



MEETING RESULTS ZIONSVILLE BOARD OF ZONING APPEALS

Wednesday, June 7, 2023

6:30 PM (Local Time)

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

The following items were scheduled for consideration:

- I. Pledge of Allegiance
- II. Attendance **3 of 5 members attended. IN-PERSON: L. Jones, S. Mundy, K. Postlethwait ABSENT: C. Lake, A. Pickell**
- III. Approval of the May 3, 2023, Minutes **Approved 3 in Favor, 0 Opposed**
- IV. Continuance or Withdrawal Requests

Docket Number	Name	Address of Project	Item to be considered
2023-11-DSV	M. Hollis	10550 Pete Dye Ridge Zionsville, IN 46077	BZA approved the continuance request from May 3rd and June 7th to the July 5, 2023, BZA Meeting. 3 in Favor, 0 Opposed Petition for a Development Standards Variance to decrease the rear setback to provide for a swimming pool in the Holliday Farms Planned Unit Development.
2023-19-DSV	L. Buesching	10525 Pete Dye Ridge Zionsville, IN 46077	Withdrawal request accepted. 3 in Favor, 0 Opposed Petition for a Development Standards Variance to decrease the rear setback from 30-feet to eight (8) feet ten (10) inches to provide for a pool deck, fire pit and patio in the Holliday Farms Planned Unit Development.
2023-05-DSV	D. Fleenor	10663 Barrington Way Zionsville, IN 46077	Withdrawal request accepted. 3 in Favor, 0 Opposed Petition for a Development Standards Variance to decrease the rear setback to provide for a swimming pool in the Holliday Farms Planned Unit Development.

V. Continued Business

Docket Number	Name	Address of Project	Item to be considered
2023-13-DSV	D. Snyder	4255 Strathmore Lane Zionsville, IN 46077	Adopted 3 in Favor, 0 Opposed Adoption of Negative Findings of Fact confirming the Board of Zoning Appeals denial from the May 3, 2023, Meeting.
2023-15-DSV	E. Grasee	3963 Club Ridge Estates Zionsville, IN 46077	Adopted 3 in Favor, 0 Opposed Adoption of Negative Findings of Fact confirming the Board of Zoning Appeals denial from the May 3, 2023, Meeting.
2023-16-DSV	S. Gorgievski	365 W. Cedar Street Zionsville, IN 46077	Approved as presented & filed w/ exhibits & per staff report. 3 in Favor, 0 Opposed Petition for Development Standards Variances to provide for a home addition which: 1) Deviates from lot coverage 2) Deviates from the aggregate side setbacks 3) Memorialize an existing side yard setback of the single-family residential home in the Urban Village Zoning District (R-V).

VI. New Business

Docket Number	Name	Address of Project	Item to be considered
2023-17-UV	Montessori Foundation of Indianapolis	11712 N. Michigan Road Zionsville, IN 46077	Conditionally approved as presented & filed w/ exhibits & per staff report. 3 in Favor, 0 Opposed Petition for a Use Variance to provide for a school in the Urban Neighborhood Business Zoning District (B-1) and in the Urban Michigan Road Overlay District (MRO).
2023-23-DSV	Montessori Foundation of Indianapolis	11712 N. Michigan Road Zionsville, IN 46077	Conditionally approved as presented & filed w/ exhibits & per staff report. 3 in Favor, 0 Opposed Petition for a Development Standards Variance to provide for a reduction of the required number of parking spaces from 180 to 61 in the Urban Neighborhood Business Zoning District (B-1) and in the Urban Michigan Road Overlay District (MRO).
2023-18-DSV	J. Clarke	145 N. Main Street Zionsville, IN 46077	Continued to the July 5, 2023, BZA Meeting. 3 in Favor, 0 Opposed Petition for a Development Standards Variance to provide for: 1) An outdoor paver patio which exceeds the allowable lot coverage from 37 percent to 43.86 percent, 2) A fence that exceeds the maximum height of six (6) feet to 7'5" in the Urban Village Residential Zoning District (R-V).

2023-20-DSV	M. Griffin	280 Governors Lane Zionsville, IN 46077	Approved as presented & filed w/ exhibits & per staff report. 3 in Favor, 0 Opposed Petition for a Development Standards Variance to provide for a pergola which deviates from the side yard setback from the required seven (7) feet to two (2) feet in the Urban Single-family Residential Zoning District (R-SF-3).
2023-21-DSV	G. Searle	295 N. Main Street Zionsville, IN 46077	Approved as presented & filed w/ exhibits & per staff report. 3 in Favor, 0 Opposed Petition for a Development Standards Variance to provide for an addition which: 1) Exceeds the allowable lot coverage from 37 percent to 41 percent 2) Deviates from the rear yard setback of 20-feet to 5'2" in the Urban Village Residential Zoning District (R-V).
2023-22-UV	D. Swiney	5779 S. 900 East Zionsville, IN 46077	Conditionally approved as presented & filed w/ exhibits & per staff report. 3 in Favor, 0 Opposed Petition for Use Variance to allow for chiropractic services within an owner's personal residence in the Rural Low Density Single Family and Two-Family Residential Zoning District (R-2). 2018-01-UV was approved at the March 13, 2018, BZA Meeting and expired on March 12, 2023.

VII. Other Matters to be considered:

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

Please note that a quorum of the Zionsville Town Council may be in attendance at the meeting.

Respectfully Submitted: Mike Dale, AICP
Director - Community and Economic Development Department
Town of Zionsville

Zionsville Board of Zoning Appeals
June 7, 2023

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

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

A quorum is present.

Mundy Welcome to the June 7th meeting of the Board of Zoning Appeals. We've delayed just a few minutes. We are, we have a quorum so we can continue on but we are expecting one of the other members to be here as well so we'll go ahead and start. We may have a member coming in just a late, a little bit later.

The first item on the agenda we'll invite the public as well as ourselves to stand and cite the Pledge of Allegiance.

All Pledge of Allegiance.

Mundy The next item is attendance. Mr. Dale, would you do, be so kind?

Dale Yes. Andy Pickell?
[No response]

Not present. Larry Jones?

Jones Present.

Dale Chris Lake?
[No response]

Not present. Steve Mundy?

Mundy Present.

Dale Kathi Postlethwait?

Postlethwait Present.

Dale We have a quorum.

Mundy Thank you. The next item is the approval of the May 3, 2023 minutes. Those were in our packet of information. Are there any corrections or questions about those minutes? If there are none, would someone kindly motion that we approve those minutes?

Postlethwait Move to approve.

Jones Second.

Mundy Thank you Mrs. Postlethwait. Thank you Mr. Jones. You may get tired of that tonight.

Jones It's all right.

Mundy All those in favor of approval of the May minutes please indicate by saying aye.

All Aye.

Mundy Opposed same sign.
[No response]

The minutes are approved.

Before we begin with the agenda, is there anyone here who is anticipating asking for a continuance that we are not aware of at this point? We are aware that there have been some formal requests for continuances. None? Okay.

The first item then is Docket Number 2023-11-DSV, M. Hollis at 10550 Pete Dye Ridge in Zionsville. This petition has, they have requested a continuance to the July meeting. That would be July, if someone already has it let me know –

Postlethwait 5th.

Mundy July the 5th? They've requested a, a continuance to the July 5th to give themselves a little more time to get their petition in order. If there are no objections, would someone make a motion to continue that?

Postlethwait Move to continue Docket Number 2023-11-DSV to the, to the meeting of July 5th.

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

Jones Second.

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

All Aye.

Mundy Opposed same sign.
[No response]

That will be continued to the July meeting.

Next item is Docket Number 2023-19-DSV, L. Buesching, 10525 Pete Dye Ridge in Zionsville. The petitioner has requested a withdrawal of that petition. If there are no objections, would someone make a motion that we accept the withdrawal of that motion or that petition?

Jones So moved.

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

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Postlethwait Second.

Mundy Thank you Mrs. Postlethwait. All in favor please indicate by saying aye.

All Aye.

Mundy Opposed same sign.
[No response]

That motion carries and it is withdrawn.

Next is Docket Number 2023-13-DSV, that is the Negative Finding of Facts. Those were included in your packet and we need a motion to adopt those Negative Findings if there are no questions about them.

Jones So moved.

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

Postlethwait Second.

Mundy Thank you Mrs. Postlethwait. All those in favor please indicate by saying aye.

All Aye.

Mundy Opposed same sign.
[No response]

Dale Mr. Chair?

Mundy Yes.

Dale We may have skipped 2023-05-DSV.

Postlethwait Yes.

Dale The top of –

Postlethwait Another withdrawal.

Dale Right. Top of the page.

Mundy That is not on mine.

Dale That was on the new agenda.

Mundy Okay. All right, we, we will go back to that one then. We have approved though the adoption of the Negative Findings of Facts on 2023-13-DSV.

We'll move then to Petition Number 2023-05-DSV, a withdrawal request letter from D. Fleenor that's at 10663 Barrington Way and that, again, is a request for a

withdrawal of that petition. So, if there are no questions on it, I'd entertain a motion.

Jones So moved.

Mundy Thank you Mr. Jones.

Jones Or do we have to actually make a motion?

Mundy That's the withdrawal of Petition 2023-05-DSV. Is there a second?

Postlethwait Second.

Mundy Thank you Mrs. Postlethwait. All those in favor please indicate by saying aye.

All Aye.

Mundy Opposed same sign.
[No response]

It is withdrawn.

The next item is Docket Number 2023-15-DSV, E. Grasee, 3963 Club Ridge Estates in Zionsville and that's adoption of the Negative Findings of Facts. It was included in your packet. If there's no questions, is there a motion to adopt those Finding of Facts?

Jones So moved.

Mundy Thank you Mr. Jones. Second?

Postlethwait Second.

Mundy Thank you Mrs. Postlethwait. All in favor please indicate by saying aye.

All Aye.

Mundy Opposed same sign.
[No response]

That motion is adopted.

Next is Docket Number 20, I'm sorry – it was on mine, it's just a different order. The Fleenor is.

Dale Okay.

Mundy Yeah, it's further down. That's all the easy ones. The rest of them will require, require a little work.

The next item under Continued Business is Docket Number 2023-16-DSV, Gorgievski at 365 West Cedar Street, Zionsville, Indiana. This is continued from the May 3, 2023 meeting. It is a Petition for Development Standard Variance to provide for a home addition which: 1) Deviates from lot coverage; 2) Deviates from the aggregate side setbacks; 3) Memorializes an existing side yard setback of the single-family residential home in the Urban Village Zoning District (R-V). Staff, could we have that report?

Baker

Yes, thank you. And first, I will like to just note a procedural change that we're doing going forward and as far as the staff presentations. We're also going to be providing some exhibits like the aerial site plans, that sort of thing to benefit you all to be able to see it and also the public. So, with that said, if IT could get that up it would be appreciated. Awesome.

As was stated, this petition was continued from last month. The petitioner is proposing to construct a 150 square foot one story addition to the east side of the property to accommodate for a bedroom addition. The proposed addition will necessitate a variance of the aggregate side and the lot coverage. Going to the site plan, the proposed addition is to be 5 feet from the east side and the existing west side setback of the residence is 3 feet. Thus, this would make the aggregate 8 feet not meeting the, the 15-foot aggregate. Also with the addition will bring the lot coverage to 40%. The permitted lot coverage here would be 37% due to the existing brick paver patios. Lastly, there is a request to memorialize the existing side yard setback on the west side which the residence is 3 feet from the property line. The, the request in excess of lot coverage and aggregate is not uncommon in the R-V District. Given the unique historical characteristics of the property along with the scale and placement of the existing improvements, staff is favorable of both requests.

