



MEETING RESULTS ZIONSVILLE BOARD OF ZONING APPEALS

Wednesday, July 6, 2022

6:30 PM (Local Time)

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

The following items are scheduled for consideration:

- I. Pledge of Allegiance
- II. Attendance **4 of 5 members attended. (In-person S. Mundy, C. Lak, K. Postlethwait, L. Jones) Absent A. Pickell**
- III. Approval of the June 1, 2022, Minutes
- IV. Continuance or Withdrawal Requests

Docket Number	Name	Address of Project	Item to be considered
2022-40-DSV	D. Giles	6490 S. SR 267 Lebanon, IN 46052	Continuance request from the July 6, 2022, Meeting to the August 3, 2022, BZA Meeting required due to an error of Legal Notice publication. 4 in Favor, 0 Opposed Petition for Development Standards Variance to provide for an accessory structure which: 1) Exceeds the permitted accessory square footage 2) Exceeds the allowable height for an accessory building (being taller than primary) 3) Reduction of the buffer yard in the Rural Agricultural Zoning District (AG).
2022-41-DSV	D. Linder	9199 Brookstone Place Zionsville, IN 46077	Continuance request from the July 6, 2022, Meeting to the August 3, 2022, BZA Meeting required due to a delay of Legal Notice publication. 4 in Favor, 0 Opposed Petition for a Development Standards Variance to provide for an in-ground swimming pool which: 1) Exceeds the allowable lot coverage 2) Reduces the rear setback from 25' to 10' in the Urban Single-Family Residential Zoning District (R-SF-2).

V. Continued Business

Docket Number	Name	Address of Project	Item to be considered
2022-32-DSV	T. Andersen	401 W. Pine Street Zionsville, IN 46077	Approved as presented & filed w/exhibits & per staff report subject to the Drainage Improvements submitted on 7/6/2022, adding a swale on the west side of the property and approval from the Town Engineer and Department of Public Works. 4 in Favor, 0 Opposed Petition for a Development Standards Variance to provide for a single-family dwelling which: 1) Exceeds the allowable lot coverage 2) Deviates from the aggregate side yard setbacks in the Urban Village Residential Zoning District (R-V).
2022-35-UV	Altum's Garden Center	795 S. US Hwy 421 Zionsville, IN 46077	Approved as presented & filed w/exhibits & per staff report. 4 in Favor, 0 Opposed Petition for a Use Variance to provide for outside storage and farm and garden supply in the Rural General Industrial Zoning District (I-2) and within the Rural Michigan Road Overlay (MRO).

VI. New Business

Docket Number	Name	Address of Project	Item to be considered
2022-36-DSV	K. Mooradian	3763 Weather Stone Crossing Zionsville, IN 46077	Approved as presented & filed w/exhibits & per staff report. 4 in Favor, 0 Opposed Petition for a Development Standards Variance to provide for an addition which exceeds the allowable lot coverage in the Urban Single-Family Residential Zoning District (R-SF-2).
2022-37-DSV	B. Lanius	745 W. Hawthorne Street Zionsville, IN 46077	Approved as presented & filed w/exhibits & per staff report. 4 in Favor, 0 Opposed Petition for Development Standards Variance to provide for an addition to a Single-Family Home which deviates from the required rear yard setback in the Urban Residential Village Zoning District (R-V).
2022-38-DSV	6-4-3, LLC	6885 W. Stonegate Drive Zionsville, IN 46077	Approved as presented & filed w/exhibits & per staff report. 4 in Favor, 0 Opposed Petition for Development Standards Variance to increase the number of continuous parking spaces to greater than fifteen (15) in the Rural Professional Business Zoning District (PB).
2022-39-DSV	D. Carey	11875 E. 200 South Zionsville, IN 46077	Automatically continued to the August 3, 2022, BZA Meeting due to a split vote recommending denial. 2 in Favor, 2 Opposed Petition for a Development Standards Variance for a reduction in the buffer yard to construct an in-ground swimming pool in the Rural Agricultural Zoning District (AG).

2022-42-DSV	A. Wurster	9180 E. 350 South Zionsville, IN 46077	Approved as presented & filed w/exhibits & per staff report. 4 in Favor, 0 Opposed Petition for Development Standards Variance to provide for an accessory structure which exceeds the permitted accessory square footage (being greater than primary) in the Rural Single and Two-Family Residential Zoning District (R-2).
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VII. Other Matters to be considered:

Docket Number	Name	Address of Project	Item to be considered
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In Attendance: Steve Mundy, Chris Lake, Kathi Postlethwait and Larry Jones
Absent: Andy Pickell

Staff attending: Suzanne Baker, Chrissy Koenig and Darren Chadd, attorney.

A quorum is present.

Mundy Welcome to the July meeting of the, are we on here? Good evening and welcome to the July meeting of the Board of Zoning Appeals. The first item on our agenda is the Pledge of Allegiance and we will ask all of you to stand and join in.

All Pledge of Allegiance.

Mundy Thank you and next item is the roll call.

Baker I'd be happy to do that. Mr. Jones?

Jones Present.

Baker Mr. Pickell?
[No response]

Mrs. Postlethwait?

Postlethwait Present.

Baker Mr. Lake?

Lake Present.

Baker And Mr. Mundy?

Mundy Present. Thank you. Next item is the approval of the June 1, 2022 minutes. Those were distributed to all of you. Are there any questions or comments? 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 say aye.

All Aye.

Mundy Opposed?
[No response]

They are approved. Thank you. Next items are, we have two items which, uh, have requested a continuance due to a problem with the, uh, the notices that were to be given. Uh, first item is Docket Number 2022-40-DSV, D. Giles at 6490 South State Road 267 in Lebanon. Is there a motion to continue that to the August 3, 2022 meeting?

Lake So moved.

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

Postlethwait Second.

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

All Aye.

Mundy Opposed same sign.
[No response]

That is continued.

Second continuance request is Docket Number 2022-41-DSV, D. Linder, 9199 Brookstone Place, Zionsville. That, too, needs to be continued due to a, uh, an issue with the notice to the August 3, 2022 meeting. Is there a motion to continue that docket?

Postlethwait Move to continue.

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

Jones Second.

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

All Aye.

Mundy Opposed same sign.
[No response]

That is continued to the August 3rd meeting.

We, um, also have at least one of the petitioners tonight gave notice by way of first-class mail. Our rules require that it be done by certified mail but we have, uh, amended our rules or waived our rules, uh, during the COVID pandemic, um, and if there is a motion to amend our rules for that tonight, we will allow all of those that have been noticed in using, uh, first class mail.

Lake So moved.

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

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Postlethwait Second.

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

All Aye.

Mundy Opposed same sign.
[No response]

That is approved. Thank you.

Now move on to, um, Continued Business and let me, before starting the Continued Business, are there any other petitioners that are here tonight to request a continuance? Seeing none we will move on to –

Lake Is there anybody online that needs to be recognized?

Mundy Also, we may have people joining us virtually. Can you, John, can you tell me are there - anyone online to join us virtually?

Emery inaudible off microphone. 8:24

Mundy So there are two online? Thank you. And if you'll wave frantically if they wish to join in in any of the conversations at the appropriate time. Thank you. Continued Business, uh, is Docket Number 2022-32-DSV, T. Andersen at 401 West Pine Street, Zionsville, Indiana. This is a, uh, an item which was, uh, continued from the June meeting to the July meeting. It is a, it was requested as a timely continuance, uh, by a remonstrator. Petition is for a Development Standard Variance to provide for a single-family dwelling which: 1) Exceeds the allowable lot coverage and 2) Deviates from the aggregate side yard setbacks in the Urban Village Residential Zoning District (R-V). Is Mr. Andersen or a representative here?

Byers Um, Mr. Chair and members of the Board, my name is Gordon Byers and we had a little technical issue that we're going to try to work through. Uh, I showed up early and we were trying to run a Keynote presentation with this Mac and we could display in the rear and on your monitors but we couldn't display here so I think – are you, you ready?

Lake That's not the right presentation.

Baker That's the wrong one.

Mundy Mr. Byers, if you would give your address please.

Byers Sure.

Mundy For the record.

Byers Sure, my, my address – I'm an attorney and my address is 298 South 10th Street, uh, Noblesville, Indiana. Gordon Byers B-Y-E-R-S. I'm here representing both,

uh, Terry and Laura, uh, Andersen. They technically are residing in, uh, Dallas, Texas. Let me get – I'm gonna sorta call out numbers here and we sent a PowerPoint presentation in.

Emery Gordon?

Byers Yes.

Emery inaudible off microphone. 10:36

Byers Oh, all right.

Emery inaudible off microphone. 10:57

Byers Um, so, we're, we're gonna, I, I want to get everyone's consent. We're going to move forward. I think you can see it there and the audience can see it here and it's, it's a computer speed issue, um, he has it on Power – do you want to try to run it on PowerPoint or?

Emery inaudible off microphone. 11:37

Byers Okay.

Baker I can – I'll resend it to you John.

Byers I'll start off this way if that's, meets with everyone's approval.

Postlethwait Sorry to interrupt. We can't – this monitor is not working up here so I don't know whether there's magic that we're not doing but –

Mundy We just have the one monitor down there?

Jones Uh huh.

Postlethwait Yes.

Lake And it's not working.

Postlethwait It's not.

Mundy I was gonna say if you want to change seats I'm more than happy to share.

Postlethwait Well that doesn't –

Lake Larry's out.

Chadd That one works.

Jones I'm fine with the drawing.

Postlethwait Okay.

Mundy Is it as simple as, John, is it as simple as taking one of these monitors that's not being used and moving it down here?

Emery _____ inaudible off microphone. 12:30

Postlethwait Nothing is ever simple. It couldn't be that simple.

Emery _____ inaudible off microphone. 12:33

Postlethwait Okay.

Jones I can follow along.

Postlethwait Okay. We'll, we'll manage. Thank you.

Byers Um, I'm here representing the Andersens, a young couple, 38-ish that live in Dallas want to come to Zionsville. Uh, the reason their brother, who is here in the audience, lives here so he's enticed them to some of the great characteristics of Zionsville so they acquired this lot at 401 West Pine – right at the intersection of 4th Street and Pine and acquired it and, uh, are desiring to construct a single-family home for themselves and their two children to move to Dallas. And, uh, the variances are simply put developmental standards variance for lot coverage and developmental standards variance for aggregate side yard. And, I know, I won't bore you with the standards but, as you know, we have to show reasonable evidence that it doesn't affect the general welfare, health, safety and welfare; substantially doesn't impair use and value of adjacent property; and a strict, uh, application of the zoning ordinance is a practical difficulty.

Now, the two variances are primarily, this is the lot, here I'll show you – it's Lot 2 right back here. It's about 64 feet x 140, comparable in size to the lot here and this lot. The lot next door to the west is 20 feet wider, so it appears larger. So the Andersen's lot, uh, 62 x 140, typical of lot size in this area. It's a replat. It has an irregular shaped sanitary sewer easement on the west side that you can hopefully see. It's got a proposed drainage easement 10 foot on the rear and, uh, I'll go through some of this but it's typical, uh, it's 0.22 acres, 62 feet x 140. Now these, um, two developmental standards variances are a result of the driveway.

Everything -- whoop, we had a flash there – everything in connection with the house is in full compliance but it's when we, it's when staff looks at the driveway their interpretation of the ordinance is that a driveway is defined as from public right-of-way or rear alley to front building line. It, it's this driveway that goes the length of the lot that generates the lot coverage issue. But to go back to that, the house is about 3,000 square feet. It totals, I think, 3,400 because it's got a 300-foot covered patio and a front porch but typically it's a, it's 42 feet x 67 plus a 12-foot garage so it's a narrow, long house but it meets the ordinance. It's 34.9 as far as lot coverage. It's the culprit of the driveway by staff's interpretation of being extended. And the reason the driveway is extended is that the Andersens felt that was appropriate to rear load the garage. I don't know – I, I'm always hesitant to say this because I did this once and every member of the BZA had a frontload garage so I don't want to critique frontload garages but the, the thought was it's a better aesthetic and a good aesthetic for the, for the Village. And I

think staff would read in the report that we're rear loading the garage on this type of a lot and so the driveway runs the full length. And your ordinance, just to go through it, says that in lot coverage calculations, you don't look at, you don't look at the driveway. It's not, it's excluded. But staff felt that this was a little what's called a super driveway so they calculated it. Technically, the front part of the driveway doesn't count so the lot coverage ratio is about, the, the engineer put 60%. It's about 58% when you count the driveway in but the house, again, is within the confines of 34.5.

The other variance also is triggered by the driveway and on this slide you can see the driveway comes in and your ordinance says that you have to have an aggregate of 15 feet. We have 5 feet permanent on the east and on the, on this side the driveway goes down to 5 feet so there we're in violation of the aggregate of 15. Back here the driveway is within the ordinance. So, the last 35% of the southern part of this lot is in compliance. It's the front that narrows down to 5 feet, so 5 feet on both sides that's 10. Now, the thing to point out, I want to point out – it's hard to see but the driveway is the trigger.

Mundy Mr. Byers.

Byers Yes?

Mundy We, we won't pick you up when you leave the microphone. Thank you.

Byers Okay, I appreciate your record. The house, at this point, the narrowest point of the house right in this area is 12 feet so the house, the house is sufficient to comply with the aggregate. It's 5 feet plus 12. It's 17 but it's the count of the driveway that triggers the need for the second variance. There are requests for two variances. The driveway is the culprit in both though. I guess I want to kind of go over that. It's, it's only when we, uh, have staff's interpretation that we're going to count this driveway because it, it's a little different than the definition of the ordinance and it's the driveway that causes the aggregate to be decreased. But if you look solely at the house, it's in compliance. The house dimensions of the east and the west is fully in compliance with the ordinance also.

