



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

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

The following items are scheduled for consideration:

- I. Pledge of Allegiance
- II. Attendance **5 of 5 members attended. (In-person S. Mundy, C. Lake, A. Pickell, K. Postlethwait; Virtual L. Jones)**
- III. Approval of the March 2, 2022, Minutes
- IV. Continuance or Withdrawal Requests

Docket Number	Name	Address of Project	Item to be considered
2022-06-DSV	J. Gauger	560 Beech Street Zionsville, IN 46077	BZA accepted the withdrawal request of this petition. 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).
2022-16-DSV	A. Droese	305 S. Ninth Street Zionsville, IN 46077	Approved the Petition to be heard. 5 in Favor, 0 Opposed Refer to Memo on Noticing Issue.
2022-10-DSV	A. Wurster	9180 E. 350 South (est.) Zionsville, IN 46077	Petitioner requested continuance to the May 4, 2022, Meeting. 5 in Favor, 0 Opposed 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).

- V. Continued Business

Docket Number	Name	Address of Project	Item to be considered
2022-03-UV	D. Marlow	8280 E. 200 South Zionsville, IN 46077	Executed Adoption of Negative Findings of Fact confirming the Board of Zoning Appeals denial from the March 2, 2022, Meeting

2022-05-M	J. Davis	8150 E. 550 South Zionsville, IN 46077	BZA requested continuance to the May 4, 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).
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VI. New Business

Docket Number	Name	Address of Project	Item to be considered
2022-11-UV	R. Keeker	8556 E. 300 South Zionsville, IN 46077	Approved as presented & filed w/exhibits & per staff report subject to a commitment to not administer fireworks and a sunset date expiring on March 10, 2027. 3 in Favor, 2 Opposed Petition for Use Variance - Petition to continue to provide for variance of use, to allow an existing barn located on the applicant's property, to host weddings and receptions in the (R-1), Low Density Single Family Residential Zoning District. #2016-30-UV was approved at the March 11, 2017 BZA Meeting but is set to expire March 10, 2022.
2022-12-DSV	C. Lehman	10505 Pete Dye Ridge Zionsville, IN 46077	Approved as presented & filed w/exhibits & per staff report. 5 in Favor, 0 Opposed Petition for a Development Standards Variance to decrease the side setback from 25' to 20' to accommodate a detached garage in the Holliday Farms Planned Unit Development.
2022-13-SE	K. Marburger	11634 E. 100 North Sheridan, IN 46069	Denied as presented & filed w/exhibits & per staff report. 3 in Favor, 2 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).
2022-14-SE	Blessed Beginnings Broadcasting, Inc.	6630 S. 200 East Lebanon, IN 46052	Denied as presented & filed w/exhibits & per staff report. 5 in Favor, 0 Opposed Petition for a Special Exception to provide for a Wireless Communications Facility on a parcel in the Rural General Agricultural Zoning District (AG).
2022-15-DSV	Blessed Beginnings Broadcasting, Inc.	6630 S. 200 East Lebanon, IN 46052	Denied as presented & filed w/exhibits & per staff report. 5 in Favor, 0 Opposed Petition for a Development Standards Variance to provide for wireless communication towers that exceeds the allowable 35' height to 200' on a parcel in the Rural General Agricultural Zoning District (AG).
2022-16-DSV	A. Droese	305 S. Ninth 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 side yard setback 3) Deviates from the aggregate side yard setbacks 4) Memorialize the existing driveway which deviates from the side yard setback in the Urban Village Residential Zoning District (R-V).

2022-17-SE	C. Sanders	11931 E. 100 North Sheridan, IN 46069	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).
2022-18-DSV	C. Sanders	11931 E. 100 North Sheridan, IN 46069	Approved as presented & filed w/exhibits & per staff report subject that the house be completed no more than twelve (12) months after the completion of the barn. 5 in Favor, 0 Opposed Petition for Development Standards variance to provide for the construction of a detached barn which is installed before the primary structure on a parcel in the Rural Agricultural Zoning District (AG).
2022-19-M	4Site Properties, LLC (Ansley Park)	5345 & 5395 S. US Hwy 421 Zionsville, IN 46077	BZA requested continuance to the May 4, 2022, Meeting. 5 in Favor, 0 Opposed Petition for Modification of the Approved Conditions associated with Docket 2017-11-DSV in the Urban Single-Family Residential Zoning District (R-SF-2).
2022-20-DSV	Altum's Roadside Stand	795 S. US Hwy 421 Zionsville, IN 46077	Approved as presented & filed w/exhibits & per staff report subject to the date expiring on December 24, 2022. 5 in Favor, 0 Opposed Petition for Development Standards Variance to: 1) Permit a Temporary Roadside Produce Stand to sell non-agricultural items; and 2) Permit additional structures on the site to support the operations of the Temporary Roadside Stand; being located in the Rural General Industrial Zoning District (I-2) and within the Rural Michigan Road Overlay.

VII. Other Matters to be considered:

Docket Number	Name	Address of Project	Item to be considered
			Not Discussed Discussion: 2022 Filing Schedule

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

Virtual: Larry Jones

Staff attending: Roger Kilmer, Suzanne Baker, Wayne DeLong and Darren Chadd, attorney.

A quorum is present.

Mundy Welcome to the Zionsville Board of Zoning Appeals Meeting. We'll invite the audience to stand with us and recite the Pledge of Allegiance.

All Pledge.

Mundy It kind of sounded like an echo in here.

DeLong Just double checking with Joe Rust back there. We're, we're good. Thank you.

Mundy Okay. Do we have anyone online Joe? Okay. Thank you.

Jones Hey Steve, can you guys hear me?

Mundy We can hear you Larry. Yes. Can you hear us?

Jones All right. Yes. I'll keep mine on mute until I'm doing something.

Mundy Okay. Welcome Larry joining us remotely. The next item is attendance. Mr. DeLong, would you like to carry that out?

DeLong I'll do roll call, certainly. Mr. Mundy?

Mundy Present.

DeLong Mr. Jones?

Mundy You're muted Larry.

DeLong We'll take Mr. Jones' attendance.

Jones Hi. There we go. Got it.

DeLong Mr. Lake.

Lake Present.

DeLong Mr. Pickell?

Pickell Here.

DeLong Ms. Postlethwait?

Postlethwait Present.

Mundy Thank you. Next item is the approval of the March 2, 2022 minutes. Anyone have any comments or corrections to those minutes? Hearing none, is there a motion to approve.

Postlethwait So moved.

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

Lake Second.

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

All Aye.

Mundy Opposed same sign.
[No response]

They are approved. Thank you.

Next items are continuances and withdrawals. Um, before we do that, let's first, uh, recognize that we are not using registered receipt requested mail due to COVID. We are using first class mail and, uh, I'd like to ask for a motion to suspend our rules on the use of the registered mail for notice to, uh, uh, adjoining property owners.

Lake So moved.

Mundy Thank you Mr. Lake.

Postlethwait Second.

Mundy And Mrs. Postlethwait. All those in favor say aye.

All Aye.

Mundy Opposed same sign.
[No response]

Thank you. Uh, on to continuance and withdrawal requests. Uh, I believe we have 2022-06-DSV, J. Gauger has requested a withdrawal. That was a petition that we heard last month. It was continued. They've now asked to withdraw that. I don't believe there's a representative here, is there? No, uh, but they have requested that withdrawal. Would someone like to make a motion to withdraw?

Lake Sure. Uh, I would move to withdrawal Docket Number 2022-06-DSV located at 560 Beech Street, Zionsville, Indiana 46077, um, from the docket.

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

Postlethwait Second.

Mundy Thank you Mrs. Postlethwait. All in favor of withdrawal of that petition say aye.

All Aye.

Mundy Opposed same sign.
[No response]

Motion is passed and it is withdrawn. Thank you.

Uh, Docket Number 2022-16-DSV, A. Droese, 305 South Ninth Street, uh, there was a problem with notice there. Is there, is there a representative here for that petition? Yes ma'am. Would you step forward please? If you would give your name and address please.

Droese Sure. It's Amie Droese, 305 South Ninth Street.

Mundy Thank you. And are you asking for a continuance?

Droese No. I think I'm asking for a vote to be heard tonight if you're agreeable to it and the full list was not notified within 10 days. They were noticed, some of the parties were notified within seven days. All have been notified and we have received letters of support from several of those people.

Mundy You know that they have been received or you know that they've been placed in the mail?

Droese No, they've been received.

Mundy You have confirmation of that from them?

Droese Verbal confirmation and we do have several letters of support that were provided after they received notification.

Mundy Okay. And how many of those received letters after the actual, uh, date that they were to receive them?

Droese I'd, I'd have to check and see.

Mundy It is spring break and that's one of the reasons I'm asking that question. There are a lot of people that just aren't home.

Droese Yeah. The letters went out prior to spring break, so they should've received them prior to spring break. Um, but I can look through my notes and see how many were delayed.

Mundy Okay. I'll also ask our counsel about continuing when we know that the rules for notice were not properly given.

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- Chadd Yeah, your rules require that 10-day notice. Your rules also say if, if there is deficient notice you can continue it to the next meeting.
- Mundy If there is sufficient notice. Insufficient.
- Chadd Deficient.
- Mundy Deficient. Okay.
- Chadd Yeah, insufficient. Yep.
- Mundy All right. And so the, the option of hearing the petition tonight is really not one we should take?
- Chadd I think if you're satisfied that proper notice has been made. For example, your rules say personal appearance waives any objection to notice, of course, but, I think if you're comfortable, you can decide to move forward but your rules do apply to this case.
- Mundy I'll ask the rest of the board members, um, and, and if you can offer, uh, that assurance that we know that all of those that should be noticed have been noticed, have seen those notices and have, uh, had an opportunity of at least attend the meeting or provide their response.
- Droese That's correct. Several of the letters went out within seven days. None of the immediate adjoining property owners were in that category – they had been notified three weeks prior. The sign has been out for the month ahead of time, the newspaper notice was duly published so I'm confident that everybody that needed to be notified has been notified and like I said, in some of those letters of not property line sharing neighbors we have received, um, letters of support for our proposal.
- Mundy Any of the other board members have any strong feeling on this?
- Jones My only question – I'm scrolling through – did it get included in the digital package then since they didn't get notice out?
- Lake It did. At, or at least it's in the agenda under new business. It's in the print out packet, Larry.
- Jones Yeah, but – I've just got the online. That's my – I'm trying to go back through and read through if it's in –
- Baker You received additional letters of support after the initial packet went out. So, we probably have follow-up emails with those additional letters of support.
- Lake But to Larry's specific question – that Docket Number would've been in the digital online copy that we could've downloaded?
- Baker Yes.

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Lake Okay.

Mundy Well I'll ask it a little differently – did we get a paper copy of that?

Lake Yes.

Baker Yes.

Mundy Yeah.

Lake So I guess I would make a motion to, uh, go ahead and hear Docket Number 2022-16-DSV, A. Droese, 305 South Ninth Street, Zionsville, Indiana 46077 at tonight's meeting.

Postlethwait Second.

Mundy All right thank you Mr. Lake and Mrs. Postlethwait. All those in favor say aye.

All Aye.

Mundy Opposed same sign.
[No response]

All right. We will hear your petition then. Uh, the next listed in the continuance list is 2022-10-DSV, A. Wurster. Is there a representative from the Wursters here?

Brown Devin Brown with Dentons Bingham Greenebaum, LLP, 2700 Market Tower, 10 West Market Street, Indianapolis, Indiana 46204 here representing petitioner, Al Wurster for 2022-10-DSV. We'd like to request a continuance to the May 4, 2022 meeting. The petitioner is working on commitments with a couple of neighbors and just requests some more time to come to an agreement on those.

Mundy All right. Thank you. Is there a motion to continue this petition?

Lake So moved.

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]

It's approved. Thank you. We'll see you in May. Next is, uh, Docket 2022-03-UV, D. Marlow, 8280 East 200 South. This is an Adoption of Negative Finding of Facts of a case that was heard at the March 2nd meeting. Uh, you should've all

received those Finding of Facts. I will point out there is one error in there. The third paragraph near the end of that paragraph with sentence reading “The parcel is improved with a single family dwelling and two large pole barns.” That should read “one large pole barn.” So that will be corrected in the Finding of Facts that are signed. So, Suzanne are you going to send that down then? Okay.

Baker I’ll make that correction and send that down.

Mundy That will be coming for your signature. And the last item, 2022-05-M, J. Davis, 8150 East 550 South, Zionsville.

Davis Jay Davis at 8150 East 500 South in Zionsville. Um, my petition before the board is, uh, in, uh, January of 2020 we purchased a piece of property from Reesa Pabst. That property was a 2-acre parcel. Uh, there were some commitments made, um, for that parcel, um, when they split it off, uh, because there was a couple of neighbors who were concerned about drainage and runoff, um, and so, uh, we built a house on the property, uh, last year, um, and then, uh, in the, I guess the summer, began completing the drainage commitments. Um, they were a part of that, uh, original commitment that I think you have before you. Um, we met with, uh, representatives of, uh, I guess the building inspector and then some people from Zionsville Planning and Zoning, some of the staff members and then also somebody from, uh, from, uh, Boone County and we explained along with our builder and explained what we had intended to do, um, they thought that would potentially satisfy but that we may have to come back and ask for a modification.

So what we did specifically was we installed a, uh, 6" curtain drain down the eastern portion of the property that outfalls to the south, uh, to a common drainage swale along 550. And then to that we also connected the, uh, downspouts from the house so via a 4" corrugated pipe, um, to empty those into that to also get that same water, uh, down to the drainage swale. And according to the commitment there should’ve been a separate, I guess, side by side, um, pipe installed to get those, to get that water down there, uh, to the common drainage swale. So what we’re asking for here is a modification to that commitment, um, basically allowing us to use that 4" pipe connected to the 6" pipe to get the water out to the drainage swale along 550.

We had the original engineer, Gary Ladd, who did the original engineering work when they, uh, separated the parcels, um, he came back out and looked at what we had done, um, and just put his, uh, I think he provided us a letter of support. Um, I also met with, uh, Jim Paddock, Jim Paddock who was the, uh, concerned neighbor at the time. Uh, he saw the work that we did there last summer and when I met with him I asked him if he was satisfied and he indicated he was, that he also is going to do some work there this year for his driveway I guess to raise it up, um, and so that’s where I’m at – just asking for a, uh, modification to the commitment.

Mundy Okay. Thank you. Larry, you may remember this one that you and I were – both sat through the originals here, so – um, are there any questions for the petitioner from the board?

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- Jones I guess the question I have – do we have any documentation of what was actually done?
- Davis Yes. It should be in the packet there.
- Mundy We have the, the letter from, uh, Gary Ladd, the engineer –
- Jones There it is.
- Mundy Who was the original engineer as well.
- Jones Yep.
- Mundy The home has been completed how long?
- Davis I'm sorry?
- Mundy The home has been completed for how long?
- Davis Uh, June of last year.
- Mundy So you've had a little time and some weather to, uh, test it?
- Davis We had a lot of rain in November and December and it performed very well.
- Mundy Okay.
- Davis It, although it does take a lot of water because it's a 5" trench, um, and, you know, I had aggregate in there and then it's, of course, got the corrugated pipe in there so it takes a lot of water but it does flow well onto 550 into the ditch around 550.
- Jones Uh, but you were aware what the commitment was that was supposed to be done, correct?
- Davis Um, we saw it, the way we interpreted it was that you could use the one pipe to get it all the way down there. We didn't read it as that both of them were required to get it like – even when I looked at the drawing it only showed one pipe going out to, the drawing that was provided in there, it only showed one pipe that ran out to, uh – originally I think it was, um, it indicated that it had to be cut into the and dump it into the 24" corrugated pipe and, um, Boone County advised us we weren't going to cut their pipe now or ever. So we emptied it out into the drainage ditch out there. And then the drainage ditch actually has a 12" birdcage drain in it where the water goes to and then drains down to the creek.
- Jones They said the core issue was the property owners to the north were concerned that additional runoff from whatever was built on the parcel that was under 2 acres and we make sure there is a functioning, uh, drainage system provided to pick up that water because there's also water that comes off properties to the north from owners that weren't really complaining. So –

- Davis So the house was built toward the south end of the property and not the north end. Um –
- Jones Well, nothing personal, I don't really care where the house was built. My point is, we, we did everything we could do to provide the scope of what we were expecting that allowed the existing property owner to cut off a parcel that didn't meet our 2-acre requirement.
- Davis Our property is 2 acres.
- Jones Well, the remaining parcel that was leftover was under 2 acres.
- Davis Okay.
- Jones So it created a problem over there. And so what we fully expected to see was a, a functioning, um, drainage pipe put down that property line that would alleviate that issue that seemed to be up in that northwest or, I guess it would be the northeast corner of the property. It's where that driveway that comes in and curves around.
- Davis Right.
- Jones Once again, we, the BZA, do our best to outline what we expect because we expect people to do it. I am not a fan of having to grant relief because somebody didn't interpret it right after the fact. And I don't, you know – and scrolling through here –
- Davis So what we're asking for is not a modification to the perimeter, or to the infiltration ditch, the curtain drain we did that completely as required. What we're asking for is that instead of a separate perimeter drain we tied all of the downspouts on the house to the infiltration ditch drain and it, the water runs out to 550. We just didn't run a separate pipe side by side with the other one but the engineer looked at the size of the pipe and calculated the water flow that runs off the roof into the pipe and calculated that it can handle the water flow. So –
- Jones You put a, uh, drain tile around the septic field?
- Davis Um, I'm not 100% certain. I sent the, uh, septic, the septic diagrams and those types of things to Gary, uh, Ladd, the engineer, and he looked at those before he wrote his letter.
- Jones I guess this is the problem with me being on it, just downloading off the internet – all I got is about two site plans and some verbiage. I don't see any of the letters from anybody. Is it in here somewhere that I'm missing?
- Davis It was in the electronic copy that I provided.
- Mundy And I think the only thing, Larry, was a letter from the engineer stating that he had, uh, been out and looked at and calculated the, uh, capacity of what had been done and felt that it would, uh, take care of all of the water issues. It should be – I think it was just a one-page letter as I recall.

- Davis It's a one page with an aerial that was attached to it indicating where the drains had been installed.
- Jones And do we have any documentation that the adjoining property owner that we were trying to, uh, um, give consideration to has accepted this?
- Mundy Well we haven't asked for if there were any remonstrators here yet so we don't know if that person has, uh, got a concern or not.
- Jones Okay.
- Postlethwait It seems to me that the question would be if you made the decision to modify what had been outlined, um, even though we're talking – you're, you're confident that these, the modification that you made is sufficient for the problem, that it might've been advisable to discuss that with somebody prior to making that decision, um, on your own.
- Davis We did .In July of last year when we had members of the, uh, the, the staff here – I think Brian, uh, and there were two other guys that were with him along with somebody from Boone County. Um, they came out and met with me and the builder, uh, and the contractor that was going to do the work, um, and we explained what we were going to do at the time, uh, and no one said no that doesn't work or it doesn't meet the requirement. Um, when I completed the work, uh, with the contractor that we had hired to do the work, um, I advised Brian that we were done and so he asked me, um, you know, what we had done and I explained to him and when I mentioned to him that we connected the downspouts to the perimeter drain or to the – the downspouts to the curtain drain, um, with a 4" pipe, he said that doesn't work per the commitment, you'll need to get a modification. So, that's –
- Lake But it's not their responsibility when they come out there initially to know what your commitments are and make sure you're designing to the commitments. That's your responsibility.
- Davis Sure. And what we'd asked and what was – we tried to find out from them what the concern was, right? We want to solve the problem and so we asked them what the concern was and they told us about the concern with the water on the right side of the property. I've spoken with Mr. Paddock, who was the original complainant, when they, I guess decided to split the property because he owns the property that has the driveway along that eastern edge and with the home that's at the back, kind of the flagship or whatever lot that's right there, um, and he was satisfied with the work that we'd done and he drives down the driveway every day. So that's –
- Lake The challenge is you've decreased your ability to drain water by half.
- Davis I've done what? Sorry.
- Lake You decreased your ability to drain water off that side of the site by half because you had, you're supposed to have two 6" pipes, correct?

Davis Correct.

Lake Side by side and you only have one.

Davis Correct.

Lake So you're putting all that water into one 6" pipe which is half of the capacity that we asked you to have.

Davis Correct but that pipe's not in full water even when it rains as hard as it'll rain. In November and December that pipe was never like – I don't, um, yeah. It solves the problem. There's no water that runs off the right side of that property. Not only that – we put a bunch of landscaping and rocks and stuff over there on that right side of the property too, but – so the curtain drain was there. It was installed exactly from where it was drawn on the map. We just didn't realize there had to be a separate pipe that ran out to the road.

Mundy Any other questions for the petitioner? Thank you. Are there any remonstrators here who would like to speak on this petition? Seeing none. Can we get a staff report?

Kilmer Yes, thank you. Um, Mr. Davis did a nice job summarizing the, the, uh, uh, request. I'd like to provide a few additional details maybe to help clarify, uh, especially for those, uh, commission members or appeal, commission members that, that weren't here when it initially came through.

So just to, to touch briefly on, on the history of the petition. Um, back in 2018 there was a, um, a landowner who had, uh, more than a 3-acre piece of ground that wanted to split it, uh, resulting in a 2-acre piece and, and a piece that was less than 2 acres and the minimum acreage requirement is 2 acres. That required them to come in and ask for a variance to permit that less than 2-acre lot. The less than 2-acre lot is the one that was retained by the owner and they sold off the 2-acre lot to Mr. Daniels, uh, a couple of years later. When they came in for that variance, though, to permit the, the less than 2-acre lot, that's when questions about the drainage came up and the BZA, uh, required these commitments be established that apply to the 2-acre lot which was in, in compliance with size, not the 1-acre, not the less than 2-acre lot that was requiring the variance. So, and at that time there was not a home that was proposed to be, or had been designed to go on that parcel and, uh, the petitioner, at that time, the previous owner, contracted with Ladd Engineering out of Ind, out of Lebanon, to develop a drainage plan for this 2-acre parcel because a neighbor had expressed concern about water flowing over their adjacent drive. Ladd Engineering came up with the, um, or did the calculations based upon a proposed home and, and it was those recommendations that made it into the commitments. That's what was recorded. Since then, the property was sold to Mr. Davis, he designed a home and has constructed it. They went back to Ladd Engineering when, when he was aware that what had been installed was not in compliance with the commitments and they asked Ladd Engineering based upon the home that we now have and information that I can now give to you what has been installed is that deficient? Does it meet the, the intent of the commitments? Ladd Engineering has reviewed

the information. They provided, provided the stamped letter back to us saying that based upon their information of what they know and what they've done, it does now meet, even though it is not – what is installed is not what was proposed. They've said that what has been installed does meet the intent of what, what was needed for it. Um, so based upon that information, um, and, and somewhat of history that we know of, of the [Inaudible, 28:28] that, that we did receive, uh, staff is in support of the request to modify the commitments. I'd be glad to answer any questions you might have.

Mundy Any questions for staff?

Postlethwait I do have a question – you mentioned that what was installed was not what was proposed but actually what was installed was not what was, what was required. Is that fair to say?

Kilmer I'm sorry. Then I missed – yes. What was required out of the commitments what was installed was not exactly what was in the commitments.

Postlethwait To be required, a requirement.

Kilmer Yes, yes.

Mundy Any other questions for staff?

Pickell When, when you built the home, you went through plan review through the Town, am I right? They, they approved your drainage plan?

Davis That's correct. They approved the plot plan and then the Health Department, of course, approved the, the well and the septic plans as were outlined.

Pickell As it was built?

Davis Correct.

Pickell Not according to the requirements that were given by the BZA?

Davis I'm not sure I understand your question.

Pickell Did, did you follow what the BZA required on the property when you designed the home?

Davis We shared the, um, commitment with the builder, um, and with the Hause Engineering who did the, I think the engineering for the septic and the well, so that was shared with them.

Pickell Okay. And then you went through the design – Town approved the design?

Davis That's correct.

Pickell With the drainage that you had proposed?

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- Davis That's correct. But I don't think the building department knew specific – I'm not sure how much the building department knew – I don't even know if the building department knew there was a commitment there honestly.
- Kilmer I, I don't know. I was not part of the permitting process, so.
- Davis Yeah.
- Kilmer I just know that at some point it became, parties became aware that there were commitments for this piece of ground and that's when the Town and Mr. Davis got together and recognized that what was being proposed and installed was not exactly what was specified in the commitments.
- Davis Correct.
- Pickell Okay. Thank you.
- Mundy So what we have, I think, is, um, is the commitments were not fulfilled but the source of the commitments, that is, the proposal that Ladd Engineering provided to take care of the problem has now said that what has been done is sufficient to manage the water, uh, so that it doesn't just off load on the neighbor. Um, it's, uh, you can take this one of two ways, I guess. You can say the, the principle has not been met and, uh, we're not happy when it's not or that, uh, the expert has said it's good enough to work and, uh, let's move on. I think we're at that point.
- Postlethwait I know I'm no drainage expert and don't profess to be. Um, but it may be a situation in which it works until it doesn't and that's what is, that is what is concerning to me and then so if, if there is a problem that, that arises because of the fact that as one of my colleagues mentioned, you know, you essentially have half the capacity of what had been originally stipulated. What then happens? Then will they be made to go back and do the, the, the appropriate work that was required and essentially should've been done in the beginning? So –
- Mundy Well said. Drainage problems, are they're fine until they don't work.
- Postlethwait Yeah.
- Pickell I'd like to add, I mean, you can, you can go downtown Zionsville and find 100 different properties that have had a need expressed, laid out, built not met, passed on and now 20 years later people are still trying to figure out where it's coming from. So, I – you can see the problem that we're in.
- Postlethwait Yeah, also, it's not clear to me whether you knew about these commitments and made the decision to not do them or whether you were not aware of the commitments and had the design made and you then used the, the advice that you were getting at the time you were building the house.
- Davis I wasn't aware that there was a second drain required and then when I looked on, when – and even had my, the builder and I both looked on the, the commitment itself, the drawing that's in there, it just showed one drain all the way out to the

road and so that's what we thought – we thought when we were doing it that we were doing it the right way – the way you wanted it done, um –

Pickell Now –

Davis Sure.