Now to follow up from last, last month's meeting, there you can see the, the elevations. The petitioner was going to get a survey to kind of verify the property lines because I think there was some concerns from adjacent neighbors about where the property line was. The petitioner was able to find some pins, as you can see, from, I think, two different surveyors on this site plan so they're still within the same request and, and wanting to meet that 5-foot setback. So this is the updated site plan with the pins. These are annotated where the pins were and there's photos further on – and I think this is, this is a neighbor's survey that the petitioner provided. And then lastly, these are the photos of the, where the pin locations are. So that's just kind of follow-up from the last month's meeting. From staff's perspective, I think this meets what the concerns were stated last month. With that said, I'm happy to answer any questions.

Mundy

Thank you. Any questions for staff? Hearing none, let me ask now do we have any online participants? We do? All right and if you would let me know when, if there is one who wishes to speak at the appropriate time. Thank you. If there are no questions for staff, is the petitioner's representative here? If you would come to the podium. State your name and then provide us with any details that might be helpful for us to understand.

Peters

Yeah, good evening. Mark Peters, architect, 6995 Covington Street, Lebanon. I'm working for our client, George, Stephen Gorgievski. Last month we met with

you and you thought you would be in favor of the three deviations from standards. The question we all had was okay, we've got the property, the lot, the pins. Do we know exactly where the, the property lines are? And I left that meeting and went to work. We did have one certified civil survey from Hahn Civil Group for the property on the east side that had property pins set at the sidewalk and the rear of the property and then just about that same week, we had in the exhibit package is, is the one just before that number, item number 2 – that was done by Stoepelwerth on May the 5th of this year and it notes four parcels and four certified property pins located and I took pictures and identified the pins and the locations and then these, these last couple of pictures is from string lines and measurements that I, as an architect, put back on page 1 to say from the east property line I can say that we are, we have established the setback and our proposed addition is going to be 10 foot 8 and we are about 2 inches short of the, I mean not short but back from the required 5-foot easement and so my point is we feel very confident this meets the requirements certified by several surveyors and a conglomeration of what I put together. We did reach out to Hahn and a couple of people to what would it cost for us to do a, a site survey of this and Hahn, who had just done the neighbor, said we could do it for \$3,900 but it'll take 7 to 9 weeks so we felt that this information was good so I met with Suzanne and I said this is what we got and she said we'll take that and present it and see what the Board thinks. So I would, I would hope you find this in good favor so we can proceed with our home addition.

Mundy Thank you Mr. Peters. Do you know if, have you or has the petitioner met with the neighbor who was concerned about this and do they now understand what you've done and are they satisfied with it?

Peters Yes, Stephen has talked to Mr. Lewis and he said we've, we've answered your question. We will be behind the setback line and he said I did have a conversation. This, this resident is out of state, he lives out of state so Stephen mows his grass and this and that and, and he does not have it in writing but if that's a requirement to have that in writing, I might still ask you approve it pending something in your hand saying it's okay from Mr. Lewis that we proceed but I think we've answered the question. His question was make sure you're, you're behind the setback line.

Mundy That, that was the question. Well if, if the resident, even though out of state, shows up online and has a question we'll find out.

Peters Okay.

Mundy So. Thank you. Any questions for the petitioner's representative?

Jones I think the core of what we were trying to sort out is was there any type of deed gap between the different parcels and that's been answered that's it all very well documented and secondly, where the house is going to be located we've documented the setbacks that exist, that need the variances as well as where the new addition is going to be and the new addition appears to be able to fall within the 5-foot back so I think we've kind of clarified all the real questions we had.

Mundy I agree. All right. If there are no further questions, are there any remonstrators?

IT 22:36 inaudible off microphone.

Mundy Okay. Can you put them through?

Lewis Hi. I'm Tom Lewis, the neighbor. Can you hear me?

Mundy Yes we can Mr. Lewis.

Lewis Okay and so all I wanted to do is, is establish where the centerline or the common property line was going to be and I think Steve has done that to my satisfaction so I am good with that and the setback looks fine to me as well. I do reside in Zionsville but I do travel an awful lot so that's the – so I'm, I'm good with that.

Mundy Okay, thank you Mr. Lewis. If you would, state your name and your, your Zionsville address please just for the record. We've got your name but not the address.

Lewis Yeah, Thomas Lewis, III, 345 West Cedar Street, Zionsville 46077.

Mundy All right. Thank you Mr. Lewis and thank you for that assurance. Are there any other remonstrators who wish to speak for or against this petition? Seeing none and if there are no further questions from the Board members is there a motion?

Jones You want to do it or you want me to do it?

Postlethwait You go.

Jones Okay. Variance #1 – I move that Docket 2023-16-DSV, Development Standard Variance to provide for an increase in lot coverage to 40% for the bedroom addition for the property located at 365 West Cedar Street in the Urban Residential Village Zoning District (R-V) be approved as presented and described based on the Findings in the staff report and the staff recommendations, submitted Finding of Fact, substantial compliance with the submitted site plans.

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

Postlethwait Second.

Mundy Thank you Mrs. Postlethwait. All those in favor please indicate by saying aye.

All Aye.

Mundy Opposed same sign.
[No response]

 That motion passes.

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Jones All right, variance #2 – I move that Docket 2023-16-DSV, Development Standards Variance to provide for a deviation of the aggregate side yard setback to 8 feet for the construction of a bedroom addition for the property located at 365 West Cedar Street in the Urban Residential Village Zoning District (R-V) be approved as presented and described based on the Findings in the staff report and the staff recommendations, submitted Finding of Fact, substantial compliance with the submitted site plans.

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

Postlethwait Second.

Mundy Thank you Mrs. Postlethwait. All those in favor please indicate by saying aye.

All Aye.

Mundy Opposed same sign.
[No response]

That motion carries.

Jones And then variance #3 – I move that Docket 2023-16-DSV, Development Standard Variance, DSV, to provide for the memorial, memorial, whatever that word is, memorialization of the existing residence and paver patio for the property located at 365 West Cedar Street in the Urban Residential Village Zoning District (R-V) be approved as presented and described based on the Findings in the staff report and the staff recommendations, submitted Finding of Fact, substantial compliance with the submitted site plans.

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

Postlethwait Second.

Mundy Thank you Mrs. Postlethwait. All in favor please indicate by saying aye.

All Aye.

Mundy Opposed same sign.
[No response]

The petition is approved. Good luck Mr. Peters.

Now in New Business the next item, the first item under New Business is Docket Number 2023-17-UV, Montessori Foundation of Indianapolis, 11712 North Michigan Road, Zionsville. Petition for a Use Variance to provide for a school in the Urban Neighborhood Business Zoning District (B-1) and the Urban Michigan Overlay District (MRO). And there is a second Docket Number which is 2023-23-DSV. The same petitioner and the same address and that petition is for a Development Standard Variance to provide for a reduction in the number of required numbers, number of parking spaces from 180 to 61 in the Urban Neighborhood Business Zoning District (B-1) and in the Urban Michigan Road

Overlay District (MRO). We will probably intermingle those two but let's cover them both and we'll, we'll vote on them separately so. Staff, could we have your report, please?

Baker Yes, thank you. And IT if you could please put my laptop back up. Thank you. The petitioner here at this location is proposing to locate a Montessori school which is an existing professional office building. The building is 14,000 square feet and has 61 parking spaces and in this zoning district, the Urban Neighborhood Business, does not permit schools but does align with similar uses such as a daycare, senior living facility, which are both found in the immediate area. As you can see the Comprehensive Plan, annotates this area as single family but since 2003 development on both sides of Michigan Road have been rezoned to the B-1 zoning classification which you can see in the exhibit here. The school use provides a transitional buffer between Michigan Road commercial and residential uses in the area and staff is favorable of the Use Variance request.

Going to the Development Standards request and the parking, required parking reduction, the petitioner will have 45 square feet of classroom space which requires 180 parking spaces. This comes from one parking space being required per 25 feet of classroom. The parking lot, again, has 61 spaces, two of which are ADA compliant. The petitioner believes that the 61 spaces will be sufficient for their needs. The number of estimated children will be 105, 35 of them having autism spectrum disorder which they will have one on, a one-on-one therapist. There will be 50 staff with hours from 8:30 to 4:30. It should be assumed the petitioner has done due diligence that the existing parking at this location is adequate. If the school operation were to expand, it would likely require them to find a larger facility or provide additional parking spaces onsite which most likely would require a development plan approval from the Plan Commission. I think staff did recommend providing some sort of traffic flow because I know drop off and traffic flows are of concern with some schools. At, to this point, we haven't received that but would be happy if the petitioner wants to go in that detail but as far as the parking request, staff is also favorable, favorable of that and happy to answer any questions.

Mundy Thank you. Any questions for staff?

Postlethwait I do have a question and I don't, I don't remember having seen those numbers. You said 105 students and 50 staff, is that?

Baker 105 students and 50 staff.

Postlethwait So that there would be, assuming that the staff members are coming individually, there would be a maximum of 50 parking places that would be taken by staff members?

Baker Correct.

Postlethwait And with support staff, I mean, that total staff it's not just teachers, it's –

Baker I would assume that's the entire staff but that be a, a good question for the petitioner too.

- Postlethwait Okay, thank you.
- Baker Mm huh.
- Mundy Any other questions for staff? No?
- Postlethwait I guess I do have one other question and that is with regard to the traffic study, the dropping off of students in that location are, are there any concerns about cars entering and leaving the roadway there as they're dropping off students? Any consideration given to that or is that not our problem?
- Baker I think it's a consideration you all can have. Is it, as far as it being one of the, as far as the parking, I don't think it's directly related, directly related to but correlated yes but it definitely should be something –
- Stevanovic With regard to the use –
- Baker With regard to the use to further investigate.
- Postlethwait And the childcare center that is located there – do you have an idea how, how many students or how many children are in care there?
- Baker I do not know. But, yeah, I know that the childcare center is just south of this location.
- Postlethwait And the senior care facility also was what I understood –
- Mundy Referring to the –
- Baker They're pretty much just across the street.
- Postlethwait In the neighborhood, I mean, there are other uses that are in, in proximal to the –
- Mundy There are two – there's one memory care unit and then there's another which is assisted living and memory care –
- Postlethwait Right.
- Mundy And I, I'm not, I, I know that I've read, I and my mother was at one of those facilities. There are a few hundred people there, very few drivers so –
- Postlethwait Yeah.
- Mundy So parking is mostly staff but –
- Postlethwait The bigger question would be with the childcare center because that also involves picking up and dropping off children probably and hours that are very similar to the school's hours so.

Mundy I think when we have seen requests for those kinds of facilities, again, there's not an influx because people are there permanently, the staff at shift change and so forth but I, I think what you were getting at and I'm interested too is, and that is how the petitioner plans to have children dropped off and picked up and, and so that will, I assume, occur at a fairly confined period of time, morning and afternoon so.

Postlethwait And they may, they may coincide with the childcare center which I understand is just beside it or very close to it.

Jones Just to the south.

Postlethwait Yeah.

Mundy I know the childcare has, there's kind of a stream of cars, if you will, particularly at pickup time –

Postlethwait Uh huh –

Mundy Because people start and stop working at different times so.

Postlethwait Right, yes, yeah.

Mundy It may be a little less congested. If there are no further questions of staff, does the petitioner have a representative here? And if you would provide your name and address please, both of you, I guess, if there's two that are going to be representing the petitioner.

Cross Good evening. My name is John Cross, attorney for the petitioner here with Vivian Cain. My address is 13 North State Street, Suite 241, Greenfield, Indiana. Before I'll discuss the uses, Ms. Cain will present in more details responses to the questions that have been asked as well as more specifics about the operations of the school specifically. But to begin by saying that currently petitioner does not own the property. They are under contract to buy it. They do currently operate a Montessori Academy just south of this location. It is the southeast corner of 116th and Michigan Road and so there is a need for this second location which she'll speak about more but the proximity of the two locations is vital to the operations but without further ado, here's Ms. Cain.