Now, the Andersens, I think, put some thought in their design of this and they felt that it's appropriate, I think, to rear load the garage. And the garage, there are some sideload garages and other rear load garages in the area of the Village. So, I don't want to critique it but in a way the need for the variance is because in their opinion they're trying to make the house more aesthetically pleasing from the front. And here's an elevation. I think you can see it. This is the front of the house and the, the west side of the house. So west elevation, this elevation the, the lot owner I think is here this evening, the Cronins are on the west side and this is the elevation they'll see. This is the front elevation. Brick ledge, brick wrap, metal roof and, and I think they feel it's an appropriate design. The, um, okay here's the, this elevation is the rear of the house with the rear-facing garage right here so it's a three-car garage facing south and using the rear. This is the east elevation that Mr. McCauley will see on the east. It has a, well, it had – it has a, uh, which is counting the lot calculation, the house, again, is in compliance but it has a covered patio out there with a fireplace so the patio is counted when we calculate the house at 34.9, we're calculating the porches and the patios but that

patio is enclosed with a roof so it counts. And, and I think to paraphrase staff in the report, I know you'd looked at it, they think that the, the layout sort of, of the rear-loaded garage and the utility easements on the lot make this a reasonable design and a reasonable layout for the... And it sort of has what they, I think they used the word Village character.

Um, the issue and I'll show you some pictures here real quick – this is the lot and this lot the main concerns, the elephant in the room, we, we had a continuance and we met with both property owners – the property owner to the east and the property owner to the west. We met them onsite, walked through their concerns, listened to what their issues were and primarily their issues were drainage. They felt like, you know, drainage has not been great and like every reasonable person, when something develops next to you, you think well what's this going to do to me and how does this affect drainage? So I want to give you that, show you the lot but their main concerns were drainage and we met with them, listened to what they thought and then we met with the Public Works Department and the Town engineer to come up with what we think are some proposals to, uh, tender a drainage plan that makes it appropriate for this house to go into this lot.

Now, here, here's the thing I want to tell you from 10,000 feet. I'm no engineer but I've done this a long time. This lot from the north, this is a picture of the north, from the north to the south has 6 feet of fall and so a 6-foot person from the sidewalk area to the road/curb area to the rear you've got six feet of fall. The other thing that this lot has that when we show you the drainage plan, this lot currently has four drainage structures on it. Four drainage – you're looking at one right here. It has a drainage structure in the northwest corner, one in the northeast corner, one in the rear, two in the rear and we're going to add another one after meeting with the Public Works Department and we're going to place a swale on the east, a driveway and swale on the west and a swale on the rear. And we feel with – I'll show you the lot real quick but we feel with those five drainage structures and, again, remember this lot is 64 feet x 140, 0.22 acres. Now, I'm, I'm not trying to be funny but it's, we've got a small, a small lot with five drainage structures. These are stormwater structures that are piped and a lot of them were put there when the Town made improvements in 2018. I talked to your Public Works Department, you made these improvements but the neighbors raised concerns because there's still some water issues and we think we've got a way to make some modifications to those, um, to actually improve it. So there's, there's one of the drainage structures. This is the northwest corner looking south. This is the east property line north looking south. This is another drainage structure you can see there, people in the audience this is the drainage structure here. That's just a picture of the lot north to south. Same thing – that's looking back to the northwest. You see, one thing we're going to do as part of our drainage plan that we're going to tender to you and make a commitment and a condition of our approval, this drainage structure right here we're going to re – change the elevation on that and perhaps curb it because the water velocity is kinda - the Town made this improvement but it's like a lot of things, the water velocity at peak rain will sheet over that. The surface water will sheet drain over that so we're going to attempt to change the elevation on that and curb it and that's after we consulted with your Town engineer and your Department of Works. They think that will be an improvement that will substantially catch some of the water and, and I want to be clear on drainage, we've got apples and

oranges. We think completely this site we can handle the surface water from the structure, the 3,000 square foot structure and the driveway. The issue here and what the neighbors' concerns are when they talked to us is the off, offsite water coming because of elevations coming down 4th Street, coming east and west and going over the sidewalk. This is a lower area of this, of the Village so it's, it's the offsite water that we're attempting to make some refinements to to handle. We clearly can handle the onsite water and the onsite drainage but we're going to try to improve the site.

Now this, this is our neighbor, the Cronins here who are here this evening, this is their lovely house to the west and the reason I show this is our house on this lot will be substantially the same elevation. You know you hate for people to come in and build new stuff, dig a basement, throw all the dirt up, put this big monster house up and just say here look at this. We're going to set our house elevation just almost exactly the same elevation as the house to the west and the reason I show this, we're going to drop our garage probably three stairs like this garage is dropped – it disappeared. This garage is dropped. There's stairs down into the garage so the garage floor from the main floor is down and that's how our garage will be placed on our lot. So, the reason I show the Cronins, they're paying me extra since they're here this evening to show their house but, it, it's going to be substantially – there's their house again from our lot. So our house will elevate about the exact same. Our porches will line up and our garage elevation will be about the same and the house elevation will be about the same and there, there's a picture of a drainage structure. It's hard to see but it's located back there. There's one over here and there's one there. So there's two in the rear and this will be a swale area back here. That's in our drainage plan when we talked to the, the Town, um, the Town Works Department. Now, this is the Cronin's house and this is the Cronin's house, the house to the west and I show you their house, they've got a nice driveway and our elevation, again, is going to be substantially the same as this and our driveway will be probably exactly sort of at the same level. It'll be on this side of the house the, the lefthand side of the house. But you see how they've got a nice driveway that goes back sideloads their garage. Our driveway will be substantially similar. It'll go a little farther because our garage will rear load but it's substantially going to be, not that we're copying their product, but we're, we're going to be substantially in alignment with their house. Now, this is the southeast corner. It's low but there's a drainage structure right there and I'm going to talk to you in a minute about the drainage improvements we're going to make. We're going to add another, we're going to have double drainage structures back here. This is Mr. McCauley's lot on the other side of the fence so we'll have on this rear swale, we're going to field, we're going to meet with the Town engineer and the, the, uh, the Department of Public Works and field locate that extra drainage structure.

Now, I want to go back to our drainage. This is sort of a summation and in meeting with the McCauleys and Cronins, uh, I respect that they wanted something in writing and I, I think it's 100% correct. These are our commitments that we've tendered, that what we intend to do, that the Andersens will construct retaining curbs around the one inlet on the eastern line, they'll install a five-foot drainage swale equal to or lower than adjacent property and install an emergency overflow in the southwest quadrant and that's going to be field located. Now, so in summation, we're going to improve the four inlets that are there, the northwest

we're going to add curbing, we may reelevate the northeast, we're going to install a new one on the southeast and we'll end up with five outlets. Now, the thing that we're going to do important to the east property is we're going to maintain, if I can show you, we're going to maintain the, um, we're going to maintain the grade going down through there and what means, I think you've probably had this explained to you, we, we're not going to raise – the house will be set at a certain elevation to match the property to the west but on this side we'll drop what's called the brick ledge so we'll, we'll maintain substantially this same elevation of dirt going back so we have a swale to capture that six-foot drop. So we'll create a five-foot drainage easement, it'll have three structures in it to capture the water that, that, that's coming from offsite that'll shoot back through this, uh, location and what we do there, this house has got a brick wrap, we just cheat the brick ledge. In other words, the brick ledge goes down so on the west side the brick ledge might be 3½ feet, on the east side it might be 5½ to hold the ground elevation and not stick the house up in the air could cause surface water to flow on the neighbor to the east. So, that's a summation of what their concerns were and we think after meeting with the Town, um, Public Works and the engineer onsite.

Now the other thing that I'm committing, and I told the Cronins this, to safe harbor this, we'll commit and make part of your approval that when we get the basement set we'll meet onsite, we're going to meet onsite with the Works Department director and the Town engineer to set these new structure, the new structure we're going to add at our expense. We'll meet onsite to set that and we'll meet and I'll notify the east property owner and the west property owner of that meeting and they can attend it also and if they've got questions or concerns or say you know this lawyer talks great but what about this, what about that, so we can, we're committing that we're going to field locate these improvements and make these adjustment. And, again, these adjustments respectfully we, we contend those are to handle this off water, offsite water that's coming in and, you know, I have no doubt that that happens when there's big events but we think when this house is elevated, uh, and the drainage will be controlled by guttering and underground piping with these structures we can handle the site water and the offsite water and we'll make these improvements. So, with that, um, I can only tell you that, uh, the Andersens are, you know, really excited, um, to come to Zionsville. They, they, they've been sort of brainwashed by their brother that it's, and they, they've sort of fallen in love with it so they're anxious but we respect the need for the variance. It, it is, if I blame anything, I can blame the driveway but I think the benefit is this rear-load garage. I think it's better than a frontload garage on, on this lot. So with that I think it's more productive to respond to your questions so I'll stop right there.

Mundy Thank you Mr. Byers. Questions for the petitioners' representative?

Postlethwait I, I have a question and you mentioned that, that, um, you'll be able to handle well the onsite water. Um, what we're talking about here is, if I read this correctly, 62.8% hardscape on that piece of property. Some of that, as you mentioned, will be guttered and underground piping. What about this, um, large driveway that will be hard, hard material, porous material, what's the plan?

Byers Yeah we, and, and we talked to your engineer and I think their desire is to make it hard material now. They'll have a contractual obligation if there's a repair. It's a sewer easement. They, they have a contractual obligation. I think your Town engineer and Public Works will say the coefficient or runoff on gravel versus concrete or asphalt is substantially equal. The gravel might slow it down a little bit. It doesn't really, you know, once, uh, one's not as permeable as you think so it will be - and the driveway is 15 feet x 130 feet - but it'll be, it'll take advantage of that six-foot fall and slow it to the rear at a reasonable grade so we think we're going to obviously handle that. The guttering system on the house, some of the water on this house will actually flow back to the front. The house plan here I'd say the 30% of the house plan, if you look at the drainage plan that we submitted to the Town, 30% flows back north just because it's the way the roof will drain off. So we, we think it's more than sufficient with these, you know, not to be cute but we've got five outlets –

Lake Just for the, just for the record – those are inlets.

Byers Inlets. I said outlets –

Lake Yeah.

Byers Inlets.

Lake Just so that's correct in the record.

Byers I'm from Noblesville so I apologize. Um, with this roof pitch, um –

Postlethwait I'm sorry – just to be clear and you sort of stated over the, you know, north to south runoff, so your assumption is that the, anything that runs off that driveway to the south will be taken in by these inlets that you intend to put at the back at that side of the, that end of the property. Is that my understanding?

Byers There's two, there's two there now at the rear. So the two at the rear we're going to add one on the southeast corner but there'll be a 10-foot, 9½ foot swale at the rear and there'll be two outlets there and our, our driveway elevation will have sufficient slope to take the water to the rear and handle it at the rear 10-foot drainage easement that's on the rear. There's a 10-foot drainage easement on the rear of this lot. So the water from that driveway, some would go to the front, the majority of it would go to the rear because of this, this fall, similar to that driveway I showed you on the house to the west.

Lake So essentially while you have 62% of the site that will drain into the storm sewer system which is more than what it's designed to handle, you will not be pushing water onto adjacent properties?

Byers No, that's correct. In other words, in, in Indiana just the builder can number one be sued and number two it's a common enemy doctrine. We may not collect any unnaturally discharged water, we, we'd be sued and we, your drainage plan has been reviewed by your Public Works Department and the engineer so and, and we're at, you know, with the driveway we were about 58% but we were

confident we're not going to shove the water east or west. We're going to take water north to south and put it in these, um, drain structures.

Lake Okay.

Mundy And the, the inlet that you'll be adding –

Byers Yes –

Mundy At the northeast, uh, I'm sorry the southeast corner, that will be similar to what is already there in terms of capacity?

Byers Yes. It'll –

Mundy And it will, it will flow into the storm sewer that exists back there?

Byers Yes and the one that's on the, Mr. McCauley's property it's got a little right angle in it and we're going to straighten that out and add that other inlet on our property southeast quadrant so it'll improve the efficiency of any water that would get to that southeast quadrant of the lot and it, it is connected into the system. And, and I don't, there's, to be clear, this system doesn't surcharge. It's the, the front structures have been overrun by velocity and we're going to attempt to tweak that, the 2018 improvement, we're going to make those adjustments to that. That's why we met with the neighbors and met with the Board of Works so we think the issue is the offsite water and we think we have a solution to, to adjust to that. We can clearly handle the onsite water.

Postlethwait S,o and just out of curiosity, when you say we I'm assuming you don't, that's not part of your skill set, um, who has been helping you to design these, um, these solutions to the drainage problem?

Byers We, we have a, a PE engineer that signed off on the drainage plan that was filed with the Town. That's part of those plans and the builder, uh, and also the Board of Works and the Town, the Town engineer has also looked at that and we're going to field, field check that when we're in the construction so. In other words, this drainage plan wasn't just made up by me, it was approved and consented to, I think. I think Suzanne can, maybe confirm that. It was consented to or reviewed by the Public Works and the Town engineer. So we have a PE, there's actually a drainage plan in there. The PE signed off on it. It's based on elevations of the basement, shows arrows where the drainage will go and it's, you know, the only thing we're changing is we're adding a new structure and we're adding these swales and making sure the swales are defined. But, again, the thing we've got going for us is six feet of fall.

Lake For the record, we don't have a drainage plan in our packet, so.

Byers Well.

Lake We have, we don't have –

Mundy We have an aerial.

Lake We don't have a plan.

Mundy Right.

Lake We have a written narrative.

Mundy We have, we have narrative in there. The three points, uh –

Postlethwait Actually, there is –

Mundy That you wish to plan to make.

Lake That's not got all these improvements on it though.

Jones No it doesn't have the improvements on it.

Lake Yeah, yeah.

Byers There's a, um, there's there a plan in here if I, if you give me one second.

Lake It's just not updated with your written narrative.

Byers It's, the file that says drainage plan that has arrows on it that shows. It's so old
it's hard to see what –

Lake I do. You just, you can't read it. Even the PDF doesn't scale.

Mundy Yeah.

Lake It, it's blurry.

Byers It's a PDF and it appears it's blurry. We submitted one. Suzanne, do you –

Baker Yes it's in the petitioner's materials. It's not in exhibit. It's in petitioner's
materials and it looks like a, uh –

Lake Yeah you just can't read it.

