. This uh, not all of these businesses take care of their properties like a homeowner would. The Mullens have been trying to take care of their property and they are struggling right now because of this mortgage situation. Their property was never intended to be a business, a shop, a restaurant, a service – it's just a strange situation impacted by zoning. You guys all know that zoning in this town isn't exactly perfect. There are quirks and imperfections. This is, seems like a very easy and logical fix. It is a fix supported by the Village Residents Association. We had a meeting last month and discussed it and not one person thought there was any reason at all not to grant this request. So please, we, uh, hope that you will move forward with a favorable recommendation. Thank you.

Mundy Thank you. Are there any others? Any online? No online? All right. Could we have a staff report please?

Baker Yes. Um, I think Mr. Andreoli did a good job summarizing, um, the request here. Um, the petitioner has a legal nonconforming, uh, use of a single-family residence in, um, the Village Business District and from what we can find, it's always been zoned commercial, um, as long as the house has been there and with

that he's trying to make it conforming with this request and along with that requires the Development Standards Variances, um, which requires one off-street parking and as Mr. Andreoli says, there haven't been any driveways or parking pads or garage ever located on the property, um, and then the buffer yard was, um, applied to in error, so that, that variance is no longer needed. Um, and then staff is in favor of, uh, both requests for the Use Variance and the Development Standards and happy to answer any questions.

Mundy Any questions for staff?

Lake Yes, so the off-street parking variance is still needed? The buffer yard is not?

Baker Yes, yes. Correct.

Lake Okay. Thank you.

Mundy Well from a legal standpoint we, do we need to, uh, motion for a withdrawal?

Chadd I, I think the petitioner said that he has withdrawn that variance. Is that right?

Andreoli Yes. Our second Development Standard Variance we're requesting leave of the Board to go ahead and withdraw that as it is no longer necessary.

Mundy So we need only a motion then on the one petition?

Chadd Yeah.

Mundy So I would –

Jones Let's – wait a minute, I want to ask. Was the off-street parking part of the 2021, what am I looking at here?

Chadd It's part of 66.

Mundy Yeah, part of 2021-66-DSV.

Jones Okay. I, I got it. Never mind. Okay. So are we going to do just one motion for this and then we'll do the second one?

Lake Yes.

Jones Got it.

Lake So I would move that Docket Number 2021-65-UV Use Variance supporting the location of an existing use of a single-family residential dwelling at 35 East Poplar Street be approved based on the Findings of Fact in the staff report and that if at any point in time the property is re-zoned to a future classification that would expressly support a single-family residence, uh, that the Use Variance be, uh, revoked.

Jones Second.

Mundy Thank you for the motion and the second. Any other discussion? And we just do a Board vote. Those in favor of the motion for 2021-65-UV say aye.

All Aye.

Mundy Opposed, same sign.
[No response]

Motion passes. Good luck to you Mr. Mullen.

Mullen Appreciate it.

Lake And then we have the Development Standards Variance?

Mundy Yeah.

Lake So I would move that Docket – huh?

Mundy I was going to ask if you would like to do that as well?

Lake I will, I will do that. Yep.

Mundy Okay.

Lake I move that Docket Number 2021-66-DSV Development Standards Variance to reduce the off-street parking to zero for an existing single-family dwelling in the Urban Village Business District (VBD) be approved as filed based on the Findings of Fact and substantial compliance with the submitted site plan and concepts.

Mundy Thank you. Is there a second?

Jones Second.

Mundy Second from Mr. Jones. Um, all those in favor say aye.

All Aye.

Mundy Opposed same sign.
[No response]

Motion passes. Thank you.

Next item is Docket Number 2021-67-DSV, R. Rose, 1395 East 550 South.

Rose I'm at 1395 East 550 South and I was asking for a variance. The barn, I have a barn out on my lot now and it's like 38 x 39 and I was wanting to put a, like a 40 x 63 up. Uh, it's going to be a lot shorter but, I mean, I was just wanting it for the space to store stuff. It's going to have a gravel base in it so, there's nothing, I mean it's putting, I got a side-by-side, a dirt bike and just, and I, I have a wood

boiler that heats my house and I wanted to put some wood in there as well just to keep it out of the yard and the weather and –

Mundy And the existing barn you have?

Rose The existing barn, it's, it's about ready to fall down. I was going to tear it down –

Mundy So it will be demolished and removed?

Rose Yes, yes.

Mundy Okay. All right. Do we have questions for the petitioner? Hearing no questions, does anyone here in the audience wish to speak for or against the petition? Seeing none, do we have anyone online who would like to speak? No one online. All right. Can we have a staff report?

Baker Yes. So is, what Mr. Rose was, um, describing, he is wanting to tear down an existing barn and from what has been described, it's, it's not in great condition, um, so he's wanting to remove that barn and build a slightly larger barn which would, in fact, make the accessory structures, um, over footage required of the primary. It's about 1,400 square feet, um, so that is the first request is to have the accessory structures more than the primary and then the second request is to memorialize the existing lot which is under the 2 acres and it's currently configured at 1.06 acres, um, which, I think it's been established at least since the 1990s, probably, I think maybe probably prior to that. Um, staff is in favor of both of those variance requests and I'm happy to answer any questions.

Mundy Any questions for staff? No? Hearing none, is there a motion?

Jones Well I'd like to just make one question. So, Mr. Rose, you are in agreement with the request to, uh, establish the 1.06 acre lot?

Rose Yes.

Jones Okay. We need to get that? Uh, okay. I'll make move, I'll make a motion. I move that Docket 2021-67-DSV Development Standards Variance in order for the accessory square footage to exceed the primary by 1,026 square feet within the Rural Agricultural Zoning District (AG) for the property located at 1395 East County Road 550 South, Lebanon, Indiana 46052 be approved as filed based on the Findings of the Fact and the substantial compliance with the submitted site plans and concepts.

Mundy Thank you. Is there a second?

Lake Second.

Mundy Second by motion by Mr. Lake. Any discussion? All in favor say aye.

All Aye.

Mundy Opposed same sign.

[No response]

And Mr. Jones would you like to continue with the second part?

Jones Sure. I move that Docket Number 2021-67-DSV Development Standards Variance in order to allow for the establishment of an 1.6-acre lot – I'm sorry, a 1.06-acre lot which is a result in the deviation from the required minimum 2-acre lot side, lot size within the Rural Agricultural Zoning District (AG) for the property located at 1395 East County Road 550 South, Lebanon, Indiana 46052 be approved as filed based on the Findings of Fact as presented.

Mundy Thank you. Is there a second?

Postlethwait Second.

Mundy Second by Mrs. Postlethwait. All those in favor say aye.

All Aye.

Mundy Opposed same sign.
[No response]

Good luck Mr. Rose.

Next item is Docket 2022-01-DSV, D. Damm and Mr. Rottmann, you will be representing them, is that correct?

Rottmann Yes.

Mundy All right. Can you tell us what you have proposed here?

Rottmann Uh, my name is Todd Rottmann, address 320 West Hawthorne Street. With me tonight are David and Robin Damm. They are the homeowners. They've lived in their house about 25 years. They've done a lot of work to the house and it has been recognized as being a contributing carpenter's style home. Um, as we all know, over the last several years with COVID people's needs change. Um, there's a lot more time being spent at home, there's a lot more work from home happening and there's a lot more time being spent outside. Um, the one thing that has not received any attention on their property over time is the garage. It is in poor shape. It's time to be replaced. Um, in doing so, they'd like to accomplish a couple of goals. One would be to gain some more storage space. It would still be a one-car garage but would allow space for things, uh, for yard work as well as like jet skis or other outdoor activity, recreational items and then the second purpose would be to give them some office space that's much needed. Obviously, people spend a lot more time at home, you need kind of your own individual space or you need additional space and so we thought the garage would be a good opportunity to gain some office space for them without affecting all the work that they've done to their existing home so far. Um, so, as a result of doing that, we need some variances. Uh, most of these are existing variances that, um, as we put a new structure back in the same place, we have a need for those variances. Um, the existing house is only about 4 inches from the north property

line so no matter what we did, we would be in violation of minimum side yard setbacks, um, and so one of the requests is for minimum side yard setback and that is to memorialize the existing house. Um, our new building does meet all required setbacks 5 feet from the property line on the side as well as from the rear for a detached structure, um, but with that garage having to be 5 feet off the property line and the existing house at 4 inches off the property line, we need an aggregate side yard setback. Um, it's worth noting that that 5 feet is actually further from the property line than the current garage. The current garage is in violation of current setbacks, um, but it was built at a time probably predating the current zoning ordinance. Um, another variance that we need is for lot coverage. Um, the house with the deck and the garage currently sit at 38%. We are making the garage a little bit bigger, as I mentioned, for additional storage as well as to provide an ample office space so that puts us up to 39.6%. It is, it needs to be noted that a decent portion of that coverage is an actual wood deck that is on the back of the home.

If the staff and Commission were opposed to increase of lot coverage, you know, that, that could be removed, however, the deck is fully permeable. I don't think it would make an effective benefit and it would be a bit of a hardship of the owner to take down that existing deck but just wanted to let you know that that was a possibility if lot coverage did become an issue. Um, the last item that I wanted to talk about was the 22-foot height. We are exceeding that by about 1 foot 2 inches. The reason is, um, building code requires a certain amount of head room at a stair and the landing at a stair so we have to have a 7-foot minimum head room, not only at the top of the stair but for space 3 feet beyond that stair and we want our roof pitches to match the existing house so it looks appropriate. Um, and so, that comes at a little bit steeper pitch and so if we take the point at the top of the stairs at the edge of the landing it's at 3 feet, get our 7-foot height and then pitch the roof up from that what we end up with is a roof that ends up being over that 22-foot height. Um, we accomplished that with the cross gable so it's not the gable facing the street – that stays within the 22-foot requirement – it's the cross gable that gives us the head room at the stair that exceeds that value. So, the only way that this would solve that would be to change the roof pitch, uh, which would not match the existing house, that's an option but we don't feel like that's a better option, uh, therefore, we're asking for the variance. And that's it. Thank you.

Mundy Okay. Any questions for the petitioner's representative? I will ask one. You've seen the staff report and the procedural note?

Rottmann Yes. Oh, about the two properties being close to each other?

Mundy Yes, uh huh.

Rottmann Yes. Um, uh, yes. The building code accommodates that. There is an exception for walls of dwellings and accessory buildings that are on the same property don't actually need to be fire rated so, we're okay with that.

Mundy Is there anyone here who would like to speak for or against this petition? Yes?