Cain Hello. Vivian Cain, owner of Montessori Foundation of Indianapolis. Been existing with Montessori education for about 25 years and recently have come into a niche with serving autistic children and there's no other program like this in the country. So we get a lot of, I get a lot of emails and calls about what we do, how we do, because it's very unique and it's very innovative. And the location at 116th and Weston Pointe Drive has been operating there since 2008 and also has an ABA Center and a Montessori School and parents are, we have a wait list and that location at 117th and Michigan Road will be the elementary school only. So right now the other two previous locations at 75th and Michigan Road and 116th and Michigan Road are all toddler through kindergarten and so we have that age group where we do have a, children with autism in the same classroom that is exclusive **36:19 audio issue** and so **_____** where we do not

have a place to grow because the elementary is growing bigger and as you get feeders between ages of 2 to 6, they need to go to elementary school so it's very close and very important to have close proximity so those families have a place to go and so we have two feeders into one location and so with it being a ABA center on the first floor that's where the 35, between 35 therapists which will have one on one with each child that has autism so they can be inclusive in a classroom so it minimizes behaviors and giving them the support that they need and then on the upper floor is where we have typical developing children with two classrooms, roughly about 32 children with half being autistic and the other half being typical developing children so they can pair one on one and have peer modeling and what we've found is that with children with autism in the last four years we've had children that have been nonverbal. The only way for them to commute is, to communicate is to have a lamp which is like a computer that points with objects, like a bicycle, you want a bicycle, you want something to eat, you want a donut – and just so pointing and clicking like that but now they're reading only after being there for like two years and speaking full sentences so the communication and things that we provide to these children are so imparable that they can take care of themselves. They can be educated. They can have life skills and actually have careers because the ultimate goal is to pair with the State of Indiana, J. Everett Community Center, not community center but J. Everett Educational Programs would allow people to go who have high school to get trades in becoming beauticians, becoming culinary arts so that these children can have a life to be able to take care of themselves, not be a burden and be financially stable and have reasonable skills how to interact and be socialized with typical developing peers showing them as being role models and so that is the vision that I have for this program and why it's so vital.

And then I actually did scale down the size to accommodate for parking. We also have an opportunity to make a U-shape so that it flows very nicely so there's not less bottleneck and then the daycare that is on to the south of that their operation hours are like 6 to 6. Our operation hours are 8:30 to 4:30 so it's a little bit later in the day but it's not as so late in the rush hour when it's like that 5 to 6 trying to get up and down Michigan Road. And then the parents do not park. It's a constant flow. You drop in, you pick up your child, you take them inside, escort them to their classroom and so most of the parking will be for staff and so that 35 parking spaces will be for the RBTs which are the therapists who are one on one with the children and the other support staff will be like Montessori teachers, occupational therapists, OT, so we have a full fledged support system for these children and that's where the other dozen or so including administrative staff when you come to HR, COOs and CEOs having office spaces there as well. That would be the headquarters.

Mundy Thank you. Are you, is there more or can we ask questions now?

Cross You can ask questions about any specific business and then I can [REDACTED] 39:52 at the end.

Mundy Okay. When you said there's a flow to drop off and pick up, now your hours are 8:30 to 4:30 –

Cain Yes sir –

- Mundy What, what time do people start arriving to drop their children off?
- Cain Usually around 8:15.
- Mundy Okay, so it's not a –
- Cain No –
- Mundy 6:00 that uh –
- Cain We have one facility where we start about 8:15 and it usually ends about 8:45 so it's like a 30-minute flow and then by 8:45 it's over.
- Mundy Okay and you say you have the, the plans to make a U –
- Cain Yes, it's right here if you'd like to see that or make it a part of the, the document you can.
- Mundy And, and then is the child escorted into the building?
- Cain Yes, they're taken out of the cars. The parents do not get out –
- Mundy Okay –
- Cain So the child, just like a regular school, you drop, come up, take your child out and walk them into the classroom and they always have a, so the therapists are waiting at the doors for each child to, waiting for their child to come and then escort them from the cars into the building.
- Mundy Okay. Any other questions for the petitioner?
- Postlethwait So I didn't fully understand. So the parents, it's not the parents that are escorting the children in?
- Cain Absolutely not.
- Postlethwait It's staff members that are meeting them?
- Cain The, the staff members are inside waiting at the lobby –
- Postlethwait The parents don't get out of the car, they just stop and –
- Cain Oh yeah, just enough to grab your lunch boxes, backpacks and come inside with the therapists and shut the doors.
- Postlethwait Right.
- Cain Same thing at pickup and pickup is usually 4:30 to about 4:45.
- Jones And so are you going to share the drawing with the proposed drive?

- Cain Yeah, would you like to put it on the screen? I can show that to you.
- Jones Sure.
- Cain Okay. Here you go.
- Mundy And the, the, the number of parking spaces while your staff is well under that, are there frequent, I would assume, there are somewhat frequent, parents that are there for the sake of communicating with the teachers, etc. on [REDACTED] ? 41:59
- Cain Very rarely. Those are usually done right around like 3:30-ish and they're scheduled so it's not like it's teachers walking into a school building because it's a, it's therapy so you have a hospital which is the ABA is a healthcare facility so people just can't freely walk in, you have to have an appointment. So, therefore, you control the flow because of HIPAA violations.
- Mundy Okay, you don't have things like parent-teacher night where –
- Cain Oh, if we did have parent-teacher night, we would do it by classrooms. So with the average class being around 30, 32 then we'd have enough spaces for 30 families and 30 RBTs but it'd be cut in half because half the class autistic so it'd only need to be like 15 children that have ABA therapists.
- Mundy Thank you.
- Cain You're welcome.
- Jones The existing location you said that there's one at 116th and Michigan?
- Cain Yes, right behind Stone Creek restaurant is a Maria Montessori International Academy and Mindful and Modern ABA Therapies.
- Jones That's a little farther south?
- Mundy Yeah.
- Jones Yeah. And then it has how many students there?
- Cain It's about 8,500 square feet and it encompasses roughly about 100 students.
- Jones Okay.
- Cain And we share parking spaces with all the restaurants in front, the spas, the salons, massage therapists –
- Jones Okay.
- Cain So –
- Postlethwait Toy store –

- Cain Toy store, exactly.
- Jones And in this proposed site improvements, they have basically taken the lawn panel out on what I would call the north side of the building, put in the access drive through there. I take it you're going to have to kind of modify the sidewalks up there at the, call it the northeast corner of the building and then the play center or the playground in the center of that lawn panel.
- Cain So you're, so you're coming out of Michigan Road coming around –
- Jones Yeah –
- Cain Where this is the lawn we would actually make that a one way for passthrough so you can have more of a circular enter and exit.
- Jones Okay. And will you be completing that prior to opening?
- Cain Oh, absolutely. That would be one of the projects to be completed. It's imperative. Otherwise you have bottleneck and creating chaos.
- Mundy Any other questions? Thank you. Uh –
- Jones Go ahead.
- Mundy Uh, if there is anyone here tonight or anyone online who wishes to speak for or against this petition, now would be the time to do that.
- Baker If I may make a comment at some point –
- Mundy Yes, please go ahead.
- Baker Just, just pointing out with this new proposed drive cut onto, I guess, 421 or no?
- Jones No. It's all onsite.
- Baker It's all onsite. It, it would most likely require development plan approval and go before the Plan Commission to get this approved. So just notifying the petitioner of that.
- Jones The additional pavement – has anybody checked to see if there's going to be any kind of lot coverage issues with this site?
- Stevanovic This is the first staff has actually seen this exhibit –
- Jones Hmm, okay –
- Stevanovic So we would need to examine that and take a, a look at your question number one but number two, a new drive cut is always a Plan Commission issue.

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- Jones But this isn't a drive cut onto – you're not, you're not adding a drive onto Michigan, it's just an internal –
- Cain No, actually it's just a patch of grass right now.
- Cross They can actually, there's a parking lot there that kind of weaves around the building so this just connects the existing parking lot and pretty much just will encompass the entire building [REDACTED]. 45:54 inaudible off microphone
- Jones Yeah. No, we, I went out earlier today and drove the site so I understand and I, I was hoping there was something like that there so. But they're not adding a drive or a curb cut on Michigan –
- Stevanovic Thank you for that clarification. To your question regarding lot coverage, I think that that additional coverage might be something Stormwater would want to look at.
- Jones Okay.
- Stevanovic Mm huh.
- Jones So basically what they're saying – regardless of what you may or may not get approved for here, you might find yourself going through a second set of hoops once you get a site plan created and submitted which could include coming back in front of the Plan Commission and if there's lot coverage or drainage issues, back in front of us.
- Cain Actually, the architect is here so if there is an approval for the building, then definitely we'll follow up with a second hearing or more for the cut out of the parking spaces to make a passthrough.
- Stevanovic It may be just as simple as submitting the site plan –
- Cain Uh huh –
- Stevanovic And letting us know the area of disturbance so that we can have Stormwater review it ensuring there'd –
- Cain Oh, absolutely yeah.
- Stevanovic Be no issue.
- Cain Yeah, for drainage and flow of water and everything else. Absolutely.
- Mundy Let me see if I can summarize what, what I think I've heard and that is that there may be some further review of this by a different entity, the Stormwater for one, potentially Plan Commission but perhaps not since there's not a curb cut but that, that approval would, we would have to get their approval before there is complete approval of this petition.

- Stevanovic I think staff would be most comfortable in that and so wouldn't be opposed to a conditional approval if that's the desire of the Board of Zoning Appeals.
- Mundy Mm hmm, okay. And just to make sure that the petitioners are, also understand what it is we're suggesting needs to be done before there, so even if approval tonight, it would be conditional upon –
- Cain Oh, absolutely –
- Mundy The review by Stormwater and by staff here of the things that they were unaware of at this point.
- Cain Okay, yes.
- Cross And I'll send the site plan to staff . 48:30 inaudible off microphone
- Mundy Okay, all right.
- Jones And then there was also the comment about a sunset or a, a review period. You know at the core of this is that typically a school has the parking requirements they do because it takes into effect that some of these students may drive but with this use and the age of the kids being, that's, these kids aren't going to drive to school –
- Cain Mm hmm.
- Jones But the variance that they're asking for is to provide a school and a school is a school is a school so our concern is somewhere down the road the nature of the school changes and then that would be a concern so we might just, if the motion comes through with a, a sunset the idea is that we, it gives the Town a chance to review in case you guys change your operations. Our concern is you as an operation sell this building, it's entitled as a "school" and even though your specific use –
- Cain Can I give one clarity on that? Go ahead, I'm sorry –
- Jones Go ahead.
- Cain I'm sorry, go ahead.
- Jones I'm sorry, we're you going to say something?
- Cain Oh, okay, it is part school but it's also part medical therapy. Okay? So half the building is therapy where those 35 children will receive healthcare with OT, speech and behavior health as well.
- Cross And if there would be a request for a commitment, if you'd be open to it, where this would not pass on to subsequent owners and I, I do understand that concern as well if this gets sold to then another school comes and says well great we can hold school here and only has 61 parking spaces when the ordinance requires more, I understand that concern so I, I think it's been shown that this operation

doesn't require the ordinance required amount so if there would be a commitment we could agree to where it wouldn't pass along to subsequent owners or it could if approved by the BZA down the road then I think that'd be a reasonable request that we could agree to.

Cain Yes.

Postlethwait I do have another hypothetical – and that is that schools often have events which include parents, you know, parents' nights and so on and would there be a plan B if, for example, you had a parent night and all the parents were invited to come and visit the school?