Mundy You can't read it.

Lake Even when I pull it up in PDF it doesn't, it's not readable.

Baker Okay.

Lake It's just one big blur.

Byers Here it is right here. Let me try to blow it up. This is it. This is the one that the
PE signed off on. I'll try to blow it up.

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Lake And am I correct though that that does not have these new commitments in that plan?

Byers It, it doesn't have the drainage structure in it –

Lake Okay.

Byers But it's got the other structures –

Lake Okay.

Byers And it shows the, the drainage format for the elevation of the house –

Lake Okay.

Byers That right there signed by the PE.

Lake It just affects the motion is why I'm asking.

Byers Pardon me?

Lake It affects how we make the motion.

Byers Oh I understand.

Lake Is why, why I'm asking.

Byers But you're right the, the new structure in, in the narrative we're going to have five structures, there are four there now, we're going to add the fifth –

Lake Okay.

Byers And so I think it would be appropriate maybe to approve the drainage plan narrative and incorporate this into it and know that it'll be amended before we get a building permit.

Lake Okay.

Mundy Any other questions for petitioners' representative? Thank you Mr. Byers.

Byers Thank you.

Mundy Are there any, uh, uh, residents here to speak for or against this petition or are there any online? No? Okay. If you'd state your name and address please for the record.

McCauley Yeah, Ryan McCauley and I'm next door at 375 West Pine Street. Um, can I use your laser?

Byers Yeah, sure.

McCauley Yeah so my, my issue is capacity. So currently there is a five-foot wide emergency overflow on my side of the property and with a, with a house five feet from the property line how does the capacity of the current emergency overflow compare to this plan? And this doesn't have any kind of description of inlets or what that physically would look like or compare to for quantitatively to what's there today. Um, as far as the actual variances, I don't really agree with the driveway being included. My only concern here is drainage and, again, capacity for the current lot and the actual numbers going across to the, the new plan and that's really it.

Lake So I'm not a PE but what it would appear is that there's very little property that would shed water into that drainage ditch so you'd actually probably have less water than what is there today.

McCauley Yes.

Lake Most of it will be contained and routed to storm inlets is what it appears.

McCauley Yeah, so generally speaking, the improvements done in 2017 and the curbs put in, I believe, 2018 have done a tremendous job. The issue is the water that doesn't run across the street today but the water that runs across the sidewalk.

Lake Yeah.

McCauley So I, I think one commitment was to add some sort of structure to include that curb, that first curb there. That would definitely help but the, the bigger issue is the water across the sidewalk, um, and that is not – I mean that would go to the emergency overwater flow, right? Which today there's not a lot of water. It goes to the property and it slowly absorbs, right? With a house there it's going to pool somewhere. It's gonna want to go. It's going to use these swales, at least I'm not a PE, I'm not a civil engineer, but that water's going to go somewhere, right? Um, so I, I mean that's, that's my biggest concern is to the capacity when we get a big rain how does it compare to the current structures? And that's what we don't have. There's been no, or at least I have not seen any kind of, report, review, number on a quantitative basis how it compares other than some generic lines on a sheet of paper of what the current slope is. And then the other thing, too, is the, where's all this dirt going? We're, we're putting in a pretty big house, pretty big basement – this, this, this dirt is going to go somewhere and, and Gordon did point out the, the slope is literally six feet. If you look at the, the patio at the neighbors which is going to be the new grade, I mean it's probably five feet so that dirt is going to affect the surrounding area –

Lake Well –

McCauley Especially when there's only five feet on one side.

Lake I mean if they're trying to do what is on this plan, that dirt's going to have to go offsite. They're, they're going to have to get rid of it. Like there's no way to, there's literally no space to put that dirt on this.

McCauley And correct me if I'm wrong, I believe the plans somewhere in there it actually states all dig, I forget what the legal term, terminology is but will stay on the site, so I agree. The concern is the paperwork has, has stated that it's physically on there, um – she agrees. Um, yeah. I think that's all I have. But just to, to summarize, I don't think the driveway should be included in the overall coverage. The issue is all about there's a new structure, what does that do to the water and is the water across the sidewalks not the street and then capacity for the, uh, current overflow that's there. Thank you.

Mundy Thank you Mr. McCauley. And I think we want to make certain that, uh, all concerns are heard, um, but appreciate your comments about the, uh, the problem is, is, uh, part of it is that the calculation of different lot coverage. Yes sir?

Cronin Hi, it's Jason Cronin at, uh, 415 West Pine, Zionsville, the neighbor to the west, uh, so I'd say, from our concerns, the drainage as well. It's not so much the driveway or the, or the aggregate coverage. I think from the west side neighbors that's not so much a problem. If we do feel like 60% or 62% coverage or whatever is a concern with the hardscape then I think from our perspective we would request as part of the condition to approve the aggregate variance for the setback that there be some sort of a hard border around a more permeable surface, if that makes sense. So not a gravel drive that continues to grow and further encroach on the setback to, to our side on the west if that makes sense. But, again, saying that we're not opposed to the driveway being part of the coverage and the, the improvements they've proposed in terms of drainage on the west side of the property, um, makes sense to us and we're actually excited to have somebody do something with the lot. You can, I appreciate the comments for our patio but we've waited multiple years to actually landscape and fix the patio, waiting for what's going to happen on the other side of the lot so we're actually looking forward to something getting started back there.

Mundy You said, you you're on the west side, is that correct?

Cronin That's correct, yes.

Mundy So you're slightly higher –

Cronin Correct.

Mundy Than this lot for the most part?

Cronin Correct, yes but the driveway as they described there will be a swale on, on their side of the lot line and it would take the water off of the driveway, right and, and we feel like that addresses any kind of water drainage we might have on their side.

Mundy Any other questions for Mr. Cronin? Thank you.

Tousley My name is John Tousley. I live at 305 West Pine Street about, um, I'm the third lot away from this lot. I've been a resident of Zionsville in the Village, uh, since 1978, uh, in my current home since 1982. You have received, I hope, the letter I wrote and you've had time to examine it. I appreciate you taking time to do so.

As I indicated in the letter, several of the things in it might change depending upon what was presented tonight and I am reminded of Mark Twain when he said the problem with communication is language. I have not, I am encouraged by what I see and what I've heard but I haven't seen. You apparently have documents that have not been on file or at least on any file available to the public because I checked this afternoon. And so while these things all sound fine and well, as an attorney for 45 years, I found that sometimes people will say things and somehow it doesn't get translated onto the paperwork. But on the other hand, you are professionals and much more skilled at this than I am. So actually I've got some questions of you – uh, do I understand that you have a drainage plan signed by a professional engineer in your file?

Lake In the petition, yes.

Mundy Yes, we do.

Tousley Okay.

Mundy Uh, the, there is also a narrative in there of the commitments they, they have made. That is not signed by anyone. It is just a listing of the commitments that they've made.

Lake This was not in the packet. The list of commitments.

Tousley Okay. No, I, I haven't seen those –

Lake This was not –

Tousley Either. That would've been nice.

Lake This was given to us today.

Tousley Yes.

Postlethwait The drainage plan that we have is not –

Lake The drainage plan was in the packet.

Postlethwait But it is not signed by a professional, a PE that I have seen. It's, it's, is it a report from a PE?

Lake It is. It's got their stamp in the bottom corner.

Postlethwait Okay.

Mundy Yeah.

Tousley Yeah what I was, what I was hoping for, and perhaps it's there, is something along the lines of not as extensive because Christian Union Church was something more, but something along the lines where a professional engineer would assure my neighbors that, yeah, this drainage is going to work. You know,

if you tell me that it will then I guess and I'll say reluctantly, defer to your judgment. I'm curious though, on the swales does it have any call for how deep the swales will be? And do I understand correctly, there will be a swale on the east, west and south side?

Lake So, number two of this document says create the eastern property line drainage easement area to create a five-foot drainage swale which I believe to be the width –

Tousley Okay.

Lake That is not stated in here equal to or lower than the adjacent property area, uh, adjacent property in the area from the sidewalk at Pine Street to the south end of the lot, uh, as an emergency overflow route. So hopefully taking that water coming over the sidewalk and catching that.

Tousley So that –

Lake It does not give a depth.

Tousley And so that's just eastern or is that –

Lake That's on the eastern and then it has, uh, add a new stormwater drainage structure on the southeast side of the property, uh, to be field located at the direction of the Department of Public Works. And then it already has, it notes on here it already has four drainage inlets, uh, it'll now have five based on what number three says, um, and then I believe the drainage plan itself currently has a swale in the back.

Tousley Okay in the back. So there, there's nothing on the western side then?

Lake Uh –

Tousley And the reason I ask that, is there any swale on the western?

Byers Yes there is. There will be a swale on the west side of the driveway. It will be field engineered, it'll be approved by the Town engineer and Department of Public Works and 53:16 [off microphone, inaudible] drainage plan.

Tousley Is that a part of your drainage plan currently?

Byers What?

Tousley Uh, having the swale on the western side?

Byers Well, if, if it's not clear, we'll, we'll add it as a commitment a swale on the western side.

Tousley I'm glad to hear that.

- Byers And there's a swale, 10, there's an existing 10-foot drainage easement on the rear, two structures, there'll be, uh, two structures on the rear, two structures on the east and one structure on the west.
- Tousley Okay, good. Good. Well, if that could be reduced to some sort of written commitment, again, another homily that I live by is Reagan-Gorbachev "trust but verify." Also on the water I understand I, I would assume that the water from the, uh, from the basement would, that may accumulate after a storm or just perhaps because of natural water conditions. Will it be draining to a, an inlet as opposed to directly to your neighbor's property?
- Byers Of course. I, I think your yeah, your Public Works Department will ensure that that there'll be a sump system that will go to a swale or an inlet and we've even talked to the Public Works Department about routing, I'm not going to quote that, but we've talked about routing the downspouts and the sump to the storm structure if, if they want to do that. It's up, it's their decision because it's their, it's in their jurisdiction. It's their call.
- Tousley And I, I think I'd also note that there's going to be apparently a hard surfaced, um, driveway that's going to be on both the west side and also behind this. I hear what you're saying when you, when you say that the coefficient of drainage or whatever it may have been is, is the same between concrete and gravel but frankly that just doesn't seem to make sense.
- Lake It is.
- Tousley It is? So why do you give any sort of, of lot density for using a material that will drain no better than concrete?
- Lake It's like a percent or two better. It's not, it is virtually the same. Your, your benefit comes from a permeable paver system with a sand bed.
- Tousley Okay. The other thing I would suggest is that the, the percentages being given on the basis of a 10 x 10 patio. I would suggest to you that maybe you ought to reexamine that and give it on the basis of, um, how large the area using permeable materials is going to be. I looked out on my sandbox before I came over here. It's about 10 x 10 and I was thinking, you know, I get a, I get this percentage off for putting in something that's about the size of my sandbox and instead of sand maybe I'd put a little gravel on top and I'll claim the percentage so, and I may be too cynical there but that might be something to look into.
- Lake It's something certainly for future zoning changes.
- Tousley I, I would hope on the new zoning code. Now, there are two other issues that, that I'd like to address. And basically the one is the density. It's been my observation and believe it or not I've been watching you usually by Zoom for some time. I have the benefit of being able to sit in my basement in my pajamas or whatever I may want to as, as I observe you. You guys have to get dressed up. Um, but what I've observed for some time, uh, in these meetings is this Board has been reluctant to grant anything at or over 50% density. And in this case you're being asked to grant density of 62.8. That concerns me, not necessarily so much

because of this but because of the precedent it's going to set. Back when I was doing professional licensing law, trying to get licenses back for doctors and other people, the first thing, well one of the first things I would do after I got my retainer, uh, was I would go over to the Professional Licensing Board and I would go through everything they'd done for the past year or two looking for the exception and I would use that and it worked very well. I'd suggest to you here you have excellent attorneys who appear before this Board with long memories and you are going to have to revisit various iterations of this problem whether it's for a driveway or whatever ad infinitum. I would suggest there may be that if you're not going to turn down this variance that you might address it as part of the new zoning code because I, I think given what you may do tonight you are going to set potentially a very bad precedent for attorneys who will go through and find it and use it. The last part is, again, drawing on my experience back when I was a practicing attorney, I'm more retired these days than not, um, when I would put an easement into developments I didn't cross them. I remember up at the Dow Elanco property you're all probably familiar with that and you know all the gas lines go through that. At one point I represented a client who was going to put a convention center out there and we could not cross their gas lines except diagonal and not very much and not very often and yet here I see there are what two sewer easements or no two sewers. There's one sewer easement and then on the initial file that was done in this they show a sewer located within five foot apparently without an easement. Now maybe I read that wrong but that's what I read from the initial plan. So does it make sense from a public policy standpoint to cover over sanitary sewers and does it make sense, I think there's also a drainage utility easement in the back, um, there's obviously the sewer that's on the west. I guess I am surprised to see a request that would cover so much of those easements and also the sanitary sewer. If you looked at it, I believe it was item 3 in my letter, you can see the extent to which those, the sewer and the drainage utility and easement are covered. Is that, is that good public policy? So, I'll try not to drag this on and I, I, again, I appreciate your service and your consideration tonight. Thank you.

Mundy Thank you Mr. Tousley. Uh, just a quick response, we do put roadways over utilities, uh, and in this case the, the prospective homeowner would be liable for the cost of, uh, tearing up a driveway to access that. So is it the wisest thing to do? Um, I, I think anyone would say no if you can avoid it, certainly don't do it but it is not at, uh, it would not be at residents' expense it would be at the homeowner's expense if there were a need to access that. So, thank you for your comments. No one online? Okay, thank you. Uh, staff report please.