Curti Hello, my name is Bridget Curti and I live right directly behind, um, David and Robin. Um, I, it's my opinion, I believe that we should support people in our community who are petitioning for variances that improve these historic structures and bring them into a more modern era with reasonable modern amenities. I think ultimately that just, um, contributes to the longevity of the structures and I think the design of David and Robin's current garage proposal absolutely accomplishes that. So I would just like to reiterate my support for their petitions, all of them, and thank you for your consideration.

Mundy Thank you. Anyone else? Anyone online? No? We have one?

Overbeck Hi.

Mundy Hello? Is this Ms. Overbeck?

Overbeck Yep. My name is Chelsea Overbeck and I live at 245 North Main Street. I would just like to reiterate my personal support for this project, um, and as a member of the Zionsville Historic Preservation Committee, like has already been said, we feel like this is really appropriate and supportive to the existing historic home. It's not going above and beyond what anyone in the Village should have the right to have – a single car garage – um, and I think that Mr. Rottmann has done a really good job to make sure that the plans are really appropriate with their existing historic structure in both size and scale and architecture style, um. I just want to say we're supportive.

Mundy Thank you Ms. Overbeck.

Overbeck Thank you.

Mundy No others Joe? Okay, all right.

Postlethwait Um, I would just like to say that I also am appreciative. It appears from the letters that were submitted that you've taken a great deal of time and energy to talk with your neighbors about the project and I'm very appreciative of that effort and I think that's important.

R. Damm 35:56 inaudible full support and I think they're exciting to see something, um, that will look very nice compared to what we have now.

D. Damm 36:06 inaudible

Mundy Yes, thank you. Can we have a staff report, please?

Baker Yes. I think Mr. Rottmann did a good job summarizing the request. Um, as he stated, some of these are to memorialize existing legal nonconformities. Um, with the new structure proposed, um, it's needing a lot coverage variance. I think it's about, it's about 39.6% when the required is 35%. Um, the height which was, which was discussed the minimum for an accessory structure is 22 feet, um, and then the distance between structures is 10 feet and I think they are under that as well and then the memorialization of the existing residence, um, is 4 inches and then with that the aggregate cannot be met with the 15 feet with the 5-foot

detached garage and then the 4 inch, um, to the north setback. Um, staff is in favor of all of the requests and I am happy to answer any questions.

Mundy Any questions for staff?

Lake Would you allow me to clarify something you said for the record? You, I think accidentally said 22-foot minimum on accessory structures and it should be 22-foot maximum.

Baker Yes, you're correct. Innocent mistake.

Lake Just so that's in the record like that. Thank you.

Mundy Thank you Mr. Lake. Any other questions? Hearing none is there a motion?

Lake Sure. With the Docket Number 2022-01-DSV Development Standards Variance to provide for an increase of lot coverage up to 39.6% the construction, for the construction of a detached garage for the property located at 155 North Main Street in the Urban Residential Village Zoning District (R-V) be approved as filed based upon the Findings of Fact and substantial compliance with the submitted site plans and concepts.

Mundy Thank you. Is there a second?

Pickell Second.

Mundy Second by Mr. Pickell. All those in favor say aye.

All Aye.

Mundy Opposed same sign.
[No response]

Would you like to continue Mr. Lake?

Lake I will, yes I will. I move that Docket Number 2022-01-DSV Development Standards Variance to provide for a deviation from the aggregate side yard setback, uh, to 5 feet 4 inches for the construction of a detached garage for the property located at 155 North Main Street in the Urban Residential Village Zoning District (R-V) be approved as filed based upon the Findings of Fact and substantial compliance with the submitted site plans and concepts.

Mundy Is there a second?

Pickell Second.

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

All Aye.

Mundy Opposed same sign.

[No response]

Thank you.

Lake I move that Docket Number 2022-01-DSV Development Standards Variance to provide for a deviation from the 10-foot distance between two buildings to 1 foot 1 inch for the construction of a detached garage for the property located at 155 North Main Street in the Urban Residential Village Zoning District (R-V) be approved as filed based upon the Findings of Fact and substantial compliance with the submitted site plans and concepts.

Mundy Is there a second?

Postlethwait Second.

Mundy Second from Mrs. Postlethwait. All those in favor say aye.

All Aye.

Mundy Opposed same sign.
[No response]

Thank you.

Lake I move that Docket Number 2022-01-DSV Development Standards Variance to provide for a deviation from the 22-foot maximum height of an accessory structure to 24 feet for the construction of a detached garage for the property located at 155 North Main Street in the Urban Residential Village Zoning District (R-V) be approved as filed based upon the Findings of Fact and substantial compliance with the submitted site plans and concepts.

Mundy Is there a second?

Jones Second.

Mundy Thank you Mr. Jones. All those in favor say aye.

All Aye.

Mundy Opposed same sign.
[No response]

It passes. Thank you.

Lake I move that Docket Number 2022-01-DSV Development Standards Variance to provide for a deviation from the side yard setback to 4 inches to memorialize the existing legal nonconformity of the residence for the property located at 155 North Main Street in the Urban Residential Village Zoning District (R-V) be approved as filed based upon the Findings of Fact and substantial compliance with the submitted site plans and concepts.

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- Mundy Thank you Mr. Lake. Is there a second?
- Postlethwait Second.
- Mundy Thank you Mrs. Postlethwait. All in favor say aye.
- All Aye.
- Mundy Opposed same sign.
[No response]
- Motion carries. Good luck with the project.
- Rottmann Thank you guys very much. Appreciate it.
- Damm Thank you.
- Mundy Next item is, uh, Docket Number 2022-02-SE, C. Zaring, 10995 East 100 North.
- Zaring Yeah, good evening. As you mentioned, I'm Chris Zaring at 10995 East 100 North here tonight requesting a Special Exception to build a single-family dwelling on our 3-acre lot in the Rural Ag District of Zionsville. Uh, I was born and raised here in Zionsville and this particular parcel is about, less than a mile away from the family farm that I grew up on so I am, uh, very familiar with its proximity to Indy Executive Airport and the air traffic in and out of there as well as familiar with most of the farmers in the area and their day-to-day activities, you know, every season so.
- Mundy Okay. And the reason you are here is to, uh, request a variance?
- Zaring A Special Exception.
- Mundy Special Exception?
- Zaring Yeah to build a –
- Mundy All right. Do we have any questions for the petitioner? Hearing none, is there anyone here tonight to speak for or against this petition? Mr. Rust do we have anyone online? We do not. Could we have the staff report please?
- Baker Yes, um, Mr. Zaring is requesting a Special Exception, um, to permit of a single-family home in the Ag District. Um, I'll also mention that subject to the Right to Farm as well as this being in Tier 3 of the newly adopted airport study which doesn't have any restrictions on development. With that said, staff is in favor of the request and I'm happy to answer any questions.
- Mundy Thank you. Any questions for staff? No? Is there a motion to be made for this petition?
- Jones Sure. I move that Docket 2022-02-SE, a Special Exception petition for the property located at 10995 East County Road 100 North, Zionsville in the Rural

Agricultural Zoning District be approved based on the staff report and proposed findings as presented. Uh, if approved, it shall be required that the petitioner execute the Right to Farm Acknowledgement documentation.

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

Pickell I'll second.

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

All Aye.

Mundy Opposed same sign.
[No response]

I think that the petitioner did acknowledge the Right to Farm –

Zaring Yes.

Mundy And the nearness to the airport. All right. Good luck with your project.

Zaring Thank you.

Mundy Next is Docket 2022-03-UV, D. Marlow at 8280 South, I'm sorry, 8280 East 200 South in Zionsville.

Marlow Good evening Mr. President and ladies and gentlemen of the Board. My name is David Marlow. Um, I actually live at 7010 East 200 South in Whitestown which is directly, uh, west of the property that's on the Docket. Um, we're here requesting a, a Use Variance, um, for a building that is on my sister-in-law's property. It happens to be at, I believe it's a 40 x 60 pole barn, um, I actually run and own a small family oriented, family, you know, ran landscape business and, um, but we, we would like the Use Variance to continue to utilize this property. We're not, we don't store any material outside on the property so it's not like we have bulk mulch bins or stone or pallets of any sort or anything like that. We have some trailers in the lot, in the barn lot, um, but most of our equipment, be it Bobcats and whatnot, in the evening time, is tucked away nice and sound inside the building which, you know, to protect the machine as, as well as keep it out of public eye.

Mundy So your request is a Use Variance in order to continue –

Marlow Yes sir.

Mundy To run your operations from that location?

Marlow Yes sir.

Mundy Okay. And, uh, reading through the staff report, I guess that there has been someone who has complained about this, are, are you knowledgeable of complaints about your operation there?

Marlow Um, I, I've, I've had many discussions with some of the surrounding homeowners there. Um, I know our direct neighbor, it's, it's a very, it's a very weird setup how, you know, we, we're, we're out in ag country. Our neighbor owns a house that is, you know, and, and keep in mind the pole barn was built way before this house was ever constructed. For whatever reason, um, the house is angled towards this pole barn and sits in his front yard so I've heard, and I actually had a brief discussion with him, um, as well as my sister-in-law has talked with him too, um, you know, he, I think he's worried about property value, and, and I think there's a lot of misinformation out there to some of the other neighbors because I, I heard and even spoke with one of the other neighbors just down the road that they, they thought we were coming for a re-zone. They were fearful that if we re-zoned it commercial that a gas station or something like that was allowed in on the property and that, you know, again, misinformation. It's, we're just going to a Use Variance, um, you know, that's, that's tied to my name and, and I've already made the promise that at no point in time will there be any material storage outside of this, this particular barn. Um, I, I also, you know, we, we're definitely respectful to our neighbors but we have to be extra respectful to my sister-in-law which lives on the same property that this particular pole barn is on.

Mundy Any questions for the petitioner?

Postlethwait I do have a question. If you were granted of this, uh, Use Variance, would there be guarantees, I mean currently there are 4-10 cars based on what I read in the petition that are parked there. Would you, would there be stipulations that there would be no more than, I mean would you limit the number of cars that would be parked there and the amount of traffic and, that would be generated by that Use Variance?

