



**MEETING RESULTS ZIONSVILLE BOARD OF ZONING APPEALS**

**Wednesday, July 5, 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 are scheduled for consideration:**

- I. Pledge of Allegiance
- II. Attendance **4 of 5 members attended. IN-PERSON: L. Jones, S. Mundy, K. Postlethwait, C. Lake ABSENT: A. Pickell**
- III. Approval of the June 7, 2023, Minutes **Approved 3 in Favor, 1 Recusal**
- IV. Continuance or Withdrawal Requests

Docket Number	Name	Address of Project	Item to be considered
2023-24-DSV	Zionsville Presbyterian Church	4775 W. 116 <sup>th</sup> Street Zionsville, IN 46077	<b>BZA approved the continuance request from the July 5, 2023, BZA Meeting to the August 2, 2023, BZA Meeting. 4 in Favor, 0 Opposed</b> Petition for a Development Standards Variance to provide for two freestanding signs located within the 10-foot setback from proposed right-of-way in the Urban Office Business Zoning District (B-O) and in the Urban Michigan Road Overlay District (MRO).

**V. Continued Business**

Docket Number	Name	Address of Project	Item to be considered
2023-11-DSV	M. Hollis	10550 Pete Dye Ridge Zionsville, IN 46077	<b>Denied as presented. Negative Finding of Fact will be executed at the August 2, 2023, BZA Meeting. 4 in Favor, 0 Opposed</b> Petition for a Development Standards Variance to decrease the rear setback to provide for a swimming pool in the Holliday Farms Planned Unit Development.

2023-18-DSV	J. Clarke	145 N. Main Street Zionsville, IN 46077	<p><b>Continued to the August 2, 2023, BZA Meeting.</b></p> <p><b>4 in Favor, 0 Opposed</b></p> <p>Petition for a Development Standards Variance to provide for:</p> <p>1) An outdoor paver patio which exceeds the allowable lot coverage from 37 percent to 43.86 percent,</p> <p>2) A fence that exceeds the maximum height of six (6) feet to 7'5" in the Urban Village Residential Zoning District (R-V).</p>
-------------	-----------	--	--

VI. New Business

Docket Number	Name	Address of Project	Item to be considered
2023-25-DSV	M. Trammel	240 N. Main Street Zionsville, IN 46077	<p><b>Approved as presented &amp; filed w/ exhibits &amp; per staff report.</b></p> <p><b>4 in Favor, 0 Opposed</b></p> <p>Petition for a Development Standards Variance to provide for a paver patio, covered pavilion and fireplace which:</p> <p>1) Exceeds the lot coverage from 35 percent (plus a 2 percent increase for pervious materials) to 42 percent</p> <p>2) Deviates from the side yard setback of 5-feet to 18 inches</p> <p>3) Deviates from the aggregate side yard setback of 15-feet to 9'6" in the Urban Village Residential Zoning District (R-V).</p>

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  
July 5, 2023

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

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

A quorum is present.

Mundy Good evening and welcome to the July 5<sup>th</sup> meeting of the Board of Zoning Appeals. The first item on our agenda is the Pledge of Allegiance. We will invite you all to stand with us.

All Pledge of Allegiance.

Mundy The next item is the attendance. Mr. Dale, would you please do that?

Dale Yes. Andy Pickell?  
[No response]

Larry Jones?

Jones Here.

Dale Chris Lake?

Lake Here.

Dale Steve Mundy?

Mundy Here.

Dale Kathi Postlethwait?

Postlethwait Here.

Mundy Thank you. The next item is the approval of the June 7<sup>th</sup> BZA minutes. Those were provided in your packet or online. Are there any corrections or questions about those minutes? Hearing none, is there a motion to approve?

Postlethwait So moved.

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

Jones Second.

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

Jones, Mundy, Aye.  
Postlethwait

Mundy Opposed same sign.

Lake I need to abstain. I was not present.

Mundy Thank you Mr. Lake. The minutes were approved by the three members who were present.

The next item is Continuance or Withdrawal Requests. There has been one request for a continuance. That's 2023-24-DSV, Zionsville Presbyterian Church, 4775 West 116<sup>th</sup> Street. It was an automatic continuance due to the lack of untimely publication of notice so let me ask counsel, do we need to approve that formally?

Taylor Yeah.

Mundy If there's any questions about that, ask now. If there are no questions, I would entertain a motion to continue that to the August 2<sup>nd</sup> meeting.

Lake So moved.

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

Postlethwait Second.

Mundy Thank you Mrs. Postlethwait. All those in favor of a continuance to the August 2<sup>nd</sup> meeting indicate by saying aye.

All Aye.

Mundy Opposed same sign.  
[No response]

It will be continued. Thank you.

Next item on the agenda – before I do that can you tell me if we have any online visitors for the meeting?

IT None.

Mundy None? If we have any and if there are any who wish to speak, if you'd just let me know? Thank you.

The next item on the agenda then is Docket Number 2023-11-DSV, M. Hollis, 10550 Pete Dye Ridge, Zionsville, Indiana. Petitioner requested a continuance from May 3<sup>rd</sup> and then again on June 7<sup>th</sup>. The Petition is for a Development Standard Variance to decrease the rear setback to provide for a swimming pool in the Holliday Farms Planned Unit Development. Staff, could we have your report, please?

Baker Yes. Jonah, if you could get my screen up? Awesome. Thank you. Just to follow up from the, when this petition was previously heard at the May 3<sup>rd</sup> BZA meeting, it was continued because the BZA members, you all requested to

confirm the accuracy of the approved plot plan versus the submitted site plan for the pool. There were some inaccuracies there. Since that, staff hasn't, has not received any additional exhibits explaining that position.

Going to the specifics of the petition, you'll see the, the aerial here. The petitioner is currently constructing a single-family residence which has been permitted and are requesting to construct an inground swimming, swimming pool which would encroach into the 30-foot minimum rear setback line. The request is for the pool to go 23-1/2 feet into the rear yard with the pool itself being 25 feet and a half from the rear property line. There's a photo of the proposed site plan. Within the Town Zoning Ordinance, pools are commonly referred to as accessory structures per residential uses. Many residential zoning districts have a decreased rear setback to accommodate for accessory structures which is usually less restrictive than the primary structure setbacks. However, in the Holliday Farms PUD, there's no accommodations to allow for accessory structures to encroach further into the rear setbacks. All rear setbacks are the same whether it's for a primary residence, pool, detached accessory structure, patio, deck, etc. It is staff's opinion that the strict application of the PUD does not result in an unnecessary hardship in the use of the property. The site is not unique or provide any unusual circumstance as a condition of the site. The building permit for the resident, residence was issued in December of 2021 and the location of the swimming pool and attached pool deck were not identified on the plot plan at the time.

Options remain open to the petitioner to move the pool, reduce the size and/or reduce the size of the concrete pool deck. Based on how the PUD Ordinance is written today, staff is unfavorable of the request and I'm happy to answer any questions.

Mundy Okay. Thank you. Any questions for staff? Hearing none, is the petitioner here? If you would state your name and address for the record please.

Mears Thank you.

Mundy And, and provide us with any information that you think might be helpful in the decision we make.

Mears Appreciate that very much. Thank you members of the Board. My name is Adam Mears. I'm with Gradison Design Build here on behalf of the Hollis family. Mr. Hollis is here as well and most of the time I'm going to allow him to speak to you. I'm just here to clean up a couple things. First of all, I want to reiterate that this particular build job was started with a, another individual as the homeowner. We started with Mr. Durett down this process. As we got down the road he made a decision he didn't want to move forward with the build and we were able to connect with Mr. Hollis who, who wanted to continue on. He did make some changes to some of the interior plans but there was, the original pool was not contemplated because Mr. Durett didn't contemplate having a pool when the initial plan and construction plans consumed. So, I want to make sure I reiterate that. I know I made that same statement to you back in May. I just wanted to remind you of that.

The other thing I'm, I, I wanted to clear up was there was a question about which plot plan was accurate as to the orientation of the home, either the original plot plan or the landscape plan that was attached to this petition. I went back to our office and confirmed that onsite at the time of the foundation pour, there was a slight change to the orientation of the home just a couple degrees for what Mr. Durett, I think, was looking for a different, there was, the angle of the home he wanted it shifted slightly so the landscape plan is the accurate layout of how the foundation was poured. It's my understanding that the inspector was out there when it was done as well. It didn't encroach into any, of course, the building pad or building lines and all of, the residence foundation did not change sizes at all. Again, it just shifted a couple degrees. So, I wanted to clear that up that, that the landscape plan that was submitted with this petition shows the accurate positioning of the base of the home. With that, I'm going to turn it over to Mr. Hollis to allow him to speak on his petition and appreciate your time. Thank you.

Mundy If we could, Mr. Gradison –

Mears Yeah –

Mundy It was Gradison?

Mears Mears. It's okay. I'm with Gradison.