Baker Uh, yes, I'll try to cover what was requested here. Um, I'll start with the drainage because I'm going to try to keep that at base level as I'm not an engineer. I know that the petitioner and surrounding residents have had conversations with DPW, um, and from what DPW has relayed to me at a preliminary they, they're okay with what's being proposed. However, they have not submitted a formal request for approval or anything like that. If let's say the BZA approves this request, they would still have to get an encroachment agreement with DPW for the driveway to be in that easement. Just with BZA approval doesn't mean that that would get 100% approved. Further, they would also have to get a stormwater permit before they could get their building permit. Um, so that's, that's what I can say about the, the drainage concerns. There was a drainage, um, report signed by, by an

engineer in the packet, however, the commitments, I think, I just received today. I would say if it were to be approved, um, that approval would be subject to approval by the city, um, engineers and Department of Public Works.

Going into the more, the variance requests that are here before us, um, traditionally as the petitioner stated, we haven't counted driveways towards lot coverage. Staff felt that based on the excess of the driveway and it not being typical in the Village and on the definition that in this case it would appropriate to count the driveway towards the lot coverage. It also doesn't meet the aggregate. As, as you all know, the, the driveway is required to meet that five-foot setback, therefore, I think there's a 10-foot aggregate with the driveway. Um, with that said, staff is in favor of the request just due to the unique, um, configuration of the lot, um, and feel that it fits the character of the surrounding lots and understand that lot coverage and driveways is probably something we need to look at in the future zoning ordinances and with that said I'm happy to answer any questions.

Lake So ironically the two houses on either side have a similar garage and driveway configuration.

Baker Um huh.

Lake So it's not uncommon in that particular area.

Baker Correct and possibly I don't know, I mean I didn't do a full calculation of lot coverage –

Lake I, I know the percentage matches up but I mean just going all the way to the back
—

Baker Sure.

Lake They're similar.

Mundy Any, any, um, we, we typically do not see the driveway in any calculation and oftentimes when it's an addition, uh, we know that there is a driveway in most cases. We don't know what it is, um, is 62%, will that set a new record or are there others that are at 62% or more, uh?

Lake Right next door. It's the same thing.

Baker I would, I couldn't tell you 100% that have gone through BZA but I would think possibly there are probably lots in the Village that are over 60% if you count the driveways.

Mundy Well, again, we don't usually see that because it's not counted so –

Jones Yeah.

Baker Correct.

Jones Because typically we weren't aware it was a staff discretion whether or not the driveway got included or not. We've always kind of excluded it and we've gone after sidewalks and pools and everything else. I would like to address real quickly this, it constantly shows up in our meetings, the term density. Um, I think we're quite aware or, uh, density and lot coverage are not one and the same. Density is typically what is considered what you visually see, uh, in terms of the size of the structures that are on any given parcel of land. Lot coverage is the hard surface that covers the lot. Lot coverage is what affects drainage for both their property, the neighbor's property and even the design of our storm sewers and everything else that we have going on but density is a, it's a different term and so I don't, they're not interchangeable. They do get interchanged quite often but they are two substantially different issues. Um, the only other item I'd add to this and just to make sure the, the owner and builder are aware of it and even the adjoining neighbors, um, if you dig a hole then the hole will attract the water. So as much as there's a certain amount of lot water coming down the street and over the sidewalk, it's goal is going to be to get to that basement. Uh, we've faced this at the house behind, um, what's the carpet distributor in –

Mundy Oh yeah.

Lake Claghorn.

Jones Yeah.

Mundy Claghorn.

Jones And it was a, there they were definitely the low spot in the road and I know we went through a lot of work to ensure their, that with their site and the way they handled the water onsite it was given the best option to get off. I don't know if they, they followed through and how they treated their own construction process but, uh, word to the wise would be to oversize that because that is where the water's going to go. Um, but generally it sounds like they've worked through a set of the details that handle water coming off their site and also coming onto their site from other, other sources.

Mundy Any other comments from the Board? And Mr. Byers I think you said that you were, uh, if the, um, the lot owners would be willing to make the commitments that you have made tonight in terms of the drainage improvements I, I think there were some things which have, have been discussed which are not part of the, the narrative of the drainage plan and there has been a comment made, um, at least by one that said the dirt that you take out of there to put a basement in is going to have to leave the lot and I believe that in some place in this packet it did indicate that that dirt was going to be used to, uh, um, to grade the lot once the home was built. Uh, but I think you also said that the, um, the home would be placed no higher than the home to the east. Is that correct?

Byers The home to the west, west, right. It, it's substantially the same elevation as the Mr. Cronin's house and his garage to the west.

Mundy The west?

Byers Right. And, and I'll, I'll commit – the one thing I think we've added, um, we're going to put a swale on the west, we're committing to meet and, and to back up a little bit, we'll take, we'll take dirt off of the site by truck. Now the irony is Mr. Cronin actually wants a little dirt. He needs a little dirt so I've committed to him we're going to give him some dirt on his patio but excess dirt we don't just dig a 10-foot hole and stack the house up. We set the house elevation, the drainage plan will be approved by your engineer and your Board of Works, we'll haul our excess dirt off. We used Custom Concrete, the best basement builder, and they know how to perimeter drains and make sure that surface, you know, two sump pits. Uh, and the other thing I'd, I'd point out the capacity of this, we've checked capacity with your Board of Works or your public works and your engineer, there's sufficient capacity in these systems to handle 500-year events so we're not surcharging the, uh, outlets, structures and we're going to add the one so we'll commit, um, to. And we also, Suzanne is correct, we have to have an encroachment permit from the Public Works Department.

But one last thing I want to say is your ordinance and I'm not critiquing it but it says no driveway and you as the Board of Zoning Appeals when you make a decision you're not bound by it. It's not precedent. Unlike Mr. Tousley, it's not case law precedent. You uniquely make decisions based upon facts in front of you. It's not, there's no legal argument that by the Board of Zoning Appeals granted a 58% driveway coverage ratio, therefore, it's a slam dunk for us. It's, it's not the law. In this state the Board of Zoning Appeals are quasi-judicial you, you make fact findings and legal decisions based upon the facts presented to you. It's not, it's not a binding commitment. But it, it appears, again, the elephant in the room is the drainage and we're committed to work with our engineer, our engineer, the Town's engineer and the Public Works Department and our neighbors, Mr. McCauley and Mr. Cronin, to put in place drainage to handle our site and to handle offsite water and we think we've got a plan. Again, we've got five structures and we've got swales on the east, swales on the west and swales in the rear and two structures in the front that we're going to tweak and fine tune and change the grade and curb to collect this. We're going to better the improvement the Town made in 2018. I think everyone agrees that the 2018 project went a long way on improving some of the drainage issues but we're going to improve it even more at our expense So, we commit to the drainage narrative, we commit to the adding the swale, we commit to we have to get an encroachment permit. We're simply asking you for a variance of the lot coverage and the aggregate side yard. So with that I'll be quiet.

Mundy Thank you. Any other discussion by the Board? Is there a motion?

Lake I can try it if you want.

Jones Yeah, did you make enough notes?

Lake I did.

Jones All right.

Lake Um, I move that Docket Number 2022-32-DSV, Development Standards Variance to provide for an increase of lot coverage up to 62.8%, uh, the for the

construction of a single-family dwelling, driveway and accessory uses for the property located at 401 West Pine Street in the Urban Residential Village Zoning District be approved as filed based on the Findings of Fact and substantial compliance with the submitted plans and concepts including the document entitled "Drainage Plan Drainage Improvements" that was provided to the BZA, uh, at this evening's hearing, uh, with a fourth drainage improvement being added which would be the swale along the western side of the property, uh, and that the, uh, final drainage plan be subject to approval by the city engineer and DPW.

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

Jones Second.

Postlethwait Well done.

Mundy Thank you Mr. Jones. Uh, all those in favor say aye.

All Aye.

Mundy Opposed same sign.
[No response]

That is approved.

Lake And then I would move that Docket Number 2022-32-DSV, Development Standards Variance to provide for a deviation from the aggregate side yard setback to 10 feet for the construction of a single-family dwelling, driveway and accessory uses for the property located at 401 West Pine Street in the Urban Residential Village Zoning District (R-V) be approved as filed based upon the Findings of Fact and substantial compliance with the submitted site plans and concepts.

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

Postlethwait Second.

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

All Aye.

Mundy Opposed same sign.
[No response]

Motion carries. Uh, thank you to the homeowners who were here tonight to express your concern and working with the prospective new neighbors. Thank you Mr. Byers.

Byers Thank you. I'd like to thank Suzanne for her, uh, assistance throughout the process. Thank you.

Mundy Next item is Docket Number 2022-35-UV, Altum's Garden Center at 795 South U.S. Highway 421 in Zionsville. This is a petition which was continued from the June 1st meeting. Is there a representative for the Altum's project here?

Calderon There is. Good evening, uh, Chairperson Mundy and members of the Board. Joe Calderon, attorney with offices at 11 South Meridian, Indianapolis representing Altum's, uh, tonight. Um, I was pulled into this after the case was continued so I've, uh, only been involved for a couple of weeks and I'm, uh, very grateful for the guidance that, uh, Suzanne and Roger, uh, Kilmer have provided, um, these couple of weeks that I've been involved. Um, I'm going to be pretty brief because this is a use variance and not really site plan sensitive, um, so much. We, we do have, um, a development plan, uh, petition pending before the Plan Commission that would be scheduled to be heard on the 18th of this month, uh, should this variance go forward. Um, I am not supplementing the materials, uh, that found their way into the packet. I think they, uh, speak for themselves as far as, uh, how the, the property is proposed to be used which is very similar to how it's been used by Altum's these, uh, past two years on temporary variances.

This is property that's essentially shared with, uh, Finley Creek, uh, located, um, at, uh, 421 and, uh, Taylor Avenue. Uh, this property would be accessed, uh, by Taylor Avenue only. Now, interestingly, the property is zoned Rural General Industrial because all, all of it was carved out of the landfill, uh, which is kind of the historic, uh, I-2 use but now we have the Michigan Road Overlay, uh, that applies as well. So, we've got a couple of things going on. I-2 generally permits, um, really any kind of enclosed or open type of industrial use. I-1 is the category that's just a step below that that is typically, uh, more for indoor use. And then you have the Michigan Road Overlay which, uh, generally permits the underlying district uses with certain exceptions, one of which comes into play here and that is the Michigan Road Overlay does not appear to permit outside storage. Now it doesn't say whether that's a primary use or accessory use, it just says no outside storage except if you're going to sell or lease propane tanks. So, uh, it's, it's difficult, uh, to reconcile all of that, hence, part of the reason that we have a use variance pending before you tonight. Let me just give you a couple of uses that are contemplated, uh, in either I-1 and I-2 just to kind of help frame and just looking at some of the things that Altum's does. Are they a plant nursery? Kind of, yeah, they grow, they sell plants. That's permitted, uh, in I-1 and I-2 and in Rural and in the Michigan Road Overlay. Are they a commercial greenhouse? Not really but that's a similar type of use in terms of what you might expect in I-1, I-2 and the Overlay. Farm implement and equipment? Not quite, uh, again permitted in I-1, I-2 and the Overlay. Farm garden and supply is really the kind of use that we've, uh, uh, put ourselves in category-wise and that is permitted, uh, in I-1, not I-2 and GB, Business. What do we care about General Business? We really don't except for the fact that the Comprehensive Plan for this area does contemplate commercial use which could be General Business. The bottom line is we think that what Altum's does, which is a variety of retail and service, uh, providing for homeowners that might need some help with planting, direction, things of that nature, you can buy onsite, you can have stuff delivered and planted. They really kind of fit in exactly the kind of rural, industrial type of category that is in play here, uh, even though it does not fit "neatly" within the category of, of farm garden supply. They're a little more than a roadside sales stand. That's kind of been the temporary variance so they're beyond that building

a permanent office sales facility and a storage barn. They're using existing curbcut off of Taylor, um, and in essence we're just asking for a permanent recognition for what has been granted twice. The latest temporary variance expires at the end of, uh, this year.

Again, we, uh, appreciate the staff's recommendation for approval tonight. We, uh, stand by the Findings of Fact, uh, that were on file. I'm not going to do anything more than summarize them. This use will not affect the public health, safety and welfare, doesn't spew out anything, there's no real nuisance characteristics. The use or value, uh, value of the areas adjacent are not impacted at all. We are really separated. We've got the winery/event center on one side and the landfill on the other. We do have residential across the street. Those are truly adjacent. Um, this will be a quiet use with regular hours. Um, the ordinance, uh, the peculiarity of the property is such that we're dealing with two acres, uh, and that's on top of 0.7 acres that's currently being landed for I-2. That's an extraordinarily small parcel size. Um, the ordinance, as I introduced, does have some conflicts in terms of allowing I-2 and then the Overlay kind of, Overlay restricting a lot of what I-2, uh, can do. And then finally we do think that this proposed use is comfortably within, if not squarely within, the Comprehensive Plan recommendation for, um, for commercial use. So, with that I'm happy to answer any questions. I have Kirk Gibson, uh, with Altum's with me here tonight if you have any questions regarding the specific operation, timeline, etc. Thank you.

Mundy Thank you. Any questions for Mr. Calderon? Hearing none is there anyone in the audience or online who wish to speak for or against this petition? Thank you. Seeing none could we have a staff report please?

Baker Yes, thank you. I think Mr. Calderon did a good job, um, outlining the, the proposed uses will be less intense than what is currently allowed. Um, this area does call for commercial in the Comprehensive Plan. Um, currently Altum's has two, has gone through two temporary-type uses through the end of this year that expires and, um, those of you on Plan Commission, this will be going, I think in a couple of weeks, for a development plan. Um, and then one other point, I know sometimes with use variances, we talk about sunsets, um, and staff didn't feel like that was an appropriate request with this specific petition. With that said, um, staff is in favor of these two use variances and I'm happy to answer any other questions.

Mundy Any questions for staff? I would concur that I, I this is a difficult one to think about a use variance sunset period –

Lake Yeah, I agree.

Mundy Uh, the, uh, investment that they're making, um, would probably make that impractical, so. All right. Any discussion among the Board? Hearing none is there a motion?

Jones I move that Docket 2022-35-UV, Use Variance supporting the use of farm and garden supply and outside storage located at 795 South U.S. 421, the Rural General Industrial Zoning District (I-2) and within the Rural Michigan Road

Overlay (MRO) be approved based on the Findings in the staff report as presented and described.