Marlow So without a doubt, um, we're, we're a very small company. I have no desire to, to grow into a large company. Um, you know, a lot of our guys ride together, um, in the service industry, construction or whatnot. You'll have three or four guys showing up riding in one car, so, I don't necessarily, I can guarantee that we won't outgrow the particular spot that these vehicles are parked on. Um, and it, it's mainly during the daytime or what I would call business hours. In the evening time, there might be a truck sitting outside and a few trailers, um, but for the most part we keep our equipment, uh, you know, inside the barn, so, there's not really space on this particular property nor would I look to expand, um, to, to gain more space to put more vehicles. So, I mean, I, I guess if I had to guarantee it, I don't know how I would structure that guarantee, uh, because just like today we were down there doing some upgrades to my sister-in-law's property and we had like three, three of our friends, two of them being the neighbors, just so happen to stop in. So, I mean, you know, our barn lot is at that point in time covered with vehicles just because of people stopping in, shooting the breeze, whatever the case may be. Um –

Postlethwait But, I would, I would submit that having somebody come by as a guest is substantially different than having cars parked there for employees who are parking and then going and doing their work and coming back at the end of the day.

Marlow For sure.

Postlethwait Those are different things certainly.

Marlow Without a doubt. Um, you know, again, I, I, if, if you would like to bring up some sort of, you know, deal to where, I, I don't know what the number would be. Again, you know, we're, we're a small family driven company. We run three crews. So, I, I have no desire to get any bigger. I don't want to be the big guy. I like being the little guy that's kind of found, we found our niche in design build and, um, you know, I, I gotta good thing going and I don't want to rock the boat and try to outgrow my own ability.

Mundy Any other questions?

Marlow I would also, I think I would also think that it's, it's, it's worth noting that at any given time, you know, again, we're out on a county road, um, a gravel road to be exact, at any given time most of the, the properties and the residents down that road, I won't say most of them but quite a few of them actually have more vehicles parked at their house, um, than we do at any given time, be it whether our employees are in or our employees are out. Um, our direct neighbor has just as many cars as we do when our employees are in. So when our employees are gone, um, you know, and again, we don't run a 24-hour operation, uh, so they're not there, you know, at all, all times of the night. Um, you know, there's, there's and there's plenty of people, and I get it, we're, we're, we're rural out there, you know, you want to buy a vehicle and let it sit and fix it up or whatever the case may be, that's none of my business but I do think it's worth noting that a lot of the residents that live out there actually have more vehicles at their property. I'm assuming that they're theirs, um, than we actually do when our employees are, you know, in and on the clock.

Mundy Any other questions?

Jones I've got a quick question. Um, so the parcel of land we're talking about is the 8280 piece and then am I correct, your, you actually reside at 8350, is that what I heard?

Marlow Me or her?

Jones Either.

Good I reside at 8280 –

Jones Okay.

Good And that's where the pole barn is as well.

Jones All right. So 8280, or I'm sorry, the 8350 property has nothing to do with it?

Good Correct.

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- Jones Okay. The second question I have is so the pole barn that gets the activity is the one on the northwest corner of the property?
- Marlow Yes.
- Jones The one on the, what we call the southeast is, what's the use of that pole barn?
- Good That's not mine.
- Marlow Well, uh, there's, there's multiple pole barns out there, again, this is, you know, we're, we're out in ag country there, so, there is another building on, on the property. I think it was an old horse, uh, horse stables or whatnot but then there's another just ginormous building that sits next to that which is the direct neighbor's. Um, yeah, which, which has nothing to do with us.
- Jones And the property out there had been zoned R-2 for how long? Does anybody know? Nobody knows. And then the final piece, if one of the exhibits, Exhibit 2, the aerial location map, isn't really particularly accurate. If I'm looking at the photos you supplied, somewhere since the aerial was taken what's you've done is expanded the parking lot to the north from that northwest pole barn. Is that correct?
- Marlow We've, we've, we've squared it off. We didn't really do, I mean there's a lot but most of that gravel had grass grown over it just because there was a, a gentleman that lived there and he used pretty much one path –
- Jones It appears you squared it off sufficiently to store eight additional vehicles that abut your neighbor's property.
- Marlow Sure.
- Jones Okay.
- Good Which my neighbors are also welcome to use when they have gatherings.
- Marlow And have since used it for one of their gatherings.
- Mundy Any other questions? Thank you. Uh, is there anyone here who like to speak for or against this petition? If you would come up, uh, state your name and your address please.
- Bell My name is Ron Bell and I live at 1736 South 825 East, about a half a mile or quarter of a mile north of this, uh, building and I have some big concerns about this - primarily two concerns. I've not been talked to by the, the family, Mr. or Mrs. Marlow. Uh, we built our home in 1986, uh, our home sits back off of 825 East about 600 feet, like about 10 of the other, uh, of a total of about 12 homes that are on 825. They all have, when we bought our property there was a 5-acre minimum that we had to buy and many of us have at least that, if not more, uh, and so that's important to us. All of our homes are, or 10 of the 12 homes, have a drive of about 400-600 feet long away from 825 and I'm leading up to my first concern is, and I have a picture here, this building is, uh, and I can bring it up

there closer to you, but the building is a probably not more than 100 feet off of, uh, 825 and then these cars are all parked there along 825. So when you turn off of County Road 200 to go to the north onto 825 you see all of those cars there and as Mr. Marlow indicated, uh, for the last month or two there's been two trailers parked there, uh, as well as at least one truck. At one time there was three or four trucks, uh, parked there in the drive. Now he's moved that. There's usually only one truck there except during the day and then there's others. Most of the time there's a half a dozen cars that are parked along that north edge, uh, of his workers. So my thought was and my concern is, that when you turn that corner and you see those, those cars there parked which is quite different than the rest of 825 where other, the other homes are very nice homes, as you could imagine, that have the 400-600 foot lane. My second concern is what could possibly be there in the future and I know Mr. Marlow has indicated that, uh, he doesn't have plans to put anything there, however, uh, for a month or two he had two snow blades parked on the north side of that building in the grass. Now he's moved those now which I think is a good sign but you go down, they mentioned that they live about a mile and a half west on 200 South and I've got a picture here of what his place looks like. Uh, Mrs. Marlow's father built a nice home there but then they have a bunch of pallets, uh, landscaping equipment, what four or five trucks parked over there and I'm afraid that that's probably what could happen with this place, even though there's not enough room. So, that's all I have to say. Thank you for listening to me and if you want these pictures I could 58:08
_____ inaudible.

Mundy Thank you Mr. Bell and I have, I've noted your objections as to parked vehicles, uh, at the garage and, uh, other equipment which is now gone – the snow blades.

Bell Yes.

Mundy Okay. Thank you. Yes sir?

Miller Good evening. My name is, uh, Ken Miller. I live at 1602 South 825 East, about a third of a mile from the building of, that's been discussed. Um, I'm a resident of Zionsville now for about 12 years. I, we moved here after looking at probably 50 properties in Indianapolis and we decided on Zionsville because of the quality of the rural and the village environment and what I, we will call a residential standard that is set in this community and I think there are many people that have come to Zionsville exactly for that reason – the residential quality and the standards that exist. I don't really want to spend time going over the deviations from the home occupation standard – you probably have that report from your staff and there are numerous violations or deviations from what's expected for that, for the kind of thing that's going on. Now, I don't think the building itself has ever really been an issue. I think that, uh, I certainly had no issue with the building being used for maintenance. What caused me concern is when the parking lot was expanded by at least 100% then shortly after the building, the parking lot was expanded then all of a sudden there was a half a dozen cars there every day followed by two or three trucks, trailers, a Bobcat occasionally and a couple of snow blades. And when you come around the corner it's clear that that property now is a commercial operation because of all the signs on the, on the machine, on the equipment, the trucks specifically. I, I really have no issue with the business that you're operating. Uh, I do have an issue with the fact that what

used to be down the street had a very ample parking area is now down on this very small pad and I suspect it's a matter of convenience but I don't think it, it really adds to the quality of Zionsville, particularly the residential expectations and I think to approve this variance that would be a bad precedent to start, to stop and it also would, you know, potentially in the future lead to other issues of this nature. So, um, I don't think this variance should be granted.

Mundy Thank you Mr. Miller.

Blattner Hello. My name is Craig Blattner. I live at 1770 South on 825. I live actually closer to the property that we're talking about than Mr. Ron, um, and the other neighbors. Um, I agree with everything they're saying. Uh, they've pretty much have said it pretty closely. I, I really didn't have a lot to say until I heard a couple of things I did, that uh, the petitioners are talking about. There are a lot of cars and a lot of trucks there. The area is not 100 feet off of the road, it's probably closer to 40 feet. When they first put that, um, when the Kings first put the, uh, building up there it was basically just an area that you pulled in your vehicle before you open the garage door and then you pull your vehicles in or whatever you had inside. He had a trailer and things, a nice size building. I don't remember them ever leaving great amounts of anything out in front of it. He was very particular about everything he had in there. Mr. King left. We had noticed when he, did not, we never knew he left, uh, he sold the place and came down the road and there were a bunch of trucks and they were redoing the yard and putting the new space in front for the parking lot. I was never notified that this was moving there. I knew where they came from because they were down the road. I knew the size of the property they had used before and they piled a lot of big vehicles in there, they expanded it and I went well it seems like it's a little bit close now. I guess, I probably wouldn't have said anything about that had they not made mention that the neighbors all have as many cars as they have. I have an RV, I have a small boat and I have a trailer. We have in the family, I have a son living with me, we have three cars and, uh, yes they are all parked on our property. We have 10 acres. My house is in the middle of the 10 acres on an 800-foot drive. In fact on that 10 acres, because I have over 5 acres, I'm having to pay a, uh, half of my, I have to double my taxes on my property because I have what they call excessive, and you probably already know about this, excessive land use because I have 5 acres more than I'm supposed to have except when I bought the property at that time I had to buy 10 acres because that's what they sold me. I built my house. I've been there for over 35 years. My concern is the fact that my cars are 800 feet off the road, we have trees on the other side of us, we have a small area of frontage, um, so I would have to disagree with them on that point, that's not a good point to bring up. Uh, the car thing is probably the, the, the fact that they have a lot of vehicles there is probably the one, one concern I have. Along with the other concern is we moved out there because it was rural and it was farmland and that's the way I wanted to live 35 years ago. Built it up there. It's been pretty much that. If you start putting a business there and he only wants a variance now but that does lead into the point where that you could take and turn it into a business property if you're there for a period I'm sure. There's 60 acres next to me that's open that this has been talked about development, they've had trouble developing it because of water and sewer and a lot of other factors. What happens with that 60 acres if we have a business there? Does that make it easier for another business to come in and say, oh we want another corner, oh we want

another frontage, we want to put this – what am I going to have alongside of my property and where's the value of my property going to go? That's what I have to say. I'm not real happy with this procedure. If they were all enclosed it would be one thing but then they have to build that building closer to the house. Are they willing to take and ruin their yard up to the house for all the vehicles there just to get them off of that tribe? That would be a good question to ask. That's pretty much all I have to say. Thank you for my time.