Cain Well, considering the location, I've been doing this for 25 years, we've never had all the parents come to an event. If it's a large community event like that, we usually go to more of a public place that can house everyone. Typically we, the events we kind of have are more classroom size so parent-teacher conferences are always scheduled and so there's a flow, if there's only, if there's three classrooms the maximum you would have would be one teacher or two giving parent-teacher conferences and you'd probably have a maximum maybe 10 families coming while waiting and existing because parent-teacher conferences are scheduled every 20 minutes and that's usually held two to three times a year. If we have enough function, then we do it by size of the class and we make sure the times are overlapped. So if it's a three-hour morning session, then maybe half the class will come from 8:30 to 10. The second class of the other half of the class will come from 10 to 11:30. That's the morning work cycle. So we are very strategic in how we schedule parents because of parking issues and we have 20 years' experience of managing that already.

Postlethwait Thank you.

Cain Mm huh.

Mundy Once again, if there are any, of the public here tonight or online who wish to speak to this petition, now would be the time. No one online? Okay. And no one in the audience? All right. I guess I, I would see it helpful now maybe a discussion among the Board and staff in terms of how best to proceed.

Jones It sounds like it might be a conditional approval based on completing the proposed additional drive area and that's really the only thing that, that –

Postlethwait Stormwater Management –

Jones Well, yeah –

Postlethwait Discussion.

Jones Right.

Mundy What was that?

Postlethwait Stormwater Management discussion.

- Mundy Oh –
- Jones And then the second would be just the addition of a, I would almost propose a five-year kind of sunset clause just put it out far enough but if something ever does change it gives us a, the Town a chance to come back and check.
- Mundy Yeah and I guess there would also be the tying of the approval to this organization. It would not continue beyond this organization should they leave the, the location and it becomes something else.
- Jones Does that put us in an issue that if the organization changes but the mission doesn't – does that make sense? That it's just basically, sometimes it's just, put the sunset on the general use as a school so as long as it stays. With variances you're always allowed specific performance. So the variance that they're requesting is specifically tied to this kind of use but it's still calls out as a school and it just gives us a fairly simple way to keep it in check without encumbering them with if their organization changes or something like that that they've got to come back and see us.
- Mundy Right.
- Jones Does that make any sense?
- Mundy It, it sounds to me like you would be able to crack something like that Mr. Jones.
- Jones Yes, exactly.
- Taylor We could say that the approval is effective only for the petitioner and its successors. And that way if there were a legal name change or something like that you'd pick it up.
- Jones Okay, so.
- Mundy I, I will just for the sake of the petitioners, the, the sunset that Mr. Jones mentioned, we typically with a Use Variance request do put a sunset so that even though we think that everything will work, sometimes it doesn't and on the agenda this evening there will be someone who is coming back after five years. We had placed a sun, five-year sunset on a Use Variance and they will be coming back tonight and after five years if we've had neighbors up in arms, the community is yelling at us and then it's unlikely we would renew that but, again, it's a way of making certain that we haven't made a horrible mistake here or something that we thought we understood, we didn't so. It's, it's not unusual as most likely it is the most typical thing to do with Use Variances to have a sunset clause and anticipate that all will go well and it would be renewed so that's what is meant by the term sunset clause in the approval. Well with that and no further comments, is there a motion?
- Jones So I just want clarity – what's the assignees and successors? What was that phrase again?

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- Taylor The petitioner and its successors.
- Jones I gotcha, okay. All right, so I move that Docket 2023 – and so we, we will put the same term, I'm sorry – we will put the same terms in both?
- Mundy Both variances.
- Jones Both variances.
- Taylor Both variances.
- Jones Okay. I move that Docket 2023-17-UV, Use Variance to provide for a school for the property located at 11712 North Michigan Road in the Urban Neighborhood Business Zoning District (B-1) and in the Urban Michigan Road Overlay District (MRO) be conditionally approved as presented and described based on the Findings in the staff report and the staff recommendations, submitted Findings of Fact, substantial compliance with the submitted site plans, a commitment to: 1) Install a access drive to provide a circular drive pattern for the property with the consideration that that drive pattern meets the Town's develop or Town's development and drainage requirements –
- Stevanovic To be reviewed for compliance to ordinance.
- Jones To be reviewed – let me strike that last few words – to be reviewed for compliance with the Town's ordinances and secondly that a, this variance have a five-year sunset clause for the petitioner and its successors for review five years from date of approval for its suitability.
- Mundy Thank you Mr. Jones. Do you think we've nailed it there?
- Taylor Yes.
- Mundy Thank you.
- Taylor He did great.
- Jones Yeah.
- Mundy Is there a second?
- Jones Let's say we hit a few times with the hammer and call it nailed. All right.
- Mundy Was there a second?
- Postlethwait Yes, second.
- Mundy Thank you Mrs. Postlethwait. All those in favor please indicate by saying aye.
- All Aye.
- Mundy Opposed same sign.

[No response]

That variance is approved, conditionally.

Jones And then we gotta start off the second one – I move that Docket 2023-23-DSV, Development Standards Variance for the reduction of the required number of parking spaces from 180 to 61 for the property located at 11712 North Michigan Road in the Urban Neighborhood Business Zoning District (B-1) and the Urban Michigan Road Overlay District (MRO) be conditionally approved as presented and described based on the Findings in the staff report and the staff recommendations, submitted Findings of Facts, substantial compliance with the submitted site plans including the addition of a circular drive access lane that meets the Town's –

Stevanovic Ordinances.

Jones Ordinances and development standards and then secondly, a commitment to include a five-year sunset clause for the petitioner and its assignees.

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

Postlethwait Second.

Mundy Thank you Mrs. Postlethwait. All in favor please indicate by saying aye.

All Aye.

Mundy Opposed same sign.
[No response]

It is approved. We'll just leave it that you will get back with staff then with the submission of those items and I assume that since this is your petition, you'll do that as promptly as possible. I don't, is, is there anything staff would like to tell them in terms of timing or otherwise?

Stevanovic No later than 48 hours we'll be in contact with petitioner and be discussing how they're going to move forward and what exhibits we would need from them in order to move their request forward.

Mundy Okay, all right. Thank you.

Cain Thank you.

Mundy Best of luck.

The next item on the agenda is Docket Number 2023-18-DSV, J. Clarke at 145 North Main Street, Zionsville, Indiana. Petition for Development Standard Variance to provide for: 1) An outdoor paver patio which exceeds the allowable coverage of 37% to 43.86%; and 2) A fence that exceeds the maximum height of 6 feet to 7 feet 5 inches in the Urban Village Residential Zoning District (R-V). Staff, could we have your report please?

Baker Yes. As stated, there are two Development Standard Variances here. The first is for lot coverage. The petitioner is proposing to construct a 600 square foot paver patio in the rear yard. These improvements, along with the existing improvements, will bring the lot coverage to 43.86% and here you can find the submitted site plan with that. The R-V Zoning District allows for 35% lot coverage with a 2% bonus for pervious materials such as pavers. The request of the proposed improvements associated with pervious patios in R-V is not uncommon noting that most of the improvements are pervious and not impervious structures or covered structures along with other properties devi – there are other properties in the area deviating from the current lot coverage standards, some even being greater than the petitioner’s request. There, there you’ll find the example of what the pavers will look like.

Now going on to the fence – there’s already an installed wood fence that is compliant with the 6-foot high at-grade when it’s on the petitioner’s property. However, as it presents to the neighbor’s property to the south, the height varies anywhere from 7 feet to 7 feet 5 inches. The petitioner has indicated that there’s a block base installed in these areas to help drainage run, runoff. With these grade changes on the property, it could be understood to why the height of the fence is greater in the south yard. I’ll just run through a few of the pictures here that were provided from the petitioner.

Lastly, the topic of drainage has been mentioned in the petitioner’s narrative and the Finding of Fact for both requests. However, at the time the staff report was issued, there was no formal plan submitted to the BZA. The petitioner has since provided documents to staff that you members also have and I believe possibly this has been relayed to some of the adjacent owners. Staff would request that the petitioner go into further detail of the drainage plans for the site ensuring that no runoff would adversely affect any surrounding properties. With that said and being addressed, staff is favorable of both requests and I’m happy to answer any questions.

Mundy Thank you. Any questions for staff?

Postlethwait Yeah, I do have a question – the fact that the fence was a foot to a foot and a half taller than ordinance stipulates, was that something that was discovered by the homeowner or was that discovered by a neighbor or how was that brought to the attention of them?

Baker I believe that was brought to our Department’s attention by, I’m, I’m not sure, I think it was by a neighbor –

Postlethwait Somebody else –

Baker Or somebody who was onsite possibly brought that to our attention.

Postlethwait Okay.

Mundy I have a question that’s similar but a little different and that is that it indicates that it is 6 foot on, from grade on the petitioner’s lot but adjacent to that it’s not.

- Baker Correct.
- Mundy The area appears to be fairly flat. I walked there today and so was the grade raised when that home was built or?
- Baker I mean that, that would be my best assumption as to why the grade is, is higher on the petitioner's property is because the grade was raised in that area. That's my best –
- Postlethwait But that would make –
- Baker Explanation.
- Postlethwait One's very suspicious about drainage if in fact there's a, a difference of that much in the grade and I'm seeing pictures with the blocks underneath which, according to the narrative, were, were put there to help with drainage so I'm curious to understand whether a French, if French drains were installed, why they needed the additional blocks, you know, pavers or concrete blocks or whatever those are placed under the fence –
- Mundy Mm hmm.
- Postlethwait It would be interesting for me to understand so.
- Mundy Well I guess those are questions for you to have –
- Postlethwait I think so.
- Mundy For the petitioner.
- Postlethwait That's exactly right.
- Jones Yeah, and at a certain point in time I need just to I guess get a little clarity out of staff. So I went and pulled up or obtained the original kind of site plan for the house and based on the information I pulled out of it, the current situation with the house, the house footprint to me was 2,189 square feet. Per what was submitted, they're adding, there's an existing 550 square feet of front porch and walk and side decks and stuff. Obviously, we don't include the, the drive, the driveway in these calculations so I came up with 2,739 square feet of structure, walk and porch. One of the first items I've got is in some of the documents they keep talking about a 0.17 acre lot but the lot's really only 6,788 feet which is only about 0.15 of an acre. So, I'm, I'm just kind of concerned as I'm trying to figure out their math because based on what I put together from the get-go they were sitting at 40% lot coverage and when you start adding this new patio, they're at 49%. So none of the math really seems to add up in anything that I've been reading through so I'm trying to figure out.
- Baker Were you counting the walkway into the lot coverage?
- Jones The sidewalk out front?

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- Baker Mm huh –
- Jones Correct.
- Baker You've got the, we don't count walkways or driveways towards lot coverage.
- Jones Okay. So when I came up with the 550 feet, that's based on the information they provided on this, the Wesley's drawing. So we don't count the front, we don't count the 240 square feet of front walk? Is that correct?
- Baker Correct.
- Jones Okay.
- Postlethwait But you do count the front porch.
- Jones Correct.
- Mundy It's assumed that the lot size itself, that is the, the, the dimensions of the lot are from the county records. Is that correct?
- Baker Yes, we pull those from the county, the property record card.
- Mundy So that one though it may not be indisputable, I assume that's the common source of that information so we rely upon that. You know it is dangerous to do math in public, Larry?
- Jones Not really.
- Mundy No?
- Postlethwait He's using a calculator. He's cheating so don't worry.
- Jones And not if you do it all day long so. When you're figuring up lease square footage for tenants. Now you never want me to count your money because I always count it in my favor but.
- Postlethwait So I'm glad to have that stated in a public forum.
- Jones Well, it's all right, everybody knows it. So the other questions I'm going to have one will at some point pertain to these, this whole French drain, the drainage. I did go out and walk the site. I find it kind of interesting that these outlets tied right up next to our sidewalks. I also found it interesting that it appears the alley has been raised so I didn't know residents were allowed to make changes to the public thoroughfares of the Town of Zionsville so at some point I'm going to ask how that happens.
- Baker Can you say that one more time please?