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

Lake Second.

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

All Aye.

Mundy Opposed same sign.
[No response]

Motion passes.

Calderon Thank you so much.

Mundy Yes, good luck.

Moving now to New Business the, uh, next item is Docket Number 2022-36-DSV, K. Mooradian. It's a Petition for Development Standard Variance to provide for an addition which exceeds the allowable lot coverage in the Urban Single-Family Residential Zoning District (R-SF-2). And are you Mr., are you the homeowner?

Brumagin I am, uh, Dave Brumagin.

Mundy You're, you're the representative?

Brumagin I'm the representative on the, uh, contractor Lakefield LLC, uh, speaking on behalf of Brandon Mooradian who is in the audience, uh, Kelly Mooradian's husband.

Mundy Would you state your name for the?

Brumagin David Brumagin.

Mundy Thank you David. If you would give us an overview of the project that's proposed.

Brumagin I apologize if I'm not as eloquent as the previous speakers. I am not an attorney by, uh, trade and, uh, I'll do my best and if I'm missing on any of the, uh, requirements of why this needs to be met for a variance, please ask me and hopefully I can fill you in if I don't hit on them. Um, the first, uh, the, the reason why, I guess is we're all, is why we're here is to get the variance because we are currently on his lot for an addition at about 20%. The addition would, uh, up the lot coverage to 25%. Um, we have not submitted to permitting yet. Uh, this is in advance of that so maybe this is a situation where the wagon is out in front of the horse but, um, this would be in follow-up to getting approval on the variance that we would go for permitting afterwards. Um, we are at 25% and we would like to

add or with the addition it would be 25% and it would be a 600 square foot addition for one bedroom, one bath and one closet. Um, the need, uh, for this is the Mooradians are looking to expand their family and they are in a housing development where all the houses look very similar, um, I think that their square footage is actually relatively small when compared to some of the other ones. If not, one of the smaller house plans. They usually have five, six house plans in something like this and I think their square footage is one of the smaller ones and the 600 square foot would, um, would maintain the surroundings it would not, um, it would not blow anything out of the water. It would probably fit right in and the, uh, addition on the exterior side would be, uh, um, similar materials that are already on the house – same vinyl, same brick as we have. Um, I guess part of the reason this came up was that we all suffered through the pandemic and, uh, Kelly is now a, uh, is working from home full time so one of the bedrooms that was in the house that would've allowed for another family member is, uh, is taken up by a home office that's required by her employer. Um, Brandon is a member of the, uh, uh, or not a member he's an employee of the Zionsville High School, a teacher, um, he's, uh, part of ZLAX, the Zionsville Lacrosse organization, um, and he's on the Teacher's Union, the Zionsville Education Association so he's very invested in the community, doesn't want to move, wants to stay here and, uh, given the, um, interest rates and the economics of housing, it, it's much better for them to stay here and do an addition rather than to try to relocate. So for those reasons we are asking for, uh, uh, a variance, uh, from the 20% standard to allow for the 600 square feet.

Mundy Thank you Mr. Brumagin. Any questions for the petitioner's representative? Hearing none is there anyone in the audience that wishes to speak for or against this petition? Anyone online? Thank you. Seeing none could we have the staff report please?

Baker Yes. I think the petitioner did a good job summarizing the request. They're wanting to do an addition to their residence, um, which would make the lot coverage up to just under 25% when 20% is the maximum allowed. Um, while we, we've seen more frequent requests with the 20%, um, it's pretty common, the 20% lot coverage in different zoning districts. Um, I will say after doing research in this general subdivision, there's not a whole lot of variance requests, however, most of the lots are at, at 20% currently. I would suspect that as the subdivision ages there might be additional variance requests for additions or anything like that. Um, so with that said, staff is in favor of the, uh, request and happy to answer any questions.

Mundy Any questions for staff?

Lake I would just say this lot, from the aerial that we've got, appears to be one of the smaller lots anyway which hampers that percentage even further.

Baker Sure.

Brumagin Am I allowed to add still? I'm sorry.

Lake Sure.

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- Brumagin The other thing I would like to say is there is a, there's a large greenspace right behind this house. It's like 5 acres so, um, as far as just covering up greenspace it, it really won't, in my opinion, be that noticeable so.
- Mundy Thank you. Any other questions? Hearing none is there a motion?
- Lake I move that Docket Number 2022-36-DSV, Development Standards Variance to provide for an increase of lot coverage up to 25% for the addition of a bedroom, bathroom and closet for the property located at 3763 Weather Stone Crossing in the Urban Single-Family Residential (R-SF-2) be approved as filed based upon the Findings 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 say aye.
- All Aye.
- Mundy Opposed same sign.
[No response]
- Motion passes. Good luck.
- Brumagin Thank you.
- Mundy Next item on the docket is number 2022-37-DSV, Petition for a Development Standard Variance to provide for an additional, addition to a single-family home which deviates from the required rear yard setback in the Urban Residential Zoning District (R-V) located at 745 West Hawthorne Street, Zionsville. Are you Mr. Lanus –
- Baumer Uh, I'm Mike Baumer.
- Mundy Or are you the representative?
- Baumer Yeah, his representative, Mike Baumer with Carpenter's Crew, um, the contractor that's been hired to, to do the project. And I wish I could plug my iPad in here but I didn't bring a, a cord. Um, so right now, uh, there's an existing garage there that sets on the five-foot setback on the rear of the property. Um, and, and right now it unloads, um, right into the alley so you basically back out of the garage and you're in the alley. What we're proposing to do is, is slightly shift that garage, um, um, a little bit to the east just a couple of feet and then turn the loading so that it loads onto the property so you can back out of the garage and then turn onto the alley. The issue comes that we want to connect, um, the garage to the house which, therefore, we should be 20, a 20-foot setback and not the five. Um, I don't know if you guys have the pictures in your packet of –
- Lake We do.

- Mundy We do.
- Baumer The existing porch. I mean it's almost connected now so to speak, um, and kind of the issue is they bought this house, uh, last fall, um, and they're wanting to really invest in it. Um, one of the issues, one of the big issues is well right now that garage, you have to leave the doors open to drain the patio to the alley. Whoever built it, it's got drainage issues but the biggest issue is the original part of that house, I think they said was built like 1865 so it's got a really steep set of stairs and it's a, a winding staircase. The, uh, the rail is like 28 inches high. What they don't want to, there's really no good place to put a new staircase in that house so we're gonna, we're proposing to add a, uh, elevator that would, you know, service all three levels then attach the house to the garage and it, it would really turn it into a, uh, a property that would, would have a lot of benefit to them. They plan to stay there, you know, as long as they can. So, um, without the ability, you know, the hardship would be without the ability to attach the garage to the house and leave the garage basically in the location we just can't get it, there's no room for the, for the elevator, um, and then they really wouldn't want to make the investment without having the attached garage as well. So, that's, that's why we're petitioning. As far as the lot coverage, as you saw, it's a double lot, uh, we've, the other setbacks were well within, uh –
- Mundy It's only the one setback that is requesting, you're, you're requesting a variance for. Any questions for the petitioner's representative? Any online questions?
- Mundy Okay, can you communicate with him and ask him if he is wishing to speak on this?
- Emery No.
- Mundy No? Okay. False, false hand up. No comments then. Could we get the staff report please?
- Baker Yes. Uh, so as the petitioner stated, they're requesting a rear yard setback for the garage to be attached versus detached. Um, as it currently is configured, the, the garage is detached and about five feet from the property line. They're wanting to, um, essentially keep the garage in the same place with an addition which will be attached to the house, um, and also changing the configuration of the garage to be facing, uh, to the west and not towards the alley. Um, based on what the petitioner provided and the Findings, staff is supportive of the request and happy to answer any questions.
- Mundy Any questions for staff? This also will have an upstairs in the garage now which will be used as a living space of some sort.
- Baumer Correct.
- Mundy If there are no questions for staff, is there a motion?
- Jones You want me to do it? I move that Docket 2022-37-DSV, Development Standards Variance in order to provide for the addition to a single-family home which deviates from the required rear, rear yard setback to the, to five –

- Mundy Feet.
- Jones Which deviates from the required rear yard setback to five feet, what are we missing there?
- Baumer Yes.
- Mundy Yeah, feet, the feet is not in there but it should be.
- Jones I thought we were, sorry – I thought we were actually moving it out of the, uh, setback. Am I not?
- Lake It has a five-foot setback currently and when it becomes attached it needs a 20-foot setback but it is maintaining the five foot. So, therefore, it violates the setback.
- Jones There we go. Okay.
- Lake So you want to try it again?
- Jones So the motion made sense to everybody but me? Hence the reason I thought I should make it. All right, I move that Docket 2022-37-DSV, Development Standards Variance in order to provide for the addition to a single-family home which deviates from the required rear yard setback of five feet for the property located at 745 West Hawthorne Street in the Urban Residential Village Zoning District (R-V) be approved as filed based on the Findings of Fact and substantial compliance with the submitted plans and concepts.
- Mundy Thank you Mr. Jones. Is there a second?
- Postlethwait Second.
- Mundy Thank you Mrs. Postlethwait. All in favor please say aye.
- All Aye.
- Mundy Opposed same sign.
[No response]
- Motion passes.
- Baumer Thank you.
- Mundy Uh huh. Next item is Docket Number 2022-38-DSV, 6885 West Stonegate Drive, Petition for a Development Standard Variance to increase the number of continuous parking spaces to greater than fifteen (15) in the Rural Professional Business Zoning District. I assume you're the representative for this project?
- DeHart Yes sir.

Mundy And if you would provide us with an overview.

DeHart Certainly. My name is Adam DeHart. I'm the project manager from Keeler-Webb Associates. Our offices are located at 486 Gradle Drive, Carmel, Indiana 46032. I'm here this evening with Mr. Chris Tanner who is a partner not only in the business of Northwestern Mutual but also the ownership of the property of 6-4-3, LLC. Um, as you just stated, uh, this particular structure is on the northeast corner of Stonegate Drive in Whitestown Parkway at the very extreme edge of Zionsville. Um, in 2021 we, uh, made a presentation for a site development plan approval for this, uh, structure. Like I said, it is currently under construction. Uh, the shell of the building has been complete and they're getting ready to start on the interior part of the construction. When we, uh, presented this project, uh, Northwestern Mutual occupies approximately half of the size of the office building there on the lot and, uh, the property is, uh, the use matches the, the zoning. We didn't ask for any variances during the site development plan approval process. Um, their particular business is not parking intensive but they, uh, were looking for a, uh, tenant to join them in the building and fill up, uh, the rest of the building space. That prospective tenant has a high need for parking spaces which is the reason for our request for the development standards variance that we have before you.

Originally the, the, uh, plan and I believe in our packet you have a copy of our landscape plan that shows the facility. The, the one addition from the original design is four spaces on the south side of that plan. So we've increased the parking lot from 26 to 30 spaces to accommodate the future needs of parking onsite so we aren't going to, uh, create an issue with anybody parking on the street or in anybody else's way. Um, in order to do that, uh, this is an extraordinarily small lot. As you can see, the entire lot is taken up pretty much with building and parking. Um, it was, uh, designed to be in compliance with the ordinance and it was approved and permitted as such. Um, when we go from 26 to 30 parking spaces, it, it creates a continuous row of 16 parking spaces. The request for the development standards variance is, is a requirement of no more than 15. I can't get from 26 to 30 and then still have parking islands in there then I would be back to 28 and it wouldn't meet our minimum parking requirement. That's the reason for our variance that we're here before you this evening. Um, in an effort to, uh, distribute that landscaping that would be lost to that interior parking space, we've worked with staff, we've rewrote, relocated that, uh, landscaping that would've been required in the, uh, intermediate parking space to the perimeter so that the, the Town and the owners get the benefit of additional landscaping that's still in compliance, it's just that we don't have that one additional, uh, interior parking island that we would not be able to park on.

With that, uh, we have in the packet, uh, Findings of Fact that we presented and we'd, we'd like to continue to stand behind that and ask that your vote is based upon that. Briefly, our, uh, parking lot expansion won't be injurious to the public health, safety and morals. Um, the additional four parking spaces actually will, uh, increase the, uh, this property's value and won't affect any of the, any of the adjacent properties in any substantial manner and as you can tell, strict application of the ordinance wouldn't allow us to have this tenant move in, we'd have to look someplace else for this excess of one parking space in a row that we're requesting. With that we request that you approve the prop, the, uh,

petition as presented and we'd be available for any questions or comments you might have.

Mundy Thank you. Any questions for the petitioner's representative? We're unaccustomed to having requests for more parking spaces. Usually it's for less parking spaces, so.

DeHart Understood.

Lake I think Larry had – you have a question, Larry?

Jones Can you tell us what the proposed tenant's going to be?

DeHart Uh, not at this time, sir. I'm sorry. I can't.

Lake So I would note as a resident of Stonegate I don't feel like this will be a problem, uh, given the way it's screened by existing landscaping. However, if your core and shell were done that'd be great. It's not done yet so if you can speed that up on the, the construction. We'd love that.

DeHart I'm sorry. What?

Lake The core and shell is not quite done but if you could get that done it'd be great. It's taken a while so.

DeHart Core and shell?

Lake Of your building. You noted your core and shell of the building is done and they're getting ready to do the build out. Core and shell is not complete but if you could get that done it'd be great.

DeHart I, I'm sorry. I do not understand what a core and shell is.

Lake You noted that your shell of your building was complete in your presentation.

DeHart I understand what you're saying now.

Lake Yes.

DeHart I'm, I'm sorry.

Lake As a resident, it's just taken a while.

DeHart And this particular project's been having the same problem everybody does in the building industry with building materials.

Lake Yeah. But no it doesn't affect visually anything. It's hidden. The parking's all screened from the road, from both roads. From Whitestown Parkway, is that technically what it is out there? Uh, and Stonegate Drive.