Mundy Thank you. Anyone else here that would like to speak? Mr. Rust do we have anyone online?

Rust [Inaudible]

Mundy Okay. Are they, uh, but could you offer the opportunity to raise their hand and –

Rust [Inaudible]

Mundy They have? Are they unable or just not –

Rust [Inaudible]

Mundy They're not wanting to? Okay. All right. Could we have the staff report please?

Baker Yes. Um, so as Mr. Marlow is describing, um, his business, um, in the narrative provided, um, he is requesting what we both, we best can align with a landscape, landscape contractor. That's the closest use we came to which thus requires a, um, Use Variance to allow in this R-2 zoning. Um, traditionally, staff is in favor of low intensity home occupations which I think I provided that in your staff report that goes through all the home occupation standards. Based on the narrative that the petitioner provided and what staff has seen, it, it doesn't meet many of those criteria. This is why the Use Variance is necessary. Um, from staff's perspective it exceeds the allowable, um, traditional type commercial operation in that general area just with the appearance of the, um, amount of employees on the site with the vehicles, the trailers, um, and equipment. Um, I know there are probably some legal nonconforming businesses possibly in the area that have been in existence that were permitted prior to the Zoning Ordinance, um, and that's what I can speak on that. Um, with all that said, staff is not in favor of the Use Variance and I'm happy to answer any questions.

Mundy Questions for staff?

Lake Yeah, I have a question and I don't know who wants to field this, Wayne or otherwise, but if their driveway/parking area was expanded at some point in time, would Zionsville require that to be approved prior to that expansion?

DeLong I'm happy to jump in. It's something that's rural and there's, and even if it was urban, there's only one district, I think, that uh requires any, has any sort of regulatory authority over driveways and that's the Residential Village.

Lake Okay.

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- DeLong So –
- Lake All right. Thank you.
- Mundy Any other questions for staff?
- Jones Would staff be able to figure out how long has this land up here been zoned R-2?
- Baker You know as far as, I don't know when the Boone County Ordinance came into effect.
- Stevanovic Yeah when, when it came into the Town of Zionsville's jurisdiction in 2010 it was R-2.
- Jones Okay. Um, one of the items I find, always find interesting is reviewing these kind of projects is you, uh, it's interesting the placement of this pole barn because for the owner of 8280 East County Road 200 South, if I was the owner of it, it's a perfectly fine placement for the owner of the property. It is on the far northwest corner kind of out back probably out of their line of sight, uh, what's interesting is you go back through the Google maps and you see a few years ago there was, you know, a sufficient drive to service that pole barn. But as we go through the pictures we were provided this evening as well as even the pictures the petitioner provided, you can see there was a certain period of time where they expanded it, the parking, not particularly, uh, in a controlled manner when you look at the pictures and now they've expanded it and cleaned it up more but all that is done to the benefit of the existing residents at 8280 East County Road 200 South. It's all done out of their line of sight but directly in the line of sight of the adjoining property owners and, you know, this is one of the many reasons we do not, and have had a history of turning down commercial uses in residentially zoned area. It was, you know, we, we, the basketball court, the basketball business, we had another farm up on 32 where as a farmer he could have had all of the farm equipment he wanted out there but at a certain point in time he had six subtenants of the property or something like that, different businesses and we turned that one down as well. It's just, as much as everybody has good intent and it's a nice family business in landscaping and etc., once you start allowing commercial businesses into an area this is the kind of problems we get.
- Lake And this is neither here or there but, as you mentioned, the line of sight, the house to the north of them, south of them is, unfortunately, sited. That was a horrible location to put that house facing directly towards that barn.
- Jones Uh huh.
- Lake So – not that that excuses anything.
- Jones No.
- Lake It's just that was a really, really bad place to put that house.

Mundy Any other comments? I'll offer a couple of questions to petitioner. I assume you've seen what the pre, procedural considerations for a Use Variance petition are? There are five of them. I assume you've seen those?

Marlow Yeah.

Mundy In particular, I, my question is, C and D – the need for the variance arises from some condition peculiar to the property involved and strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property. I, I haven't heard anything that addressed that. Uh, and the next one is the strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property. So, these are procedural considerations which we must make in order to approve and if we don't feel that they have been achieved, our obligation is to deny this.

Marlow So, I, I don't think we're, again, you know, I, I, I know I might've offended some folks when I said that, you know, that some of the neighboring, uh, properties have just as many vehicles as we do. Um, you know, if you was to put a dot where we are and do just a one-mile radius like you brought up, I know there's a, there's a bunch of businesses out there. I mean, essentially a horse farm in and of itself is, is a business when you let people show up and, and, you know, pay to have lessons and, I mean, you know, just down the road on 825 there's people using their private homes to give swimming lessons, um, things of that nature, uh, you know, I just feel that I, I'm not trying to bring anybody's property value, I, I never set out to do this. Um, my sister-in-law and my wife were literally raised two houses or three houses to the north of this is where they were born and raised. Um, I was born and raised in Whitestown myself so, I, I'm very, I mean, I, I want to be very respectful which is why, you know, I make sure our trash outside was, you know, we never have trash blowing around, you know, all of our vehicles and trailers and whatnot are in nice, straight lines, um, you know, lined up. We don't, again, we're, we're a design build firm so we don't mow or fertilize or anything like that so we have, we store zero, uh, material of, of hazard, um, you know, we, we, we, again, we, we're, we're trying to fix the place up and clean the place up and do some things for my sister-in-law, you know, along the way. So, um, you know, the, the, the gentleman here that came up and was talking about the RVs and whatnot in his yard, what he failed to mention was the 50-foot round pile of brush and stuff that's sitting in his front yard maybe 100 feet from the road. So his cars are back off the road and the neighbors that I have talked to, you know, when I have talked to them, I said well what about our neighbor over here that has the five cars, well we don't notice that. I, I don't know what, you know, unfortunately, the barn sits too close to the road else wise, you know, I know a good landscaper that could hide it, um, you know, if I could hide it I would, I think, if I knew that would solve my, my issue without a doubt I would hide it, um, I just feel that it sits a little bit too close to the road to be able to, you know, um, legitimately do something that, that, that blends in. You know, I don't want people to drive by and go man they forced that in or they really shoehorned that, uh, you know, those trees in or something. Um, so what we are, you know, I, I don't want to bring any hardship to anybody. I'm not looking to bring property values down. Um, you know, they're right that I do own the property down the road and, and someday hopefully the market will kind of get back in correction and the price of a 2 x 4 won't cost me \$100 – I'll then build

the, you know, a pole barn next to my property God willing and with I'm sure your permission on some of the, uh, you know, um, permits that I'm going to need but, you know, until then, we're, we're kind of fixing this place up as well as utilizing it, um, for storage and maintenance. Um, again, I, I didn't try to make anybody mad in doing this, um, it was just, it was totally unplanned. Uh, you know, I, I was kind of taken back when I, when I found out who all was opposed to this. This past week I, I drove down 825 and it, and I looked around at some of the properties and some of the property owners that are opposed to this and I was just taken back by the fact that, I mean, most of these people have pole barns and they have stuff sitting all the way around their pole barns and they want to talk like they're sitting back off the road but when the leaves are gone in the fall and in the winter everything that was pushed off into the weeds which our direct neighbor has, I mean, I've got pictures that I, that I'd love to share and I guess I should've shared had I known it going to go this direction of almost everybody down this road is in violation of something and if they're not in violation of something then I guess I, I shouldn't be either, um, again, be it the amount of vehicles, I would say at least 70% of the people on this road have just as many vehicles as we do, um, again, they might have 10 acres and be able to fit those a little more comfortably on their property. We, unfortunately, sit really close to the road.

Mundy I think the one difference is that, um, uh, the uh Board member to my right has got more cars than anybody you've mentioned so far but –

Jones Yes.

Mundy But he doesn't have a business at his home.

Jones Sure.

Mundy Um, and that, I think, is the difference that the business actually means that you've got people coming and going, um, and I, as far as I know, um, we can only drive one vehicle at a time so the rest of them are just sitting.

Marlow And for the most part the vehicles that we don't utilize I keep on my property. Um, we have some what I call projects, um, and if you've got that many vehicles you know I mean by projects that, that I have every intention of putting them back together, uh, some of them have a motor that's, that's shot. I keep those at my property down the road. So, all the vehicles that are sitting on this property are plated, uh insured, you know, registered and if they don't get driven on a daily basis at any point in time you can turn the key and drive it. We don't have vehicles down there that we're storing on blocks or we'll get to that next week. Um, I know, I know there was a, a something brought up about my snow plows and push boxes sitting outside for a month. They actually sat outside for like two or three days while we brought them in to fix them. As soon as they got fixed they were removed off the property. It was just after the snowstorm we, we sat them, tried to hide them around the corner of the barn but, um, I guess I didn't do a good enough job of hiding them with no intentions of just walking away and, and leaving them. I, I, I, I mow this property so I'm not trying to make obstacles for myself to weed eat around or, or anything like that so, and, again, my sister-

in-law lives on the property so without a doubt I, I by default married to her sister have to be over respectful as to how we treat the property.

Mundy How long have you had the business there?

Marlow We're very infant. I think four years, five years, uh, something like that. So, you know –

Good How long have you had it there?

Marlow Oh, the business at this property? Um, yeah, end of this past year. Um, the gentleman that sold the property to Hayley was, was utilizing the property for some storage, or utilizing the barn for storage and whatnot until he got, uh, to where he could store some of his things because he moved from a pretty good sized property to an apartment, so, um, you know, once he got his things moved out of there, we kind of started using it to, to maintain our trucks, do oil changes and whatnot, you know, when it comes up.

Mundy Any further questions for the petitioner? Thank you. Discussion among the group?

DeLong Mr. Mundy I do want to offer to you that you do have an online viewer that is, it was some technical challenges and, and unable to be promoted if you will so we do want to offer information to, to the Board, a 1933 South 825 East, it's the Witsken family that's actually just to the north there has provided some comment. We'll get that printed and archived into the record but it is just representing concerns related to the, to the petition. Um, I just wanted to provide that for you that that party is, is just speaking and in looking, trying to state, certainly to Mr. Jones' request, we don't have information at the ready as to at what point in time this parcel was first zoned R-2, um, I can tell you just looking at historical aerial photos the driveway that you're mentioning, um, has, has been there, you know, at least since the 1990s for, for the barn.