Jones I'm saying when you walk around this home, the drainage that they've put in that it appears to take the downspout drains seem to open site at the, next to the sidewalks which basically means what these things are doing is pumping water out onto the sidewalks and into the street. Secondly, when you walk the alley, it becomes kind of evident that behind this site the alley has been re-stoned and raised higher than the adjoining properties. And so at some point I'm going to ask or I'm going to want some clarity as to when it comes to drainage on properties, are residents allowed to basically pump the water out onto the city sidewalks and two, this situation where it appears that a public thoroughfare has been altered.

Mundy And the public thoroughfare was the alley?

Jones The alley.

Stevanovic So, Mr. Jones, if I can help perhaps a little bit – regarding daylighting onto the sidewalk, I'm not sure that that is, I'm not sure one way or another that is something that the Stormwater Department would approve of. Most certainly our understanding of the ordinance is that your water must be contained on your lot. It's your responsibility to manage that. Regarding the alley, that is not information, if it's been raised, that has been conveyed to Suzanne or I so if there have been changes to that alley, I think petitioner probably needs to let us know where that is at.

Jones I just found it interesting as I was walking I, I noticed it.

Mundy Again, we'll have, the petitioner will have the opportunity to answer those questions.

Jones Okay.

Mundy Were there any other questions for staff at this point? Nope? All right. Is the petitioner's representative here?

Andreoli Thank you Mr. President. For the record, Mike Andreoli, 1393 West Oak Street. With me tonight is Jane Clarke who owns the property at 145 North Main Street and is seeking two variances, as staff has indicated – one for a lot coverage up to the requested amount as contained in the narrative as well as in the staff report for a, a patio. The house meets the appropriate lot coverage itself, in and of itself and what puts it over, quite frankly, is the, the patio itself that adds additional square footage. That patio would be enclosed in the fencing that's put around the back area of the property at 145 North Main Street. The fencing is along the south side along the rear side where the alley is and then connects from the alley back to the house so that the porch itself and the interior will be, for the most part, out of view as it relates to the use of that particular patio. Notwithstanding all of that, there is a, there is a lot coverage issue as it relates to that and that's why we're here with regard to that particular variance itself.

As far as the fence is concerned, the, the staff report indicated correctly. There, there was a, a when it was, when it was put in it was at-grade to the inside of the fence looking out in, in the interior of the property but it was over 6 foot as it

presents to the property to the south. We provided pictures both to the common property lines to the, to the south where that fence is located as well as to the north. Some of the concerns that have been raised had to do with drainage and we've submitted a, a letter from Wes Addington who did the, the drainage as well as the landscaping and including the fence that indicates that a, essentially a French drain and perforated pipe wrapped in gravel has been put along each side of, of the property lines for my client on the south side on the inside of the fence and on the north side outside of the house close to the property line to prevent water from actually migrating to the, each of their neighbors.

We thought when, quite frankly, one of the advantages of building a new house as opposed to most of the other houses in the, on Main Street which simply sheet water off their properties wherever it would go is that this is basically being channeled out to the street. We had to have storm drains and those types of things. So we thought it was a, a good way to make sure that we did not have any, any drainage on the property to the north nor any drainage on the property to the, to the south.

And that fence has been installed for a period of time. It's been pretty dry over the last couple of weeks but we've have some torrential downpours prior to that. There's been no complaints of drainage or concerns raised with any of that with regard to the construction to date, either north property or south property. So those things seem to be working and seem to be working well and, again, that is one advantage of installing new construction because you can do it correctly when it's done, when the installation is done.

So we would specifically request that the Board consider that. If there, if our numbers aren't correct or there's concern about our numbers, we'll, we'll be happy to go back and take a look at them but we vetted those numbers, I think, pretty closely with staff and independently so hopefully at least in terms of our presentation, we've got the numbers that we're requesting correctly in terms of the percentage of, of lot coverage.

It's interesting to note that the property to the north came in for a lot coverage increase just last year in 2022 right adjacent to us and Jane, who was the property owner at the time, signed a letter of approval. That was in the letters and the correspondence that we've, that we've sent to you with regard to Mr. Damm, the Damms concerns with regard to drainage and I shared with Suzanne that once we got the letter from Mr. Addington, we submitted that to Mr. and Mrs. Damm so they had an opportunity to see what had gone in there and what was placed in there to, to assure themselves that, that there's not going to be any drainage issues and concerns. One of the concerns raised by Mr. Damm was what that was going to do to his foundation but if you look at the pictures that were provided on the north side, you'll see that there's greenspace between, between the Clarke residence and the lot line and then additional greenspace between the lot line to the north to the driveway that the Damms have and then the house is on the other side of that.

As to the, as to the grade itself, I, I believe that the, the grade or at least the use of the grade was probably close to what is, is, is reporting or presenting to the adjoining property owner at this time. There was a, there was a garage, there was

a structure there right close to the property line that was removed when this house was built. So when the old house was removed and the, and the driveway at that point and the, and essentially an older garage, that was, that was built up. As far as the dirt and the grade itself, I can't really speak to that. I don't have any independent knowledge of that. I suspect some of that occurred when the construction occurred. How much of it in relation to what was there before with regard to the garage as it presented to the property to the south, I don't have any of the older pictures but I know I was there and, and viewed that, that older house at, at the time and I noticed that it, it certainly was, was built up because it was a, it was a garage and had, had some type of block underneath it in order to go ahead and, and, and access it. So, again, that was all torn down. We didn't keep pictures of it at that point so I, I can't really, I can't really say for certain because I don't, simply don't know. Thank you.

Mundy Any questions for the petitioner's representative?

Postlethwait I do have a question.

Andreoli Pardon me?

Postlethwait I have a question.

Andreoli Yes, can I hear it here and then go back to –

Postlethwait You sure can.

Andreoli Thank you.

Postlethwait I'll, I'll speak clearly and loudly. I do still have a question regarding the French drains as I mentioned earlier –

Andreoli Yes –

Postlethwait That were installed on either side of the property and if in fact there are French drains along this fence line which I'm looking here that has the blocks, my understanding in reading the narrative was that the blocks were installed there to prohibit water from going under the fence into the neighboring property. At least that's what the narrative states. Is that incorrect?

Andreoli Well, it's not entirely correct and I think that's 1:20:39 inaudible off microphone.

Mundy If you'll start, if you'll start that discussion over, Mr. Andreoli, when you're at the mic, yeah. Thank you.

Andreoli I'm pretty loud but not that loud. If you look at the, Wes Addington's report it looked like part of the block was, was put in there in order to go ahead and make sure that the fence was up so that mulch or anything else wouldn't migrate on over to the property to the south. So they didn't get anything over to the property to the south. The actual drain that was put in was put in just on the inside of, of the fence from, that was installed on the south side on the inside, on my client's

property, from the alley on up to the walk in the front. So that's where the actual drain went in. Hopefully that answered, answered your question.

Postlethwait No, it doesn't because my question would be then is this block underneath all of the sections of the fence or only on this side of the property?

Andreoli I'm sorry?

Postlethwait Is this block that's been placed here that raises the fence between a foot and a foot and a half above what's permitted, only on, on –

Andreoli 1:21:46 inaudible off microphone on the, on the side of the adjoining property owner to the south.

Postlethwait Okay, so it's, you're telling me, are you telling us that it was placed there to keep mulch from washing under the fence to the neighboring property?

Andreoli No, that's what he says.

Postlethwait So would it not have solved the problem to have the fence be flush with the ground? I'm assuming that's the way it is in, in the other areas that don't have block under it? I don't understand why, why – I don't understand the strategy here, particularly since it puts the fence at a height which is above the ordinances, what the ordinance permits.

Andreoli And, quite frankly, I don't know the answer to that. I think that's a fair question. All I know is that the block was placed to help retain the soil, the mulch and any water that would migrate to the south as well as the under drain that goes from the alley to the street that would help pick up all of that water so none of that water would migrate. It was, it was a combination of the two and, at, at, at this point the options are the fence is already there. The options are that, you know, I suspect they could probably cut, cut the fence down to, to 6 feet presenting to the south and, and leave it up the, the for, for the rest of the area since it's at at grade at that area and so that, that's one of the, that's one of the options. The other option is to grant, grant the variance and, again, normally when we have these fence size issues and other issues with regard to that, you're, you're looking at properties that, that might have an impact on light coming into their properties and those types of things and we presented pictures to show you that as it relates to that particular property that there aren't any windows on that side of the house at all so that's not one of the normal issues.

Postlethwait Actually, one of the remonstrance mentions that that's actually not the case that there are windows on that side so – and also I think there's an aesthetic question there. The difference between a 6 foot fence and a 7 and a half foot fence – aesthetically it's more than just whether it's going to block somebody's windows. I mean I, from my point of view the ordinance exists –

Andreoli 1:24:10 inaudible off microphone is you get to vote.

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Postlethwait Well the ordinance exists for a reason and I think that, obviously, the, there was a, this does not comply with the ordinance so now the question is what happens about that? So –

Clarke If I can, if I can speak to –

Postlethwait Sure.

Clarke Really . 1:24:24 inaudible off microphone

Andreoli Yeah, you have –

Mundy If you would yeah –

Clarke I'm Jane Clarke. It's my house.

Andreoli Your address. What's your address?

Clarke 145 North Main Street.

Andreoli Very good, now okay.

Clarke If I can speak to your questions about the, the wall, the, the cinderblocks that were under it. What I was told is that it, it was partially a grade problem. That Zionsville said that when they started to build the house that the grade of the house should be flush with the alley and the house to the east of me, behind me, so and if you look at that house it is. It's flat with that house so then you've got a, you got a grade problem on one side because the house to the south of me is so much lower so what Mike said was true, you know, as far as the landscaper. He came in and they're working with the fence guy and they said if, if we don't put blocks here we're going to get all this runoff from all your mulch because I'm at a different grade out my driveway and out the south side of my house. So that's what I was told and that's, I, I think it's both. I think it was both runoff and the grade difference –

Andreoli Yeah, if you look at the –

Clarke Between the south and the, and the east side of the house.

Andreoli If you look at the pictures and, and it holds true even on the, on the north side if you look at the pictures that I provided, the, the grade at the alley, the, the pavers, the driveway and the lot line going to, to the north as well, as well as to the south from the alley the grade it, it's, it's at grade but if you, if you, if you extend it north then we, and, and with the property to the south being so, so much lower at that point, there, there's a, there's clearly a grade issue at that particular point.

Clarke And as far, yeah, as far as the windows are concerned, there are windows on the north side of the adjacent house but they're beyond the fence –

Andreoli Beyond the fence.

Clarke In the front. So, yes, there are windows. Now, I mean, I guess if it's not granted, I take it down a foot. I personally think that looks a lot worse and take the, take the blocks out. See what happens. I think they're preventative. I think, I don't think Wes was lying when he said it. I think he's the President of the Indiana Landscaping Association and he knew what he was doing but, I mean, if there's an issue with it, that's the alternative, right?

Postlethwait Well, I think if you're asking me whether that's the alter – I mean, I would say that you, you establish, you put in French drains specifically to handle that problem.

Clarke I think they put in both to handle that problem, especially on that side of the house because of the difference in grade that we were doing what Zionsville told us to do when we built the house. And if the alley is, and I noticed that too – you know when they put, they replaced the rocks so that they were nicer from all the construction and it does look about this much higher now. Like they didn't rake them flush so I don't even like it that it seems like I'm going over a hump but I think they just didn't even them out and maybe put too many rocks down.

Mundy There's probably a practical matter of using masonry there rather than wood.

Jones It's, it's the practical matter that the last man in always builds on top of the hill.

Mundy Well –

Jones And if you don't have a top of the hill to build on, you build your own hill. I have had to chase adjoining property owners off many of my properties that they come in and remodel after I've acquired something and everybody wants to be up because drainage flows, drainage along with other things flow downhill.