Mundy You're with Gradison?

Mears Sure.

Mundy Okay. So, I, I just wanted to be certain then that the requests that have been made in the petition in terms of the encroachment into the setback is accurate?

Mears Correct.

Mundy Okay.

Mears That's correct.

Lake I have a question regarding that. You actually have two plans that have two different hardscape layouts.

Mears The one that has the actual dimensions on it which, I think, show the 5-foot dimension is the, I believe, the accurate hardscape plan. The ones that I'm looking at are, are exactly the same. One of them has more landscaping shown on it.

Lake Yeah, ours are not the same. One has a fireplace that goes out past the covered porch and one does not.

Mears I don't show, let me ask Mark. This is the one, I don't show –

Hollis You may not have the most recent one. There would be no fireplace past the covered porch so.

Lake Okay.

Mears So it is the 5-foot though encroachment. Yeah, there is, there is no firepit –

Lake Okay.

Mears That, that goes beyond there. Go ahead Mark.

Mundy If I could ask you to state your name and address please for the record.

Hollis Sure, sure. It's Mark Hollis, 2713 Benmore Court, Zionsville. Thanks to the Board. Appreciate you continuing this matter. Sorry I wasn't able to attend the original meeting and thanks for your service to the Town of Zionsville. I appreciate that. My wife and I have been residents here since 2006 and as Adam explained, we, we purchased this home from the, worked with Gradison and the original owner of the home who was, it was under construction at the time we purchased it and really liked the location and the, the site and really it was very attractive to us but we, when we purchased the home there were a couple of conditions we had that we discussed with Gradison in terms of a condition of our purchase and one was we, we wanted to make sure the home could accommodate a pool. We have a pool now which we've enjoyed for, for quite some time and we wanted to make sure they could put three bedrooms upstairs. That was a condition of us coming to this, into this deal with Gradison and we worked with the developer out there at Holliday Farms, Henke Development, to get them to acknowledge that they, they were comfortable with a pool being built on the property so.

Kind of fast forward to now – I, I, I would disagree that the pool can be moved in a different location. It's, it's tough to see on this, this property here. It's maybe a little bit easier to see on the map you had up earlier but one of the unique features of this home is that the, the back of the home, the windows, both the kitchen and the main living room, are all covered with windows and glass sliding doors that all open to have an opening out to the back porch. So, you actually don't step down, you walk out to a living area that basically brings the outdoor of the home to the indoors and there's not a lot of room back there in, in terms of that, in, in terms of where we're planning to build the pool. So, to put that pool closer to the home, I, I don't think is really feasible. It'd really kind of constrict our ability to take advantage of that attractive feature of the home and really constrain the pool within that area. I'm not sure it's, you could probably put in a smaller pool potentially but I think it'd be very challenging just given the way that site is laid out to take that pool, which is already a small pool to begin with, it's 10 x 20. It's not a large pool and try to move that closer. Another alternative would be to put the pool off to the other side of the home where you see some of the woods over there and kind of the tip of the triangle on the left which really isn't an attractive option for us either. So, I, I would respectfully disagree that it's, it's something that can be moved to a different location. I guess I'll stop there and, and happy to address any questions.

Mundy Questions for the petitioner? I have one if, when you said you, some of the requirements were 1) It needed to accommodate a pool; and 2) The three

bedrooms upstairs – were you aware at that time that the pool would encroach into the setback?

Hollis So, at that time I was, I was not aware that a pool would encroach into the setback. I did, because we didn't know where we were going to put the pool at that point. We had talked about potentially putting the pool off to the side there. We did know there was a setback line and that if we were, if there was, was to be a pool built in that area we'd probably have to get approval for it through the developer and also the Town. We also were aware that another pool had been built in Holliday Farms that was into that setback so we thought that wouldn't be necessarily a big issue potentially if we had to deal with it down the road.

Mundy Thank you. Any other questions?

Lake Have you looked at rotating the pool so that it is parallel to the setback line?

Hollis Yeah, we, we've drawn up some different things. It's, it's really, it's not a big space back there and, and really would be up against the home. That, that whole, that whole back of the house between, even going off into the, the covered porch is, it's all glass doors that open so.

Lake I get it, it just, there are other alternatives to put the pool in there and what you've portrayed doesn't create a hardship and that's our challenge is we have, we can approve it if it creates a hardship. You being able to not get more value out of it which was what was stated in the, in the petition, isn't a hardship –

Hollis Uh huh.

Lake Relative to granting a variance. So we're trying to, we'd like to see you have your pool. Well, I'd like to see you have your pool, I don't want to speak for everybody else, but I'm, I'm just stuck on granting something that's not necessarily a hardship.

Postlethwait And I think the difference between a hardship and an inconvenience is what we're, what we're talking about here.

Hollis Sure.

Postlethwait It's inconvenient that there is the setback. I'm, I'm curious Mr. Mear, the question for you – you were the design and build entity here. Were you aware of the 30-foot setback at the back of that lot at the time you had the discussion about, about putting a pool in as one of the commitments for his buying this house?

Mears I personally was not really involved in those discussions. I know Mr. Hollis worked with a landscape firm as well that, that did this layout. Gradison didn't necessarily do the, the pool design and layout and, yes, of course, we were aware that, that there was a setback line. It's, it's, it's every, it's been in the plat since –

Postlethwait Right.



Zionsville Board of Zoning Appeals  
July 5, 2023

- Mears Since day one so certainly we were aware of that. Correct.
- Postlethwait Well we've certainly seen a number of petitioners asking for this variance, having the same issue that you're describing.
- Hollis Sure.
- Postlethwait And I think the one that was granted was granted primarily –
- Jones No.
- Postlethwait If my memory serves me –
- Lake It was already under construction.
- Jones We haven't grant –
- Postlethwait There was an error that was made –
- Lake Yeah, that one was –
- Jones Oh, never mind.
- Lake Already under construction. There was an error in issuing the permit.
- Postlethwait Right.
- Hollis Sure, I, I've heard about that since –
- Jones Yeah.
- Hollis Just through kind of the, the grapevine. So I appreciate that.
- Jones I mean at the core the issue is is that the strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship and there is no unnecessary hardship. It's entirely self-inflicted. All I hear here is just a lack of due diligence. There's, this is a substantial lot. There would be plenty of room to place that home on if it had been oriented different and the fact that someone failed to run through all the options they might want to have is, is not, it's not a hardship. It's an inconvenience, it's a lack of planning but it's not a hardship.
- Hollis Well, I, I appreciate your opinion. Hardship is subjective, I think, and I'm not here to – it's hard for me with a straight face to say not having a pool is a hardship but everybody's got different circumstances and I can tell ya we have a pool, we've had one since 2015 and I've got three daughters and we've had a lot of memories made around that pool that are good times for us with family and friends. My daughter is on the Zionsville swim club team. She likes to use the pool. I like to use the pool to exercise so for us it's kind of a lifestyle thing. So, think about if you had a tennis court and you're now told, you were now told you could build a pickleball court instead of a tennis court in your backyard so, it is something that gives us a lot of joy and happiness. This is really kind of our

dream home. It's the most substantial investment that we've ever made. We're really excited about it. We worked really hard to get here and I think if you asked yourself if you were building your dream home you'd probably want to have it the way you want it. I also think that putting it closer, putting that pool in a different place may impact the resale value, just jamming it in there in, in a location that really is a, a primary feature of the home is that walkout patio, being having enough, being able to have enough space to walk back there and, and have it look like it's flowing already. It's already pretty tight even with the 5 feet into the setback and there's only a small part of the pool that's actually going to be in the setback. It's not a substantial amount. So that's, that's just some of my views on the matter.

Mundy Any other questions for the petitioner?

Postlethwait Well I don't know what recourse given that there is a sizable, there are a sizable number of petitioners that we've seen. Perhaps it's in a conversation one has with the developer about that Ordinance and that PUD and making it, having that changed. So, I mean, it would, it would, there'd be some process and I'm, I'm not the expert in that by any means but given that there's a certain level of dissatisfaction it seems, then that might be a recourse to be able to make a change that would accommodate what you're talking about.

Hollis Yeah, fair enough. I mean, we're, we're mid-build right now. So, we're, we're already behind in terms of getting this going so it's going to cost me more money to go back to the drawing board. I don't know how long that process will take. I, I, I did watch some of the video you had of some of the other folks that came in and, and look I get it – it's hard for you to probably say no to them and, and say yes to us but I think you have to look at each individual circumstance as you do and if you look at the area we have and one of the primary features of this home, we just don't have the space to put it a lot closer. So I do think it maybe somewhat unique in that regard. I think that a lot of the setback line out there at Holliday Farms is 25 feet, we're at 30. We'll be at 25 feet once this is built and to go back through and try to get approvals through Henke Development and the Housing Association, I, I don't know how long that would take but I know it would be a lot more costly for us if we can't get this pool constructed in, in conjunction with the construction of the home which is happening right now. So we gotta kinda pull the trigger on things here in the next really 30 days and make a decision on which way we want to go with all due respect.

