



MEETIN RESULTS ZIONSVILLE BOARD OF ZONING APPEALS March 8, 2016

The Regular meeting of the Zionsville Board of Zoning Appeals is scheduled March 8, 2016 at 6:30 p.m. in the Bev Harves Room at Zionsville Town Hall, 1100 West Oak Street the following items are scheduled for consideration:

- I. Pledge of Allegiance
- II. Attendance
- III. Approval of the January 12, 2016 Meeting Minutes and the February 9, 2016 Meeting Minutes
- IV. Continuance Requests
- V. Continued Business

Docket Number	Name	Address of Project	Item to be considered
2015-46-UV	T. McQuinn	10614 DeAndrea Drive	<p>Approved with Conditions 5 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>
2015-47-DSV	N. Warstler	734 W. Pine Street (Est)	<p>Withdrawn by Petitioner Petition for Development Standards variance in order to allow a single family dwelling in the (R-V), Residential Village Zoning District, to: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
2016-02-DSV	R. DeRossi	8810 & 8811 Whitestown Road	<p>Approved 4 in Favor 1 Opposed Petition for Development Standards variance to provide for 12 estate lots without public water and sewer facilities and with a lot depth to width ratio exceeding 3 to 1</p>

VI. New Business

Docket Number	Name	Address of Project	Item to be considered
2016-03-SE	G. Gunter and K. Gunter	1340 N. 1200 East Sheridan IN	Continued to the April 12, 2016 Board of Zoning Appelas Meeting at the Petitioners Request Petition to allow a Special Exception to allow for a new residential build in an (AG) Agricultural District
2016-04-DSV	A. Nicholson	160 N. Maple Street	Approved 5 in Favor 0 Opposed Petition for Development Standards Variance to exceed the (RV) Residential Village Zoning District lot coverage requirement of 35%, to 37%, in order to allow for a detached garage
2016-05-DSV	K. Dienhart	260 N. 3 rd Street	Approved 5 in Favor 0 Opposed Petition for Development Standards Variance to exceed the (RV) Residential Village Zoning District lot coverage requirement of 35%, to 42%, in order to allow for the construction of a primary structure
2016-06-DSV	Boone County Tennis Center	4560 S. 875 East	Approved 5 in Favor 0 Opposed Petition for Development Standards Variance to deviate from building materials requirement in the (SU-7) Special Use Zoning District
2016-07-DSV	CK Price Properties, LLC	91 S. Main Street	Approved 4 in Favor 0 Opposed Petition for Development Standards Variance to allow for a reduce number of parking spaces for a commercial building in the (VBD) Village residential Zoning District

Other Matters to be considered:

2015-45-UV, H. Barbara and W. Craft, Status of Commitments

2016-01-DSV, K. Smith, Status of Commitments

Respectfully Submitted:

Wayne DeLong AICP

Town of Zionsville Director of Planning and Economic Development

March 9, 2016



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 - Petitioners Letter dated February 1, 2016
Exhibit 4 – Parking Exhibits
Exhibit 5- Findings of Fact

Staff Reviewer: Wayne DeLong, AICP

PETITION HISTORY

This petition was scheduled for a public hearing at the January 12, 2016 Board of Zoning Appeals meeting, and continued to the February 9, 2016 Board of Zoning Appeals Meeting. Staff requested a continuance to the March 8, 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

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.

(beyond establishing a maximum annual intensity of occurrence of vehicle sales) is the 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/ Approved as recommended by Staff / Denied / Continued).

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

February 1, 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. Attached hereto are pictures which show the layout of the current parking lot paved with striped lines. Moving forward, if the variance is granted any high quality automobiles would be parked on the south or south west areas of the parking lot which have the most visibility to the street. Because of the limited amount of cars which will be sold at one time, each car will be parked individually within the pre-marked lines as shown on photograph 1. All employee vehicles will be parked behind the building or on the north side of the parking lot or on the north west side so as not to be visible to the main traffic flow. Finally, all vehicles that are being serviced will be parked on the east side of the building within the pre-marked lines as shown on photograph 2. This will provide plenty of room for traffic flow in and out of the parking lot. Any additional signs that are needed will be affixed to the building, however, only after proper permitting, if required.

Exhibit 3

It is the intent of A Quality to only sell high-end, pre-owned vehicles at this location so as to provide the community with a local and reliable option as an alternative for purchasing vehicles. All vehicles will be thoroughly inspected and if needed repaired, whether mechanically or aesthetically, prior to being placed for sale.

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 Automotive's 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,

A handwritten signature in black ink, appearing to read "Michael T. McQuinn". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael T. McQuinn

A Quality Automotive, Inc.

PARKING
FOR VEHICLES
BEING SERVICED

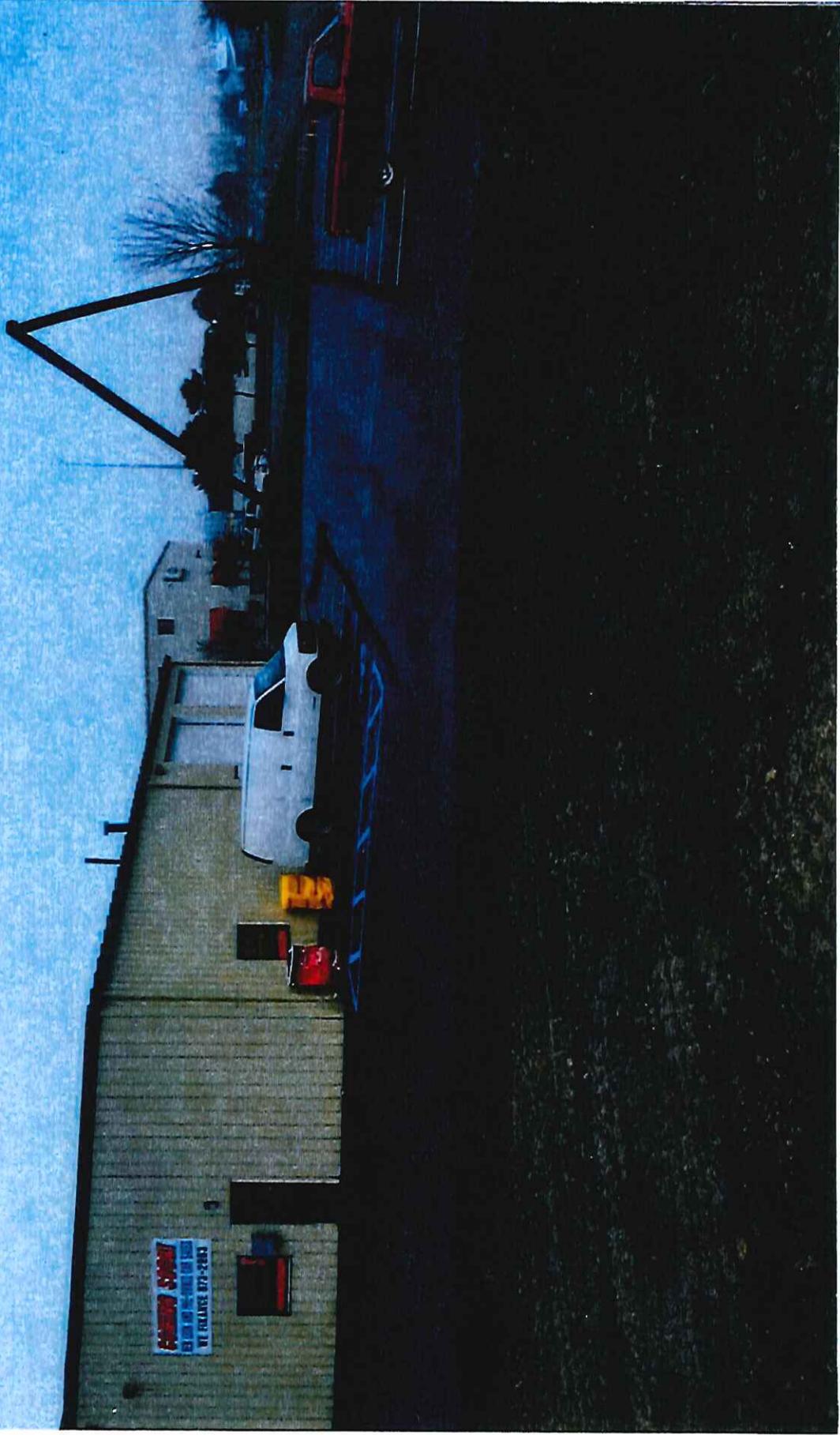
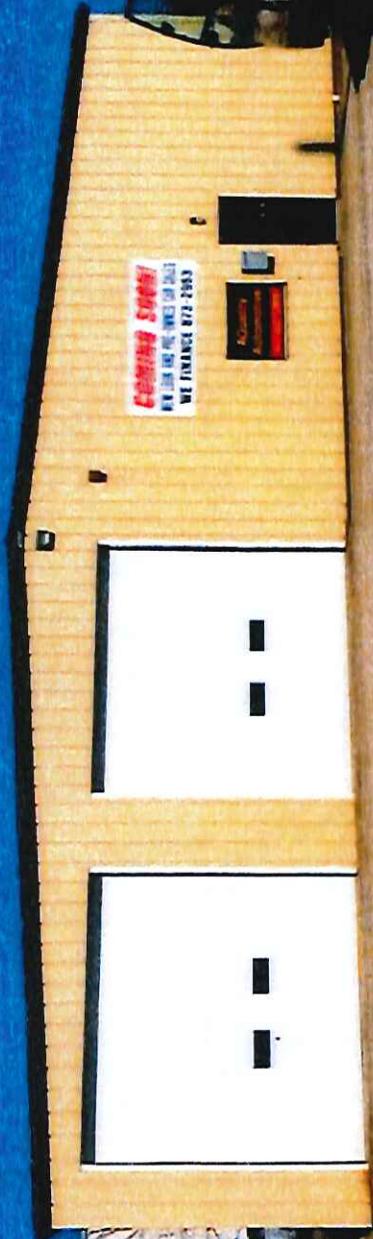


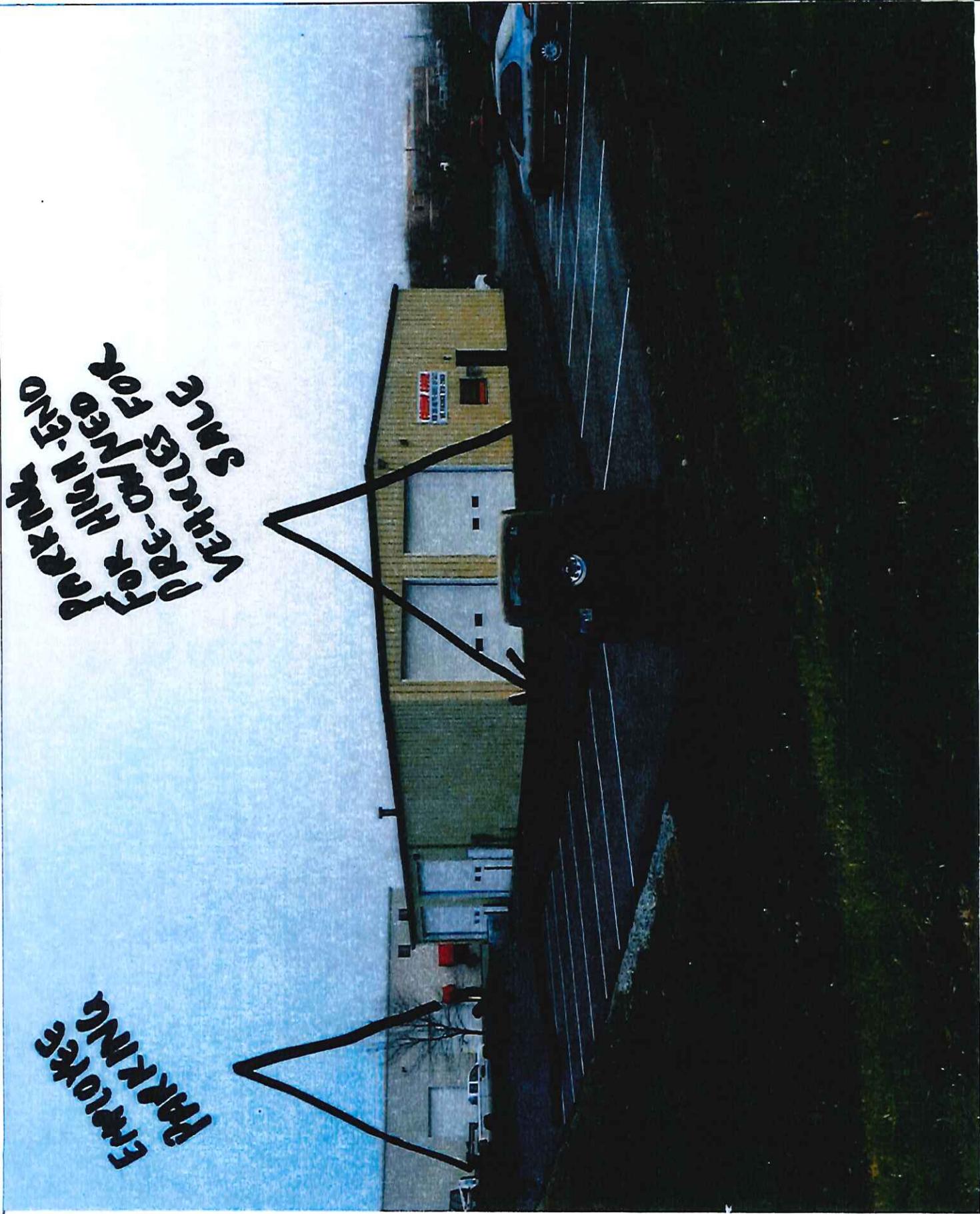
Exhibit 4

PRE-PARKING
LOT PARKING



PARKING
FOR HIGH-END
VEHICLES FOR
SALE

EMPLOYEE
PARKING



**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, the area is zoned for other businesses which are commercial in nature and this is not a residential area.

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: there will be no hardship caused for other businesses. The parking lot and area around the current building has been developed so as to maximize the space to house the vehicles in an organized and orderly fashion which still allows traffic to flow. The aesthetics of the area have only improved with the improvements made to the current building and its curtilage and there are trees which have been planted by the Town of Zionsville in between the road and the building which provide any necessary landscaping.

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__.



Petition Number: 2016-02-DSV

Subject Site Address: 8810 and 8811 Whitestown Road

Petitioner: Robert and Sarah DeRossi

Representative: Matthew Price

Request: Petition for Development Standards variance to provide for 12 estate lots without public water and sewer facilities and with a lot depth to width ratio exceeding 3 to 1

Current Zoning: (R2) Rural Low Density Single Family and Two-Family Residential, and (R-SF-2), Urban Single Family Residential Zoning District

Current Land Use: Undeveloped

Approximate Acreage: 77.015 Acres

Zoning History: 2013-25-PP and 2015-26-DP (withdrawn by the Petitioner), 2013-30A-DSV (denied)

Exhibits: Exhibit 1- Staff Report
Exhibit 2- Aerial Location Map
Exhibit 3 - Petitioners Site Exhibit
Exhibit 4- Petitioner's proposed Findings of Fact

Staff Reviewer: Wayne DeLong, AICP

PETITION HISTORY

This petition will receive a public hearing at the March 8, 2016 Board of Zoning Appeals meeting. In 2013 this same site was the subject of a variance petition associated with a 194 lot single-family residential subdivision (2013-30A-DSV).

PROPERTY HISTORY

The overall site is comprised of two (2) parcels totaling 77 acres in size and has been utilized both dwelling and agricultural purposes. In recent years the existing dwelling and its accessory uses have been removed from the site.

ANALYSIS

The necessity for the variance arises as the Petitioner has intentions to subdivide the two (2) parcels into 12 lots and desires to seek review of A) contemplated depth to width ratios associated with five (5) of the proposed 12 lots and B) seeks consideration of a variance from requirement to provide both sanitary sewer and public water facilities to five (5) of the proposed lots.