Jones Let's, let's go back up and look at a few things. 1) Like I said, what we did back in 2019 trying to, uh, trying to help the, uh, property owner to get a parcel split and address the issues of the adjoining property owners. Number one, it was recorded as an instrument. I'm assuming it shows up on your title work, correct?

Davis No, it did not.

Jones So Instrument Number 2019007109 as recorded July 26, 2019 was not recorded?

Davis I don't know if it was recorded or not, but it never showed up on the title work when we bought the property nor when we did the mortgage and did the construction loan to build a house.

Jones Then that falls back on the Town of Zionsville. We need to – if this, if we're going to put kind of language that something is going to be recorded and run with the property, we need to have some sort of check and balance. Because technically if they told us that, that did then –

Mundy Larry, I think that was recorded here. The copy we have shows the, uh, County Recorder's stamp on there.

Jones All right.

Mundy That they recorded it. Now that doesn't mean it got to the deed but it, it does mean it was recorded with the County Recorder.

Jones Uh, that's – I mean that's what a title company's job is to do is to find these and convey them as they go down through the title chain. Uh, the second issue is as you read through it, it talks about using 4" solid pipe. You said you've used all, uh, flex, correct?

Davis Correct.

Jones Which means, you know, once again, to address the question we just made about, well it works until it doesn't – you now have a system you can never clean.

Davis No, it has clean outs because we installed clean outs.

Jones Yeah, but you can't clean a corrugated pipe. If it gets clogged full of roots or something else in there you can't go back and do anything. So we have some specific requests that we made that didn't get made. So, we didn't get the right pipes, we didn't get the pipes put in we asked for, we're not sure that – I don't know. I, it – you know, this situation handicaps the Town of Zionsville from ever

trying to grant anyone any consideration because we end up here. We might as well not do it. This parcel should not exist. All right.

Lake So to plead the other side of that, I was reading the commitments and unless you marry up the exhibit that has the site plan with the detail that is the alternate to a drainage swale which has the 6" pipe in it and then take that separately which you may or may not from the other commitment that talks about the downspouts, it likely is pretty easy to end up where the homeowner ended up – or the homeowner's designer ended up. I, I do have the, the same concern Larry does about a 4" corrugated pipe because I just paid \$8,000 to replace one under my driveway because you can't clean them out. Can't do it. They get roots in it and they're done. So, uh, yeah I share that same concern.

Mundy I, I agree. I, I think that this was a little bit complicated, uh, to begin with and it would've made it very difficult for the builder or the homeowner to have recognized that they weren't meeting the requirement. Um, and someday this probably will be a problem for most likely your neighbor.

Davis Well, I did offer, because Mr. Paddock is doing some work along that driveway this year, and I offered to assist or invest, um, and the easiest way, if, if there is a problem, the easiest way is to actually put a retention wall with, uh, you know a drainage pipe behind the retention wall because this property has always – this is the highest point on that entire stretch of road – we have the highest property, um, elevation wise anyway, so water has always shed off of this property, even before we put a house on it, it would shed.

Pickell If you're willing to invest in your neighbor's property, then why not just go ahead and build it the way it was –

Davis So it'd be \$57,000 to go back in and dig under the driveways and under the sidewalks and tear up all the dry creek bed that we installed to be able to put a perimeter drain around the house. So, I'd, I'd – if that's the case, I'd rather just put in a retaining wall along that edge because that'd be half the price that essentially has to tear up all the landscaping and hardscaping and stuff that was done around the house.

Pickell Yeah.

Postlethwait So is it, I, I'm just going to throw this out as a thought – is it possible to grant the modification with the contingency that should that a problem arise in the future that the recourse would be to do what was originally stipulated in the commitments? Or is that not, um, done?

Mundy Or the legal question, um, perhaps another way to address that would be could we, uh, give relief on the modification but require that there be a secondary modification in the event that something happens that, um, the Davises would be or the homeowner there, whoever it might be at that time, would be responsible but I'll turn to our counsel.

Chadd Well to answer the initial question – I think you could do it that way. I don't think I would recommend it though. Just kind of –

- Postlethwait I –
- Chadd Leaving it up in the air that if someday if there's a problem according to someone – it's just too many questions afterwards.
- Postlethwait Yeah. That's reasonable.
- Mundy Any other questions or thoughts? Great ideas?
- Postlethwait Well this seems so binary – either yes, okay we grant this and then whatever happens just in the future just happens or no, in which case, um, the homeowner is made to, um, find some solution that will be acceptable to the BZA and that commitment. That seems very binary. I don't know if there's any middle ground in those two things, so.
- Mundy Yeah. I'm not sure other than another commitment which would say that, um, something else that doesn't require the things that Mr. Davis had mentioned in order to make it fit the initial requirements, um, but, uh, that really, I think is a study or, you know, it's not something we're going to be able to come up with tonight –
- Lake We could continue it.
- Mundy And put in place.
- Chadd Give them a chance –
- Lake And give them the chance to come back with what they would propose as a, as a remedy, if you will, and then vote on it based on that so we've got a hard, hard solution versus a theoretical solution.
- Mundy That, uh, sounds like a reasonable approach to me. Um –
- Pickell If, if in fact it does fail, the person who is harmed is your neighbor. It's not the Town of Zionsville. It's not really even you because you could probably live with it. It's going to be your neighbor, uh, and –
- Lake Do you have a basement in the house?
- Davis Yes.
- Lake So if the perimeter drain failed it would be him. If the drain running along the property line was short of capacity it would be the neighbor.
- Pickell Right.
- Lake And to your point at no instance would it be the Town.
- Pickell I do, I do feel like there was a miscommunication somewhere. I mean, how you got approved with the BZA ruling is –

Jones And Andy I can help with that – you know, when we created a set of commitments to get attached to the property, it's really the property owner's job to make sure it gets done. The, the building inspector, you know, 1) for residential work you're really not required to have an architect's or an engineer or even a, you know, anybody's stamp on the drawings. I mean, Chris, that's still correct, right?

Lake That is correct, yes.

Jones So when our – you know, when the Town of Zionsville inspectors go out to look at things, the last thing they're paying attention to is subsurface drainage that was part of a commitment that's attached to why the lot even exists. It just isn't on their, on their purview and there is no requirement that that information be actually included in the drawings that the inspector is looking at. So the Town of Zionsville doesn't really have a way to enforce it other than what we're doing. And the second problem we have, the BZA, we can't specify a fix as part of our meeting. All we can do is recommend that the property owner trying to separate the parcel work with his adjoining neighbors to come up with something that everybody approves and the process moves forward. And then what came back and what was committed was probably a little bit over designed but at some point those properties due north of this property are probably going to get developed with something a little more intensive and if, if the letter of what we requested had been stuck to, it probably would've been handled but now we're, you know – now the property owner that filed the first remonstrance is being put between the X and the Y because the intent of what we said we would do is followed but not actually what we asked for and, frankly, in any of this it is the cost to the whole and not the pipe. The additional cost to actually put in what we requested was minimal compared to what it, the fix is going to be. And at some point the Town, us, however, if we're going to continue to do this, we've gotta draw a line. I don't know. I'm not, I'm not happy we spend the – the amount of time we try to do to be obliging and work with people for their betterment only to find out, uh, we didn't do it. We didn't pay attention. We didn't follow the details. I'm not, I'm not, that's not my nature. Sorry.

Mundy Any other great thoughts? Um, I guess, uh, we'll, we'll need a motion one way or another. I don't think we – uh, uh to some extent here I think that there is, uh, the homeowner is, um, has unintentionally gotten there and it's not even, uh, because it was obvious and they just overlooked it, it was because it was not obvious and it was difficult to see and if the, uh, in the title search they didn't find this so it was not on the, the title of the, the or the purchaser of the property have it makes it even more difficult because then they have to start digging. So, an unfortunate situation, uh –

Postlethwait Can I just offer a thought? Is it possible that, um, and I would ask the homeowner – if you were granted a continuance to, um, do some consideration of what a possible remedy might be that would satisfy what is not being fulfilled by this drain that was not installed, um, and then to come back a month from now with, um, another remedy that would take care of the, um, what has not been taken care of in the drainage.

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- Davis I would reach out to Gary Ladd, the engineer that did the original work again, um, and see if he has an alternative or a recommendation, um, that he might suggest.
- Lake I would say a letter of support from your neighbor that he believes that recommendation –
- Davis Okay.
- Lake Meets that might work.
- Postlethwait That at least allows you to have some time to, um noodle this a little bit and see if there might be some way that you can reach, uh, a, a resolution without having to, uh, do the digging that would be required.
- Davis Okay.
- Postlethwait Is that amenable to you?
- Davis It's, it's amenable to me, yeah, as long – yeah. All right.
- Mundy Having heard that, uh, is there a motion to continue this until the May 4th meeting?
- Lake So moved.
- Mundy Thank you Mr. Lake. Is there a second?
- Pickell Second.
- Mundy Thank you Mr. Pickell. Uh, all those in favor say aye.
- All Aye.
- Mundy Opposed same sign.
[No response]
- Motion is to continue this petition until the May 4th meeting and, uh, we'll ask you to go to the engineer as well as your neighbor, come back and, uh, report with, I guess, all the information you can. We'd like to see you avoid the cost and the trouble of doing this as well, yet make sure we don't have a future problem.
- Davis Certainly.
- Mundy Thank you. Next item on the agenda under new business Docket Number 2022-11-UV, R, Keeker at 8556 East 300 South, Zionsville.
- Andreoli Thank you Mr. President. For the record, Mike Andreoli, 1393, uh, West Oak Street, uh, here in Zionsville. I represent, uh, Randy, uh, Keeker, who is the owner of a 6.73-acre tract at 8556 East 300 South here in Zionsville. Randy is here tonight with his daughter who is the individual, uh, that has been in charge

of running the, uh, the wedding venue barn there that's been operating for the last eight years at that facility.

Just to remind members of the Board of Zoning Appeals, because I know we have some new members on, uh, back in approximately 2014, we sought a use variance to operate a wedding venue, uh, at that particular address. There's an 1,800 square foot barn that Mr. Keeker has on his property. It's not insulated, uh, it's, uh, it's a quaint barn but it's not a barn that can be operated or utilized all year because it's simply not insulated and, and, uh, you can actually see, see through it, uh, uh, because it's not totally enclosed or insulated. So, in that sense, it can't be used for those kinds of, uh, things for, uh, an entire year. Uh, at that time, uh, we received approval from, uh, the surrounding property owners, uh, and, uh, moved forward with that, uh, application, uh, with, uh, seven or eight commitments, uh, as part of the, uh, overall project. Uh, the most notable was that music had to be, uh, stopped at, uh, promptly at 10:00. Various other commitments that went with it that are a part of your packet that you've had an opportunity to read. Uh, the, uh, board, uh, approved that, uh, with, with the written commitments. They were in, in fact, uh, then adopted and recorded and, uh, the Keeker Family has meticulously maintained adherence to those commitments from the first day of approval through today.

Uh, part of what you did back in 2014 was to grant a, uh, a sunset clause which, uh, the board does from time to time on use variances and those types of things and did it in this particular situation. This may have been one of the first one of these that you've considered back a number of years ago, uh, out in the outlying areas and so you granted a sunset clause for three years. After that, we reapplied. It was a de novo hearing. We reapplied at that particular point in time and the board, again, approved this particular project with a sunset clause of five years which is now, uh, coming to, uh, fruition, hence, we've re-filed this application again de novo.

I would, uh, suggest to you that the, uh, and we have checked with the Town consistently, uh, two things are clear: No complaint has ever been made to the Town of Zionsville regarding the use of this facility directly to the Town. No complaint has ever been made to Mr., uh, Mr. Keeker or Sarah Keeker regarding the use of this facility during the entire eight years of operation, which is quite a wonderful track record. And, in essence, what we're asking is for you to go ahead and approve it once again with the same set of commitments we had originally proposed, uh, that, uh, the, uh, time limitation be lifted because they've had an eight-year stellar track record. Staff has suggested perhaps the, uh, that, uh, another five years ought to be imposed to keep that time limit on. Whatever the board decides to do in that regard we're fine with it. I talked to Mr. Keeker about it and he says maintaining accountability has never been an issue so if the board wants to, uh, uh, establish another sunset provision, uh, for, in a number of years that that would be perfectly okay. We've asked that it not be, but we understand staff has a concern about that and would not object if the board went ahead and, uh, imposed another time limitation, uh, to that as it has done for the first two applications.

Most recently, well, let me back up – you have support letters in your file, uh, from the three adjacent property owners to the east, the immediate property

owners to the east, to the west and across the street to the south. The Fuellings, uh, a long-time school teacher in the Zionsville system, live immediately adjacent to this property to the west, and, in fact, if you look at the site plan, the barn itself is immediately adjacent to the Fuellings property. They have no problem with this. They wrote a letter of support to it. On the east side, the owner of property there wrote a letter of support to this indicating they have no problems with it. Uh, in addition, the property across the street sold. The new owners have indicated that they have no problem with it and think it's a wonderful thing for Zionsville and a very unique thing to have in our, uh, community. Most recently, we became aware of, uh, some, uh, folks who had moved in the, into the, uh, area living on 875 and have lived there the last couple of years, I guess, that have a concern, uh, about this particular facility including the, the noise. Uh, they've never talked to Mr. Keeker or Sarah about it, they've never registered a complaint about it, so to the extent that they've had concerns, we have no knowledge about it or when they occurred or if they occurred. But, nevertheless, I put Sarah in touch with the, uh, McElderries, uh, who formulated a petition and went around and got some of the neighbors on 875 which are about, it'd be a quarter mile away or longer from this particular facility to sign a petition, uh, objecting to it. We've heard from some of the people who were contacted and were told we're going to have 300 people in this facility and a number of other things to try to, I, I think get the community upset about it. And, we, we find that's particularly unfortunate, especially since the immediate neighbors have had, never had any problem with Mr. Keeker and how he operates the facility out there. Uh, nevertheless, Sarah talked to Mr. McElderry and suggested look, why don't we, why don't we put the sound system together, operate it, you sit on your deck and we'll do it at the, at the decibel levels that we normally play it at and you give us feedback in whether or not you can hear it or it's, or it's troublesome to you. Uh, that particular proposal was not taken up, uh, to date.

Let's talk about the sound system itself since several of the neighbors have, have raised that in this "petition." Uh, originally, uh, we were, uh, allowed to have live music, uh, or piped in music, you know, sound system with a DJ or whatever, even though it's supposed to stop at 10:00 and, um, the Keekers found early on when they attempted that the first couple of times and attempted to have somebody else bring their own sound system in that they couldn't regulate it. They'd have to constantly tell people I think that's too loud and they'd have to turn it down. So what they did several years ago, uh, and have been operating under this particular system for most of the time that they've been in operation. They bought their own sound system and they have that independently. They hired a sound engineer to come out, set it to the decibel level as required under the Town's ordinance and they were able to lock it in. It cannot be turned up. Uh, I don't know how to do such a thing but they, they were able to, to go ahead and get that done so that that sound system could not be tampered with. They shared with me one time they, they, uh, had a Hispanic couple that was having a wedding and a Mariachi band showed up with trumpets and everything and they told them that while they certainly appreciated the ethnic, uh, aspect of this, that the Mariachi band couldn't play because there was just no way to, uh, you're going to control trumpets out in that area. It would be too loud and, and there's just no way to do it. So, they told them sorry, you just can't do it. So, they have not had live music playing for years out there, only piped music that they are able

to control in terms of the decibel level and those types of things and they will maintain that.

And, again, I think the best indication of the concerns are the most immediate neighbors that would have to be, uh, uh, in particular, the Fuellings, that are really close to the barn and they've never raised any concern or any complaints. We've never had any complaints with regard to traffic. In fact, several of the people that wrote letters to the, uh, to the board indicated they didn't even know where it was, which is a pretty good indication that they're trying to stay under the radar, make this a useful, beneficial thing to the community but not trying to disrupt their neighbors in the overall sense of the community out in that particular area. So we would, uh, we would respectfully request that the, uh, board, uh, allow this use variance once again, if, if the board is inclined to go ahead and put a time limit expiration on it and keep us accountable in that regard, that's fine, uh, we're, we're willing to, uh, to live with that even though we've requested otherwise.

If the board feels that's appropriate please, uh, please do that and, uh, again, if you have any other suggestions with regard to the commitments or anybody has, uh, you know, we're, we're certainly willing to, to listen to those but to date nobody has contacted us with regard to any of those commitments that we've made and we've kept over a period of time. And I think that, I think part of that goes to what Mr. Jones was getting at for a number, in the, uh, the last petition. When, when, when you ask that commitments be made the last thing that you need to do is continually have people complain to the Town that people are not abiding by the commitments that they've recorded on this particular property and that were subject to the approval that this board gave. And I'm very pleased to tell you that none of that has ever occurred with this particular operation. There have been no complaints, there have been no, uh, issues, uh, that have been raised with the Town with regard to the appropriate operation of this, uh, particular facility.

One, one additional thing, um, as Suzanne was new, she had not been to this particular facility when we made our application and I think she formulated a, a site visit with perhaps other staff, I wasn't at, I wasn't at the meeting, just the Keekers were there, but I was not, uh, at the, uh, meeting and went out and, and took a look at it to make sure that some of the other things that were done as part of the original set of commitments back in 2014 were complete such as the fencing between the, uh, Keeker Family and the Fuelling Family. That was done within the first month of the, uh, approval of this particular, uh, project and has been in existence for a long period of time as well as additional landscaping. I might add that the, probably I would think the closest house to the north, um, uh, has also signed, uh, a letter of approval. There's, there's some woods and other things in between and some topography in between but I think probably the closest house to north has also signed, uh, a letter of approval. So, we, we tried to get the most immediately affected neighbors and find out what their thoughts were and, uh, to, uh, to a person they were all in favor of, uh, moving forward with this, uh, uh, and re-upping this to another term. Thank you. I'd be happy to answer any questions or reserve any time for any remonstrance.

Mundy

Any questions for Mr. Andreoli?

- Postlethwait I, I do have a question. Um, I see here on one of the, um, commitments that, um, if a wedding or a, or a wedding reception exceeds 100 people that an off-duty police officer is hired.
- Keeker We have –
- Postlethwait If I could just, just finish my question. So, um, I understand –
- Andreoli Sarah, why don't you come up here?
- Postlethwait Thank you.
- Andreoli State your name for the record.
- Keeker Hi. Sarah Keeker.
- Postlethwait Thank you Sarah. Um, what is the maximum capacity of the barn and typically, um, what is – all right, what is maximum capacity and how often do you, are you functioning at maximum capacity?
- Keeker The maximum capacity is 150 guests but that's really not comfortable. So, we don't ever typically see more than 130 people, um, just so that there's space for catering and other things, you know, you can't just cram it full of people. At a wedding people have food and gift tables and other things that they need space for, so – and not very often, I think the, all the weddings we have coming up this spring are closer to about 80 people.
- Postlethwait Okay.
- Keeker Those are the only ones I have guest counts on that are coming up really soon because people have RSVPs but.
- Andreoli One other thing, uh, uh, Mrs. Postlethwait, there's not, there's no kitchen at this particular facility.
- Postlethwait Yes I, I –
- Andreoli I wanted to make sure that the new members were aware that there's, there's no kitchen or anything of that nature at this facility.
- Keeker And I think you started to ask about the security – uh, that's something we took ourselves to implement even further than what the Town had required. Um, Boone County off duty sheriffs work in pairs so we have two off-duty Boone County sheriffs at every single event that are onsite, um, from the time guests are onsite until actually after all the guests have left as, until my staff, until the last person is off the property they're there until the end of the evening.
- Andreoli And I might add to that, that is an upgrade for the commitment that we were to to have made. The commitment indicates if it's a wedding over a certain size we had to have officers there. They made the, they made the decision for two

reasons: Always have officers there for every event and it helps pay the officers some additional funds for an evening, uh, and Randy was very much in, in favor of that so, so that they had, it gives them additional income for not much difficulty or problems.

Postlethwait Well County Road 300 South is, the traffic moves along there pretty quickly and so the concern, of course, is people arriving and leaving, particularly after attending a wedding reception and pulling out onto that highway where people are traveling, you know, 40-50 miles an hour, having somebody there, um –

Jones Yeah.

Postlethwait Um, directing traffic or, or helping them get out is, would be important I would think.

Keeker They also help ensure everybody leaves safely. You know, they want – it's not successful unless everyone gets home as safely as they came, so –

Mundy I think, uh, Mr. Andreoli that you had mentioned that you've – some of those who have complained now at this point, uh, you've not met with those other than I, you attempted one, uh, with checking out the decibel level at their, you know, which would be satisfactory, but are there others that you, you now know have voiced a complaint, uh, that you have met with at this point?

Andreoli Only by the same letters that, that the board may have received where there's been an objection to it or in this general petition that really has just a smorgasbord of things that people object to without any specifics. Noise is, seems to be, seems to be one of those. So, uh, there's been no direct contact other than –

Keeker No. He provided my phone number to anybody who was interested to speak to me and one gentleman did call me and I spoke to him for probably about a half an hour. Also, if you were to get online and look up our website or anything like that, my personal cell phone number is the number anyone would reach if they call so I haven't received any calls or emails from anyone outside of the gentleman that Mr. Andreoli put me in touch with.

Andreoli Yeah, we want to be, we obviously want to be good neighbors. We've taken extraordinary steps because you've had, had us come back, uh, and had we, had we not done what we committed to do or had we done it in a manner that wasn't satisfactory to people and you were hearing complaints and we were getting, uh, uh, you know, uh, difficult circumstances because of what we've been doing, then each time we'd have more difficulty, I think, trying to get, uh, get, get approval if we simply weren't living up to our, our commitments or not operating in, in accordance with your expectations. That just simply hasn't been the case in, in this, in this case. I might add that the, the McElderries who started the process and raised the concerns, and I think took the petition around to various people on 875 predominantly, uh, they, they enter their house off of 875. They're very close to 875 which is the first road, you know, the funky intersection there to the, to the east, uh, so their house is real close to 875 and not even, not even close to the, to the Keekers' property because you've got Keekers have 7 acres, you've got a

large tract of ground to the east of Keekers then you have Keekers and the barn is on the far western side of the property line of the Keekers parcel. So, we're fairly far, uh, away and hopefully that's why we haven't had any complaints or difficulties, uh, over a period of time because we've tried to control the, uh, control the music.

Mundy Any other questions for petitioner? Thank you. Are there any – anyone here who would like to speak to this petition? If so, if you would address, uh, with your name and address and, uh, give us your thoughts on the matter. The others who wish to speak also, if you want to go ahead and cue up there we'll save a little time. Go ahead please.

Lautman Okay. Good evening. My name is Cheryl Lautman-Sampson. My husband, Dudley, and I reside at 3005 South 875 East. We are on the southeast corner of 300 and 875. We're number 8 on the GIS map that I provided for you as a visual. That map will show you the property owners who oppose the Keekers' wedding venue as well as how far the sound from the venue's music and DJs can be heard. It's amazing how the sound carries. You'll also notice there are some properties in close proximity to the Keekers who do not oppose the venue. Some of those are friends of the Keekers, some have children that play with Keekers' grandchildren, some are allowed to walk on the property, some borrow equipment such as tractors and chairs and some may be potentially compensated for parking at the wedding venue.

Many of us are new to the area – new like within the past three years. We purchased our home in March of 2021. As was our case, many purchasing homes in the area were not informed by realtors of the wedding venue. As most neighbors will say, we too purchased our property for the storybook setting that the area provides. We enjoy sitting on our porches, listening to the birds and the sounds and smells of spring, summer and fall. That depicts Zionsville to us. When the Keekers' use variance was originally passed, many of the neighbors didn't realize the impact the venue would have on the quality of life, the noise pollution, traffic and property value depredation from the business. Many have since moved and the remaining neighbors want to deter this depredation of our rural community from continuing. To date, 16 property owners have signed a petition opposing the Keekers be allowed to operate their business in our neighborhood. The Keekers' business is not a small business. In reviewing their website, The Barn rents for \$4,500 per night. Operating from April through December would mean that there are 40 Fridays and 40 Saturdays available for weddings and receptions in 2022. At \$4,500 per night, the business has the potential to earn \$360,000 in rental fees alone in 2022. Is it reasonable to expect the venue to be booked solid? I don't really know but I do know this – this is the potential exposure we, as the neighbors, have. This is the potential for revenue the Keekers have if the variance is approved.