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- Mundy Is there anyone here tonight that wishes to speak for or against this petition? Anyone online? Nope? Thank you. Could we have the staff report please?
- Baker Yes, um, the petitioner said that this, um, project got Plan Commission approval, I believe, it was last year, um, for the office building and they came back and are requesting four additional parking spaces which, um, you cannot have more than 15 continuous parking spaces. Um, they're proposing 16. Um, they have, uh, said that they will put landscaping that would've been in an island or, or such on, um, the side of the property to accommodate for that. With that said, staff is in favor of this request and I'm happy to answer any questions.
- Mundy Any questions for staff? Hearing none is there a motion on this petition?
- Lake I'll get it. Uh, I move that Docket Number 2022-38-DSV, Development Standards Variance for no more than 15 parking spaces, uh, without a continuous or in a continuous row without landscaping, uh, be at, and with landscaping allocated to other areas, uh, as depicted on the site plan, uh, filed in Docket 2022-38-DSV Exhibit 4 for the property located at 6886 West Stonegate Drive in the Rural Professional Zoning District (PB) be approved as filed based upon the Findings of Fact and substantial, uh, Findings of Fact and subject to the proposed commitments.
- Mundy Thank you Mr. Lake. Is there a second?
- Jones Second.
- Mundy Thank you Mr. Jones. All in favor please say aye.
- All Aye.
- Mundy Opposed same sign.
[No response]
- Thank you.
- DeHart Thank you for your time.
- Mundy Good luck. Next item on the agenda is Docket Number 2022-39-DSV, D. Carey at 11875 East 200 South, Zionsville. Petition for Development Standard Variance for a reduction in the buffer yard to construct an inground swimming pool in the Rural Agricultural Zoning District (AG).
- L. Carey Thank you for seeing us.
- Mundy Are you the Careys?
- L. Carey We are. I'm Lara Carey and –
- D. Carey I'm Doug Carey.

L. Carey And I'm sorry [REDACTED] 1:45:44 [inaudible, off mike]. This is the first meeting I've ever been to like this, so. Hopefully we put together some good information for you. Hopefully [REDACTED]. 1:45:54.

D. Carey Oh it's ready.

L. Carey Oh great.

Mundy All set up?

L. Carey Yep.

Mundy All right. If you give us an overview of your proposal please.

L. Carey Sure.

Mundy Start with your, stating your names and address please.

L. Carey Okay. My name is Lara Carey and I live at 11875 East 200 South.

D. Carey Doug Carey, same address – 11875 East 200 South.

L. Carey Um, well I was here for one year after only, after about 20 years in Colorado and I, if I'm looking at my phone it's just because I wrote notes because I'm really nervous. Um, so I realized that [REDACTED] 1:46:29 but we have an amazing community here and I just love it. Uh, you guys have a very important job and we'd just like [REDACTED]. 1:46:37 Our kids have been part of this process to get here tonight. We are requesting a pool and that is, um, requesting a reduction of the buffer yard. Um, I hope one day that they will appreciate being engaged in this process and learning from it and maybe one day they'll be sitting in your shoes. So anyway, we certainly hope, um, that we can [REDACTED] 1:46:57 our pool, not for emotional reasons but for very practical ones.

There's about 80 pages of PDF that you have in front of you, um, that you can also access online but [REDACTED] 1:47:06 it matches eight pertinent slides. Um, first let's look at the first slide that we have up here. So, I just want to point out a few things, um, the green box represents our property. If, if you for like one second just like swing your eyes and ignore all the verbiage, you're going to see a ton of green and it's all concentrated on our property and that's because of the very mature trees there. This is an 1887 farmhouse and this old farmhouse once [REDACTED] 1:47:37 over hundreds of acres of property in this area. Over the years, it has been whittled down to 1.89 acres. And I'd like to say that again: 1.89 acres, so less than 2 acres. Coming from Colorado that seems absolutely enormous, um, but in the context of this agriculturally zoned area, it's really very tiny. In fact, it's so tiny that I can't find a single other property that is less than 2 acres and zoned agricultural in our immediate vicinity. And that means that that sort of coveted precedent that I'd like to walk in and give to you so it would make the, make a decision more easily isn't really available to us. We'll talk a little bit more about that later. Obviously, someone who has 4-10 acres probably doesn't need to place their pool or accessory structure close to their property line

like us. Like us they want their pool close to their residence and their residence is probably not near their property line if their property is so big.

What I really want this Board to understand is that what is driving this decision is safety. You can see from the picture here where our residence is and just south of our residence is a detached yellow garage. The red line you see is the proposed line of sight. It starts at our residence and there's sort of a beautiful porch where everyone hangs out in the summertime – that's where everyone is. Um, and then let's skip to slide, let's look at slide two okay? No go back, sorry. No I didn't, sorry. The garage you can see there, you can see the aerial view. You can see there's an existing barn there that's also very close to our property line, um, which represents, uh, the variance, uh, we'll talk a little bit more about that later. I'm getting off script, okay. Um, you can also notice where the septic is and where the large mature trees are and when I say large mature trees, I mean huge. You can literally throw a football under their canopy and I don't think it's in anyone's best interest, Zionsville's or anybody's at all, to pull out large mature trees for a pool. It's expensive, time consuming and not good for the environment. We just want a pool that can be constructed on this property and outlive us. We want it to be in the safest location as possible for obvious reasons.

Okay, slide . 1:49:51 This slide shows the proposed location. It's a bunch of gravel that we want to dig out left by the previous owner and you'll see it's bordered by an existing fence. So that fence that you see right there is the green line backing up to the horse pasture on this slide. So that's our property line fence right there. You can see just beyond it, it's a beautiful horse property and if you look, you can kind of see the top of our neighbor's barn. So, they've heavily invested in their property with these horses. There's no potential for it to be used for crops or any other agricultural activity. Um, so the real buffer between the proposed pool location and the real agricultural activity it's about 2 acres. Um, you'll see that there's an existing barn on our property there – barn “the garage” door. That barn sits 9½ feet from the west property line. I understand it was permitted with Boone County in 2006 and finished construction in 2008 before our land was designated to Zionsville. And now I understand, um, why there isn't a variance on record for this barn but in terms of use, all of our construction on that side would be further away from the fence line than the existing barn. Um, I mentioned the fence line to the south which we were just looking at and I wanted to mention that, um, there's obviously no agricultural, or I understand that if there was no agricultural zoned buffer yard, that you would only, that Zionsville would only require five feet. Um, we're requesting that our, our pool count because slightly greater than five feet and the actual pool would be 9½ feet to the property line. So that really just means that the closest usage that is coming out is, is going to be from the property line is 9 feet. So I'm probably going too fast but, um, this right here in this slide that you can see the same line of sight, you can see clearly that yellow garage that I'm talking about. This is a, a major visual obstruction from the residence to the pool.

D. Carey If, if the pool were put behind the garage.

L. Carey Yeah, sorry, so –

D. Carey Yeah.

L. Carey For any other location, like when you're standing on our porch we want to be able to see the 1:52:03 in the pool and if you were to put it directly behind the garage, which is really the only other space not taken up by, um, septic and whatnot, you wouldn't be able to see, it wouldn't be a safe location. Um, and this kind of shows the old farmhouse and it shows the porch location and you can see the line of sight. It's kind of strange, you would think this is the side that faces the road but it's not. It's the side that faces the south side of our property. Um, all the 1:52:33 living area is right inside that porch. The kitchen is there, the dining area, the living space. That's where everybody is, um, during the summertime so we just want to be able to see our kids when they're swimming. All right, this next slide, um, so as part of this process, um, you can see our property. It's this, those red boxes, two adjacent red rectangles in the center of the black rectangle. Again, I, I will just point out that our property is the smallest and it's encompassed by these other properties. They're all properties used as their primary residences and a few of them have porches and such, um, but they range from 4 to 13 acres and one of them has recently constructed a pool. This inground pool was put in a year ago. This black rectangle encompasses the properties that we were asked to contact as part of the public notice process and so I just summarized what they wrote to you all which you have on file, um, an I'll just go ahead and kind of read the pertinent ones here but at the very top you can see – did you guys all receive this today?

Postlethwait Yes.

Lake Yes

Mundy Uh huh.

L. Carey So it just says at the top there, um, the key, key things I underlined, you know, it will allow them to adequately monitor and supervise the pool. As pool owners we understand their desire to closely monitor the pool while in use. Another neighbor said that, um, you know, they've all come over and they've seen the location and they said they selected the best available location to place a pool. We agree that this is the safest location for the pool and we second the notion that the closest agricultural activity is acres away from the desired pool location. Um –

D. Carey 1:54:10 Inaudible

L. Carey Going down so you can see, we sit in the L-shaped property and they're the ones that said, um, I want you to know we have, they're at 11823 and they say my husband and I are neighbors to the Carey family. They have a pool variance scheduled for tomorrow's meeting. We support the pool.

D. Carey So that's, the, the folks who live behind, the closest to us.

Lake Who have the horses?

L. Carey Yeah, exactly.

- D. Carey Yes, yeah.
- L. Carey Um, so, you know, given that we haven't lived here very long I was really happy that so many neighbors took the time to write in support of our pool. We called them, we talked to them about the pool, we brought them over so they could see the site and understand our safety concerns, um, and we're very grateful to be part of this community for sure.
- D. Carey Yeah, so there's the safety concern where we can't see the kids in the pool and also if we had to put the pool behind that garage which is the only other potential spot, we would tear up the driveway, we have a, a circular drive like a horseshoe, we'd tear up the driveway, we wouldn't have a circular driveway anymore, uh, or, or a horseshoe driveway and we've have to cut a bunch of trees and a bunch of grass and yard so it's kind of like, um, that's, that's just a no go, just, uh, but the safety thing is definitely the most, the most important.
- L. Carey Um, yeah, and the other thing is I talked a little bit about this, this earlier about finding precedent and I appreciate you listening to this because it's the end of a long day but, um, but I just kind of wanted to keep, clue everybody in to where this property is. It's, uh, it's like on the very, very, very eastern side of the Zionsville, it's in this very thin strip of agriculturally zoned, uh, property and here's kind of a blowup of it so you can see where it sits. Hamilton County's to our east, to our north and to our north, uh, west and then residential is to our west and to our south so there's like this thin strip of agricultural. So when I was asked or requested to like find some precedent I, I searched high and low using Google Earth and I'm just not an expert on this. I did find one and discussed with Suzanne today, uh, it's just a basketball court but she and I couldn't find a variance on file so I don't know if this is just something that they, um, did without a permit or did before they were a part of, uh –
- D. Carey The, the irony is, the best precedent is our own barn which sits just next to the property line and when we saw that we thought oh this is great no, no problem, right, putting a pool kind of similarly and, and, in fact, I called, uh, I called to say I don't know who I talked to and when I mentioned this they said so you're telling me the barn is less than 10 feet from the fence? And said yes and they said then this shouldn't be a problem to put a pool in because you have precedent and I thought great and we got the ball rolling and here we are so, uh, little did I know that it was apparently not under Zionsville's purview at that time.
- L. Carey Um, so basically I just, you guys are more familiar with these rules than we are but, um, you know we set out to show that the approval would not be injurious to the public health, safety, morals and general welfare of the community and I believe we can safely agree that that is true. We checked that box. Um, that the use of the value of the adjacent area will not be affected in a substantiated [REDACTED] 1:57:37 manner. I think we can easily see that those [REDACTED] 1:57:40 can be adversely affected from this. Um, and that the strict application in terms of the zoning ordinance would result in an unnecessary hardship and use of the property would result in the removal of potentially mature trees and the destruction of, um, a U-shaped driveway which kind of messes things up. It would most importantly mean that we can't see our kids when we, when they are swimming so we really want [REDACTED] 1:58:06 our request for [REDACTED] property if you

have any other questions or [REDACTED] 1:58:14 I would invite you to return to the document on pages [REDACTED].

Mundy Thank you. Any questions for the petitioners?

Jones Uh, is your Exhibit 2 correct? That your septic field is located to the, uh, northwest of your house?

D. Carey Yeah.

L. Carey Yep. We've had someone come out and we can actually provide.

D. Carey Yeah we, we had it map, mapped just to make sure but the septic tank is there, uh, in that general area and then they, they mapped the fingers recently so we wanted to be sure where it was.

L. Carey Yep. We were worried it might be on the other side of the driveway but it's not so it's exactly where that septic is and the tank is just below where that [REDACTED] 1:58:55 is closer to the house. The septic field is right there.

Postlethwait Um, could you tell me how many horses they have at the neighboring property?

L. Carey Two.

Postlethwait And –

L. Carey Actually, [REDACTED] 1:59:09 three, they might have sold one because they're looking to sell one.

Postlethwait Right. So I see they have a dressage ring. Is it a training facility?

D. Carey No.

L. Carey No. It's a single, it's just a woman and her husband. They don't even have kids and they're supporting our pool.

Postlethwait I understand, um, but horses are an agricultural activity, I mean –

D. Carey Right.

Postlethwait I mean –

D. Carey Yeah I think we're just going in the spirit of the, of the idea of agricultural crops and spraying and things like that. From what I read, that's kind of what it was going after and, um, you know, their, their horses are just kind of their, their hobby, I think.

Postlethwait Yeah but they, do, do they have a spreader? A manure spreader?