The intention of this petition is to assist in the facilitation of splitting the two (2) parcels into 12 lots, as follows:

Lot 01	Width: 300 ft	Max. Depth: 675 ft	Septic: Variance	Well: Variance
Lot 02	Width: 310 ft	Max. Depth: 410 ft	Septic: Variance	Well: Variance
Lot 03	Width: 290 ft	Max. Depth: 550 ft	Septic: Variance	Well: Variance
Lot 04	Width: 290 ft	Max. Depth: 1085 ft	Septic: Variance	Well: Variance
Lot 05	Width: 290 ft	Max. Depth: 1205 ft	Septic: Variance	Well: Variance
Lot 06	Width: 600 ft	Max. Depth: 595 ft	Septic: Permit	Well: Permit
Lot 07	Width: 300 ft	Max. Depth: 595 ft	Septic: Permit	Well: Permit
Lot 08	Width: 355 ft	Max. Depth: 685 ft	Septic: Permit	Well: Permit
Lot 09	Width: 340 ft	Max. Depth: 845 ft	Septic: Permit	Well: Permit
Lot 10	Width: 305 ft	Max. Depth: 925 ft	Septic: Permit	Well: Permit
Lot 11	Width: 305 ft	Max. Depth: 1230 ft	Septic: Permit	Well: Permit
Lot 12	Width: 305 ft	Max. Depth: 1230 ft	Septic: Permit	Well: Permit

++ Yellow intended to emphasize the proposed lots which are seeking variances from sewer and water requirements; Green intended to emphasize the proposed lots which are seeking a variance the maximum lot width to depth ratio ++

In summary, specific to the requested lot depth to width ratios, creating the lots with the requested dimensions and characteristics and improving the site with said dimensions, is not a typical development request. While it is not typical, it is a development characteristic found within this rural areas of the Town. As the Petitioner has documented in the filing, much research, planning, and consideration has gone into selecting the proposed home sites (given the history of interest in development of the two parcels). While Staff is not generally supportive of a development pattern which deviate from Ordinance maximum lot depth to

width ratios, Staff recognizes the challenges which have previously been encountered by prior parties who sought to develop the parcels in a more intense fashion. As the proposed land use pattern is not atypical of one found in the Rural portion of Zionsville, Staff finds the depth to width requests an acceptable deviation from Ordinance standards. Staff, however, while reserving comment on any potential future subdividing of the proposed 12 lots to a time when the merits of such a request would present themselves to be reviewed, would not encourage further intensification of the contemplated division of the two (2) parcels (nor is any currently contemplated by the Petitioner).

Additionally, Staff recognizes the challenges which have been encountered related to both the extension of the sanitary sewer utility and a municipal water source to the area. Sewer is challenging because of the limited sizes of certain easements as well as the topography. And while municipal water is within 600 feet of the site, future extensions are forthcoming (based on pending projects and projected projects). However, the timing of those extensions is not exactly in line with the timing of the proposed division. Further, the Safety Board has the final say on any request to deviate from water pressure standards adopted by the Town of Zionsville. As the request currently in front of the Board of Zoning Appeals is one associated with the Zoning Ordinance, Staff review and recommendation is based on the requirement found in the Zoning Ordinance. Given the factors outlined in this report, and the prior attempts to develop these two (2) parcels in a more intense fashion, and that the resulting development pattern is one that is more Rural in character than Urban, staff is supportive of the request to deviate from the requirement to provide for sanitary sewer or public water supplies.

PROCEDURAL – CONSIDERATION OF A DEVELOPMENT STANDARDS VARIANCE PETITION

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.*

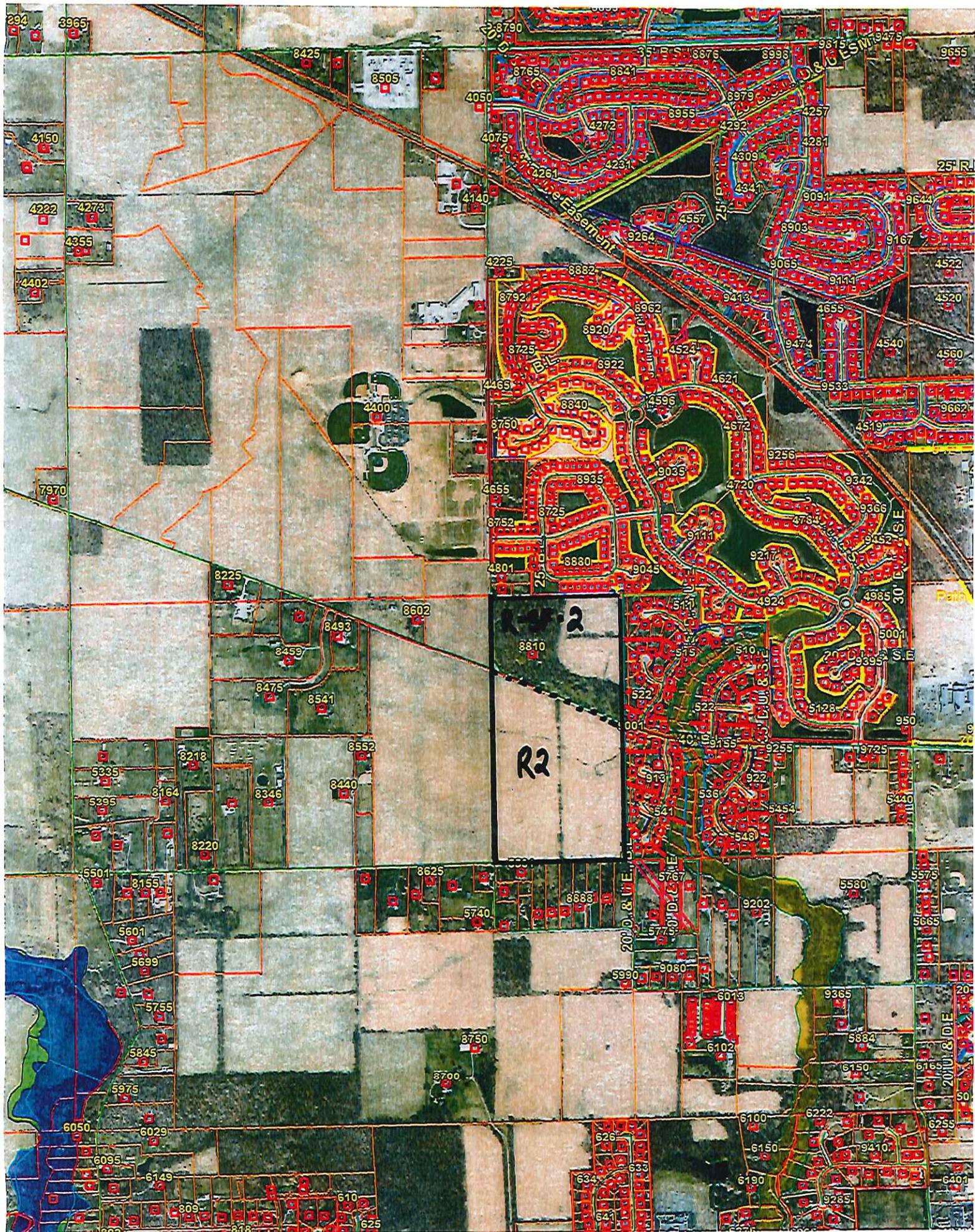
Proposed Findings of Fact are attached for the Board of Zoning Appeal's consideration.

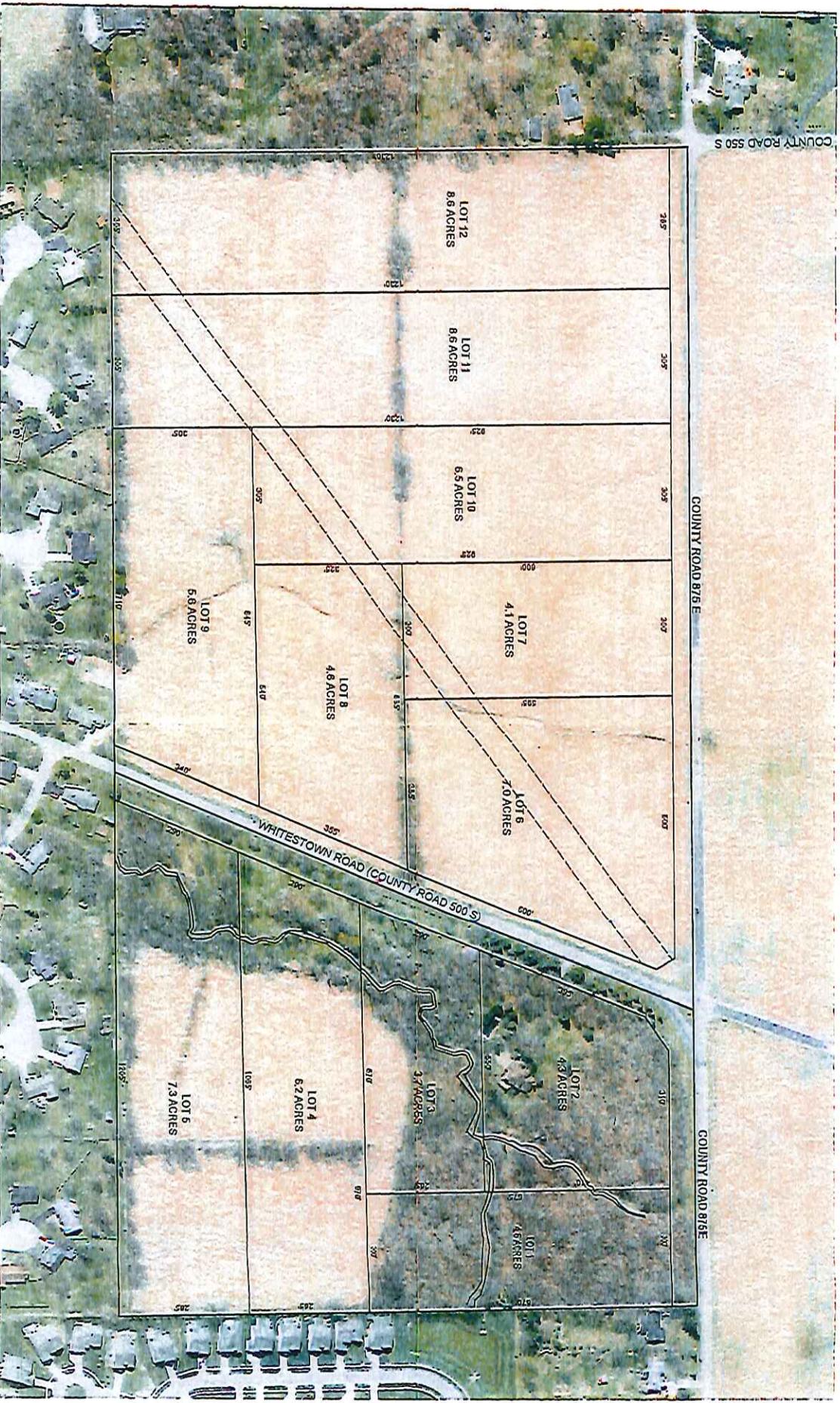
STAFF RECOMMENDATIONS

Staff recommends approval of the design standards variance included in Docket #2016-02-DSV.

RECOMMENDATION MOTION

I move that Docket #2016-02-DSV design standards variance to Petition for Development Standards variance to provide for Lots 1-5 to be established without public water and sewer facilities and for Lots 4-5 and 10-12 to be established with a lot depth to width ratio exceeding 3 to 1 be (Approved as filed / Denied/ Continued) as presented.





SCALE: 1" = 200'

DEROSI PROPERTY - BZA FILING EXHIBIT

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

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 estate lots will be sufficiently large and will be developed in accordance with the requirements of the Boone County Health Department. Additionally, the estate lots will each consist of significant road frontage which will adequately minimize the number of driveways and promote the separation of driveways intersecting the perimeter streets.

- 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 estate lots will be sufficiently large and will be developed in accordance with the requirements of the Boone County Health Department. Additionally, the variances will not impact the project density, and will permit low density, high value estate residences. The approval of these variances will permit the development of which will enhance property values.

- 3. Strict application of the terms of the zoning ordinance (will / will not) result in unnecessary hardships in the use of the property because:

The 77+ acres land area is subject to two zoning classifications - one requiring sewer and water utilities (RSF-2) and the other not requiring such utilities to be present (R-2). As a result, the strict application of the development standards relative to public utilities would effectively prohibit the development of approximately one-third of the land area in question, while also negatively impacting the ability to develop the entire land area in a cohesive and consistent manner for estate homes. With regard to the depth to width ratio variance, the development standard requires this ratio without regard to the total land area of the lots to which it applies. Here, this ratio is met for 8 of the 12 proposed lots. The only 4 lots which do not meet the strict application of the ratio standard are each over 6 acres. The strict application of the ratio requirement would simply result in the creation of additional rear lots with a shared access off of a perimeter street. This would result in higher density, more development on properties closer to existing adjacent residences and the location of improvements further away from street frontages. The more responsible approach to applying the depth ratio is to permit reasonable departures from the standard where the lot acreage remains substantial (over 6 acres) and the resulting development will permit greater buffering for existing home sites.

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

Adopted this _____ day of _____, 201__.



Petition Number: 2016-03-SE

Subject Site Address: 1340 North 1200 East (Est)

Petitioner: Kathleen A. and Gilbert Gunter

Representative: Chris Badger

Request: Petition to allow a Special Exception to allow for a new residential build in an (AG) Agricultural) District

Current Zoning: Agricultural District (Rural)

Current Land Use: Undeveloped

Approximate Acreage: 2.97 Acres

Zoning History: none

Exhibits: Exhibit 1 – Staff Report
Exhibit 2 – Aerial Location Map
Exhibit 3 – Petitioners Cover Letter
Exhibit 4 – Site Survey
Exhibit 5 – Findings of Fact

Staff Reviewer: Wayne DeLong, AICP

PETITION HISTORY

This Petition will receive a public hearing at the March 8, 2016, Board of Zoning Appeals meeting.

PROPERTY HISTORY

The property is comprised of a total of 2.97 acres and presently zoned for Agricultural purposes (derived from a 13 acre parent tract). There is no evidence of a prior approval for a Special Exception for the dwelling located on the parent tract or the proposed new single-family dwelling).

ANALYSIS

The applicant is required to request a Special Exception in order to provide for a residential structure to exist in an Agricultural District. The purpose of the AG agricultural district is to encourage agricultural operations while allowing for limited residential development. The Petition represents a limited presence of residential development in the AG district as the area proposed to be improved with the new dwelling historically has not been utilized for agricultural purposes. Per Property Tax Records, the 2.97 acres is not recognized as Agricultural (and is assessed as "Residential Excess").

RIGHT TO FARM

As stated in the Zoning Ordinance, the Applicant for a Special Exception acknowledges and/or agrees that agricultural uses are permitted in the surrounding area, no agricultural or agri-business operation in the area shall be or become a nuisance, and to not object to the continuation of any such agricultural or agri-business operation in the surrounding area as long as such operation does not constitute a nuisance. This acknowledgement will be required to be reduced to writing as a part of the Petition process.

PROCEDURAL – CONSIDERATION OF A SPECIAL EXCEPTION PETITION SEEKING APPROVAL FOR THE LOCATION OF A DWELLING IN THE AGRICULTURAL DISTRICT

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

- (a) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;*
- (b) The proposed use will not injure or adversely affect the adjacent area or property values therein; and*
- (c) the proposed use will be consistent with the character of the District, land uses authorized therein and the Town of Zionsville Comprehensive Plan.*

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

STAFF RECOMMENDATIONS

Staff recommends approval of the special exception Petition included in Docket #2016-03-SE.

RECOMMENDATION MOTION

I move that Docket #2016-03-SE Special Exception Petition in the Agricultural District for the property located at 1340 N. 1200 East (Est), be (Approved based upon the staff report and the proposed findings / Denied / Continued) as presented. (If approved, it shall be required that the Petitioner execute the Right-to-Farm acknowledgement documentation).

PROCEDURAL NOTE

As indicated in the Petitioner's filing, the division to create the 2.97 acre parcel has already occurred. While the division of the parent tract to create the 2.97 acre parcel did not require the Plan Commission's approval, the resulting dimensions of the remaining 9 acre parcel do not conform to the standards of the Zoning Ordinance (specific to maximum depth to width ratio). The lack of conformity to this standard may present complications in the future if an Improvement Location Permit is sought to replace the existing dwelling located on the 9 acre parcel.