We all want to be good neighbors. I'm sure the venue is lovely and many people have very fond memories of Sarah Murney's [Inaudible, 1:09:19] barn. I'm sure the Keekers are lovely people as well but I think it comes down to this – this isn't really about the Keekers. It's about allowing a business to operate within our neighborhood. If anyone were to ask to if you minded them having a party or a wedding on their, on your, their property, I'm pretty sure your answer would be

no you wouldn't mind, okay? If you were asked if you minded having a party or wedding every Friday and every Saturday for 40 weeks I'm pretty sure that answer would be a little bit different – no, you wouldn't want this. This is what our neighborhood is voicing. We are not willing to accept the business operating in our neighborhood. We, the neighbors, want to maintain the rural spirit and quality of our neighborhood. We do not want the essential character of our neighborhood modified by this business. Low Density Single Family Residential is what we are zoned and what we as a neighborhood are asking you to preserve. Please protect our properties as you would your own. We don't want to hear the music and the DJs. We don't want the partygoers' cars driving up and down the roads and we don't want potentially impaired drivers on our streets late in the evening. We also don't want the character of our lovely area modified. Thank you very much for your time.

Mundy Uh, I, sorry – I didn't get your last name.

Lautman Lautman-Sampson.

Mundy Lautman. Okay. And, uh, in your experience have you seen, um, what you might consider to be impaired drivers, uh, on the roads afterwards, uh, or is this just the potential for that?

Lautman It's the potential. Um, we moved into our home – we purchased our home in March of 2021, um, my husband arrived in March. I came in June. Um, we didn't get our furniture for five months so we spent a lot of time out in our screened-in area which faces 300. Four different times we were driven back into our house because we had to listen to the DJ and we sit up a little bit higher on the hill. I don't know how the sound carries but I know that we very clearly heard it so we went trying to figure out where the sound was coming from and we, we couldn't really determine where it was coming from but there was an awful lot of traffic. We went on foot and we just decided it wasn't worth it – somebody was having a party. Well then it happened again. The second time we reached out to the Zionsville Police Department thinking we were within the area of Zionsville. They told us we needed to call the Boone County Sheriff's Department so we called them. They didn't want to respond either. So, I, you know, I, I don't know but it is definitely impacting – we are not making things up. The people on this map, if you take a look at it and, um, all of these people are hearing the music and it's impacting our quality of life. We'd like to sit outside and listen to nature not their DJs.

Mundy Any other questions?

Lautman I'm sorry. This was very hard to get up and do.

Mundy Thank you.

Lautman Thank you.

Mundy Is there someone else that wished to speak on this matter?

Booth Hello. I'm Dr. Sally Booth. I am a neighbor, a resident on 875 East. Um, thank you for the opportunity to voice my opinion. I've been a resident of Zionsville, um, at 2775 South 875 East for 25 years and a commercial property owner of the Booth Dermatology Clinic on Michigan Road for three years and I, too, moved here in 1997 after at least two years of intensively searching for a place where I could have peace, quiet, nature, a right to repose and enjoy, um, you know, the country in peace. Um, had I, uh, been aware of this approval of this variance early on I definitely would've opposed it but I wasn't. Um, and, um, you know, the, um, the parties have become more frequent. They talk about the noise decibels. Well there are a couple of aspects to that. Um, I live up on a hill as does the neighbor who just spoke and, uh, it's a known fact that sound will travel and amplify as the waves roll uphill. Um, the other aspect that hasn't been brought up is one of the most disturbing aspects – is you'll be sitting there you'll hear a little music, okay, maybe I – and then all of a sudden there's intensely loud whoops, hollers, screams, yells – there's no noise decibel meter on that and it's very disruptive to your evening trying to sit on your front porch, listen to nature – you know, I have a pond I love to sit on my front porch and, you know, just kinda meditate on the pond and hear the frogs and you can't hear anything, you know, and this is becoming more and more continuous.

I, too, have, uh, experienced the same, um, problem trying to find out if – there is a noise ordinance in Zionsville. Any loud or disturbing noises that disturb the peace are not allowed, um, music, yelling, car horns, that sort of thing. Um, but, there is no noise ordinance in Boone County. So, you know, you call the Zionsville Police – oh, you need to call Boone County, oh, but we don't have a noise ordinance. So, we don't really have a recourse to this. Nobody will even take our complaint. So I think this is a problem. Um, so, uh, uh, I also would like to just say I just found out about this hearing last week. I was on vacation in Florida and, um, I think the homeowners directly adjacent just found out a couple of weeks ago but I really – you know, this is the middle of spring break and I know of at least eight other homeowners/neighbors who wished they could be here and have an opportunity to speak and be heard but were not able to because they had their spring vacations planned. So, I think they should at least have a chance to be heard. Um, I – sorry I'm a little disorganized. Um, I didn't have a large amount of time to, um, to, to prepare myself but I would just, uh, respectfully ask that you really consider everybody's rights and, um, as homeowners in a rural low density residential neighborhood that is having to listen to this really every warm night of the year on the weekends when we moved out here for peace and quiet, so – thank you very much.

Mundy Thank you. Any questions for Dr. Booth?

Lake No but can I ask Wayne a question real quick? So they're still under Zionsville's noise ordinance, they're just under Boone County's response area because they're rural Zionsville, is that correct?

DeLong As a rural property, they are under the Boone County noise ordinance.

Lake Okay.

DeLong Boone County noise ordinance is –

- Booth Anything goes in my opinion.
- DeLong 17.92.01 of the general code and it defines noise and specifically speaks to music and electronic devices. So there are rules and regulations they just have to be enforced by the County Sheriff.
- Lake Okay.
- Mundy And are those different than Zionsville's?
- DeLong Yes, they are.
- Mundy Um –
- Booth And yet we pay Zionsville taxes – for Zionsville schools, roads, education, you know, but we don't have police and the fire and the – the rights.
- Mundy But that was all decided when we went through consolidation and you still pay county taxes as you did before. So, yes you're a part of Zionsville now –
- Booth Well I hope so.
- Mundy But that was a two-tiered approach to consolidation.
- Postlethwait So in reading these commitments, I'm seeing that commitment number two obliges, uh, the owners of The Barn to limit their, their noise to the Town of Zionsville rural noise ordinance, which I assume then based on what you've said is lower than the Boone County noise, permitted noise. Is that correct?
- DeLong If the petitioner is held to the rural noise ordinance that's one and the same as the Boone County noise ordinance, yes.
- Postlethwait I see. So in town, the urban Zionsville urban noise level would be lower than the rural noise ordinance level?
- DeLong I can speak that the ordinance is more restrictive in the urban section than the rural as to decibel levels and activities, um, I mean, I know in the rural area, uh, noise generated by practicing sport is exempt. Uh, I don't believe we have that same exemption in the urban, just as one example.
- Postlethwait I see. Thank you.
- Booth So, may I ask a question? What happens if and when our area becomes more dense and more developed – I don't want it that way, I think most of us don't but does this get rolled back to different standards? Does it inhibit development because who wants to move next to –
- DeLong So, in order to transition from rural to urban, there are, there's a separate test and part of that is extension of municipal utilities such as sanitary sewer. Absent sanitary sewer in this specific area, um, you would not meet the minimum

thresholds for the consideration of transition from rural to urban. If that, if that's your question.

Booth Okay. Thank you very much.

Mundy Is there another person?

McElderry Hi, my name is Michelle McElderry. I think the Keekers talked to my husband, Tim. He is in, um, he's on a business trip so he was not able to make it so, unfortunately, I am standing in – but I just wanted to, um, make a couple of comments. We moved in, um, we bought our property from the Olds, who I think were opposed to this back when it went in but I think they were the lone – they were the only – I don't know if they were the only folks that knew about it or – I don't know what happened but, anyway, um, we did not know that there was a wedding venue behind us. Um, they sit up on a hill on the back – our property lines touch and I can see like the, um, arbor where they have ceremonies. It's beautiful. It's very nice. I have nothing against them. I think it's a lovely venue. My only issue and our issue is the noise and, um, I think The Barn is back and it just I think it just amplifies, goes over they're on a, it's on a ridge and then we are down below and it just carries. The noise carries. And during COVID, you know, it wasn't a big deal. We never complained. There was a couple of times we were like, uh, we can't wait until it's 10, you know, and so we just – it's hard when you're thinking gosh, you know, I have this beautiful back yard, I'd like to be out there – I mean we do, we sit out there and we put on our own music and try and, you know, do our own thing, um, and that's fine – it's just, um, I'm concerned moving forward now that COVID is loosened, you know, the protocols, you know, people are going to be having more weddings, they may be booked every weekend and so I do – I think we weren't as concerned initially because we're like oh it's a random couple of times a month, whatever, it wasn't a big deal but I feel like it is going to become more of an issue and that and, you know, I don't – every Friday and Saturday night until 10:00 we hear, we hear it. And I, and we are open to – I know, um, she mentioned to my husband that, um, we could do the, um, situation where you sit on the deck and listen to the music and see how it is and we are open to that – it's just that was offered, um, I don't know maybe last Friday – I can't remember when they talked, so my husband left town Monday – so the timing is not – we'd like a little more time, um, to sort, sort out some issues.

Also it's unfortunate that it's spring break and a ton of people that could speak are not here. Now, they could've piped in probably and done that but they're with their families and I don't think realized the gravity of the situation and how this is an unlimited, you know, they can just in perpetuity, you know, continue without, you know, checks and balances. So, um, I have been asked by the folks that have signed the petition that, um, we respectfully ask for a continuance due to, um, the short amount of time that we've had. We've had no time to prepare anything, um, to, to really discuss and talk about, you know, what could maybe we could come up with a good solution and work with them but it, it's just been thrown on us and I, I don't know how many people actually got a letter – we did because we have property lines that touch but, um, our neighbors across the street and next on the other side did not get a letter and the only way they found out about it was through the paper and just happened to glance and see it. So, again,

not, not a great way to find out and then one gal ran around and called everybody and said hey do you know this is happening? So, it wasn't like everyone – like some people just found out and signed the petition. So, so anyway. I don't know if this is possible but if we could ask for a continuance, um, and, and look at this again at the next meeting or – I don't know how this works.

Mundy Okay. Thank you.

Lake I've got a quick question – what is your address?

McElderry We are at, uh, 875 East – 2756.

Lake Thank you.

McElderry Uh huh.

Mundy Any other questions for the remonstrator? Thank you.

Graninger Mike Graninger, 2754 South 875 E. I was never aware of this initially – that it was ever going to be considered or anything else or I would've protested it. Uh, and I think it's a slippery slope. You know, you start putting businesses in single family residential areas and you end up with all sorts of problems including reduction in, in, um, values in properties and things like that. And what's music to one person isn't music to someone else. You know, I work all week, come home on the weekends I want to relax in peace and quiet. I don't think that's too much to ask. Uh, the other thing I would say is I echo everybody else's, uh, comments who've been up here tonight on this topic and I would also mention that there's fireworks going off. So, you know, say what you will, say what you want, but this is not a good situation in my humble opinion and, uh, thank you for your time.

Mundy Thank you. Any questions for Mr. Graninger? Anyone else? Uh, Mr. Andreoli could you and, uh, Sarah Keeker return. Uh, I guess the one question I have – is all the music played, uh, played inside The Barn or is there music –

Andreoli Yes.

Mundy Outside as well?

Andreoli There, there is no, there is no activity out – why don't you answer that Sarah. You're better.

Keeker Sure. Um, yeah there's a few things I'd like to speak to about what was said. Um, there's instrumental music that's played from inside of The Barn for ceremonies that's directly outside but that's the only, you know, um, thing that would be – but all the speakers and everything are inside – we have the speakers we added are affixed to the walls inside of The Barn and that is a newer addition, um, the sound system that we can control. Um, a couple of other things if that's okay – just to clarify some things that were said –

Mundy Okay.

Keeker ...that are not accurate. Uh, we only host weddings April through October every year. Like Mr. Andreoli said The Barn is not climate controlled. It can't be used outside of the times of the year when it's naturally comfortable outside. Um, so we don't have the opportunity to host that many weddings that long into the year, um, and we don't do nearly that many. Um, we do far fewer every year despite what the – you approved into December – we don't host weddings beyond the end of October. It might snow and that doesn't work well for an outdoor wedding. Um, so we only host weddings April through October of each year. Um, other –

Andreoli A couple of other things if I might – um, with regard to fireworks. We don't, we don't have any, any of those incendiary devices or fireworks, from a liability standpoint for, and for any other reason. We just don't have them from a noise standpoint –

Keeker I've had people call over the years and they're going off somewhere else and they think it's happening on our property but it's not. We have a very old pony that lives on our property and she is like a dog – very afraid of fireworks so we've never allowed anyone to have fireworks in the entire time we've been in business, uh, for her sake and neighbors and for a million reasons – it's, it's not happening.

Andreoli We don't have that specifically in the commitments that, that have been recorded but if that is a concern to the community that we not have any of those kind of incendiary devices, assuming you would approve this, we're going to have to execute new commitments as we've done the last two times anyway and we could easily change that to include that there aren't any fireworks or incendiary devices to the extent that's a concern. It sounds like a, um, uh, a problem in search of an issue but since we've not done it but if that, if that means something and it's important to members of the community, we can certainly add that as part, a part of our, of our commitments. The other thing is, uh, as staff has indicated, a fire marshall comes out –

Keeker The fire marshall comes out annually to check to make sure we're in compliance and the other thing that they were talking about with the sound. The speaker system that we had installed and had a sound engineer come out and install – if I got out my decibel reader – everyone has a decibel reader on their phone that's onsite including myself and my dad. Um, our closest neighbor who we built the wall if you look at any of the maps there – they're probably like 30 feet from the edge of The Barn – we always test it as close, you know, at the closest places and at the edge of the property. It's under 60 decibels which is I'm speaking louder than that right now. And I can get out a decibel reader if anybody wants to see it for that to be accurate, but that's the level we use so that it would be like me standing in my backyard talking to someone. If, you know, on the property line all around.

Andreoli Thank you. We'd be happy to answer any further questions.

Mundy I have another question too – about the, I, I noticed in one of the letters there was a reference to some cinderblock – I'm not sure if it was fencing but there was

fencing and cinderblock construction which, again, was intended to help contain noise. Is that in all directions or was that just for your nearest neighbors? I mean, uh, how encompassing is that?

Keeker That was a part of the initial commitments, um, the first time we came up in front of the board, and it's on the west side of The Barn between us and that immediate neighbor because their home is so close. So it was a cinderblock wall that's about 10 feet past the end – each end of The Barn – the north and south wall of The Barn. Um, since then we've put like lattice and moss like greenery that grows over it to make it blend in there, um, but that was intended to help dampen the sound. Uh, we've added doors to the south end as well for that, um, weather and all sorts of reasons but there, um, and, again, that wasn't required that's something that we did in addition. We really have tried every year to do something to make the property better and to be a better neighbor to all of our neighbors. But like I said, to hear complaints I, I feel bad because when the people bought the house across the street from us I went over and I said hi and introduced myself when it was 2020 and I stood way back on their porch and like wore a mask and waved and, you know, have always tried to be a good neighbor to anybody that had something to come say to me or to call me directly. I've always been more than happy to oblige in any way that we can. I can't do anything about problems I don't know about, unfortunately, so to hear those today, again, we've tried to be the best neighbors we could to anyone we knew we were impacting.

Postlethwait So to be fair – if, if one of your, um, neighbors had come to you and said it's too noisy what would you have done to ameliorate that problem?

Keeker Uh, probably the same thing I offered to the gentleman I spoke with on the phone which was let me, you know, I'll have my dad at the house with the sound system on and let me come to your back yard and we'll use a decibel reader and we'll feel like we can get it to a place that you feel comfortable or that you're not hearing the sound, you know. I would've done whatever we could to work with them to – within, you know, reason to appease them while to be able to continue to operate. We've thought of, you know, a million different solutions over the years of ways to slice it and, um, have tried to accommodate anybody we could. But like the four letters you see there from our immediate neighbors on all sides and the people who are the closest in proximity to us, they've all been happy with the steps that we've already had in place, and even the people who've moved in newer across the street and have never had any problem. Oh, the other thing that I wanted to address was we did just as many weddings in 2020 as we've done every single year. We're not ramping up in any sort of way. Every single person who was supposed to get married at The Barn in 2020 except one person did get married at The Barn in some sort of fashion, um, you know, things were different then so socially distanced or whatever that looked like but we haven't had – we're not having anymore weddings now than we ever have. It hasn't changed. Truly we do less weddings now than we did when we first got started.

Mundy Any other questions? What about, uh, the one of the individuals mentioned whooping and hollering, uh, I mean, we've all been to weddings – that happens. They're, usually they're young people and they're enjoying themselves.

Keeker Yeah uh –

Mundy Does that happen in The Barn or is that outside? Or?

Keeker I mean all the people are – it's not lit outdoors. There's no outdoor lighting, uh, so there wouldn't be any place for people to be outside, you know, that might – I guess I can't say that people aren't going to –

Andreoli You don't allow smoking –

Keeker Cheer or anything like that but people are – the lit area is inside of The Barn so that is where people are going to be. When, if, you know, when that's happening.

Andreoli I, I'm sure that occasionally that, that has happened. I, I'd be shocked if, if it wouldn't that somebody would raise their voice or, uh, get to the point where they're, uh, whooping and hollering and so I, I suggest that's probably something that has happened from time to time but, again, you try to keep that under control as much of the, the –

Keeker We have staff on the entire site, you know, myself or my dad as well as a team of people because we have other responsibilities there so we have people onsite as well as two Boone County sheriffs the entire time to make sure that people are safe and acting within reason and all of those sorts of things, so, it's not ever some like wild, out of control, crazy party. They're sitting there with two uniformed officers the entire time. So, it – I've been a part of a lot of weddings, I have a wedding planning business that I do things elsewhere. It's very tame in the realm of things that are possible because it's on a private residence in a residential area for all those things. It's not at a bar in downtown Indianapolis that goes until 2:00 in the morning. It just is a different setting and people tend to be looking for a place that they can sit around and talk and have a bonfire or, you know, something more relaxing and calm than a, you know, party at – somebody who is going to be okay with their wedding ending at 10 p.m. is not someone who wants to stay out drinking until 3 in the morning, so it's just a different crowd.

Andreoli One other thing – Mr., Mr. Keeker has owned this ground since the '90s and he lives on the, uh, the nice house that's adjacent, uh, adjacent to the, uh, to The Barn itself so he is there. And the Fuellings have owned their property immediately adjacent to The Barn for –

Keeker Even longer.

Andreoli Longer. Uh, and been in the community for longer, so, uh, you know, it's, it's, it is hard to under – to try to understand if you're, if you're pleasing your neighbors if you get the people that are the immediately adjacent to them and ask them and they've issued letters of support and haven't been in, uh, objecting to this over the years. So it's really difficult for us to try to put, you know, uh, uh, you know, pin the tail on the donkey when we're not hearing from anybody else other than when we filed and there was – we, we filed five years ago and there really wasn't any sustained opposition to this and we've operated the same way, so new people move in, new people have a different take on it, uh, new people have a different

version of what living in the country is – all of that’s respected, all of that’s fine, uh, it, it’s just that we haven’t had to deal with it up until now. So –

Mundy Thank you. Any other questions? Can we get a staff report, please?

Baker Of course. Um, I think the petitioners both did a good job summarizing. Um, I’ll try to briefly summarize the history of the petitions. Um, the initial petition came in 2014, um, for a use variance and staff did not recommend approval at that time simply because, uh, the commercial use wasn’t mentioned in the comprehensive plan. Um, that was approved in 2014 with a sunset clause to come back to the BZA. It came back in 2017. The, they – it was approved then and staff was in support and brings us to today for the, um, end of the sunset. Um, up until writing the staff report, staff had received no remonstrance, um, any concerns from the previous approval. Obviously, since we’ve written our staff report, there’s been concerns brought up, um, before you tonight and in the letters. Um, and that’s the very reason we would request to keep doing these sunsets to kind of reevaluate, um, because I know that the petitioner initially wanted to do away with the sunset but staff felt it was important to have the, the five-year sunset still in place. So hopefully that answers most of the questions and if you have any others, I will be happy to answer.

Mundy Okay. Any questions for staff? Uh, Mr. Rust if we have online viewers that wish to speak would you wave your hand for me please?

Rust Yes.

Mundy Thank you. Uh, discussion?

Postlethwait So I’m, I’m just curious because it seems to me that one of the things, one of the options that has been aired, um, this evening, uh, both by the, those who spoke in opposition and also, um, um, Ms. Keeker, Sarah, was the idea of putting heads together to try to find some reasonable solution to this, what is obviously, um, an issue that, um, others are seeing as some are seeing as positive, some are seeing as negative. Um, and perhaps a, I don’t know, a continuance to allow the parties to have some discussion to see if there is common ground, something that would be amenable for the people that live in the area and I live in a, in a rural setting so I know how sound carries and I also know that people have different tolerances for sound and, um, I happen to like the birds also, so I understand how that, how that works. So, um, if there’s some way that some kind of middle ground can be found to, um, allow the Keekers to continue with their, um, wedding barn and the neighbors to be satisfied with that – I don’t know whether that’s possible or not. I’m just throwing that out as a thought.

Mundy Uh –

Postlethwait There may not be.

Mundy I think that’s a, a, you know, something we should give some consideration to. Um, having been unaware that there were, uh, a number of neighbors that were not happy with the noise, uh, means that there’s never been any need to address

it. So, I think that, um, the ability for the petitioner to meet and work with the neighbors to see if there is common ground there is a reasonable request.

Keeker I offered that and I [inaudible, 1:39:04]

Mundy Yeah, let, let's, we can give you a little bit of time here later but, um –

Jones I've got a couple of items. Am I coming through?

Mundy Yes Larry.

Jones Um, so I was part of the group that heard this originally in what 2014? And at that time I think we went through a couple of hearings to get the commitments and everything put in place which means at that time there was sufficient time and notice given to all of the existing, um, property owners surrounding this. Um, one of the things I kind of love to do is sit there on my Google maps and see what really is adjoining this property and what you'll find is a, a mix of strictly residential, a substantial amount of buildings that have, uh, accessory structures that probably don't meet our current codes and regulations, farmland, etc. Um, I'm kind of reminded of, uh, I think we had one hearing a few years ago where somebody stood up and said how they didn't like the smell of the horses. And my point of that is, is that everyone has their horse smell that they don't like. Um, it's interesting that some of these parcels have some very large utility lines that run through the rear, some of them are actually working farms, some of them have the accessory buildings and given the scale and size of them, you know, no telling what kind of equipment runs in and out of those and at what hours and does anybody have any say? When it gets down to noise ordinances, they are actually tied to a DB rating and so just because you can hear it doesn't mean it's a violation or a problem. It's, it's just the nature of the fact that while you don't like sound, you are probably perfectly happy smelling horses or hay or watching equipment run. Um, and just the last item is and, and this one always wins me rave reviews is – I'm never particularly happy in supporting complaints from people who've failed to do the due diligence on when they acquired a piece of property and what's surrounding it. Um, and once again, this was out there in 2014. We renewed it in 2017. There's been no actual complaints. What we're doing now is setting the Town up so that there will be complaints and now our, either the Boone County or the, the Zionsville Police are going to have to carry DB meters with them to actually and actually know what the ordinance is, because, just because you hear it doesn't make it a violation. So, uh, you know, I'd be proposed to continue with the five-year, um, sunset maybe with the addition of just no fireworks but even that sounds like, once again, people are focusing their attention on this and assuming they are the issue for all the problems and that might not actually be correct.

Mundy Thank you Larry. Any other comments? I, I think there's a bit of truth in what everyone has said, uh, noise is something that, uh, some people can tolerate, uh, and others can't, uh, so I don't – uh, I guess my thought would be some form of, uh, a shorter continuation rather than for five years. Uh, 1) I am assuming that you book these things well in advance. There are people that are planning on having a wedding there in June, uh, and so forth but I, at the same time I think that, um, there should be a period of time here where you need to put your best

effort and those neighbors who are not happy with what is going on have an opportunity to give you that information and see if you can find common ground that makes this workable or at least come back with a more defined position, uh, by both neighbors and the, uh, petitioner.

Postlethwait So I just have a comment and that is that, um, this is ultimately, even though it takes place in a very quaint barn, um, it is ultimately a commercial enterprise. And whether it's in a quaint barn or a cinderblock building, essentially it's the same exercise which is having these – a place to gather to have wedding receptions, um, on Fridays and Saturdays for what – counting my fingers is it seven, eight months a year? Seven months a year. So, um, the question then becomes is it reasonable in a residential area like the one that this, where this is located to allow what is essentially a, a commercial enterprise? And, um, you know, that is ultimately the question it seems to me.

Mundy That is the nature of the use variance.

Postlethwait Right. I understand.

Mundy This is an area that does not allow this sort of use.

Postlethwait Right.

Mundy And the variance has been granted and that's also the reason it has a sunset period.

Postlethwait Right.

