



MEETING RESULTS- ZIONSVILLE BOARD OF ZONING APPEALS January 12, 2016

The Regular meeting of the Zionsville Board of Zoning Appeals was scheduled January 12, 2016 at 6:30 p.m. in the Bev Harves Room at Zionsville Town Hall, 1100 West Oak Street the following items were scheduled for consideration:

- I. Pledge of Allegiance
- II. Attendance
- III. Election/Appointment of 2016 Officers
- IV. Approval of December 8, 2015 Meeting Minutes
- V. Continuance Requests

Docket Number	Name	Address of Project	Item to be considered
2015-47-DSV	N. Warstler	744 W Pine Street (Est)	<p>Continued to the February 9, 2016 Plan Commission Meeting 3 in Favor 0 Opposed</p> <p>Petition for Development Standards variance in order to allow a single family dwelling in the (R-V), Residential Village Zoning District, to:</p> <ol style="list-style-type: none"> 1) Establish the parcels as a Lot of Record 2) Deviate from the required road frontage/point of vehicular access 3) Deviate from the required front yard setback 4) Deviate from the required rear yard setback
2015-43-DSV	Neer Development Company, Inc.	6265, 6305, 6355, 6401 S. 950 East	<p>Continued to the February 9, 2016 Plan Commission Meeting 3 in Favor 0 Opposed</p> <p>Petition for Development Standards variance for a reduced front yard setback for a Senior Residential Community in the (R4) Rural Residential Zoning District</p>

VI. Continued Business-None

VI. New Business

Docket Number	Name	Address of Project	Item to be considered
2015-44-DSV	M. Ravard and C. Perry	465 W Cedar Street	<p>Due to an indecisive vote continued to the February 9, 2016 Plan Commission Meeting Petition for Development Standards variance in order to allow:</p> <ol style="list-style-type: none"> 1) Lot 121 of Cross' 4th Addition of the Town of Zionsville to be improved with a new single-family dwelling, independent of Lot 122 of Cross' 4th Addition (Lot 121 and Lot 122 of Cross' 4th Addition are currently under common ownership and constitute a buildable Lot, and as a single buildable Lot is not permitted to be improved with an additional single-family residence. 2) Reduce the minimum lot area from the required 8000 square foot for lots 121 and 122 3) Reduce the required minimum side yard setback and aggregate side yard setback for lot 122
2015-45-UV	H. Barbara and W. Craft	105 S. 2 nd Street	<p>Approved with Commitments 3 in Favor 0 Opposed Petition for a variance of use for a Hair Salon to be located in the Business Office (B-O) Zoning District, which does not permit Hair Salons as a primary use of the property</p>
2015-46-UV	T. McQuinn	10614 DeAndrea Drive	<p>Continued to the February 9, 2016 Plan Commission Meeting 3 in Favor 0 Opposed Petition for a variance of use for an established automobile repair business to include automotive sales in the (I-2) Urban Industrial Zoning District, which does not permit automobile sales as a primary use of the property</p>

Other Matters to be considered:

None at this time

Updates:

Docket # 2015-39-SE- Olney-Right to Farm

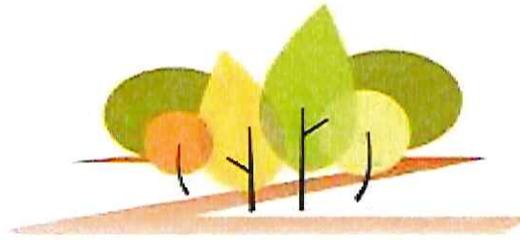
Respectfully Submitted:

Wayne DeLong AICP

Town of Zionsville

Director of Planning and Economic Development

January 14,



ZIONSVILLE

FOR ALL THE RIGHT REASONS

Petition Number: 2015-44-DSV

Subject Site Address: 465 W Cedar Street

Petitioner: Marc Ravard and Hannah Kathryn Claire Perry

Representative: Todd Rottman

Request: Petition for Development Standards variance in order to allow:

- 1) Lot 121 of Cross' 4th Addition of the Town of Zionsville to be improved with a new single-family dwelling, independent of Lot 122 of Cross' 4th Addition (Lot 121 and Lot 122 of Cross' 4th Addition are currently under common ownership and constitute a buildable Lot, and as a single buildable Lot is not permitted to be improved with an additional single-family residence.
- 2) Reduce the minimum lot area from the required 8000 square foot for lots 121 and 122
- 3) Reduce the required minimum side yard setback and aggregate side yard setback for lot 122

Current Zoning: (R-V) Urban Residential Village Zoning District

Current Land Use: Single-family residential

Zoning History: N/A

Exhibits: Exhibit 1 – Staff Report
Exhibit 2 – Aerial Location Map
Exhibit 3 – Plat Book Page
Exhibit 3 – Retracement Survey
Exhibit 4 – Petitioners proposed site plan-lot 122
Exhibit 6 – Petitioners proposed Statement of Commitments
Exhibit 7 – Petitioners proposed Findings of Fact

Staff Reviewer: Wayne DeLong, AICP

PETITION HISTORY

This petition request will receive a public hearing at the January 12, 2016 Board of Zoning Appeals meeting.

PROPERTY HISTORY

The parcel on the west side is lot 121 of Cross' 4th Addition. As a part of lot 122, (with the same owner), the parcel was improved with an accessory structure (gazebo). The sunroom attached to the single-family dwelling of lot 122, presently straddles the parcel line between lots 121 and 122. The parcel on the east side is lot 122 of Cross' 4th Addition, and is improved with a 1.5 story single-family dwelling.

ANALYSIS

Lot Establishment

The applicant desires to establish lot 121 as a separate, buildable lot. At 6987.96 square feet, the lot area does not meet minimum 8000 square foot lot area required in the (R-V) Residential Village Zoning District. Therefore the applicant requests approval to deviate from the minimum lot area requirements, and has indicated that the accessory structure (gazebo) would be relocated to lot 122 should this variance request be approved. The applicant has also indicated that a sunroom, which presently encroaches over into the property line of lot 121, would be demolished. Within the applicant's packet, the petitioner has submitted examples of a dwelling which is representative of the style of dwelling to be built on lot 121, should this petition be approved, which will comply with present day zoning and building ordinances (exception being for any relief granted by the Board of Zoning Appeals). Given that each proposed Lot substantially conforms to the size and shape of the original lots within Cross' 4th Addition, Staff is in support of the establishment of lot 121 as a separate buildable lot.

Lot Area

A review of Cross' 4th Addition to the Town of Zionsville reveals that almost all lots in Cross' 4th Addition as originally platted, are improved with single-family dwellings (with some at lot sizes of less than 8000 square feet). Given this fact, staff is supportive of Lot 121 in Cross' 4th Addition being recognized as a separate buildable lot (independent of Lot 122 in Cross' 4th Addition). Staff's predominant reasoning behind this support is that the proposed single-family dwelling is within an area of the Village which contains lot sizes, in some cases, that are less than 8000 square feet in size. Given that each proposed Lot substantially conforms to the size and shape of the original lots within Cross' 4th Addition, Staff is in support of the requested lot sizes.

Setbacks

(RV) Residential Village Zoning District requires a structure to be located at a minimum of five (5) feet from the property from the side yard property line. It also requires an aggregate of 15 feet on either side of the structure. The existing garage is located three (3) feet, seven (7) inches from the east property line of lot 122. The applicant desires to retain this setback, and requests an eight (8) foot, eight (8) inch side setback on the west side of the parcel, which is an aggregate total of 12 feet 5 inches. With the removal of the sunroom on the east side of lot 122, the encroachment of the structure into lot 121 will be eliminated, and, for reference, the proposed addition will meet the required five (5) foot side yard setback. Specific to the request at hand, the long established location of the garage on the west side of the parcel has a current side yard setback of three (3) feet seven (7) inches, which necessitates the request of a reduced side yard

setback as the setback is currently established on the property. Given the listed factors, staff is in support of the requested setbacks.

PROCEDURAL – CONSIDERATION OF A DEVELOPMENT STANDARDS

The Board of Zoning Appeals shall hear, and approve or deny, all variances from development standards of the Zionsville Zoning Ordinance. A variance from development standards may be approved only upon written determination that:

- (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*
- (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*
- (c) The strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of the property.*

Proposed Findings of Fact are attached for the Board of Zoning Appeal’s consideration.

STAFF RECOMMENDATIONS

Staff recommends approval of the design standards variance included in Docket #2015-44-DSV.

RECOMMENDATION MOTION

I move that Docket #2015-44-DSV Design Standards Variance to allow:

- 1) Lot 121 of Cross’ 4th Addition of the Town of Zionsville to be improved with a new single-family dwelling, independent of Lot 122 of Cross’ 4th Addition
- 2) Reduce the minimum lot area from the required 8000 square feet for lots 121 and 122
- 3) Reduce the required minimum side yard setback and aggregate side yard setback for lot 122

be (Approved based upon the findings in the staff report / Approved as filed / Denied/ Continued) as presented.

PROCEDURAL NOTE:

The Petitioner has indicated that upon approval of this Petition, the applicant will 1) demolish the sunroom within (30) thirty days of approval of this variance and 2) move the existing gazebo from lot 121 to lot 122 within (30) thirty days of approval of this variance. Staff would suggest that, given the time of year, the offered time line is a bit aggressive and would certainly support a more flexible time frame and would encourage the Board of Zoning Appeals discuss this point during the hearing.

PT CROSS 4TH ADD

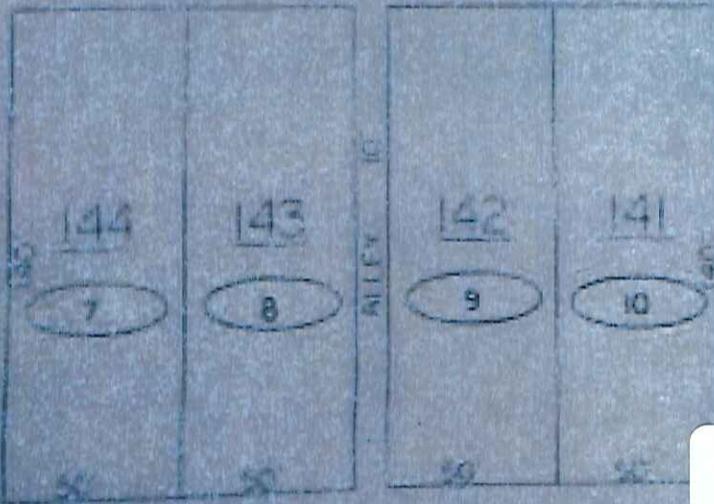
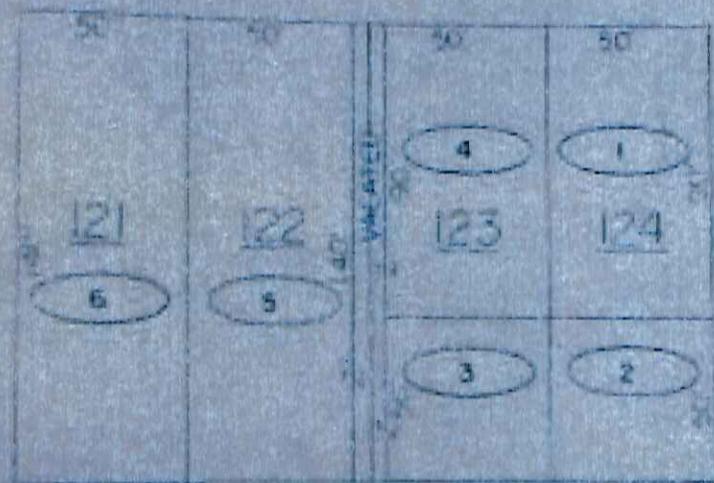
SCALE 1"=40'



CEDAR STREET 50
(FORMERLY STATION & DEPOT ST)