Mundy I think part of what Mrs. Postlethwait was referring to was that these are Holliday Farms' rules. We are enforcing their rules. They are different than some of those throughout much of the rest of the Town but that's their choice, not ours, and while I know that I can appreciate how you would feel that this is a unique situation for us, it is one where I think it's difficult to, hardships are always, the distinction between a hardship and an inconvenience or a nuisance is, varies with the person making that decision but for us it's going to be very difficult to feel comfortable that this is an unnecessary hardship if it's denied.

Lake I mean I just on the PDF drew over the top of the pool, rotated it to be parallel with the property line, slid it back in and if you take your square table with four chairs and your two lounge chairs and flip them, I mean everything fits fine and

one corner of the, the pool was 5 foot closer to your house and the other corner is not. I mean, it fits. That's the problem. It's not that it doesn't fit, it may not fit the way you want it to fit but it fits and so if it fits and there's not a hardship that's where our, I think our challenge is.

Hollis            Yeah, I, I'd have to take a look at what you're looking at. I think we looked at some different ways to flip it. It's, it's, it's problematic if it's too close to the, the back of the home, you know, that's a challenge so. That's challenging but, you know, look, I'm not an expert in real estate and to me if you look at, you say Holliday Farms hasn't, these are their rules, well, the developer, the Housing Association and let me tell ya, if there's anybody that really cares about what's happening at Holliday Farms, it is the developer. They're very meticulous about anything you do within that development and they're saying it's okay to build 5 feet into the setback so, if you're talking about the rules, I think they've looked at these plans very carefully and have talked to six or seven different homeowners now and said we can do 5 feet. To me it seems very reasonable for all of us here to decide that's, that's acceptable. Now we can go through hoops and try to, whatever you have to do, new, new surveys, plans, etc., but that could take a lot of expense and several months. We're not infringing on any neighbors. If you look at Zillow maps, which I did, you can see a lot of the homes are actually being built and, and have structures closer to the golf course than we are so. It's just challenge me, challenging to me from a reasonable person's perspective to, to understand why this is such a big deal.

Lake              I think the challenge is if that the developer wanted that to be the case, he should've put that in what ultimately became our Zoning Code and he didn't and by doing that we then add hardscape in area that wasn't designed to be hardscape and so the stormwater system then isn't designed to handle the runoff from everybody that starts to build into all of these setbacks and so –

Hollis            Yeah.

Lake              If, if the developer thinks that that's truly the case, he's more than welcome to petition to have that PUD changed and do the stormwater calculations to show that, in fact, his system is set up to do that but what we, if we start approving these, there's this cascading effect that then could happen with the stormwater that is unintended and we're, we're following the, the Code that was enacted when he, when he established the criteria basically.

Hollis            Yeah, that's fair. I, I don't know the engineering and how the stormwater and, and the drainage flow would work necessarily. I mean it seems that you do grant some exceptions to others in terms of building in certain areas. I don't know how you make those decisions but I, I can't, I don't have any argument against that. To me, again, the developer who is very thoughtful about the development is, thinks 5 feet is acceptable. I, I, I guess I, I, I don't really have anything else to say besides that.

Mundy           Well I think the 5 foot that's allowable by the developer we've never, we've, he's not told us that and even if he did, our solution would be change the, the way you have structured the PUD which can be done.

Zionsville Board of Zoning Appeals  
July 5, 2023

- Hollis Uh huh.
- Mundy But that's up to him or them. Any further questions? No? Is there anyone here who wishes to speak for or against this petition? Any online? No? Okay. Any further discussion among the Board?
- Jones You want a motion?
- Mundy We will need a motion, yes.
- Jones I move that Docket 2023-11-DSV, Development Standards Variance to provide for a deviation of the rear yard setback to 23.5 feet for the construction of a swimming pool and concrete deck for the property located at 10550 Pete Dye Ridge in the Holliday Farms Planned Unit Development be denied as presented and described.
- 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]
- Thank you and we will conclude the with the Finding of Facts at the next meet, at the August meeting. Thank you sir.
- Hollis Thank you.
- Lake Can I ask a staff question pseudo-related to this?
- Stevanovic Sure.
- Lake When a home is being built and the orientation of the home is changed, what is required relative to that permit? Does anything have to be resubmitted to the Town to show that the house no longer matches the orientation that was on the original site plan?
- Stevanovic Most typically sir the permit would be amended.
- Lake Okay.
- Stevanovic So that is most certainly something that I would investigate only hearing this now. I certainly would investigate where that statement is coming from because our inspectors are very 33:32 inaudible develop amending those permits.
- Lake Okay. I was just curious what that process was.

Zionsville Board of Zoning Appeals  
July 5, 2023

- Mundy And is it typical that the inspector would check the orientation and the, the location of the home?
- Stevanovic I have no doubt that he's understanding of where that house should be on the lot.
- Mundy Okay, yeah.
- Lake They're, they're pretty good.
- Jones But it's also a difficult read if you're looking at dirt.
- Lake Yeah, depending on where you're at on the site.
- Jones And there's no, if there's no adjoining property built –
- Mundy True.
- Lake I was just curious because, I mean, noticing that last time. It, it could've easily just been a mistake on somebody's part but to know that it was intentionally changed, I just didn't know for the Town's record what that appropriate process is so.
- Stevanovic That is exactly what happened.
- Postlethwait How many degrees was it? Do you know? I mean, you just –
- Lake I don't know. The back corner was probably 5 foot off from where –
- Postlethwait Yeah.
- Lake It was supposed to be.
- Mundy Yeah.
- Stevanovic If they're, if they're moving the, the location of the house, that paperwork should, should've been filed.
- Lake Okay. Thank you.
- Mundy The next item on the agenda is Docket Number 2023-18-DSV, J. Clarke at 145 North Main Street, Zionsville. This was continued from the June 7, 2023 meeting. It's a Petition for Development Standard Variance to provide for: 1) An outdoor paver patio which exceeds the allowable lot coverage from 37 to 43.86%; 2) A fence that exceeds the maximum height of 6 feet to 7 foot 5 inches in the Urban Village Residential Zoning District (R-V). Mr. Andreoli, you're representing, is that right?
- Andreoli I, I am.
- Mundy You're, you're getting there a little early but if you –

Andreoli Well –

Mundy But you're welcome to be there.

Andreoli Yes.

Mundy Can we have the staff report please?

Baker Yes. So following from the last meeting which was heard on June 7<sup>th</sup>, was continued because you all wanted to see an engineering report of existing and proposed conditions as far as drainage on the site. The petitioner has provided the report which is in your packet along with a supplemental narrative that was provided today regarding the dry well. As reading the drainage report, it notes that there is an inlet on the southeast corner of the property to be constructed as well as landscape stone in place of the existing mulch on the south side. Staff would suggest if the BZA recommends approval that these two items be a condition of approval. Further, it may be of interest to want more information on the type of inlet being installed.

Now going back to the petition request, the petitioner is requesting to construct a patio in which would increase the lot coverage to 43.86%. The current R-V zoning district allows for 35% with 2% bonus for pervious materials such as pavers. The request of the proposed improvements is associated with the patio in R-V is not uncommon noting that these improvements are pervious structures and not covered along with other adjacent properties deviating from the lot coverage standards, some being even greater than this request.

Going on to the fence which was previously installed, the maximum required fence height is 6 feet. On the petitioner's property, the fence is compliant with the 6 feet height at grade. 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 is a block base installed in these areas to help drainage runoff. With the grade changes on the property, it can be understood why the height of the fence is greater just on the south yard. With, with those items being addressed, staff is favorable of both requests and I'm happy to answer any questions.

Mundy Any questions for staff?

Lake Yeah, so when we're calculating lot coverage, where, where does that start or stop on the property? Is it –

Baker As far as what we're –

Lake Is it back of curb to edge of alley? Is it, I want to make sure I'm understanding what all's counted because I'm getting measurements that state that this thing's over 35% to begin with and I'm trying to understand where I'm, where I'm in error.

- Baker I mean, it would be on the plot plan showing exactly where the property lines would start. I mean, we wouldn't count anything in the alley. It's, I don't know what would be in the alley that would count –
- Lake Like is it –
- Baker As lot coverage –
- Lake Yeah.
- Baker Besides the driveway.
- Lake The driveway doesn't count.
- Baker 38:49 inaudible we don't count the driveway.
- Lake Sidewalk from the –
- Baker The sidewalk from the, the walk, walkways also do not count towards lot coverage.
- Lake Do what now? What doesn't?
- Baker Walkway, walkways do not count towards lot coverage.
- Lake So from the city sidewalk to their front door, that –
- Baker Correct.
- Lake 39:06 inaudible doesn't count. Okay. What if a second story cantilever is over part of the property? More than say an eave?
- Baker I, I forget what the actual distance is but after a certain point I want to say it's 2, 2 feet but I'm, don't quote me on that but, yeah, after a certain point it would count towards lot coverage.
- Lake Okay.
- Mundy You're looking at?
- Lake I just keep coming up with like 36% which is already over the coverage. It's only a percent but I'm just trying to understand.
- Baker Sure –
- Mundy Currently –
- Lake Yeah, I mean, if I take the, the boundary as it shows on the plot plan and I take the boundary of the house not including the front cantilever that is more significant than a, than an eave is, I'm not counting that, not counting sidewalks,

not counting driveway so I just, I'm, that's why I just want to make sure I knew how we were calculating that.