Mundy So that if it doesn't work out, we can pull the plug. Uh, that's the sole reason for the sunset.

Postlethwait Right.

Mundy So, um, any other thoughts from board members?

Jones Real quick – I want to make sure the zoning out there is R-1, right?

Baker Yes.

Jones Is that correct?

Mundy Yes, that's correct.

Jones And doesn't and R-1 is our rule –

Baker Rural Low-Density Single Family Residential.

Jones All right. So the farms that operate out there are they, uh, um, so is this parcel R-1 or is the general area R-1? What are the adjoining properties zoned? Do we know?

- Mundy What's you find here R-1 Low Density Single Family Residential Zoning District.
- Jones We have farms across the street and all that kind of stuff so it is one of those things where –
- Mundy It could be a different zoning across the street.
- Jones Right. So my question – my statement is that we have other parcels out there that have commercial enterprises going on. I know we don't consider farming commercial per se, but it is a for-profit enterprise using the land. Like I said, my only concern is there have been no complaints filed and now we're going to find ourselves in a situation that if complaints are filed we're going to go after, go out and confirm does it actually meet the standard for a, a complainable, uh, offense.
- Postlethwait Well it sounds like –
- Jones I don't like putting – huh?
- Postlethwait It sounds as if some of the local residents have, um, tried to complain and have not been able to find a – I mean by calling the Zionsville Police Department and also then calling the Boone County Sheriff –and have not been able to get any traction in that regard. So –
- Jones Because it might not be a complainable offense is the concern.
- Postlethwait Right.
[inaudible, 1:46:25]
- Jones Are people actually up at the microphone?
- Lake No.
- Mundy No.
- Jones You need to get them up and introduce them please.
- Lake So, Larry to your question – that whole area is R-1, um, you get into some other maybe R-2, uh, on the other, on the east side of 875 and about I don't know, a mile, not quite a mile south of 300.
- Jones Okay.
- Booth Can I speak? Is it okay?
- Mundy Yeah. Keep this brief please.
- Booth Yeah, uh, we've been under the impression and trying that there was no mechanism to file a complaint. I was just in Key West. We have a condo we rent right next to this Margaritaville. They've had horribly loud music for two years.

Finally it was like super quiet when I was there last week and I said what's going on and I see a notice on the bulletin board of, you know, three or four steps – if you hear the noise and it's bothering you and too loud you have to call this number. You have to be in your condo when the people come to take the report. This is the only way we will get our, our message across that this is a problem. There has been no mechanism and now you're saying oh my God we're going to have to take complaints. So I feel like how are we supposed to – who are we supposed to complain to? I mean –

Mundy I don't think the, the suggestion was you have, that you, uh, have no means of doing this – the police, whether it be the Boone County Sheriff or be the Zionsville Police – has always been the way that you try to address that. Whether it's a barking dog or a loud band. So, that, that's not new. That's always been part of how any resident would be able to try to get some relief for something that they believe is, uh, breaking an ordinance.

Booth Well, Michelle, you said that you called and they told you –

McElderry I didn't.

Booth Not you, I mean, uh, Cheryl to call the Boone County – she called Zionsville.

Mundy My guess is that their answer was not that, that we can't do anything about it. Uh, they may have had other reasons but I don't believe even if that was it I don't think they would've said that. So, again, keep this brief. We've already heard, uh, the complaints.

Lautman Right and I'm just – I, I reached out to Zionsville they told me that it was Boone County Sheriff's.

Mundy Correct.

Lautman So I called Boone County Sheriff's and they said that they would not come out for a noise complaint.

Mundy Okay, well, uh, I think that's an issue with the Sheriff's Department then so I –

Lautman Well, but as somebody who has just moved into this state I have no idea what else to do, um –

Mundy Okay.

Lautman And understand, you know, if this was your home, okay? If this was in your neighborhood I would ask each one of you to look within yourselves and ask if you would like to have that and you would want to listen to that every Friday and every Saturday night. The permit says April through December, okay? Whether they have that many weddings or not, that's the potential exposure we as the homeowners and property owners in the area are subject to, um –

Mundy We understand.

Lautman I understand it's been happening for a long time and everybody says that there, you know, there were no complaints. Nobody knew how to complain. Nobody knew what to do to stop it until a week ago when somebody approached us and said they had the notice and we could actually, you know, speak with you and let you know what our feelings were. So, we appreciate you taking the time to hear us.

Mundy And, and that is always, you know, the public notice and I, I, you know, it's the part of the newspaper, if you read a newspaper, that no one looks at anyhow. So, unless you have a specific interest. So it's hard to find out. Do you have something brief, Mike? Uh, go ahead. If you would make it there.

Andreoli I can somewhat, uh, understand where Mr. Jones is coming from with regard to some of his comments because we've, we've operated this facility now for eight years. We've had two separate petitions with very little remonstrance and somebody else moves in and what was fine perhaps to their predecessor may not be fine to them and that's a very difficult thing, uh, for the board to deal with. It's a very difficult thing for us to deal with. Uh, nevertheless, uh, I don't know any other way that you're going to be able to do it given staff's recommendation to be able to approve this with some type of sunset provision. We've had them twice now even though I've asked given the level of concern that's been raised by the community. I, I don't know how you get around not, not establishing one. I, I would suggest, uh, another five years if you do it as suggested by board instead of three years. What we don't want to do is continue to have to deal with the community trying to artificially put us out of business when nobody has up to this particular point in time. That's, that's our problem. That's not the board's problem. I'm just expressing that to you in terms of the kinds of dynamics when we have sunset provisions because somebody who didn't have an objection may have an objection moving in, uh, at a, at a different time when you have to come back and that's just something the board has to weigh and, and wade, wade through but it is, it is a difficult situation for us in terms of the applicant. Nevertheless, whatever sunset provision you put on there we'll, we'll do our best to be good neighbors and be back.

Mundy These are not our favorite exceptions either. Uh, okay, board – thoughts on this? Absent any thoughts, I would suggest that we think about a relatively short continuation but by that I mean something like 90 days or something like that with the provision that it would continue through the remainder of this year and I say that only because I know that people make plans for weddings months, sometimes years in advance that it leaves a lot of people in the lurch when, uh, I believe this, uh, special exception provision has already expired. So, and they're now about to approach that but that – you know, within the next three months if they don't do something within the next three months to be able to get together with neighbors and look to see is there some compromise, some way in which they can both coexist, uh, you know, that should be sufficient time to do that. And that if it is such that we have a one-year sunset on this and they've been unable to come to that, then we would review it again next year and if the conclusion is it's, it's tolerable now using, uh, a new approach we look at a longer sunset period much like the last one perhaps. If it's not tolerable, then there is no more special exception. Any thoughts on that?

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Postlethwait So you would essentially, if I'm – let me see if I understand this properly – they would have some period of time, a maximum of 90 days, to come to some kind of consensus about how this would look going forward that would be amenable to all parties and in the meantime because they would be in the process of planning their calendar for, um, 2022 they would be allowed to function until the end of their season, um, in October.

Mundy That's my thought. I'm, I'm making a wild guess that what they have on the books now but, again, I know people make plans months and months in advance for weddings, so –

Postlethwait Well, and I don't know how the neighbors feel about living with that but at the time, if that, that would be given to them because they have to have that in order to be planning and for the plans and the commitments that have already been made for folks who are wanting to have their wedding reception there. But if there's no consensus reached, then we will have to make a decision about whether they can have this exception. Is that what you're saying?

Mundy Exactly, yeah. Yeah.

Jones And I just want to bring up – you know, there's no standard for what's called amenable or, I, you know, I can't pronounce it but you know the word I'm trying to say. I'm not particularly favorable towards setting up situations where the people who are opposing this have absolutely nothing to lose in never coming to the table. There, there is no, uh, I, I... As a developer, I've been in the situation where, um, my opposition is given a ledge and they'll stay on there forever. We're not – if we put this off 90 days, a year, whatever the date is, it's not going to come back with some sort of resolve because the only standard out there is rated by a DB meter and somehow we're going to have to go put somebody on everybody's parcel out there to find out if there's actually a complainable offense being, happening, or people just don't like it. To the issue that they don't like it – once again, I go back to my due diligence statement. Find out what's around you before you buy the property. Um, and finally, if we do vote to deny it – we're now voting tonight to deny something that there was no complaints fine, filed. So we're actually kind of overturning, you know, everything we put in place. So, while I can appreciate the comments that there doesn't seem to be a way to, um, file complaints and that maybe the individuals who went to file the complaints need to get more organized about them, I don't like putting the petitioner in this kind of purgatory of actually trying to come to some sort of, uh, um, amenable solution, other than adding the fireworks. Uh, and finally, just remember a couple of months ago either on the Plan Commission level or the BZA, uh, we turned down a neighborhood near the, uh, uh, the new winery, uh, Chris that you're working on, specifically because we had approved that property for the use, we knew the use was going to have an event center, the event center would generate activity, noise, whatever that would carry off the property and we did not want to go forward with a re-zone to a residential use because we know full well what will happen for that. The Town will receive the complaints. It's no different than what we're going round and round with with the airport. We know what's going to happen when these housing subdivisions are put in the flight paths of the airport. The burden comes back on the Town of Zionsville for not doing the right thing at the right time, And the right thing at this time is, we approve this,

another five-year extension just to keep them honest, and move forward. Make the hard decision.

Mundy Well, Larry the one thing I would say is that, um, most of us are unaware of things like, um, use variances and the fact that it has a sunset and it might be heard by some group, um, and most of our residents would not know what group hears it or when. So, there, there, that is, I think, something that easily falls into a category of you don't know how to fight what you don't know how to fight. Uh, the other is that all of these areas – this area is probably going to have more residents in the future than less and so things do change and that is part of the reason that you have a sunset is that instead of, uh, 50 people out there or 50 homes that might hear it, it may be 250 in five years. So, uh, I, I don't, I don't fully agree. I think you're, you're right in, in your, your assumption that the Town will have to shoulder most of this but things do change and the other is that when we tell people that you need to talk with that person that you're remonstrating against and get something worked out and one of the parties comes back and says well I tried five times to get together with them and they didn't do anything, I know how those usually go.

Jones Uh huh.

Mundy We usually just say okay all we heard was a bunch of bluster at a meeting and we're still going to approve the petition. So, if they don't, if they, if they refuse or are unwilling to try to work this out, uh, then I think that the, the weight of, of, um, effort of whichever party does try to make it work usually wins out.

[inaudible, 1:59:58]

Mundy Well we've heard different from some so. and this is not an organized group, so you're probably going to get at best 10 people you get 10 answers. Uh, I think, you know, we've got to fish or cut bait. Um, is there a motion that would be proposed at this time?

Jones I'll make the motion. I move that Docket 2022-11-UV use variance for the property located at 855, 8556 East County Road 300 South be approved as presented and described based on the Findings in the staff report and with the expiration date of this approval be five years from the date of this meeting with the additional caveat that no fireworks or other incendiary devices will be set off as part of any, uh, event.

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

Pickell I second.

Mundy Thank you Mr. Pickell. Any further discussion? We have a motion that Docket Number 2022-11-UV be approved as presented with, uh, one change to the commitments which would exclude fireworks and would continue for a period of five years. All those in favor say aye.

Jones, Lake,
and Pickell Aye.

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- Mundy Opposed same sign.
- Postlethwait Nay.
- Mundy And I also would be a nay. Vote is 3-2 so the vote carries. It will be approved. It would last until March 10, 2027. Thank you.
- Postlethwait I would just like to make one comment and that is that just speaking for myself I would hope that, that you would reach out and make an effort to find some, uh, I know that Mr. Jones doesn't like the word amenable but that you will find some kind of common ground that will allow you all to, um, be able to, um, make the best of this.
- Mundy I would echo that, that same thought that I think that there probably is room for some compromise and better input from both sides. Next on the docket is 2022-12-DSV, C. Lehman at 10505 Pete Dye Ridge in Zionsville. Is there a representative here? Hello. Could you give us your name and your address please?
- Carnell Chris Carnell of Christopher Scott Homes in Carmel, Indiana representing the Lehmans on this variance request. So we are requesting a modification of the Development Standards Variance from, uh, a 25 foot setback to a 20 foot setback.
- Postlethwait I wonder if you could be a little closer to the microphone please? Thank you. For those of us who are –
- Carnell Do you need me to repeat that?
- Postlethwait Please.
- Carnell We're requesting a Development Standards Variance for a 25 foot setback be reduced to a 20 foot setback on Lot F24 in Holliday Farms and we're requesting that with the effort of being able to place a structure over that variance to allow for the structure to fit on the lot.
- Lake It appears in looking at the map that really nobody can build next to you on that side anyway?
- Carnell Correct. It, it leads to zero impact to anybody really.
- Lake Okay. Thank you.
- Mundy Any other questions for the petitioner? I think this, I think, the second one in Holliday Farms now that because of lot shape and building plans we've had to do this. No other questions? Is there anyone here who would like to speak for or against this petition? Seeing none can we have a staff report please?
- Baker Of course. Um, so this petition before you is to request a, um, variance of the setback which is 25 feet that's shown on the plat. The petitioner is requesting to

have a 20 foot variance. Um, staff is supportive of this request. Um, as also stated, the lot figuration is a little unique, um, and prohibitive so that's part of the reason staff is in favor of this request.

Mundy No one online? Any other discussion? Hearing none is there a motion?

Lake I move that Docket Number 2022-12-DSV Development Standards Variance in order to provide for a single-family home which deviates from the required side yard setback at Holliday Farms PUD to be approved as filed based upon the Findings of Fact and substantial compliance with the submitted site plans and concepts.

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

Postlethwait Second.

Mundy Oh. Thank you Mrs. Postlethwait. All those in favor say aye.

All Aye.

Mundy Opposed same sign.
[No response]

Motion carries. Good luck with your project. Next item is Docket Number 2022-13-SE, K. Marburger.

Buroker Good evening Mr. President and members of the board and staff. Thank you. I'm Andy Buroker. I'm an attorney with Faegre Drinker Biddle & Reath. The office is at 600 East 96th Street, Indianapolis 46240. I'm here on Petition 2022-13-SE for a Special Exception, um, to permit a single-family dwelling in a, uh, parcel in a rural, in the Rural Agricultural District in the (AG). With me tonight who I'll have sort of start off or kick off is Kim Marburger and Mitch Thompson who I'm representing as our clients who are related to the property owner of the larger farm tract and who desire to build a house on this property to give you just some general background and the purpose for this. Kim and Mitch.

Thompson Good evening. Uh, my name is Mitch Thompson and this is my wife, Kim Marburger, uh, our address is currently 10907 Pleasant View Drive in Carmel, Indiana. Uh, we are asking for this Special Exception because of, uh, Kim's father, Ron Marburger, lives at that property and has since 2006. He has a home. He has a farm. We have horses at the property that are both his and ours and, uh, the farm consists of about 105 acres currently. We have anywhere from five to eight horses in any given time. He's a member of the Hickory Hall Polo Club. We do have some of the polo club horses there as well that we help to take care of and we have corn, soybean and alfalfa fields and hay fields for the horses. The existing home that's there is approximately 13,000 square feet. It includes a garage and it's approximately 34 feet high and then there's an adjoining, or not an adjoining, there's a separate barn that has about 31,000 square feet under roof and it's approximately 34 feet high. Our desire is to help take care of Mr. Marburger and his wife, Carla, so that they can age in place. He's had horses all

of his life, has been near a farm all his life and his desire is to age in place at the residence and we're fortunate to be in a position to do that.

Buroker Thanks Mitch. Joe, next slide please. So this is the site plan of the, the property, Kim's father's, uh, property that Ron has owned since, uh, 2006. So you see it's 104, almost 105 acres, right – the barn and the, uh, his home currently are shown on there. The alfalfa, hay and corn fields are shown and so the area cross hatched in green is the proposed site, um, wooded site where they would propose to put their house because it doesn't use agricultural land, um, to take that up. Uh, south – the south border is County Road 100 North. Next slide Joe.

So just some factual backgrounds on the request on building a home on the farm site, right – splitting off three acres for the residence. Mitch talked about the need for that, um, splitting it off of ag land in a wooded area so they can keep farming the rest of the property that is agricultural. Uh, the scale and the elevation of the farm home will show, on the next slide in a moment. Um, the petitioner would agree to a right to farm acknowledgment because her father owns the farm, there is farming activities currently going on. In response to Larry Jones' comment about smelling horses – they raise horses on here and so they enjoy the smell of horses and, and opposing any agricultural use would be unlikely and, and not, not any issue for them. The new home will comply with all the other, uh, Section 194.103 the regulations of the Zionsville Zoning Ordinance with respect to rural, um, special regulations for agri – for residences in this district. And they will agree as their father did in 2006 when he built his home to install additional noise insulation that, as was done with the main residence and will commit to do that. Next slide Joe. So this is just a home elevation. It, it is a farm house. Uh, it's on a farm, it will be situated on a farm, the size of approximately 4,500 square feet so it will fit into the setting of a, of a kind of a rural agricultural setting. The important part is on the right hand side of that slide the, uh, height from ground to top of roof is 29 feet 8-1/2 inches. So, again, there – we'll talk a little bit about the, the maximum height it can be around the airport flight path of 51 feet so it's well below that. It's, it's shorter than the existing barn and the existing residence that's, that exists on the lot of 34 feet so it'll be below that, but that's an important element to note. Next slide Joe.

So if we can just talk about really the, the, the really crux of this decision is the airport's strategic land use plan, right? The, the, uh, uh, Plan Commission certified that in November to the Town Council. The Town Council in January adopted, uh, this overlay zone amendment to the Comprehensive Plan of the Town. That's, that's really important. So the western portion about a half of the total 105 acres of the current farm is in the tier 1 residential compatibility area around the airport that says no residential development. We acknowledge that, the staff has said that, we've seen the maps, we have the, the plan. That's all recognized and, and acknowledged. The, uh, the existing home and barn are in the Tier 1 area. Um, the next slide will – not yet Joe – but will, will show you an aerial that the distance from the home site to the start of the runway, the northern runway on the airport is the Indianapolis Executive Airport is 1.28 miles from the home to the site to a little bit over the 6,700 square feet. So, quite, quite a bit of distance. Again, the home height as I showed you is below 51 foot for a height limitation around these aviation facilities and they've talked about that with the, uh, with the airport staff and board president.

The other important part that'll discuss is the crux of this, I believe, is there's no subdivision or other dense or intense uses of other people proposed or planned for this farm site that would be concerning to, or that was similarly proposed on the south side of the Executive Airport a couple of years ago, that really created the genesis of why did, we do, this overlay, um, for the airport in the first place, right? That was a, a large residential subdivision, it would've been many people, a lot of homes, detention ponds with, with wildlife attractions, etc. Next slide Joe. So here's the safe landing zone exclusion area. The box in blue is Ron Marburger's 105-acre farm. The property, uh, the 3-acre carve out that Kim and Mitch would like to build their home on is on the left hand side of that blue box, the lower left hand side corner, southwest of that blue box which is where it would be, so it's clearly in the red Tier 1, uh, area. Next slide Joe. Here's the distance of the proposed home to runway. This is the aerial photograph measured showing from the home site, again, just slightly north of County Road 100 North to the beginning of the runway is one, over one and a quarter miles, so over 6,700 feet. Next slide Joe.

So, uh, a couple of things, again, I, that I would use or ask you to consider this petition favorably is the Airport Strategic Land Use Plan on page 8 of that document that, again, was adopted by the Town Council just this year, the key considerations on page 8 say "That the object of the plan was to identify uses that can coexist with the adjacent airport." That was, that was the design and the goal of that plan. The main concerns referenced in that plan about things that would not easily coexist with the airport are tall structures which we don't have, density with a lot of people, noise sensitivity, visual obstructions, high or tall other kind of trees or whatever and then wildlife attractants such as retention and detention ponds and other things that attract geese. So those are the key considerations. The concerns that are addressed in, in the Airport Land Use Plan are not present here. I'd ask you to consider that.

And then finally in the recommendations on page 11 of the plan, it says and I quote "Undeveloped areas in the flight path south of County Road 200 South should remain agricultural open space." Again, addressing the real purpose of that plan and calling these Tier 1, Tier 2, tier 3, Tier 4 areas around the airport into question was the proposal to build a large residential subdivision just a couple of years ago south of the airport. Next slide Joe.

So, Mitch and Kim talked with and, and met with, airport director, Sam Sachs, president of the board, Bill Frye, that is in your piece. President Frye is here this evening and will address his, uh, these issues as they are not opposed to development of residential neighborhoods – not, not they are opposed to that—not to this home that is, uh, one and a quarter miles north and is just a single farmhouse in an agricultural area. Next slide Joe. Councilman Traylor lives a half a mile west of this proposed home site. Um, Kim and Mitch talked with, with Councilor Traylor who could not be here this evening, uh, for traveling for business. He did provide to Suzanne his email in support of, of the petition saying he didn't identify and couldn't see any safety concerns, uh, along this. Again, Bryan Traylor, Councilor Traylor's father operated a small airport in eastern Kentucky for many years plus he's the Councilor in whose district this property is located.

So, the last issue and the big question, um, of, of the night is our Findings of Fact and asking the Board of Zoning Appeals respectfully to approve our Findings of Fact to, uh, approve this Special Exception petition. Next slide Joe. So the Findings of Fact, I, I, I would propose to you that we argue the first, uh, point is met. Uh, building this farmhouse by Kim and Mitch would not be injurious to any health, safety, comfort, community morals, convenience or general welfare of, of the community or of Zionsville. We think we meet that and there would not be any injury. The second Finding, the second Fact we have to show we'd ask you to adopt is building this farm home would not injure or adversely affect adjacent areas or property values. We think clearly building a million dollar farmhouse 4,500 square feet, a farmhouse on a farm would clearly be appropriate and in the, the line of thinking of what's all around that area. And last, finally, and most importantly, um, will the farmhouse that's being built, will it be consistent with the character of the area – we argued that's yes – but the whole issue then it comes down to is it consistent with the Town's Comprehensive plan? So based upon what was just passed in January by the Town Council, this master plan, uh, for protecting the airport with Tier 1, it's in Tier 1. You see the map, we're not here to argue and say ignore Tier 1 or Tier 1 doesn't exist or this isn't in the red area – it is but, again, based upon the Land Use Plan for the airport, we would say that this farmhouse on a farm at a fairly low height level is consistent with the comprehensive plan and can easily coexist with the airport as recommended in the strategic plan for the airport. That is our presentation and our request to you to consider and approve the Findings of Fact in order that you can approve our Special Exception petition. We and Kim and Mitch will be available for questions and I know others would like to speak. So thank you Mr. President and members of the board.

Mundy Thank you. Any questions for the petitioner? Thank you. Are there any remonstrators here tonight who wish to speak to this? Seeing none, can we have a staff report, please?

Baker Yes, um, really the petitioner did a good job summarizing the request. As you know, you all see these type of petitions frequently, a Special Exception for a home in, um, an ag district. However, this specific property on its location is located within Tier 1 of the, um, airport study which you can see, which was presented also in your packet, um, it's in that Tier 1 red that specifically says no residential development. Um, with that, staff has recommended denial of the petition and I'd be happy to answer any other questions you may have.

Mundy Any questions for staff? Staff's objection to this is that it is in the Tier 1 – it's not that it's a residence in an agricultural area –

Baker Correct.

Mundy It's just the Tier 1 issue.

Baker Correct.

Mundy Okay.

DeLong And certainly Mr. Mundy I'd be happy to offer some additional comment here. Certainly the Town spent 2+ years working on this Comprehensive Plan amendment and was subsequently adopted by the Town Council and if this methodology is something that the board finds amenable to support this – the logic is outlined to you in the presentation and certainly apparently supported by the Airport Authority, um, certainly a Comprehensive Plan amendment is probably necessary here certainly to provide guidance to the staff and future petitioners that there are, there will be specific circumstances that Tier 1 analysis can be reviewed and reveal that with the support of the Airport Authority that apparent support that can be considered by the Board of Zoning Appeals. But, again, this is new territory for all of us having a Comprehensive Plan that speaks directly to this very specific topic.

Mundy And, I'll confess ignorance but the, this plan which has been recently approved, um, was this fully sponsored by the Town only? Uh, or was it in partnership with the Airport Authority?

DeLong It was a partnership.

Mundy It was a partnership.

DeLong Certainly, 50/50. Correct.

Mundy Okay.

DeLong And certainly just a bit more color – I, I do want to make very clear that the project that Mr. Buroker did reference is not something that is referenced in the past. It is a project that is currently pending with the Plan Commission. It is a project that has 2006 zoning entitlements with it. Certain members of this board who are on the Plan Commission are familiar with this – the Union Woodlands – but it is a project that is currently pending with the Plan Commission.

Mundy Thank you. Any other questions for staff?

Pickell This was just passed by the Town Council?

DeLong Correct. November of last year, I believe.

Pickell And Councilor Traylor is in support of this residence?

DeLong Per the PowerPoint presentation, I believe we have an email.

Lake We do have an email.

DeLong Yes.

Lake Yeah.

Pickell Even though he's, he just approved that it was nonresidential district?

DeLong Yes.

Pickell Okay. I just wanted to –

Lake And I believe he was in support –

Pickell Get that clear.