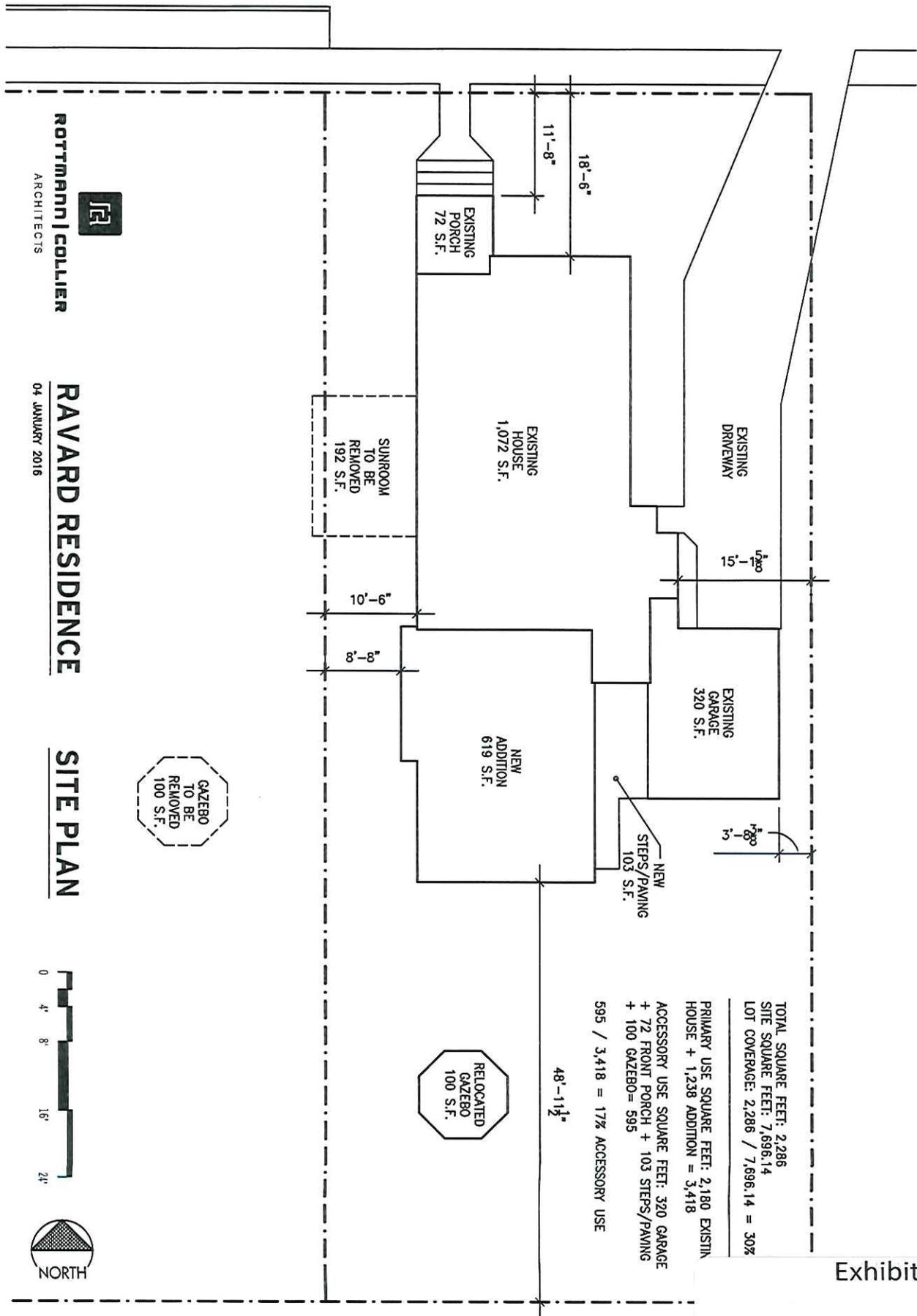
FIFTH STREET 50
(FORMERLY THIRD STREET)

FOURTH STREET 50
(FORMERLY SECOND STREET)



OAK STREET 50
(FORMERLY SOUTH STREET)

Exhibit 3



TOTAL SQUARE FEET: 2,286
 SITE SQUARE FEET: 7,696.14
 LOT COVERAGE: 2,286 / 7,696.14 = 30%

PRIMARY USE SQUARE FEET: 2,180 EXISTING HOUSE + 1,238 ADDITION = 3,418

ACCESSORY USE SQUARE FEET: 320 GARAGE + 72 FRONT PORCH + 103 STEPS/PAVING + 100 GAZEBO = 595

595 / 3,418 = 17% ACCESSORY USE

RTA
ROTTMANN | COLLIER
 ARCHITECTS

RAVARD RESIDENCE

SITE PLAN



Exhibit 5

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS

BOONE COUNTY, INDIANA

STATEMENT OF COMMITMENTS

1. The existing 192 square foot sunroom on the west side of the residence on Lot 122 will be demolished, and not replaced, within 30 days of the granting of this Petition.
2. The existing 100 square foot gazebo will be moved from Lot 121 to Lot 122 within 30 days of the granting of this Petition. The addition of this accessory square feet will not cause any non-compliance with current zoning requirements.

DECISION

It is therefore the decision of this body that these commitments for this Variance petition are **APPROVED**.

Adopted this _____ day of _____, 20____.

**TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA**

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF ACT

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because this property was originally platted as two separate lots, the existing garage which is causing the sideyard issues has been there for over 100 years, this project maintains similar setbacks and lot coverage of properties in the area, will increase the value of this property, and will complete the streetscape as originally intended by town planners.
2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because this project maintains similar setbacks and lot coverage of properties in the area, the existing garage which is causing the sideyard issues has been there for over 100 years, this project will increase the value of this property, and will complete the streetscape as originally intended by town planners.
3. Strict application of the terms of the zoning ordinance will result in unnecessary hardships in the use of the property because this property was originally platted as two separate lots, the lots met the required size for buildability at the time they were platted, both lots will be larger than many lots in the village that are as small as 5,000 sf and have houses on them, and the existing garage which is causing the sideyard issues has been there for over 100 years.

DECISION

It is therefore the decision of this body that this Variance petition is **APPROVED**.

Adopted this _____ day of _____, 20____.



Petition Number: 2015-45-UV

Subject Site Address: 105 S. 2nd Street

Petitioner: Harris Barbara FLP & Wilber Craft

Representative: Matthew M. Price

Request: Petition for a variance of use for a Hair Salon to be located in the Business Office (B-O) Zoning District, which does not permit Hair Salons as a primary use of the property

Current Zoning: (B-O) Urban Business Office District

Current Land Use: Vacant Building

Approximate Acreage: 0.13

Zoning History: None

Exhibits: Exhibit 1 – Staff Report
Exhibit 2 – Aerial Location Map
Exhibit 3 – Elevation
Exhibit 4 - Plan of Operation
Exhibit 5 – Petitioner proposed Findings of Fact

Staff Reviewer: Wayne DeLong, AICP

PETITION HISTORY

This petition will receive a public hearing at the January 12, 2016, Board of Zoning Appeals meeting.

PROPERTY HISTORY

As part of the original primary plat, block 2, lot 2 in the (B-O), Urban Business Office Zoning District of Zionsville, this commercial site was formerly utilized by a realtor's office and is presently unoccupied.

ANALYSIS

As proposed, the Petitioner requests to operate a Hair Salon within a 1425 square foot vacant building. The need for the variance arises as the property is proposed to be utilized for a purpose not supported in the (B-O) Urban Business Office District.

The established land use pattern for the area supports a variety of land uses in and the area in question serves as a transition between the established commercial area (VBD) Village Business District to the east, a Special Use District to the north, and established (B-O) Business Office uses to the south, and the (RV) Residential Village Zoning District to the west and north. The occupancy of this site must be sensitive to both the adjoining residential uses and Special Use (Lincoln Park).

As proposed in the Plan of Operation (Exhibit 4), the Petitioner contemplates operating a Hair Salon (which does not include services such as nails or massage) and would provide for no more than four (4) employees on site at any one time.

The B-O classification assigned to the property supports a variety of professional offices / professional service uses within the District. While a Hair Salon typically would be considered a more intense use that permissible in the B-O district, the proposed property to be occupied is already improved with features which are supportive more intensive business uses. With the First Street frontage already utilizing characteristics which are commonly associated with a more intense land use (partially due to its location at the intersection of two busy streets), the presence of a land use at this location which is more intense that currently permitted by Ordinance is a request which staff is in support (based on the submitted Plan of Operation, the established on-site parking lot, and the residential character of the existing structure).

Specific to the residential character of the existing improvements, this feature is one that encourages the use of the site as a "buffer" to the residential district to the west and north. The character should be encouraged, and no alterations to the established roof lines or facades (and maintain the asphalt shingle, clap board siding look) should cause a loss or reduction in the residential characteristics of the building (inclusive of existing porches, windows, doors, and points of entry and associated appurtenances). Further, no customer activity / business activity (beyond employee ingress or egress, and customer emergency egress) should be permitted to occur from the door which faces Second Street.

Time Line

Typically, the Board of Zoning Appeals weighs heavily the concept of establishing a “sunset date” for any Use Variance it Approves within the Town. As such, the BZA should discuss this topic with the Petitioner during the course of the public hearing. For reference, Use Variances granted for “buffer uses” on the west side of First Street have been supported by the BZA previously, with a “sunset date” which is five (5) years in the future.

PROCEDURAL – CONSIDERATION OF A USE VARIANCE PETITION SEEKING APPROVAL

The Board of Zoning Appeals shall hear, and approve or deny, all requests for Use Variance requests as provided for by the Zionsville Zoning Ordinance. A Use Variance may be approved only upon written determination that:

- (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;*
- (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;*
- (c) The need for the variance arises from some condition peculiar to the property involved; and strict application of the terms of the zoning ordinance would result in an unnecessary hardship in the use of the property;*
- (d) The strict application of the terms of the zoning ordinance would result in an unnecessary hardship in the use of the property;*
- (e) The approval does not interfere substantially with the Comprehensive Plan*

As a part of the filing, the Petitioner has proposed a set of finding of fact (Exhibit 4).

STAFF RECOMMENDATIONS

Staff recommends approval of the use variance included in Docket #2015-45-UV, specifically seeking approval for a Hair Salon, subject to adherence to the Plan of Operation, and the following conditions (all being reduced to writing on Town forms and recorded with the Boone County Recorder within 60 days of the date of the grant of the variance):

That no customer activity / business activity (beyond employee ingress or egress, and customer emergency egress) should be permitted to occur from the door which faces Second Street.

That the Use Variance shall expire ____ (__) years from the grant of the variance. ---
Placeholder in this report, only

RECOMMENDATION MOTION

I move that Docket #2015-45-UV (Use Variance) for the property located at 105 S. 2nd Street be (Approved as filed / Approved as recommended by Staff / Denied/ Continued).



Exhibit 3

Plan of Operation

2015-45-UV (Use Variance)

105 S. 2nd Street (SWC Oak & 1st)

Hair Salon

A tenant will utilize the existing long-standing building as a Hair Salon business, which will be the primary use of the property. Personal care services which are not otherwise permitted in the existing B-O zoning district, such as a nail salon or massage, will not be offered.

Approximately 80% of the Hair Salon business will consist of hair-care services, and approximately 20% sales of hair-care related products.

There will be no more than four (4) employees on-site at any time.

Hours of operation will be Monday through Friday, no earlier than 9:00 a.m., and no later than 8:00 p.m. Saturday hours will be no earlier than 9:00 a.m., and no later than 5:00 p.m. The Hair Salon will be closed on Sundays.

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

- 1. The grant (will / will not) be injurious to the public health, safety, morals, and general welfare of the community because:

The hair salon will function in a manner similar to the previous realty office, in terms of traffic generation and typical hours of operation. Additionally, the property is adjacent to, or near, multiple commercial uses, and is near many residents who will walk to the site.

- 2. The use or value of the area adjacent to the property included in the variance (will / will not) be affected in a substantially adverse manner because:

The hair salon will function in a manner similar to the previous realty office, in terms of traffic generation and typical hours of operation. Additionally, the property is adjacent to, or near, multiple commercial uses, and is near many residents who will walk to the site.

- 3. The need for the variance arises from some condition peculiar to the property involved and the condition (is / is not) due to the general conditions of the neighborhood because:

The property has previously, and recently, been used for a realty office. The location at the corner of Oak and First, combined with the commercial uses in the immediate vicinity, represents a condition peculiar to the property.

- 4. The strict application of the terms of the zoning ordinance (does / does not) constitute an unusual and unnecessary hardship if applied to the property for which the variance is sought because:

Within the context of the existing parking lot established on the site, and the location at the corner of Oak and First, coupled with the myriad of commercial uses in the immediate vicinity, constitutes an unusual and unnecessary hardship as applied to the property.

- 5. The grant (does / does not) interfere substantially with the Comprehensive Plan because:

The grant does not interfere with the Comprehensive Plan because the property has been used for commercial use for some years, and the property is located in heart of the Village, at the confluence of two heavily-traveled roadways through the Village. Additionally, the property is adjacent to, or near, multiple commercial uses, and is near many residents who will walk to the site.

- 6. The grant (is / is not) the minimum variance that will make possible the reasonable use of land, building or structure.

The hair salon, while functioning much like an office use, including services often provided by appointment, is not technically permissible in the current zoning district, thus requiring a variance of use as the minimum variance possible for this reasonable use of the building.

DECISION

It is therefore the decision of this body that this VARIANCE petition is APPROVED/DENIED.

Adopted this _____ day of _____, 201__.



Petition Number: 2015-46-UV

Subject Site Address: 10614 DeAndra Drive

Petitioner: Todd McQuinn

Representative: Todd McQuinn

Request: Petition for a variance of use for an established automobile repair business to include automotive sales in the I-2 Urban Industrial Zoning District, which does not permit automobile sales as a primary use of the property

Current Zoning: I-2 Urban General Business District

Current Land Use: Commercial

Approximate Acreage: 1.10 Acres

Zoning History: A part of Andrade Industrial Park Section 2, Lot 1

Exhibits: Exhibit 1 – Staff Report
Exhibit 2 – Aerial Location Map
Exhibit 3 – Site Location Elevations
Exhibit 4 – Petitioner Letter dated January 6, 2016
Exhibit 5- Findings of Fact

Staff Reviewer: Wayne DeLong, AICP

PETITION HISTORY

This petition will receive a public hearing at the January 12, 2016 Board of Zoning Appeals meeting.

PROPERTY HISTORY

The property was annexed into the Town of Zionsville on December 17, 1998.

ANALYSIS

The site is improved with a 5600 square foot building serving as both a vehicle repair facility and vehicle sales facility (for which the Petitioner indicates that “sales” have been occurring on the property for some time). The site is surrounded by industrially zoned property, and the occupancies of the adjoining properties include both industrial and non-industrial land uses (examples of non-industrial land uses found in proximity to 10614 DeAndra Drive: vehicle service, retail sales of merchandise, service retail, and vehicles sales).