Baker And for what it's worth, I know we did an extensive review –

Lake Okay.

Baker When it came in initially.

Lake All right.

Baker The inspector.

Lake Thank you.

Mundy Any other questions for staff? I have, the, the Red Barn Engineering, this is all we have, right? We don't know anything – you, you mentioned the inlet, not knowing what the inlet on one corner of the lot consists of. I assume that it is, from reading this, that it is permissible to empty those French drains at the sidewalk?

Baker As far as I understand, yes, that is permissible.

Mundy Okay, all right. If there's no further questions, proceed.

Andreoli Thank you Mr. President. For the record, Mike Andreoli, 1393 West Oak Street. I'm here with the property owner, Jane Clarke. In addition, representatives from Kent Shaffer Builders is also here tonight, Kristen, and available to answer any questions.

As the concerns that were raised at the last meeting centered more around the drainage issues than they did the actual lot coverage issues, our charge was to go and talk to a civil engineer and see how this all played out with regard to what was installed as to whether he had any additional suggestions to make sure that this project was going to not cause any difficulties with any owners. So, we went ahead and, and talked to Chris Hinkle from Red Barn Engineering. He did the original site plan. He had all the dimensions and all of the, all of the information we felt necessary to go ahead and make an appropriate analysis and hopefully he's done that in your minds tonight. One of the things that, that we submitted, I think as late as today, was a, a similar version of the drainage narrative that he had originally prepared but, in addition, I noticed that one thing had been missing. A question had arisen at the last meeting with regard to the sump pump pit that Mr. Jones had requested and I was not knowledgeable about that. So, I asked him to opine with regard to that sump pump pit, how it operates, those types of things, whether it would add or subtract or cause any difficulty. So, I wanted to make sure that that was included since it was an issue that had been raised if not collaterally but still raised and thought might be important for the Board to, to understand.

In my charge to Mr. Hinkle, I wanted to know about the perforated pipe along the north and south property lines, how that would affect the, the particular drainage



if, in fact, it would, anything additional was needed in that regard. The, the other concern that I had was that in going back out there and looking at it myself, the alley appears to be slightly higher and in back of the property owner to the south where the fence is located, the alley there is higher than his property sits and so the concern that I had and that I raised with Mr. Hinkle is even if we're doing a yeoman's job in and getting all of the drainage on our property and getting it away from his property, given the fact that some of it may be going down the alley is, is there a way that we could capture some more of that southeast corner where the alley is in, in order to make sure that just even inadvertently we don't cause him any problems or any difficulties to our south.

So, in essence, what Mr. Hinkle had recommended after he took a look at it, visited the site and talked with the builder was that we install an additional drain in that southeast corner that would pick up. Right now all we have is gravel there so it would be easy to go ahead and install. The sump pump is installed right now and it, it was, it was done at the suggestion of the Town in talking with the builder and talking with Mr. Hinkle. Shaffer Construction had done a number of houses in the Village and elsewhere in the greater confines of Zionsville over the years, 30 years building. They've never done one of these pits in the Village or anywhere else but it was a suggestion and I suspect, although we've not talked with anybody at the Town Building Inspector's Office, probably would suggest because we have a full basement and that not all of the properties along Main Street may have full basements. So, that was a suggestion that was made. That is installed. It is meant to capture any sump pump water that we pump out into that particular basin without shooting it out into the yard or anything else. It would find its way particularly in anybody else's property but our own. So, then it will meter, meter it out and I, I also asked Mr. Hinkle and contained in his letter if those two can, could coexist. In other words, where he was wanting to put the additional drain to pick up and into that perforated pipe and out whether that would cause any problem with the sump and vice versa and he seemed to indicate they'd be in different areas and it would not, would not cause any problem.

So, at this particular point in time, he's provided you with the letter. He's got his engineering stamp on there. I'd be happy to answer any questions or any other concerns that, that may be raised but at this particular point, we've done all we can do from a drainage standpoint to make sure that the drainage is going to work, talk with our engineer to make sure it's going to work. Be open to any other suggestions that you might have but at this point, that's what he's telling us is going to be a workable solution to the, to the drainage in, in the particular area and I, I note that there's another lot coverage issue north on Main Street coming up after, after this one and I don't know if they're similar issues or not but I know with regard to ours, those issues were raised legitimately by the homeowners and we think now we have an engineering report that seems to suggest and does suggest that that this is not going to cause any problems or difficulties with regard to drainage. I might also make note that Jane had gone out there during several pours that we had received over the weekend and it didn't appear that there were any difficulties on either the property to the north or south and took a look, has a video of that but at, at this particular point we're not going to put that in but went out and did look at that to make sure there weren't any problems or difficulties with regard to that this, this last weekend. Thank you. I'd be happy to answer any questions that you have.

- Mundy Thank you Mr. Andreoli. Any questions for petitioner's representative?
- Jones I just want to confirm what you just said, Mr. Andreoli. So, did Red Barn Engineering do the original site plan and drainage plan for this house?
- Andreoli Yeah –
- Dale I, I don't know can, can the recording equipment catch that conversation? Thank you.
- Mundy We'll give you a clip-on mic the next time, Mr. Andreoli.
- Andreoli Mr. Hinkle was involved along with the builder in preparing one of the original site plans, my apologies, and if you look at, at the site plan itself, you'll see Mr. Hinkle's name on it and, and attached to it. It may have been the original building –
- Jones I see something from Home Builder Services. Is there something else?
- Andreoli Well he, he was on there. In fact, I think it was on the one that that you showed me with that sump pump, Mr. Jones, that, that I wasn't aware of that we took a look at and that's why we decided to, to contact him.
- Jones All I'm finding is one from the Home Builder Services. I don't see Mr. Hinkle listed on here.
- Andreoli Hold on –
- Jones Does anybody else find this?
- Andreoli Do you have the ability to answer that? You want to answer that? State your name and your address so that you can answer Mr. Jones' question.
- Hale Kristen Hale, 7725 West Oak Street, Zionsville. So Mr. Hinkle's stamp is on the original plot plan. Home Builder Services is the one that draws it and then Mr. Hinkle approves it. So if you look on the original plot plan, it should be the same stamp.
- Jones So at the time that he did the original plot plan, did he design a stormwater retention system for this property?
- Hale Yes, so, I mean, he's the one that gets with the drainage department at Zionsville and makes sure everything is approved.
- Jones The question is at the time, did he design a stormwater retention system for the property?
- Hale I believe so.
- Jones Then where's that? Where's that document?

Andreoli            Could you repeat your question, Mr. Jones?

Jones                What I'm looking for is the stamped set of stormwater retention drawings that Mr. Hinkle which you're saying created prior to this house being constructed.

Andreoli            Well, I don't think we did any stormwater detention drawings. In fact, I'm not sure that a, there's been stormwater detention drawings for any house in the Village –

Jones                Hmm, yeah.

Andreoli            In my experience. I, I thought you wanted us to have an engineer look over the plans. Maybe I misunderstood and I would apologize but he, he's basically did some SF, CSF calculations and those were attached to the correspondence that you have. So I'm assuming that's what you needed in terms of the –

Jones                No, what the, what the document that he provided explains is that the 4-inch French drains on either side of the property have the capacity to carry the additional water off of the proposed patio.

Andreoli            We don't have a French drain.

Jones                But what it's not telling us is –

Andreoli            We have two –

Jones                Where does that water go?

Andreoli            4-inch perforated pipes.

Jones                Where's the water go?

Andreoli            Pardon?

Lake                 That is a French drain.

Jones                That is the French drain.

Lake                 When it is enclosed in rock. That is a French drain.

Andreoli            It's, it's wrapped in pipe, it's wrapped in fabric and then encased in, in –

Lake                 That's a French drain.

Andreoli            Yes.

Jones                That's a French drain.

Andreoli            Yeah.

Jones           The two, but the problem is even in the letter you provided us today, it talks about these drain pipes daylighting to a location behind the sidewalk and I've checked and they don't. What they do is the pipe itself is probably 2 feet below grade and there is a opening on the top and there's a little green cap on it but when you daylight a French drain, you're taking it to a storm sewer, to a drainage ditch, to a creek. Daylight means that whatever water is collected in the French drain is free to run to daylight.