Lake Of the Comprehensive Plan as a whole.

DeLong Correct. Yes.

Pickell Okay.

[inaudible, 2:22:49]

Lake The airport director –

Mundy Who is it? Okay. Yeah, why don't we patch him through now Joe. Thank you.

Sachs Hi, can you guys all hear me?

Mundy Yes we can.

Postlethwait Yes.

Sachs All right, great. Hi everyone. I'm Sam Sachs. I'm the airport director at Indy Exec. Um, I just wanted to kind of, um, add on a little bit to what was in the presentation earlier. Um, we did have a conversation with the petitioners – myself and Bill Frye who is the, um, the board president of the Hamilton County, uh, Airport Authority. Um, we did discuss a few of the, uh, nuances of building a house where they're looking to build the house, um, which did include the tall structures act and the noise sensitive area, which are the Indiana law so they have to follow, and certain building requirements they have to meet. Um, in terms of the placement, we are, uh, as an airport not particularly concerned, um, considering there's already a house here, um, that the family, uh, is at least, I know they don't own it, but their father does, um, so they're familiar with the, uh, with the aviation activity that's there. They're, they're familiar with the airport in general, um, and they are not bothered by it from what they told us. So, this being just a single development, um, the airport isn't particularly against it like we would be with a, a massive, um, you know, development of a 150+ homes like we're seeing towards the south. Um, so, you know, it, it's – is it ideal? You know, probably not. But I also understand that, uh, this is just a one off home and, uh, you know, it, it's, it's maybe somewhat contradictory to the plan that we passed, um, but at the same time I think that plan was really focused on, again, those large developments and less so, you know, one off single-family homes that are being built in rural properties. And that's all I had.

Mundy Thank you Mr. Sachs. Uh, so, um, you, you, in general you would say that the tier 1 is not where a development should take, take place but you think this particular home, uh, where it's positioned and the fact that there's another home

there it's, it is – I, I hesitate to say low risk but it is something that the, the airport would, uh, feel completely comfortable with?

Sachs Yes sir. That's correct. Yeah, that's, that's more or less, uh, our feeling on it is – this is kind of a unique situation. These are people that are familiar with the area, familiar with the airport already. It's a single home on a property that already has a home, uh, so in terms of, you know, development in that particular area, it doesn't really seem to, to be a high risk to us. And they're also familiar with the unique, um, like I mentioned earlier, the codes that are required for that area and they're willing to meet that.

Mundy Thank you Mr. Sachs. Any questions for Mr. Sachs?

Jones I got a question – so what's, what's the number Sam? So it's okay if we parcel off one piece for one house what about maybe not 100 but 10? Can we do 10?

Sachs I, no I think 10 is a different story. Um –

Jones What about, what about seven?

Sachs I would say anything that is honestly more than – and, and, and again this is location dependent. In their specific location where they're –

Jones But we've been, we know we've been given a location where we're not supposed to be approving new homes –

Sachs Uh huh.

Jones So in that location what's the number?

Sachs I, I think this is probably it. I think it's one. I, I think you start building more than one, uh, especially if you're bringing in people that are, um –

Jones So then, so what, what number of additional acreage do we need to have to approve this one house? Is it another three acres? Five, 10, 100? What's the number? Because none of that ended up in our Comprehensive Plan that we approved and none of it ended up in the plan that we've been working to try to support you guys on. So what's the number?

Sachs Okay. I'm not completely familiar with the acreage question you're asking. I can –

Jones Correct. Because I just made it up.

Sachs Okay. Yeah, I, I, again, I think this is a unique situation that, um, we're not supporting it but we're also not going to come out against it. Obviously the decision is ultimately yours to make, um, we're just saying as the airport we don't see this particular instance as, uh, uh, a particularly large concern to aviation, uh, air traffic in the area. So, again, I think if, if you, if you want to build multiple homes on this property that would be a different story, uh, but this

particular instance, we, we don't really feel a need to, to come out against it per se.

Mundy Any other questions?

Postlethwait Can I just make a comment? And this is not specific to Mr. Jones' point – but this is not a situation in which, um, the petitioner stood in front of a dartboard, threw a dart and decided that this was a piece of property they were going to build on. This is a situation in which the petitioner has family living in that spot and their goal is to build a house to be able to support the family that is already living on that piece of property. So, I mean, I don't see this as in any way arbitrary and, so I think it is in that regard, um, very, uh, unusual circumstances to say the least.

Lake However, what I might note is that property is big enough to put it outside of the, the Tier 1 zone. The majority of that property is not in the Tier 1 zone.

Postlethwait But I remember having read that they had chosen the wooded section because they did not want to –

Lake There's another wooded section right next to the driveway that's not in the Tier 1 zone that also would not remove agricultural ground.

Jones And the other issue we always run into is that, you know, the Marburgers are not going to always own this home. Once built then gets sold to another individual. So, while I can appreciate the story line that they're there to support the family, we're just sectioning off a piece of land to build a house. It's very nice that the use will have for some point in time but it's, gets back to the original question. If we've approved one set of commitments, we've worked with the airport to help support them in, uh, instances and take a lot of heat for it yet we're going to make special exceptions? Uh, you know –

Mundy This does put us in a difficult position, uh, if we, uh, don't clearly have – we clearly have a path but there is logic that says you could deviate from it too. Now of interest to me, um, and we may ask the petitioner to come back up about the land which could be used, uh, outside of Tier 1 which would not require that Special Exception.

Buroker Does this constitute our rebuttal? Is this our rebuttal time? Go ahead on the wooded area.

Mundy Yes, if you could.

Thompson So the reason we picked the area that we did is because it doesn't detract from the agricultural area of the rest of the land. Um, knowing that the land is zoned agricultural, the desire is to keep it agricultural, um, that the wooded area that we're building makes sense from that perspective. You know, we're out there five days a week – we're very familiar with the airport and, and what goes on there. It doesn't bother us. Actually, we enjoy it. Um, and, and so that made the most sense. The area to the east, um, that's farmland we want to keep it farmland.

- Marburger There's a very small section of wooded area. It doesn't really give you – there will be tractors running up and down – that's the farm right there.
- Thompson Yep.
- Marburger And this is the, this is the one section that isn't being used as an alfalfa field or a bean field or a corn field and it puts us nestled back in the woods, off the road and gives us direct sight of, you know, the back of my dad's house, the barn, the horses.
- Mundy So the other, the other wooded area you ref – I guess Mr. Lake referenced is –
- Thompson A forest that runs through there.
Mundy Pardon?
- Thompson There's drainage that runs through that.
- Mundy Okay.
- Buroker Joe, can you go to slide 3 if you're back on that? Do you have that up?
- Lake I think to Larry's point it's a slippery slope when we start to approve one regardless of the story. You know, we've – we're asked by the Town and by the airport to try and hold a line to preserve safety and you said that there is no safety issue that is injurious by putting this house here. Well, actually, there is – it's injurious to the homeowners themselves that we've said that this area shouldn't have houses in it because it's in that flight path and if a plane were to come down on takeoff or landing, they, in fact would be the ones that are – that could be injured in that process. So that's the, that's the line we're being asked to, to toe here by the Town and by the airport. And so when we allow one of these then we've got to allow another one and we've got to allow another one.
- Buroker You, you don't have to.
- Lake Well, we don't have to –
- Buroker Right.
- Lake But we're setting the precedent legal, we're setting the precedent so, uh –
- Buroker It's all findings of fact –
- Lake It is, it is.
- Buroker Facts with respect to this property alone.
- Lake But as an attorney, you're, you're setting the precedent –
- Buroker I'm not setting a precedent.

Lake And you know how slippery of a slope that can be, um, so, you know. And then to Larry's point, so if it's one house on three acres and it's another house on three acres and it's another house on three acres, all of a sudden it's 10 houses on 30 acres and then, you know, the 10 houses aren't acceptable ones. So, we're just, you know, I think we're very, trying to be very cognizant of that.

Buroker Totally understand. If I can – and maybe Darren can address this. I mean, again, this was a Comprehensive plan amendment, addition to the Town's Comprehensive Plan, right? Under state law, you have to give due regard to the Comprehensive Plan.

Lake Yes.

Buroker Right? It's not binding upon you. And so, you know, on the Airport Strategic Land Use Plan it's a Comprehensive Plan –

Lake Yep.

Buroker You have to give due regard to but that you're not bound by. So, Councilor Traylor who was on the steering committee, Steve Sachs, Sam Sachs who was on the steering committee, uh, Bill Frye who is on the Hamilton County Aviation Board, um, you know, these are the – this is the group. The Town of Zionsville's steering committee and the Hamilton County Airport Authority and, again, Councilor Traylor who was on the steering committee, Sam Sachs who was on the steering committee, Bryan is on the Town Council who approved this. have all said we can support this and think, thinks, think it makes sense. So, that, that's all I would share with you and I probably should have done more on this plan since that did not come before the BZA. President Mundy, I guess that, that point is well taken. You haven't seen it and it wasn't part of your process but I would just say here are the acknowledgments – steering committee, Town Council and the Airport Authority, you know, two or three people of which who are here have said we're okay with it, it doesn't present a safety problem. I, I would just argue that that's persuasive.

Lake And them and their organizations are also up here telling us that building houses in that zone does pose a risk. So they're, they're talking out of both sides of their mouth on the issue. Because they're, they're specifically telling us and Plan Commission don't allow houses in there but oh, wait a minute – allow this house.

Buroker Uh huh. Yes, that's what they're saying.

Lake So – yeah.

Buroker Any other questions for us?

Mundy Any further questions?

Sachs And if I could, if I could speak real fast here just to clarify something on that. I, I want to clarify the, the airport and the Airport Authority are not saying please allow this house in there. We're not, we're not coming out, uh, you know, in full support of this. We're just saying we are not going to, to stand up here and, uh,

try and, and fight this like we have with other neighborhoods. So, we've, we've stated our facts, we've talked to the petitioners, um, and, yeah, I, um, you know, I, I fully agree that you put a house in the flight path – I don't care if it's one or if it's 100, uh, there is a concern there. There is a safety concern there and I've had that conversation with them as well, um, that, that, I mean, you, you are going to be underneath the flight path of, of, you know, 40,000-50,000 annual operations a year and there's a concern there. Now, again, statistically speaking, you put 100 homes there, there's a larger concern than one but there is still a safety concern there, uh, but it is a lower concern in our opinion. That's all.

Mundy Thank you. Any further discussion within the board? Is there a motion that someone would like to make?

Pickell I move that Docket, uh, 2022-13-SE, a Special Exception petition for the property located at 11634 East County Road 100 North, Sheridan in rural agricultural zoning district be denied as presented. If approved it shall be required that the petitioner execute the right to farm acknowledgment documentation.

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

Lake I'll second.

Mundy Thank you Mr. Lake. Any further discussion?

Postlethwait Yes, I, I have to tell you I'm, I understand the, um, the reservations about having, allowing the construction of a house in an area which, in which a preference has been shown to not allow development. And I would understand completely why you would not want to have, and according to Mr. Jones' comments about what is in – is it three, is it seven, is it 10 – I understand that but that argument – but, now is this to imply that the Marburgers', um, parents should be moved out of that area because they're living in a high-risk place? And if you're, if you're going to say well no they're 100 yards east of the high-risk place does that make them somehow safer – I mean, are they living in a high-risk area, high-risk zone? Should, should she be worried about her mom and dad in the house where they're living? Um, it just is – to, to my thinking, I would understand not having a high-density development or a, a group of houses but I also think the chance of an individual house being hit by an airplane, um, that's coming in to that airport is probably about the same as being hit by a meteor, which, or lightning in this state. So, I guess I just – I don't know that that argument, for me, that argument does not wash and I would be in favor of, of approving this.

Mundy Uh, and I think it might be – I, I tend to feel the same way. I, we are here because we can make an exception and the case to me is very different than probably any other we can see. How many houses are currently in Tier 1 right now? Already there – some may have been there for years –

Marburger There's a number of houses surrounding my, my dad's property.

Mundy That are in tier 1?

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- Buroker Yes, there, there are at least four by my count. I didn't have the exact overlay on it but – yeah, there are at least four other homes that are in that tier 1 currently that at the time of approval and, of course, you know the existing home that's there now, uh, was there in 2006 long before the airport study as well.
- Lake I think –
- Marburger We're not looking to develop the land. We just want to build a house to live there to help take care of –
- Lake Which I get and I'm completely sympathetic to. The challenge that I have is they're the ones placing this burden on themselves by picking this specific spot on the overall parcel. There's a hundred and – was it 50 acres? A hundred, hundred and five acres? And they picked three that just happen to be in the flight path. So that's where I, I struggle. Like the, the Comprehensive Plan didn't cause this problem because they own three acres and they only own three acres and the three acres already happens to be in the overlay zone. There, they have anywhere on 105 acres except for where the current house and barn are that they could build this thing and they happen to pick three acres that are in the overlay and not, uh, less than a third of the property, my guess is, actually falls within that overlay zone.
- Postlethwait But I would argue that if you're 100 yards, if you're 100 yards to the east of that line where the overlay is, are you safer, seriously, than you are if you're 100 yards on the edge of that overlay? I, I don't – I think there's an exaggeration there – I, I'm sorry I, I don't see – on the whole surface of the globe the difference there. So –
- Jones And what I'd like to point out is that – you know the airport's been there how long? What '50s, '60s?
- Mundy 70.
- Jones Yeah.
- Mundy Early '50s.
- Jones What's transpired over the last, you know, maybe almost decade is that the airport has indicated that they are going to be expanding their uses. They're going to be expanding their runways, they're going to probably expand buildings on their, on their site for, for other purposes. So, the airport has been very clear in identifying that as they expand their operations they're going to expand the risk of planes landing and planes taking off. So, between the airport and the Town of Zionsville, we've worked to come up with an agreement – my understanding all parties have agreed to – that we're going to dissuade additional development in these areas. Doesn't mean a single thing about any house existing there now needing to move or be raised or be, you know, they should vacate. It's just, it's a matter of we've identified a certain set of circumstances that are going to increase risk and to be good stewards we've made an agreement, both the Town and the airport, to try to, uh, limit some of those issues and now that it's all signed, sealed and delivered, it's our job to enforce it and that's it. And if the

Marburgers, like Chris is pointing out, you know, if they were on the edge of it, if zone AG just nicked a piece, you know, we could see it but they're dead center and dead center is something that's known.

Mundy Any further discussion? We have a motion that has been seconded to deny this petition. All those in favor say aye.

Jones, Lake,
Pickell Aye

Mundy Opposed same sign.

Postlethwait
and Mundy Nay.

Mundy Aye. It's 3-2. The motion is denied. I'm sorry the petition is denied. That will be included in the Finding of Facts at next month's meeting. Next on the agenda 2022-14-SE, Blessed Beginnings Broadcasting, Inc. at 6630 South 200 East, Lebanon, Indiana. Petition for a Special Exception to provide for a Wireless Communication Facility on a parcel in the Rural General Agricultural Zone (AG). Yes sir, you the petitioner?

Lawrence I am a representative of petitioner. I would ask before I begin if we could hear both of these two next ones together. They're, um, intertwined.

Mundy That's fine, yes. We'll vote on them separately but, uh, you go ahead and cover both of the petitions is fine.

Lawrence Okay. Thank you.
Mundy Uh huh.

Lawrence Good evening members of the board. For the record, my name is Rick Lawrence. I'm an attorney with the law firm of Nelson & Frankenberger with offices at 550 Congressional Boulevard in Carmel. I represent the applicant, Blessed Beginnings Broadcasting, Inc. regarding the pending Special Exception and Development Standards Variance before you this evening. With me tonight are Brian Walsh, owner of Blessed Beginnings Broadcasting and Garrett Lysiak, an engineer with OWL Engineering EMC Test Labs out of Minnesota. Garrett also previously worked for the FCC out of St. Paul for 13 years. Brian currently operates radio stations in Warsaw and Fort Wayne, Indiana and has contracted to purchase the FCC license for WNFI 1070 AM radio station that operated in Indianapolis for the last 55 years.

The station's transmission towers and support building were previously located along I-65 in the town of Whitestown but were recently removed to facilitate development of that real estate. That location is approximately 4.5 miles as the crow flies for the proposed location here in Zionsville. As noted in our explanation provided in the BZA brochure and for historical reference, 1070 broadcasted in the Indianapolis area for over 55 years before it shut down in 2021. 1070 became an important part of the community as one of only 32 50 kilowatt radio stations remaining in the United States. Brian and Blessed

Beginnings wants to bring that resource back to this community envision in a station that would be a community resource focusing on local issues and playing oldies music similar to its existing AM station 1450 in Fort Wayne, Indiana. To do so, Blessed Beginnings seeks to relocate the transmission site which would require the installation of new towers and support building on a 75-acre parcel located at 6630 South 200 East which is at the southwest intersection of East 650 South and 200 East and is shown on the map on the screen. This map is also located behind tab 2 of your brochure. Access to the 75-acre parcel would be via an existing grass road located adjacent to the homestead as noted on the aerial and further detailed on this exhibit. Next one, there you go. Thank you Joe. That red arrow at the bottom indicates the access road, the grass access road.

Six transmission towers would be required, which towers would be bright in color and erected to a height of 200 feet. The height was chosen to minimize the environmental impact as towers in this area under 200 feet do not require a warning light on the top. All six towers would be connected to a 20 x 20 x 10 foot control building constructed with concrete block. I want to note that the original request indicated a larger control building but upon further analysis, the petitioner can commit to this smaller size building. The building would have transmitters, phasers, generator and other equipment and an emergency generator also located at the site. Next slide Joe. Shown on the screen now is the proposed general location of the towers and control building which is also behind tab 3 of your brochure. In discussions with the owner of the 75 acres, we anticipate he will continue to farm the remaining area outside of the immediate location of the towers and support building. To accomplish the above goals, Blessed Beginnings has filed the pending applications for a Special Exemption to permit a Wireless Communication Facility on a parcel in the Rural General Agricultural Zoning District and a Development Standards Variance to provide for wireless communication towers that exceed the allowable 35 feet to a height of 200 feet on a parcel in the Rural Agricultural Zoning District.

Now that I have reviewed the request in general, I want to detail why six towers are required and at a height of 200 feet as that is the meat and potatoes of this request. At its most basic level, AM is different from other signals such as FM, TV and cellular. For those others, the tower holds an antenna from which those signals emit. In an AM station, the towers are the antenna. The tower array works together to form a signal that only points in certain directions. This set up is necessary so as to avoid conflicting with other nearby stations utilizing that same frequency. Shown on the screen – Joe next screen – shown on this screen – Joe you skipped it – oh, wrong way – yep there. Shown on the screen is a map of the U.S. with other 1070 stations noted. It's a little hard to see on the screen, but each of those circles represents another 1070 station and when you build or construct or relocate a current 50 MHz station on the 1070 spectrum, you have to be mindful of those other stations. Technically, one wavelength of the 1070 AM frequency is 918 feet. That is important because the height of a tower antenna is set to optimize the power efficiency and should be mathematically related to that height. So in this case, the old towers that operated were 230 feet which is one-quarter of 918 feet. In this proposal, as noted, the applicant has limited the height of the towers to 200 feet which was done to address the environmental concerns regarding lighting on top and potentially having to paint the color of the material. Because the height is no longer optimized, the number of towers and their

placement are needed in order to address any FCC concerns regarding the signal strength and its impact on nearby stations. As was detailed in the letter provided to staff earlier this week from Garrett from OWL Engineering – next slide please – an analysis was done to further indicate that the towers can be lower and that resulted in insufficient efficiency to meet FCC guidelines. While the engineer with us tonight is more capable of describing the above and explaining interactions with the proposed signal and related signals throughout the United States, I wanted to show the board the nighttime map that further necessitates the location and design of the tower. Next slide. So, at night you also have to be aware of how the signals are relayed throughout the United States and in this instance there is a different pattern that you have to be aware of and manage for. The FCC dictates strict protection requirements to these other signals in the United States. That's why we have to directionalize and the only possible way to do that in an AM is with multiple towers in an exact arrangement as designed by an engineer. In this instance to protect these other stations and given the geographical territory in which this station must be located, this is why a proposed, a proposal of six towers at 200 feet in height. I also want to mention that the signal, that station has to be relocated to an area which is within an adjacent area to where this tower previously existed which is why this area was chose. Next slide please.

Shown on the screen now is a specific section of the FAA Guidelines regarding light standards for obstructions with the relevant section highlighted indicating that given the location of these proposed towers at 200 feet in height no light on top is required. I also want to confirm that the proposed towers will be self-supporting. Next slide. There you go. That on the screen is a 200-foot self-supported AM station. While this tower does have some additional antenna on, near the top, that is not proposed for this, um, project. Also for reference, the local Government Officials Guide and Radio Frequency Safety FAQs from the FCC were included in your brochure behind page 4. This was only included to reference the fact that the FCC has rules and regulations that regulate the installation and potential health hazards of all different types of antennae. The FCC takes these matters very seriously and as Garrett can elaborate if needed, licensing is dependent on meeting strict compliance with these standards.

I now want to provide some context regarding the proposed towers which might address some of the remonstrance issues that have come up. Next slide. Circled there on the screen in yellow is a six-tower array near New Castle, Indiana. While this isn't exactly the location we have chosen, I wanted to bring it up because it does show a rural location for a six-tower array. The arrow that's shown there on the site gives the view on the next slide of those six towers – those are 400 foot towers, guided. This is not what we're installing, proposing to install on this location. We are proposing 200 foot self-standing towers. The next two slides show that tower array which you can barely see in the upper right corner from different locations associated with that site. This one's about 0.4 miles away and the next slide is along State Road 38 about 0.3 miles away and you can see those towers, those 400-foot towers in the distance. Next slide. This diagram shows the distances and miles from a couple of the different housing areas located by this site – 0.5, 0.65 and 0.65 along those areas.

Comments were made regarding the diminution in value of property values. In response to those comments, I would only note anecdotally that approximately 4.5 miles to the east – next slide – there are two towers located in that blue box and as you can see on this overhead aerial, there was a housing development that was being constructed in that area – next slide – which that housing development was completed and apparently sold out located immediately adjacent to two towers. Next slide. This is an aerial view of the WTHR TV antenna which is located down there in the bottom center. That tower is approximately 1,000 foot and I believe it's one of the tallest towers in Central Indiana and all of these homes around this area in Carmel are million dollar homes. I just want to point out that while I understand people's concerns, towers generally have not caused people to shy away from building in these areas located next to towers or, um, resulted in diminution of value according to our research. With that information stated, I can have Brian answer any questions or Garrett answer any technical questions. After you hear comments from the public, we would ask that you consider these, both of these matters positively and, um, per the Findings of Fact that we have already submitted. Thank you.

Mundy Thank you. Any questions for Mr. Lawrence?

Lake Has an environmental assessment been done relative to any health concerns, uh, because of the RF frequency?

Lawrence Garrett's coming up. I, I will add that it's a very expensive process to go through installing towers so we've bifurcated the request pretty much in two parts – we need the Special Exemption, Exception and the, um, Standards Variance in order to basically do the second step which is to do the more complicated engineering, um, but Garrett can answer that question specifically.

Lysiak Good evening. I'm Garrett Lysiak. I'm the, uh, Registered Professional Engineer from Minnesota. Don't hold that against me please. Presently in my, in my former life I was the engineer in charge of the FCC office in St. Paul, Minnesota and I dealt with interference and all kinds of issues.

Just a little background. Um, AM radio is a little different for any interference than other forms. Um, over the years, AM radio, their main interference was to, uh, electronic devices like organs, telephones, audio devices but over the years, as we know, all of these problems can be eliminated if there were interference – it was the device that was the problem, not the radio station. And over the years, as we know, people have gotten rid of land line phones so we don't have any more interference on telephones. I haven't had an interference complaint on telephones in 20 years. We used to get complaints about organs, Hammond organs. The FCC over the years developed a, a brochure and addressed the manufacturers to put filters in this equipment to eliminate the problem because it wasn't the radio station, it was a device, uh, acting like a radio and it was never intended to be. Most of the people complain today – I, I've heard FM stations, for example, they would get into TV – you had amplifiers on your antennas and felt it caused a problem. That's been eliminated because we now have satellite and cable. The latest interference is 5G and like I say to people – I have 2G, 3G, 4G, 5G – nothing changed, just the name changed.

The FCC did, does consider RF radiation a hazard as a standard and in the case of this station, before they do anything, they have to verify that the towers will have a fencing around them because these towers are hot. They're not like FM towers with antennas on top. So the base fences around them have to be a certain distance, uh, that's approved by the FCC. And after, uh, the station is built, for example, my clients, I go out and I actually measure the radiation to make sure that there is in compliance. You also asked about the environmental concerns. Before the tower is built they have to have an environmental study done to prove that there is not a burial site, migratory problems, um, so that's, that's done in the FCC permit process – it's all part of that process – the EPA, the EPA.

Lake So the environmental assessment I was referring to is specifically in this nice, big document we were given was related to health hazards.

Lysiak Yes.

Lake So, not interference, not burial grounds –

Lysiak Right, right.

Lake Health hazards.