While it is apparent to staff that vehicle repair has been occurring on the property for some time, the staff has not been, as of the time of the writing of the staff report, able to independently confirm that vehicle sales have been occurring on the property for any length of time. Therefore, as sufficient evidence was not able to be produced prior to the filing to adequately demonstrate the establishment of a vehicle sales operation, the need for the variance arose as vehicle repair occurring the property is considered by staff as a grandfathered use; the conducting of vehicle sales on the property is not an action supported in the I-2 Urban General Industrial Zoning District¹.

Vehicles Service and Sales

Currently within the Town of Zionsville, vehicles sales and vehicles service is a permissible use in a variety of zoning districts (in both the Rural and Urban classifications). Specifically along 106th Street, historically, retail uses (providing for vehicle service operations) have occupied several of the parcels having frontage on 106th Street and/or are accessible from 106th Street via a local street. Providing for the continued operation of a vehicle service and vehicles sales operation (when operated in conjunction with one another, and as further described in the Petitioner’s letter dated January 6, 2016, See Exhibit 4) is a land use which the Staff is in support.

That said, what appears to be changing from the historical operation and occupancy of the property is the intensification of the retail aspects of the operation (potentially selling more vehicles per year than has occurred in the past, for example). While staff is not opposed to some increased number of vehicles sales occurring at the site, what staff is most concerned with (beyond establishing a maximum annual intensity of occurrence of vehicle sales) is the

¹ A review of the list of currently licensed “Motor Vehicle Dealers” maintained by the Indiana Secretary of State’s office does not reveal a current “Dealer” license for 10614 DeAndra Drive. Staff would note that it is possible that a) the number of vehicles occurring at 10614 DeAndra Drive on an annual basis on the property, historically, did / does not rise to require a license from the State of Indiana Auto Dealer Service Division, OR, b) when combined / operated in conjunction with a vehicle repair facility, the “Dealer” aspect of the facility does not rise to require licensure from the State of Indiana Auto Dealers Service Division.

appearance of any sales area when viewed by the pedestrian or motoring public. As 106th Street is a gateway to Zionsville's downtown area, great sensitivity should be exercised as to the fit, feel, and finish of any area associated with outdoor operations when along 106th Street.

Intensity-Outdoor Display

As the Petitioner mentions in the submittal, the site's parking lot includes up to 35 parking spaces, of which 15 to 20 of those spaces are intended to be allocated to vehicles sales (at any one given time). Per the Zoning Ordinance, for the vehicle repair component of the facility, the property must provide at least: 1 parking space for each 200 square feet of retail sales, 2 parking spaces per service bay, and 3 customer spaces. As to vehicles sales, the Zoning Ordinance requires 1 parking space per 500 square feet of gross floor area plus 1 space for each 7000 square feet of outdoor display area. While ample parking is provided for the site (based on the numbers indicated in the Petition), the Zoning Ordinance's requirements may limit the number of outdoor spaces available for vehicle display (dependent on the floor plan of the facility). Additionally, the number of spaces available for parking may be further reduced dependent on the final plan for parking lot striping and delineation of maneuvering areas.

Visual Appearance

As to visual appearance, staff is focused on 1) the utilization of visual marketing tools used to designate vehicles which are available for sale and 2) landscaping. Marketing tools: as the use of the current site apparently included the sales of vehicles, the staff commends the Petitioner for successfully operating a vehicles sales business which did not rely on the "typical car lot" marketing efforts (pennants, fliers, inflatable attention getting devices, oversized / animated signage, portable signs, doors / hoods being open / up) found at many outdoor sales lots within the Indianapolis metropolitan area (as the Town has been unaware of the vehicle sales operation occurring at the location until vehicles marked with "sales" information appeared on the property in late 2015). The prohibition of any signage or marketing methods / conveyance of commercial messages beyond what is permitted by Zoning Ordinance and / or required by the Secretary of State's Auto Dealer Service Division is encourage by staff. Landscaping: staff would encourage the installation of a hedge row parallel to the leading edge of the parking lot when adjacent to both 106th Street and DeAndra Drive (except where interrupted by drive cuts). Shrubs should be at least 18 inches in height at the time of planting and spaced no more than 24 inches on center, should be installed by April 15, 2016, and should be maintained at all times after installation.

PROCEDURAL – CONSIDERATION OF A USE VARIANCE PETITION SEEKING APPROVAL

The Board of Zoning Appeals shall hear, and approve or deny, all requests for Use Variance requests as provided for by the Zionsville Zoning Ordinance. A Use Variance may be approved only upon written determination that:

- (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;*
- (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;*

- (c) The need for the variance arises from some condition peculiar to the property involved; and strict application of the terms of the zoning ordinance would result in an unnecessary hardship in the use of the property:*
- (d) The strict application of the terms of the zoning ordinance would result in an unnecessary hardship in the use of the property:*
- (e) The approval does not interfere substantially with the Comprehensive Plan*

As a part of the filing, the Petitioner has proposed a set of finding of fact (Exhibit 4).

STAFF RECOMMENDATIONS

Staff recommends approval of the use variance included in Docket #2015-46-UV subject to the Petitioner's operational plan described in the letter dated January 6, 2016, the prohibition of the use of the vehicles for on-site marketing purposes as described in the Staff's report, and the installation of a hedge row parallel to the rights of way of both 106th Street and DeAndra Drive .

RECOMMENDATION MOTION

I move that Docket #2015-46-UV (Use Variance) for the property located at 10614 DeAndra Drive be (Approved as presented/ Approve as recommended by Staff / Denied / Continued).

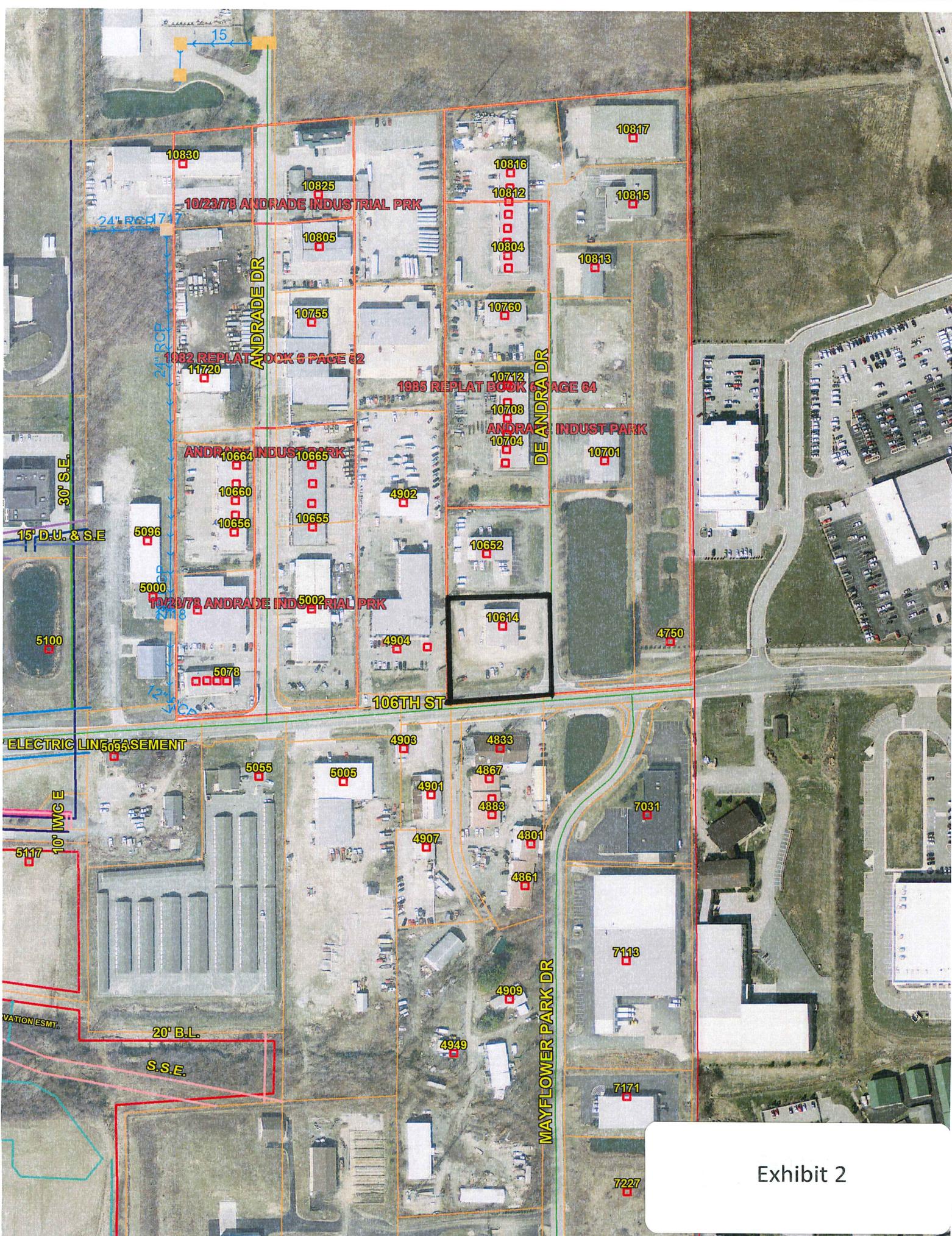


Exhibit 2



Exhibit 3



Exhibit 3

Town of Zionsville
Board of Zoning Appeals
Zionsville Town Hall
1100 West Oak St.
Zionsville, IN 46077

January 6, 2016

To Whom it May Concern:

A Quality Automotive, Inc. has been an active and integral business that has been part of the community and the town of Zionsville since approximately 1974. In 2000, I purchased and began operating A Quality Automotive at its then location on 96th St. When the business was located on 96th st. its primary purpose and business was the repair and sale of automobiles.

In September of 2010, A Quality relocated to its current location at 10614 DeAndra Dr. At the time I relocated and rented that property it was my understanding that A Quality Automotive was still in compliance and continued to operate in the same and substantially similar manner as it had when the business was located on 96th st., which included the repair and sale of automobiles. Specifically, in June of 2010, the dealer license was transferred from the 96th st. address to the Deandra drive address.

Upon receiving notice from the Town of Zionsville that my business was not in compliance I immediately addressed this issue and I am now asking for a variance so I may continue to operate my business. The failure to obtain this variance would be catastrophic for my business as this has been one of the primary income streams for my business since 2000 and the loss of this income would likely put the company out of business and unable to pay my expenses and/or honor other contracts I have entered into including a long term lease for this property.

A Quality has recently paved its entire parking lot (it used to be a gravel lot). It is likely that A Quality will have 15-20 vehicles located on the paved parking lot for sale at any given time. A Quality has historically over the last two decades sold vehicles to its existing clientele as a convenience and it continues to do so. The only change which has occurred to A Quality automotives current business is the aesthetic appeal. Recently we have added a paved lot, new doors and soon will be painted to provide a more aesthetic appeal for the business and the surrounding community.

Best Regards,

Michael T. McQuinn
A Quality Automotive, Inc.

Exhibit 4

**TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA**

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

1. The grant **will not** be injurious to the public health, safety, morals, and general welfare of the community because: the selling of high end used cars will have no adverse effect to the public health, safety, morals and general welfare. If anything, the grant will add a retail sale to the area which will only increase the general welfare by adding additional opportunity for the community to purchase nice, high end, trustworthy, used vehicles at reasonable prices and create additional business for the surrounding businesses.

2. The use or value of the area adjacent to the property included in the variance **will not** be affected in a substantially adverse manner because the adjacent property is NAPA which is currently a supplier of automotive parts for my business and with increased sales and exposure it will likely increase my purchases from NAPA only benefitting that business.

3. The need for the variance arises from some condition peculiar to the property involved and the condition **is not** due to the general conditions of the neighborhood because: there are other businesses in the vicinity of this location that sell automotive vehicles.

4. The strict application of the terms of the zoning ordinance **does** constitute an unusual and unnecessary hardship if applied to the property for which the variance is sought because: selling high end used automobiles has been an ongoing part of the business since I had my dealer license transferred to this location June of 2010 and it is responsible for a substantial portion of the income for my business. The loss of the revenue from the sale of cars could ultimately cause me not to be able to continue to do business at this location due to the expenses and the lack of income from one

of the main income streams for my business.

5. The grant **does not** interfere substantially with the Comprehensive Plan because: nothing will have changed in the manner that I am currently conducting business and have been for more than five (5) years.

6. The grant **is** the minimum variance that will make possible the reasonable use of land, building or structure.

DECISION

It is therefore the decision of this body that this VARIANCE petition is APPROVED/DENIED.

Adopted this _____ day of _____, 201__.

**Town of Zionsville
Board of Zoning Appeals
January 12, 2016**

Pledge of Allegiance was said and attendance was taken by the Secretary.
Present: Larry Jones as acting Chairman, Al Wopshall, Mr. Wolff.

Staff attending: Wayne DeLong, Carol Sparks Drake, attorney.
A quorum is present.

- Jones I would like to call to order the Zionsville Board of Zoning Appeals meeting for January 12, 2016. First item is the Pledge of Allegiance.
- All Pledge.
- Jones Wayne, do you want to take attendance?
- DeLong Certainly. Mr. Morical?
- DeLong Mr. Wopshall?
- Wopshall Present.
- DeLong Mr. Jones?
- Jones Present.
- DeLong Mr. Wolff?
- Wolff Present.
- DeLong Mr. Traylor?
- Jones Because we only have three of the five, any votes for approval or denial need a full three. Anything that doesn't get three full votes gets continued to next month. Is that correct?
- DeLong Correct.
- Jones Okay. First item we've got on our agenda is the election and appointment of 2016 officials. I'd like to nominate Greg Morical for the Chairman next year.
- Wolff I'll second.
- Jones Next we need to appoint a Vice Chairman.
- Drake You need to vote on that.
- Jones Oh, do we vote on that? Oh, let's vote on that. All in favor, say aye.
- All Aye.