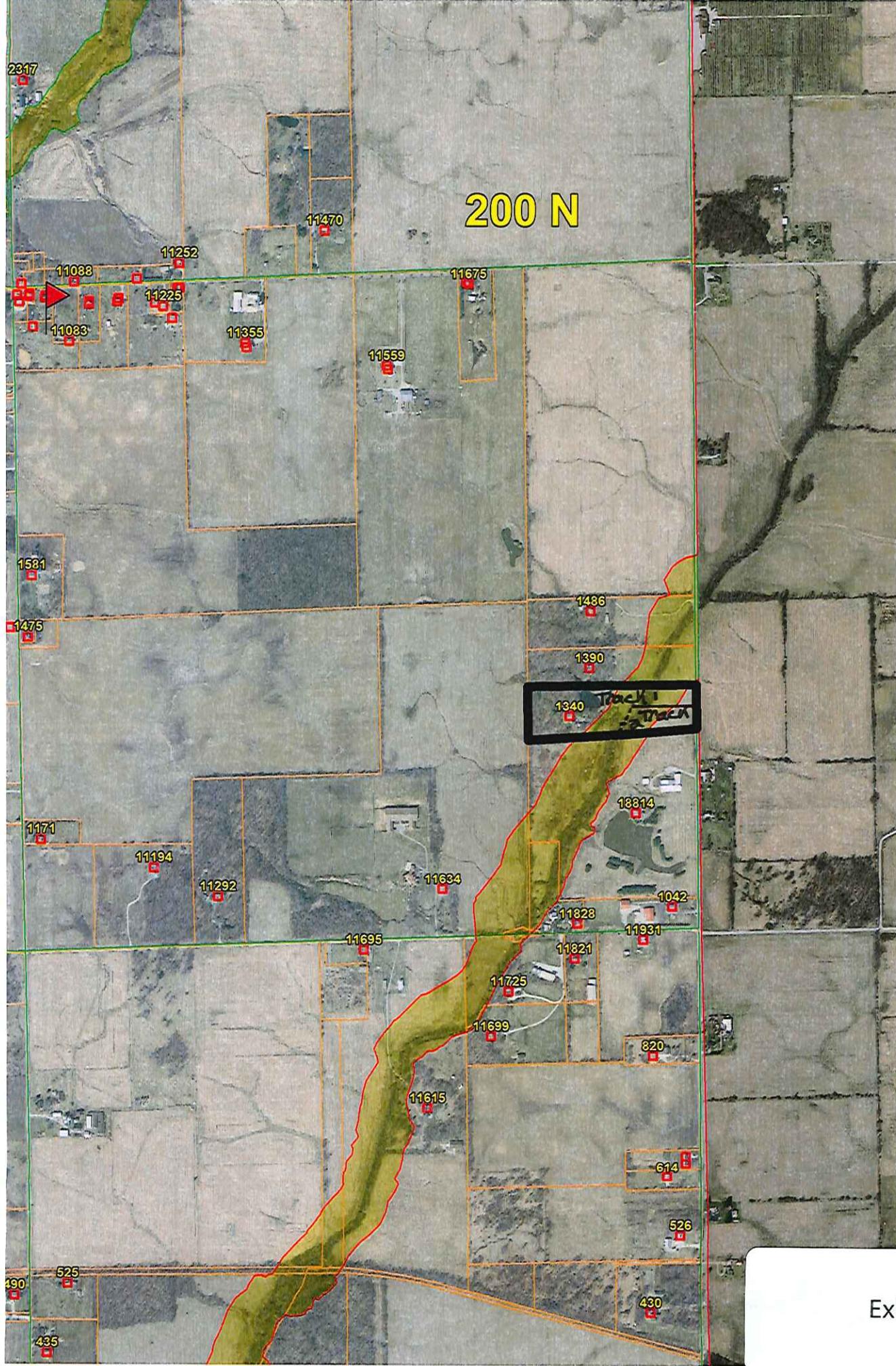


Exhibit 2



February 3, 2016

Zionsville Board of Zoning Appeals
1100 West Oaks Street
Zionsville, IN 46077

Ref: Petition for a Special Exception to permit a new single family dwelling in an (AG) Agricultural Zoning District, for 1340 North 1200 East, Sheridan, IN 46069

Dear Members of the Board,

Kathleen A. & Gilbert (Bud) Gunter's are petitioning for a Special Exception to permit a new single family dwelling in an (AG) Agricultural Zoning District. Kathy and Bud would like to allow their Daughter and her husband to build a new house on a portion of their 12.5 acres property. The property has been divided into two parcels, a 9.34 ac and a 2.67 ac. The exception would be for the 2.67ac. Gunter wish to have their daughter build a home on their property which is located northeast of the Town of Zionsville at the county line. They have hired Badger Engineering to prepare the documentation necessary for the project.

Early in the process Bud had the County Survey and County Health Department out to the property to review the proposed project. They requested that the Flood Way Boundary be reviewed by Indiana Department of Natural Resources (IDNR) and then the property be surveyed to show these limits of the 100-Year Flood Plain. This has been completed and the information provided by IDNR is contained within the Petition.

The Petitioner is aware that they have other approvals to get prior to starting the construction of the house, such as Site Plan Approval, County Driveway Permit, Well and Septic Permit and well as Erosion Control. All Local and County agencies have been notified of the proposed home construction and their input has been adopted into the preliminary Site Layout.

The Petitioner is also aware that they are building within an Agricultural Zoning District and in doing so they accept that the surrounding farms have the right to farm and will sign the Right-To-Farm wavior.

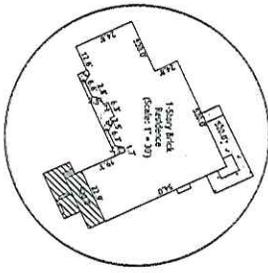
Sincerely,

Christian C. Badger, P.E.
Badger Engineering

Scale 1" = 100'
 Date: 01/15/2016
 Project #: 03-15-1221



- Deed or Capped Right Set
- Deed or Map Spike Set
- Deed or Wood Lath Set
- Deed or Section Corner



**Part of the SE 1/4
 Section 25, T19N, R2E
 Union Township
 Boone County, Indiana**

Plat and Tract Legal Description per Instrument Number
 20130000154

A part of the East Half of the Southeast Quarter of Section 25, Township 19 North, Range 2 East of the Second Principal Meridian, located in Union Township, Boone County, Indiana, and more particularly described as follows:

From the Northeast corner of the East Half of the Southeast Quarter of Section 25, Township and Range aforesaid, proceed South 0 degrees 04 minutes 08 seconds West (an assumed bearing) with the distance of 673.88 feet to a Point of Beginning; from said Point of Beginning, proceed South 87 degrees 20 minutes West to the Quarter-Quarter line for a distance of 1338.59 feet; thence North 83 degrees 02 minutes East for a distance of 400.88 feet; thence North 83 degrees 20 minutes East for a distance of 12.25 acres, more or less.

LAND SURVEYOR CERTIFICATE
 I, Philip D. Gosling, hereby certify that I am a Land Surveyor, licensed in accordance with the laws of the State of Indiana, and that I have personally examined the plat within the knowledge and belief that the plat within represents a survey made under my supervision in accordance with Title 36B, Article 1, Section 17 of the Indiana Administrative Code. The plat was filed for record on the 15th day of January, 2016.

Philip D. Gosling
 State of Indiana
 License No. LS2940003



See Page 1 for Symbols Report

SURVEYOR'S REPORT
 See Page 1 for Symbols Report

Tract 1 (New Legal Description)

A part of the East Half of the Southeast Quarter of Section 25, Township 19 North, Range 2 East of the Second Principal Meridian, located in Union Township, Boone County, Indiana, and more particularly described as follows:

Commencing at a Historic monument marking the Northeast corner of said East Quarter Section, bearing along the East line of said East Quarter Section 673.88 feet to the Northeast corner of a 12.17 acre tract of land per Instrument Number 20130000154 in the County of Boone, State of Indiana; from said Northeast corner, bearing along said East line 12.5 feet to a range line; thence South 87 degrees 20 minutes East for a distance of 1338.59 feet; thence North 83 degrees 02 minutes East for a distance of 400.88 feet; thence North 83 degrees 20 minutes East for a distance of 12.25 acres, more or less.

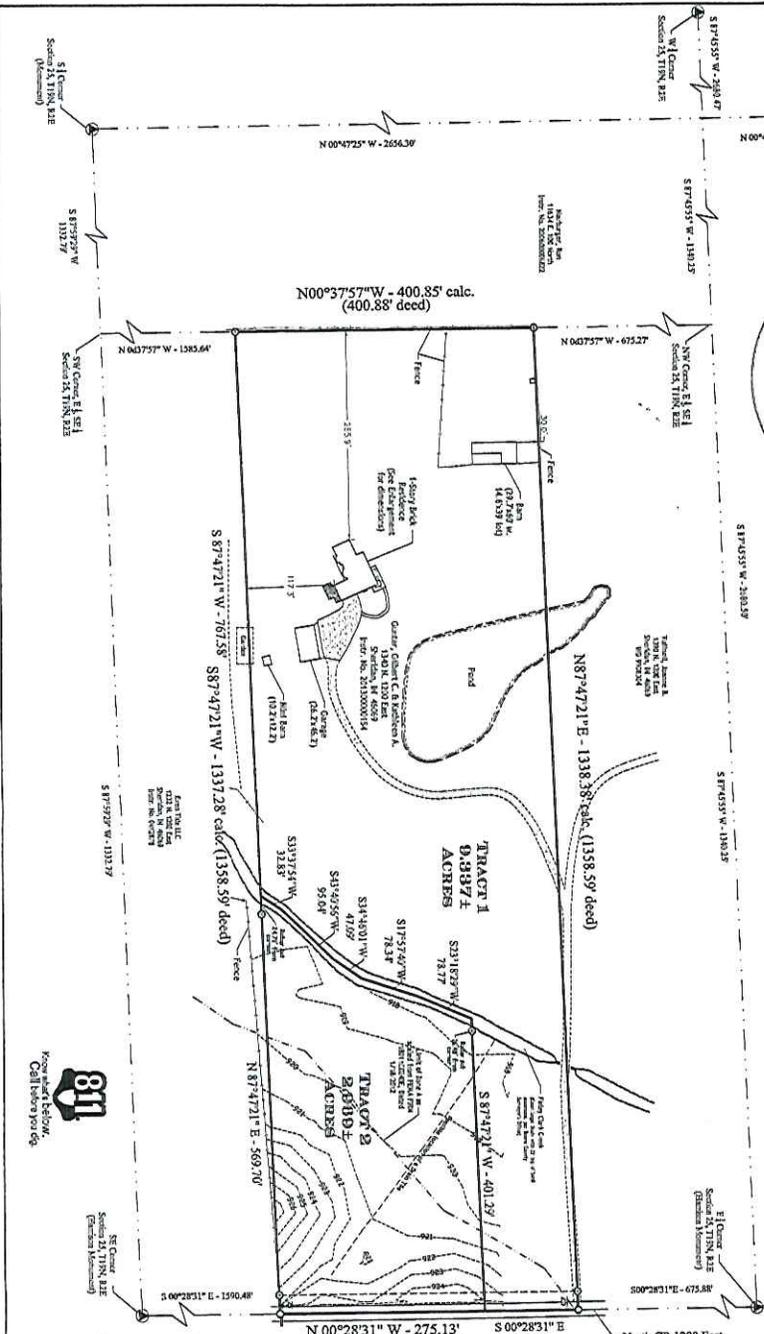
Sublet, however, to all legal highway rights of way, easements and restrictions of record.

Tract 2 (New Legal Description)

A part of the East Half of the Southeast Quarter of Section 25, Township 19 North, Range 2 East of the Second Principal Meridian, located in Union Township, Boone County, Indiana, and more particularly described as follows:

Commencing at a Historic monument marking the Northeast corner of said East Quarter Section, bearing along the East line of said East Quarter Section 673.88 feet to the Northeast corner of a 12.17 acre tract of land per Instrument Number 20130000154 in the County of Boone, State of Indiana; from said Northeast corner, bearing along said East line 12.5 feet to a range line; thence South 87 degrees 20 minutes East for a distance of 1338.59 feet; thence North 83 degrees 02 minutes East for a distance of 400.88 feet; thence North 83 degrees 20 minutes East for a distance of 12.25 acres, more or less.

Sublet, however, to all legal highway rights of way, easements and restrictions of record.



PROPOSED
 TRACT 1 &
 TRACT 2

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR SPECIAL EXCEPTION

FINDINGS OF FACT

1. The proposed use (will / will not) be harmonious and compatible with other uses adjacent to and in the vicinity of the proposed site because:
The proposed use is a rural single family home among other single family homes. The proposed house is approximately 1,600 sft with a walk out basement.
2. The proposed use (is / is not) necessary or desirable to provide a service or facility in the interest of public convenience, and (will / will not) contribute to the general welfare of the neighborhood or community because:
The proposed house is necessary to maintain family unity and will contribute to the general welfare of the community. This proposed house will add to the land values of the adjacent property's.
3. The proposed use (will / will not) cause undue congestion in public streets because:
The proposed house will obtain access to the public right-of-way on a lightly used county road which follows the County Line between Boone and Hamilton Counties. The average daily traffic will be 8 trips a day.
4. The proposed use (will / will not) be detrimental to the public health, safety, morals, or general welfare of persons residing or working in the vicinity, or injurious to property values or improvements in the vicinity because:
The proposed home will not be detrimental to the public health, safety, morals or general welfare of persons residing or working in the vicinity, or injurious to the property values or improvements in the vicinity because it will allow for a family to maintain their proximity.
5. The proposed use (will / will not) comply with the regulations and the conditions specified in the Zionsville Zoning Ordinance for such use because:
The proposed home will comply with the regulations and conditions specified in the Zionsville Ordinance, because they have enough land to meet the requirements.

DECISION

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

Adopted this _____ day of _____, 201__.

Exhibit 5



Petition Number: 2016-04-DSV

Subject Site Address: 160 N Maple Street

Petitioner: 500 Sycamore LLC

Representative: Andrea Nicholson

Request: Petition for Development Standards Variance to exceed the (RV) Residential Village Zoning District lot coverage requirement of 35%, to 37%, in order to allow for a detached garage

Current Zoning: (RV) Urban Residential Village Zoning District

Current Land Use: Single-family residential

Approximate Acreage: 0.13 acres

Zoning History: None

Exhibits: Exhibit 1 – Staff Report
Exhibit 2 – Aerial Location Map
Exhibit 3 – Site Plan
Exhibit 4 – Petitioners Cover Letter
Exhibit 5–Petitioners proposed Findings of Fact

Staff Reviewer: Wayne DeLong, AICP

PETITION HISTORY

This petition will receive a public hearing at the March 8, 2016, Board of Zoning Appeals meeting.

PROPERTY HISTORY

The property is comprised of Lot 66 Oliver's Addition to the Town of Zionsville. Staff is not aware of any prior variance requests for this property.

ANALYSIS

The 0.13-acre parcel is currently improved with a 1,664 square foot single-family dwelling and was previously improved with a 170 square foot detached garage. The existing 170 square foot garage was demolished in January 2016. As proposed, the Petitioner is seeking approval to improve the parcel with a 280 square foot detached garage. The addition of the garage to the site will exceed the 35% lot coverage requirement by 2%.

LOT COVERAGE

Per the RV Residential Village District regulations, lot coverage standards states the maximum lot coverage is 35 percent. As the overall area developed prior to the adoption of the current Ordinance standards, a review of parcels and improvements in the area did revealed a number of deviations from the coverage standards existing in the area. Further, many properties in the area enjoy the use of a detached garage.

In Summary, Staff's support of these types of requests which provide for a minor deviation from the lot coverage requirements typically follows this general reasoning: 1) the request is seeking to improve the site with an accessory use commonly enjoyed by other properties in the area: a detached garage, 2) the parcel was, until recently, improved with a detached garage, and 3) other properties within proximity to the parcel enjoy deviations from the maximum lot coverage requirements. With the existing deviations and above factors in mind, Staff is supportive of the requested deviation from lot coverage requirements.

PROCEDURAL – VARIANCE TO EXCEED THE MAXIMUM LOT COVERAGE REQUIREMENTS

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 as an Exhibit to the staff report.

STAFF RECOMMENDATIONS

Staff recommends approval of the design standards variance included in Docket #2015-04-DSV, as filed.

RECOMMENDATION MOTION

I move that Docket #2014-08-DSV design standards variance to increase the lot coverage allowance to 37% in the Residential Village District for the property located at 160 N. Maple Street be (Approved as filed, based upon the findings of fact / Denied/ Continued) as presented.