Lysiak The, the FCC back in 19, uh, I think 97, uh, developed a standard that was peer reviewed for radiation. It hasn't changed. There's two standards: A, uh, an occupational standard for people working near RF devices and there's a general public. The difference is the U.S. standard is pretty, pretty tough. What they have is, um, a 6-minute radiation standard for occupational. For, um, general public it's 30 minutes. So the standard is five times stronger for a general public than it is for occupational. So, uh, the FCC has addressed that. There's a, a very big standard, um, and over the years I've worked with like high-powered stations and you gotta remember the radiation diminishes greatly with distance. You can go, uh, let's say it's 10 feet – the fences are 10 feet, you measure them – well you go 15 feet and the radiation can drop down a third of what it was. So it's very distance dependent. There's not going to be a hazard for people walking next to them or 100 feet away – it's, there's no, there's no problem. It's not 5G where you have frequencies on a microwave and you can't stand in front of the antennas. These AM stations you could stand, you can stand in front of them all day long and not even come close to the radiation value. So I don't – there's no health hazard with AMs per se. So, and the fences protect, uh, the tower so nobody can go and grab one because they will get shocked. Um, so like I said, the interference issue is – for AM stations has been very, very, very diminished because of, uh, the technology changes, but – if you have any other questions I'd be more than happy to answer them.

Jones Quick question – what about attaching other types of antennas to these antennas? Like cellular or microwave or –

Lysiak These towers wouldn't be designed for that. Typically, uh, you don't, they don't like to go on AM towers because, like I said they're hot RF wise so they have to have iso couplers and all kinds of extravagant means, um –

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- Jones Okay.
- Lysiak And these towers structurally aren't designed to have other antennas on them. They're not, they're not going to be strong.
- Lawrence Brian – sorry.
- Lysiak Go ahead.
- Lawrence Brian will commit to not installing other type of, um, uh, antenna on these, these towers.
- Lysiak Typically I, I see clients that I, and they, they don't – the, the cell companies, for example, avoid AM towers because they have to – because most cities and counties have a requirement in their zoning you gotta have existing structures first and then, the list goes down, uh, and before they use an AM tower they, they avoid it. It's just very complicated.
- Postlethwait So I would just say that, that your response to the question about, uh, environmental impact and health impact was not comforting to me, particularly when you mentioned that, that the impact diminishes over distance can be X at the site of the tower and then it gets less as – but there is still an impact. I mean that's the –
- Lysiak Yeah –
- Postlethwait That's the bottom line, correct?
- Lysiak RF radiation is the term and it's a hazard but, I, I agree but the difference is when you're – let's say they build the station as designed and let's say the fences have got to be 10 feet from the towers – that, that distance is figured out so that you never get near the radiation level to be a health hazard and as you walk away from that antenna, it dropped – the radiation level drops way down. There, there is no problem, I mean, with AM stations. If they have the right fencing, it's not a problem. Because they start off already protected by that fence.
- Lake It's kind of like a MRI – it has gauss lines and –
- Postlethwait I understand.
- Lake Pacemakers and –
- Postlethwait Right, yeah. I understand.
- Mundy The fence is merely a physical barrier. It doesn't do anything to diminish the R – the, the irradiation, right? Am I correct?
- Lysiak Distance.
- Mundy It's just a plain fence that keeps –

Postlethwait It's a chain ling, chain link fence I would suppose, yeah.

Lysiak Well typically they don't put metal fences up because it's, it's a problem. They usually, now they're using like a plastic because you don't have to worry about ground wiring and other things. But you've got to understand you start off at a distance that's already well below the standard so you can't get any worse than that. And as you go further away, it's like background. You get more radiation from the sun. One other question and comments have been is why do you need six towers and Rick described all these problems but the problem is really they have a daytime pattern and they have to protect station, not only on 1070 but they do 1060, 1050, 1040, and the numbers change. So, when you look at their pattern they have, they have nulls in their pattern because they are required to protect stations that could be 500 miles away and at nighttime it gets even worse because they reduce their power from 50 kilowatts to 10 and the pattern really gets pulled in because you're protecting stations that could be 3,000 miles away because at nighttime, as you know, you can hear AM stations 5, 6, 700 miles away at night. The distance gets really great so they have other protection problems at nighttime.

Mundy Thank you.

Lysiak You're welcome.

Mundy Are there any members that are here tonight, any residents here that would like to speak for or against this project? Yes. If you'd come. You can cue up over here if you'd like. Please give us your name and address for the record. Seeing that there are several of you, I would ask that you be relatively brief. If you're going to be saying the same thing that the person said before you, you can say it just about that quickly, uh, and then continue on. Go ahead.

S. Diener My name is Shelly Diener. We live at 700, 730 South, 730 East 700 South. We're right in direct access of these towers. Um, and I don't understand – first I would like to say publicly we're both Christians, believers in the Lord Jesus Christ and we don't need to listen to – we don't actually have radio access in our house, first of all. Um, and we, we, if we need to listen to the news we find other means of access. I think this is a waste of towers going up. Um, and there's plenty of other, I mean, they've, the first letter that came out they told us that they weren't abiding by any of the rules, um, and, unfortunately, I don't have that letter present with me. It was a green letter and, I wish I had it with me tonight, um, but apparently they were supposed to – from the old site they're supposed to be at least 7 miles northeast of the old location. They are northwest and we heard that these towers were, were going to be less than 20 feet apart. I don't know if that has changed at all because it looks like the site got bigger, um, the original site was smaller than that. Um, and, I would like to talk on behalf of the mother-in-law of Brian Walsh, um, because she takes very well care of her house and her property and I would not like to see her live under these towers. Yes, I do know and I overheard this from one of my neighbors that they, he is going to find a house for her to live in somewhere northeast of the, of these towers. Well if he is going to find a location he may as well find a location for everyone else because that's not fair for just her. I mean, yes, it's fair but what about everyone else that has to live around these towers? Second of all, I'd like to point out I, myself,

have a medical condition called epilepsy. It can be caused by stress, it can be caused by nerves, it can be caused by anything – lack of sleep, radio waves. I don't need this. I find, I find this as a waste of time. I mean, there's plenty of land northeast that they can be building these things. And it's all because Crow is leasing it to Walsh and if Brian would like to get up here and stand up for himself he can, he can admit that for himself, but I know that for a fact because we read it in the recent letter that we got,. And third of all, we heard that Crow leased it to Walsh because he didn't want to keep up that farm, keep up that, the harvesting of the agricultural farmland and apparently these towers weren't going to be an eyesore to our country setting. This is why we chose our house in the first place. It's in a nice country setting, peaceful just like one of the other, um, remonstrators before said that there with music going on. They like to hear all sounds of the season. I'm the same way. If this is, it's going to be an eyesore and six of them, I mean, I don't, I had, I have an aunt that was taken –

Mundy I'm sorry to interrupt but I think you need to be rather succinct here. Uh, if you could deal with some facts, uh, and not other people's opinions, uh, let's make this, uh, a couple more minutes and then that's it, okay?

S. Diener Okay, yes. Um –

Mr. Diener This is in the flight path of Indianapolis Airport –

Mundy That has, that's not been said but let's get on with the facts and then –

Mr. Diener Because I've seen –

Mundy And then let's let the next person speak, please.

Mr. Diener FedEx planes come over our house all the time. Has, has Indianapolis Airport been, uh –

Mundy That's not an issue for us.

Mr. Diener Okay.

S. Diener And my, my husband has also found artifacts, um, on Bob Wiley's land of, of Indian arrowheads. So, I would believe this to be native ground. I don't know if they've found any artifacts but I would believe it to be part, part of native ground.

Mundy Thank you.

S. Diener Thank you.

Honey Hello. My name is Kurt Honey. I actually live at 6630 South 200 East, so, um, my five acres was sectioned off from this larger 80-acre parcel, uh, about 20 years ago. So, um, some concerns I have would be in this, its statement it says they'd be bringing resources to the community. I'm, I'd be curious about what those resource, resources are that would be brought to the community. Um, I'd like to understand what kind of sound might be emitted from – not necessarily

from the towers but from the building that's being constructed because that would be just directly across the, uh, drainage ditch from my property. Um, and I did reach out to, uh, a property evalu, evaluator, estimator, um, John Snell Real Estate Evaluation, and he said it's, it's unclear whether or not it would affect home values. However, he said that it definitely would limit potential buyer pools in the future. Some people are not going to want towers in their backyard. So, obviously, those people would have that choice in the future those of us that live there that's, wouldn't be our choice if they get put there, right? So, um, then, um, I guess, so, uh, Helga Walsh, actually is my ex-mother-in-law. She lives 29 feet behind me on the same property. So I guess I would say I'm disappointed in Brian that I had never heard anything about this. He did reach out to me on the 19th, um, I wasn't – I didn't have phone number so I didn't know who was calling. I thought it was a spam call, but, uh, obviously, he's known that he was looking to do this more than three weeks. I guess, I would say I was disappointed that he never reached out. So, but, I think that's, uh, all my concerns at this point.

Mundy You're, uh, interested in knowing what sounds are going to be produced from the, uh, the control building there, uh, home values, uh, effect on home values is unclear but it might reduce the market.

Honey And what they'll bring to the community.

Mundy And, uh, and the, uh, value to the community –

Honey What they're bringing to the community.

Postlethwait The benefits.

Mundy The value to the community.

Honey That benefits to the community.

Postlethwait Community benefits.

Honey Correct.

Mundy Yeah. And I, we can't answer those things but these are the people that can, uh, and then I think we can get some of this perhaps from the staff and we may have to dig further as well.

Honey Okay. Thank you.

Mundy Thank you.

Hulse Good evening. My name is Brad Hulse. Uh, my wife and I bought land at 1836 East 600 South 31 years ago, built our dream home. We are a half a mile north of this project, proposed project, and our house faces south so these towers will be in unfettered direct line of view of our front porch, our kitchen, our, our home. Um, in addition to having lived there for 31 years, I've been a resident of Lebanon for 55 of my 67 years. Um, we, we find the idea of sitting on our front porch looking at these six 200-foot transmission towers, uh, just reprehensible. I

will say that when I lived in the town of Lebanon I often, well daily, drove I-65 to and from Indianapolis. I remember when those towers were off of I-65 and in all of those years that I went back and forth between Indianapolis not once do I remember anyone saying to me “aren’t those towers just the most attractive things you have ever seen? I wish we could find land so we could live closer to them and have them in our view.”

I also want to tell you that a few years ago when Whitestown and Zionsville were at odds over the annexation of Perry Township, my wife and I were all in for Zionsville, including help pay Kent Frandsen’s, uh, time and effort, um, to represent Perry Township, um, because we frankly believed that, uh, not only was the tax, um, situation more attractive but we believed that Zionsville would be more likely to protect our property value than would Whitestown. And I’m hoping that, that you’ll prove me right on that. Um, not only do we cringe at the thought of an unfettered view of these towers, uh, and the potential loss of property value or at the very least, uh, loss of potential buyers, uh, we are concerned about potential interference. Um, I don’t own a Hammond organ but I do still have a landline. Um, we have no access to DSL or cable. Everything that we receive through television, uh, or internet is by, uh satellite only. Um and these towers are 20 times more, more than 20 times more powerful than anything Mr. Walsh operates. Uh, and I have a great concern about his experience with operating towers of this magnitude and power. Um, you know, frankly, the reason he wants this land is because his – I don’t know if it’s his mother or his mother-in-law lives there and he can acquire it cheaply. Um, it was earlier observed in this meeting, um, that there is, um, limited patience for people who don’t do their due diligence when they buy land. Well I didn’t have the opportunity to perform due diligence. These towers were not here when we bought our land 31 years ago, uh, and so, um, unfortunately, then whoever may one day buy our land will be doing their due diligence, uh, and I am concerned that that will limit the number of people who will look at our land. Um, these towers will bring little or no benefit to the Town of Zionsville, uh, but it will potentially destroy property value for a lot of residents who’ve been established in a neighborhood for decades. So, I, I just ask you, um, even though we’re 9-10 miles west of Zionsville, we are now a part of you and I would ask you that you would respond to our concern as though those towers were being built across the street from your properties. Um, and I thank you for your time.

Mundy So interference with things like landline phone, property value, TV reception and the benefit to the community.

Hulse Right.

Mundy Thank you.

Fisher Hello. Um, my name is Tania Fisher and I reside at 1805 East 700 South, Lebanon with my husband, Tom, and from the looks where those towers are going to be I’m going to be looking right at them, right out my front window every day. And I know that – what I was going to get up here and say was ditto because I agree with everything that everybody’s said. I don’t know a lot about towers. I know they’re ugly. They’re 200 feet tall and there’s six of them. They’re so small – I mean 200 feet tall. But, but when you were talking about

they keep saying that the radiation goes down the farther you get away but I didn't really hear whether anything environmental study had actually been done yet when they were talking about it and I'm pret, pretty close to where those towers are going to be and my life doesn't have to be shortened because of an unknown. I mean, I'm old, yeah but should it be any shorter because we'll, we don't know – it might, it might not impact you in some way. So, sorry – I'm really nervous. I'm not a speaker like this up there. And, you know, it's basically what everyone else said. They're not going to enhance our way of life. When these towers – if something happens and the 1070 or whatever AM station it is goes to funk will, what'll happen to those towers? They'll still be there. What's going to become of them? Will they turn into something else? I mean, it's too many unknowns and, you know, I just don't want to look at it all the time quite frankly. I want to be able to sit outside and there are no trees. Like they were showing the pictures and there were tree lines with the towers. These are fields and you can see all the way to the next road 600. We're just going to see the towers – a line of six – and I think that I might even be what I call a blast phone where the towers supposedly power down at night but to get to Indianapolis they're going to be right through and I'm right there. So, I do appreciate your time. I'm hoping, and I also had the same thought, that it was the reason that people wanted Zionsville in Perry Township to incorporate us because, you know, for this very same thing. Whitestown – building, building, building, and you guys we thought would be a little bit more stewards of the land. Thank you very much for your time.

Mundy Thank you Mrs. Fisher.

Goshe Hello. My name is Jane Goshe I live at 1650 East 700 South. I am, I would be directly south of the towers and I agree with what my neighbors have previously said. I also take my dog and I walk back amongst those fields every day for exercise. It keeps us off the road, it keeps us safe. I'm not going to feel safe with those back there now because there's – it's like health reasons. I, yeah, you can tell me that radiation is dropping off but 10 years from now they say I've got cancer, I mean, I know it's, it's part of life. It can happen. You can walk out the door and get hit by a bus. But I don't see any benefit to us there. And one of my biggest concerns are – I get my internet from iLines off of her elevator and it looks like that's all going to be in direct line. I've talked to a gentleman at iLines – he doesn't think there will be any problems. I work from home. If it bothers my internet I don't have an office to go to. I either have to go find another place to work or I lose my job. So there's something else to consider because right now nobody can say it shouldn't bother it – they don't know. There's six towers – that's a lot of frequency and airwave and everything going on. So, thank you.

Mundy Thank you Ms. Goshe. And so you're, the one concern I heard there I haven't heard is access to your iLine for internet service. Yes ma'am.

Alcorn Hi, I'm Patricia Alcorn. I live at 7017 South 200 East, kinda cattywampus from where all those towers are going to be. Uh, I will see them outside the orientation of my home and our patio and our firepit – faced directly at them. Um, we have been there for over 15 years and the towers were not even thought of back then. Um, I would not move near them. And when I made a comment to Mr. Walsh he just said well I have one a foot from my house -- well he chose that. I did not.

Um, I'm concerned about health issues and interference. I'm not an expert. I don't know all this. Um, but I just wanted to put my two cents in and I agree with the others. We don't want them there. Uh, I've lived in Zionsville for about 20 years and, um, moved to Indy for a while and then wanted to get back out in the country. And so we intentionally looked for a place away from all of that, um, we found it, we built our home and want to stay there until we are no longer living. But, uh, um, I know Zionsville is a good town and they do take care of the land and look at what options may be available for things that are intrusive to people and I just ask that you do consider this, that we, we don't want this. Thank you very much for your time.

Mundy Thank you Mrs. Alcorn.

Chelf Hi. I'm Shawn Chelf and I live at 7125 South 200 East in Lebanon. Um, I've lived there 30 years with my husband, Richard, and I submitted previously to the Board a three-page letter detailing, um, all of our concerns regarding all of this so I won't go over any of that hoping that everyone has read that, um, I certainly hope so. But I did want to address some of the things that were addressed by, um, the petitioner's representatives tonight. And, uh, part of that, um, was the, the wireless radiation, you know, the hazards and, um, all of that was – they had provided the FCC FHU2 which is quite old and outdated and, you know, FCC is, is a captured industry anyway. But one thing I did want to read that I found before I came was, um, there's actually been a federal court ruling recently, um, against the F, the FCC, um, and I'll just read a short excerpt of it if you don't mind. Um, "on August 13, 2021 the U.S. Court of Appeals for the DC Circuit ruled the Federal Communications, uh, Commission ignored scientific evidence and failed to provide a reasoned explanation for its determination that its 1996 regulations adequately protect the public against all harmful effects of wireless radiation." There's a lot more to it but that's the gist of it. Um, it, it's conclusively safe – that's just what it is. FCC says it's safe, um, they fall back on FDA, EPA, um, the WHO – I had a, a rep was in my, um, information that I sent to the Board, um, there, there are references out there of, of the actual health hazards and it has not been confirmed to be safe. So I just wanted to pound on that actually and also wanted to say, um, the, the measurable compliance, um, that is for a short amount of time. For the general public, that's measured for 30 minutes. We live there seven days a week, you know, all year round, you know, 24 hours a day. Um, I, I don't work so I am home most of the day so I am exposed to it, you know, living less than half a mile from, from these towers.

I have made it a point to educate myself, um, as soon as I found out about this project and I feel like certainly I'm not an engineer, I'm not an expert, but I feel like I have a good handle on this and, um, there's, there's no reason to, to have it. Um, co-location is a real thing. I know that the engineer said that that the AM towers don't support that – it's a real thing. I provided a reference in my, in my letter for that, um, so, if there is, um, I can't remember what you called it but a, a designation that if you do approve this – please do not – but if you do, please say that they cannot use co-location. Um, there's a ton of money to be made in that, um, for the owner, Brian Walsh, um, but more exposure for us because the, the more things that scab onto it is the more wireless radiation and the AM, the AM signal, while it is quite different than FM, 5G, etc., is still within what is defined

as wireless radiation. And, um, RF, EMF and so it is a concern. So it all does fall under that.

Um, I did have a, a few questions that I wanted to throw out. Um, if the, the petition says that it's the, the Blessed Beginnings, um, is contracted for, um, under contract for the FCC license. Um, I know that two of the stations that Mr. Walsh has are under his personal name and one of them is under Blessed Beginnings. I know that Blessed Beginnings is a nonprofit, um, something to do – he's affiliated with schools. We, there's nothing, there's no information out there. I don't know what that means but I don't know if that will change anything being, you know, will this be personally licensed to him or will it be licensed to Blessed Beginnings? Because then there are other things about, um, the nonprofit that we may need to look into that he may not, um, be fulfilling his requirements of that. Um, and then wanted to know about the, uh, the copper radials that, I, I assume that those are of a low grade but it wasn't specified in the petition so that's something – is that something that's going to run across the field, is that something that's going to be buried, um, just a quick question about that. And then I guess the last thing I'll close with is that, um, we've been told time and time again that FCC requires that the towers to be located, um, west, northwest of the original site and this is clearly southwest. I provided a map for that showing the exact location of everything. So it shouldn't even be here if, if that's truly what the FCC requires. And then as long as WIBC – the old WIBC, WFNI being such a valuable resource for the community then why did they sell out so easily? I mean, it is AM, is a dinosaur, it's old technology and I realize it's AM digital which I also explained, um, in my, in my information about how that differs – that if you don't have the special HD receiver, you can't even get it on an analog receiver and almost 70% of cars right now in the study, um, that was done in the telecomm industry that I also linked in my information that they don't even listen to HD radio, they listen to streaming or hook up their phones. So, I think it's a useless project.

Mundy Thank you Ms. Chelf. I can safely tell you that I think that this body has an answer to none of those. We, we don't know –

Chelf But maybe you could ask the petitioner those questions.

Mundy The petitioners would be able to answer some of those.

Hurst Good evening Board and thank you for your time. My name is Jim Hurst. Um, I'm a, my wife and I are 25-26 years residents of Zionsville but just the past couple of years, uh, out in Perry Township where my wife found a horse farm and moved us right at the start of the pandemic. Uh –

Lake Will you state your address please?

Hurst Oh, I'm sorry – 7175 South 200 East –

Lake Thank you.

Hurst So I am literally here with my neighbors. Um, it is safe to say that had these towers been erected or announced when we were looking for property, we

probably would've driven on and not been in this area. Uh, we have a, a beautiful home on a 5-acre parcel and 12 acres or so of farmland, uh, behind that where my wife grows some hay and has horses. Um, and I can tell you the Boone County Assessor is, uh, rather excited by the, uh, 5-acre parcel and, and the price they've assigned to it. Um, I think if these towers go up I'll have another reason to go speak with them about that. Um, I do echo, uh, everything my neighbors have brought to you. Uh, I do want to call out specifically there is a letter in your file from a Mr. Tony Carroll, who is a neighbor of ours, that is a very well written letter inviting everyone to look forward to what this southern part of, of Boone County in this very western part of Zionsville could be and I hope you will read that letter and re-read that letter and think about what we could be doing over in this section of Zionsville out in Perry Township. Um, the Town is currently, I believe, and, and Wayne, I know, could certainly correct any vocabulary I've got wrong here – is, is working on a common code for, for zoning throughout Zionsville including Perry Township, uh, and the Town is starting to work on a comprehensive plan and certainly before we would approve a special exception such as this, ones that are argued against by the neighbors, uh, maybe we all should have a chance to get together and, and talk about this comprehensive plan before we allow projects like this to go forward. Thank you.

Mundy Thank you Mr. Hurst. Go ahead.

My name is Bonnie Watley Kincaid. I live at 1905 East 700 South. As you turn on 700, I'm the first house. I built that house in 1978 and I was shocked to hear about these towers because none of us were notified. And then, I am really surprised about the Hammond organ. I've got an organ in my house – it's a big Baldwin – it's not a Hammond but it's a Baldwin and I have a landline. That's all I got to say. Thank you.

Mundy Anyone online Mr. Rust? No? Okay. Thank you. Uh, any questions that, uh, we have here from the Board members? Uh, hopefully, uh, the petitioner will have taken note of some of those. If you didn't, I can give them to you but I think in just a moment we'll ask you to at least address some of these so that we know what the, your answer is. Okay? Thank you. Uh, can we get the staff report please?

DeLong I'm certainly happy to provide that Mr. Mundy. I certainly appreciate Mr. Lawrence suggesting that both these matters be combined for discussion as that's highly relevant, uh, to your, to your process though certainly the petition of 14-SE is, is a petition designed to review a Special Exception request for wireless communication towers that are 35 feet tall. Uh, the variance that's in front of you tied to this, 15-DSV, seeks to increase that height to a, to a maximum of 200 feet. Uh, the Special Exception itself could not be considered without the consideration, the thorough consideration of the variance request.

Certainly the matter that's in front of you – there is ample technical data, uh, provided to you for consideration. Certainly if there's any analysis you would like done, staff is happy to facilitate that. It was not done prior to this evening – uh, the, the materials were provided certainly, uh, within the, the state statute window, uh, which, uh, mandates the report be provided to you within five days of the hearing and after that some of the materials simply aren't mentioned in the,

the staff report but certainly are, are in front of you this evening. Uh, certainly staff is, is not here to offer any statements on the, the energy, the RF, the environmental. That's certainly, the petitioner, uh, can, can address that but certainly your Special Exception process speaks to the items as listed in the zoning ordinance for its review. Certainly consistency with the Comprehensive Plan and it does speak to the proposal will not be injurious to the property, to the adjacent area or adjacent values. Certainly there's been testimony this evening that certainly can land on either side of that, uh, uh, combination of, of topics related to property values and certainly the proposed use will not be injurious to the public safety, comfort moral standards and the convenience to [inaudible, 3:36:17] certainly the petitioner has provided findings to you for your consideration.

Uh, the variance process is speaking to the height request. Certainly, the height request as documented by the petitioner is speaking to the, the need for that height for the, for the project that's intended. The variances, the variance, uh, is, is, is something for your consideration. As the staff report is assembled, uh, staff was recommending a continuance. We did not have the information, uh, uh, for staff to review to provide you a recommendation on the height and certainly when that information came in, staff has not had the opportunity to review it as we were busy moving on to other, other reviews and other, other, uh, items in preparation of tonight's meeting. Um, certainly testimony provided by the petitioner can certainly be considered, however, as, as evidenced and certainly provide you guidance as to is the height, uh, something that the Board, uh, finds supportable and approvable. Uh, again, staff's recommendations, uh, do stand it feels at least for a continuance as to give staff time to review the technical data that's provided, give that to the Department of Public Works. I would certainly – if we, happy to engage a, a RF expert, uh, to, to review any information that's provided to you, um, if you determine that the testimony brought this evening needs that, that type of analysis. And I'd be happy to answer any questions.

Mundy I assume that staff got – this is the document you're referring to – uh, in regard to digestion in five days?

DeLong Correct. That among other information regarding the, the RF, the daytime/nighttime, uh, various –

Mundy Yeah.