Marlow And maybe another thing worth mentioning and I apologize if I interrupted, but, um, most, uh, we have three, I believe, homeowners that live on 825 there that's kind of written some letters. Um, I know a few of them are kind of sweet and to the point, um, but Natalie Wentworth which is the very last house on the east side of 825 wrote us a very nice letter, um, in support, uh.

Mundy We do have copies of those.

Postlethwait Yes.

Mundy Mr. DeLong is there, can you, uh, give us some indication as to the, what the concerns are from the viewer that is trying to convey some information to us?

DeLong I would say it's, it's a, I'm being provided screenshots from our, our IT staff in the back but certainly, uh, it is questioning, uh, the ridesharing that's been mentioned, um, noises, uh, there's, you know, interjecting, you know, with the quiet enjoyment of the, uh, normally associated with residential area, um, and

there might be other technical topics that could be sent to me but that's just providing a little bit of a snapshot of what I have literally.

Mundy Discussion among the group? Thoughts?

Lake I just think as Larry noted the challenges, um, with home occupation aspect of this and its commercial nature, um, you know, we've got the three bullet points here that the, you know, the, the owner of the home occupation has to live in the house, it needs to be a sole entrepreneur that does not employ other, other people and no more than two off-street, uh, parking spots and so we well exceed or don't even, and some of those don't even, you know, aren't met, so.

Postlethwait I would, I think ultimately even if we would decide to grant this there's no guarantee that the business doesn't grow as much as he doesn't foresee that. I mean, I, I just can't imagine without constraints, I, I agree.

Marlow I'd be willing to hear some, some constraints if you would like to discuss that. I'd be more than willing to, to discuss it. I mean, I don't know that what we can come to terms on or agreements on. Um, again, that's kind of, that was another issue of mine is where, where is the line drawn? What classifies this as starting? I mean, if I was to say, all right gentleman let's, let's meet out at the Lowe's and park our cars there, you all jump in my truck, we'll run and grab some shovels and whatnot out of the barn – I ask myself is that okay? And, uh, again, if, if this goes forward without a favorable recommendation, I need somebody to tell me what we can and can't do with this property because what I don't want to do is get my sister-in-law in trouble or receive fines myself. So, I mean, if, if it goes forward with a, you know, without a rec, favorable recommendation, I need somebody to clarify what it is exactly we can do with this property. Um, you know, are we allowed to, to are we even allowed to step foot on the property? Um, you know, is, is, I looked and I tried to find guidelines. You know, what, what justifies a business as being a business and other than employees coming in the door, I couldn't really find anything else, you know, again, we try to stay within the noise ordinance of Town. We don't, we don't run a 24-hour operation. So, I, if you could, direct me to where I might be able to find some of these notes as to what we are allowed to do and, and what we aren't allowed to do.

Mundy Well I think that the conclusion that the Board needs to make is whether or not the request for a variance here is, um, permissible based on these procedural considerations and the things we've heard from neighbors as well as your input in terms of the business you're running. Um, what the Town doesn't allow is to have a business there. It is not zoned for a business and your business doesn't meet the criteria of a home-based business, uh, you know, you run the business but you don't even live there. That's one of the requirements. So, I don't know that we could tell you everything you can and can't or can do there, uh, I think what we can do is determine whether or not we would grant a variance and allow it or deny the request which says you can't have the business you have there now. And I, Wayne and our legal counsel, I'm not sure if you can provide anymore input in terms of what would be permissible, uh, at this point we don't have a motion, so it's still, uh, being discussed. I think that, uh, we probably have heard all we need to hear.

- Pickell No, I, I was going to ask, is your business operating out of Whitestown?
- Marlow Yes, yes.
- Pickell It's not operating out of this garage?
- Marlow So our actual business address is my house. That's where my office is. We have a home office there, um, so like the business address is my property a half mile or so to the west of, of this. So, so, no we're, we're not, you know, we have no signs, um, we, we, we don't allow customers to come. We, we don't have any customers stopping by or, or anything like that. Most of the time our, essentially our office is the job site. Uh, when I meet with our customers, we, we, we usually go out and, and meet on their property, uh, to go over things. So, um –
- Pickell But your business operates out of Whitestown?
- Marlow Yes.
- Pickell At your current address?
- Marlow Yes.
- Pickell Okay. Thank you.
- Mundy Is there a motion that, uh, could be put up for Board discussion and vote?
- Jones Um, I move that Docket Number 2022-03-UV, Use Variance supporting the use, supporting the –
- Lake 1:28:55 word use.
- Jones Yeah, okay.
- Mundy It's got too many.
- Jones Got it. Let me start again. I move that Docket Number 2022-03-UV, Use Variance supporting the use of the property by a landscape contractor at 820, at 8280 East County Road 200 South, Zionsville be denied as presented and described.
- Postlethwait Second.
- Mundy Motion by Board member Jones and seconded by Mrs. Postlethwait. Any further discussion?
- DeLong Are we going to continue this? If, if you are depending on your, your results of this, this motion here, we, if there are to be negative Findings of Fact to be written, you would then do that at a subsequent meeting.
- Mundy Should that be included in the motion? Was there a Finding of Fact?

Chadd I think the way we've been handling any negative Findings recently is you, you make your decision, you, you act on your motion and we continue the matter just for purposes of preparing and approving signing Findings at your next meeting. So you take action on tonight but it's technically continued just for the purpose of the Findings.

Mundy Okay. All right. We have a motion to deny and second. Is there any other discussion? All those in favor say aye.

Jones/Lake/
Postlethwait/
Mundy Aye.

Mundy Opposed same sign.

Pickell Aye.

Mundy The motion is denied. Um, we will –

Lake The motion is approved.

Mundy I'm sorry. The motion is approved to deny. Uh, we will have a Finding of Facts that will be reviewed and signed at the next meeting which will be April the 6th, I believe. Um, that is all. Thank you.

Marlow Thank you for your time.

Mundy The next item is Docket Number 2022-04-DSV, T. Griffith at 9765 Equestrian Way. You Mr. Griffith?

Griffith Hello. Uh, thank you for the, uh, time of the Board. I appreciate the consideration. My name is Troy Griffith. I reside at 9765 Equestrian Way here in Zionsville along with my wife, Jen, and our 8-year-old daughter, Reese. Uh, we are requesting a Development Standards Variance to add a pool, concrete pool patio, paver patio and covered pavilion in our backyard. Uh, the project exceeds the 20% lot coverage requirements with a total coverage of 25%. Uh, the variance is needed to allow proper and adequate functionality of the pool and the patio area. And, again, I thank you for your consideration.

Mundy Any questions for the petitioner? Hearing none, do we have anyone in the audience who wishes to speak for or against this petition? Anyone online Mr. Rust? No? Okay. Can we have a staff report please?

Baker Yes. As the petitioner has stated, they are wishing to get a Development Standards Variance to accommodate a pool. Um, the current lot coverage requirement is 20% and they're requesting 25%. Um, we looked at surrounding properties, um, even specifically in this subdivision, um, I think as of recent as last year, um, that have similar type requests, um, and there have been additional variance requests that have been approved in this area with, with pools and with around the same lot coverage request and, um, we're in favor of those and also

are in favor of this, um, being approved. I'm happy to answer any other questions.

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

Jones I had a quick question. So the, uh, site plan that we've been provided, the pool and the additional hardscaped areas, the addition to the deck, that's all included in the, I'm just trying to check my numbers – so there's the addition of the 16 x 36 foot pool and then the deck, covered pavilion and paver patio so that all is included in the increase up to 5,160, is that right?

Baker Yes.

Mundy And that makes up the 25% lot coverage?

Baker Yes. All the, all the, from what I understand, the pool and all the additional, uh, pool deck and additional, uh, outdoor paved, paver area is included in that lot coverage.

Mundy Your question is answered?

Jones I think so.

Mundy Okay. If there are no other questions, is there a motion on this petition?

Postlethwait I move that Docket Number 2022-04-DSV, Development Standards Variance in order to provide for an increase of lot coverage up to 25% for the construction of a pool, concrete deck, covered pavilion and paver patio for the property located at 9765 Equestrian Way in the Urban Single-Family Residential District (R-SF-2) be approved, uh, on, based upon the Findings of Fact and substantial compliance with the submitted site plan and concepts.

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

Pickell Second.

Mundy Thank you Mr. Pickell.

Mundy All those in favor say aye.

All Aye.

Mundy Opposed same sign.
[No response]

Motion carries.

Griffith Thank you.

Mundy Good luck with your project.

- Griffith Appreciate it.
- Lake I move for a motion to approve first class mail was done –
- Jones Oh yeah, we should've done that at the beginning.
- Lake Sorry, I just saw all of those.
- Jones No I was sitting there because we were talking about it in the pre-meeting. We had that on our notes to do.
- Mundy We might as well wait until the end now.
- Jones I was so excited that Steve agreed to be the Chairman that I completely forgot the one thing I was supposed to do.
- Mundy Now, I, I can tell you I'm not that excited. Um, the next item on our Docket is Number 2022-06-DSV, J. Gauger and that's at 560 Beech Street, Zionsville.
- Gauger Yes, good evening. Thank you for your time. Um, my husband, David Gauger, my daughter, Annaliese, and I are here seeking a variance for Development Standards for our home, uh, located in the, uh, Village Residential District. Um, we are seeking a variance of the 35% lot coverage standard for an inground swimming pool. Uh, I know in your packet of information there's the diagram of, of the pool. Um, I just wanted to take a moment to look at the, um, considerations this evening. Um, the grant is not injurious to public health safety morals and general welfare. Um, you know, we, we are strong believers in safety. We have a 7-year-old daughter. Safety is paramount to us. Uh, we are contemplating an automatic safety pool cover, um, complying with the provisions of the Indiana Code and Indiana Administrative Code. Um, that, that automatic pool safety cover is weight rated to 400 pounds per square foot. We also have a fully fenced backyard with a self-locking gate. Um, the second consideration is that the use or value of adjacent property will not be affected. Um, we don't believe any of our neighbors will be adversely affected. Um, there's no data to suggest that a pool would be detrimental to the impact or use of our property or our neighbors or the adjacent area. Um, I would also just like to point out that the number of pools have increased nationwide during the pandemic. Uh, uh, generally pools increase the value of the property. They attract families to the area which, in turn, keeps communities desirable to families. Um, the final consideration is whether the strict application of the terms of the Zoning Ordinance will result in an unnecessary hardship to the use of the property. We, of course, believe it will create terrible hardship to us and our family, but all joking aside, um, it is a permitted use of property, um, a denial of the variance would, would prohibit that use, of course. Um, we strongly believe that in the, uh, use and beneficial enjoyment of our property, but I think more importantly we love this community, we love our property, we love where we're located. We want to invest in our property. We want to make it more desirable. We want to stay here. We want our daughter to stay here. Um, but, but we also believe that adapting our house to modern living standards is important. Uh, we think it also encourages a healthy, thriving sense of community. Uh, I don't want to ruin the surprise but the staff recommends denial of our project. Um, I'm not entirely sure why, I think, they'll

probably elaborate. One of the things was though that there are not any pools in proximity to our home. I, uh, pulled up an aerial view and within, again, I don't know what the definition of proximity is, but, um, a Google area view, aerial view shows six pools, inground pools within a six-block radius. So, I don't believe that the request is novel to the Village Residential area. They have apparently been allowed previously. I would really appreciate your consideration. Thank you.