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- Jones Opposed. Greg will be our Chairman again next year. And we need a Vice Chairman.
- Wopshall I'd like to appoint Larry Jones to that position.
- Wolff I will second.
- Jones We will vote on that. All in favor, say aye.
- All Aye.
- Jones We'd also like to request Wayne DeLong be our Secretary for next year.
- Wopshall Second.
- Jones All in favor.
- All Aye.
- Jones There we go. We got that done. The other item we have is the approval of the December 8, 2015 meeting minutes. Once again, we are going to defer this until the February meeting since we only have three members and only two of those members were actually here. We can't really get a full vote on it. Is that right?
- Drake That is correct.
- Jones Should I see if there are any corrections that we need to make at this point?
- Drake If anyone has any.
- Jones Any of you guys have a correction you want to make to the meeting minutes?
- Wopshall No, I am fine.
- Jones Okay, so we will just wait until next time. Next on the list would be continuance requests. Do we have any?
- DeLong Certainly the agenda reflects a few continuance requests. First is 2015-47-DSV for 744 West Pine. The remonstrator has filed a continuance request to the February 9, 2016 Board of Zoning Appeals meeting. I believe this request was filed in a timely manner and therefore would default to what we would call an automatic continuance request. I believe the individual is here this evening. Have any additional information you want to provide, Mr. Tousley, to that request?
- Tousley For the record, my name is John Tousley. I am an attorney with offices at 410 West Oak Street, Suite 9A here in Zionsville.
- Drake Sir, would you repeat that into the microphone please?

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Tousley All right.

Drake Thank you.

Tousley My name is John Tousley. I am an attorney with offices at 410 West Oak Street, Suite 9A here in the town. I've been a resident of Zionsville since 1978. I filed a request for a continuance on the petition in front of you, 2015-47-DSV. It was filed, I believe, on December 22, which would make it more than one week before the hearing and, therefore, I understand would be an automatic continuance. If you have any questions, I'll be happy to answer them, but, in passing, I would ask that before the hearing next month if you have time and inclination if you would drive up the alleyway that is located between Oak Street and Pine Street, it is off of 6th Street. So, you have a better idea of what we will be talking about then. Thank you.

Jones Sounds fine. Thank you much. Any questions or anything else, Wayne?

DeLong No, sir.

Jones Thank you. See you next month. Next is the petitioner's request for a continuance for Docket #2015-43-DSV.

DeLong Correct. There was a continuance request filed to allow the petitioner additional time to speak to interested parties, just providing information to interested parties. I know that the petitioner's agent is here, I do not know if there is any additional information you want to provide, Mr. Price.

Price Can you hear me okay? I'll speak loudly then. It is Matt Price. I am here on behalf of the petitioner Neer Development Company. We had asked for a continuance in order to provide time to meet with certain neighborhood organizations that are adjacent to this project, which is approximately 18 acres north of St. Alphonsus Church for an empty nester community. That meeting is scheduled for January 20. We purposefully wanted to do that so that we were not holding that meeting around the holiday period. That didn't work so well with the agenda for tonight so we respectfully ask this to be moved to the February meeting of the BZA to allow us time to meet with the neighbors.

Drake Can you tell us what notices you have given?

Price Oh, thank you. After speaking with staff, we did not serve individual notice yet. We did notify through the newspaper because that was published before we had the precise date established for our neighborhood meeting. My proposal would be to republish in the newspaper and then provide the timely personal notice in the ordinary course, and in advance of the February 9 meeting. So the request would be for a continuance with notice.

Jones That is fine. I do not see any reason we can't accept it, correct?

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- Drake You need a motion.
- Jones Oh, we need a motion?
- Wolff I will make a motion that Docket #2015-43-DSV be continued until the February 9, 2016 meeting with the addition of asking the petitioner to file the appropriate notice.
- Wopshall I'll second.
- Jones All in favor.
- All Aye.
- Jones All opposed. That will get us to the first item that we will actually hear this evening which is Docket #2015-44-DSV which is 465 West Cedar Street.
- Rottmann Hello. My name is Todd Rottmann with residence at 320 West Hawthorne Street. I am joined up here tonight by Mark Revard and Claire Perry. They are the owners at 465 West Cedar Street. We are submitting for three zoning variances this evening and wanted to share some more information about the petition so you'd have a better understanding of what is being proposed. The first approval would be to establish both of our existing lots as buildable lots. The two lots have always been platted as separate lots, but have been under one ownership since their inception. Because of this, we need to ask for official approval from the town to establish them as two individual lots and deem them both as buildable for single family residences. To show that Lot #121 can be built upon without the need for further variances included in the submittal packet was an example of a home on that lot that would meet all current zoning requirements. The second variance we need is to allow each of the two lots to be smaller than the minimum 8,000 square foot lot size required in current zoning. Lot#121 is around 7,000 square feet in area and Lot#122 is around 7,700 square feet, which are the historical sizes in the Village with many lots in the Village being even smaller. As mentioned above, these are the historic lots. They have always been this size for over 100 years, and so, your approval tonight will just confirm that they can stand as originally platted. The existing garage on the east side of the house is original to the house and is over a century old, but it was built only 3.7 feet from the east property line. Because of the garage's location, the existing house, even with us removing the sunroom on the west side of the house, does not meet current zoning standards for individual side yard and aggregate side yard setbacks. We need a variance to reduce the minimum east side yard width from 5 feet to 3.7 feet and to reduce the aggregate side yard from 15 feet to 12.3 feet. Essentially, what we are looking for is to officially approve an existing, nonconforming use. The remainder of our new work conforms to the current zoning setbacks and even improves the current condition since we will be demolishing the sunroom on the west side of the house. We feel these variances are important since they will appropriately address the various conditions that Mark and Claire inherited with the property. If there are any remonstrators

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tonight, I would like the opportunity to address any of their specific issues following them and we appreciate your consideration.

Jones Okay. We will ask if there is any public commentary, either support or remonstrance against? Please step forward.

Pataky Hello. My name is John Pataky. We live at 425 West Cedar Street, adjacent property just to the east of the proposed changes that the Revards are looking to do. Some concerns are, #1, if, in fact, the lot was not made buildable, that all these improvements to the existing home could be done without any easements or setbacks and stuff. We think, because of the unique area in the Village that the parcels lay on that we have, there are 4 properties between 5th and 4th that all have double lots. And, all the homes have been improved and have historical value. And, we would like to keep it that way. We would like to keep any improvements done to any homes historical and have it done properly. I do not agree with splitting up a lot and subdividing it at this time. There are rules in this town that we all have to abide by and I think it is very important that everybody says the Village, the Village, the Village and we want to keep it looking quaint and wonderful, yet people are constantly coming in here and trying to change the rules. And, I think it is important that they just build by the rules and keep the Village what we wanted to keep it.

Savidge So, in our opinion, the great compromise is to not separate the lots but to combine the two lots and then all the variances will be negated because they will have room to build into the lot next door. Already, we are at 3 point something feet away from their house and, in fact, the driveway encroaches on our property by a couple of feet or more and we would like all of that to disappear if they build the other way into the other lot. Just use the other lot as their---

Jones Just real quickly, I need your name and address.

Savidge My name and address?

Jones Yes.

Savidge Vicky Savidge. 425 West Cedar Street.

Jones And, then you're speaking regarding the lot directly to the east?

Savidge West of us.

Pataky West of us.

Savidge We live on the property directly to the east of them.

Jones East of the lot? Okay.

Savidge And, we have a double lot, across the road there is a double lot and diagonally opposite there is a double lot.

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Rottmann Are you on the corner?

Pataky Yes.

Savidge There are 4 homes in that one block, that is it. It is probably one of the only blocks in the whole Village that still has 4 homes and only 4 homes because we are all under the lot.

Jones I guess I am counting 5. There's the houses that sit on Lot#121 and 122, which which were the ones they are wanting to split.

Savidge Yes.

Jones There is your home.

Savidge Yes.

Jones There is a house to the south. Correct?

Savidge There is a house to the south, but that is not on Cedar Street. That is on 4th Street.

Jones I see. You're wanting to count as the block being the houses to the north and the south...

Savidge Our front doors face Cedar Street. Yes, correct. They are all historical homes and I read many times in the Zionsville Zoning...

Jones I still have 5. I guess I am trying to confirm, on Cedar Street, you are 425?

Savidge Correct.

Jones The lot being divided or requested to be divided is 465?

Savidge Correct.

Jones On the north side of Cedar Street is 420.

Savidge Correct.

Jones And, then to the west of that is 480.

Savidge Correct.

Jones But, there's also a house at 40th on 4th Street.

Savidge But, it is not on Cedar Street.

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- Pataky It doesn't have a Cedar Street address. It is a 4th Street address.
- Jones Okay.
- Pataky But the back of that property does about this, I think the Lot#121 or 122, I am not sure which is at the corner.
- Jones Okay. I understand the point you're trying to make.
- Savidge When you go up Cedar Street, you can't see the house on 4th Street. All our houses are historical, 100 years old plus or minus. Ours is 165 years old. It was built even before Zionsville became a town. And the whole point of having a Village Residential District is to maintain the historic character, and we are changing that completely by allowing all this building on lots that aren't the correct size, haven't got the correct setbacks. And, these are the rules made up by the Town of Zionsville.
- Jones And, I understand your point. As I look through the documentation we have here in front of us, though, I can see houses at 490 and 470 Oak Street and 390 Oak Street and 380 on Cedar Street that all seem to be able to conform to the original, kind of, lot sizes. In fact, some of the lots are even smaller. So, I understand what you're trying to say, your point. So, it is all taken...
- Savidge The lots sizes now are suppose to be 8,000 square feet, correct?
- DeLong That is correct.
- Wopshall Yes.
- Savidge And, there is suppose to be a setback of 5 feet and an aggregate setback of 15 feet, and either of those would be...
- Wopshall Side yard setback.
- Savidge Side yard setback and neither of those would be correct. The driveway is actually encroaching on our property as it sits now.
- Wolff A couple comments on that.
- Savidge We have no problem with letting the setbacks go, and we would say just build into that second lot.
- Wolff Or, it looks like, as I understand, you are Lot#124 and #123?
- Savidge Correct.
- Wolff Are those two separate lots?
- Savidge No, it is one lot now. They have been combined.

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- Wolff Okay. And, then earlier in the evening when you first spoke, you mentioned combining the lots. Can you go over that again with me what you are proposing? You said the proposal would be to combine the lots. Can you review that because you mentioned that it wouldn't require?
- Savidge It is just like what we did. We combined our two lots, #123 and #124. One for property tax purposes and two, so that we could, we, extend it into our second lot also. We did a very similar thing as this family is wanting to do, and we did it in order to do it correctly and keep within the 35% rule and the setback rules and everything else. We were very careful and we combined our two lots in order to do that. So, we did build into our second lot, but we have not gone beyond the 35% rule.
- Wolff So, you had a renovation?
- Savidge We did. And we won a few awards for it.
- Wolff I understand.
- Wopshall Are the two houses on the north of you, are those lots combined?
- Savidge I do not know.
- Wopshall You do not know?
- Savidge I do not know if that is still separate or...
- Wopshall It looks like the houses straddle both lot lines.
- DeLong I can talk to that.
- Savidge We combined our lots for a couple of different reasons.
- Jones Anything else?
- Pataky No.
- Savidge Thank you.
- Jones Anyone else have any new...
- Wopshall You mentioned the driveway encroaches on your property?
- Savidge Yes.
- Wopshall What does that mean?

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- Savidge Their driveway comes onto our property beyond the property line. And you can see that on one of the drawings that you probably have in front of you.
- Wopshall It is on your property? It is on the bigger picture too. The bigger picture shows the same thing here.
- Wolff You're referring to exhibit 5?
- Wopshall Yes, that one there. Thank you.
- Savidge Thank you.
- Wolff Mr. Jones, I think we have a couple of remonstrators, at least one.
- Jones Please, yes. Please come up and state your name and address. Sorry.
- Zeller Mike Zeller. 420 West Cedar. Number 1, I want to agree with many of the things John said. We feel absolutely blessed that we have a very special block there. It is a beautiful place, the neighbors are great, it is awesome. It is the kind of reason people want to move to Zionsville. So, it is a great place to live. Regarding our lots, and I do not know what the numbers are. I am not prepared with that, but they're actually half of two lots. It is double wide but one half deep. I think, I would say, the lot directly west of us is a true double lot. It is double wide and double deep. You have the drawings there, probably, and I suspect it is pretty close to the lot that was purchased across the street that is in question here. It probably is a double wide; it is a double wide and double deep lot. I am not fully aware of John and Vicki's lot, whether it is full depth or half depth, but our lot is full width but only half depth. The other thing I guess I wanted to mention is that in my brief experience in the Village, encroachments and setback, not meeting all the setback rules is encountered quite regularly with some of the oldest homes. In our case, when we came in, the existing garage was within less than 2 feet from the property line, and because it was already existing, we were able to upgrade that garage while maintaining that same setback, which I believe is the plan for the garage that is under way across the way. So, that in and of itself doesn't seem to me to be a conflict with anything that is gone on in the past. If it exists as an under 5 foot setback, then so be it. The encroachments are another situation that would have to kind of be worked through, but I am not sure that is a part of this meeting. So, I am really not here to make a stand with my new neighbors or against my current neighbors. We are all trying to get along. I just wanted to kind of point out what I see as some of the situation in play here. Our lot, I do not have the numbers in front of me, I could have looked that up if I'd known about this, and I believe it is under the 8,000 square feet. That is what I believe. I believe it is 100 by either 65 or 75. You may have those numbers in front of you. So, it would not be unheard of to have a lot that is under 8,000 square feet in the historical district. Thank you.
- Jones Thank you. Anyone else from the public?