Lake            I think the issue that we have had with other, other properties that have went over their allowable lot coverage is they had provided a drainage plan that says for this extra hardscape we are not going to convey that water to daylighted system. We're going to contain it onsite. So all this says is that the pipe is big enough to convey the water to the storm sewer system and what we have done with previous petitioners is say if you're going to have that hardscape, we don't want that water going into the system because the system wasn't designed for it. So, show us an engineered solution to keep all that water onsite. So, this says the pipe's big enough but it still says that all the water goes into the storm system and the storm system was designed for each property to only have max 35% lot coverage.

Andreoli        So, as, as I understand the Board's thought is that for a single-family home on Main Street we have to show you that we're retaining all the property, all the water onsite?

Lake            No, you don't. You just, if you want additional lot coverage, we're asking for some guarantee by somebody that knows what they're doing that, that this extra coverage is not going to tax the stormwater system.

Postlethwait   Or the neighbors.

Jones           Or the neighbors' property.

Lake            Or the neighbors, yeah. I mean, to have a new home built exactly to 35% and then to put what every other house would normally have, a patio, after the fact would be a variance, is, is, in my opinion, kind of trying to skirt the lot coverage issue. If it's an existing house that's been there for 40 years, it's on it's seventh owner and they're like hey, you know, this house never had a patio, we'd like a patio, that's a different discussion than I just built my house to the very largest extents possible by, by zoning with the, the littlest stoop out the back door probably knowing you're going to put a patio and come back and ask for a variance.

Postlethwait   I agree completely.

Lake            So, in that scenario, the, our struggle is we, we're hearing from the, the Stormwater Department that there's already stormwater issues anyway and when we, as, as a body, allow these additional lot coverages we are taxing an already taxed system and so we have said look, there are hardships where people probably should have this additional lot coverage and we have occasionally allowed for that lot coverage when somebody has said I'm going to add 20 more percent of coverage but, by the way, I'm taking all that stormwater and I'm

containing that onsite so it's, that additional impervious surface is not causing a, a tax on the stormwater system.

Andreoli Got it and so, so that I understand further – what you have just indicated is applicable for new houses that are built in the Village or additions that may be placed on houses where additional lot coverage comes into play so those rules then come into play as –

Lake It's not a rule and it's not a requirement. It's the –

Andreoli Pardon?

Lake It's not a rule and it's not a requirement. It's the way this body has acted in previous scenarios of this nature. That's why when we requested the stormwater calculations, it wasn't to tell us that, yes, you can get all the stormwater into the taxed stormwater system, it was to tell us that you weren't going to contribute more water than what the 35% would already contribute to the stormwater system. That, I think, was why we had requested that. Am I?

Jones Correct.

Lake And it's not a rule. It's not a requirement. It's not documented anywhere. I'm just anecdotally telling you it's been the history of this body that we are much more likely to support a variance if and when the petitioner can say that that additional impervious surface that the stormwater generated by that is being captured and maintained on the site and not being put out to the stormwater system as a whole.

Andreoli Well if –

Postlethwait And I think an added element is that this house is, the elevation of this house is a foot and a half or so higher than those on either side of it which –

Andreoli Understood.

Postlethwait Gravity, water runs downhill as they say.

Andreoli Understood.

Postlethwait So –

Andreoli And, and perhaps it's my failing that I didn't quite understand what you were looking for in terms of the nature and extent and how elaborate of a drainage report that you may have wanted. One minute if I may – respectfully, in talking with my client and now I think having a little bit better understanding of what you want, I would respectfully request that the Board continue this and table it to the next meeting to see whether or not I can legitimately put something together to get you what, what I now know that you, you really need in terms of more of a report with regard to how this impacts the, the storm drainage to the Town as well as our adjacent neighbors. I was concentrating on, on what we might be able to do to make sure we were helping our neighbors and not problem, causing a problem but it sounds like you need something a little bit more. I talked to my

client and we would like to see if we can make one more run at this and see if we can get you satisfied.

Lake And what we have seen in the past were reports that did have some sort of dry sump system that showed a calculation from the stormwater runoff that was going to be in addition with the additional lot coverage and that that dry sump could handle all of that. Badger Engineering did it, I think two, at least two of those as somebody potentially as a resource for you.

Mundy Before we get to your request there, let me just for the Board, would it be helpful to see if there are remonstrators and what they have to say?

Lake Yes.

Mundy I think that, I think that the basis for our continuance the last time was the runoff –

Jones The adjoining neighbors –

Mundy That the neighbors feared and we've, sorry if we didn't make that clear enough but that –

Clarke If, if I could talk for a second. I'm Jane.

Mundy If, if you would just give me a moment please and that we would want to have some assurance that allowing this would not cause a problem that the neighbors were concerned about and that was all based on water leaving that property and going to others. So, my question though to the rest of the Board is would it be helpful to see if there are remonstrators and what they have to say and what their concerns are before we have a motion?

Postlethwait Yes.

Lake Yes.

Jones That'd be fine.

Mundy Thank you. Go ahead Ms. Clarke.

Clarke Hi. Jane Clarke, 145 North Main and I just feel like it's, it's going to be beneficial. I feel like there's an underlying feeling, even from Mr. Lake, that I somehow manipulated the Zionsville Ordinances or, by even having to request this variance, like I should've planned for it and I want everyone to know, including my neighbors, that I did plan for it and I know ultimately it was my responsibility but was told by the architect and, and the builder that the way we were laying the pavers wouldn't be considered impervious. So that's why it wasn't counted for. The last thing I wanted to do was be here. So, that was not a conscious manipulation of the system and I, I completely understand that no one likes how tall my house is and, but I just want it to be clear that all I want to do is have something to put a couch and a table under and I, I did purchase the pavers not knowing that they wouldn't be approved but, I mean, shoot, at this point I can

get over it. It's just like this is just a lot for – I, I just feel like I've led the letters of remonstrance and there was no clear manipulation of the system. The last thing I wanted to do was waste anyone's time or even be here. So, and I'm sorry that people don't like the house and I do think that that's an underlying issue here and I did my best to make the house fit in and this is just, I, I just wanted to say this. I know Mike doesn't think it has any bearing but the other and from the last meeting had we known that that's what you wanted, that's what would've been installed and on this report.

Andreoli One other thing if I might Mr. President – I know we've asked for a request for a continuance and I want to make sure Mr. Hinkle received a phone call from Mr. Jones. So Mr. Jones had an opportunity to talk with Mr. Hinkle and they did talk and Mr. Jones let us know that. I just wanted to make sure, and I don't have any problem with that, I don't have any problem with members of the Board of Zoning Appeals deciding to go ahead and call people or talk to folks. I just want to make sure that if that conversation comes up it was never initiated by my office or by Mr. Hinkle or by my client. There are rules against that and I wanted to make sure to the extent that ever comes up or is discussed, that we're on the record that Mr. Jones made the phone call. We did not make the phone call because I, obviously, we cannot contact you individual members nor can any of Jane's representatives do that. I have no problems with Mr. Jones' call to Mr. Hinkle at all but I just want to make sure that that's aware that we did not initiate that call in any manner just to be clear on the record.

Jones But I just want to – and let's just review this and get it out in the open – my understanding is whether it's Planning Commission or Board of Zoning Appeals, there cannot be any direct conversation between the petitioner and the Board members. Correct? But when it comes to site inspections, contacting the engineers, discussing with the architects to confirm whatever is on it, we are allowed to do that as part of our due diligence. Is that correct? If it's not tell me.

Mundy I'll turn to our counsel here but I think, I viewed it the same way that we, we can make those contacts –

Taylor Yeah.

Mundy For verification of information.

Taylor Yeah. The rule prevents the petitioner from contacting you directly or remonstrators –

Jones Uh huh –

Taylor But, again, without knowing more about the conversation, I'd want to know more about the conversation before I talked further about it.

Jones And the conversation was to confirm what his calculations were saying. And –

Taylor Mr., Mr. Andreoli is just saying that he didn't ask Mr. Hinkle to call you.

Jones Correct.