Mundy Thank you. Um, I'll have, have one question, uh, first a comment I guess. We have had pools that have been, uh, come before this Board and in the Village it's usually because of lot coverage. Um, there is the option, uh, to use pervious materials, uh, as part of the deck, uh, or the surrounding portion which uh, uh aids in the percolation of water down through the ground. So, and, water is, uh, often a problem in the Village and you do have, uh, you know one side of your property is higher than the other as every one of them that's coming down. So, is there, have you given any consideration to, you would still exceed the 35% no matter what you did, but, you could get some credit for pervious materials.

Gauger Yes. Um, we have considered that but one other thing we're absolutely, we've reached out to, um, uh, a drainage company, it is one issue we're very concerned about as well. Um, but, we, we've held off on actually any drainage, um, corrections or work being done in anticipation of potentially putting in a pool at which time our backyard will be dug up so that would be an ideal time to add some sort of drainage, um, assistance, um, not entirely sure that all of our options are but, but we do need to look at something like that and, to your specific question about other materials – as I understand it, there is, there is some portion of the lip of the pool that has to be covered in cement. So we have tried to go as narrow as possible and if allowed I will absolutely go less, um, but I, but I, I believe that I'm at the minimum.

Mundy I'm not a pool expert but I think that's correct. Uh, a portion of it will be a poured concrete and not permeable material.

Gauger Yeah, but, I would absolutely if allowable consider, well I wouldn't consider it, I'd do it.

Mundy Any questions for the petitioner?

Jones Uh, one of the details I'm not seeing is any kind of walkway or connection between the existing patios and the pool. Are you just going to have this thing free floating in the yard?

Gauger Yes. Um, it is, it's not a very large distance. We tried to move the pool as close as possible to the home. We have a number of large trees that we want to protect. Our neighbor has a number, a couple of large trees, so we were trying to move it closer to our home where we have no tree roots that we think will be, um, as problematic. So, anyway, there should be a step in the yard or two steps in the yard to get to the pool.

Lake It appears, based on Google Earth at least, that your neighbor to the east has an above ground pool? Or did at one point in time have an above ground pool?

- Gauger Yes. Yes.,
- Lake And their lot coverage appears to be significantly higher than your lot coverage even without the pool. Their lot coverage seems to be significantly higher than yours.
- Gauger I'm not telling on my neighbors. I'm joking.
- Lake I'm trying to help you out.
- Gauger Thank you, thank you. Yes.
- Mundy As a –
- Gauger Yeah, it's not a permanent structure. I do know that.
- Mundy As a former pool owner, I will tell you trees and pools don't go well together.
- Gauger I know. They have a lot of advanced filtration I'm told or that might be a selling technique to help with leaves and –
- Mundy Is there anyone in the audience or online that would like to speak for or against this petition? Yes ma'am.
- Terry Good evening. I am Diane Terry and I live at 590 Beech Street which is the property that abuts directly with the property and would abut directly to the pool. Um, if you see on Google Earth, our yards are actually more side yards, not backyards. So mine is that, that abuts next to it with the fence line. Um, and, I really have no objection to the pool itself. Um, my main concern was, you know, possibly damaging tree roots to damage trees which I've spent a lot of money preserving because they're ash trees and so I have to get them treated like every couple of years, um, for that and get them pruned but, um, I've seen the site plans, they're actually, you know, good in where they're trying to make sure not to disturb those roots. My other only concern actually is drainage. Um, but I know that they're looking at doing some type of proper drainage, um, to help that because where we are, um, we don't have curbs, you know, drainage I live right across, I'm directly across from Eagle. I have no curbs so the street water runs from that into my yard, keeps going, um, the hydrostatic pressure there is bad so we get water kind of come up through the basement floors and things like that. So, I think if they put the pool in and also do additional drainage that that actually may help to improve some of that problem as well, I don't know, because I'm not an expert in that but I have personally owned three pools in my lifetime, so, I know a little bit about that.
- Lake Your lot is higher than their lot, correct?
- Mundy Yeah.
- Terry Yes, but I still can get puddling in my backyard because of, because our, you know, the drainage in the Village is not great. We don't have street drains where

we live. We have no curbs where we live, which would be nice. Um, if that could get on the docket somewhere, somehow but thank you so much. Um, I appreciate your time.

Mundy Thank you. Is there anyone online Mr. Rust? No? Okay. Can we have the staff report please?

Baker Yes. Um, so as the petitioner stated they're requesting a pool, um, and associated pool deck that would, um, increase the lot coverage to 40%. Um, traditionally when approving variances, staff looks at surrounding properties, um, if they enjoy the same uses in the area. Within the immediate area, I guess that could be a subjective, um, term. Um, as the petitioner stated, they, they looked at six blocks. I think staff would look a little bit tighter than that. Um, as far as I am aware, um, any of the petitions in the Village that have included pools within the past year staff has not supported. Um, I will note, um, that with pervious material, the allowed lot coverage does go up to 37% versus the 35%, um, so based on this, the not, in the immediate area, which, again, you would look probably closer, tighter than six blocks, um, staff was not in favor of the request. I'm happy to answer any questions.

Postlethwait So it seems to me that pervious material, because we're not talking about a, an extensive pool deck or, and a choice between concrete and pavers in this case based on what the petitioner has mentioned that we're only talking about the immediate collar of the pool, is that what I'm understanding? So there's not a lot of flexibility of changing out concrete to pavers and improving and getting that 2%. Is that everybody's understanding of this based on what –

Mundy Yeah. They could, they could take, they would get some credit for that but yeah, it won't amount to a large portion of the deck around the pool.

Postlethwait There's not a lot of concrete.

Mundy No.

Postlethwait Poured concrete that you're using. I mean the pool is essentially independent of a large patio or, or anything else, correct?

Gauger That's correct and as I understand it, we've tried to keep the —

Postlethwait Right.

Gauger Surround to the minimum too.

Jones And typically with any kind of pool you need that band of concrete –

Postlethwait Right, yeah.

Jones Around it to –

Postlethwait Stability for architectural stability.

- Jones Keep it stable. Both to support the automatic pool cover and –
- Postlethwait I also had a pool once upon a time. It's now a garden.
- Jones My poison is cars. I've stayed away from pools, so.
- Mundy Any other comments? Questions of staff? Um, for the two new members, uh, we have, we haven't had lots of, uh, requests, at least while I have been on the Board for pools. We've had a few and we, and it's almost always, well, the only ones we've probably seen are ones which do exceed the lot coverage. We have approved a number of them, um, there's a lot of logic and probably some illogic to that but they don't represent anything that's above ground side barriers, so you don't notice, uh, from afar the pool as you, much near, as you would notice a, um, you know, a secondary building or other things which are upright. Um, you know, I think we have seen ones that do exceed the, or at least have reached the 40% mark before.
- Lake Yeah, we've generally held, at least recently, that 40% threshold is kind of a do not exceed. There is a pool that we approved at Walnut and Fourth which is two blocks away which will be constructed, um, and I would say given the fabric of this area, you know, immediate surrounding would be a block north, three blocks south, probably a block west and three blocks east given that that's all of the similar context and fabric and scale and era.
- Postlethwait I wonder if it's advisable to have some stipulation made and whether this is even permissible about drainage because it sounds to me as if drainage, um, is a problem in this area and with her lot being a low lying, even more low lying than her neighbor's and the water pooling in her neighbor's yard, um, is, is it possible to have a stipulation that drainage work?
- Lake Somebody can correct me if I'm wrong, but I think the most appropriate way to handle that would be to continue this and require that they come back with some sort of drainage solution prior to us approving it.
- Jones Is the Walnut and Fourth the previous church that we just did –
- Lake Yes.
- Jones Where they, mom appeared to put in a basically uh, kind of a French drain or retainage to take on a little of the, uh, drainage issue. Uh, a year or two ago we did the one that just came back as kind of the pool in the front –
- Lake It had a swale.
- Jones The swale. We had a swale and had them actually tie in some subsurface drainage to a, a storm sewer that was across the front of the property. So, the drainage issue has been one that we've constantly been trying to find ways to address and the best situations we've had is where the homeowners have, you know, made some sort of, uh, additional, um, what's the word I'm looking for – contribution or just –

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- Lake But through an official design, not just as a blanket statement?
- Jones Correct. As a part of whatever were approved.
- Lake Yeah.
- Mundy I think the last one we approved, the one that you've mentioned there at Fourth and Walnut is it? Uh, they actually had a company come in and design so that the water that fell on their property would not leave their property.
- Lake Yeah, they were actually retaining 100% of the runoff from their impervious surface and it was not a fancy or as an architect, it did not appear to be an expensive solution, it just took some engineering math that was well above my, uh, skill set to do. If you could come up and –
- Gauger Yes.
- Lake Just so that it's on the record.
- Gauger We are very happy to do that if you'd like official plans. Um, it's something we've, um, known. I mean, we know we need to address, uh, the drainage issue, um, and, again, we, we simply waited because we thought it would be a good time to do it all at once. If, again, it was approved. Um, so definitely happy to provide official plans.
- Jones So would you like –
- Lake If you – go ahead –
- Jones I would just say would you like to request a continuance to sort that out and bring it back to us?
- Gauger Yes, I would.
- Lake Okay. In that case, I would make a motion to continue Docket Number 2022-06-DSV to the April meeting –
- Mundy 6th.
- Lake April 6th meeting.
- Postlethwait Second.
- Mundy Thank you Mr. Lake and a second by Mrs. Postlethwait. All those in favor say aye.
- All Aye.
- Mundy And opposed same sign.
[No response]

I, I would note that, um, we don't, we're not asking you to just study this. It really requires and the commitment to adhere to this study.