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Stacy Happy New Year. Ralph Stacy, 60 South 2nd Street. I served on the Board of Zoning Appeals and Plan Commission for a couple of terms back in the 80s and when I used to hear, we didn't hear it too often, but sometimes these types of meetings are kind of sad. I like to think of myself as being a little historian of sorts and I went back and did some research on this particular area, which is called Crosses Fourth Addition, and it was probably built out in the 1867 to 1870, and it comprised over 100 acres. This was the largest single addition to old Zionsville, which I think we all know, was begun in 1852. I do not know how many members of the Board of Zoning Appeals are familiar with studies that have been done about Zionsville's historical architecture. One of them was done back in 1982, I have a copy here. And, sometime on a snowy day and if you have some time, go down to the Sullivan Munce Cultural Center and take a look through it. It is kind of an eye opener of sorts. The particular property that we are talking about tonight is that it is listed in the study that was done to be a prerequisite in creating an historic district here in Zionsville. That has been tried three times unsuccessfully since 1976. But, these studies were done, it was an inventory of the different homes and structures that are historically significant, and it was found that this house was a free-classic, probably built around 1892. It was done by the Indiana Department of Natural Resources, archeological division, and also Historic Landmark's Foundation of Indiana, which today is Indiana Landmarks. And, there was another study that was done by an individual by the name of Robert Randall. He did a film about the architecture of Zionsville, which is very informative. I do not know how many of you have taken a look at that. But, he also did his own compilation of structures and he found that this particular structure was outstanding and contributing. Bob Randall, who is now deceased, did a lot to foster the feeling on Walnut Street in Zionsville in the Village. Bob renovated a number of homes to their true style. He built replicas of appropriate styles for Zionsville and he was a graphic artist, but he had a real love to do these things and he did a lot of little things, like if you ever go to the Friendly Tavern and you look up at the top there. That is Bob's art design that he did free. A number of porches that have been replicated in the old part of town were drawings that Bob did free of charge to try to nurture preservation, renovation, restoration. My point is that Bob Randall, one of the things that he said that, yes, he agreed that it is free classic. He said some 20 years ago that it is still in the original condition visually. I just had a couple of questions wondering whether you had found out. I understand that the sun porch is to be removed on the west side. Is that original to the structure, do you know?

Jones That'd be more of a question for Mr. Rottmann.

Rottmann No, it is not original. In the basement, there is actually a window there that has been covered up.

Jones When you respond, come to the microphone please.

Rottmann Yes, the sunroom is not original. In the basement, there is a window in that location, so, at some point in the house's history, they put on a covered porch and then at a later point in the house's history, they enclosed it and made it a sunroom.

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Stacy Do you know if the vacated lot has ever been built upon?

Rottmann We do not know if it is been built upon. We do not believe that it has. There is no evidence of it.

Stacy Let's see. I had one other question. I really hope that, I mean, if you do grant a variance on this, variances on this, that, and I do not think you have the authority to do it, but hopefully the couple has the character to think about the neighbors, the styles that they have. Just the house to the north of them there, the brick, is a great example of Italianate and the studies that I mentioned briefly this evening was classified as outstanding. I mean, they're in a neighborhood that is a, like John and Vicki had mentioned and Mike had mentioned, it is a special area of Zionsville. And, I've lived here in this community for 68 years at the same address, at 60 South 2nd Street. Four months ago, I woke up to the sound of chainsaws and a lot of other racket, and I do not think they needed to come to the Plan Commission or the Board of Zoning Appeals, but we have very few urban barns still in the Village. But, that morning I woke up, looked out my window and there it was. A barn that I use to play in. I do not own it. Somebody else does. But they have come to the community, ripped down this barn that has been here for at least 100 years, an urban barn, a special barn, something that has great meaning to me, may not to them, but to me, the decisions you're going to make tonight and in future nights ahead are very important and I think you understand that and I would just, if this does work out, as I said as the variances, I wish the new couple welcome to our community, but at the same time, you know, after being here 60+ years, I kind of get set in my ways and it is really kind of tough to, this is a sad time for me. And, second one in 4 months, so, but, you need to make the decisions. I do not have to do that anymore. But, do some more research, you know, if you're not familiar with what I am talking about. I'd be glad to sit down with each and every one of you and kind of brief you on things that have occurred over the decades here in our community. We've lost a lot of nice homes and business structures that could have helped us in the battle to be authentic. Thank you for your time and your volunteer work. Thank you.

Jones I'd just say as a follow-up to Mr. Stacy, I've owned property in downtown Indianapolis in the historic districts and have worked down there for 30 years. I understand what you're saying about creating historic districts and how they protect those kinds of barns and those kinds of other special structures. It is always an interesting two-way street. I've been on both sides of it, both as a property owner and as a developer, and so, I understand what you're trying to say is that there is a certain amount of protection historic districts generate to actually keep existing structures in place, and also, how it does have both positive and negative effects on future development, so I understand your point. Anyone else from the public that has any more commentary on this? Do we want to get the staff? Oh, petitioner response?

Rottmann I loved that last report because I, too, am a lover of historic architecture. I, too, live in the Village. I've only lived here 6 years in the Village, which in Zionsville is a very short period of time, with no intentions of leaving as you've seen me up

here talking about my property before and some improvements we'd like to make to it. Our firm focuses a lot on historic development, renovations, infill housing. We've been working in Indianapolis's historic neighborhoods and surrounding areas for over 2 decades now. One of our historic renovated neighborhoods that we were master architect for actually won national awards and was voted by the Governor of the State of Indiana as the neighborhood of the year due to the revitalization. So, I just say that to express that we understand the importance of historic neighborhoods, historic structures and do not want to do anything that would disrupt the neighborhood or cause any kind of negative effect on the neighbors. One thing I'd like to start off by saying is it was mentioned that we are trying to subdivide these lots and that is not what we are trying to do. They are two separate lots. Boone County has them listed as two separate lots. Claire and Mark have two separate mortgages on them, so they are not one lot. Because they have been occupied by one owner since their inception, we just need official approval that they can both be individual, buildable lots. So, I guess it is a bit of a technicality as to why we are here tonight to do this. In addition to, you know, the variances, in regards to the driveway encroachment, you know, that is historic. It has always been there. I mean, as far as anybody can tell, there is no evidence that it was ever moved. Mark and Claire do not need it there. If it needs to be moved over on their property, that is not a problem. It was inherited with the property. The neighbor's fence is actually, we think, on their property. But, they do not have a problem with the fence being on their property. It is just the way things got developed over time and it is these wonderful, unique features you inherit when you buy a historic home in a historic neighborhood. I'd like to mention that the first remonstrator, the Patakys and Savidges, that I absolutely love their house. It is one of my favorite in the Village. I love their landscaping. I've got nothing but respect for what they have done to that home and for the Village. Unfortunately, we are now in a position where we have to defend ourselves and I need to point out some items that are misleading, inaccurate and a little bit hypocritical. I'd like to first refer you to, in your packet, there is a site plan with the green homes on it. You guys all have that?

- DeLong It is in the petitioner's packet, not within the staff report. So, Mr. Wopshall has that exhibit.
- Wopshall Okay.
- Rottmann In their letter to the staff, they mention that the four houses on Cedar Street there are all single family homes built on a double lot. And, what I need to point out is that only one of the four is a single family home built on a double lot comparable to this particular project. But, it also has two accessory structures on that property, so there are actually three buildings on that particular property. The other two properties, those lots are double lots, but as mentioned earlier, they're either half lots or two-thirds lots. So, when you look at the actual same amount of area as Lots#121 and #122, both of those other corners have two single family homes on that same amount of square feet. So, to say that we are going against what's happening there in that area is a falsehood and very misleading. I have another handout I'd like to give you. I felt like this site plan being an aerial photo is a lot more informative than just the GIS map that was in the packet because the

GIS map did not reflect any of the additions that were done to the two houses that are on the corner of 4th and Cedar Street. One of them being the remonstrator's house. The remonstrator's house, you'll see, is circled in red and the subject properties for tonight's hearing are outlined in blue. And, you can tell that they are on a two third's lot, not a full depth lot. So, what's happening on their property is different than what is happening on this property because they are two different sized lots. As far as the preservation of green space that is mentioned, we do need to reiterate that this is a private lot; this is not public green space. The remonstrator mentioned, you know, in their letter that they like open space and they like green space. If you look at this site plan, the aerial photo, you'll notice that they have put on an addition, a shed and paved areas and basically eliminated all green space except for their two required front yards. So, the preservation of green space is not something that we are violating her and, in fact, we are keeping our front yard, if there were to be a house built on Lot#121 as indicated in the drawings that were submitted, it doesn't need any variances. It will be required to have two front yards, both on 5th Street and on Cedar and both this property and the Revard's property, with the house currently on it, would also have rear yards. So, preservation of green space and yards is something that is not going to be compromised with any kind of future development. So, we need to keep in mind that we are not here trying to get any kind of a house approved on Lot#121. The sample home design was only provided to show that a home can be built there without any variances beyond tonight.

Wopshall Excuse me. You're going to consider that the side yard as a front yard. That is a 20 foot setback on that.

Rottmann Well, according to staff, both Cedar Street and 5th Street are front yards, but you can do block averaging on those as well. So, we do not need to do the block averaging, but we are allowed to do so if a house gets built there. But, like I mentioned, we are not here tonight trying to get any kind of a house approved on that lot. We are just here tonight so that the Revards can separate their two lots legally according to the city and have them both be deemed buildable lots so they know what they actually have. And, I feel that to deny them as individual buildable lots would be unjust and not consistent with what is happening in the Village historically and also with other approvals that have been granted in the area. As an architect working with them on the addition to their house, I can assure you that this work will be done with a conscious mind and rigorous attention to detail. I think it is important to note that while this house on Lot#122 has been deemed to be historically significant, it is covered in vinyl siding now. So, if you go by it that is a vinyl siding house. As part of our project, we are removing that vinyl siding. And, if the wood siding cannot be restored, because we have no idea what condition it is in, we would be coming back with a plank siding that is not vinyl siding. So, we are actually going to be restoring some of the character back to that house and some of the quality. Also mentioned, we are removing the sunroom not original to the house. Very unattractive. And, we will be getting rid of that and going back to the house as it originally was. So, as far as restoring the house, its historical significance, we feel that what we are doing is actually enhancing that and improving upon that. I think it is worth noting that

almost none of the originally platted lots in this area meet the 8,000 square foot minimum. These two lots are the same size as the lots all around it on the surrounding blocks. And, some of those lots have even been cut in half, you know, into fourths. So, what is happening in this area, this is exactly consistent with and continues what has happened in this neighborhood in this area of the Village since its inception. There are lots far smaller than the ones, that, you know, that these two lots are. The 8,000 square foot minimum zoning ordinance that is in place now obviously was not in place when the lots were platted a century ago, and working within that historical context, we are not deviating at all from what was originally intended for these two lots and for what's happening around us in that area. In regards to the setbacks, the existing garage is primarily why we are here for the setback variances. The garage was built at 3.7 feet from the east property line. It is original to the house. The Revards and Claire Perry have actually renovated that garage to restabilize it and make sure that it is going to last for generations to come, but it was built 3.7 feet from that side property line. It is an existing condition; its always been that way. The only way to solve that would be to tear it down, and that would go against the historic preservation of what we are trying to accomplish with maintaining the character in the Village. Because of that, here we are needing a setback variance. I think it is important to note that the addition that we are proposing to the house on that east side of the property, which faces the remonstrators, we aren't even going over to the garage with the addition. So, we are nowhere near their property line with the addition. We are leaving the garage as it stands today and putting our addition adjacent to it and towards the back of the home. What's also important about that is we aren't going to be changing the character from the street any. Our addition is on the back of the house. You will predominantly not see it from Cedar Street and as far as the architectural significance of the home, there is a beautiful gable detail that happens in the mansard roof on Cedar Street. On our addition, we are reintroducing that into a gable that is happening on the addition of the house as well, once again, to carry that language through from the historic to the new. With all of that, I know we are in a precarious situation this evening because we need a unanimous vote in order to move on. So, I respectfully request input from the Board as to whether or not we should go for a vote tonight, or if we need to continue this to get a positive outcome. I respectfully request that prior to calling for a vote.

Jones The one benefit of having only 3 of us is if one or two votes against, it just automatically gets continued to next month. So, it is not like you've actually gotten a negative response and decline, which would then put him off for another year, correct? So, I am not quite sure how everyone will vote, but, you know, if there is some concern, you can always request a continuance.

Wopshall I have a quick question, though. You, at one point, said there are two mortgages on this property, on the two separate lots. So, are there two separate tax parcels?

Rottmann Yes, two separate tax parcels.

Wopshall So, are the lots actually joined?

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Rottmann No.