Exhibit 2

SURVEYOR LOCATION REPORT

I hereby certify to the parties named above that the real estate described herein was inspected under my supervision on the date indicated and that to the best of my knowledge, this report conforms with the requirements contained in Sections 27 through 29 of 865 IAC 1-1-12 for a SURVEYOR LOCATION REPORT. Unless otherwise noted there is no visible evidence of possession lines found.

Notes:

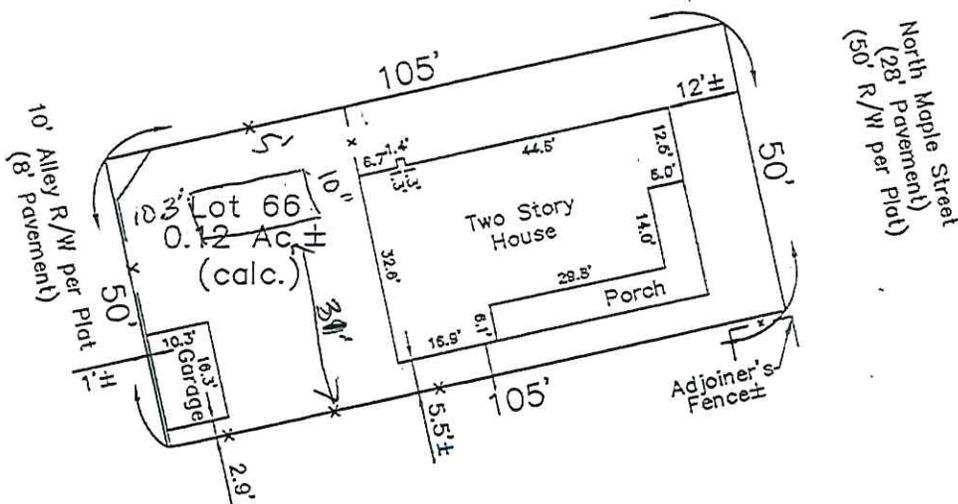
- 1.) Fence locations shown are approximate. An accurate boundary survey is required to determine exact locations.
- 2.) Due to the lack of qualified monumentation found, the accuracy of this report is limited to 3'±.



Scale: 1"=30'

Legend

R/W	Right-of-Way
— x —	Fence±



HAHN SURVEYING GROUP, INC.
 Surveyors & Engineers
 2850 E. 96th Street, Indianapolis, IN 46240
 PHONE: (317) 846-0840 / (317) 846-4119
 FAX: (317) 846-4298 / (317) 582-0662
 EMAIL: orders@hahnsurveying.com
 www.hahnsurveying.com



CERTIFIED: 01/08/2016

Chad L. Brown
 Chad L. Brown
 Registered Land Surveyor,
 Indiana #21100002
 Job No.: 2016011056
 Sheet 2 of 2



160 N. MAPLE ST – ZIONSVILLE – GARAGE PLAN

OWNERS: 500 SYCAMORE LLC – ANDREA & BRADEN NICHOLSON

PHONE: 317-670-7119 EMAIL: AJNICHOLSON3@GMAIL.COM

SCOPE OF WORK: 500 Sycamore LLC wishes to add a one car detached garage to the back of the property. The existing garage that was sold with the property was deemed a safety hazard and required removal. The intent is to replace the one car garage that was removed with a new structure that will match the house and provide the off street parking. The one car garage will sit on a concrete pad that will be accessed by a short driveway off of the alley. The garage will be placed 5' off of the north property line and 9' back (west) from the back of the house. The garage will have a pedestrian door to easily access the back door entrance to the property. By adding this to the property, we feel this will free up street parking on an overly busy street (Maple) and increase overall appeal/value of the property.

The survey attached shows that 160 N. Maple property to have a total square foot value of 5,250 square feet. The house has a footprint (including porch) of 1,664 sq. ft. That puts the structure to lot ratio at 31.70%. The garage that was removed was approximately 14x20. The intent is to replace what was there with a similar square footage garage totaling 280 sq. ft (14x20). When added, the total structure will be 1,944 sq. ft which would put the structure to lot ratio at 37% - therefore 2% over the maximum amount approved with a regular accessory building permit.

The new garage proposed is 14 feet wide x 20 feet long x 8 feet high. It will be finished in a matching siding to the house and matching roof shingle. This will include a 9' x 7' garage door.



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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant (**will / will not**) be injurious to the public health, safety, morals, and general welfare of the community because: *This is a simple on car garage in the property yard with enough room to turn off of alley. This request would free up street parking on Maple St.*
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: *This request is completely confined to 160 N. Maple and will have no impact on neighbors.*
3. Strict application of the terms of the zoning ordinance (**will / will not**) result in unnecessary hardships in the use of the property because: *This request is to add covered parking for the resident. The previous garage was absolutely hazardous and needed to be removed. That has been done and this addition will provide room for a car, yard tools and storage which is aesthetically pleasing for the neighborhood.*

DECISION

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

Adopted this _____ day of _____, 201__.



Petition Number: 2016-05-DSV

Subject Site Address: 260 N. 3rd Street

Petitioner: Kerry and Carol Dienhart

Representative: Todd Rottmann

Request: Petition for Development Standards Variance to exceed the (RV) Residential Village Zoning District lot coverage requirement of 35%, to 42%, in order to allow for the construction of a new primary structure.

Current Zoning: (RV) Urban Residential Village Zoning District

Current Land Use: Single-family residential

Approximate Acreage: 0.14 acres

Zoning History: None

Exhibits: Exhibit 1 – Staff Report
Exhibit 2 – Aerial Location Map
Exhibit 3 – Surveyor Location Report
Exhibit 4 – Petitioners Cover Letter
Exhibit 5 –Petitioners proposed Findings of Fact

Staff Reviewer: Wayne DeLong, AICP

PETITION HISTORY

This petition will receive a public hearing at the March 8, 2016, Board of Zoning Appeals meeting.

PROPERTY HISTORY

The property is comprised of Lots 41 and 42 of Cross's 4th Addition to the Town of Zionsville. On January 24th, 2011, the existing Single Family dwelling was demolished (an approximately 120 square foot accessory building had been previously demolished). Presently only the foundation remains on the property. Staff is not aware of any prior variance requests for this property.

ANALYSIS

The 0.14-acre parcel is currently unimproved (except as noted above). As proposed, the Petitioner is seeking approval to utilize a lot coverage which exceeds the Zoning Ordinance maximum of 35 percent (until 2011, the property enjoyed approximately 2,400 square feet of impervious surfaces, including: the 2,063 square foot footprint associated with the existing dwelling, two brick patios totaling 227 square feet, and one 120 square foot accessory building).

LOT COVERAGE

Per the RV Residential Village District regulations, lot coverage standards states the maximum lot coverage is 35 percent. The petitioner is requesting a design standards variance to this requirement to provide for 2,643 square feet of improvements. As the overall area developed prior to the adoption of the current Ordinance standards, a review of parcels and improvements in the area did revealed a number of deviations from the coverage standards existing in the area. Based on Staff's review a number of homes located within the immediate area enjoy lot coverage in excess of 35 percent (with some enjoying as much as nearly 42 percent).

In Summary, Staff's support of these types of requests which provide for a deviation from the lot coverage requirements typically follows this general reasoning: 1) the request is seeking to improve the parcel utilizing a lot coverage ratio enjoyed by other parcels in the area, 2) the parcel was, until recently, utilized a lot coverage ratio above 37 percent, 3) the proposed improvements would eliminate the adverse impact the current conditions and improvements could be having on values of adjacent properties, and 4) the requested lot coverage, in staff's view represents a minor deviation from the Ordinance standards when compared to the lot coverage enjoyed through 2011. With the existing deviations and above factors in mind, Staff is supportive of the requested deviation from lot coverage requirements.

With the existing deviations and above factors in mind, Staff is supportive of the requested deviation from lot coverage requirements.

PROCEDURAL – VARIANCE TO EXCEED THE MAXIMUM LOT COVERAGE REQUIREMENTS

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 as an Exhibit to the staff report.

STAFF RECOMMENDATIONS

Staff recommends approval of the design standards variance included in Docket #2016-05-DSV, as filed.

RECOMMENDATION MOTION

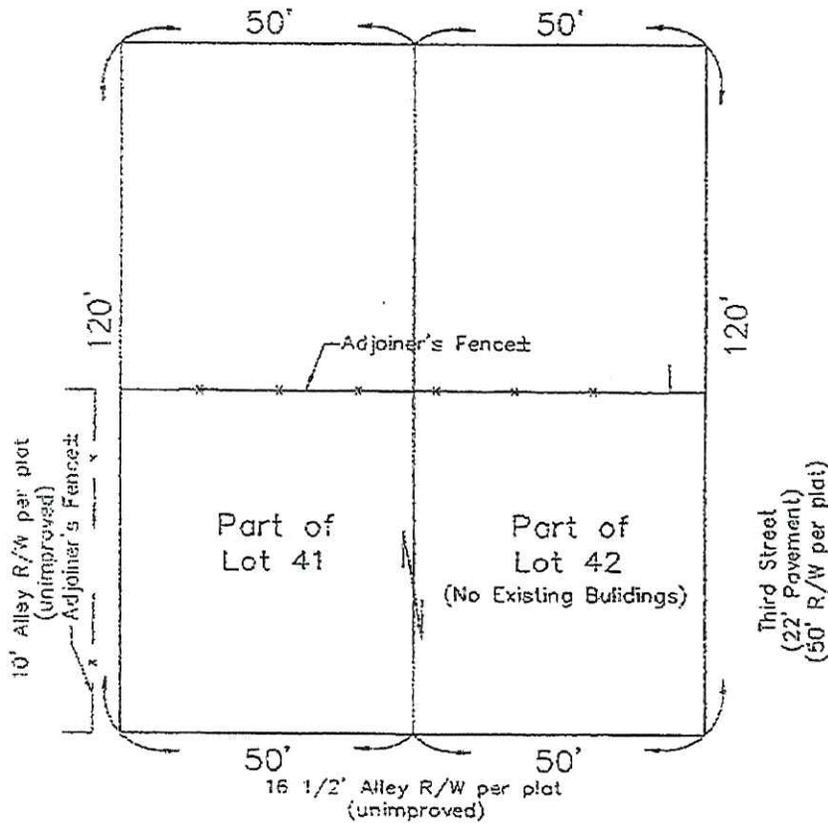
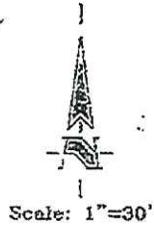
I move that Docket #2016-05-DSV design standards variance to increase the lot coverage allowance to 42% in the Residential Village District for the property located at 260 N. 3rd Street be (Approved as filed, based upon the findings of fact / Denied/ Continued) as presented.

SURVEYOR LOCATION REPORT

I hereby certify to the parties named above that the real estate described herein was inspected under my supervision on the date indicated and that to the best of my knowledge, this report conforms with the requirements contained in Sections 27 through 29 of 865 IAC 1-1-12 for a SURVEYOR LOCATION REPORT. Unless otherwise noted there is no visible evidence of possession lines found.

Legend	
R/W	Right-of-Way
— x —	Fence±

Note: Fence locations shown are approximate. An accurate boundary survey is required to determine exact locations.



Hahn Surveying Group, Inc.
 Surveyors & Engineers
 2850 E. 96th St., Indianapolis, IN 46240
 PHONE: (317) 846-0840 or (317) 846-4119
 FAX: (317) 846-4298 or (317) 582-0662



CERTIFIED: June 12, 2013

Chad L. Brown
 Chad L. Brown
 Registered Land Surveyor,
 License #21100002

February 16, 2016

RE: Kerry and Carol Dienhart, 260 North Third Street
Petition for Variance of Development Standards #2016-05-DSV

We are submitting for a zoning variance and wanted to share some more information about the petition so you would have a better understanding of what is being proposed.

The variance we need is to increase the lot coverage from 35% to 42%. Current zoning is set up for a minimum 8,000 square foot lot which would allow 2,800 square feet of coverage. Our lot is an historic small lot of only 6,398 square feet and doesn't fit into that mold. While our lot will only have 2,643 square feet of coverage which is less than current zoning allows for on new lots, it puts us at 42% coverage on our lot. Since this is our forever home, we need all critical spaces on one level for safety and potential wheelchair use as we age. We currently live several houses away on the same street, but our house does not have everything we need on one level, so that is a primary reason why we are moving.

We do not feel that this amount of lot coverage will have any negative impact on the neighborhood since it maintains similar setbacks and lot coverage of properties in the area, will be compatible in design style with surrounding properties, will increase the value of this property, will eliminate the current eyesore of debris from a previously abandoned project, does not add a curb cut, and provides enclosed off-street parking for us.

Thank you for your consideration.

Kerry and Carol Dienhart, petitioner/owner

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS

BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because this project maintains similar setbacks and lot coverage of properties in the area, will be compatible in design style with surrounding properties, will increase the value of this property, and will eliminate the current eyesore of debris from a previously abandoned project.
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, will be compatible in design style with surrounding properties, will increase the value of this property, will eliminate the current eyesore of debris from a previously abandoned project, does not add a curb cut, and provides enclosed off-street parking for the homeowners.
3. Strict application of the terms of the zoning ordinance will result in unnecessary hardships in the use of the property because this lot is an historic small lot (only 6,398 square feet) so the allowable amount of coverage is 2,239 square feet instead of the 2,800 square feet allowed on the required 8,000 square foot lot in current zoning and the homeowners need all required spaces on the first floor as this will be their forever home (they are moving from their current multi-story home several houses away on the same street because it does not have everything they need on one floor).

DECISION

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

Adopted this _____ day of _____, 20____.



Petition Number: 2016-06-DSV

Subject Site Address: 4560 S. 875 East

Petitioner: Boone County Tennis Center

Representative: David Hunt

Request: Petition for Development Standards Variance to deviate from building materials requirement in the pending (SU-7) Special Use Zoning District

Current Zoning: R2 (Pending SU-7 Special Use Zoning District Approval by the Town Council, appears on March 7, 2016 Docket, and Affirmation of Resolution by Mayor Haak)

Current Land Use: Undeveloped

Approximate Acreage: 4.13 Acres

Zoning History: Petition number 2015-04-Z Zone Map Change to rezone 4.13 acres from the (R2) Rural Low Density Single and Two Family Residential Zoning District to the (SU-7) Special Use Zoning District (Pending)

Exhibits: Exhibit 1- Staff Report
Exhibit 2- Aerial Location Map
Exhibit 3 – Petitioners Cover Letter
Exhibit 4 - Petitioners Site Exhibit
Exhibit 5 – Petitioner’s Concept Rendering
Exhibit 6 - Petitioner’s proposed Findings of Fact

Staff Reviewer: Wayne DeLong, AICP

PETITION HISTORY

This petition will receive a public hearing at the March 8, 2016 Board of Zoning Appeals meeting. The Plan Commission did hear, and gave a favorable recommendation to the Town Council, to rezone the parcel from the (R2) Rural Residential Zoning District to (SU-7) Special Use Zoning District. The Town Council will consider this request at its March 7, 2016 Meeting.

PROPERTY HISTORY

This property is located at 4560 S. 875 East and is bounded by the Zionsville Community School System's baseball and softball complex (on the west, north, and south sides). The site is comprised of 4.13(+/-) acres and is presently improved with residential and agricultural buildings.

ANALYSIS

As contemplated, the property would be improved with a 58,648 square foot building proposed to be utilized as an indoor tennis facility. While the use is supported by the contemplated zoning district (as the land is owned by a not for profit), the development standards associated with the zoning do not wholly support the intended improvements (as related to the architectural features).

In summary, constructing a free span athletic facility utilizing the materials listed in the Zoning Ordinance is identified by the Petitioner as challenging. Staff would agree, there are challenges; the Zoning Ordinance does not differentiate between occupants of building/ uses and the identified architectural requirements. As expressed by the Petitioner, the desire is to construct the building predominately utilizing the following combination of exterior finishes: split faced block and metal panels.