Gauger Absolutely.

Mundy So that you do in fact assure your neighbors to the, to the east of you that they won't be getting additional runoff.

Gauger Absolutely. Thank you.

Mundy Okay.

Lake Thanks.

Mundy Next item is Docket Number 2022-07-SE, R. Alexy at 8183 East 50 South. Is this going to be a virtual, Mr. Rust? Okay.

Lake And there are actually two for this. Same petitioner.

Mundy Uh huh.

Lake There are two.

Pfendler Good evening. Can you hear me?

Mundy We can hear you.

Pfendler Excellent.

Mundy Is this Josh, Josh Pfendler?

Pfendler Yes, correct. I'll start my video here too. Hello, whoa. There we go.

Mundy Welcome, sir. If you'd give us your name and your address and then tell us what you're requesting.

Pfendler Yeah, good evening. Um, Joshua Pfendler. I have offices at 735 Shelby Street, Indianapolis, Indiana 46202. I am the petitioner representing the homeowners, Ryan and Kylie Alexy, uh, address 8183 East 50th South in Zionsville. We are requesting a couple of variances tonight. Um, let's see, the Development Standard Variance 2022-08-DSV. This would be for a Development Standard Variance to provide two primary single-family dwellings on one lot in the Rural Agricultural District and then the Special Exception to provide for a new single-family dwelling and to provide for one existing single-family dwelling and related accessories in the Ag District. Um, basically the homeowners want to build a in-law suite on their property. Um, if you look at the site plan, there is an existing barn, it's a large lot, I think it's now something like 15 acres, so they have a, a house that's kind of further back from the street behind the pond and then there's an existing historic barn that's closer to the street. Um, originally we were going to renovate that barn and turn part of that into an apartment for, um, their father-in-law but because of some structural issues and just the historic

nature of the, the barn, um, we're proposing to do an addition to that existing barn while also renovating the existing portion of it. Um, the end result will be, um, basically one cohesive structure that, that looks similar but one side of it will be the historic barn and the other side of it will be, um, a one and a half story apartment with the footprint, um, let's see, I believe, you know, 20 x 20 feet addition to that barn and the full width of that barn so it's 46 feet. Um, they're not looking to rent this out or have any kind of, you know, income from this, uh, additional, um, dwelling on the property. It's strictly for the father-in-law to reside when he's in town, um, and, you know, it won't be egregious in anyway. We're going to blend it in with the existing, uh, aesthetic of the barn. Um, there will be some more windows and, obviously, like a garage door, but, um, you know, nothing, nothing out of the, um, kind of the fabric of the existing barn. Um, I think staff is in favor of our petitions. Um, and so we agree with their Findings. So, we appreciate, I appreciate your time and your consideration.

Mundy Thank you. Do we have any questions for the petitioners' representative?

Jones Um, will there be an additional driveway for this from, I guess would it be County Road 50 South?

Pfendler Yeah, there's already an existing, um, gate there and kind of a half like gravel entry. Um, I think we'll probably do – the existing driveway to the house is, you know, a crushed stone so they would probably extend what's there and connect, you know, the entry from, um, 50 with the gate and then connect that to a garage.

Jones So there will be a separate driveway for this?

Pfendler Correct. Yeah, it's separated, um, by kind of like a drainage ditch in that pond so – there already two separate entrances to the property, uh, one to the barn and one to the, the driveway to the house.

Jones So will this, um, then have a separate address?

Pfendler Well, I assumed it would be, since it's on the same parcel they could do, you know, the same address Unit B, um, I don't know exactly. This is the first petition I've filed with the city of Zionsville, so, uh, I, I don't know exactly how you guys, um, consider that. That's how we would do it in Indianapolis. It would be the same address but as a different unit number.

DeLong 911 would frown upon multiple addresses on a residential piece of property. So, we would, the 8183 there would, there would be a request for assignment of different units or splits A and B, I don't, would not, has historically not been approved.

Jones We've had this come up before where there was a guest quarters on a piece of property.

DeLong Correct.

Jones And that was, but that was served by a single driveway. In other words, you came up the same driveway and there was the main house and then there was an out

building with living quarters. So this add, this location is going to have no address or no marking? It's going to have a gate and a drive out to 50 South but –

DeLong As this isn't the first time this has come up, we can certainly consult with 911 to see how they, their best practice is for this type of situation but this, this is not uncommon to have more than one driveway coming into a house, a property more than one structure on the property to which someone may be utilizing as guest quarters.

Jones So you are permitted to have two drives servicing one property?

DeLong If you can obtain the drive cut permit from the County Highway Department, yes. And, and I'm not aware of the, any particular restrictions on, on 50 South.

Jones But only one of them would carry the address 8183?

DeLong The address is assigned to the primary –

Jones To the parcel.

DeLong To the parcel.

Pfendler Yeah, and like I said, there's already an existing access to the barn that's separate from the house access driveway. Um, I mean if there's some sort of signage needed to delineate between, you know, the main house and the accessory, we'd obviously be open to that.

Mundy The structure, the addition to the barn would be just living quarters? It's not going to include a garage or does it include a garage?

Pfendler Um, there would be a one-car garage, um, facing 50th, so basically, you know, you would see a, a rollup door on, on the addition portion of the barn.

Postlethwait Will this, I assume this is on well water and septic. Is that right?

Pfendler Correct, yeah. So, it would need, um, it would need a well drilled and a septic.

Postlethwait And a separate septic system field and so on will be put in place?

Pfendler Correct.

Mundy Any other questions? Is there anyone here to speak for or against this proposal? Nothing online? Can we have the staff report please?

Baker Yes, um, the petitioner is requesting, um, two things here. Um, the first request which is the Development Standards Variance. This is to have two primary dwellings on one parcel. Um, and then the other request is a Special Exception to allow for, um, the new primary residence or single-family home and also, um, to memorialize the existing home on the property, um, because we're not aware that ever received a Special Exception, um, so they're, they're requesting one for the new residence memorializing the existing residence and then, um, as discussed,

having the two primary structures on one parcel. Um, and, and the petitioner is also agreeable to not rent it out and just being, just having it used as, um, for family. Um, with that, staff is in favor of the petitions and I am happy to answer any questions.

Mundy How would this property then be recognized in terms of improvements? It has a house, would it be considered to have two dwellings and a barn?

Baker So it would have, yeah, it would, it would have two primary structures and then the associated accessory structures. Um, based on the information that I had gotten from the petitioner, the accessory structures won't exceed the primary because you're actually increasing the size of the primary structures when you add them together. Um, so I don't, that shouldn't come into place.

Mundy Any other questions for staff? Would anyone like to motion on this petition?

Lake I move that Docket Number 2022-07-SE, a Special Exception Petition in the Agricultural District for the property located at 8183 East County Road 50 South, Zionsville be approved based upon the staff report and the proposed Findings as presented. If approved, uh, just note that the petitioner will need to execute the Right to Farm Acknowledgement documentation.

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

Pickell Thank you Mr. Pickell.

Mundy All those in favor of, uh, Docket Number 2022-07-E, SE, Special Exception say aye.

All Aye.

Mundy Opposed same sign.
[No response]

That motion passes and I, um, would emphasize what Mr. Lake concluded there at the end and that is that the acknowledgement that, uh, there is a Right to Farm. There's also that staff has pointed out, not that it's required, but due to the proximity to the airport, um, you are not within the range that requires it, but you'd, just we'd like to have acknowledgment that you know that there's an airport there and that airplanes fly in and out.

Pfendler Okay.

Mundy And Mr. Lake would you like to –

Lake Sure.

Mundy Finish.

Lake I move that Docket Number 2022-08-DSV, Development Standards Variance in order to provide for the allowed number of primary uses from one to two, which

includes a new primary dwelling at the property located at 8183 East County Road 50 South, Zionsville in the Rural Agricultural Zoning District be approved as filed based upon the Findings of Fact and substantial compliance with the submitted, uh, parcel dimensions as related to depth and width in the site plan and concepts. Um, I would like, also like it noted that, uh, we would like to restrict utilization of this second primary dwelling to non-income generated occupancies only.

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

Postlethwait Second.

DeLong And, and certainly before the Board votes, I would want to point out, certainly it is feasible and, and normal to then combine both the Right to Farm and this zoning commitment into one document and we're happy to help facilitate, uh, what's been articulated.

Mundy Thank you. We have a motion and a second. Um, all in favor say aye.

All Aye.

Mundy Opposed same sign.
[No response]

Motion passes. Good luck with the project.

Pfendler Thank you. Um, one question, just as far as the addresses are concerned – is that something that I will talk to, um, the permit office about or how, how do I go about figuring out the best route as far as that's concerned?

DeLong Well by Indiana, Indiana law, addresses are ultimately assigned by the Plan Commission. And so we certainly, the Plan Commission, uh, we will work with, they will work with 911 to facilitate that. Um, certainly I need to speak to when you start adding characteristics that lend themselves to truly two primary structures, uh, two septic, two wells, two addresses, I mean, it starts to defeat the entire purpose of creating a non-income producing property. Yes, it is, and certainly two in, two, two dwelling properties are themselves have a very different need of lending structure in terms to how you then monetize those. Um, so certainly all these characteristics let alone, um, the, the zoning issues, but certainly the answer to the question is the Plan Commission ultimately has a statutory authority over this. This is not the first time that the Plan Commission and the Fire Department will work together to, to facilitate this particular topic, um, but with full recognition of as you add additional characteristics to properties, you make them look as if there's two permitted dwellings which is not in line with what was just approved by the variance. It is limited, um, it does start, start to rub afoul a little bit.

Mundy In terms of address, does the Postal Service have anything to do with, do they take what we give them, as what the Plan Commission decides?

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DeLong Generally speaking. Yeah, they're definitely, we provide the master addressing and then certainly that information is provided to the Post Office be it whatever, whatever postal service, in this case, it would be Whitestown, would provide that. Certainly it's, it's, I don't want to understate the, the need to provide emergency services to properties and find people as quickly as possible if they do need things. Um, but how that's done, I just don't have that information off hand to work through the different variables that 911 has used in the past to solve that question.

Mundy So this will go the Plan Commission then?

DeLong Only through, um, for purposes of permitting. And so we, so as the staff of the Plan Commission, which is the same people that are sitting in this room, we, we will help facilitate that very conversation.

Mundy So that'll be your job? You or your staff.