Postlethwait So it's at least easy to understand why your neighbors are concerned –

Clarke I agree with that and the house behind me is, is newer so –

Jones Right.

Clarke But we are flush with it and that's what the builders told me was that it was, which, honestly, I mean, I –

Jones So the core issues regardless of all of this is that 1) We've got a lot coverage issue; 2) While, yes I went out and inspected and checked and saw the drain tiles to see how things are all put in, a, a, the term French drain is being bandied around. A French drain is something that you put into typically a low area and then carry the tile out to a lower spot and open sided. Farmers put in drain tiles which is a French drain is a fancy way of saying the same thing the farmers do. When you put in a septic field you fundamentally put a French drain around it often to keep it well drained so that it evaporates. The issue here is what has been put in and being called a French drain is not a drain but something that is conveying the water off the house out to the sidewalk and they are one – that's item number one. The water is not being contained on the property. If we went out there in a heavy rain, you'd see it bubbling out there by the sidewalk. If we

go out there in the winter, you're going to find it bubbling up around their downspouts because at some point these will freeze. They are not below frost and they do not open site so they do not stay dry. The third is on the original plan they had talked about putting a, a dry well in the back yard just to take care of the sump pump and it appears that where this patio is going to go is sitting over the top of that, even, even exists. So, we've, we've been down this road repeatedly. We have had individuals come in and provide us with engineered onsite retention systems which usually consist of a dry well or some type of cistern that this water actually goes to. I'm not seeing any of that here. And so I'm not particularly happy that we're hearing a bunch of verbiage about the fence and the walls and the block. The bottom line is it was easy to raise the grade of this lot in relation to the existing adjoining property owners and within the rules and regs and our building inspectors, we are somewhat limited in our ability to enforce it and clearly on the first set of drawings that I've got there's grades that are set at all four corners of the property and if we went out there now, they would all be a foot and a half higher than this. So, that's kind of –

Mundy In, in your experience, Larry, we have seen these very elaborately engineered systems –

Jones Correct –

Mundy That prevent that, usually being done at a very different time in the order of either a home being built or landscaping being done –

Jones Where they're being done and placed is part of the package to obtain the variance –

Mundy Right –

Jones For what they intend to put in. I think the last one we did was the individual who wanted a swimming pool –

Mundy Mm hmm.

Jones And they put it on their property a, and it was designed now. Do we have any way of enforcing it actually worked and went in but bah, bah, bah but we at least have that series of commitments. A couple of years ago we approved the subdivision of a lot with very detailed instructions on how the one lot was going to take care of some of the adjoining property owners' drainage issues. The individual came back because he didn't read what he had, the commitments to the parcel. So –

Mundy And I guess one difference here is that this was a landscaper who had a solution or a recommendation versus I know we've had an engineering firm who kind of specializes in that – a design system – we have, I guess, a greater degree of confidence in those than something that the landscaper designed.

Jones Well, Mr. Andreoli, can you tell me is the manufactured flow well storm drainage dry well that is shown on the plan installed? Does that exist?

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Andreoli You're asking what that is?

Jones I'm asking if it exists? Has it been installed per the plan that they supplied when they got the building permit?

Andreoli Yeah [REDACTED]. 1:33:28 inaudible off microphone

Jones Okay.

Andreoli Are you talking about the sump line or the [REDACTED] 1:33:33 inaudible off microphone flow well storm drainage?

Jones Dry well.

Andreoli Dry well?

Jones Mm hmm.

Andreoli I think they're preexisting. I don't know. I have no idea.

Postlethwait Likely not.

Jones What?

Andreoli I'm just telling you.

Jones Well –

Andreoli You're asking me [REDACTED]. 1:33:50 inaudible off microphone

Jones Take that back. That's the most –

Andreoli You're asking me a question and I, I don't know the answer.

Jones All right. Find me the answer please.

Andreoli I can't find you the answer. The landscaper and the builder are not here today. My suggestion is if there are concerns about the drainage, there are concerns as to how that drainage should be done, I'm happy to go ahead and revisit that issue with the landscaper, with the builder and an engineer if we need to, to take a look at that to answer Mr. Jones' questions and his concerns. If that's not going to make any difference one way or the other, then I certainly understand that and appreciate that but if that is a significant issue that you think needs to be addressed, we're happy to do it. All I can say is what, what was installed to try to make sure that our drainage did not cause any problems to the adjacent neighbors, which is what I thought we're supposed to be doing. Most of the houses in and along Main Street just sheet water wherever it goes and wherever it goes generally into the street or into the alley is picked up as part of the, the stormwater system that we have but if there's concerns about that and that's a legitimate question that, that Mr. Jones asked about that, I, I don't know the answer to that. If that's installed or why it was installed or even if it's –

- Jones In part and parcel the reason we have lot coverage ratios is so that there is sufficient open lot to accept the sheet drainage that occurs. I said the reason we have the lot coverage ratios is to make sure that there is open land to accept the sheet drainage off of your property, your neighbor's property, the sidewalks out in front, the alley in back. It's a very inexact science and obviously the zoning and codes that have been in place the residents and the layout of the Town of Zionsville predate it all, hence, we are more prone to try to give variances to existing properties but when a new home comes along, a new home is provided the opportunity to conform with the rules and regulations provided.
- Andreoli Well tell me what those are because I'm –
- Jones It's a 35% lot coverage.
- Andreoli I'm not aware that there's any rules or regulations that suggest that you can't pick water up from the lot lines with these type of perforated drains wrapped in, in, in fabric and –
- Jones All right, so if you're picking it up where are you displacing it to?
- Andreoli Pardon me?
- Jones If you are picking the water up with the French drain system, where are you displacing it to? Is there a cistern on the property? Is there dry wells we don't know of?
- Andreoli Well I, I, I admitted I don't know that and I'm –
- Jones What would you like to do?
- Andreoli What, what I'm suggesting to you is I'm happy to find out the answer to those particular issues if those are issues. Those are legitimate questions I don't have the answer to that tonight. The builder is not here. He's out of town and so is the landscaper. So there, there's nothing that I can do to be able to provide you with a, with a legitimate answer and a truthful and honest answer to that because I simply don't know. That's the best answer I can, I can give you tonight.
- Postlethwait Perhaps, Mr. President, it makes sense to continue this for a –
- Mundy Well I, I, I think it would be of value since everything that we have known up to this point has been concern by neighbors with respect to drainage. While there have been comments about the height of the wall, it seems drainage is truly the issue that they are concerned about. We know from those who in advance demonstrated a, an interest in remonstrating we don't know if there are others here. I think it would be beneficial for us to ask if there are other remonstrators that would wish to say whether they are supporting or opposed to the project and get all the information and then we come back to deciding what we need to do. So if there are no further questions for the petitioner's representative, are there, are there anyone here this evening or online that wish to speak for or against the project? No one online? If you would state your name and address please.

R. Damm Robin Damm, 155 North Main Street, Zionsville. This is my husband, David. Spot on. A lot of your questions are exactly our questions and I would just like to state that, that Jane has been awesome doing everything she possibly can. Just not sure she's had all the information that she's needed to take care of these things. Just a, a couple of things. It's been mentioned a couple of times about that our homes on Main Street just have water that go everywhere when it rains. In fact, our house does have, our, our drains go down into a pipe that feeds out into the street into the water system so our, we don't have runoff that just goes everywhere as well as I think some of the other neighbors can speak to the same that they have that as well. So that, that's one of the, the things that I wanted to mention. Definitely drainage is a concern on our side. We're on the north side. There is greenspace in between our houses, yes, there's a strip of grass there but we also have a house that was built in the late 1800s versus a house that has very new technology and is able to, their build is able to accommodate drainage or at least protection from water a lot more so than our property is. My husband is much better at speaking to this so I'm going to turn it over to him.

D. Damm Thank you. So, again, I'd like to mention Jane has been a great neighbor, has done a great job of trying to help make sure everybody's happy with what she's doing there. We get a little nervous as Rob, my, as my wife said. Our house was built in 1880 so we don't have basement and foundation built, built for a, a wet crawlspace or, or basement so if we get wet, it's going to be a problem for us. They have put in, I think, to your point, French drains being used kind of liberally here but there is a drain. They've done a good job putting a drain pipe in but that drain pipe is kind of on our property line so maybe it's, maybe it's God's blessing that we're in a drought here over the last four months but we haven't had any water issues yet. My question is do we, what happens if we do have a wet season and Jane has talked to me about that. I don't want to put you on the spot, Jane, so maybe hearsay but I believe her that she's willing to help us if that's a problem.

What kind of surprised me today was when we worked with, when the, when the Town built, rebuilt Main Street we worked with Lance Lantz and the teams and, and we put discharge outlets on the curb to get the water out of the, the residences into the sewer system. I was kind of surprised when Jane wasn't allowed to do that on her property. So, I don't know if that changed or what but my suggestion tonight was going to be hey, if we do run into a problem with water eventually maybe we take out that perforated pipe, French drain, and put in a, a solid drain pipe and allow us to get that out on the street so that we can get the water out of the residence areas. I, I, I'm not speaking for Jane there. I think she would be willing to do that with us too but that would help make sure that we're not, we're not flooding our property going forward if, if we run into to water issues. I'm sorry – I don't have my glasses. Are you [REDACTED] ? 1:42:38

R. Damm Yeah, I just, we've been talking about the elevation of the grade too and I just would like –

D. Damm Oh –

R. Damm To state that –

- D. Damm So yeah –
- R. Damm When that was an empty lot it was level.
- D. Damm That’s kind of a surprise too hearing that back from Jane too is she’s been put in a position to build the house level with the alley in the back and, and, Larry, to your point, the alley in the back is a little bit higher. It’s 11 inches higher than it was a year ago, two, two years ago.
- Jones Mm hmm.
- D. Damm How it got that way I don’t know but you’re right – things roll downhill. That’s why I’m a little nervous so if, if we get a lot of water **1:43:15 to 1:44:53 audio/video froze**. ... some of it, some of them, yeah, it’s –
- R. Damm Oh yeah. But with the, the garage variance we haven’t started that process even yet and that actually, our deviation approved us for 39.6% with the garage and the lot was already only, was already at 38% grandfathered in for how it was built originally so a very, very minimal increase when and if we ever do get to do the garage. Just one last comment on the whole alley thing – I’ve even recently thought about this and asked what would need to be done to have that alley surveyed because as the house behind us that was referenced on Maple that backs up to the alley was built, a very large home also, and, as, as people have done things that back up to that alley, that alley keeps morphing. It keeps getting wider and it keeps getting taller in places. As people for construction add their own gravel or people that want to have a little bit more turnaround space because of the cars on the alley, they add more gravel so that may have contributed to the issue as well that not only the construction you were talking about where they tried to, to make up for what they have done but others may have done the same thing so but that doesn’t provide a reason for us having the situation we are now either so anyways.
- D. Damm So, yeah, I, I don’t know enough yet about the mechanics tonight. If you guys do a continuation or do vote on this but my, my request would be if, if you do vote to approve that we add that capability that we would be able to remove this perforated French drain and, and remove the water from the, both residences so that we’re not continually flooding, flooding –
- R. Damm Or risking –
- Mundy I don’t think that that’s something that this Board could assure you of. We don’t, we don’t control that. I do have a question about routing that downspout water into the, the street itself. Was that 33 years ago that you did that or was that –
- D. Damm That was when they rebuilt Main Street.
- Mundy Okay, so that’s been some time ago.
- R. Damm Yeah.