- Taylor And that, that's understandable given the rules but –
- Mundy All right, thank you. And, Ms. Clarke, I don't, I, I know that no one here intended to offend you or draw a conclusion as to what your motive was in doing this and at the same time, I'll offer something that hasn't come up and I just verified it beforehand and that is that the, the petitioner has installed a pervious driveway which is not, doesn't go into the count anyhow so you have a driveway which allows for somewhat of a percolation that most driveways don't because they're concrete.
- Lake And your front sidewalk is brick as well, correct?
- Clarke Yes, with the same 1:04:23. inaudible
- Lake And, by the way –
- Clarke And you know at this point I'm just going to throw it out there – I did purchase the pavers but I'm willing to do, put anything under there that, that someone's not going to be looking over the fence looking at just to put my couch and my table on. This is not the end of the world for me.
- Lake And as an architect I like the house so –
- Clarke And there was no manipulation.
- Lake Yeah.
- Clarke And my architect was reputable. That was unfortunate.
- Lake Yeah, he, he –
- Clarke And I guess I have to take responsibility for that.
- Lake He should've known.
- Clarke He, a big name.
- Lake Yeah, yeah.
- Clarke Yeah.
- Lake But I do like the design as an architect, so.
- Clarke Well, I appreciate that. Trust me I –
- Lake I applaud you for the design.
- Clarke I don't hear that as much as I hear the other.
- Lake I know, I, I have people –



- Clarke I tried to make it fit in.
- Lake In my ear about the design of the house but.
- Clarke And I really dig Zionsville.
- Lake Yeah.
- Mundy The other thing I'll assure you of and that is that I don't believe anyone on this Board is judging your request and this petition because of the house, the way it looks, the size or anything else. That's not our role.
- Clarke I don't think anyone on this, this Council is. I, I appreciate that but I do think there are, I know there are others –
- Lake Well and –
- Clarke And, you know, it is what it is but like I said, I just, the only thing I know that Mike wants me to request a continuance and we're trying to get this done but I'm also paying Mike and this is just going to be not, **1:05:53 inaudible** is going to be financially stupid at this point. I mean I'm just going to tell you what I'm thinking. I just want to put my table and my couch on something. No manipulation.
- Mundy Okay.
- Clarke That's all I've got for you tonight.
- Mundy Thank you Ms. Clarke. Are there any here who wish to speak for or against this and if you've been dissuaded, if you're here for that purpose and been dissuaded, I'd encourage you to let this Board at least know what you're thinking and what your reasoning is and if there are any online, we'd be happy to take theirs. And I'll, I'll ask you to state your name and address in, in advance please for the records.
- Keith Okay. My name is Marsha Keith. I'm at 7808 North Shiloh Road, Unionville, Indiana and I'm speaking on behalf of my mother, Juanita Keith, who owns the property at 135 North Main. Basically, the questions I had in my, in my letter that I, I sent today, those were my, my main questions. That the picture that I sent also it, it was not to show stormwater runoff per se but just the fact that water does collect on that next door property, that property at 135.
- Mundy And the picture you sent was taken from your mother's side of the, the fence –
- Keith It was taken by –
- Mundy Is that correct?
- Keith Mr. Evans, my mother's renter. He took it from the back side looking out toward Main Street.

Mundy On, but the water that we saw in that photograph was on his –

Keith Yeah, these are his –

Mundy His property which he –

Keith Pavers. These are his paver walkway on 135 and I, I think the, the property is just kind of like that in this picture.

Clarke Can I speak to that? I watch it out my window and that water –

Dale If you could –

Clarke 1:08:09 inaudible off microphone of that house.

Mundy We –

Keith Well this was, here are pictures. There are a couple other pictures that he took that were on days when there was not any rain. I mean the water, the water was coming from the irrigation.

Mundy I'm sorry but if we could – this, this is a public meeting.

Keith I'm sorry.

Mundy We, we capture this for the sake of, of accurate minutes. We're, we're not able to do that when you're not at the microphone.

Keith I understand.

Dale And you need to address the Board.

Keith Yes.

Mundy Yeah.

Keith Yeah, thank you.

Mundy Yeah, side conversations if they're relevant to this, we need to, for them to occur at the microphone.

Keith Okay.

Mundy So. And I think you're concerns were that any potential runoff that came onto the property that the renter is in next door, right?

Keith Uh huh.

Mundy Okay.

- Keith That's the main thing.
- Mundy Are there any others that wish to speak? And, also for the Board, there were two requests, one of which was the lot coverage. The other of which was the height of the fence. I don't believe at the last meeting there was any concern about the height but if there is something else we should be asking the petitioner or the petitioner's representative to look into before we vote on a continuance, now would be the time to do that.
- Postlethwait Well I do have a question regarding the fence because it seems to me that the height of the fence was, was because of pavers they had placed under the fence, were placed under the fence to keep water from running under the fence and washing out mulch. Is my memory serving me well?
- Lake I think it's actually more to hold up existing grade.
- Postlethwait Okay, because if –
- Lake Is the grade, I think the grade – it, it's almost more of a, like a retaining wall function. Is that correct?
- Andreoli Mr. Hinkle suggested he wanted us to remove the mulch and actually put it in stones so that it would work so much better. We, we, we're certainly going to abide by that and that was his suggestion as part of making sure that that would drain appropriately along that fence line.
- Lake But the, but the blocks on your client's property side –
- Andreoli Yes, yes –
- Lake Her grade is at the top of the blocks –
- Andreoli Yes.
- Lake Correct? Okay.
- Postlethwait So it has to do with the adjusting of the grade because there's a –
- Lake Yeah.
- Andreoli Yeah, our alternative is we can cut the, we can cut the fence down a, if we, part, part of it. Not all of it but just part of it.
- Lake I was just trying to get the clarity of –
- Andreoli Yeah.
- Lake Staff question – I was not here last meeting so I apologize. What does our Ordinance say about where the height is measured from? Because, obviously, from the client's side it's 6 foot. From the other side it's 7-1/2. How does it define prevailing grade?

Baker Well it, it's measured, I think in the Ordinance it says it's at grade. I don't think it, it doesn't go, the determination of where you're measuring the grade from but –

Lake Okay.

Baker The more restrictive how it's written is you would take that from the adjacent property in this case.

Lake Okay.

Dale And, and usually that's the original grade. So as the property owner just can't artificially raise the grade and then measure the height of the fence.

Lake Yeah. Thank you. Both of you.

Mundy Which is difficult to do at this point, yeah.

Lake Yeah.

Mundy Right.

Lake 1:11:51 inaudible

Mundy Yes sir, were you –

Lake Want to go ahead and speak?

Mundy Asking to speak about this petition?

Damm Yes.

Mundy Okay. If you'd state your name and address please.

Damm So my name is Dave Damm. I live at 155 North Main Street. I'm the north, north neighbor of Jane's and our biggest concern was the water, water flow. The, the lot is a little bit higher so we're concerned that water's going to flow to our, our property. The French drain is in place. The report that we saw today says that the drain will handle the water to a 10-year event which is good but the water's not going to come up out of the sidewalk. It's a foot and a half, 2 foot deep. It's going to go down subterraneously and that's what I'm concerned about. The great news is that our biggest rain was the, the weekend after our last meeting and I had a little dampness in my basement but I didn't get any flooding yet and I haven't, I've been dry since. It's been a drought so, we're a little encouraged about that. I just heard tonight about the, the dry well. That's, that's good news I think too so. Knowing where that water's going to go subterraneously is what I'm concerned about and, again, I'd like to petition the Board for, for your help of opening up allowing that French drain to, to excavate the water out towards the curb like some of the other residents do on Main Street so we can evacuate the water, whether, whether we do a coverage increase or not but that will keep

everybody dry and happy I think so that was my concern and I'm sorry we have to, if we're having to go through another continuance on another review but it would be nice to understand what that soil retention and absorption is but I think our opportunity is to move forward is how do we move that water if it does become a problem and I think we can kinda get that greased up so that we have a solution and then everybody keep moving forward. So, that's my, my feedback for now.

Mundy Thank you. Any further discussion? Mr. Andreoli, would you like to formally request or petitioner request a continuance then and you feel that you've got a clear picture of what needs to be done?

Andreoli Yes, I think reluctantly my client requests that this matter be tabled to the next meeting if we, if we could. If the Board is inclined on voting on the height of the fence, we still understand there's drainage issues are going to have to be resolved, regardless of whether the fence is 6 feet or 7 feet point 5. So, if, if the Board and there hasn't been any real concerns raised with regard to the height of the fence, we, we would, if the Board would be inclined to move forward favorably with that, obviously, you can't tell me before the vote, that would be great and then we can concentrate on the drainage issues that we need to, to, to deal with with regard to the, to the paver. Ironically, the, the height of the fence plays no role in the drainage issues that we're going to have to take a, a look at anyway now, now that we understand fully our charge in that regard.

Mundy Thank you. I'll turn to our counsel. This is a single petition with two variances and I guess my, my feeling would be let's just leave it that we address them both at the same time.

Jones Correct.

Mundy But –

Taylor Completely up to you, yeah. And, in, in some ways they're not related but in other ways variances may, you may impose conditions on any variance and so it's completely up to the Board whether you want to act on one now and one later or handle them at the same time. It's completely up to you.

Mundy Okay. Input from the rest of the Board?

Jones I'd just soon keep them together.

Postlethwait I agree.

Lake I don't care either way.

Mundy The petitioner has requested –

Andreoli Having the sense of the Board that you would rather consider them together then we would request a continuance for both agenda items. Thank you.

Zionsville Board of Zoning Appeals  
July 5, 2023

Mundy Thank you Mr. Andreoli. The petitioner has requested a continuance to the August 2, 2023 meeting. Is there a motion to do so?

Lake So moved.

Mundy Thank you Mr. Lake. 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]

We'll look forward to seeing you in August.