DeLong And, and certainly to say that staff is unfamiliar, uh, with radio towers is, is not – no one has said that, I mean, we're, certainly staff with 20+ years' experience with different petitions just on my own, um, reviewed various radio tower requests, uh, in Hancock County, Marion County, for example, and certainly those have been FM, uh, I don't have experience with AM, but certainly I believe that, uh, knowledge is transferrable, uh, regardless.

Mundy Well, I can't speak for other members, but I, I looked through this but it is, uh, 1) read time and 2) –

Postlethwait Greek.

Mundy Understanding.

Postlethwait Greek.

Mundy Yeah, uh, understanding what you've read afterwards. So I, I think we, uh, and I, I can't judge that the competency of the rest of the Board in terms of interpreting all that but I think we do need some of it distilled into, uh, an understandable language. Larry Jones probably understood it all, but I didn't.

Postlethwait He's done his diligence, no doubt.

Jones Hey, hey, hey, hey, hey. Um –

Mundy Any questions for staff?

Jones I do, I do have a couple of comments though, of course, you know. I wouldn't sit still. Um, you know recently we had the, uh, solar field proposal come to us and there was a lot of holes in their presentation but underneath there was a, a general benefit being provided and, and probably the need for some sort of alternative energy and solar might be it. Plus part, partially the reason they were picking those sites is that portion of Indiana sits at a crossroads of major utility lines. So it was, you know, probably kind of an efficient location for the type of, uh, alternative use of agricultural land that was being proposed. This one here, no one's really pointed out any clear benefit to anybody other than the property owner. There doesn't seem to be any benefit to Zionsville, certainly doesn't seem to be any benefit to the people of Perry Township.

Um, you know, regardless of the amount of radiation, whatever – it's fairly common knowledge and, you know, one of the things I'm sitting over here doing is thumbing through a whole batch of articles – you know, AM is, it is truly a bit of a dinosaur and my core concern would be is, so if WIBC goes away, what's the next use for this? They are entitled to be radio towers and we don't know what the next radio thing might be. And finally, you know, a lot of the residents of Perry Township sided with joining Zionsville specifically to have their agricultural lifestyle preserved and this has nothing really to do with agriculture. In fact, the, the land seems to be productive. There's a, a beautifully maintained regulated drain that runs through all of this area. I just, the petitioner has not shown a need other than their own personal want and it hasn't really been particularly accepted by anybody to date. So, I don't see any reason that we should really move this forward or to continue it for additional data.

Postlethwait I would agree because I think that the elements that are for me the most decisive are not the technical 'how does this all work' elements but the, um, the face of it of having these what I would call ginormous towers, um, sitting, you know, where they're visible to everybody and, and providing what seems to me to be a service that perhaps no one is asking for and that would be, um, sharing of information and, and, um, oldies but goodies music. So, yeah, I would not be inclined to also – I agree with Mr. Jones on this.

Mundy I, uh, I concur that we have not heard what any benefit, uh, will be derived from the residents of Perry Township or Zionsville or the County for that matter. So,

um, I, I'm failing to see that but I, I would, uh, assume that there's something and we should be able to hear that from the petitioner, um, in addition to some of the other points that the residents raised which, um, probably do get – some of them at least – get into the very technical area, uh, when it comes to health and, and radiation exposure and that sort of thing. Those are important questions but I, um, the simple one for me is what's in it for the County, the Town, um, what do we get out of this and why should we approve it? So, with that, uh, and the petitioner back at the stand maybe you could start with those.

Lawrence I'd appreciate the time to, uh, try to answer that question. I think the best person to answer that is Brian, um, Walsh with, uh, the one who is proposing to bring the station back. Um, I'll reserve any comments or responses to the other issues because I think this, you guys have, um, kind of narrowed down that this is your main issue to, to talk about and hear about and if we can't maybe get over this hurdle then the technical stuff I'm not sure is, is maybe worth talking about at this point in time. So I'll let Brian speak now.

Walsh Good evening. I'm Brian Walsh. Thank you for the opportunity. What we've done at our other markets in Warsaw and Fort Wayne is we've involved the community at a local level. Uh, we're extremely local. We work with the Warsaw Community Schools, we work with their career center program. The students up there have the ability that they wouldn't get unless they were in a paid college setting. They get this basically for free and then the high school gives some college credits. They do, um, broadcasting at basketball games, they do broadcasting at football games, and we wanted to bring the same local impact here. Now on the community side, at least in our market, there's not as many coverings of meetings similar to this in Fort Wayne. Mayor Tom Henry does the State of the City address – that was on February 9th – we broadcasted that on WGL, one of our properties up there. In Warsaw on May, no pardon me, on March 9th Mayor Joseph Thallemer did the same thing – we broadcasted that on WIOE. What I'm trying to convey is, from a community such as Zionsville, Perry Township, the County that doesn't have those voices or that ability for those students in the schools which is what we want to try to formulate when we get into this community too, if we get into this community, is similar to what we've done up in those other markets of Fort Wayne and Warsaw. You have any other specific questions about the programming?

Mundy Yes. I think the things you mentioned there, um, Mr. Walsh were, um, localized, very localized. Now, um, I'm assuming and you can tell me if I'm wrong but I'm assuming that, uh, the broadcast area for this station would be much bigger than Zionsville.

Walsh Correct. The city license the FCC has is Indianapolis and this particular location has to fit within, as Garrett said earlier, the specifications of the FCC. The FCC's purpose is to keep other stations from interfering. So when you turn on your television, you use your cell phone, you use a radio – it doesn't interfere, uh, with that service adjacent channels and it gets real technical but I won't go into that with you there. But back to the local thing, yeah, we're, we're pretty local. A lot of the stations, the way they get programmed is, it's on what's not exactly community oriented but it's what is marketable and sellable. Blessed Beginnings is a nonprofit corporation so our business model is completely different. Uh, we

have a whole different set of support through donors – most of our support is through corporations.

Mundy Other questions for Mr. Walsh? From a tax standpoint, from a revenue standpoint, uh, does the County, the Town, benefit in any fashion? This is a not-for-profit did you say?

Walsh The corporation is a non-for-profit, correct. Up in, our area up there, uh, we have to pay, we do pay some taxes. We don't pay the personal property taxes but we do pay where the building is the physical real estate sets, uh, the tower sites that we have in Kosciusko County we pay on that ground there. There's 10 acres up there and, uh, Fort Wayne, it's everything I have except for 101 is a very urban area. In Fort Wayne there's, um, it's 266,000 people live directly underneath that tower, um, right there and so we get, you know, we, we're taxed for that, I think. \$6,600 a year is what the Allen County tax rate is on that property up there.

Postlethwait So you're a 501(c)(3) or 501(c)(4)?

Walsh (c)3.

Mundy And to the other point which Mr. Jones made, um, many of us – I mean myself included – I, I, I don't think I've listened to an AM station – I don't remember when I last listened to an AM station. So, um, uh, maybe there's something there that I'm missing but, um, the audience, uh, evidently there's enough to make this viable, uh, I'm, I'm just, I'm struggling with, uh, who listens and how do you make –

Walsh Well these are great questions. Um, I'll take WIOE 1450 for an example. We purchased that from Adams Radio out in Minnesota in 2019 and the station had a lot of past history but really hadn't moved the needle any since, I believe, 2017 was the last time it had any, uh, rating. And today as I stand here we've got a 2% share on the station that we've had for three years and that's AM. And when we did a project – we had the tower painted the end of last year and when they were painting the tower, the station was off the air. Within 13 minutes there were people calling up why, you know, why is this station off the air? What's going on? Markets are different and in Fort Wayne it works real well. In Warsaw it works real well. I can't speak because I don't have anything down here in Zionsville how it's going to work down here. Up there it works extremely well for us. We've done wonders with the AM and FM. Uh, the AM we've had the most growth, probably more than our FM stations.

Postlethwait This station was previously owned by, uh, Emmis, right? Emmis?

Walsh It's still owned by Emmis, yes ma'am. It's uh, it's under a station temporary authorization. The FCC – you can't just turn them off the air. The FCC has to issue you permission to turn them off the air.

Postlethwait Okay and so they were, their original locations, um, was, um, the property was sold, is that right? I mean, why did they end up, um, going down that –

- Walsh Correct, it's um, I believe, a strip mall is going in there in – Rick could probably answer that a little bit better.
- Postlethwait So was that a financial decision on their part?
- Walsh That was a financial decision –
- Postlethwait Because the property was worth more than the station was worth.
- Walsh Than the station – Emmis is a publicly traded company.
- Postlethwait Right.
- Walsh They have a responsibility to stockholders. There's a whole – it's a completely different business model and if they have an opportunity to monetize; let's say you had \$50,000 invested in their company, you would want to get a rate of return. They have that responsibility to you and me and other stockholders.
- Postlethwait So hypothetically let's say that you get granted these, um, exceptions that you're asking for and two years from now or three years from now you find that this is not a profitable marketplace and that you can no longer sustain operations. What then happens to these, uh, six 200 foot towers and the building that you've constructed?
- Walsh Well I could, if it's fine with the Board, we could write it into the agreement that they have to be removed, uh, the building as well, and then you could return the property. I've seen this in past things. You have to put the property back the way it was prior to that.. This property is not going to change that much. It'll be graded because the towers, you know, you can't have one a little higher than the other. It has to all be level like you'd put a road into the street here in Zionsville. So, there's not going to be too much change and Crow plans on still farming it. I'm not sure what kind of crops he's going to put in there but, uh, he's going to farm, farm around the area.
- Mundy So you, you'll be leasing this, the space this requires for the towers?
- Walsh Yes. We're leasing this from Crow Farms, correct.
- Mundy All right. Any other questions for Mr. Walsh? Thank you, sir.
- Walsh Thank you for the opportunity.
- Mundy Uh, among the Board, uh, do we need more information? Have we heard enough, uh, to make a decision? Uh, you know, personally, uh, this document and, and the other we received, uh, are not digestible in the days that we had. There's still a lot of things I don't know about it. I have some of the same concerns, um, that some of the, uh, remonstrators voiced, uh, as well as those that, uh, Larry Jones voiced. I still had questions in my mind but, uh, we need to either push it down the road or put it up for a vote I think.

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- Jones Um – go ahead.
- Postlethwait Well I agree –
- Jones Go ahead Kathi.
- Postlethwait I agree with you that, um, that learning more about how op, radios operate is probably not going to be useful in my decisionmaking process and I think that I have heard enough regarding the health safety and welfare of the local residents, the, the impact that this would have on property values of the surrounding properties and so on for me to feel, um, not inclined to, um, accept this, these, these exceptions.
- Mundy Well would you like to put –
- Jones I was just going to kind of add the, uh, J. Everett Light Career Center still has JEL which still actually broadcasts on an FM basis and then they also do an online program. Uh, Zionsville High School –
- Mundy FM or AM, Larry?
- Jones Huh?
- Mundy FM or AM?
- Jones Uh, FM.
- Mundy FM.
- Jones But the point is, if, uh, the Zionsville High School system sends a bus load of kids back and forth every day to JEL for different career-type, uh, opportunities, so if there's kids at Zionsville that want to learn about radio, it's readily available. Anyway –
- Mundy One of the things I think this group has always done and that is to listen to the residents, um, and, uh, I suspect we got, uh, probably a good cross-section of how residents, uh, in the area feel about it. I, these things are probably never, uh, I can't remember which one of the residents it was that said he's never heard anybody look at a, a field of towers and say what a beautiful site. Nobody wants them – they're great as long as they're not in your backyard.
- Postlethwait Right.
- Mundy And I think we've always paid attention to what those who are most impacted by the site of something different, uh, have to say about it. So, I would suggest then if there is a motion let's put, put it out and let the Board make that decision.
- Postlethwait Okay. I'll make a motion. I move that Docket Number 2022-14-SE, a Special Exception Petition for the property located, um, located at 6630 East [sic] County Road 200 East, Lebanon in the Rural Agricultural Zoning District be denied.

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- Jones Second.
- Mundy Mrs. Postlethwait, uh, and second by Mr. Jones, uh, any further discussion? Those in favor of denial for Petition 2022-14-SE say aye.
- All Aye.
- Mundy Opposed same sign.
[No response]
- Motion is denied. We also have Petition 2012 [sic]-15-DSV which accompanies this. There's a motion on petition.
- Lake Do you need that petition if you can't allow the use in general?
- Mundy Well, I've –
- Lake Or would that fall off naturally?
- Mundy Uh –
- Chadd I don't think there would be any benefit to them getting that variance but it is a pending petition and you should take action on it.
- Mundy All right.
- Lake Okay.
- Mundy Yeah, so. We should take action on the –
- Chadd Yes.
- Mundy DSV as well.
- Lake So then I would move that Docket Number 2022-15-DSV, Development Standards Variance for the property located at 6630 South County Road 200 East to allow construction of six 200-foot tall wireless communications towers, which exceeds the allowable height maximums in the Rural General Agricultural Zoning District (AG), be denied.
- Postlethwait Second.
- Mundy Thank you Mr. Lake and Mrs. Postlethwait. Any further discussion? Those in favor of the motion to deny Petition Number 2022-15-DSV please say aye.
- All Aye.
- Mundy Opposed same sign.
[No response]
- Motion carries. It is denied.

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Lawrence We do thank you for taking the time to listen to the petition and the remonstrators this evening to make an informed decision.

Postlethwait, Thank you.
Pickell

Mundy Thank you. The, uh, Finding of Facts for these two petitions will be continued to next month so that they'll be prepared and signed for the Board to provide their signature at that time.

Lake May I request a 5-minute bathroom break?

Mundy We have a request for a 5-minute, 5-minute bio break. Yes.

Lake Thank you.

[Break 3:57:07 to 4:04:46]

Mundy We're back, um – all right. The Board members are all here. Uh, I will point out to the Board that we can make a decision – uh, rules state that after 10:00 we can cease to hear, uh, cases, uh – that is our decision. We can do that or we can continue on. So, um, let's hear from the Board how you would like to treat the rest of the agenda, the rest of the docket this evening.

Lake My guess is next month's not going to get any better.

Postlethwait I guess I would ask if any of these, any of these are, um, so time sensitive that they really need to be taken up this evening? That would be the one question.

Jones I'm already at home.

Pickell That's so not right.

Mundy We're, we're very happy about that Larry.

Jones Hey I'm, I'm nursing a broken leg here guys. Give me a – all right, but –

Mundy Okay. All right. Quit skiing.

Jones Yeah, well.

Mundy For those of you who are, are still on the docket, uh, Droese, Sanders, uh, 4Site Properties and Altum's Road Stand – any of these time sensitive?

?? President Mundy [inaudible – off microphone 4:06:07 to 4:06:12]

Mundy All right.

Andreoli I'm here on behalf of 4Site Properties. [inaudible off microphone]

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Lake And is it time sensitive?

Mundy And is it time sensitive?

Andreoli I'm sorry? [inaudible off microphone]

Mundy Is it time sensitive?

?? Uh, it is uh, but [inaudible – off microphone 4:06:25 to 4:05:45]

Postlethwait But we have others that I, I –

Mundy But –

Pickell Have to be –

Mundy My experience on this has been that when we get to this point we're going to ask you to be brief and we're going to be quick.

?? Okay. [inaudible off microphone]

Mundy If it's fine with, uh, everyone including Mr. Jones, we'll continue. Let's wrap it up.

Pickell Are we good?

Postlethwait Don't look at me.

Pickell Okay, okay. I'm fine.

Mundy Docket 2022-16-DSV, Droese at 305 South Ninth Street, Petition for a Development Standards Variance to provide for a number of items and we'll let you go through those for us and let us understand the proc, the, uh, project.

Droese Good evening. My name is Amy Droese and I live at 305 South Ninth Street in Zionsville. I commend your stamina and I will be brief.

Mundy Thank you.

Droese Um, although you do have the potential to be the highlight of these freshman high school boys' spring break since they tell me they're the only kids left in Zionsville. And we want a garage – they want a garage. So, I am asking for a garage. There are several variance requests we are looking to seek so that we can build a two-car garage with finished space above it. Um, number one is we will exceed the allowable lot coverage by about 1.5% so we're looking for a various, variance on that front. Um, the current plan would deviate from the side yard setback and the aggregate side yard setback. Um, both property-line-sharing-neighbors have expressed support. One house, um, actually is currently vacant but I have spoken with her and she has expressed support and there is a letter in the file for the other neighbor who is supportive, in addition to three other neighbors in our little neck of the woods that have expressed written support for

the project. Um, and then finally, we're asking to memorialize a driveway that before we started this process didn't realize was in an incorrect spot. Um, briefly, the property, I believe, was at some point divided into three parcels, so we're just trying to work and do the best we can with some quirky lot lines that we're left with, uh, and build a garage that will also allow us to utilize a driveway so that cars can be parked in the driveway as well as the garage. The house technically has two, um, front yards and so, um, I'm not sure if you're familiar with Plum Street but it's a very narrow street so whatever we can do to keep cars off of the driveway I think would be appreciated by all neighbors. And these two are going to be driving shortly, so –

Mundy Thank you.

Droese Yep.

Mundy Any questions for the petitioners? Hearing none, uh, are there any, anyone here to speak for or against this project? Seeing none do we have any online? Could we have a staff report please?

Baker Yes. I think the petitioner did a, did a good job, um, going through the request. I, I'll go through them briefly. Um, as they stated, they are wanting to do a detached garage which will not meet the side since – I'll back up – since this is a corner lot, there's two front yards, therefore, they have two side yards. They're not meeting one of the side yard setbacks and also the aggregate. Um, they're slightly over the allowable lot coverage and then, um, memorializing the existing driveway which is required to be 5 feet, it's essentially right on the property line. Um, staff is in favor of all those requests and I'm happy to answer any questions.

Mundy Any questions for staff?

Jones Hey did, uh, did sidewalks get picked up in the, um, in the lot coverage ratio?

Droese We don't have sidewalks.

Baker Are you talk, are you talking about the sidewalks that go to the front door? Like the –

Jones Yeah, I'm just thinking front door and anything between the garage and the house.

Baker The front sidewalk – there's a front sidewalk from the house – that wouldn't be counted as lot coverage. Um, I believe there's a gravel pad that would be counted towards – it did count towards lot coverage.

Droese Yeah, there's a covered front porch that was counted in the lot coverage as well as a gravel, um, dining/firepit area that was, was counted.

Lake In the notes we have here, based on your staff report, we're, we're only over 0.82% if I'm reading that right. Because you said they get a 2% bump for pervious surface.

- Baker Right with the pervious – the 2% pervious then yeah, technically –
- Lake Okay.
- Baker They're really only over less than 1% for lot coverage.
- Mundy I'll, I'll ask another question because I, there's a little inconsistency here. I see that the, you know, the 0.82 because of the 2%, uh, for the pervious material and, uh, back in motion area it's coverage up to 41.34 and I didn't, I couldn't find any tie to that 41.34.
- Baker In, it's the 41.34 is in the motion?
- Lake Yes.
- Mundy Right.
- Lake Everywhere else it talks about 37.82.
- Jones Uh huh.
- Baker I'm going to assume that that is an error.
- Mundy Okay.
- Baker It should be the 37.82.
- Mundy So if we get to that point whoever is making a motion then you can just, uh, uh, correct that as you make it. If there's no questions of staff and we have no remonstrators so is there a motion?
- Lake Sure. I move that Docket Number 2022-16-DSV, Development Standards Variance to provide for a deviation from the side yard setback uh to 1 foot 6 inches and an aggregate side yard set back of 6 foot 6 inches for the construction of a detached two-car garage at 305 South Ninth Street, Zionsville 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 plan and concepts.
- Mundy Thank you Mr. Lake. Is there a second?
- Pickell Second.
- Mundy Second Mr. Pickell. Thank you. Any discussion? All those in favor please say aye.
- All Aye.
- Mundy Opposed same sign.
[No response]

Motion carries.

Lake I move that Docket Number 2022-16-DSV, Development Standards Variance to provide for an increase of lot coverage up to 37.82 percent for construction of a detached two-car garage at 305 South Ninth 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 Mr. Lake.

Pickell Second.

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

All Aye.

Mundy Opposed same sign.
[No response]

Lake I move that Docket Number 2022-16-DSV, Development Standards Variance to provide for memorialization of the existing driveway which is less than the required 5 feet, uh, setback to a 0 feet setback, uh, at 305 South Ninth 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 Mr. Lake. Is there a second?

Pickell Second.

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

All Aye.

Mundy Opposed same sign.
[No response]

Motion carries. Good luck with your project.

Droese Thank you very much.

Lake And your kids aren't the only ones home during spring break.

Postlethwait This is a chance to see government at work.

Mundy Next item is Docket Number 2022-17-SE, C. Sanders at 11931 East 100 North, Sheridan, Indiana. There's also, you're going to cover both of these?

Sanders Yes.

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- Mundy There also is 2022-18-DSV, same, uh, location – one for a Special Exception and the other for a Design Standard Variance. So if you would give us a little background and information on this petition.
- Sanders Okay. My name is Cody Sanders and, um –
- Earl I'm Rachel Earl.
- Sanders Yeah, we bought this property together off my family and it had a, uh, a squatter in it I guess you could call and we acquired it in November. We finally got him out on January 3. So the house – I'm a commercial demo contractor – the house needed torn down as you can see in the picture, it's awful. It had asbestos falling off of it and, um, the current people who lived there kept coming back and the neighbors kept calling us saying they saw flashlights in the house and so we just basically went there and leveled everything of sentimental, you know, thought to whoever previously had lived there – there's multiple people – uh, we had theft, someone tried to steal my demolition bucket from the skid steer. So, we are asking for, um, a variance to, to build a garage so we can put up security cameras and, you know, put equipment in there, a lawnmower, you know, just while we build our house we'd have a secure place to put things other than an ugly storage container. So that was our request.
- Mundy And the, and the need there is because you anticipate completing the, the, uh, secondary building before you have the primary residence?
- Sanders Of course, yeah.
- Mundy Yeah, okay. All right. Um, any question for the petitioners? Seeing none are there any remonstrators here to speak for or against this petition? We have none online? Thank you. Can we have a staff report?
- Baker So I think the petitioners did a good job summarizing. Um, this Special Exception is again for this, uh, single-family home to be permitted in the AG District. There was a previous home on the site which they demolished. Therefore, it loses its nonconformity and needs a Special Exception for the residence. I will note that it is in Tier, Tier 4 of the airport study which does not have any restriction for residential development. Um, going on to the variance, they're, from what I understand, are planning on pulling the building permits at the same time for both the residence and the barn and then, um, obviously, completing the barn first. Um, staff did put a stipulation that, um, the primary dwelling be substantially completed within six months of the completion of the barn, um, with the primary dwelling, um, a minimum a temporary C of O be obtained. Um, with that, staff is in favor of both the variance and the Special Exception.
- Lake Is staff willing to amend the six months to eight months? And the only reason I say that is materials are very hard to procure right now – garage doors are 30, 30 weeks.
- Jones Yeah, I, I was going to place it out to two years.

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Lake I, I'm just concerned we're going to give them six months and they're not going to be able to –

Postlethwait Right.

Lake Occupy the house –

Jones No.

Pickell Right.

Lake Because they can't get their materials.

Postlethwait We need to be reasonable.

Baker Understood. That's up to you all but, I understand.

Lake Okay.

Sanders We're also doing like a custom home so it's not going to be just a thrown together –

Earl It's not like a pre-fab –

Jones Yeah.

Sanders So just architectural plans alone will probably take a month, you know, just to get everything approved and –

Mundy And, you, you do realize you are, uh, in farmland so the right to farm is, uh, an obligation you're going to have to commit to? You gotta put up with farming and, um, as staff mentioned, you are near the airport, you're not in a restricted area in terms of housing but you will have some airport noise so. Uh, with that if there are no other questions is there a motion?

Jones Did we dis –

Lake I move to –

Jones Real quick – did we discuss an actual date we're going to – so, just a point of clarification – you're going to out, the homeowners are going to go out and build the garage accessory building first?

Mundy Correct.

Jones And are you going to build the home at the same time or are you going to get the building done first and then follow up with the house?

Sanders Follow up with the house.

Jones Okay. They're going to need more than eight months. Nothing personal.

- Lake So –
- Jones I have all the faith in the world for you.
- Lake So we can do 12 months, Larry, but it's, it's the way it's written it's from when the barn is completed.
- Jones That's fine.
- Lake So, um –
- Jones I just think six or eight was a little---
- Lake I'll take a stab at a motion and you can amend it if you see fit.
- Jones All right.
- Lake But that's actually the second motion. So – I move that Docket Number 2022-17-SE, a Special Exception petition for the property located at 11931 East County Road 100 North, Sheridan in the Rural Agricultural Zoning District be approved based upon the staff report and the proposed Findings, uh, and that the petitioner execute a right to farm acknowledgment documentation.
- Mundy Thank you Mr. Lake. Is there a second?
- Postlethwait Second.
- Mundy Thank you Mrs. Postlethwait. Any discussion? All those in favor please say aye.
- All Aye.
- Mundy Opposed same sign.
[No response]
- Motion carries. And Design Standard Variance –
- Lake If I can find it – uh, I move that Docket Number 2022-18-DSV, Development Standards Variance to provide for the accessory structure to be constructed and completed before the primary located at 11931 East 100 North, Sheridan in the Rural Agricultural Zoning District be approved as filed based upon the Findings of Fact and the substantial compliance with the submitted site plans and concepts and that the house be completed no more than 12 months after the completion of the barn.
- Mundy Thank you Mr. Lake. Is there a second?
- Jones Second.
- Mundy Thank you Mr. Jones. All those in favor say aye.