- Mundy All right, yeah.
- R. Damm It has.
- Mundy I don't know if staff can comment on if that is no longer permissible. That would be getting water to the storm sewers.
- D. Damm Well, yeah, I don't want to get too many people in trouble here because that's why I was surprised when Jane was telling me they wouldn't let her put the exits on there because about two years ago I asked if I'd be allowed to put another curb in or another drain in and they're only, the Town's only request was can you have a professional do it just so we know that you don't chew up our curb. So, I don't know if it's changed in the last two years or not but I, I think that's kind of the issue here is we –
- Mundy Okay –
- D. Damm We're, we're morphing a little bit and –
- R. Damm It's the whole [1:47:49](#).
- D. Damm It's causing problems.
- Mundy Well, it would seem, seem reasonable. I mean the storm sewers do carry away water that results from storms. That's it's intent and that's or it's generally at street level but they are placed elsewhere but that is pretty crucial getting rid of that water.
- D. Damm And it gives, it gives a way, I mean, the house is already built.
- R. Damm There's nothing they can do about the [1:48:20](#).
- D. Damm So it, it, I think, it gives a solution to get water out and protect at least the three properties nearby if it were to become a problem down the road.
- Mundy Well I, I'll kind of turn to Mr. Jones. He's, he's fairly experienced at this but I think that those assurances really need to come from someone who knows what they're doing.
- Jones Mm hmm.
- Mundy I've had a lot of things I thought were going to work and they didn't so it probably requires the skills of a, of an expert at that to really know and that, that's something I don't think this Board can assure you of but we could, we do control, I guess, whether or not this is approved. That's about the extent and it can be continued with that stipulation but I think that's something that this, this group needs to decide upon but, again, the assurances you're asking about we can't provide.
- D. Damm I think it just becomes a lot less, at least, a lot less resistance than having to engineer a, a dry well and an evacuation system on the property because where

you going, where you going to take it once you get it out of that yard – the next two yards down by or? So, it's a quick and easy solution.

Mundy All right, thank you.

D. Damm Thank you.

Mundy I'm not sure if Mr. Rottmann's presence there is going to be – are you going to serve as a remonstrator or?

Rottmann Neither. No.

Mundy Well, okay. I said for or against so it can be – if you would provide your name and address please.

Rottmann Todd Rottmann. Address 320 West Hawthorne Street. Oddly enough, a couple years back I had to get a variance for a fence that was installed and was over 7 feet tall. Ours was due to ground slope so it stepped. It was different than this issue but what we had to do was hire a professional engineer to do a drainage report and they needed to do a drainage report of how the house previously was. So the original house and compare it to the new conditions and verify that there is the same or less water leaving the site on every side. So that would be my suggestion to give people peace of mind is to actually have an engineer do a full report so that everybody knows what to expect.

Mundy Thank you.

Rottmann Mm hmm.

Mundy I think the issue here is not necessarily the height of the fence, it's where does the water go and making certain the neighbors are not affected by more water than they should be.

Jones Regardless of all the commentary being made, if you walk the site it's fairly obvious that it has been raised from its previous grades to be higher than the adjoining properties. And it's not, my issues aren't particular to this property. I've sat down here and banged the same hammer over and over again. Drainage is a cumulative issue and at some point somewhere it comes to bear and at some point it either comes to bear that it, we overwhelm our stormwater systems, it comes to bear that people start tying it into our sanitary sewers and then we start overwhelming our, our, our, our treatment facilities or it just shows up at some point somewhere in the Village as a swamp and then you start having street and road problems, you get heave and fall, bah, bah, bah, bah, bah.

So, the 35% lot coverage is an imperfect number and it was applied across the board to a Town that probably the majority of the properties do not conform to and so we are left with this monthly battle over drainage, of trying to conform to a number that has been assigned and trying to do it in such a way that everyone is treated equitably. My concern is when I see stuff like this, I see that during the course of constructing this home they had the opportunity to address these issues in an engineered manner that could've given everyone a certain level of comfort

that the playing field is being kept level and my concern is we, we, the playing field has been raised a foot and a half and if we're going to allow this individual in this location to raise it a foot and a half then when somebody wants to since, once again, we have no protection of the adjoining properties, as long as Ms. Clarke is happy with, if when somebody builds next door they build a foot and a half higher than you, then game on.

Mundy Well, to the issue here – the home's built, it's higher now for one reason or another. Is there a, and, and as staff has pointed out, we have a number of homes that do exceed 35 foot. Our concern when that happens is always drainage and there are some which are obviously ones that require pretty extensive work and there are others that don't. This one is, we don't, I don't think we know which one this one is because we don't have a problem that has been demonstrated yet but we have adjoining neighbors and neighbors nearby who are concerned –

Jones Uh huh –

Mundy And their concern is legitimate. So is there a way of testing to find out as best we can whether or not expansion of the 35% will unduly affect any of the neighbors or not?

Jones Well, and yes there is – and that is there are licensed engineers that have the ability to take the size of the lot, the grade, the configuration of the soils and determine will the site absorb everything as designed? Is additional work needed and what would that be and what would be the capacity of it? It is engineering and it can be done.

Postlethwait I would submit that even the, the folks that installed the drains, French or not, and the fence are skeptical of the efficiency of that system because they put those concrete blocks under the fence in order to keep water from getting under the fence to the adjoining property. I mean I, you can say it's to keep mulch from getting over there but how does mulch get over there except borne by water?

Mundy I suppose –

Postlethwait So, I, I think that's a, it's like a stop-gap measure that to, to me looking at it as a non-engineer, is an indication of a lack of confidence that the drains that have been installed are going to manage the water that is there and maybe I'm completely wrong, maybe it's an aesthetic but the description was essentially that this is to keep things from floating under the fence into the neighbor's property.

Mundy Yeah.

Postlethwait So –

Mundy No, I think you're probably right. At the same time, I would say that probably a landscaper is not the person –

Postlethwait Right –

- Mundy Who probably has checked the soil composition, measured the flow and so forth so it was their best opinion and they probably in many cases are absolutely right but not in every case.
- Postlethwait Right.
- Mundy Uh –
- Jones I guess maybe to summarize that it appears to me, based on my experience and the only reason you keep me up here, that some of the installed and potentially uninstalled features of this property could potentially cause moisture issues for the adjoining property owners. I can make a motion that we continue this with the request that the homeowner come back with, like I said, we've got Badger Engineering that we've all seemed to, they seem to understand the issue. Mr. Rottmann's worked with them, correct, haven't you?
- Rottmann CEC.
- Jones CEC or CEC – other engineering companies and give us some degree of comfort that what is installed will not negatively affect the adjoining property owners and then we can quit relying on whether the alley is here or there or what the blocks do and how the mulch flows but we've got something concrete and we keep consistent with what we have made of other residents in terms of requesting this type of information because eventually it will show up someplace if we keep ignoring it and that is the drainage issue and the lot coverage numbers.
- Mundy Agreed.
- Postlethwait I agree.
- Jones Okay.
- Mundy And, at least the petitioner's representative has indicated that but we, is that something, because I think at this point it's a matter of do we continue this or do we bring it to close this evening and I think the continuance allows you that opportunity to find out from a professional whether or not the plan here is one which will make certain that your neighbors are not affected when there is excess water.
- Clarke Just as Larry suggested I thought that was one way to go. Yes.
- Mundy Thank you. Well, Larry, can you put that into the –
- Jones Sure.
- Mundy Form of a motion then?
- Jones I move that Docket 2023-18-DSV, Development Standard Variance to provide for an increase in the lot coverage to 43.86% for a patio paver at the property located at 145 North Main Street in the Urban Residential Village Zoning District (R-V) be continued to the July 5, 2023 BZA meeting with the applicant providing

an engineer report of the drainage conditions of the existing and, and proposed site developments.

Postlethwait Second.

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

Postlethwait Second.

Mundy Thank you Mrs. Postlethwait. All those in favor please indicate by saying aye.

All Aye.

Mundy Opposed same sign.
[No response]

That motion carries and for variance #2?

Jones What?

Postlethwait Variance #2.

Jones Oh. I move that variance, I move that Docket 2023-18-DSV, Development Standard Variance to provide for a deviation of the fence height to be a maximum of 7 foot 5 inches for the property located at 145 North Main Street in the Urban Residential Village Zoning District (R-V) be continued to the July 5, 2023 BZA meeting.

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

Postlethwait Second.

Mundy Thank you Mrs. Postlethwait. All in favor please indicate by saying aye.

All Aye.

Mundy Opposed same sign.
[No response]

The Docket Number 2023-18-DSV then will be continued to the July 5th meeting.
Thank you.

Next item on the agenda – Docket Number 2023-20-DSV, M. Griffin, 280 Governors Lane, Zionsville, Indiana. Petition for Development Standard Variance to provide for a pergola which deviates from the side yard setback from the required 7 feet to 2 feet in the Urban Single Residential Zoning District (R-SF-3). Is the petitioner here?

Baker Steve, I think, I'm going to go first, remember?

- Mundy I'm sorry, petitioner – you, you can, you can rest for just a moment. We're going to get the staff report. Yeah, old habit.
- Baker No, no worries. As stated, the petitioner is requesting to install a pergola 2 feet from the property line, to the south property line when 7 feet is required in R-SF-3. If we go up here to the next slide, as you can see outlined on the, this existing plot plan, the pergola will go on that south property line. Given the scale and placement of the existing improvements and that the proposed pergola is over gravel, it will be pervious, not covered and staff and in staff's opinion, not out of character with the immediate, immediate area and is favorable of the request. I'm happy to answer any questions.
- Mundy Thank you. Any questions for staff? Nope? Hearing none, could we hear from the petitioner's representative? Give us your name and address please and information that we might find helpful.
- DeCoursey My name is Kyle DeCoursey. Address 11950 Sandy Drive in Zionsville. I am here on behalf of John and Molly Griffin. I'm a contractor, landscape construction, owner/operator with my business partner and the Griffins have asked us to construct a pergola over a gravel sitting area on the south side of their property and we are requesting a variance to build the pergola within the 7-foot setback.
- Mundy Is the area gravel now?
- DeCoursey Yes, there is an existing gravel sitting area with a firepit.
- Mundy Okay. Any questions for the petitioner's representative? Seeing none, do we have anyone here who wishes to speak for or against this or do we have anyone online who wishes to speak for or against the petition? It does not appear so. Any comments or questions from the Board members and if not, is there a motion?
- Postlethwait I did just have a question for the –
- Mundy Okay.
- Postlethwait For the petitioner's representative. There's an existing fence there, is that right?
- DeCoursey That's correct. There's a 6-foot wooden privacy fence.
- Postlethwait And the pergola itself would be 10 feet?
- DeCoursey At its tallest point it would be 10 foot tall. That's correct.
- Postlethwait And the roof of the pergola is just cross hatched? It's not solid?
- DeCoursey That's correct, yes.
- Postlethwait Thank you.

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- Mundy Is the 10 foot nearer to the home or is it nearer to the fence or is it level, the pergola?
- DeCoursey It would, it's going to open up slightly so the tallest point will be on the north end against the house and it will slope about 5% back towards the, the fence.
- Mundy Okay. Is there a motion for the petition?
- Postlethwait I'll, I'll go –
- Mundy Thank you.
- Postlethwait I move that Docket Number 2023-20-DSV, Development Standards Variance to provide for deviations from the side yard setbacks to 2 feet for the construction of a pergola for the property located at 280 Governors Lane in the Urban Single Family Residential Zoning District (R-SF-3) be approved as presented and described based on the Findings in the staff report and staff recommendations, submitted Finding of Fact and substantial compliance with the submitted site plans.
- Mundy Thank you Mrs. Postlethwait. Is there a second?
- Jones Second.
- Mundy Thank you Mr. Jones. All those in favor please indicate by saying aye.
- All Aye.
- Mundy Opposed same sign.
[No response]
- It is approved. Best of luck with your project.
- DeCoursey Thank you sir.
- Mundy Next item on the agenda is Docket Number 2023-21-DSV, G. Searle at 295 North Main Street, Zionsville. Petition for a Development Standard Variance to provide for an addition which: 1) Exceeds the allowable lot coverage from 37% to 41%; and 2) Deviates from the rear yard setback to 20 feet to, of 20 feet to 5 foot 2 inches in the Urban Village Residential Zoning District (R-V). Is there, Mr. Rottmann, are you their? Okay.
- Baker No –
- Mundy Can we have the staff report, yeah – I just want to make sure we had, had someone here to, that was going to speak to it. Go ahead staff.
- Baker As stated, the petitioner is proposing to do a two-story addition on the east side of the property to accommodate for a mudroom, attached garage and an owner's suite on the second story. Also, I don't think it was clearly pointed out in the staff report but they're also constructing a new porch and patio on the north side of the

property. Both of these improvements requires the need for a Development Standards Variance for lot coverage and deviating from the rear setback. With the current improvements on the property, the lot coverage is noncompliant at 41.6%. It should be noted as well with this project that the petitioner will be, if approved, this project they will be removing two existing walkways, flagstone patio and a deck where the addition will go. With the proposed improvements, the lot coverage will be 41% and the petitioner is requesting to exceed the maximum lot coverage by 5.1% and utilizing almost 1% of the pervious allowance. Along with the scale and placement of the contemplated improvements while being conscientious of existing lot coverage and decreasing, staff is favorable of that request.