Building Materials

Historically, rurally zoned parcels which have been improved with large buildings designed to provide for non-profit service uses have utilized a combination of masonry and steel panels (Examples: Boys & Girls Club, Zionsville Youth Soccer, & Interactive Academy). Staff, given the use, does not object to the material selection. However, what should be contemplated to be included in the development is a landscaping package which is complementary to the height and size of the proposed building, and the parking lot. Staff would suggest that, in addition to the landscaping illustrated on the concept rendering, 1) a combination of evergreen and deciduous plantings be installed parallel to the east facing and north facing facades which serve to block the view of the building to the north and east, 2) that foundation plantings be provided along the entire perimeter of the building (except where interrupted by points of egress, utilities, and mechanical equipment) as well as along both the eastern edge of the parking lot and along both sides of the driveway, and 3) that the Petitioner provide information as to the material (and color) being selected for the roof (assume metal panels) as well as method to be utilized to reduce the potential of glare. Lacking additional landscaping to reduce the visual impact of the proposed building on the adjoining residential land uses as well as the public utilizing County

Road 875, Staff would look to re-evaluate its review of the Petition's requested building materials.

PROCEDURAL – CONSIDERATION OF A DEVELOPMENT STANDARDS VARIANCE PETITION

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 #2016-06-DSV, with the requirement of providing a detailed Landscape Plan for review and approval of the Plan Commission, which contemplates enhanced landscaping and screening along the leading edges of the parking lot, the driveways, and along the perimeter and foundation of the building.

RECOMMENDATION MOTION

I move that Docket #2016-06-DSV design standards variance to deviate from the building materials requirement in the SU-7 Special Use Zoning be (Approved as filed / Denied/ Continued) as presented.

PROCEDURAL NOTE

As previously stated, the SU-7 Zoning Classification is pending currently with the Town Council. If the Zoning is not approved by the Town Council and / or is not Affirmed by the Mayor prior to the Board of Zoning Appeals meeting, this matter will be required to be continued to the April meeting of the Board of Zoning Appeals.

The Boone County Tennis Center ("BCTC") a 501 (c) (7) not-for-profit corporation is requesting a variance of development standards with regards to using metal siding along with split face block on the exterior of our proposed indoor tennis facility. We believe the metal siding adds contrast to the masonry providing a more aesthetically pleasing look. The combination of metal siding along with a masonry are customary for this type of facility where there is a balance between functionality, design and economics.



Exhibit 5

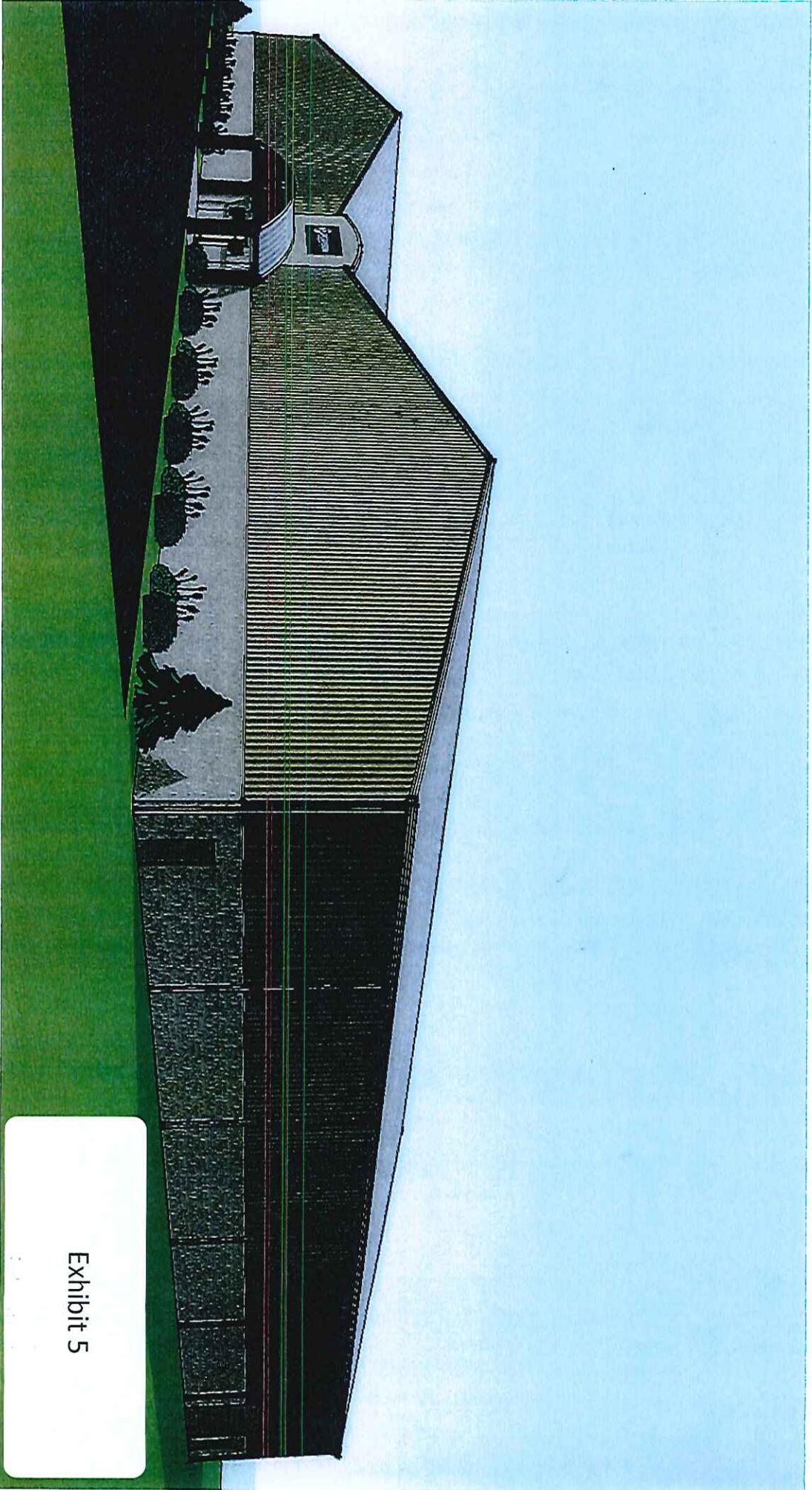


Exhibit 5

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

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 variance being sought is for the use of a particular building material which has no impact on public health, safety, morals or welfare.

- 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 use of split block facing along with metal siding is consistent with the types of materials used for other sports related structures in the adjacent school sports complex and, used together, are customarily seen as more aesthetically pleasing than the use of metal siding alone. Metal siding is customarily used for construction of an indoor tennis facility – which use was the impetus for the recent change of zoning of the underlying property to SU-7.

- 3. Strict application of the terms of the zoning ordinance (will / will not) result in unnecessary hardships in the use of the property because: Metal siding presents as a customary material for use in constructing an indoor tennis facility. Other alternative materials are either functionally and economically unfeasible or aesthetically less pleasing (i.e. inflatable nylon bubble canopy).

DECISION

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

Adopted this _____ day of _____, 201__.



Petition Number: 2016-07-DSV

Subject Site Address: 91 S. Main Street

Petitioner: Carter Properties, Inc.

Representative: Matthew Price

Request: Petition for Development Standards Variance to allow for a reduce number of parking spaces for a commercial building in the (VBD) Village residential Zoning District

Current Zoning: (VBD) Village Business Zoning District

Current Land Use: Commercial/Vacant

Approximate Acreage: Approximately 0.17 acre

Zoning History: 2005-05-V

Exhibits: Exhibit 1 – Staff Report
Exhibit 2 – Aerial Location Map
Exhibit 3 – Site Location map
Exhibit 4 – Petitioner’s proposed Findings of Fact

Staff Reviewer: Wayne DeLong, AICP

PETITION HISTORY

This petition will receive a public hearing at the March 8, 2016 Board of Zoning Appeals meeting.

PROPERTY HISTORY

The property is comprised of approximately 0.17 acres which is utilized for commercial purposes. Docket # 2005-05-V, requested, and was approved with the conditions for, non-contiguous parking of 18 parking spaces.

ANALYSIS

As proposed, an existing, vacant, 14,000 square foot building would be utilized to serve a mix of tenants (including restaurant, retail, office, and residential). Per a prior variance, the building is associated with (and has available to it) 18 parking spaces (with the prior variance being tied to the prior land use).

The need for the variance arises from the fact that the property is improved with a building which cannot meet the required parking standard (a situation faced by many property owners in in the Downtown area of Zionsville). The utilization of parking in the downtown was the subject of a 2014 study conducted by the Town. In summary, while there are specific peak times and peak locations at which parking is limited or at a premium, generally speaking, it was found that public / on-street parking options are available in the Downtown at any given time. Further, the Town itself is desirous of providing additional parking options in the Downtown (including increased connectivity for non-motorized traffic). With the existing condition, the prior variance, the results of the 2014 study, and the Town's interest in increasing the available parking options in the Downtown, Staff is supportive of the variance request.

PROCEDURAL – VARIANCE TO DEVIATE FROM 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 #2016-07-DSV,

RECOMMENDATION MOTION

I move that Docket #2016-07-DSV design standards variance to allow for a reduce number of parking spaces for a commercial building in the (VBD) Village residential Zoning District be (Approved based upon the findings in the staff report / Approved as Requested / Denied/ Continued) as presented.



Exhibit 2

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

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 retail and/or office use will be provided with a total of 12 off-street parking spaces, either on-site (6) or dedicated adjacent (6). These off-street parking spaces, with the available on-street parking in the vicinity, results in a parking scenario which will not be injurious to the public health, safety, morals and general welfare of the community. The reuse of this vacant building will benefit the general welfare of the community.

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 retail and/or office use will be provided with a total of 12 off-street parking spaces, either on-site (6) or dedicated adjacent (6). These off-street parking spaces, with the available on-street parking in the vicinity, causes the scale of the parking deviation to be minimal. Therefore, the use and value of the area adjacent will not be affected in a substantially adverse manner. The reuse of this building will benefit the use and value of the adjacent area.

3. Strict application of the terms of the zoning ordinance (**will / will not**) result in unnecessary hardships in the use of the property because:

The retail and/or office use will be provided with a total of 12 off-street parking spaces, either on-site (6) or dedicated adjacent (6). These off-street parking spaces, with the available on-street parking in the vicinity, causes the scale of the parking deviation to be minimal. Within the context of the scale of the deviation, the existing building, the historic use of the property, and the nature of the development pattern in this portion of the Village, the strict application of the terms of the zoning ordinance will result in an unnecessary hardship.

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
March 8, 2016**

Pledge of Allegiance was said and attendance was taken by the Secretary.
Present: Greg Morical, Chairman, Larry Jones, Al Wopshall, John Wolff, Julia Evinger.

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

- Morical Good evening and welcome to the March 8, 2016, meeting of the Zionsville Board of Zoning Appeals. The first item on our agenda is the Pledge of Allegiance.
- All Pledge.
- Morical The next item on our agenda is attendance.
- DeLong Mr. Morical?
- Morical Present.
- DeLong Mr. Wopshall?
- Wopshall Present.
- DeLong Mr. Jones?
- Jones Present.
- DeLong Mr. Wolff?
- Wolff Present.
- DeLong Ms. Evinger?
- Evinger Present.
- Morical The next item on our agenda is the review and approval of the January 12, 2016, meeting minutes, which were distributed to the Board in advance, and because I was not present at that meeting and Julia was not yet on the Board, neither of us will vote. Are there any comments from the Board? Hearing none, I would entertain a motion.
- Wopshall I move that we approve the minutes of the January 12, 2016, Board of Zoning Appeals as written.
- Morical Thank you. Is there is second?
- Jones Second.

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- Morical All those in favor, please say aye.
- All Aye.
- Morical Any opposed? I abstain. Julia abstains. The next item on our agenda is the February 9, 2016, meeting minutes. Are there any comments from the Board? Hearing none, I would entertain a motion.
- Evinger Motion to approve the minutes as written.
- Morical Thank you. Is there a second?
- Wopshall Second.
- Morical All those in favor, please say aye.
- All Aye.
- Morical Any opposed? Motion carries. Thank you very much. The next item is continuance requests, and I don't believe we have any. Then there is continued business, oh, perhaps we do have a continuance request. Please stand, approach the podium, and state your name and address for the record please.
- Gunter I'm Gilbert Gunter, the land owner at 1340 North 1200 East in Sheridan.
- Morical Thank you, Mr. Gunter. Okay, so this relates to #2016-03-SE?
- Gunter That's correct.
- Morical Okay. And, do you want to continue to our next meeting date, or do you need more time?
- Gunter No, the next meeting date.
- Morical Okay. Thank you. Anyone here who wants to remonstrate against that? Seeing none, any discussion amongst the Board? I'd entertain a motion.
- Wopshall I will move that we continue Docket #2016-03-SE until our next meeting, which date is that?
- Morical April 12.
- Wopshall April 12, 2016.
- Morical Thank you. Is there a second?
- Evinger I'll second.

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- Morical All those in favor, please say aye.
- All Aye.
- Morical Any opposed? Okay Mr. Gunter. We'll see you next month.
- Gunter Okay. Thank you.
- Morical Not a problem. The next item on our agenda is Docket #2015-46-UV, T. McQuinn. Please come up to the podium and state your name and address for the record.
- Eimerman Good evening. My name is Rebecca Eimerman and I'll be speaking on behalf of Mr. McQuinn tonight. He is present as well.
- Morical Thank you. If you could give us an overview of what you're asking us for tonight, we'd appreciate that.
- Eimerman Sure. The address in Zionsville that we're seeking a variance for, the 10614 DeAndra Drive was originally, well, at this time, is an I-2 Urban Industrial zoning. At this time, the purpose of that location, and Mr. McQuinn is a renter there at the location, so he is a tenant, and there is a separate owner, which would be Jeff Weber, who owns it through his company or his corporation. At this time, Mr. McQuinn is seeking to have a variance issued so that he can also, outside of repairing automobiles, sell automobiles. So, that is what the variance is sought for at this time. Now, the primary use of the property would remain that of repairing automobiles, however, pursuant to his proposal he would also like to, in addition, sell about 15 to 20 high-end used cars at the same time. Now, in order for him to do that, that would require him to obtain a dealer license for that purpose. And, I noted that in the staff report, there was some concern about the fact that there was no dealer license for that property. The State of Indiana requires that you only have a dealer's license if you are selling over 12 vehicles per year. Prior to this, while there were sales of vehicles from that location, that unbeknownst to him at that time, it was not zoned properly for that, he didn't require that dealer license. However, at this point, he cannot obtain the dealer license without the variance from Council. So, today he is seeking the variance. Prior to this meeting, he provided to you a packet of information which included pictures of what the parking lot looked like prior to it being paved and what it looks likenow. It was paved by the owner, Jeff Weber, with Weber Concrete. That was not done by Mr. McQuinn or his company. Now, I understand there are some issues of that maybe not being permitted properly, however, that was not done by the tenant, that was done by the owner. Now, we have spoken with Mr. Weber. He says that he would be willing to fix any drainage issues and apply for the proper permit, and he'll just go ahead and do that, but based on DeLillo and Sons, who did the paving for him, they provided to him that they didn't need a permit because it was more of aesthetics as opposed to recreating a parking lot. Because the parking lot was already there, it just happened to be gravel at that time. So, at this point, I'm not sure the permitting issue is really an issue for A Quality Automotive and the variance that they're seeking in order to sell the

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vehicles from that location as much as it may be for Mr. Weber and him to get his permits and to address the drainage issue. But, he has assured us that that's not an issue.

Morical So, your landlord has confirmed, or A Quality Automotive's landlord has confirmed that they'll bring the parking lot into conformance?

Eimerman That's correct.

Morical Okay. And, there was a mention in Mr. McQuinn's letter about a dealer license being transferred to this address in June 2010.

Eimerman Yes. He did have a prior dealer's license. But, that dealer's license lapsed after he was not using it to its full, I guess, he didn't renew it properly. And, so, because he wasn't selling more than 12 cars per year, at this point, he doesn't have a current license and cannot obtain a new one based on the State's regulations.

Morical Have you had the opportunity to review with Mr. McQuinn the staff report?

Eimerman Yes, I have.

Morical And, there's the comments in the staff report as it relates to some restrictions on signage, and then the installation of landscaping.