DeLong Sure, our Department, correct. Yes.

Mundy All right. Did you get that Mr. Pfendler? That's going to be the Department here that will take care of that.

Pfendler Okay, yeah, I appreciate that. I just wanted to clear that up. Thank you for your time. I appreciate it.

Mundy You're welcome. Thank you.

Pfendler Have a good evening.

Mundy That brings us to Docket 2022-09-SE, Special Exception for J. Artman at 1580 North 800 East – that's an estimated address. You've been a patient bystander tonight. Can you tell us, uh, give us your name if you would please, name and address and then, uh, what you would like to do.

Artman Yeah, John Artman, 8145 East 200 North, Whitestown. Uh, just wanting a Special Exempt, Exception for a personal residence and barn at 1580 North 800 East.

Mundy And the Special Exception requirement is because of the size of the, the plot of land? Is that right? This is on 20 acres.

Baker It's a Special Exception permit to a Single-Family Home in Ag.

Mundy The family home in Ag.

Artman I'm sorry.

Mundy Thank you. Questions for the petitioner? Hearing none is there anyone here who would like to speak for or against this? Yes ma'am.

Postlethwait Also very patient I think.

Pickell Yeah.

Ehman My legal name is Pamela Tudor Ehman. And, I don't believe the fair board here understands out there, there is about I'm roughly guessing about six or seven country squares that we're not four, five and six generations farms out there. Artmans, Tudors, um, Hendricksons, and there's quite a few of us out there and we used to be really closely knit and I really took pride in that and I still do. And, even you guys just approve trying to help that family with their, um, I think it was grandfather or something like that. I did that and this family has done that and I think there should be no question that this should be approved and also another thing I don't think you guys realize if I stand, correct me if I'm wrong, so you own all the land around that little piece of property, don't you own all the land across the road, so there is no neighbors to be complaining? And to me it's a no brainer. It should go through because we are a close-knitted family out there, that six blocks of country square. And you're not city squares, I'm talking country squares. Thank you. Appreciate it.

Mundy Thank you, Mrs. Ehman.

Jones Just to confirm – you're approving this, uh, residence?

Ehman I strongly approve it.

Mundy Thank you. No one online, Mr. Rust? No? Okay. Can we have a staff report?

Baker Yes, um, as the petitioner stated, they're requesting to put a single-family home on 20 acres. Um, and as, um, the previous lady had stated, they own a lot of the surrounding property so we have, we worked with the petitioner to go really far out to find the adjacent, um, own, property owners to notify. Um, but other than that, um, the Right to Farm is required and staff is in favor of the request.

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

Postlethwait I have a question for the petitioner.

Mundy I'm sorry, go right ahead.

Postlethwait Um, I see that there's an existing barn on the site and, remind me, is your intention to tear that down and –

Artman No.

Postlethwait You're going to be leaving that?

Artman Yes.

Postlethwait And then, but you'll be building another barn?

Artman Correct.

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- Postlethwait For animals or?
- Artman It'll be –
- Postlethwait Storage?
- Artman A combination of ag and personal use.
- Postlethwait I see. Thank you.
- Mundy Any other questions? Uh, would someone like to make a motion?
- Lake Sure. I move that Docket Number 2022-09-SE, a Special Exception Petition in the Agricultural District for the property located at 1580 North County Road 800 East, Whitestown be approved based on the staff report and the proposed Findings as presented. Uh, I would like to note that there is a Right to Farm Acknowledgement that will need to be, uh, executed as part of this as well.
- Postlethwait Second.
- Mundy Thank you Mr. Lake. Thank you Mrs. Postlethwait. All those in favor say aye.
- All Aye.
- Mundy Opposed same sign.
[No response]
- It's approved. Good luck with your building project Mr. Artman.
- Postlethwait Thank you.
- Lake So, going back to an item we missed.
- Mundy Yeah.
- Lake I'd like to make a motion to approve First Class Mail as a noticing method for this meeting.
- Jones Second.
- Mundy All right. For the newcomers, we typically have used registered mail during COVID when people didn't want to receive something from another person's hand. We've gone to First Class Mail so that there's no knock at the door. So that's the purpose in, uh, requesting a change off practice.
- Postlethwait Mail to? I'm sorry –
- Mundy These are to the surrounding property owners –
- Postlethwait I got it, yeah.

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Mundy That would be affected by the petition. Uh, a motion has been made by Mr. Lake and seconded by Mr. Jones. All in favor say aye.

All Aye.

Mundy Opposed same sign.
[No response]

Motion passes. Thank you. And that, without anything else, I believe that brings us to the end of the meeting.

DeLong And I would just offer a plug for the next week's events, March 8th at 6 p.m. the sign that was here in the building or that room on that table I point out is now gone, it doesn't change the event, it's still happening. It is the Town Council, specifically, Joe Culp, will be hosting, an event here at Town Hall next week 6 p.m. to talk about a Historic Preservation Commission and the creation of that to serve the Town.

Mundy Isn't that the, will that be the final, I think I just saw one online not long ago that he hosted or that he participated in.

DeLong Right. So September 30th there was part one of that conversation and that conversation at that time was focused specifically on the, what is called the Village Core. In 2021 Sullivan Munce contracted with an individual who conducted a survey of 528 give or take properties that comprise this area that was identified by this individual as something called the Village Core and that information is online, the same website that hosts, uh, the ordinance that is, uh, for all 68 square miles of, of Zionsville. In September while it was, uh, you know, a great project to talk about such a, such a Board to serve only the Village Core, I believe it was determined that the, the, the most defensible way to, uh, continue to conduct the conversation is to create a Historic Preservation Commission that served the entire Town, therefore, then, allowing that body to then determine through a process that needs, would be identified by the Town Council as to create those specific districts and those districts could be a singular property, any, any number of acreage, but, nonetheless, that's, uh, what will be discussed, presented and discussed, uh, next week.

Mundy Thank you Wayne.

Jones Thank you Wayne.

Postlethwait Will there be, uh, Zoom capabilities? I mean, virtual capabilities for this?

DeLong Correct.

Mundy All right. If there's nothing further. This meeting is adjourned.

FOR THE MINUTES
ZOOM CHAT ASSOCIATED WITH THE 3/2/2022 BZA MEETING

18:42:05 From josh pfindler to All panelists : Josh Pfindler, petitioner for 2022-07-SE and 2022-08-DSV. I am online and just wanted everyone to be aware. Thanks

18:45:53 From Zionsville Board of Zoning Appeals to josh pfindler and all panelists : Thank you Josh

19:24:27 From Zionsville Board of Zoning Appeals to Brickway Club and all panelists : Are you wishing to speak on this item?

19:25:57 From Zionsville Board of Zoning Appeals to Brickway Club and all panelists : If you wish to speak on this item, could you supply us with your name?

19:28:36 From Zionsville Board of Zoning Appeals to Brickway Club and all panelists : Brickway Club - are you wishing to speak on this item?

19:35:33 From Brickway Club to All panelists : I live directly next to the property

19:35:48 From Brickway Club to All panelists : Apparently connection isn't working well

19:36:05 From Brickway Club to All panelists : We do not like walking out our front door and looking at a parking lot every morning

19:36:07 From Zionsville Board of Zoning Appeals to Brickway Club and all panelists : We're attempting to promote you to speak, doesn't appear your account is moving over

19:36:20 From Brickway Club to All panelists : Not sure why

19:37:13 From Brickway Club to All panelists : For instance I work up this morning 6 men digging a 5 ft hole 10 ft from my drive. I didnt move to the country to have a full on business operating a business

19:37:14 From Zionsville Board of Zoning Appeals to Brickway Club and all panelists : We'll attempt one more time in a moment

19:37:29 From Brickway Club to All panelists : I agree with all the neighbors

19:38:14 From Brickway Club to All panelists : Can they plant 12 foot pine trees along the property so we don't see the parking lot and workers everyday

19:39:08 From Brickway Club to All panelists : It's in their front yard and ours- the pole barn is in an awful spot

19:39:39 From Brickway Club to All panelists : No one benefits but the business owner - period

19:40:17 From Brickway Club to All panelists : Ask anyone in that room if they like waking up walking out their front door to loud trucks, people speaking Spanish and equipment moving around

19:40:31 From Brickway Club to All panelists : North

19:40:49 From Brickway Club to All panelists : It's a really place for a business in the pool barn

19:41:10 From Brickway Club to All panelists : Please let them know we are against the variance

19:41:43 From Brickway Club to All panelists : It lowers our land value- period

19:41:49 From Brickway Club to All panelists : Can you allow me to speak

19:42:16 From Zionsville Board of Zoning Appeals to Brickway Club and all panelists : Can you provide your address for the record?

19:42:23 From Zionsville Board of Zoning Appeals to Brickway Club and all panelists : and Name please

19:42:38 From Brickway Club to All panelists : Why cant he continue to use HIS property 1 mile down the road???

19:42:53 From Brickway Club to All panelists : 1933 s 825e

19:43:39 From Zionsville Board of Zoning Appeals to Brickway Club and all panelists : What is your name for the record too please?

19:43:39 From Brickway Club to All panelists : Oh they mow alright

19:43:50 From Brickway Club to All panelists : Witsken

19:44:41 From Brickway Club to All panelists : We notice their loud trucks and their 10 workers speaking Spanish loudly at 6:30am

19:45:05 From Brickway Club to All panelists : They don't share rides- drive by, min 7 cars everyday on their new parking lot

19:45:27 From Brickway Club to All panelists : He needs to return to HIS property until 2x4 go down in price he needs to stay at his property anyway

19:46:24 From Brickway Club to All panelists : How can he be surprised- he didn't talk to anyone- so now he is asking for forgiveness. Those people pay property tax he doesn't pay tax on that property

19:46:44 From Brickway Club to All panelists : Oh please!

19:47:06 From Brickway Club to All panelists : He has his own property he needs to return his equipment and workers down there

19:47:55 From Brickway Club to All panelists : Ha! No he doesn't -

19:48:21 From Brickway Club to All panelists : He keeps 2 huge trucks at his property because he knows that will really piss people off

19:49:06 From Brickway Club to All panelists : What! Is he joking those snow plows were in my direct view for MONTHS. He must be joking- he just admitted he mows but yet they said they don't mow

19:49:33 From Brickway Club to All panelists : 7 months he put visit therw

19:51:52 From Brickway Club to All panelists : We would like trees plabted

19:52:02 From Brickway Club to All panelists : Planted so we don't see the business

19:52:26 From Brickway Club to All panelists : He did great thank you