Then the rear setback, the primary building setbacks are meant to meet the 20-foot rear setback for the R-V Zoning District and the petitioner is proposing to be 5 foot 2 inches to accommodate the addition. There are a range of rear setbacks within the alley block which are less than 20 feet. Some are primary structures and some are accessory structures. The petitioner is attempting to provide for a garage in which, from what I can tell, the subject site has previously not had and with the existing configuration of the residence it does create some challenges to meet the setbacks and is also not out of character with the immediate area and staff is favorable of this request.

Let me go through, I think, the elevations here too and I think with that I'm happy to answer any questions.

Mundy Thank you. Any questions for staff? Just a marginal reduction in the lot coverage with the removal of those?

Baker Yeah, I, I think it's almost decreasing the lot coverage than what exists there currently.

Mundy Yeah.

Baker Slightly.

Mundy If there are no questions for staff, Mr. Rottmann, you are the petitioner's representative?

Rottmann Hello, Todd Rottmann. Address 320 West Hawthorne Street. Joining us tonight online are George and Lorrie Searle but I'll be making the presentation. They're just available if there's any questions for them. I appreciate your time this evening. The, there is about a 1% reduction in lot coverage due to this. I can guarantee you that those walks and patios are going to go away because me and four people from my office have already removed all of them and we are reutilizing them at our homes so we didn't want to see good materials go to waste. Those have actually already been removed. The main goal for this project was to add a garage since a, a garage is not currently present. There is no way to put a garage onto the house and maintain that 20-foot setback without doing some demolition on the existing structure. So, we are putting the garage on the back side of the house. It necessitates the, a little over 5 feet distance to the property line on that edge. The alley is another about 3-1/2 feet away from that so

we're about 8-1/2 feet away from the edge of the alley itself. In your documents I've got two exhibits. One is everybody on that block and their lot coverage and the second is everybody on that block and the distance from their garage or accessory structure to the alley. So by comparison, we are fitting within kind of the character and the established setbacks, lot coverages, etc. in that area so I do not feel like we would be affecting the character along the alleyway and especially not along Main Street because our addition is to the rear of the home. The only additions that would clearly be visible would be the addition to the front porch and then the side porch on the north side of the house so we think those both will be very pleasant additions creating more outdoor space, more interaction between neighbors and tying in with the house. The key has always been to preserve the house and kind of renovate the interior of it so that it can last another 100 years and we appreciate your taking a look at this and available for any questions.

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

Postlethwait Not really questions, just comments and I'm very appreciative of the, the urge to use the existing house and not sort of go back down to ground level and start over again. I'm very appreciative of that and updating it to 21st century usage. I think that's laudable. And also I want to compliment them on the work they've done and communicating with their neighbors with regard to their plans. I think that, that makes things easier for us and I'm very appreciative of that. Thank you.

Rottmann Yeah, to George and Lorrie's credit – they've been very good about reaching out to neighbors, being neighborly and they definitely love the house and wanted to preserve the house so credit goes to them.

Mundy We should comment them or commend them then on recycling their flagstone as well. Nice to put it to good use.

Rottmann Yeah, there's nothing that we're involved with that goes into demolition that we don't kind of salvage stuff out of. Hate to see it go to waste.

Jones I know that it shows it on the drawing so the slope of the new roof additions will match the slope of the existing roofs on the building. And although it's not given, it doesn't appear that it's going to have any kind of height issues.

Rottmann Right. It's below the maximum building height.

Jones And we're doing it with a net reduction in lot coverage. You know that makes me happy.

Mundy All right, thank you. Are there any remonstrators who are here to speak for or against the project or online? Seeing none, do we have a motion?

Jones I'm trying to find it. You find it?

Postlethwait Variance #1 I move that Docket Number 2023-21-DSV, Development Standards Variance to provide for an increase in lot coverage to 41% for the provided additions for the property located at 295 North Main Street in the Urban

Residential Village Zoning District (R-V) be approved as presented and described based on the Findings in the staff report and staff recommendations, submitted Findings of Fact, substantial compliance with the submitted site plans.

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

Jones Second.

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

All Aye.

Mundy Opposed same sign.
[No response]

Motion passes.

Rottmann Great, thank you very much.

Postlethwait Variance #2 I move that Docket Number 2023-21-DSV, Development Standards Variance to provide for a deviation of the rear side yard setback to 5 feet 2 inches for the construction of an addition for the property located at 295 North Main Street in the Urban Residential Village Zoning District (R-V) be approved as presented and described based on the Findings in the staff report and staff recommendations, submitted Finding of Fact, substantial compliance with the submitted site plans.

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

Jones Second.

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

All Aye.

Mundy Opposed same sign.
[No response]

And so petition passes. Best of luck Mr. Rottmann.

Rottmann All right, can I go now?

Dale Yes.

Rottmann Thank you.

Dale Thank you.

Mundy And the next and final item on the agenda is Docket Number 2023-22-UV, D. Swiney, 5779 South 900 East, Zionsville. Petition for a Use Vari – excuse me – Use Variance to allow for chiropractic services within an owner’s personal

residence in the Rural Low Density Single Family and Two-Family Residential Zoning District (R-2). 2018-01-UV was approved at the March 13, 2018 BZA meeting and expired on March 12, 2023. So, Larry, I think you and I may have been here for that –

Jones I think so.

Mundy That approval in 2018. Staff, could we have a report, please?

Baker Yes. The petitioner is requesting a Use Variance to allow for a chiropractic service within an owner's personal residence. Previously, 2018-01-UV was filed by the petitioner and approved by the BZA in 2018. The petitioner was approved for the, for this within their own residence. While the petition was approved, it was subject to the following conditions: No more than 12 consultations within a day, a day should be defined between 8:30 and 7 p.m. Monday through Friday and 9 to noon on Saturday, no more than two consultations within a one-hour time period and that the approval for the use shall expire on March 12, 2023 and is eligible for consideration for approval as a Use Variance petition in the event that the use is to be extended at that, at that time which brings us to today.

This request since the 2018 BZA approval, staff has not received any complaints about the petitioner's business operation out of their residence. Historically what is being presented goes beyond what a typical home occupation allows and that is why the Use Variance is being requested. The current land use is Low Density Residential in the area. The comp plan indicates this area for medium density residential. This use would still, at this location, would still be appropriate, in staff's opinion, because the property would still be used primarily for residential use, for residential purposes. There's an existing gravel drive to and from the site with a shared private access drive between the three owners of Hidden Hollow. The gravel lot can, can accommodate – on the property can accommodate appropriate amount of parking on the petitioner's property. The BZA can implement a sunset or a time, timeline date but given the Town has not gotten any complaints, staff would be amenable to approve the Use Variance correlated only to the petitioner. However, if the plan of operation intensifies, the petitioner would have to amend the petition with the BZA. Also, the BZA reserves the right to amend or rescind the Use Variance at a public hearing if the Town were to receive complaints about the proposed chiropractic location. With that said, staff is favorable with the same commitments that were previously outlined in the 2018 petition besides the sunset as I just discussed and I'm happy to answer any questions.

Mundy Thank you. Any questions for staff?

Jones I was just trying to sort out – so the, the motion is really for the conditional approval, correct?

Taylor Yes.

Baker Yes.

Jones Okay.

- Baker If you, if you or, you like those conditions, yeah.
- Jones Okay. And does the petitioner have any issues with the, the, the conditionally approved outline?
- Swiney No, not at this time. And I'm David Swiney. I live at 5779 South 900 East.
- Jones So basically this would remove the sunset so he doesn't really have to come back unless something changes –
- Baker Not unless it intensifies or if there's a significant, I would say, concern from neighbors _____. 2:19:22
- Jones And even then that comes back to a hearing just so, in case you go out and do something and make your neighbor mad he can't _____. 2:19:30
- Postlethwait Or you decide you want to see 15 patients in a day or if you have some, some _____ 2:19:35 he would need to –
- Jones Correct.
- Baker Yes.
- Postlethwait Reconsider.
- Jones Okay.
- Mundy So we may have already heard from the petitioner, is that right?
- Jones Oh, well, sorry, yes. We did kind of jump ahead there didn't we?
- Mundy We'll, we'll give him an opportunity –
- Jones Sorry –
- Mundy To say more than just what he's said so far. If you would, if, if you'd once again state your name and address and then –
- Swiney Once again, David Swiney and I live 5779 South 900 East and, again, just want to continue what I've been doing so.
- Mundy And so, I, I think I'll ask the same question that Mr. Jones just asked but you're content and –
- Swiney Yes.
- Mundy And, fine with the conditions that were established five years ago and those would continue. Should you decide to change any of those, you would have to come back –

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- Swiney Correct.
- Mundy To the Board. All right, thank you. Is, is there anything else you'd like to say?
- Swiney No.
- Mundy Okay. Thank you. Do we have any remonstrators in the room or online who'd like to speak to this petition? No? All right. Thank you. I think then we're ready for a motion.
- Jones All right, I move that Docket 2023-22-UV, Use Variance to allow for chiropractic services within an owner's personal residence for the property located at 5779 South 900 East, Zionsville in the Rural Low Density Single Family and Two-Family Residential Zoning District (R-2) be conditionally approved as presented and described based on the Findings in the staff report and the staff recommendations, submitted Finding of Fact, substantial compliance with the submitted site plans, no more than 12 consultation interactions within a day, a day should be defined as 8:30 a.m. to 7 p.m. Monday through Friday and 9 a.m. to noon Saturdays, no more than two consultation interactions within a one-hour time period, approval of the Use Variance is only correlated with the petitioner and does not run with the property, the BZA reserves the right to amend or rescind the Use Variance at a public hearing upon receiving complaints about the proposed chiropractic business at this location and that's it, correct? We're good.
- Postlethwait Second.
- Mundy Thank you Mr. Jones.
- Postlethwait Second.
- Mundy And a second from Mrs. Postlethwait. Thank you. All in favor please indicate by saying aye.
- All Aye.
- Mundy Opposed same sign.
[No response]
- That is approved. Best of luck to you.
- Swiney Thanks for your time.
- Mundy Mm hmm. That concludes all the petitions. I'll just ask – have we gotten, I think they're just all stacked up there now but –
- Postlethwait Yes, we have them here.
- Mundy Okay. Finding of Facts as well as the Negative Finding of Facts from the previous meeting. All right, thank you. Is there a motion to adjourn?

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Postlethwait So moved.

Mundy Thank you Mrs. Postlethwait. Would you like to second that Mr. Jones?

Jones Second.

Mundy All in favor say aye.

All Aye.

Mundy Opposed same sign.
[No response]

We are adjourned.