DeLong This issue revolves around how the town defines the lot of record. And the lot of record does not pay heed to tax parcels and that type of information for purposes of what is currently a lot of record. Lots #122 and #121 create that lot of record, because the definition of a buildable lot can be pieces and parts and slivers of a lot or lots. So, what we have here is an action that has been something the BZA has heard over the last few years of a variance to allow Lot #121 to function as an individual lot of record and to allow Lot#122. So, in essence, they are being split, though, there is minimal, if any, action that would occur with the Recorder's office because the parcel numbers are the same, the legal descriptions are the same. The only thing that could change in the future, essentially, would be ownership.

Jones So, technically, it is housekeeping?

DeLong Correct.

Jones Wayne, you want to finish up with your staff comments please?

DeLong Certainly, thank you. As filed, as staff has historically, we look at these types of petitions. We review not just the immediately adjacent parcels, but we look at the fabric of the surrounding area. This area, Crosses 4th Addition, is comprised of parcels originally platted 7,000 square feet, 6,800 square feet. Some of these parcels have been divided, moved, changed to 5,000 square foot in size. Some certainly smaller, some certainly larger. Certainly, the petitioners, you know, the testimony this evening is referring to a 9,000 square foot lot that is directly to the east at 425 West Cedar. While the character of the immediate parcel may be reflective of double lots, which may or may not be in the same configuration as originally platted, staff's review is a broader look at the parcels that are in the area and staff has completed that review and is supportive of the request as filed. Staff provides as Exhibit 3, a copy of a part of Crosses 4th Addition. It is a piece that is reflective of the lots that are being discussed this evening, and clearly see the parcel lots lines as they were originally platted back when the plat was first created. Specific to the setbacks, the variance requests that are in front of you this evening, as well as the lot size request, are reflective of the existing built environment, if you will. With those thoughts, staff is supportive of the request, and certainly, is cognizant of the other encroachments and reductions enjoyed by parcels within the immediate area as well as the broader fabric of the neighborhood. Certainly, it is within the purview of the Board of Zoning Appeals to set stipulations as to the architectural features, you know, concept renderings that have been submitted to the file requiring substantial compliance. That is certainly within your purview. That sounds like that is not something the petitioner is seeking this evening, and again, that is certainly within their purview. There is no request this evening to demolish the house on Lot#122. It is to provide for a future parcel improvement on Lot#121. Certainly, the petitioner has spoken to what their plans are to renovate and remodel and enhance Lot#122, but that is not something that is for consideration. But, again, it is with a variance filing, those points and concepts are within your purview to set conditions and

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commitments on. Again, staff is recommending approval of the petition as filed. There are some points that are raised, or conditions that staff is suggesting. They are related to the request and the petitioner has outlined that they would be favorable to demolishing a sunroom and relocating a gazebo. They had originally provided information that spoke that these actions would be taken within 30 days of the grant of the variance. Certainly, if the petition is decided on this evening, site conditions within 30 days might not be favorable for those to commence, so staff would certainly suggest maybe a more lenient time structure than 30 days to allow those actions to be undertaken. Again, staff is recommending approval of the petition. I'd be happy to answer any questions.

Jones I had two questions. I thought when I read through here, that granting any variance does not generate anything where lot coverage is over the recommendations in the Village zoning, right?

DeLong That is correct. We would certainly not want to see the petitioner have to come back and visit on that particular issue, so we do review the information that is submitted to affirm, that whatever we've been given, does not require any additional variances.

Jones Okay. And I thought I read through, yes, it is in here on the Brevard residence existing site plan. So, you actually have checked that number?

DeLong Correct.

Jones Secondly, there aren't any variances being requested for Lot#121, or #122? Which...

DeLong Beyond the lot size of Lot#121.

Jones Yes, Lot#121.

DeLong And, to allow it to be its own stand alone lot record. Those are the two variances that are specific to Lot#121.

Jones The variance is for Lot#122.

DeLong And, then Lot#122 is also seeking a variance of the minimum lot area and is seeking a variance specific to the setbacks.

Jones Correct.

DeLong Aggregate and minimum.

Jones But, Lot#121 is not getting variance of the setbacks?

DeLong That is correct. Not seeking anything.

Jones Okay.

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- Wolff I have a couple more questions for staff. You made a comment that it was consistent with the look and feel of other homes and plots in the neighborhood. Essentially, you were looking outside of Cedar Street?
- DeLong Most certainly. We are looking, you know, one or two streets over in all directions.
- Wolff Yes. And, staff, I am going to ask for color commentary, which isn't fair, I know, and I apologize in advance, but, I am of the impression that the homes that some of the remonstrators, the addresses of some of the remonstrators, the street is absolutely charming. If you drive down it, it is a great looking street and I think it represents Zionsville's Village area well. But, I am of the impression that those aren't homes consistent with what were originally built in that area. They have been remodeled. They have been added on to and things like that. So, I am challenged here, and maybe this isn't a staff question but more of a comment, you have remonstrators who are trying to protect their street, and I respect that. I would too if I was a neighbor. I would want to make sure that my property values are maintained and things like that. But, they're also using historic reference as a point, and I am not sure if the surrounding area is very historic in the sense that those homes have all been remodeled to be substantially larger. Do we have an obligation to respect that as we look at this? And, really may ask that more specifically. Do we have an obligation to look at the historic nature of this street and respect that, or is that not our responsibility?
- DeLong It is all within your purview. You may look at many different things. You have findings as outlined in state code that you need to walk through and answer, affirm either what the petitioner has provided or affirm with different language if that is something you look to modify their submitted language this evening. Staff's review has always been a more, I want to say, global look at the fabric of the area. The focus has not always been who's adjacent to the north, south, east and west. It is a bigger look that crosses additional area and all plats are much larger than just 6 lots any different direction.
- Wolff As it should be.
- DeLong Now, certainly, if the BZA is desirous of establishing a precedent, if you will, that their universe of review is specific to what is immediately adjacent, that is certainly your purview. However, that has not been how this process has been conducted thus far. Again, you are the BZA. You can make those ultimate decisions. Staff is providing its recommendation as per how staff reviews the petitions when they are filed and providing you professional recommendations.
- Wolff My reaction to that is I think the staff's current strategy is the correct strategy. I think if we were to look in a much smaller area, I think it would be short-sided. So, I agree.
- DeLong Okay.

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- Jones I'll make a motion then. I move that Docket#2015-44-DSV, Design Standards Variance, to allow #1: Lot#121 of the Cross 4th Addition of the town of Zionsville to be improved with a new single-family dwelling independent of Lot#122 of Cross 4th Addition; #2: Reduce the minimum lot area from the required 8,000 square feet to 6,987 square feet for Lot#121 and to 7,696 square feet for Lot#122; #3: Reduce the required 5 foot minimum side yard setback to 3.7 feet on the east side of the property of Lot#122 and the required 15 foot aggregate side yard setback be reduced to 12.3 feet; #4: That this motion be conditionally improved based on the demolition of the sunroom on Lot#122 and the removal of the gazebo from Lot#121 to Lot#122, and this be accomplished prior to the submittal for a building permit on either parcel. That this be improved based on the findings in the staff report as presented.
- Wolff I'll second that motion.
- Jones Any discussion, or should we call for a vote?
- Wopshall Well, I hear the motion in front of us and I believe that a positive vote would significantly change the characteristic of that particular block that I do not approve of that.
- Wolff Perhaps we should vote, we will have a dissenting opinion and it'll go to next month and we can have a larger group to, the risk of wasting everyone's time or rehearing this, but perhaps that would be the appropriate response.
- Jones I am fine with that. All in favor, say aye.
- Jones/Wolff Aye.
- Jones All opposed.
- Wopshall Nay.
- Jones So, we will continue to next month's Board of Zoning Appeals hearing where we will get in front of a little larger committee and present review, February 9, 2016. We will move on to Docket#2015-45-UV, 105 South Second Street.
- Price Mr. Chairperson, members of the Board, my name is Matt Price with an address of 485 West Sycamore Street, Zionsville, Indiana 46077. I am here tonight on behalf of the petitioner in the referenced case. With me this evening and available to answer questions about the proposal is the general partner of the petitioner, Bob Harris, immediately behind me. Our petition is fairly straightforward and simple, but I do want to provide some background and context relative to it to assist you in your decisionmaking tonight. First of all, set forth in the staff report in Exhibit 3, which is this aerial photograph, is a depiction of the property. It is something that we are probably all pretty familiar with just given its location and the amount of traffic that goes by this location, but to provide some orientation, it is in the southwest corner of the intersection of Oak and First Street. As the staff report indicates, it is zoned for business office. Historically, it has been used for a

veterinarian's office. You may recall that, for many years, it was almost a decade. And, then, a subsequent decade and most recently, for a realtor's office. So, for the last 20 years, it is really had and been limited to 2 uses. It has, however, been vacant for the last 14 months, and my client has had the opportunity to enter into a long-term lease with a hair salon, consistent, we believe, with other personal service businesses that are located either within business office uses within the Village, or adjacent and nearby those uses. We think that there are some very compelling arguments for why this particular proposal makes sense at this location, and can be consistent with a buffer between the residential uses to the west and the commercial Village business uses to the east. The staff report does an excellent job of articulating those, but let me tick them off quickly. One is its location at a very busy intersection of First and Oak Street. A lot of traffic goes by on a regular basis. This particular parcel is further unique because it is equipped with its own onsite parking and the access, the principal business access is oriented towards First Street and away from Second Street, just like the other businesses that are located along the west portion of First Street. I would note, for example, there's an insurance business immediately, well not immediately, one property removed to our south, an insurance office and right within the same building is a barber shop that has been there, really, for as long as I can remember in Zionsville. We think that the personal service-type use will not pose any greater burden on surrounding property owners or impact surrounding property owners any more than the previous veterinarian's office and realtor's office in the sense that customers will be coming to the location, basically by appointment. We've included a plan of operation, which limits hours of operation, limits the exact use that can go on within the property, which is limited to a hair salon, so there won't be any retail component, except for the things normally associated with a hair salon, which we've indicated, like the sale of haircare products, etc. and, we've limited the number of stylists who would be located within the hair salon to no more than four at the premises. So, we've confined the intensity of the use to just that, that is consistent with the physical location itself, the onsite parking and being sensitive to the surrounding property uses. In addition, staff has recommended a commitment that we specifically limit any business activities from taking place on the Second Street entrance. There is a Second Street entrance, and the request is that that be limited to only employee ingress and egress. We think that makes sense, and we agree with that commitment. I would like to note, one other thing that is in the staff report, I personally think this has been a creative and affective approach for dealing with circumstances as they occur in the Village. I live in the Village. Mr. Harris owns a number of properties in the Village. The Village is beautiful, but it does evolve. And, part of the benefit of having a Board of Zoning Appeals is that when unique circumstances present themselves, there is an opportunity to go and present your petition to that Board and have them make a sensible determination based on the unique facts of a particular circumstance. One way I think to further build upon that concept of granting variances that has been employed recently has been to put a sunset provision onto a variance. That was recently done, as you all know, with a use variance also along First Street, for a use that was, frankly, a retail use. Different, we think, than our use, which is more in the nature of a personal service, but it makes a lot of sense. We would also agree to a similar sunset-type provision. The only caveat and request we

would make in connection with that is, is that Mr. Harris has had the benefit of entering into a long-term lease, a 10-year lease. So, we would respectfully ask that the sunset provision not be less than 10 or 11 years, really. Excuse me, yes, not be less than that period of time. It does confine the limit to it, so it is not something that runs with the land in perpetuity, but rather puts a reasonable limitation on how long the use can persist in the future, so, in that sense, we believe that is a sensible approach and we would respectfully request your approval of our use variance petition with that one comment with the commitment and ask that our findings be incorporated. Bob and I are available to answer any questions that you have and we appreciate your time and consideration. Thank you.

Jones Real quick. Is it a 10-year lease, or is it a shorter term with renewal options?

Price Let me ask Mr. Harris that. It is an initial term of 10 years. There has been some precedent at that location for some longer-term relationships, both with the veterinarian and with the realty company before.

Wopshall Have you given thought to how that will impact the traffic flow at that corner?

Price Well, it is part of, we understand, and we do not know the specifics of it, but we understand that that intersection is part of a longer-term traffic study for the town that ties into points further south. Our thought is, is that it won't pose any greater demands or impact on traffic than any of the prior uses that have been there over the last 20 years. It has an access off of First Street, with its own onsite parking, and it is also possible for customers to park on the street along Second Street and enter through the First Street entrance, and thereby avoid any real impact on surrounding traffic. There is a lot of traffic there. I negotiate that intersection every day, multiple times a day. You gotta be careful, you know, when you're doing it, but we do not think it really provides any more additional traffic than an office use.

Wopshall Okay, thank you.

Jones Back to your statement regarding, the package we have says 4 employees.

Price Yes.

Jones Traditionally, hair style salons are booth space that are then subcontracted out to the individual actual stylist, so when you're talking about 4 employees onsite, are you talking about limiting it to 4 booths, or people, or is it stylists plus employees. Because, typically, you'll have reception and...

Price No, that is a very good point. What we mean is 4 total workers on site at any one time. And, you're right. We do anticipate that there will be an individual who will assist in scheduling appointments and welcoming a customer who is there attending an appointment, and that would be counted towards that 4.