Eimerman If I could start with the landscaping issue, and I'm not sure you can tell from the pictures, however, by looking at the property, if you were to drive by the property, DeAndra Drive is on one side and then 106th Street is on the other side. The actual property as it sits right now has a hill off of 106th. So, there's some trees that line 106th Street. And, then there is a hill that drops down onto the property where the building is located and the pavement is. So, that hill drops down and prior to getting to the pavement, the pavement comes right off the hill. So, he's not exactly sure where the staff would want the bushes because they would basically be sitting on top of the hill and would almost completely circumvent any view of the building off of 106th Street. And, I think at that point, you'd almost be restricting any signage that would be available on the building to see the name of the business. And, according to the regulations with regards to a dealer license, that sign has to be prevalent. So, an A Quality Automotive sign would need to be prevalent on the location where individuals could see that sign. And, he is concerned that with the shrubs being 18 inches off of the ground and the height of the hill as it is right now, that would obstruct the signage and thereby make difficulties coming into regulation with the dealer's license. So, with regards to the shrubbery, I think he would ask that that not have to be done for two reasons: One, there are already trees lining 106th Street there that were planted by the Town of Zionsville, I believe. So, that already kind of blocks that area. And, now adding a different row of vegetation would furthermore block that area and the hill kind of acts as a break anyway for the cars that would be on the pavement. So, it wouldn't be like the cars are sitting up and everybody would be driving past 106th Street and they would be right there for viewpoint. The hill kind of already shields the vision of the passersby from the cars. So, that's with

regards to the request for the 18 inch plants. With regards to the signage, I did note that there was some concern that there may be, like, inflatables used or maybe what you would consider as like the decorative flags that are off of used car lots. Sometimes you see them in Indianapolis. It is not the intention of Mr. McQuinn to use that type of advertisement for the purposes of this business. He understands that there would probably, and most likely, be a restriction on that. He is not interested in using any inflatables. The minimum that Mr. McQuinn would wish to do would be place a sign on the building, and if required for that, if that was required, then he would obtain a permit for that to show that he does then sell vehicles at that location. But, with regards to those flags or those inflatables, there is no intention by Mr. McQuinn to use that type of advertisement with regards to this at any point.

Morical Okay. So, I hear you expressing two concerns with the landscaping piece. One is that the pavement goes right up to the hill. And, that may be a factor of the pavement going too far, because that isn't in compliance. And, then, the second one is that it would potentially obscure the signage that's on the building itself. Could he still get a dealer's license with a monument sign, something that would be on the ground?

Eimerman The, if I may have just one second. I wanted to look back at the regulations on that before I answer that. I think he can as long as it doesn't have to be on the building. It does show just so long as there is a sign that is visible to the public.

Morical Okay. Thank you. Any other questions for the petitioner?

Jones I guess what I'm trying to figure out, what I keep hearing, and looking back here at the Findings of Fact and trying to sort this out. So, at one point, you had a license, and you did transfer the license to this location?

Eimerman That's correct.

Jones Even though it wasn't zoned for that use?

Eimerman That's correct.

Jones So, the State allowed you to do that?

Eimerman That's my understanding.

Jones Is that a correct statement or a false statement?

Eimerman I don't know that for a fact. I can ask Mr. McQuinn to come up and comment on that, but I know it was transferred and it was when the location for the business was moved off 96th Street and moved over to 106th Street.

Jones Was the location on 96th Street zoned appropriately for automotive sales?

Eimerman I'm sorry?

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- Jones Was the parcel, the location on 96th Street zoned appropriately for the sale of automobiles?
- Morical Please make sure to speak into the microphone.
- Eimerman I can't answer that question for you, but I assume it would be if he was granted a dealer license.
- Jones My core issue with this is just the multiple precedents that negatively affect the Town of Zionsville that this thing is trying to do. First and foremost, we've got a large parcel of land in a commercial area that was paved without any permit, which means that area to the west of your building that collects water has created basically a mosquito pit, and you've not really, the owner, has not provided any kind of drainage. Along with that, once that's been done, we're now getting into this position of then going back and wanting to approve a lot with car sales and locations. None of that which is really clearly defined. So, the precedent we're setting there is by not requiring you to at least provide some sort of decent site plan and drawing as to what automobiles and what areas will be used for what uses, the variance you're asking us to provide is wide open. Anybody with a 10-acre site could ask for the same level of review, and I don't like opening the Town of Zionsville to that kind of issue. Number three states that other businesses in the area sell vehicles. Well, once again, are they selling them on parcels of land that are zoned appropriately? Are they selling a few and staying under the 12 car per limit use? You know, once again, it's just this open-ended nature. So, based on the information we're being provided, I'm not particularly supportive of what you're trying to do. Even as we go through the discussion of it, we're trying to figure out, you know, was the old location where you transferred from appropriately zoned? Is this an ongoing business or is this something you're just trying to expand?
- Eimerman May I respond to some of your concerns?
- Jones Sure.
- Eimerman With regards to a look at where the cars would be located, the pictures were provided. They had indications as to where the intention was to park the vehicles in those pictures. I'm trying to present to the Board just kind of an overall feel of where those would be located. So, with regards to that, I mean, I think that we attempted to convey where those would be located. With regards to the other businesses around that were selling vehicles, just to the east of where this particular building is located, there is a large car dealership. So, the answer is, is there a business in the area that sells cars? Yes, it's likely zoned appropriately because it is a car dealership, so I assume it would be. And, then, furthermore, though there aren't really a lot of used car sales in that area, and the intention is not, you know, to have a 1991 Saturn that's broke down sitting in the lot for sale. That's not the intention whatsoever. The intention is to provide the Town of Zionsville another place where they can buy high end, used vehicles that aren't brand new, but that have been certified and looked over by mechanics from this

location and can provide assurances to the people of the Town of Zionsville that they're getting a quality, used vehicle. So, with regards to that issue and other businesses in the area, yes, there are other businesses in the area that sell, and they do sell used cars at car dealerships. With regards to the parking lot and the drainage issue, it's my understanding that the building that Mr. McQuinn is in right now was built first. Thereafter, Napa was approved to build next door. At that point, when they built, that hill was put in. That drainage issue was not caused at all. That drainage issue has always been there. It was not caused by anything, the paving, or anything that the current tenant or the current owners did to that land. It was caused by, in fact, the neighbors. So, at this point, it's understood that that needs to be fixed, and it probably falls into the hands of the owner, and he is willing to fix that. And, he's willing to come to the Board and give assurances that he can get that fixed. Again, with regards to the permitting, I can't really speak to what the owner did because we didn't have any involvement with that. They said they would pave the lot. They thought it would look aesthetically more pleasing to the Town of Zionsville than having a gravel lot sitting in the middle of other businesses that had paved lots. And, quite frankly, based on the pictures that were provided to the Board, you can see that it clearly looks aesthetically more pleasing. So, whether there is a mosquito pit there or not, was not caused by Jeff Weber or A Quality Automotive or Todd McQuinn. It was caused by Napa and the hill that was built there, assuming they obtained permits or they were allowed to build there. So, obviously, it needs to be fixed, and there's no intention for that not to be fixed. And, clearly, if that's part of the process to obtain this approval, that will be fixed.

Morical How long is Mr. McQuinn's lease?

Eimerman It is a 5-year lease.

Morical Which started?

Eimerman It was just renewed in January.

Morical Okay. Thank you. Any further questions for the petitioner?

Wolff For clarification, Napa is, as you look at 106th Street looking north at petitioner's property, or the property in question, Napa is to the west, as I recall.

Eimerman It is. It's PFM, I think it's referred to as PFM.

Wolff Yes.

Morical Thank you very much. Any remonstrators here tonight? Seeing none, may we have the staff report please?

DeLong Thank you. As indicated, staff is in support of this petition. Certainly, there are a number of things to discuss. Certainly, the landscaping is a great conversation related to the landscaping along 106th Street. Historically, the hill has been used, I should say historically, certainly in the short-term, the last 6 months and certainly

on the aerial photographs that are captured in our exhibits. Typically those are circa 2013, show vehicles parked on the hill. So, the definition of where the car sales area, maybe staff was looking at that a little bit more broadly than what the petitioner is speaking to this evening. Be that as it may, the staff report speaks to the landscaping being installed along both DeAndra and 106th Street. Certainly don't want to pass over the value of the hill serving as a buffer. Certainly, that hill could also go away if there is ever a street project that widens the right of way as you can see on the aerial illustrates right of way takes and right of way acquisitions that are in different dimensions. I certainly would think over time that would be straightened out with a potential follow through with a road project from the county line where a project was completed in 2008, where old 106th Street was straightened out and where new 106th Street was constructed. So, be that as it may, again, there is some value. I don't want to pass over that related to the hill serving as that buffer, but certainly, if the Board is inclined to recognize that. Certainly, I would suggest a condition of commitment specific to a provision for landscaping along 106th Street if and when that hill were to go away. And, certainly, Mr. Morical you're focusing on the term of the lease. Certainly, that's a timeframe to keep in mind. Specific to landscaping along DeAndra, the staff report speaks to that landscaping except where there are curb cuts. Looking at Exhibits 4, the photographs indicate where potentially those curb cuts would be located without benefit of the site plan and dimensions we don't know for sure, but be that as it may, it is encouraging to install, staff would encourage the installation of landscaping along and parallel to that right of way, next to those parking stalls. Certainly, focusing on the conversation about signage again, I recognize petitioner's success previously without the utilization of what we would call a typical car lot type signage, and certainly would look to continue that success here.

- Morical Thank you, Wayne. So, to be clear, staff values the additional landscaping set forth in the staff report both on 106th Street and DeAndra?
- DeLong I do. That's staff's position. Certainly, again, I don't want to pass over the value of that hill, that berm, that does serve to mitigate light spillage and serves the benefit like it would be a hedge rail. It's not quite as decorative.
- Morical Well, the challenge that we have is this is the gateway to Zionsville and it's a developing space. So, one thing that I've considered is whether or not we would grant this variance for a particular term, that is, for the remaining term of the lease, giving everybody the opportunity to see how this develops and see if it makes sense. And, then we have to consider how to otherwise address the parking lot and the drainage issues.
- Jones I'd also like to remind the Commission of one of the issues that Wayne just sort of brought up in discussing this parcel. If, long-term, 5, 10, 15 years, we have a long-term plan in place to maybe need to widen 106th Street as we bring in more commercial business, and hopefully, reconnect from 106th to 96th and make this, basically, an economic engine for the Town of Zionsville. Because the existing owner did not apply for permits, did not go through the proper channels, the Town of Zionsville lost the opportunity to ever address this easement or setback

issue to widen the street. As we continue down this path of granting variances, once again, I said the precedent, but also what we lose is the ability to get that continuity that it looks like somewhere down through the line, the Town has been trying to enforce. Once again, you look at Napa, they're set back a little farther. You look at the property next door, it's back a little farther. The one to the west is a little farther up, but then you get to the next lot down and the setback goes back again. I'm just not in support of this, you know, asking forgiveness, time after time after time. There was an opportunity in here to correct this site, put together a site plan. If there was a tenant in mind that wanted to do automotive sales, a package could have been presented with adequate information that would have confined their uses, taken care of the drainage, allowed the Town to address easements, and this situation we're sending ourselves down is not in a long-term benefit of the Town.

Morical And, Larry, what I'm contemplating is that they would need to bring the parking lot into conformance and address the drainage issue as a condition of this variance. Does that address your concerns?

Jones To a certain extent, but there's no language in there about actually having a defined site plan to show where the automotive sales are going to take place, where the customer parking is going to be. You know, this showed up on our docket months ago and I think I've asked this question repeatedly for something a little bit more than just pictures. Once again, the precedent the Town is setting themselves up for, you know, imagine if this was a 10 acre site. Would we be having the same level of trying to be supportive?

Morical No, that's fair. There is a practical matter with a building already built. I don't know how impactful it's going to be to have a site plan that shows where they're going to park different cars, because there is a finite amount of space in which to do that and practically, they're just going to do it wherever it makes sense. I think by providing a sunset period on the variance, it gives us an opportunity to assess whether or not this is a use variance that's still consistent with a gateway to Zionsville in 5 years as things continue to develop. Any further comments from the Board?

Evinger Just a quick question for Wayne, and that would be, is there a specific ratio as far as for paving on a specific lot of a specific size?

DeLong In the commercial or industrial area, we do not have a lot coverage ratio, unlike residential, for example.

Evinger Right. Okay. I just, again, if it was over paved as far as for the landscaping issue, if that could somehow be remediated to be able to allow for the landscaping.

DeLong Well, the ordinance would speak to setbacks and buffer yards and things like that. When you have paved to the lot line, there is no provision for providing for that buffer, which is designed to accommodate the landscaping treatment.

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- Morical Any further discussion? So, I would suggest that we consider this variance and for it to have a 5-year term that would end December 31, 2020, and that the variance be conditioned on the petitioner complying with the landscaping as required in the staff report and addressing bringing the parking lot into conformance, whether it's the petitioner or the landlord, and that that drainage, the mosquito pit, per Larry's comments, be effectively addressed. Any further discussion?
- Evinger Just one more point of reference, obviously she needs the variance to be able to get the license, for them to come back and show that the license has actually been obtained, should we approve.
- Morical That may be a requirement that the State may have the ability to enforce when they're not, the petitioner was compliant with the licensing requirements.
- DeLong I would note for the benefit of the BZA that, in theory, the Town staff is presented with the opportunity to sign off on that certificate. I would think that compliance with actions of the Board of Zoning Appeals is going to be directly tied to the staff being able to affirm to the State of Indiana that this site is zoned appropriately.
- Morical One further thought, we may want to require that the drainage in the parking lot be addressed during a finite period of time, whether that's sometime in the next 6 months.
- Drake I would agree with that.
- Morical By the end of July, or some other period, whoever wants to do the motion, if they're amenable to that.
- Wopshall What you're saying is hard to put into words. You addressed the parking, you addressed the landscaping, but to whose satisfaction and, you know.
- Morical Well, the landscaping is outlined in the staff report.
- Wopshall Okay.
- Morical But, you're right. The drainage, how is drainage satisfactorily addressed. How is the parking lot, the parking lot has to be brought into conformance with the zoning code, and how can we best articulate dealing with the drainage issue. Wayne, any thoughts?
- DeLong The drainage, in order to be thoroughly reviewed would require some level of engineering information conveyed to the Town and reviewed by the Town engineer. Certainly, there are many different design professionals out there who charge many different levels of fees for that type of service. Certainly, we're not here tonight to say exactly what that fee would be, but certainly they would incur some level of cost, or the property owner would incur some level of cost to affirm that the drainage concern has been taken care of. And, certainly, any

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drainage information that's given to the Town, then requires the Town to utilize its Town engineer, which is at an hourly rate, to review that information. So, there would be some additional costs incurred by the petitioner. So, certainly, it's been indicated this evening that they are in agreement to prove that everything is working. But, certainly want to be very clear that there will be some costs that would be incurred by a third party.

Morical So, for that condition then, we would be saying the drainage needs to be addressed pursuant to a plan reviewed and approved by the Town with the drainage work completed by 07/31/2016.

Jones I just want to make sure I'm hearing this correctly. So, what you're suggesting, Wayne, is that they hire an engineer to do a site plan to develop the drainage for the parking lot, and then once they have that site plan, the additional cost to add where landscaping would go and maybe delineate where car sales and customer parking would probably be a minimal additional expense, correct?

DeLong I would suspect that a design professional would want to have some baseline level of understanding of the site improvements and they'd be investing some time and energy to make that drawing, and certainly would want to have some understanding of how the site is functioning in order to provide the correct drainage calculations. So, at the end of the day, I suspect what you've articulated is what they'll end up with.

Jones Because isn't DeAndra drive, is that a Zionsville road or is that a private road?

DeLong I don't remember off hand. I believe it is public to a certain point, and that certain point is at the property line with Snyder.

Jones When you look at the aerial, you see the eastern property line go to the center of the street, which typically delineates that that's a, more or less, private drive, hence that retainage pond out there is probably also owned by the subdivision which means at some point, if there's some sort of board or individual owner, needs to approve the drainage and the additional water into that. Which, like I said, I'm just driving back to the original position that I'm taking is that this slippery slope of forgive us after forgive us, when if just a certain amount of time and effort was applied to generating an engineered set of drawings for both the drainage and the layout of the site, that would give the Town of Zionsville something to sign off on, and something that we can enforce at a future date, both for this project and anything else that comes before us in the future.

Morical Well, again, I wasn't proposing that we provide any forgiveness, but you're talking to, kind of, a level of thoroughness at this stage that you'd like them to move forward with. Right Larry? And, that's fine.

Jones Which should be sort of base level for any commercial property in the Town of Zionsville.