Lake Mr. Andreoli, we had a house that was on 4<sup>th</sup> Street. It's either an old church or, yeah, a one-room church on 4<sup>th</sup> Street that was converted –

Andreoli I was here that night [REDACTED] 1:16:56 inaudible off microphone

Lake Okay. So that petition may be a good example for you of what we're maybe looking for.

Andreoli [REDACTED] 1:17:01 inaudible off microphone

Lake Okay.

Jones Yeah.

Andreoli [REDACTED] 1:17:07 inaudible off microphone

Lake That just may be a good, good petition for you to reference.

Jones I actually drove by on the way to the meeting tonight and it's in.

Lake Yeah.

Jones They've got the inlet out there in the side yard and –

Lake Yep.

Mundy The next item is Docket Number 2023-25-DSV, M. Trammel at 240 North Main Street, Zionsville. Petition for a Development Standard Variance to provide for a paver patio, covered pavilion and fireplace which: 1) Exceeds the lot coverage from 35% plus a 2% increase for pervious materials to 42%; and 2) Deviates from the side yard setback of 5 feet to 18 inches; 3) Deviates from the aggregate side yard set back of 15 feet to 9 foot 6 inches in the Urban Village Residential Zoning District (R-V). Do we have a staff report please?

Baker Yes. As stated, the petitioner is proposing to build a, a 662 square foot paver patio along with a covered pavilion and fireplace in their rear yard. These improvements will bring the proposed lot coverage to 42%. The R-V Zoning District would allow for 35% with a 2% bonus coverage for materials such as pavers. The request to the proposed improvements is associated with the pervious patios in the R-V Zoning District is not uncommon noting that most improvements are pervious and not impervious structures and along with adjacent properties also deviating from this current lot coverage standard, some being greater than the petitioner's request. With the patio being proposed at its location here, it is not meeting the side setback or the aggregate side. A 5-foot setback is required on all side property lines and is proposed to be 18 inches on the south side. It's not encroaching any further than what already exists with the detached garage and, again, being pervious and not structures staff was favorable of that request. With that 18-inch setback, the aggregate would be 9 feet 6 inches with the patio being 8 feet from the north property line. Again, given the scale of the existing improvements being pervious and not structure, staff is in favor of that request and, again, if I didn't state it previously, the lot coverage staff is also favorable of and I'm happy to answer any questions.

Mundy Thank you. Any questions for staff? Hearing none, is the petitioner here? And if you would state your name and address for the record please and then tell us what you think we should know before we consider this.

K. Trammel My name is Kayla Trammel, 240 North Main Street.

M. Trammel I'm Matt Trammel, 240 North Main Street as well.

Mundy You can raise that up a little bit for you.

M. Trammel Yeah.

Mundy We won't have to have you stoop.

K. Trammel I'm used to going like this at work. You want me to go?

M. Trammel Yeah.

K. Trammel So, I'll start. So, I, we have lived in Zionsville since 2018 and then I actually own a business down here as well so I own Radiant Skin right on Main Street and so when we moved up here and then I moved my business, I just loved the area and we, so I'm right on Main Street with my, with the, in the Village and then so we, we were like we want to live down here, we just love it, love the community, it's just so cute and we looked for probably 3-1/2 years and then finally this past fall this house became available and right when we stepped in we loved it and so the reason why we're coming to you today is we love outdoor living, we love hosting and we love kind of like that indoor/outdoor feel. We finally have a fenced in yard so then our dogs can hang out with us. It's just me and him and our two dogs and so, for me, I think the biggest thing is like I walk to work and I walk home from work so the biggest thing that I would love with this is like to

become, come home after work, hang out with him, hang out with our dogs, enjoy a nice like patio and firepit in the fall and just I love it. And the covered area is because: 1) The biggest thing for me is I own a skincare business so I want to be out of the sun but that's why we want to kinda do a covered area but that's kind of my biggest thing.

M. Trammel Yeah, so one other thing to add – I have a big family and obviously with our tiny like, what is it under 1100 square foot house it doesn't accommodate a lot of people so it'd be nice to be able to host them outside. With my family we easily have 20 people at a given time. This past weekend we actually had people over the 4<sup>th</sup>. Our little patio has like a table of four so, we had to get lawn chairs, that kind of thing. It was fine but, obviously, for comfort maybe would like a larger area in order to host people. I think in the packet there should be something with neighbors' support. I want to talk about that. We had our neighbors over. We invited them to, to our home just to give them the idea of the plans and the drainage plan and all that good stuff and they were all supportive of it. Yeah, that's kind of it I guess. We're open to questions.

Mundy Okay, thank you. I'll ask one question – we do have the list of mostly neighbors. There was one though that lives on Bloor Lane and I wondered what, whether they own property near you?

M. Trammel Oh, they were the previous owners of the property. They're the ones that did –

Mundy Oh –

M. Trammel The extensive remodel with the drains and all that good stuff so. They wanted to show their support as well.

Mundy Okay. Just a curiosity. That sometimes means that the person owns a rental property next to you or something like that.

M. Trammel Oh no.

Mundy It's the former owners.

M. Trammel Yeah.

Mundy Okay. Any other questions for the petitioner?

Jones I was trying to figure out, are the, were the pictures that are included in here the ones that you're talking about representing the French drain and stuff? The drains that were put in prior?

M. Trammel Yeah. It was just showing the process of –

Jones Okay. Because that looks like – we're, we're hitting a point where we need to clarify our terms. Because what I'm seeing, was there a basement added or?

M. Trammel No. It was a cellar basement.



Zionsville Board of Zoning Appeals  
July 5, 2023

- Jones Okay.
- M. Trammel They took the stairs out and then while they were doing that they added that drainage system.
- Jones Before they added the drainage system for that basement renovation?
- M. Trammel Correct, yeah.
- Jones And then they ran all the downspout drains into that? Is that what you're saying?
- M. Trammel Uh no, they, they ran them out into the yard. They're buried.
- Jones Okay.
- Lake Where do they daylight at?
- M. Trammel Mid-yard.
- Jones The good news is that they didn't connect the downspout drains into your foundation drain.
- M. Trammel Right.
- Lake That is, this is good news.
- M. Trammel Yes.
- Jones Yeah, so. Just, just want to, all right – all right.
- Mundy Yeah, those were – I, I wondered too and I asked earlier about it was the previous owner, I guess, that did that but, yeah, that was extensive in terms of the depth that they dug and what was done so.
- M. Trammel One thing I wanted to note on the patio itself – there will be no grout lines. They'll be butted up next to each other so there's no, there's no material going in so the, so water will drain through it all that stuff I guess I – some of the pavers will sometimes have that like granule, I don't know, I don't know what it's called but like it's like almost like a mortar. That is not how this is going to be installed. Our contractor has been doing this for 30 years and that's the only material that he uses is the travertine marble so it's, it's permeable, it's, it absorbs water, it goes into the gravel that it's going to be laying on so.
- Jones It appears that the houses to the north and south of you though have been previously renovated or added on or –
- M. Trammel Uh huh –
- Jones New or whatever. So, currently though at your site you're not having any water issues?

- M. Trammel It's super dry, yeah. Like really dry.
- Mundy Well, I'll ask in the presence of maybe some other experts, but I didn't realize that travertine was pervious. I know that it can have holes in it but at the same time I've seen travertine which appears to be solid stone –
- M. Trammel Uh huh –
- Mundy So, permeability of travertine is something I don't know anything about but without grout or without the, some kind of sand separation between at least the travertine, I don't know how pervious that is.
- Lake So, I think, I think what he's referring to is the fact that the travertine panels will be just –
- Jones 1:27:48 inaudible.
- Lake Pushed together –
- Mundy Right.
- Lake They probably will have sand brushed in between them. That's where the water is getting through. Travertine actually, most stone absorbs water. Masonry absorbs water but that absorption is not enough to –
- Mundy Right –
- Lake Solve any runoff drop on this.
- Mundy Right.
- Lake I think that they will be butted together and that dry joint is what will allow the water to go through versus a mortared joint which, technically, would also allow water to go through because mortar is, mortar will absorb water but just not at a rate –
- Mundy Slowly.
- Lake Not a rate quick enough to call it pervious.
- Mundy Right. So these rather than being wider dry joints, they'll be very narrow dry joints.
- Lake My guess is they're just going to be butted together –
- Mundy Yeah –
- Lake Travertine can be in a regular material so I think it'll, it's not as many joints as you'd have with pavers so it –
- Mundy Right –