L. Carey Um, do they have a manure spreader?

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- Postlethwait Yeah.
- L. Carey Their property is so well maintained and so impeccable they 1:59:53.
- D. Carey I don't think they spread manure.
- L. Carey I don't know, I don't think they spread manure anywhere near. I'm sure they don't spread manure anywhere near our property. That is something I am 1000% 2:00:01.
- D. Carey I mean I'm out there in that general area all, my office is kind of in that area and I've never seen it.
- Postlethwait But it's not uncommon. I, I speak, I'm a horse owner –
- D. Carey Oh.
- Postlethwait So I'm speaking first hand here. It's not uncommon to run a manure spreader along the fence line. It's one way to keep weeds and so on down.
- D. Carey Huh.
- Postlethwait Around the fence and so –
- D. Carey Well, I, yeah, um –
- L. Carey I've never seen them do anything other than mow but I would be more than happy to follow up with her and have them email –
- Postlethwait I'm, I'm sure they have manure. If they have horses, they have manure. It has to go somewhere.
- L. Carey I don't think you see the extent of their, I think a lot of that activity would go not in the pristine pasture that's right behind our house but maybe behind their horse barn if you can see on there, uh, but, again, I don't want to mislead you. I'd be happy to follow up on that point. It's a great one, um, and, and I'd be happy to also, you know, if there's some way we can mitigate any concerns over the original proposal, for instance, like the pool equipment closer to the fence line, we've moved it back so it's definitely, everyone is 2:00:58 aware it's the barn that is.
- Postlethwait I think also in your, in your narrative you mentioned that you did not want to use the greenspace that you have that does not have trees because that's where your children play.
- L. Carey That's where we wanted to put it. That's where we originally started put, to, to put it when we first, um, moved and then we had an arborist 2:01:20 which was just a lot of maintenance that wasn't done at that point when we first bought the house and the arborist said you're going to put a pool here? You're going to kill this tree. We were like what?

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D. Carey It's um –

L. Carey And so –

Postlethwait Catalpa.

D. Carey It's a 100-year-old –

Postlethwait Catalpa.

L. Carey It's not 100 years old.

D. Carey Gorgeous catalpa or whatever. It, it's huge.

L. Carey I asked them like how many more years do you think we'll get out of this tree, they're like you've got decades left in this tree. It looks great. And then I had another arborist, um, in his letter, that arborist's letter is in our documentation but I had another – uh, one of his friends who is also an arborist did a treatment and he concurred with that assessment and then another arborist, I don't have it from them, I only heard verbally but Bartlett something or other they came and they said yeah you can't put a, you can't put a pool there, you're gonna, the, it will ruin, ruin the root system which will ruin the house. And if you've seen it for that particular location, I mean, you see the tree but it's kind of very close to the house, you can see it to the left of the red dot there. It would destroy that beautiful tree that's in perfect condition.

D. Carey It's the one that's the most beautiful tree on the property we think.

Lake So I don't generally have an issue with the argument that you don't have agricultural, at least in the intent of the ordinance relative to spraying, so I don't have an issue with the decrease from that standpoint. I would caution you that you're not going to stand on that back porch and see your kids play in that pool. Their heads are going to be below the rim of the pool and the glare on the pool, you will not see them. So if they go under, you're not going to know they went under. So from a safety standpoint that's not a very safe place to put it. So you may, when they're on the deck you'll be able to see them but when they're in the pool, you won't, as a former lifeguard, you will not see them.

L. Carey I think that's a really great point. The only thing I might, um, might point out is that it is quite elevated, both the property and the elevation of the actual porch –

D. Carey Right.

L. Carey It does look down on that area so you do actually have a pretty good line of sight but I could follow up with a video footage to prove use of the, I appreciate your life, lifeguard experience –

Lake I mean that doesn't, change my perspective. I'm just, we've, there have been a lot of, there have been several people from Zionsville who have had their kids drown or nearly drown in the last two or three years who are still recuperating and that is likely not as safe as you may think it is.

D. Carey And you know, I think another, another point is just keeping an eye on the general activity and, and craziness of the kids and what they're doing and the horseplay and all that. We can at least –

Lake Which will be way more visible than--

D. Carey Right but we'll have a sense of what they're doing and, and, you know, our goal moving here, one goal of many moving to Zionsville and Indiana in general, um, was to have a lot of people over. We have this, this great property, we have cousins and the kids are making new friends and not, not to be able to see multiple kids play in this pool, it's kinda, it's, it's stressful to think about. And, and so that, that's part of it as well.

L. Carey And part of the plan is there's like a little, um, what do you call the thing – a pergola – like a place where you can sit that's in the shade so our plan is to like sit from the porch and do that. It's more if you want, if you want to run into the house to grab a snack or something.

Lake Sure.

L. Carey I mean our kids are all really strong swimmers but there could be future owners that would never want to move again. But, you know, for future owners just good stewardship of the property it's best to put it in a location that's not directly behind the barn, um, it would make me feel a lot better as a mother and I just think it's a safer location overall and additionally, it makes sense to just like, a gravel space that, you know, seems wasted at this point versus - it doesn't, it seems silly to rip down trees when you don't need to. It's expensive, very expensive as I found out because we had arborists come and like trim and whatnot so to rip out these huge mature trees would just be probably like \$5,000-10,000 would be my guess.

D. Carey Well, that's, we couldn't do it.

L. Carey What?

D. Carey We, I probably wouldn't do it.

Jones We've been pretty consistent in maintaining the 40-foot buffer out in the ag areas. It's –

L. Carey Well did we go through –

Jones It's really about, you know, I'm looking at this horse barn and pasture and all that and I'm thinking, I mean how many horses could you put in that barn? If somebody really wanted to run an operation?

Postlethwait I don't know how big that, it depends on how big a barn it is.

L. Carey 2:05:43 so that's why it's . They have an indoor
2:05:44 –

- Postlethwait Yeah.
- L. Carey And an outdoor.
- Postlethwait So it, I mean if something like that, essentially, if it has an indoor ring, indoor arena then it could be a training facility, you know, I mean, it –
- D. Carey But the, and the barn is obviously well past the fence line.
- Jones Correct.
- D. Carey It's not even –
- Jones But it's about – the reason we keep the buffer is just to confirm that your operation is running your residence don't impact the adjoining property owners and we've, we've commented on it every time we get somebody wanting to develop in the ag area between the right to farm and making sure they keep the appropriate setback from the adjoining property lines. Now, that barn got built out there somehow but we've, we have run amuck with things being previously approved by Boone County that now Zionsville is bearing the brunt for. That is a legitimate precedent and, you know, once again, everybody likes their trees but you're going to spend X amount to dig a hole and if you gotta take out a root ball with the hole, it is what it is. But I do also agree with Chris, this does seem about as far away from the house, if you're truly all that concerned about safety, as it could be. Most people prefer their pools up tight to the house, once again, for the use of restrooms and everything else. Let alone you're going to have to run water lines and utility lines out there that are going to cut through the roots of all those trees out there, as well as trying to get underneath that driveway.
- D. Carey Uh, no, there's electricity at the garage. It, it'll go right under the driveway, um, it won't, it won't impact any, any trees. We, we've already gone through this with an electrician.
- Lake Does the existing barn have restrooms in it?
- D. Carey No. It has electrical. So it could also be run from the barn.
- Jones Does it have gas heat?
- D. Carey There's, there's, there's, yeah, propane to the barn and so that propane can easily tie in if we wanted to heat the pool. That's another nice thing about it, it's closer to the pool, the propane tank, and it's already going into the barn so and there's an electrical panel there as well.
- Postlethwait Do you – where is the well? I assume you have well water? Where is your well located?
- D. Carey The, the, the well is, um, so see where that fence is in that little, uh, uh, that, that those flowers –

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- L. Carey Hostas.
- D. Carey The hosta flowers. It's, it's right there basically.
- L. Carey If you were looking, um, it would be like above the second G in garage, the lowercase G kind of up over there is where the well is. It's a distance.
- Lake Kinda left of the M?
- L. Carey Yes.
- D. Carey Yeah, yeah. Up and left of the M, yes. So that, yeah, I, I we don't even know if the well will present an issue over, over in that area. There's a driveway there anyway. I, I don't we can make the setback on that side. So part of the problem is the house is in the middle, kind of the middle of the yard which, which presents, which limits our options let's just say.
- L. Carey Yeah, except, yeah, the house is - and all the living space in the house - is in the back of the property like I said before so, you know, with all the existing structures, there isn't a lot of opportunity to put it anywhere because of the big, open site. It, it's, you can come over for tea and I'll show you it's the best place I promise you in this instance.
- Mundy If there are no other questions for the petitioner, do we have, uh, anyone in the audience here wishing to speak for or against the project? Or anyone online? No? Okay. All right. Thank you. Could we have the staff report?
- Baker Yes and also I definitely appreciate the amount of research and preparation that applicants have done here. Um, as you may or may not know, the 40-foot buffer yard requirement, um, can be waived by the building commissioner, um, who, in this case, was the former, uh, planning director. Um, he, I'm not sure what he approves, what he doesn't, I mean, so it usually goes through the building commissioner to approve that. He, um, had at the time denied the request for this specific waiver, um, and the 40-foot buffer yard, um, and I think I provided that letter in the packet. His reasoning mostly was due to the fact that yes there are properties in the area that do not meet the requirement but mostly they're agriculture buildings, um, they're either legal nonconforming or nonconforming or possibly, I don't know if they got variances with Boone County, um, but there aren't any in the surrounding areas. I think that's what we look at and in the area there aren't really that many pools and there aren't many pools that don't meet the 40-foot buffer. Um, so with that in being consistent with the former director's decision, um, staff, uh, uh, recommended denial of this petition and I'm happy to answer any questions.
- Mundy So we're really not clear on what the former director denied this, what the, the basis was?
- Baker Well I think the reasoning in the letter, the gist of it was that, um, adjacent properties don't enjoy this specific request with the pool. Um, I will say this because I think it came up with one of your questions that they did submit a building permit because that's the action that has to be taken for the, for the

building commissioner to review and they did get approval from the Health Department and the surveyor's office. And I'm happy to answer any other questions.

Mundy Okay. Any questions for staff? Hearing none anymore discussion among the Board?

Lake So, Larry, I haven't had a, to my knowledge I haven't had an opportunity to, uh, weigh in on a case with a 40-foot buffer yard since I've been on BZA but it seems to me like the buffer yard should be more relevant to the flag lot next to it, the L-shaped lot that encompasses it and not necessarily the backyard of the lot that is surrounded by the flag lot, given that there's really not crop agriculture, heavy farming, I, I get raising horses, I get manure, I get, get that.

Jones So I'm just saying –

Lake I mean but, I mean –

Jones Yeah.

Lake When, if you read Wayne's letter, it's more about the spraying and overspray and those sorts of activities and having that buffer.

D. Carey Yeah, I was going to mention that. I do recall that in the letter –

Lake Yeah.

D. Carey And being surprised.

Lake And so that's kind of one lot removed so to me it was odd that that the lot circled in green on here would have that buffer yard requirement given this. It was kind of two lots that were broken out. I expected the buffer yard comment to stay within the main lots.

Jones Once, once again it's the problem we have every time we keep subdividing agricultural lots –

Lake Yeah.

Jones It, it obviously was subdivided off of something else at some point in time, um, so, you know, whatever the rules and regs that go with that subdivided lot regardless of the size runs with the land. Secondly, when you talk about a 40-foot buffer, it's a 40-foot buffer for both properties which keeps an 80-foot separation of uses. There's an established agricultural use – a horse barn, a dressage ring, a horse pasture, you know. What's the –

Lake But is that –

Jones What's the two things that scare a horse? What's the two things that scare a horse?

- Postlethwait Well, it, it depends.
- Jones Anything that moves and anything that doesn't, right?
- D. Carey Can I point out the picture I just brought up. You see the basketball hoop is there and there's a pickleball net laying on the ground. We're out there playing all the time anyway. We see the horses, uh, they're friendly with the horses. We're all friendly with the horses. They come over, they eat grass. They're never jarred by us because they know us but we're out there anyway. If, if they're going to get jarred by noise it would've happened because of the basketball games, the pickleball games, all the stuff going on out there. This is kind of the play zone and it's the reason why it's great for it.
- Postlethwait No, my concern is not that, that you're going to, you're going to scare the horses. My concern is that having a pool in that spot so close to that property line will have an impact on the folks who are owning, who own that other piece of property who may decide they want to run their spreader out there by their fence line because they would be and, I mean it would just not be a nice thing for you to be in your pool if that's happening just on the other side of that fence.
- D. Carey I, I, I wonder if there's a mitigation, uh, some kind of mitigation we could do –
- L. Carey Could we build a berm to, to make that more comfortable –
- D. Carey Or fattening up, a different kind of fence –
- Postlethwait Well, uh, you know, and, and the people that live there now may be fine with having a pool there but at some point in the future if there's a, if there's a big horse barn there and a dressage ring and so on you may have other folks there who have 10 horses instead of three or two and in which case that's a bigger operation and you will see the impact of, um, of having those animals there. So I, I'm, I'm a little, I find that a little concerning.
- D. Carey I have to believe there's something we could do if that ever happened, right? There's some kind of mitigation. I mean it's, there, there are so many ways to protect a property against. This isn't an airborne pesticide we're talking about. I, I just think that, you know, if such a thing ever occurred, um, then, uh, that there, there has to be something we could do.
- L. Carey Um.
- Jones I mean the thing you could do is put your pool somewhere where it's not that close to the property edge.
- Postlethwait 40 feet.
- L. Carey There's nowhere else to put it on our property.
- Jones There's a fair amount of property there.
- D. Carey It's, well again, it, it just comes down to behind that garage.

- L. Carey It's going to be behind the garage . 2:16:55
- D. Carey The, the, that's every, everything else is going to have the same 40-foot buffer problem even on the, on the, the east side.
- L. Carey That's where it could 2:17:03 that's not too great for future owners either.
- Jones Yeah.
- Lake So there's –
- Jones To really meet number three, the strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of the property. There's plenty of land there to put a pool, you just have to make a choice. Do you want a tree, you want a pool?
- L. Carey Well I wish, I don't see the property quite 2:17:31 but thank you for your thoughts.
- Jones Okay. Can I make a motion? I move that Docket 2022-39-DSV, Development Standard Variance for the reduction in the buffer yard to construct an inground swimming pool at the property located at 11875 East 200 South, Zionsville in the Rural Agricultural Zoning District (AG) be denied.
- Mundy Thank you Mr. Jones. Is there a second?
- Postlethwait Second.
- Mundy Thank you Mrs. Postlethwait. Any further discussion? All those in favor say aye.
- Jones/
Postlethwait Aye.
- Mundy All those opposed same sign.
- Lake/Mundy Aye.
- Mundy We are split. Um, we are a Board of five members, one member is not here tonight. Any approval must be by three. This is a split vote, let's do a roll count. Mr. Jones your vote?
- Jones Uh, aye.
- Mundy Mrs. Postlethwait?
- Jones For the denial.
- Postlethwait Deny.