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- Morical And, again, this is a gateway parcel, so it's got significance. If that's what you want proposed, that's fine. But, somebody's got to make that motion. Somebody needs to make a motion. This is not the only thing on our docket tonight.
- Jones I understand. Okay. I'll move that Docket #2015-46-UV, Use Variance, for the property located at 10614 DeAndra Drive, be approved with the following commitments: One, a site plan be provided by a licensed engineer from the State of Indiana. Two, the plan identify that the drainage issues on the site have been reviewed and approved both by the DeAndra association as well as the Town of Zionsville. Three, that the plan include a delineation of where there will be car sales, customer parking and other storage. Four that a landscape plan be provided that would show for some sort of screening. Five, that whatever signage, whether it's building or monument, also be included in the plan. That this work be completed within 6 months from this approval date. And, if not completed by that date, the variance will be voided.
- Morical Is there a second? We can talk about it after somebody seconds.
- Evinger Second. I'll second the motion.
- Morical Okay. Now, for discussion, Julia, did you have a comment?
- Evinger I would just like to offer in a friendly amendment that you had offered to begin with, and that this would sunset on December 31, 2020, so we can further review it at that time.
- Morical I think that's helpful. And, another comment, Larry. Does it make sense for them to complete this site plan and then present it, and then, this Board make a final determination?
- Jones Well, to get the permit they're going to need to do the drainage, they're going to have to permit it to the Town engineer, and get a level of approval at that point. We don't need to see it back here, I don't think. That, Wayne, am I going down a wrong path?
- DeLong No, certainly, that allows the petitioner to keep moving. It saves them at least 30 days. I mean, certainly, they're wanting to get through this process, get the license from the State so they can continue on that next level of business that they've been attempting to achieve. And, certainly, there is internal building renovations that they're looking to complete as well.
- Morical One of the conditions of your proposed motion was that the petitioner, the plan note some sort of screening, some sort of landscape screening, which is discretionary. Should we specifically reference what the staff report requires?
- Jones Once again, I don't mind Wayne or any of the Town individuals making that call. I don't need to see it back here.

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- Morical That's fine. So, then, that would be screening that would be approved by the Town.
- Jones Right. A landscaping package be provided.
- Morical So, you'll accept those friendly amendments, that is having this variance sunset at the end of 2020?
- Jones Yes.
- Morical And that the landscaping be approved by the Town?
- Jones Yes.
- Morical Is there a second for the amended motion?
- Evinger I'll second the amended motion.
- Morical All those in favor, please say aye.
- All Aye.
- Morical Any opposed? Motion carries. Thank you very much.
- Eimerman Thank you.
- Morical Is anybody still here? Thank you. Mr. Price, please approach. Are you coming up on Docket #2015-47-DSV?
- Price I am.
- Morical Okay. Thank you.
- Price Mr. President, members of the Board, for the record, my name is Matt Price with an address of 10 West Market Street, Indianapolis, Indiana 46204. I'm here tonight on behalf of Nancy Warstler, regarding the petition pertaining to 734 West Pine Street. Pursuant to your rules of procedure, I am requesting that this matter be withdrawn. We did very much appreciate the continuance we were granted at a previous meeting. You gave us an opportunity to do some further investigation of the site, discussed the matter internally, meet with Mr. DeLong, and we decided that the best course of action was to withdraw at this point. Thank you.
- Morical Thank you. Carol, do we need to take any action?
- Drake You need a motion to approve it.
- Morical Okay. Thank you. Is there a motion to approve the withdrawal?

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- Wolff I will make a motion to approve the withdrawal of Docket #2015-47-DSV.
- Morical Thank you. Is there a second?
- Wopshall I'll second.
- Morical All those in favor, please say aye.
- All Aye.
- Morical Any opposed? Motion passes. Thank you, Mr. Price. The next item on our agenda is Docket #2016-02-DSV, DeRossi. Mr Price.
- Price Me again.
- Morical The record already has your address, so you don't need to say it again.
- Price. Very good. This petition was filed on behalf of Dr. and Mrs. Robert DeRossi, who owned this property for many years. Let me introduce someone, this is Greg Ewing, who is my land planner in my office. He's handing out a couple of exhibits which will help me explain the petition tonight. Just to give you a little bit of background, the DeRossis owned this property for many years. It had been under consideration for various development proposals over the past, gosh, at least last decade or more, and as a result of that, they had moved out of their homestead, which you can see kind of the remnants of in the northeast corner of the intersection of 875 and Whitestown Road, and actually moved to Austin Oaks. They recently sold that property and decided to relocate in Naples, Florida. And, that's where they are tonight. So, they are not here for the hearing. So, their intention was to have this property developed in a rural-type lifestyle, rural-style setting, much like the way they lived on the property while it served as their home. And, the property, as you can see, is rather expansive, and let me just give you a little bit of the dimensions of it. It consists of both the northeast corner of the intersection of WhitesTown Road and 875, the northern portion is 26 acres. And, then, in the southeast corner, that section is 51 acres. And, what they did, and it was creative, I believe, is that they conducted an auction where they drew the lines for a proposed 12-lot subdivision on these 77 acres and quite a bit more prospective purchasers showed up than there were lots. So they were oversubscribed for the purchase of each lot. And, those lots, and the sales are all contingent upon receiving zoning approvals for, including a plat, prior to the sale. So, right now, the DeRossis still own all the property. And, we have a pending application for a plat approval that will be considered by the Plan Commission at some point in the future, and I'll describe a little bit about that as we kind of work through the proposal. One of the unique aspects of the DeRossis; property is that it's split between two distinct zoning classifications. The northeast corner is zoned R-SF-2. So, it's got an urban service district zoning classification. And, just for illustrative purposes, an R-SF-2 zoning is approximately 2 units per acre. That's about how many dwellings you would typically anticipate for that type of a zoning district. The southeast corner is zoned R2, which has a somewhat higher density, but it's lower than an R-SF-2. And, an R2 is a holdover, if you will, from

the former Boone County zoning ordinance that we adopted when we consolidated back in 2010. So, they got two separate blocks of land governed really by two distinct sets of rules. The R2 area, the southern portion, those 51 acres, under the Boone County ordinance, can be developed without available public utilities. Meaning that, it's a classic, kind of, rural subdivision template provided you have the minimum acreage size, you can develop the property without being on municipal water or sewer. R-SF-2 is a little different in that respect, which is that it requires that the property be connected to municipal utilities. That's just a precept that is fundamental to developing an R-SF-2 property. So, what they've brought forward is a petition to have the property developed in what we're calling a rural style, low intensity, estate lot subdivision, at a density, as you can see, that is extremely low by any comparison. Whether R2, R-SF-2 or even equestrian residential under Zionsville's zoning ordinance. The variances that we're seeking fall into two bundles. The first variance is a request to have relief from the requirement that the northern acreage be connected to sewer and water. So, it would be served by septic systems and wells, just like in other rural settings. So, that's variance #1, or the first component of our variance request. And, then the second variance request has to do with the southernmost three lots, which are Lots 10, 11 and 12. And, what we're seeking relief from there is a standard within the rural zoning classification for R2, which is relief from the lot depth to width ratio, which is a 1 to 3 ratio, which we exceed with regard to Lots 10, 11 and 12.

Let me just explain a little bit about why that is and why we think there are practical difficulties associated with those three parcels as they've been laid out. First of all, I want to point out that for each of those three lots, the width of the lot is over a football field long. So, we're not talking about flag lots, which is what we think the reason for the rural, excuse me, the reason for the rule in the rural district in the first place, which is that it's trying to prohibit you from having a flag lot style subdivision. We don't have that problem here because we have exceptionally wide lots. Second of all, and we provide an exhibit that shows the contours for the property. The property generally drains in a south, southeasterly direction, meaning that the water generally flows towards the southeast corner. Our preliminary drainage analysis, which we've submitted to the Town, demonstrates that by developing these properties as large estate lots, and seeding the lawns with either grass seed or sod, that we dramatically reduce the runoff for this property. For the southern lots, we reduce it by upwards of 20 to 25% of what exists today. In meeting with the neighbors surrounding these parcels, drainage was by far the number one concern. I think I'm safe in saying that all were very enthused about a low density proposal provided that we were able to address their drainage concerns, which we're in the process of working through but we've taken the initial steps to show that our plan will reduce the runoff that exists today. And, the comparison is between, basically, tilled soil and having soil that has cover, and that allows for greater absorption, slows the rate of runoff as our engineer has demonstrated. Here's why that relates to our variance, though. Our plan is that the rear portions of these lots, these long lots, would be open and available for grassy areas, open space, away from the properties that surround on the east and on the south, and available as essentially, what I'll call, an absorption field, if you will, available to help address the very

prevalent drainage issues that affect this property, and which have been noted for years as development proposals have come before various boards. And, so it's that practical difficulty we really believe that the issue with this property is not that it violates the width to length ratio so much as that we just have particularly long lots. Wide lots too, but they are particularly long, and what that allows us to do is have areas in the rear of these properties where instead of having additional development in those sections, additional home sites, additional impervious services, we actually have open space that can be used to absorb the rainfall and help control the drainage. And, so for that reason, we think that there is ample support to find a practical difficulty here with respect to that particular aspect of our request. Let me just say one other thing, this proposal, we believe, has support from the standpoint of the various other policymakers in the community. But, we're going to test that theory, and you should be aware of that as we go forward because I think it will provide you all a comfort should you decide to approve this variance. And, what I mean by that specifically is, we have a number of other hoops to jump through before this could actually be a project that comes to life, not the least of which is, we need to go before the Plan Commission to have a plat and a development plan approved. We need to go before the Safety Board to have approval for a property that does not have a looped water system. There is a bit of a conflict between the zoning ordinance, which for the R2 section, 51 acres, specifically says it doesn't require water at all, and our fire protection ordinance which says that you not only have to have water, but it has to be a looped water system. We feel like the best way to address that is to take that in front of the Safety Board and have the policymakers on that board decide up or down what the right answer to that request is. Then, thirdly, I mentioned our drainage plan. Our drainage plan is unique. It is unique to having very large lots. It's based upon certain assumptions with regard to the square footage of the homes being proposed, the impervious service that will be allowed on each parcel, and because we are seeking to have this kind of natural drainage control plan approved, we've been asked to take that through as late as today through the Zionsville Town Council to specifically bless the drainage plan as an alternative drainage plan to that specifically prescribed by the drainage ordinance that Zionsville applies. And, I think that we've had a very open dialogue that this project has a lot of merits with the policymakers. They want to see the drainage plan in writing and see the actual calculations. Staff did not feel comfortable granting a waiver from the drainage ordinance. They wanted that to be blessed by the Council itself, and we're prepared to take that step and take it through the process. We also feel like that's a commitment we've made to the neighbors already. We met with them as a group last Tuesday at the Methodist Church. Thought it was a very productive meeting, as I mentioned. We felt like we had good support for the proposal subject to us demonstrating that we had satisfied their drainage concerns, which we intend to do. For all those reasons, we would respectfully request your approval and the incorporation of our findings, and I'm available to answer any questions that you have in working through these petitions tonight. Thank you.

Morical

Thank you, Mr. Price. Any questions for the petitioner's representative?

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- Jones I just want to confirm, so there was actually a sale of the property prior to actually putting together the requested variances and figuring out what the appropriate zoning was?
- Price The process they followed was, and this was prior to my engagement, but the process they followed, and I think it makes some sense, was they met with Wayne, Mr. DeLong, and kind of walked through what their intention was and whether this kind of path, what I call the straight face test. And, then they decided to go forward with the auction, but making it expressly clear to each purchaser, that it was subject to Zionsville's approval of this concept. So, there has been nothing more than earnest money put down. No closings have occurred. And, if we fail in obtaining the approvals, the earnest money will be returned and those parties will be free to go on about their way. But, they were made aware certainly that there were steps that were going to need to be taken before those approvals could be obtained. There were going to be filings and public hearings.
- Morical Any further questions?
- Jones At a future date, if the property to the west or the northwest is developed, will these property owners participate in the cost of any sewer, water, utility lines that need to be extended through, past or around their neighborhood to help the adjoining development?
- Price We've not been asked to make a commitment like that, and I don't believe they would by ordinance. I will say this though, that in connection with the future improvements to 875, they have been asked to make substantial dedications of right of way at no expense to the Town. That will assist the Town in the development of 875 as that corridor evolves. But, they have not been asked to make any type of financial commitment towards future sewer improvements.
- Morical Any further questions, Larry?
- Wolff On the exhibit tonight, I'm sure I'm probably missing something obvious, but there is a dotted line going through. What is that?
- Price That's a good question. I'm glad you asked that. That is an existing gas line. And, so we had that there so that a prospective purchaser would be aware that there was that encumbrance on the property, and it would impact their ability to develop, obviously, portions of that.
- Morical Any further questions for the petitioner?
- Evinger Just, I've got another question, too. You're talking about having this grassy area that would be for drainage. Have you considered having a common area that would be for this particular development that everybody would share in the cost of maintenance?
- Price Yes.

- Evinger And, if you delineated an area, could that not solve the ratio for the 3 to 1?
- Price It may. We're in a little bit of a chicken and the egg. As we drill down further with Zionsville's drainage team, with Lance and with Gavin and with Ken Hedge with the county surveyor's office, there may be additional physical improvement. It's even conceivable that an improvement could be put in a common area and it could effectively solve our variance request. The fact is, that today we don't know that. I believe that what's going to happen is, is that if there are those future improvements on certain parcels, those will probably just be delineated as easements for the benefit of either some or all the parcels for drainage purposes, but probably not specifically shown as a common area per se. And, you're hitting on an important issue, which is that one of the balancing acts that we've tried to do here is how far do you go in treating this like a "major subdivision", and so what we're trying to do is strike that balance between, really what I would call kind of a 12-lot minor subdivision. Where the idea is to have, obviously, very large lots, relatively low intensity development in relation to the size of the total lot, but certainly having the adequate easements and drainage facilities so that we meet the standards which the Town is going to hold us to under that type of review.
- Jones Oh, I'm just going to bring up my favorite word, precedent. You know, my parents live on a 1 acre lot with a well and septic and they've been there 50 years and they've replaced it once in that time, it works just fine. The Town of Zionsville has other neighborhoods on well and septic that have been around forever and do okay. I guess my understanding, the reason we've created zoning and neighborhood and development classifications, is to have a consistent method to move the Town forward. I just kind of view this as a step backwards, and once again, opening up, so these lots are all 8 acres. If somebody comes in with a 4 acre development, what's the difference? And, if not 4, what about 2? So, while we're talking about 12 homes, would we be equally supportive of 35 homes? What's the cutoff?
- Price It's a fair point. Could I address part of it, because there is a unique set of facts I think that are associated with this particular property, and some of those facts I know you all are familiar with, which is that this property is in a bit of a, what I call, a sewer and infrastructure desert. Even the future comprehensive plan for the Town's sewer improvements, which has a 25-year outlook, even that plan does not delineate any specific sewer solution for this property. And, so, it's almost been whipsawed to a certain extent. It's zoned for a use that it will likely never be able to be put to, absent a variance. Or, at least not for any kind of foreseeable future. And, that's the reason why we're here this evening. In fact, there have a litany of developers who've tried to solve that problem, the availability of sewer to the north portion, but also to the southern portion. And, they've been unable to come up with a solution based on what the Town's future plans are for this vicinity. And, instead, what's occurred is that the development patterns have gone on and expanded in areas further north and probably further south and southwest will also be able to be served by future sewer improvements. But, this particular block has been kind of left out. And, that's part of the reason why nothing's happened here for so many years and why the DeRossis really, as

kind of a new iteration for a plan to exit the property to sell it, have come up with a proposal where they want to provide a rural living atmosphere that is respectful of the Town's processes, certainly, and is going to meet the Town's criteria with respect to drainage. But doing so, I think, fully cognizant of the fact that the sewer infrastructure in particular is simply not available and won't be for the foreseeable future.

Jones You're saying the neighborhoods to the west and the north, as well as the school grounds northeast, there is no foreseeable way to connect any of those?