- Lake You wouldn't have that level of perviousness but it would allow it to drain, especially if it's got a gravel subbase underneath it.
- Jones Right. So, lot coverage, drainage seems to be our, probably ought to rename the Board to something that better describes what we spend more of our time fooling with. The first one we heard tonight, the issue there is you've got a subdivision, an entire subdivision, that was designed with certain setbacks and drainage easements and storm and sanitary and there was actually sufficient space for someone to do whatever they wanted within certain boundaries. And the issue was they were choosing to try to go beyond those set boundaries.
- Postlethwait There were no lot coverage set, set –
- Jones But, but –
- Postlethwait In other words, they could cover as much of the lot as they wanted –
- Jones Right.
- Lake Dense.
- Postlethwait So there was no [REDACTED] . 1:29:43 inaudible
- Jones With the PUD the way it's written, as long as you stay within those building setback lines you could concrete it from one edge to the other, correct? If you wanted a –
- Lake Yeah.
- Jones You wanted a 15,000 foot lot with a 14,000 foot concrete slab on it, you're allowed to do that the way that PUD is written. The second issue we're coming up with in the Village is and trying to be uniform and consistent, the issue with the previous residence was trying to get clarification on what system was installed and how it was operating because my core issue with the previous one is that what I am viewing in the field is different than what's, how the narrative describes it, especially when it comes to the part about modified to daylight. Daylight is daylight. Daylight is a, a open ravine or some other physically where it goes out and so what we're getting into discussing now onsite retention systems and then although none of us are experts, what are we going to accept as a consistent presentation package so that we at least walk away with the belief that we have treated everyone equally as it comes to this situation regarding over the lot coverage ratio and the lot coverage ratio and some of the terms about it are completely, a little bit arbitrary but at least we're being consistently arbitrary in how we enforce it.
- Postlethwait I'm not sure the petitioners are, make sure this discussion –
- Jones I love it when I get the attorney to –
- Postlethwait After already having sat through the previous petition.

- Jones Cover up and duck. All right, so –
- Mundy Good points all but I think Mrs. Postlethwait probably hit it on the head here. The Trammels are probably not real interested in knowing –
- Postlethwait No.
- Mundy What we want to do as a Board other than –
- Jones Right.
- Postlethwait I think they'd like to make a break for it actually.
- Mundy This petition.
- Jones Yeah.
- Postlethwait But I could be wrong.
- Taylor So maybe 1:31:45 inaudible comment.
- Jones So my question is when it comes to these kind of proposals, what do we want to set as the standard for the information we want to receive in terms of how we're going to accept and deny these variances?
- Postlethwait My, my colleague said something this evening extreme, which I found extremely, it resonated with me extremely well and that is that typically we see these petitions, we see new construction in which a person has a blank, empty lot in which they do the design and can do within the parameters of the Ordinances, can do what they'd like and then we have other petitioners who have purchased an older home in the Village and are trying to update the home to make it livable in the 21<sup>st</sup> Century and I'm speaking for myself here – my tendency is to lean a little more towards those folks who are doing that second thing, the latter thing, because they are essentially not, they are contributing to the Village but they've also they're not starting from zero, let's put it that way, and, and I think they deserve to have a little bit more flexibility in the lot coverage. It's not unreasonable to ask for a patio in your, in the back of your home, particularly if you are taking steps which if my reading is accurate, you are going to do with regard to the drainage on your property –
- M. Trammel Yeah.
- Postlethwait Thinking about your neighbors. Your neighbors have all, you've made the effort to talk with your neighbors and they've all been very approve, given their approval of what you're up to so, I guess I tend to be, lean favorably towards this.
- Lake Yeah and I do, I do share that sentiment that there are two different starting cases, I think, for some of these. The previous petition concerns me as well because it's elevated so it's naturally going to shed water to other property, to its

adjacent properties. It's called gravity. There's no, we don't have anything to fight that right now so that's what's going to happen. In a scenario like this, I, I do agree that, that they're trying to take the best advantage of an existing condition that they, they willingly bought but they're trying to enjoy a similar amenity to, to neighbors and I generally don't have an issue with that and I, I respect that position. I think, Larry, to your point, I think we as a Board have heard from our Stormwater Department their reason for their concern and I think for me personally if we don't try and consider that as we are evaluating these, are we really doing our job as a representative of the Town of Zionsville? And so that's where I, for me, having any petitioner in either case say here's how I'm trying to deal with stormwater because I may be creating a, a coverage issue is really what I want to see and, and it does take different forms for different cases. I mean, when you have a brand new build or the renovation of that church which had such a, a vast expansive footprint as part of that project –

Jones Uh huh –

Lake They can kind of do anything they want to do out of the gate and they should be considering that which I think is, is where I landed with the previous petition. This one, I think the petitioner has everything that's going in with the exception of the 256 square foot of covered roof on the, it's not really a pergola but whatever that little cover –

Jones Covered pavilion or whatever.

Lake Covered pavilion is. Everything else is, is pervious. I do think though with that covered roof you need to figure out how you're going to drain that. If you contribute all that water concentrated onto your patio, it's not going to drain as quick as you would probably like it to drain and it would potentially undermine the base layer underneath your travertine –

M. Trammel Yeah –

Lake So I think if you could take that in a, in a pipe and discharge it somewhere –

M. Trammel Yeah because –

Lake That would probably be –

M. Trammel There will be gutters. So there's a two hip roof so then two gable roofs. There'll be gutters on –

Lake Okay.

M. Trammel I think the hip roofs.

Lake Yeah, just I don't think you're going to want all that dumping right down on your patio.

M. Trammel Right.

- Lake So, yeah, I think I, I'd view this one a little bit differently given that it is –
- Postlethwait So –
- Lake Existing construction.
- Postlethwait It does say your drains off of the covered structure pavilion run into lawn and landscape so I'm assuming that means away from the –
- Lake The patio.
- Postlethwait Patio itself.
- Lake Yeah.
- M. Trammel One thing I want to add – like we're, we're a little house so like we're a ranch, single story and the ones on either side of us are tall and we have not had any water issue by any means and being a single story most, all of our square footage is on one level so that does take up more lot coverage.
- Lake It does spread you out, yep.
- M. Trammel Yeah.
- Lake And, and I think that's where you look at it, it is an existing house. You didn't build it that way. Homes of that era were largely built that way –
- M. Trammel Yeah.
- Lake One story, bigger footprint and nowadays people are utilizing that outdoor amenity maybe more than even in a paved scenario more than they used to.
- M. Trammel Yeah.
- Lake So I think that's where, at least Kathi and I have that kind of position so.
- Mundy All right, Larry, this is what you've kicked off. And I'll, I'll reserve my comments. I have some thoughts on that but I'll reserve those and –
- Postlethwait Enough philosophy for one evening, is that what you're saying?
- Jones Uh huh –
- Mundy I'd rather ask if there is anyone here who wishes to speak for or against this project or any online? It appears we have no remonstrators so I think we've concluded the intake on that. I will say that I think that there are a number of these that we see a clear yes or no to. Certainly if they don't cause a drainage problem then the decision is much easier to make but I think you make a good point and that is that where do we draw the lines and do have some parameters that we can consistently utilize in making these decisions so. With that, if there's no further discussion, is there a motion to be made for this petition?

Lake So for variance #1, I move that Docket Number 2023-18-DSV, Development Standards Variance to provide for an increase in lot coverage to 43.86% –

Postlethwait 1:38:53 inaudible off microphone.

Lake Do I have the wrong one? Oh, I was looking at the other, sorry. I was looking at the previous petition and lot coverage at the same time. Thank you.

Taylor Now, now we now we are being 1:39:04 inaudible

Lake Let's try this again – all right.

Mundy Would you restate your motion, Mr. Lake?

Lake I am going to start over, yes. So, variance #1 – I move that Docket Number 2023-25-DSV, Development Standards Variance to provide for an increase in lot coverage to 42% for a paver patio, covered pavilion and fireplace at 240 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 and substantial compliance with the submitted site plans.

Mundy Thank you Mr. Lake. 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]

That variance is approved.

Lake Variance #2 – I move that Docket Number 2023-25-DSV, Development Standards Variance to provide for a side setback of 18 inches for a patio, paver patio for the property located at 240 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 and substantial compliance with the site plan.

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

Postlethwait Second.

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

All Aye.

Zionsville Board of Zoning Appeals  
July 5, 2023

Mundy            Opposed same sign.  
                      [No response]

That is approved.

Lake              All right, variance #3 – I move that Docket Number 2023-25-DSV, Development Standards Variance to provide for a deviation of the aggregate side yard setback to 9 foot 6 inches for the construction of a paver patio for the property located at 240 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 and substantial compliance with the submitted site plans.

Mundy            Thank you Mr. Lake. 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]

Good luck with your project.

M. Trammel     Thank you, appreciate it.

K. Trammel     You guys are invited over.

Mundy            I will tell you now, I will not be here next month so Mr. Jones that puts you on notice –

Jones            On the docket? All right.

Mundy            And, if there's no further discussion here is there a motion to adjourn?

Lake              So moved.

Mundy            Thank you Mr. Lake.

Postlethwait    Second.

Mundy            And a second from Mrs. Postlethwait. All in favor indicate by aye.

All                Aye.

Mundy            We are adjourned.