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- Jones If we change that to no more than 4 employees and/or contractors on site, would that be a –
- Price Yes, and I understand your point. Yes, that is, we are, we want that to be crystal clear for your sake and for our sake. We are not trying to play games, but that is a good point. Yes, absolutely, that would be acceptable.
- Jones Can I ask if there are any Supporters or remonstrators in the audience who would like to step forward?
- Stacy Thank you. I am Ralph Stacy, 60 South Second Street. Just south of 105 South Second Street. My wife was going to be here tonight with me, but I think she's been held over with the grandchildren while the mom's out. I received notice of this hearing of 105 South Second Street, which is across south of Oak Street from our home at 60 South Second Street. I also own a property that is even closer at 90 South Second Street. Both of these are residential, the 90 South Second Street is a rental unit. I have watched 105 South Second Street for over 60 years. As a matter of fact, one of my first girlfriends lived there. And, remember when it was rezoned from single-family to business office in 1978, along with a couple of other homes to the south and the same side of the street. I recall, there were a number of requirements to be met, such as signage with exterior sign lighting only on First Street with customer entry, as well, on First Street, and I am sure there were probably a few others that I can't remember, and I do not seem to have those records at my fingertips. But, I would like to thank the petitioners for their recent landscaping on the north side of the structure and I please hope they continue to the west side. That would be a nice enhancement there. I have a few questions. Does the possible granting of this variance make it easier, or is this a step towards rezoning this property to a higher use zoning in the future?
- Jones Wayne, you got an answer to that?
- DeLong You want to run through all the questions and I can certainly address that with staff?
- Stacy Sure, be glad to. What is the requirement on signage and it having lighting? If you look south, on the east side of Second Street, you will observe a business sign and post and in the past, the subject variance location has had signs on Second Street side, which was not enforced. Are they required to have a dumpster or trash enclosure, not a dumpster exposed, I am talking about an enclosure. Because, I can remember copying Michigan's statute for Zionsville on trash enclosures back in the 80's and I do not know if it is still in there or not. And, if so, where will it be hidden or concealed? Will any of the remaining green area be covered with asphalt or concrete parking area? The reason I ask that, sometime, I know the last time 334 was improved, there was a mistake there at that corner of 334 and Oak Street. I do not know how many of you know it and about the lawsuits that ensued, but they wanted to actually make that intersection larger and it didn't happen yet, but what will happen to some of the parking lot when the First Street there, that intersection, in the future, is widened. They wanted to have an additional lane in there, I believe, and Matt mentioned that

they're going to have 4 employees or staff members. I do not remember how many onsite off-street marked parking spaces there are. They haven't mentioned that tonight. And, are they required to have a handicap space available? I went over there yesterday to look and it was covered up with snow and I've never counted them. But I did want to take a look and I didn't see that staff had made note of how many places they have. I do not know how many of you know it, but on-street parking on Second Street is getting more difficult, especially for the residents. And, with the success of especially restaurants on Main Street, First Street and with the new Brewpub coming to the old bank location, parking may become more difficult to the point the town should give parking restriction cones so we can park in front or close to our own home. That is kind of interesting in my block. Many times, I usually park over in the block south of me. One of the things that does bother me, and I always stay about 30 foot back, are one of the town trees between the street and the sidewalk needs some pruning. There are some big limbs up there that is going to drop any time and also on the property, there are a couple of maples that need to be trimmed out. But, anyway, many times I can't park in front of my house, so I go to this block that the petitioner has mentioned as well. I do not think that Jan and I are opposed to this variance. But, I think the questions that I've asked you need to be addressed and they need to be stipulated in any decision that you make. I think trash enclosure is an important thing. I think the enforcement of stipulations that, you're stipulating certain things. There were certain things stipulated back in '78 that need to be looked at and reinforced. I think I've mentioned a few good ones here. I just wanted to speak my few cents, and I do not know that I am a remonstrator. I am sort of in the middle of the street right now, or on that split-rail fence in Lincoln Park that is still partially there, but I think if you look in the zoning ordinance, I can't say that I've looked at it recently, but I am going to start to revisit it. But, I can remember some of these things that I've mentioned to you should have been talked about tonight. Whether they're still there, you'd know better than I. So, are they or aren't they?

DeLong I can address those in my presentation.

Jones Okay. Should we have Matt respond to some of these? Is there anyone else for or against? Matt, do you want to take a minute and address some of Mr. Stacy's questions?

Price Well, first of all, we appreciate very much Mr. Stacy's, Ralph's, questions and an opportunity to respond. Let me pick up with a few things. With regard to signage, we can commit that we are not seeking to have any signage, for example, along Second Street. We would like to have whatever signage rights would be available under the ordinance for Oak Street and First Street, but certainly can commit that we won't seek to have any signage along Second Street. With regard to trash enclosures, again, we do not anticipate having a dumpster or having a trash receptacle that would be any different than an office use.

Stacy Excuse me, Matt. They traditionally have had two totes that are out there on the south side of the house in clear view, I think. You know, it is simple to make an enclosure and conceal those things.

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Price Yes, and I notice, I live just around the corner myself, just down on Sycamore Street, and I've noticed that, for example, the property, I think, immediately south of us, or south of this property, has two totes that it kind of quasi-conceals along its north side.

Stacy What does the ordinance say?

DeLong The ordinance speaks to if you are using a dumpster, it has to have 36 cubic yard or cubic feet, has to be screened with a gate latched and locked capable. Use of totes, as long as you have a trash can, it must have a lid. There is no requirement to screen a 55 gallon tote or whatever size you happen to be provided by your vendor.

Price And, then, we have made the commitment, I think that Ralph mentioned, as part of the rezoning, we've perpetuated and are putting in writing the commitment to have no customer access ingress or egress toward Second Street. So that would preserve that.

Stacy That is a good idea.

Price Yes. And, then, the point about the landscaping, he has put in some landscaping on the west. We think that the spring will hopefully make that more evident to you than it is now, but fully intends on maintaining that landscaping and being a good neighbor in that regard and continuing to improve upon that property.

Stacy Any chance of possibly covering more of the green area up with asphalt or concrete, or, at one time, it was gravel?

Price No, there are not any plans to add any additional pavement anywhere. In counting parking spaces, depending on the dimensions of a particular parking space, it is somewhere between 4 and 6. I think we can safely say you can fit 5 cars onto that area without a great deal of difficulty. I do not know that we've historically had a reserved handicap parking. The parking area itself is not so large that really any spot would be very close in proximity to the front door. Probably as close as any standard establishing for where a handicap parking space would need to be located. I am not an authority on what those proximities are, but I believe that it does have that onsite parking capacity, which we think is proportionate to the number of individuals that will be onsite at any one time during the time that we are going to be using this, this property that has specific hours of operation so that in the evening, as Ralph mentioned, there is no question a lot of the restaurants, I think a good thing. They are doing well. And, parking is a premium, but that often times occurs later on in the evening hours and there is the public lot that is not too far away from this location as well. So, we think there is adequate parking. Certainly, to give you a little bit of context, the previous realtor, Bob and I were talking this morning, that we think there were upwards to 14 people that used that office at any given time historically. And, so, we think as far as the intensity of the use, it is actually less intense than the previous office use likely was. The veterinarian's office, I used to take my

dog to that veterinarian, and I do not know the number of employees, but again, it was a similar kind of thing. Unless you had an emergency, you made an appointment, you parked, you walked in that front door and you were seen and you left and it was somewhat intermittent and scheduled and that is what we foresee being done here as well.

Jones Any more comments.

Stacy I just have one more, if I may, please. I hope that I've tried to point out, you know, we spent quite a bit of money within the past two years on a parking study. I think one of the things that was flagged in the study was this residential, commercial parking availability. If you look in that study, I do not think it mentioned much, if anything, about that particular topic. And, it is a topic of concern, especially if you live right there, and I live and breathe it every day for quite some time now. But, I still love it. So, thank you. I mean, not the parking problem. We can cure that. But, the area. Thank you. Thank you, Matt.

Jones Comments from staff.

DeLong Thank you. Staff is supportive of the petition. Certainly, Mr. Ralph Stacy raises some great questions, and certainly, staff is ready to speak to those points. I want to first touch on the proposed commitments. We certainly appreciate the clarification on the employee/contractors. Certainly, additional clarification on the signage and that the sign that is intended to be provided for would be typical signage as permitted by the ordinance on both First Street and Oak Street. Specific to the comments related to the rezoning, the staff report speaks to the district is B-O, business office, and speaks to the submitted information and how that leads to staff being supportive of a more intensive land use. So, certainly, this does not preclude any party, be it the current land owner or future land owner, from coming in and potentially attempting to leverage tonight's approval, if there is such an approval this evening, or subsequent evening, through the legislative process with the Plan Commission and ultimately with the Town Council. That is a future topic for a future hearing if that is ever something that is filed, but staff does recognize and support the petition as filed based upon the plan of operation as amended, the fact that the property has an established onsite parking lot and can accommodate some level of off-street parking, and that the residential characteristics of this land use would be preserved by the granting of this variance. So, staff is concerned about the wholesale rezoning of this block, if that ever were to occur, or this particular property, hence the study that was conducted, that Mr. Stacy referenced, its boundaries only focused on the commercial area of this downtown area of Zionsville, and did recognize this as one of three areas specific to some future redevelopment, be it two years, ten years, twenty years, fifty years and the future. So, this is something that the town does recognize that this relationship between this area and the adjacent residential area to the north and west, and the sensitivity to that. However, at this time, the request in front of the Board of Zoning Appeals is the variance request. The fact that the petitioner is committing to certain items, is looking to not alter the exterior of this facility, would maintain that residential character, prohibit commercial activities, if customer ingress/egress, so on, to the Second Street

frontage. Those types of items staff would find as adequate to keep the property in check, if you will, to allow a more intensive land use while still being in the B-O district. So, hopefully, that adequately addresses the questions specific to the rezoning. Specific to the dumpster, I believe we covered that point. Certainly, the petitioner has the ability to use totes and it is well within the Board's purview to require some sort of fenced screened area for the totes. I think the green area; certainly there are no additional changes as proposed to the site. Certainly, again, it is the BZA's purview if any requirements are to be stipulated specific to open space. Specific to the parking, B-O uses versus B-1 uses, B-2 uses, parking restrictions and requirements are not based upon zoning. They're based upon land use. So, the difference between a hair salon and a professional office, the parking standard is one and the same. So, really, staff did not see much difference from a parking point of view, and ultimately, the parking lot dictates that the lot is actually grandfathered. So, if there were to be a handicap accessible space, certainly, if the land use seeks some level of building permits, remodeling permits that might trigger that requirement, ultimately the Indiana Accessibility Code is a Department of Justice matter. It is enforceable at a federal level. Certainly, the town and the staff can inform a petitioner, inform a property owner of what their requirements are per the law, but ultimately, at any given day, someone can arrive on a property and make a complaint with the town's ADA compliance officer, and that complaint all of a sudden becomes much larger than just a building code and zoning code matter. I believe I've addressed all the questions that were raised. I am certainly happy to dive into additional items, and certainly appreciate the reference to the downtown marketing and parking study. Interestingly enough, that study references that the hair salons that are in Zionsville now have a regional economic impact. That is very unique to all the land uses within the downtown, and that is simply because of the travel distance that the existing customers at the existing facilities, at the time of the study, provided that information. That is just one of the interesting, unique facts to the hair salons that are currently within the downtown or at the time of that study anyway. With that in mind, staff is recommending approval of the petition, certainly is supportive of the establishment of a lengthier term, be it 10 years or 11 years. Just looking for the BZA to confirm that timeframe, if the BZA is so inclined to approve this petition, and I'd be happy to answer any questions.

Jones I've got a question. So, are there some previous commitments that are attached to this parcel?

DeLong We have not found those yet, but certainly appreciate Mr. Ralph Stacy pointing out 1978, so we will do a little bit more thorough docket search. I mean, we are generally combing through our previous dockets looking for that type of information just so we can bring those things forward, but it sounds like the same points that were raised in 1978 have been the same things the staff is focused on today specific to the restriction of commercial activity on Second Street, for example.

Jones And, typically, the variance wouldn't eliminate any of those?

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- DeLong Correct. Those zoning commitments would run with the land. Certainly, if this property was rezoned there might be some language that could reset or erase that history, but again, even in today's legislative action, those, particularly the 1978 language, could carry forward.
- Wopshall I am ready to make a motion. I move that Docket#2015-45-UV, for use variance, for the property located at 105 South Second Street, be approved as recommended by the staff and this will be subject to what is in the staff report. We will make note that the use variance shall expire 10 years from the grant of the variance, and we will readdress that the Second Street entrance will only be used for employees or for emergencies. That will not be a customer entrance.
- DeLong Mr. Wopshall on Board, I do, looking back at my notes since I had many other things to focus on, one of the notes that I made specific to the hair salon language and proposed plan of operation in Item#4, it talks about the hours of operation. So, I think we've done a lot of effort tonight to clarify employees versus contractors, one in the same, or how it is being defined this evening. So, what could potentially happen here is, it sounds like, the employees, the contractors will need to schedule, just for clarification, it looks like they're going to be scheduling their appointments, to pay attention to these hours. The one thing that I come up with is if, you know, they set a 4, someone walks in the door at 4 o'clock and the appointment doesn't go well, and that customer is not done by 5 o'clock, I would probably find that it is not going to be advantageous to have a zoning commitment that says, I am sorry, you're done processing when the 5 o'clock hour runs around. So, just something to chew on or just something to clarify in the record if Mr. Price sees that as a concern.
- Wopshall Okay, let's address this this way. The hours of operation will be Monday through Friday, no earlier than 9 a.m. and no later than 8 p.m. Saturday hours will be no earlier than 9 a.m. or no later than 5 p.m., and the hair salon will be closed Sundays. We will make an exception that the customers who are in on appointments can have their appointments completed later than the recommended close time. I do not know if I want to put a number on that, or just let them finish.
- Wolff Is the nomenclature of that motion satisfactory to our counsel?
- Drake I am if he's making that a condition. I mean, he's essentially reiterated what's in the plan of operation, but left it open. If I am sitting in the chair processing, I do not have to be out the door.
- Wolff Avoid hair emergencies. I would agree.
- Wopshall I am sorry, but that is an undefined time. I do not know how to put a number to that.
- Drake I think if there is a customer in before closing time, for which within a reasonable time.