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Mundy Mr. Lake?

Lake For.

Mundy And my vote is for as well.

Jones So are you saying for the denial because that is what the motion was.

Mundy No, I am, I am opposed to the denial.

Postlethwait In favor.

Mundy I am for approval.

Postlethwait Of the petition.

Jones So you were a nay to my motion?

Lake Correct.

Mundy That's correct.

Lake We were both nays.

Jones You both said for. The motion was for denial.

Mundy And there are two yays, two nays.

Jones There you go.

Mundy Uh, and my rationale is that, um, I lived most of my youth in the country, you know, most of the time you can always have a lousy neighbor, most of the time people get along well, tolerate one another or are respectful of one another. And if there's a time to have a pool it's when you've got kids. I, um, I, as a former pool owner, trees and pools do not mix well, um, they just make the work continual from about September on. But they're still a great thing for kids. And there are ways, I think, to get around all of, all of the concerns you heard, uh, remote cameras so you can see in the pool for the safety sake and, uh, again, trust that you're going to get along with your neighbors. But, uh, we have a split vote, uh, and my suggestion would be that you request a continuance to next month. We will presumably have the fifth member here, the one that's not present at this meeting because a split vote cannot approve anything.

L. Carey One point we last 2:20:12, um, we can bring it next month. We've worked so hard for years to try to secure a contractor. We've got a company that can start in two weeks. I really implore you to, um, I know you have these concerns but as a parent 2:20:32 give the kids something to do outside. It is so important. Everything we can do to get them outside is so important and this, these 2:20:45 it's the best location on the property and I cannot, I, I know there are horses there and I know there will be people that 2:20:51 but I, I don't I would 2:20:57 I just

implore you to grant this so we don't have to go through another month
2:21:03

- Mundy Yeah we, we are unable at this Board to make a decision based on a split vote. Uh, the other thing our attorney just mentioned is making certain that we pick up your conversation there, uh, you're standing away from the microphone and so we may not be getting all that you have said. But I think from the standpoint of, uh, of empathy and doing, being able to do something that allows you to move in two weeks, uh, unless one of us is willing to change that vote, um, and it'd have to be one of them that would have to change their vote, we cannot do anything further tonight to approve that.
- L. Carey We can't 2:21:53, one more, one more month is just one more summer down that's all.
- D. Carey Do, do you, anybody want to reconsider?
- L. Carey Even if we move the location we'd have to redo all the plans and –
- D. Carey Yeah, it would be, it would be the second summer without it.
- Mundy Uh, uh, just to read for you an indecisive vote, which is what this is, will be automatically re-docketed and heard at the next regularly scheduled meeting. So it is not necessary to continue it but if you wish to continue to pursue it, it would be re-docketed for the August meeting.
- D. Carey Is there any chance that anyone changes their vote in the interim having second thoughts or it has to be at a, it might sound silly but –
- L. Carey Is there any –
- Jones Uh, no.
- D. Carey A chance of someone having second thoughts and changing before the next meeting? Is that possible?
- Postlethwait As it stands at the moment, no.
- Mundy Well we, we meet formally publicly and so there is no in-between meeting, um, in which that would happen. So, unfortunately, I think our response to you is that it would be re-docketed for the August 3rd meeting, uh, when we would have five members here.
- L. Carey Okay, well we'll be back.
- Mundy Thank you.
- D. Carey Yes.
- Mundy Next item on the docket is Number 2022-42-DSV, A. Wurster, 9180 East 350 South, Zionsville. Petition for Development Standard Variance to provide for an

accessory structure which exceeds the permitted accessory square footage being greater than the primary structure in the Rural Single and Two-Family Residential Zoning District (R-2). Are the Wursters here? Are the Wursters online?

Lake Oh there.

Price Good evening Mr. President. Can you hear me okay?

Postlethwait Yes.

Mundy Yes.

Price Um, for the record, uh, this evening this is Matt Price, um, thank you for the opportunity to appear, uh, remotely tonight. My address is 10 West Market Street in Indianapolis, Indiana, uh, 46204. I'm here tonight on behalf of Al Wurster who is the property owner and I believe, uh, Mr. Wurster and his fiancé, Marsha Stone, are, um, there with you tonight in the audience. I had coordinated with staff, uh, prior to the meeting to, uh, place my Power Point, uh, on the screen and if I could ask them to do that for me, uh, then I could begin my brief presentation and outline the nature of our variance request. Ah ha – thank you so much.

Mundy All right, it appears that your presentation is now on our screen Mr. Price.

Price Thank, thank you very much Mr. Mundy. Um, if we could go to the, uh, the first slide just to orient you a little bit, uh, on the property and it's, uh, location. Um, the property has been assigned an approximate address today in the property tax records of 9180 East County Road 350 South. Mr. Wurster purchased what you see there as parcel 1 and parcel 2, uh, a little over a year ago and it's parcel 2 that is the subject of the variance request, uh, tonight. It is an approximately 11.45-acre parcel and if we can go back to that prior slide and then parcel 1 which is the northern parcel is an approximate 10.72-acre slide, uh, site. You'll see in the bottom of the depiction of parcel 2 we have kind of a white, uh, rectangle and that is the approximate location of the home, uh, that Al and Marsha, uh, intend to build on parcel 2 and which is the subject of the variance.

And let me just say, um, if we can go to the next slide, let me just say kind of in, um, in, in technical terms why we're required to seek this variance and it is the product of this which is not, Mr. Wurster would like to build a home which includes, uh, a two-car garage, substantial outdoor covered porch areas and some significant additional, uh, storage space for equipment that, um, he will use to improve the property, maintain the property and enjoy many of the natural features, uh, that it includes which are, uh, being immediately adjacent to, uh, Lake Elrod. Uh, it also has substantial, uh, woods, uh, which has, uh, really not been, uh, well maintained over the last several years. There's a lot of underbrush that, uh, Mr. Wurster is using, uh, his ownership as an opportunity to clean that property up and then it also has, uh, on its western side an open meadow, uh, that when mowed as Mr. Wurster has been doing of late, uh, is really a very nice, uh, uh, meadow piece of property as well and available for, um, um, um, not only its aesthetic beauty but also, uh, use and enjoyment as, as, uh, open space. And the way the Town counts the various, uh, accessory components of a building, they

include, um, the covered canopy areas, the garage area, so even a typical two or three-car garage plus the additional storage areas irrespective of whether those, uh, areas are in the primary dwelling structure itself or whether they're separate located in separate accessory structures. So when you add up all the various accessory components, although all located in the, in the single, uh, primary structure, they exceed the square footage of the dwelling space itself and so that's what necessitates, uh, the variance.

I will say that this is a rural property zoned R-2 under the, uh, Town's rural standards. There are R-2 properties in the immediate vicinity of this land which have, uh, structures which exceed, um, the accessory uses on those properties exceed the square footage of the dwellings, uh, on those properties and that's noted in the staff report. It's unclear to me, uh, whether that, uh, is because when those properties were in the county's jurisdiction that there was simply a different interpretation or perhaps, um, less, uh, strict enforcement of how accessory components were, uh, added together. Certainly I think in my experience in the Town of Zionsville, at least historically, the comparison traditionally has been whether the square footage of accessory structures, meaning structures other than the primary structure, whether, whether the square footage of those accessory structures exceed the square footage of the primary structure as opposed to what we're doing now where we're actually breaking out and dissecting each of the component parts of a primary structure, adding the parts that are considered accessory and then comparing them to the square footage of the dwelling space. So it's a very strict standard and results in, uh, uh, the need for the variance here. And so I think, I appreciate moving to this slide because it's, uh, perfect timing. I wanted to just kind of outline the various component parts so you get a sense of the, uh, structure. The, um, the yellow shaded area is the dwelling space it, itself so the area where we have bathrooms, kitchen, dining area, bedrooms, uh, uses of that nature. Uh, the green area is the two-car garage, uh, portion of the, the structure. The blue area is the covered outdoor porch and canopy area that is, that is included and is labeled as accessory under the Town's, uh, standards and then the purple area is, is what we have identified as the "the additional," uh, storage space for equipment primarily and, uh, perhaps another vehicle that Mr. Wurster would like to maintain, uh, or house, uh, at this location, uh, as part of the, the use and enjoyment, uh, of the land.

Uh, if you go to the next slide – I apologize, go back a couple of slides I want to highlight a couple of things. Here are the, uh, the elevations, uh, of the property, uh, moving, uh, first the, uh, the northern elevation, uh, at the top then the southern and then the west and east. Uh, the structure itself is going to be well screened from adjoining properties, uh, high-quality, uh, residential, uh, design, um, Al and Marsha, um, bought this property with the idea that they would, uh, use it and enjoy it for its, uh, uh, outdoor living and recreational aspects and so that's really driving the need for, um, for this variance. Uh, we believe we meet each one of the, uh, findings in that it has no, uh, adverse impact on adjoining properties, um, because it is well screened and, and, uh, and proportionate as is noted by the staff, uh, in its report as, as, as far as scale, uh, and is consistent with how other R-2 properties in the immediate vicinity are themselves developed so it's not out of character, uh, at all with the area.

And then, um, the, the other point I wanted to make with regard to the Findings is that the, the hardship is an interesting one in this case because the R-2 zoning classification anticipates that there are outdoor recreational uses and even farming uses that are permitted within that zoning classification and yet the ordinance as applied in its most strict fashion does not make an allowance for any additional, uh, garage or storage space that might be directly associated with the nature of the land, uh, as is present here where it's heavily wooded, uh, adjoining a lake, um, and may necessitate additional equipment and additional just, uh, recreational, uh, toys, if you will, that require a place for their, uh, storage to enjoy, uh, the full, uh, benefit of the property. Um, I would be available to answer any questions that you have as would, uh, Mr. Wurster. Uh, we appreciate your consideration tonight and would respectfully request approval of this, uh, development standards variance. Thank you.

Mundy Thank you Mr. Price. Any questions for the petitioners' representative or the petitioners?

Jones Well this just, you know, another kind of classic situation where, uh, uh, alternate living, you know, arrangements, uh, kind of outrun traditional zoning, um, descriptions, uh, you all remember when zero lot line came through, that was kind of new, we've got, uh, the microhouse that's out there bubbling around so this is a prime example of something I've heard of here lately called the barndominium where rather than just build that as a larger accessory use attached to it. Um, Rachel, my property manager, was out at some new, somebody's new barndominium just this weekend and they had a fine time out there but, uh, yeah, so obviously we need to, uh, up the, uh, the, our residential zoning districts to, uh, begin to maybe, uh, define the barndominium.

Mundy It's a new trend, huh?

Jones It's a new trend sweeping, sweeping America, yes.

Lake We have been asked to design one. It's, yeah. It's, it's a thing.

Mundy Well, I'd looked at it as a large garage, Larry, uh, which would be fine with me.

Jones Exactly, so.

Lake I mean I, I think the challenge that I've had is just the, what is considered an accessory use, you know, porches and patios that are attached to the house and they're part of the primary footprint and so the goal was that the accessory building doesn't look like it overwhelms the primary but if the porches are attached to the primary then they're not really accessory and so I, I've always had an issue with how we draw that line so for me it's not really a, I guess a big deal.

Mundy Well we frequently get requests for pole barns, not attached to the home but, uh, dominant in terms of size.

Lake Yeah.

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- Mundy And, uh, it's not an unusual request in the rural areas.
- Lake Yeah.
- Mundy So. Uh, are there any questions for Mr. Price or for the Wursters? Hearing none is there anyone here who wishes to speak for or against this project? If you would state your name and address please for the record.
- Troyer Uh, James Troyer. I'm at 8980 East 350 South, uh, if you could go back to Matt's first slide that shows the, the two lots. My family and I live in the property, you see the bottom of those two, um –
- Lake Flag lot.
- Troyer We're, we're right there.
- Mundy The, the development immediately above that?
- Troyer The little green square at the bottom left are the properties.
- Mundy Oh, bottom left, okay.
- Troyer That's us. Um, and Al and Marsha have, uh, generously in, informed us through the whole process what they're doing. They, uh, seem to be very good stewards of the area. We have deer, every imaginable, uh – well, not every imaginable – all kinds of critters out there, right, and, and we do, we, uh, we like the trees and we like the animals and, uh, they genuinely seem to be wanting to be good stewards of that and so we wholeheartedly support their, their request for this variance. We're looking forward to having some neighbors that are doing something with that, with that land.
- Mundy All right. Thank you. Any questions for the, the remonstrator? Thank you very much. Anyone online? No one online. Could we have the staff report please?
- Baker Yes, uh, Mr. Price did a nice job summarizing the request. Um, petitioner is requesting to build a, um, a residence with attached accessory structures that will exceed the size of the residence. Um, surrounding properties in this area show that there are some accessory structures, um, larger than primary. Um, I'll also note that the property, they own both parcels which is over 20 acres and at 20 acres there are no minimum or I'm sorry, maximum accessory square footage, um, cap. Um, and based on the scale of it all being attached, staff has no issue and is in favor of the request and I'm happy to answer any questions.
- Mundy Any questions for staff? Hearing none is there a motion?
- Jones I move that Docket 2022-42-DSV, Development Standard Variance to provide for the accessory square footage to exceed the primary up to 3,830 square feet at the property located at 9180 East 350 South, Zionsville, Indiana 46077 in the Rural Single Family and Two-Family Residential Zoning District (R-2) be approved as filed based on the Findings of Fact and substantial compliance with the submitted site plans and concepts.

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

Lake Second.

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

All Aye.

Mundy Opposed same sign.
[No response]

So this will be the first barndominium –

Jones Barndominium.

Mundy In Zionsville. Thank you Mr. Price.

Price Thank you Mr. President and thank you members of the Board.

Mundy That brings us to the end of our agenda.

Lake Motion to adjourn.

Mundy Motion to adjourn, uh, all those in favor say aye.

All Aye.

Mundy Opposed same sign.
[No response]

We are adjourned. Please wait for the signing of that last document coming down.