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All Aye.

Mundy Opposed same sign.
[No response]

Motion carries. Good luck with your building.

Sanders Thank you. Have a good night guys.

Mundy Next item is Docket Number 2022-19-M, 4Site Properties, LLC which is Ansley Park located at 5345 and 5395 South U.S. 421 in Zionsville.

Andreoli Thank you. For the record, Mike Andreoli, 1393 West Oak Street. We're seeking a modification of some commitments that were adopted in 2017. Just a very brief history. This was going to be a Fischer Homes development. I did not represent 4Site back at that time. In going back through, uh, trying to reconstruct what had occurred back then, it, it, it appeared the Fischer Homes was going to build a, a pretty high-end, uh, line, in, in the Ansley Court, uh, the, uh, the subdivision Lots 1 through 12. And at that time the, uh, uh, certain variances were needed and granted by the Board but one of the conditions that was attached to the commitments that were recorded had to do with the elevations that Fischer Homes had submitted and those elevations were referenced in the commitments. Fischers Homes then comes out of contract and doesn't build any of the houses. And, in trying to reconstruct this back then, what I was able to determine is I think one of the reasons why those, those elevations were attached is Fischer Homes can build homes up here and they can build homes down here and it was represented as kind of a quasi-custom, uh, development. So the Board of Zoning Appeals said fine, then those elevations are the elevations you're going to build, uh, when you, uh, when we give you the, uh, the variances that you requested.

Unfortunately, for 4Site, Fischer Homes doesn't build any, any houses. The development's developed. They've already sold, uh, they, they sold a lot and got a building permit from the Town, uh, and that wasn't according to the, uh, the elevations that Fischer Homes had prepared. It was a custom home. They have another, uh, pending permit for a custom, uh, home in the development. In fact, the, the Johnsons who are here tonight, uh, have bought that lot and are waiting approval of that. But, uh, the staff to their credit took a look at the commitments and said wait a minute – we can't approve these permits because the conditions that were attached to the commitments said these elevations and it didn't give the Town any wiggle room whatsoever in terms of trying to come up with, uh, different elevations because that was attached to the commitments and it was recorded and it was part of your approval process. So, consequently, we're back now asking that those, those commitments, uh, as it pertains to those elevations be removed.

Uh, this will be a, uh, a custom development. We've attached new elevations, uh, for, uh staff to review along with some other, uh, uh, particulars with regard to house sizes and this, that and the other, uh, and, uh, at, at this particular point in time, uh, many of those, uh, houses that we've attached showing typical elevations and those types of things came from Holliday Farms so this is going to be a, this is going to be a custom development for sure. This is not going to be a

production development. That's the, that's the problem we have and the reason it's time sensitive is the Johnsons are awaiting a building permit and the Town rightfully cannot issue that permit, uh, given the, the level of these commitments. So, um, in fairness, uh, staff has, uh, recommended a continuance, uh, of this because the, uh, additional elevations that were submitted and the additional information came in fairly late and they are extremely busy and can't, can't be asked rightfully to, to drop everything to look at a particular, uh, uh, uh, docket number when they have so many things, as you can see from tonight's, uh, tonight's agenda. So, that's where we are. I'd be happy to answer any questions. Thank you.

Mundy Uh, any questions for petitioner's representative? I assume that was not a request for a continuance that you just made?

Andreoli It was not. [inaudible - off microphone]

Mundy It was? It was not?

Andreoli It was, it was not. [inaudible - off microphone]

Mundy It didn't sound it but it sounded like you knew one was –

Andreoli No, I just, uh, tried to divert staff because they [inaudible – off microphone] 4:26:28

Mundy Okay. No questions? Any remonstrators here speaking for or against this petition?

?? [inaudible – off microphone] 4:26:46

Mundy You're welcome to do that just please state your name and address for our records please.

Johnson My name is Brenda Johnson, uh, the address we are looking to build in is 11713 Ansley Drive. Currently we live in Brownsburg – 2460 Odell Street and we would love to be part of this community. We enjoy modern style homes and I know that's not what Fischer had and so we've already been waiting pretty much several months just to be approved so that we can get started and be a part of the Zionsville community.

Mundy Thank you Mrs. Johnson. We'll try not to delay that anymore than is needed, uh, but we do recognize staff needs time to review what's been submitted as well. Yes? Do we have one on the, online? Can you patch them through? Uh, we can barely hear your Mr. Ellis.

Ellis Thank you Mr. President and Board members. Uh, my name is Greg Ellis. I am the property owner at 2841 Daugherty Drive which, uh, is probably the closest residence to the subdivision. I initially filed, uh, an objection because I didn't see any specifics as far as elevations and I had concerns about that. Uh, I spoke with Mr. Andreoli and Mr., uh, Green had, had given me pictures of houses that they

wanted to build the style and I didn't have any objections to those. I think my only request is that if there's going to be, uh, modification to the elevations that if they can't be specific I've requested there be a specific range rather than it just be open ended. And that's really all I have.

Mundy Understood. Uh, thank you. We did, uh, have your initial letter in our packet Mr. Ellis, uh, but I, I think, uh, I'm glad that some of those concerns have been allayed. So thank you.

Ellis Thank you.

Mundy Thank you for staying up so late.

Ellis Sure.

Mundy Any others Mr. Rust? No? Okay. Uh, can we have a staff report please?

Baker Yes, uh, I think Mr. Andreoli did a good job, uh, going through the project. Uh, initially this development standard variance came in 2017 by Fischer Homes. There were multiple commitments or conditions in place, um, to increase the lot coverage to allow for a, uh, 42 feet from grade height of the, uh, residences and then lastly it did show the elevations, um, within the petition. Um, obviously, the Fischer Home is no longer involved in the property and they're wanting to remove those elevations. Um, staff recommended that, um, they get us either elevations or, um, some sort of design guidelines from what the initial submittal, um, unfortunately, we didn't receive those, the initial submittal and received those late, um, which I think they are in the packet now it's just staff hasn't had adequate time to review, um, and that's the reason that we requested the continuance. I'm happy to answer any questions.

Mundy And, they are planning on, uh, they, they, uh, will still abide by the first two points in the, uh, previously approved, only the third point which would be elevations would be altered?

Baker Right. Just – as far as I know the third point is, is what they're wanting to remove it's just the specific elevations.

Mundy But still allows for 30% lot coverage, um, the height could still be up to 42 feet?

Baker Yes.

Mundy Any questions for staff?

Lake How do we balance allowing them to go ahead get their permit and your ability to review this? I mean, I'm not seeing anything in these commitments or in these images that we haven't allowed in 30 other subdivisions in Zionsville. So, I mean, when you look at the number of corners on the, the façade of the building, the number of windows, the type of foundations, the height of the building, the, uh, type of, of siding, the requirement for masonry and the quantity of masonry – I mean these are all very consistent with literally probably even above some of the other, you know, relative neighborhoods and we've got images that would be

attached similar to the images that Fischer had. They're in a, a neighborhood, you know, that are in, Holliday Farms which is one of our nicer neighborhoods. Um, I guess I'm looking at this trying to figure out how we can get this approved tonight. Because nothing stands out to me as an architect that would give me pause in approving this. Mr. Andreoli?

Andreoli If it makes, uh, makes any, any difference to you all – it's rare that we see any kind of an approval with picture elevations attached and say you build this and I think this was a very unusual situation at the time because it was, it was production builder basically saying they were going to build what amounts to what looks like a custom product.

Lake They pulled them out of a catalog.

Andreoli Yes and I, I think and I think the concern was all right if, if you're going to induce use to, to go ahead and grant this then we want to make sure the development looks the way it's supposed to look and, uh, unfortunately, for, you know, 4Site, they went away and their contract went away and so now they're -- they want to build some custom products. One of the things that I, I did go over with Mr. Green and, and, um, he said he was prepared to reduce the height variance back to 35 feet with the exception of lots 10, 11 and 12 because with, without that product that they were wanting to put on, he can do some custom products and we're not going to – we'll be able to lessen the variance that was originally granted which was a height variance for all the lots. We can only use, need the height variance for 10, 11 and 12 and go back to, to what your normal, uh, uh, house size would be and still keep a custom, uh, custom, uh, lot. The other thing he was, uh, changing the covenants to, um, 2,200 foot, square foot minimum for ranches and two story will be at least 3,000 square feet with a minimum of 1,600 feet on the first level. And then, of course, the interiors are all going to be custom product for this, that and the other to get, get the price points the way that they want them. So, uh, essentially we, this gives you some wiggle room a little bit in terms of reducing what you originally granted and we're, we're in agreement with that, uh, if you all are in agreement to, to try to move this thing forward.

Mundy I have to agree with Mr. Lake. I, I haven't seen anything in this that would look a lot different but at the same time, uh, you know, the staff review is, uh, not something I do so –

Postlethwait But I'm trying to understand – are these offered as examples of the types of homes that would be constructed – these that I'm seeing here – the, the images or are these meant to be, these are the homes that you can choose from –

Lake Uh, I think they're meant to be character images is –

Postlethwait Examples –

Lake Yeah.

Postlethwait For the type of –

- Lake And then this, this document –
- Andreoli What we don't want to do is cookie cutter –
- Postlethwait Right.
- Andreoli Cookie cutter homes, uh, but, um, Mr. Green went over to Holliday Farms and several other places and said these are the kinds of custom homes we'd like to see here and gave, uh, a number of pictures regarding those particular elements. It still worries me if, if he has a custom builder come in and it's a more modern home like the Johnsons' home that may not show like what those homes are in Holliday Farms. It'd still be a wonderful home, still be benefit to the, to the area, still be, be approved by people who would live there – that may not be able to, to build it if we get too specific but these are samples of what he'd like to do from a custom standpoint. Uh, he's got people interested in the lots and people interested in building and his situation is he can't, he can't tell them what is approvable until we get these, these, uh, uh, commitments, uh, removed or modified in some fashion.
- Postlethwait Well I, I guess I'm trying to, I'm struggling with the use of the word custom because it seems to me once you say custom then you're talking about each one being distinct and different and based on the, the desires of the, of the individuals who have contracted for the construction of the house. So –
- Lake So, Stonegate is a 100 per – well, until they allowed –
- Postlethwait Right.
- Lake Golden Leaf in was a 100% custom home neighborhood and they didn't have elevations that you had to – they had architectural styles –
- Postlethwait Guidelines.
- Lake That they had noted –
- Postlethwait Right.
- Lake Um, and they had requirements for percent of stone, percent of siding, percent of brick, what – you know, all these requirements and those inevitably lead to kind of the, the, the right types of, of buildings and you couldn't do a flat roof house in there – they've all got to be pitched roofs with minimum pitches, you know, as outlined. So, I, I think these were just, uh, a way to say hey if you're following these guidelines your homes are probably going to look something like this.
- Postlethwait I see.
- Lake For whatever that's worth.
- Mundy So I, I guess, uh, I think a reaction from staff if you, uh, feel that that time is needed to make sure that these are buttoned up, uh, I have, uh, like Mr. Lake it

- would be nice to be able to say let's, let's get on with it but, um, there, I suppose there is some risk too in not having –
- Lake Yeah.
- Mundy Something pinned down because then you may get a hodge-podge of things that you don't want –
- Lake Yeah.
- Mundy To be the final product.
- Lake And if you absolutely need the time then I'm fine doing that – I just, I hate that it's going to push potential homes back another month.
- Baker Well and, and I don't think we necessarily have an issue with what's proposed, um, we just haven't looked at it. I mean it sounds like Mr. Lake has probably looked at it more in depth and is more knowledgeable than, than what we've been able to do. Um –
- Lake Yeah but you're looking at it in the context of everything else you're seeing too which is important.
- Baker And I'm, and I'm not familiar with the processes for previous either approvals for subdivision, uh, design standards and maybe Wayne or Roger can touch on that.
- DeLong I'm certainly happy to speak to it. The R-SF-2 zoning district – this is somewhat atypical to have this level of dialogue specific to architecture, um, at, at this depth. Certainly the imagery, and I think back to Hampshire or other, other developments where we brought in concept imagery and that was satisfactory. Yes, the Town has evolved over time with more sophisticated, um, methodologies, um, certainly this development here the photographs that you're seeing are, you know, certainly representative of, of what the community, I think, expectations would be. Um, certainly if, if the interested party, I think Mr. Ellis, would be on, on the line, um, certainly they, that is an interested party that has expressed comment but if there's any additional, uh, data for you to gather there that might be, uh, helpful in your determination. But certainly staff – these original topics were generated based upon a variance which is no longer being utilized in terms of the height. Now this, this issue is, is somewhat non-standard for you to tackle.
- Mundy Is that a way of saying that, um, you need that, you need that time to make sure that we've reviewed this to the point where it comes back and, uh, we then, uh, go through approval or denial.
- DeLong I would, I would encourage you to check in with Mr. Ellis, the known person to me only that has approached the Town with concerns and we certainly want to work with the neighbors and make sure that, that is – whatever the issues are are satisfied. Staff in looking at these images would agree that these are items that

you would find – the, the characteristics are typical of Zionville and certainly staff – I’m not aware of any concerns with the imagery as provided.

Mundy Is Mr. Ellis still on?

[inaudible – off microphone 4:40:45]

Lake So this document also discusses side yard setbacks. Um, I assume we would not want to supersede anything that’s already in that zoning district? Because likely that wasn’t covered by any of the variances anyway.

DeLong Correct. I don’t recall this [inaudible, 4:41:08]

Lake You want to ask Mr. Ellis his thoughts?

Mundy Yeah. Are you there Mr. Ellis?

Ellis Yes I am.

Mundy Okay. Uh, have you been able to follow the conversation that’s ensued after you spoke last?

Ellis Yeah and I think, uh, Mr. Andreoli’s point was, um, Mr. Green had indicated that the height wouldn’t be more than 35 feet except for, I think, three lots. If, if that’s going to be written in there I’m fine with that. I, I simply objected because I, I didn’t see any specifics other than they were seeking a modification of the variance without specifics and I, I was concerned about an open-ended approval and if you, if that’s in there, I’m fine with what he’s doing.

Mundy Okay. Thank you Mr. Ellis.

Ellis Thank you.

Mundy Uh, I do have a question, Chris, now that you’ve raised the point of a side yard setback and, uh, they have the expanded lot coverage, uh, as part of this so, um, and, and I’m not sure – I don’t remember now what those are the side yard setbacks but, um, you know, since they’re covering more of the lot can we do that there or do we have something in there now that, uh, becomes, uh, a bee that can’t fly.

Lake Yeah, my challenge is – and this is maybe where more review needs to come in – so we’ve got a three-page document that are proposed design guidelines. Um, and the only one in there that gives me pause is just approving a, uh, a side yard setback that may be in conflict with some other zoning requirement for that type of lot. Um, because really if we’re not, if we’re trying to not – if we take a specific image you’re implying that a house has to match one of these images and I don’t think we’re trying to do that. These are character images that talk to a style. Um, I feel like this document – the, the design guidelines – the three pages – are representative of requirements that would give you these styles. The only one in there that I just had any concern about was if we were allowing a, uh, five feet minimum and 10 feet between residences from a side yard setback

standpoint is there any concern from staff in that R2 with those lot sizes that that's not sufficient enough?

Baker So I just pulled up the setbacks for R-SF-2 and so the, the – I'm not familiar off the top of my head how big the lots are but from 25,000 square feet to 1 acre it's an aggregate of 30 and no yard should be less than 12. If it's 15,000 to 25,000 the aggregate is 25 feet and no side yard less than 10 feet. But I don't --

Lake Would your client be amenable to striking the setbacks out of that design guideline?

Andreoli I'm, I'm sorry?

Lake Would your client be amenable to striking the side yard setbacks out of this document?

Andreoli [inaudible – off microphone 4:44:26 to 4:44:29] if I can but I just can't –

Lake Okay.

Andreoli I don't know enough about it. [inaudible 4:44:33] – I do about the height –

Lake Okay.

Andreoli We talked about that and whether that was really, [inaudible 4:44:39] be necessary [inaudible, 4:44:44]

Lake Given that, I would suggest continuance.

Postlethwait I agree.

Lake Okay.

Mundy All right. Could we, uh, get a motion on that then?

Lake I move that Docket Number 2022-19-M, Petition for Modification to 2017-11-DSV Development Standards Variance to remove the associated elevations in the approved conditions in the Urban Single-Family Residential Zoning District be continued as presented.

Postlethwait Second.

Mundy Thank you Mr. Lake and Mrs. Postlethwait. Any further discussion? All those in favor say aye.

All Aye.

Mundy Opposed same sign.
[No response]

Motion carries. We will see you again next month.

Lake I think cleaning up those design guidelines and making sure staff's okay with them would be preferred Mr. Andreoli. He's not listening. Hey Mike –

Mundy And Johnsons –

Lake If you could make sure you clean up those design guidelines and get those approved by them.

Andreoli [inaudible – off microphone, 4:45:49]

Lake Okay. Thank you.

Mundy And Mr. and Mrs. Johnson – we'll be happy to have you come back –

Postlethwait Right.

Mundy Once this is all finalized.

Pickell We'll get it through.

Mundy And the last item on the agenda Docket 2022-20-DSV –

Pickell Patience.

Postlethwait Yeah.

Pickell Your patience.

Mundy Altum's Roadside Stand at 795 S. US Highway 421, Zionsville for the Petition for a Development Standard Variance. And it looks like you brought help.

Miroff I did. I brought my, brought the army. Uh, President Mundy and, um, members of the Board, I'm not going to be the only one not to use the word amenable here today so I appreciate you guys being amenable to staying late and, uh, I appreciate our patience. My name is Drew Miroff. I'm a partner at Ice Miller, One American Square, Indianapolis, Indiana 46282. Um, I have the privilege of being here representing the petitioner, Dana Altum, second generation of Altum's Garden Center and Kurt Gibson, soon to be or at some point in time third generation operator, I think, of Altum's Garden Center.

We are here, um, for those of you, uh, who were on the Board last August, uh, or last summer, you know that there was a temporary, uh, petition, uh, for a, um, to allow for developmental, uh, standard variance for the establishment of a temporary roadside produce stand and some additional structures. The, the produce stand is selling non-agricultural products, um, at the Finley Creek Event Center, uh, at the corner of U.S. 421 and, uh, Taylor Avenue. Um, we had hoped that by now, uh, the petitioner had hoped that they would have permanent plans already established and approved for the establishment of the permanent center there. Because of, um, cost, uh, cost, uh, um, unsuspected cost issues and, uh, needing to redo plans, those, the, uh, submission of the permanent plans were,

um, delayed. They are now before, um, and have been submitted but, um, in order to sell products during the spring and summer, we need, um, another temporary variance. Um, I want to thank the staff because I think the staff has done a really good job of, um, reciting the issues and the history of the property in their report and so I don't, unless, uh, you have questions – I don't want to go over that, um, knowing the late hour and so, um, we would hope that, uh, you would grant this temporary petition. Again, it's the same petition basically, um, or same variances that were requested last summer, um, and this would just be extended through August 1 of 2022.

Mundy Thank you. Yes there were some of us that, uh, heard this the last time, uh, but we have a couple of new members too. So, uh, any questions for the petitioner's representative? Hearing none. Anyone here to speak on behalf or against this project? No? Anyone online? Can we get the staff report?

Baker Yes. As the petitioner stated, um, some of you heard this previously last year. Um, to get everyone up to, to speed, um, they're requesting, um, to operate temporarily through August 1st, um, to allow, uh, sale of non-agricultural items as far as a roadside stand and then also to allow for more than one, um, structure. Um, staff was supportive of the previous petition and is, um, supportive of this petition. Again, as the petitioner stated, we'll probably hear this again soon for the more permanent, um, facility and I'm happy to answer any questions.

Mundy Any questions for staff?

Lake Were there any complaints during the time that they were operating?

Baker Not that I'm aware of, no.

Lake I know we had one remonstrator last time, um, just wanted to make sure there weren't any issues.

Altum We did adhere to what his request was for the [inaudible, 4:50:29]

Lake We appreciate that. Thank you.

Mundy He took his sign down too.

Altum [inaudible – off microphone, 4:50:36]

Mundy Uh, if there are, uh, no further questions is there a motion?

Lake I assume we need to tie the date into these motions? It's not currently in the motions.

Baker Um, it's part of –

Lake Unless I'm missing –

Baker Of the staff recommendations which gives the date –

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- Lake Yeah, it's just not tied into the motion itself.
- Mundy Right. Yeah. It would be a motion through August 1st.
- Baker You can do that.
- Lake Yeah. Okay. Um, I move that Docket Number 2022-20-DSV, Development Standards Variance to permit temporary roadside produce stand to sell non-agricultural items at the property located at 795 South U.S. Highway 421, Zionsville until August 1, 2022 in the Rural General Industrial Zoning District (I-2) and within the Rural Michigan, Michigan Road Overlay be approved as filed based on the Findings of Fact and substantial compliance with the submitted, uh, parcel dimensions and related depth to width site plan and concepts.
- Mundy Thank you Mr. Lake.
- Pickell Second.
- Mundy Thank you Mr. Pickell. Any further discussion?
- Jones Real quick – wait, wait –
- Mundy Yes –
- Jones Did we just make, uh, a motion to approve a temporary stand but no date that it ends?
- Lake No, I just said August 1, 2022 in the, in the motion.
- Jones I'm saying – I'm –
- Mundy It's, it's not there in, in the written if that's what you're looking at, Larry.
- Lake It's not –
- Jones I'm thinking of it in terms of a date. Should we actually just put at the end of a season?
- Mundy Uh –
- Jones No?
- Mundy The other – couldn't we just take the date out?
- Jones Well we can't have a temporary permit without a closing date.
- Lake Yeah.
- Mundy Oh, okay. And the August 1st is a firm date? I mean you, you'll be –

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- Altum Uh, I hope so.
- Mundy Um –
- Altum I mean, we – the biggest, the biggest concern is that we're able to open in the spring so we can generate income so we can proceed forward with development plans.
- Mundy Sure.
- Jones Okay. So what's the typical date that you guys close up the temporary stand?
- Altum Um, well we've never had a temporary stand in the spring. We just had one in the fall and then at the Christmastime. Uh, August 1 is definitely when sales start to slow down, um, and we pick up again in September, um, but I feel confident that, uh, we should be able to get a development plan approval, um, by then for, for us to be able to not, to not exceed going down forward unless there's other things that happen and that's [inaudible, 4:53:35].
- Lake I think it was their suggestion.
- Mundy Yeah, it was just before Christmas the last time.
- Altum Yeah and we started them August 1st until December 24th.
- Mundy Right. Right. Yeah.
- Altum So if you want [inaudible, 4:53:52].
- Miroff Optimistically, uh, optimistically they'll have the plans approved and they'll be able to start by August 1st. No one wanted to be overly –
- Altum Right.
- Miroff Greedy I think but if, if you're asking I think in terms of risk and the safest going through the December 24th because they're either going to continue doing it exactly like they're doing it through that season or the moment that they are allowed to do the permanent then they'll switch off. So if that would be –
- Lake So –
- Miroff If that would be agreeable or if the Board would be amenable to that then maybe do it, um, on the safer of December 24th.
- Lake So I would amend my previous motion to strike the end date of August 1, 2022 and modify that to December 24, 2022.
- Mundy Thank you Mr. Lake. Now is there a second?
- Postlethwait Second.

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Mundy Thank you Mrs. Postlethwait. All those in favor please say aye.

All Aye.

Mundy Opposed same sign.
[No response]

Motion carries.

Altum Thank you.
Gibson Thank you.

Mundy Good luck with your project.

Lake We got one more.

Miroff Yeah we gotta do that. That's right.

Lake I move that Docket Number 2022-20-DSV, Development Standards Variance permit additional structures on the site to support the operations of the temporary roadside stand at the property located at 795 South U.S. Highway 421 Zionsville in Rural General Industrial Zoning District and within the Rural Michigan Road Overlay be approved as filed based on the Findings of Fact and substantial compliance with the submitted site plans and concepts, uh, through a date of December 24, 2022.

Mundy Thank you Mr. Lake.

Pickell Second.

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

All Aye.

Mundy Opposed same sign.
[No response]

It is approved. Best of luck.

Altum/Gibson Thank you.

Miroff Thank you everyone.

Pickell Thanks for your patience.

Postlethwait Thanks for your endurance.

Lake And Larry get home safe.

Jones Yeah, hey, you all drive safe, huh.

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Mundy I'm gonna come by and blow my horn, Larry.

Jones Careful, you'll violate the noise ordinance.

Lake Is it after 11 now –

Postlethwait We're amenable.

Jones I'll just learn how to pronounce it. That's all I'll do.

Lake So I move to adjourn.

Mundy Uh, yes. Thank you. Is there a second?

Jones Second.

Mundy All in favor say aye.

All Aye.

Mundy The meeting is adjourned. Thank you.