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Wopshall Let me just make it, let's say that no appointments after the normal expected time, and they can have an hour after normal closing to finish.

Wolff Is the petitioner we kind of snuck one in there on you, okay?

Price Yes

Wolff I will second that motion.

Jones I would like to just confirm that there will be no more than 4 employees and/or contractors on the site at any time.

Wolff I will second that addition.

Drake Is that acceptable to you, Al?

Wopshall Yes, it is.

Jones Further discussion? Do I have a second?

Wolff Second.

Jones All in favor.

All Aye.

Jones All opposed. Hearing none, are we good? Thank you. Next, we have on the docket is Docket#2015-46-UV, 10614 Deandra Drive.

McQuinn Good evening.

Jones Name and address?

McQuinn My name is Michael Todd McQuinn. The address of the property in question is 10614 Deandra Drive in Zionsville.

Eimerman I am Rebecca Eimerman, E-I-M-E-R-M-A-N, and my business is actually across the street, 4833 West 106th Street in Zionsville.

Jones And, please state your case.

McQuinn Well, as I stated in the cover letter that I provided for you folks, I am actually here seeking a variance of use for the property that was brought to my attention by an employee that, I understand, is no longer here, by a compliance individual. That brought to my attention after 5 years of being in this particular location that I was operating in a noncompliant manner. So, I didn't seek a variance 5 years ago. I didn't know that I needed one. So, since it was brought to our attention, we immediately addressed it within just a couple of days because we, obviously, are

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a fixed asset of Zionsville. I have clientele that go back almost 3 decades here, so we definitely want to be on the right side of things with everybody.

Drake Sir, if I could just inquire sort of a preliminary procedural matter.

McQuinn Sure.

Drake When I reviewed your petition, you indicated Mr. Jeff Weber is the property owner.

McQuinn Correct.

Drake The deed that you provided does not indicate Mr. Weber is the property owner. So, do you have a deed to Mr. Weber?

McQuinn The deed that was provided to you for the property reads Starlight Leasing, Inc., which Mr. Weber owns. That is Mr. Weber. That is why he signed the permission packet that you provided for us accordingly. All of us corporate people sign our names President. That is how we keep our corporate identity. That property is owned by the corporation that Mr. Weber owns.

Drake Well, in the owner's authorization, Mr. Weber does list his title as President of Starlight, but he also lists himself up above as the owner on that authorization. So, I understood you were going to either be providing a deed, which showed why Mr. Weber believed himself to be the owner, or an updated owner's authorization and authority on Mr. Weber's behalf to sign for that.

McQuinn Well, with all due respect, I understand your question. But, I received that at 9:58 last night in an email.

Drake And, I appreciate that.

McQuinn So, that wasn't really enough time to provide anything for you.

Drake Do you need a continuance, then, to next month to get your paperwork properly in order?

McQuinn I do not feel that my paperwork is not in order. Mr. Weber signed the paperwork according to the way he should have signed it.

Jones Well, no, that is incorrect. The undersigned should have been Starlight Leasing, Inc., which is the owner.

McQuinn He's the President of Starlight Leasing, Inc.

Jones Right. But, that is not the way the owner's authorization is filled out, and that is the point.

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- Eimerman So, basically, if I may, you would like the paperwork to show that Starlight Leasing owns the property, and then Jeff Weber has the authority to sign on behalf of Starlight Leasing. So, the issue is, that Mr. Weber put his own name in there as opposed to Starlight Leasing as the corporation.
- Jones Correct.
- Drake And, that you did that same indication in your petition. That Mr. Weber is the owner, not Starlight Leasing.
- Eimerman And, I think that what Mr. McQuinn is trying to say here is that Starlight Leasing and Mr. Weber are almost one in the same.
- Drake Well, counsel, you and I know that that is why there is a Starlight Leasing, so that Mr. Weber will not be one and the same.
- Eimerman Correct.
- Drake But, Mr. Weber is represented as the owner in here, in your paperwork and in his owner's authorization, and we just need for the real owner of this property, whoever that is, to line up with all of your paperwork, and to know that they have authorized you to come before this Board for the relief you're seeking.
- Eimerman Okay, so basically, at this point, we will ask for a continuance, we will refill out, or have Mr. Weber refill out the form for Starlight Leasing and we will come back, if we may, on February 9.
- Drake I would recommend that, and if Mr. Weber is not the owner, then please amend your petition so that all of your owners are consistent for the property.
- Eimerman We will make sure we have that.
- Drake So, are you requesting a continuance?
- McQuinn I am not done with my questions. I was handed this packet from Janice, in the office over here. Owner's authorization, I called the owner. He came in within 24 hours, which is really difficult for this gentleman to begin with. He's a very busy guy. He put his name here as the owner because he is the owner, and I do not think it would be a real good idea for anybody to put their name on anything claiming ownership if they weren't actually the owner.
- Drake Then you do not have a deed that he is the actual owner.
- McQuinn He is the owner of Starlight Leasing, which is the owner of the property, and that is the way it reads on the deed. So, he is the owner. If I own A-Quality Automotive, which I do, I do not sign anything A-Quality Automotive. That is not a person. I am the President, and I sign it in conjunction with who I am and what I represent. I represent A-Quality Automotive, Inc., President. That is how we keep our corporate identity.

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Drake And, I appreciate that, sir, but if the first blank on that owner's authorization represents that he is the owner, and your petition represents that he is the owner.

McQuinn Because he is the owner.

Drake Not of this property.

Jones Starlight Leasing is the owner.

McQuinn He is Starlight Leasing. How do you want him to sign this? Do you want him to sign this Starlight Leasing?

Drake When the petition asks who is the owner, it should be Starlight Leasing, not Jeff Weber, and in the owner's authorization, it should be Starlight Leasing and whatever his title is, if he is duly authorized for them on behalf of the corporation. I believe your counsel understands.

McQuinn Okay. I just wish that, since this packet's been in the hands for 60 days, somebody would have brought this up before 9:58 last night.

Jones It is really not our job to offer legal advice. We just have to make sure the documentation we have in front of us reflects what's actually happening. And, currently, we do not have a document that says we actually have the owner's authority to review.

McQuinn Right, so I guess, where it is at is, we do not believe that Jeff Weber is the owner of Starlight Leasing and he is the owner of the property that he filled this out.

Drake It is not a matter of belief or disbelief, it is just a matter of we need the owner to be consistent in your paperwork.

McQuinn Okay, can I ask the Board, if we continue this to get you what you want, that I maybe get ahead of the game on February 9, and so, I am not sitting here with my kids at home listening to all this other stuff for a long period of time to get a formality done on a signature?

Drake Well, you would come up under continued business. You would be under continued business.

McQuinn Okay.

Drake And, there are, you are the fourth item that has been deferred to next month under continued business.

McQuinn Okay. Is this something that I can send in ahead of time for you guys, to make sure that it is okay before I wait until...?

Drake I would recommend you do amend your filing ahead of time, to be consistent.

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- McQuinn Okay.
- Eimerman Would it be enough to provide you with the Secretary of State's paperwork showing that Jeff Weber is associated with Starlight Leasing, Inc. here tonight. Would that be enough, or do you actually have to have everything, because basically, the issue is Starlight Leasing is not as the owner therein. It is just this formality that you want on top of the paperwork. You just want it to say Starlight Leasing instead of Jeff Weber.
- Drake I am not sure what you mean by formality and that Starlight Leasing is not the owner.
- Eimerman Because then the paperwork that has been submitted would petition by Mr. McQuinn here, it says that Jeff Weber is the owner. We have the Secretary of State paperwork that shows that Jeff Weber is the President and the registered agent for Starlight Leasing.
- Drake The Secretary of State would tell us what's on file for Starlight Leasing if we pulled it up. Mr. Weber needs to sign a correct owner's authorization please.
- Eimerman I understand. Thank you.
- Jones Real quick, before you take off.
- McQuinn Yes, sir.
- Jones As we read through, or at least, as I read through the rest of the submittal, currently it is a little broad and a little loose.
- McQuinn Okay.
- Jones While we understand you're requesting the ability to do auto sales there at the site, we really need to see some more as to what areas, number of cars, there is references regarding landscaping and signage, but there really isn't any specifics. A variance, we have as our Commission a concern, that anything we do grant creates a precedent. So, we need to make sure that whatever variances we grant, we are rather consistent in the amount of detail we request. Our other concern is they are also rather specific in that once a variance is granted, so, in your case, if you come through and say I would like to have a variance to allow me to sell 10 cars, that is one thing. If you say you'd like to have a variance that you could sell 100 cars, that is a different thing. Our concern is, at least my concern specifically, is there is not the kind of detail I'd like to see in here to make sure we do not just end up with an open-ended auto car sales lot there. Currently, the land is not zoned for auto sales, and you're requesting the ability to do so. So, we would like some more specificity as to what you are going to do, and then some of the improvements you're going to offer to, sort of, provide a more visual buffer and visual description of how it is going to operate.

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McQuinn Okay. As I pointed out, this has been an existing business on this location for over 5 years.

Jones Illegally, correct?

McQuinn Oh, well.

Jones Illegally, correct?

McQuinn According to the Board, or according to the Zionsville ordinance, possibly. This thing was built and was doing sales and service from the beginning of time back in the 70's. My personal opinion is that the thing is grandfathered, but being the guy that I am, I paid my \$1000 variance fee, I've complied with everything that was being told to me, and I was told I was partially grandfathered. I do not know how you're partially grandfathered. Needless to say, I moved forward. The projection on sales, I am not sure how to give that to you because, obviously, we would like to make as much money as we can, all of us. So, to say I want to sell 10 cars, or I'd like to sell as many cars as I can, but I will tell you, as I told in the cover letter, I am not looking to be like my next door neighbor, John Pearson, where it says Auto Credit Builders on the building and Buy Here, Pay Here. I've been in Zionsville on 96th Street for 25 years. We have a reputation here. We are not selling Yugos. We are selling upper-end cars. We service and sell cars to our clientele because you have a kid that is going to start driving next week, next month. It is easier for you to buy a car from the guy that has been taking care of your whole family already, than to go out and try to buy a buy here, pay here like Mr. Pearson. I do not know the projection. I would like to move as many cars as we can.

Jones I just want to make sure you understand my point, is that I respect and understand the nature of how you personally like to run your business. Our concern is, we as a Commission up here, can't differentiate between Pearson and you personally. Now, Pearson's also over in Carmel, it is in a different county, but we won't---

McQuinn He's my next door neighbor, though.

Jones But, our point is and what I am asking for, maybe I shouldn't say number of car sales, but it is more or less how you will take the lot and what areas will be customer and employee parking, what will be display models. You've not provided us any sort of details as to how you are going to operate. Hence, what is being requested is kind of way too open-ended for how we traditionally grant business variances. So, what we are asking for is some more specificity as to lay out of the site, signage, location of cars.

McQuinn Okay. I can give you some pictures, if that would help. We provided a couple, I think, in there that shows the improvements that have already been done. Mr. Weber just spent \$120,000 on asphalt. We put in a nice parking lot, striped lines, handicap access, all those things to keep things clean and organized. We've done a lot of improvements. That is what started all this. I've been there for 5 years. I finally got Mr. Weber to give me a 5-year lease on this property, with him

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agreeing to do the improvements that I felt needed to be done, not only for my own reputation, but for the town of Zionsville. I do not think it is a real good image that it had as the new backdoor to Zionsville on 106th Street with a gravel parking lot and looking the way it looked. So, that is really what started all this. But, I can certainly provide you with, if you want to know in the picture that this is going to be used cars and this is going to be where my employees are going to park, I can certainly do that for you.

Jones Correct. And, the number of cars you intend to have out there for sale.

McQuinn I provided that in the cover letter, but I can get more detailed for you if you'd like.

Jones We need a motion to continue.

Wolff I will make a motion to continue Docket#2015-46-UV, to the February 9, 2016, BZA meeting.

Jones I'll second that. All in favor?

All Aye.

McQuinn That it? Where can I get this form that needs to be corrected now? I need to go back into the office tomorrow and pick up another one of these and get it back to Mr. Weber?

DeLong Yes, or Janice can email you a copy. Just email both of you a black copy, or it can be downloaded from the town's website.

Eimerman Just so you know, I know you sent that email to me last night at 10 o'clock, this is my husband, so even though I am an attorney, I do not really represent him, it is just that we were working on it together, so, I want to make sure that you understand that when you communicated to me, it was kind of like, I think you thought I represented him, and so, he didn't get kind of included on that.

DeLong Okay. Very good.

Eimerman So, we did see that this morning when I got up at 6:50 this morning.

DeLong Understood. Okay.

Wolff So, for the record, you do not represent your husband, because my wife would love that policy. I am not sure how you got that worked out, but she would absolutely love that policy.

McQuinn We try to keep the conflicts at a minimum.

Eimerman Thank you. We will try to get that owner page fixed up for you.

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DeLong We will be sending down Findings of Fact to sign off on, and that is all.

Jones Then the meeting's adjourned.