Price There is really not. How those properties have been connected, based on my review of the master plan and my discussions with staff has been to connect to what they call the Cobblestone interceptor. And there is a plan to extend the Cobblestone Interceptor further north. But, the long-term plans are far less defined. And, what they contemplate, and I hesitate to say this because I think it's more of a really broad brush kind of general kind of concept is, the areas that are south of Cobblestone, and including the DeRossi property, there is kind of a general outline that maybe someday there'll be what they call the West Eagle Interceptor, which will flow into a redesigned and expanded Irishman's Run lift station, which itself is going to be redirected to flow directly into the wastewater treatment plant, as opposed to the way that it flows today. And, there is some dotted line shown on an aerial photograph that maybe this might happen in the next 25 years. But, it requires a number of offside easements, a number of other factors that are completely outside the control of the DeRossis. And, I think that's why R-SF-2 property is very valuable in Zionsville. It's unusual to see a request, in fact, I've never heard of a request to develop R-SF-2 property to essentially a 1 unit per 5 acre density when you're entitled by right, assuming you had any access to utilities, to a 2 unit per acre density. That's just not a possibility given the availability of those utilities, the practical availability of those utilities.

Morical Any further questions?

Evinger Are there drain tiles in this field already?

Price There are. We've done some investigation of that. You can see the kind of Y-shaped pattern that extends across Lot 5 and Lot 6. We believe there is some drainage tiles there that may be in disrepair. Part of what's going to happen here, should this be approved, is that the individual property owners, we believe, as part of the drainage approval, be required to investigate those drainage tiles and repair them and make them fully functional again. We think that's part of the reason why some of the surrounding property owners are experiencing the present conditions with regard to drainage that they are today is that there is poorly functioning tiles.

Jones But, Matt, you do understand that that drainage tile then serves as a drainage system for the septic fields.

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- Price That's correct. Yes. And, we're working in close contact as part of the staff review with the county health department to assure that we have the properly connected perimeter drains, etc.
- Morical Any further questions? Hearing none, are there any remonstrators here tonight? Please approach and state your name and address for the record.
- Parker Good evening, Mr. President and Board members. I speak—
- Morical --please state your name and address, for the record.
- Parker I am a homeowner in the Cobblestone subdivision, just north of the property under consideration. My name is Sandra Parker.
- Morical Thank you, Ms. Parker.
- Parker I realize that this is a very unique piece of property the way the zoning exists, and what we're trying to accomplish with it. And, I understand that the DeRossis want to sell their property. That's totally understandable, but those of us that live around it realize that there are numerous problems that we want addressed as this property is developed. Whether it's by these owners that are proposing to the sales, or somebody else, but the one thing that has stood out to me is that there is no overall plan to address the drainage. He talks about individual owners and if you live in the back part of Cobblestone, you know that that property has numerous drainage problems. And, it all drains toward those properties. And, it drains toward the properties on the east. So, without an overall plan, how is this drainage going to be changed? That's the one concern that is the biggest. The second major problem is, we have an intersection out there that is extremely dangerous. The Town street planner has told me that a roundabout there is in the future, but 10 years out. So, that's a long time to put up with adding more properties with more traffic, without a plan. So, we're concerned about what's being done there. The other thing is, on the plots that they've shown, they're putting one driveway for each two plots, per two properties, if I read it correctly. Is that correct?
- Morical I didn't see that, but I'm seeing the petitioner's lawyer shaking his head. So, we'll get an answer to that question.
- Parker Okay. Well, if it is correct, my question is, once these zoning laws are changed, what would prevent these individual owners, from Lots 1 through 12, from going in off of their lot and building more than one home back there. That would be a concern. The other thing, I lived on a septic system for 45 years, and I know some of the problems that can result. And, if it's put in properly, like you said, fine they work great. But, if they're not put in well, they can be major problems and you've got septic waters into your drainage, draining back toward the Cobblestone addition, and that those homes on the east. So, we would like the Board to be aware of all this and address these issues because if there's not an overall plan, they're going to keep going on. Thank you.

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Morical Thank you, Ms. Parker. Are there any other remonstrators here tonight?

Thompson Good evening. My name is Tom Thompson. I live in Cobblestone and my address is 8855 Stonewick Way. Just to reiterate a couple small details and I'm sorry that we didn't get to attend your meeting the other night, but to reiterate what Sandra said, the irrigation is an issue. I back up to one of the homes that 10 feet north of the property line on the north side. It doesn't take much rain for that lot to start draining into our back yard. So, when you talk about a septic tank and drainage areas if you build up houses and everything, for it to run away from the house, from the homes there to be built, that is a concern for us, and hopefully it'll be addressed that it won't cause more runoff when the rains do come. The other thing, just simply for my concern, and it was mentioned a couple times tonight is 12 estate lots. For clarification, I hope that's single family home per lot. And, I just want to put that on the record if I could. That it will be single family homes developed there. Okay?

Morical Okay. Thank you very much.

Thompson Thank you.

Morical Mr. Price. Or, are there any other remonstrators here tonight? Seeing none, Mr. Price, would you care to respond to those concerns?

Price I would. Very good comments. First of all, there is an overall drainage plan. We are being required to submit an overall drainage plan to both the Plan Commission, and in this case, because of the unique nature of this proposal, to the full Town Council. That was something we discussed with Lance Lantz, with the Town's storm water department, actually he wrote a memorandum about it, which he gave us which he felt like that from a policymaker's standpoint, while he could support the results of the overall plan, he felt like the overall plan needed to be approved by the Council. So, we're going to have exhaustive review of an overall drainage plan for the property. That's going to be part of this proposal. With regard to the traffic and intersection, again, we're being asked to dedicate the right of way for the future expansion of the road and for planned future expansion or installation of the roundabout of that intersection to the extent it touches this parcel. I think that's viewed as a positive by the Town. We are also working with the staff with regard to the location of access points for the lots so that they don't interfere with the function of the roundabout so that the design that will be in front of the Plan Commission on our plat and development plan contemplates those future improvements and contemplates that roundabout. I want to be really clear that I can say without any reservation or qualification that this will be for single family housing only, one single family house per lot only. That's the plan. This is an estate lot subdivision. That's what the DeRossis sold this as and that's what they are proposing be approved as part of this proposal. Again, we met with well over 30 homeowners in the area who are experiencing difficulty with their drainage. There is no question about it. But, I think a lot of that relates to the fact that there is not an overall drainage plan for a very large tract of land that this project could serve to address. Our preliminary studies, which we've already filed with the Town, show with regard to the

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southern acreage, which is tilled land, that our proposed plan reduces the runoff by 25%. It's a significant improvement for the surrounding property owners. We haven't had a chance to share that with all of them yet, but we're going to as we continue to work through this process. There is an improvement also for the parcels to the north. I'm not a drainage expert, but as I read it, what I understood is that it was an improvement, but not as great an improvement because a portion of that land is under timber, wood covered, and that affected the runoff calculations as I understood them to be prepared by our civil engineer. Certainly, this proposal, we believe, has significantly less impact than the 200 plus lot subdivisions that have been proposed at this location in the past. Have either not been successful in zoning efforts, and I know have been unsuccessful in coming up with any utility plan to actually support a development of that scale. And, so what this is, is an effort to present a high value, large lot, rural lifestyle living option in Zionsville, done in a responsible way, and improves the drainage situation and we think will be a fine addition to the community's housing options.

Morical Thank you, Mr. Price. Any further questions?

Jones Um, go ahead.

Evinger No, I just, I'm still very curious about this Lot 6, because we're talking about the concern about single family homes, and just the way that pipeline is on that lot, I could see in the future if, depending upon how the setbacks were, if somebody builds on one side of the lot or the other, they'd come before us for a variance to be able to build a second home and split that parcel.

Price Yes, and we've had a lot of dialogue about this internally with the neighbors. We're prepared to commit that the property will not be further subdivided. We're not trying to propose, I think to Mr. Jones's point too, it's not intended to be a bait and switch where we approve a 12-lot subdivision and then it turns into something different than that. So, we're prepared to make that commitment.

Jones I just wanted to check, so Ms. Parker made the statement that the plan she has seen has shared driveways?

Price No, there is no plan that shows any location for a driveway. That's something that, as part of the development plan, we anticipate having a discussion with the Plan Commission about what they're going to want to see with regard to any shared driveways. The comment we have received from the Town so far has been to consider the use of shared driveways in certain places. One of them is, you'll see the creek on the north side that cuts across several other properties. I think it's thought that it would be a good idea to have a single access point for one or more of those lots, a couple, two or three of those lots so that there is one access point with appropriate infrastructure to get across that creek, an appropriate bridge, if you will, to get across that creek. But, there is not a plan that shows any specified access points that I'm aware of.

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- Jones So, you're presenting us a plan that nobody wants to spend any money to do. Nobody wants to go to the expense of putting a bridge to their house across that creek. So, you're suggesting the shared driveway. When you talk about the drainage plan, is there going to be, like, a single retention pond somewhere on this, or are you proposing that each lot have its own retention pond?
- Price Let me respond this way, what we anticipate is that there is going to be some, what I would call, shared drainage improvements, meaning easements, perhaps even physical improvements to the property to retain water. There are going to be other drainage improvements, we believe, that are going to be singular to a specific parcel. And, it's because of the contours of this property, the drawing we gave shows a little bit of it, but there's a big hump in the property towards the western portion of Lot 7 and 10, and so we believe that there isn't one single solution, if you will, that's going to apply to all 12 lots. There's going to be an integrated plan, but there is going to be specific attributes of it that are universal and help the entire development. There are going to be certain aspects of it that are necessary for a single lot. And, that's what we're working on with the Town to submit, work through staff, and have approved by the Council.
- Wolff Mr. Price, you have mentioned several times you are required to have a drainage plan, and you're going to bring those to both the Plan Commission and our Town Council. Are those public meetings?
- Price Yes, absolutely.
- Wolff Do you have a date for those meetings?
- Price We're currently scheduled to appear before the Plan Commission at its March meeting, which I don't have that date right in front of me, but it's--
- Wolff --the 21st.
- Price March 21. I can tell you that I believe that we're going to need to do additional work and may not be ready to present at that public hearing on the drainage issue. We just got comments back today. But, at such time that those plans are heard, it will be at a public hearing. The Council process, and we have no trouble giving notice to the neighbors too, to appear before the Council too, should they wish to attend that meeting as well. It's an open meeting. I don't know that it's technically a public hearing.
- Wolff Meaning that the public is invited to attend, but may not be open for comments?
- Price May not be at that point. What we anticipate that stage being is that at that point, we have an integrated plan that's been blessed by staff, receive the blessing from the county surveyor's office and that it's more of an opportunity to present an agreed upon plan to the Council at that point, after the experts have reviewed it and have indicated that they are comfortable with it.

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Wolff Mr. DeLong, one of the comments by one of the remonstrators was single family, and we've addressed that a couple times, but I want to be clear, if a future homeowner or future property owner, this Lot 10, Lot 6, or something like that, because it is an individual lot, to put 2 homes on it would require a variance, correct?

DeLong Correct.

Wolff Another variance, an additional variance?

DeLong An additional variance. And, certainly, with the commitment to not seek any further subdivision, it would not be something that would go to the Plan Commission, be subdivided and then build one additional home. It would have to be a variance or a modification of what's being discussed this evening as a commitment.

Jones Matt, is there going to be any kind of neighborhood association or common property owned by this, or are these basically going to be exactly what we see, 12 individual lots or, whatever the count is there, 17 individual lots?

Price It's going to be basically what you see. It will be 12 individual lots. There are going to be reciprocal easements and reciprocal facilities relative to the drainage.

Jones But, still anyone in Cobblestone can't really go to the neighborhood association to file a complaint about a drainage issue. They have to go against the individual property owner that's abutting their property?

Price Correct.

Jones Then whose job is it to confirm that whatever drainage plan that's eventually approved is actually adhered to?

Price I'm sorry. I didn't hear.

Jones Whose job is it then to confirm that whatever drainage plan that's eventually approved is adhered to? In other words, what we're saying is, we're going to approve the sale of 17 lots with an overall drainage plan, but since it's not being developed like a regular subdivision where you have drainage swales and retention ponds and storm sewer and all that kind of stuff, there is no, does the Town of Zionsville then have to go after every one of these individuals to get them to comply if they get a complaint from an adjoining property owner?

Price No, I think it's an excellent point. I think that what the process we've tried to engage in, and that we're proceeding with should we make it to the next step with the Town Council, is exactly what you're talking about. Which is, that part of this drainage plan has to be technical, but part of it's going to have to be practical in terms of how to actually enforce these improvements. And, so, we believe that's going to be part of the overall drainage plan, is a mechanism for enforcing this collectively. It may involve the requirement that this group of 12 form an

HOA, or some other corporate organization that would be responsible for assuring that any improvements that are required are actually carried forward. But, that's a step we just haven't crossed yet. But, know we have to as part of this process. Like I mentioned, where we're appearing in front of this board, the Plan Commission, the Council and the safety board, are all going to have an opportunity to defeat our proposal if we cannot demonstrate. And, I think it really comes down in many ways to drainage. If we cannot demonstrate that our drainage plan meets the needs of the Town, enhances the existing conditions, which are poor today, and can be enforced.

Evinger So, today, because they are 12 individual lots, there are no covenants or restrictions, there's nothing that's going to run with the deed. There is nothing that's going to be any kind of accountability.

Price There is not.

Morical Not today, but contemplated are the easements and the drainage easements that would be established as part of the overall development.

Price That's right.

Evinger So, prior to the sale, prior to the closing.

Price That's right. And, as part of our plat and development plan approval process, certainly. That's just the next step for us.

Morical Any further questions? Hearing none, may we have the staff report, please?

DeLong Thank you. A lot of good information this evening, and certainly, staff would recognize this petition and the land as unique for your consideration. There's been a number of proposals even in the last several years, one of which that came to the Plan Commission and the BZA, a second that followed on its coattails, but did not ultimately file. But, certainly, there's been a number of parties that have pursued the development of this land for up to 194 lots as indicated in the staff report. Staff is certainly encouraging of this proposal. It would be amiss not to recognize the thoroughfare plan, which proposes a north-south extension, which would widen 875. What would not come along with that extension is sanitary sewer, as has been discussed this evening. A sanitary sewer because the topography would not come further north, and that sewer would be served from the east or coming from the north towards the south. But, again, this area is somewhat, as indicated, a utility desert, if you will, because of the topography. Staff does have the same concerns about further subdivision of this property. Certainly, the conversation of what is that magic number, as proposed this evening, 12 lots is something that staff is supportive of. The staff report speaks to the very specific lots that would receive, or are up for consideration this evening for variances, Lots 1 through 5 for the septic and well variance, and Lots 10, 11 and 12 for the lot depth to width ratio. Again, it's been indicated there's several different steps along the way that this project needs to visit in order to receive all the approvals it needs to go forward. Certainly, speaking to the shared driveways,

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that is something that's encouraged in the rural portion of the Town. Certainly, it's not mandated and would be conversation with the Plan Commission as to exactly how that will all work out. But, again, staff is recommending approval of the petition, and I'd be happy to answer any questions.

Morical Looking at the recommended motion, Wayne. If you look at the second to last line, it talks about without public water and sewer facilities for Lots 4 through 5 and 10 through 12. Is that just supposed to be 10 through 12?

DeLong The public sewer and water facilities for Lots 1 through 5, and Lots 10 through 12, to be established with a lot depth to width ratio.

Morical Right. So the reference to Lots 4 through 5 should be—

DeLong --should be 1 through 5.

Morical But you've got 1 through 5 in the line above that.

DeLong It's repeated twice, yes.

Morical Okay. Just as we prepare to deal with this, we want to get it right. Okay, Carol, for the petitioner's commitment in terms of only having one primary residence at each one of these parcels, should that be something that we ask them to record?

Drake If you're going to require that, yes. I believe that will be dealt with, though, by the Plan Commission as part of their plat and when they come before them.

Morical Thank you. Any questions for staff? Hearing none, I would entertain a motion.

Wolff I'll make a motion. I move that Docket #2016-02-DSV, Design Standards Variance, to petition for development standards variance to provide for Lots 1 through 5 to be established without public water and sewer facilities, and for Lots 4 through 5 and 10 through 12 to be established with a lot depth to width ratio exceeding 3 to 1 be approved.

Morical Thank you. Is there a second?

Wopshall I can second with contingency.

Morical What's that, Al?

Wopshall That we approve this based upon a Town approved drainage plan.

Morical Okay. So, we would amend it for that. That's fine. John, are you?

Wolff I'm amenable to that.

Morical Okay. Great. All those in favor, please say aye.

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- Drake Mr. Chair, I believe the correction was not incorporated into the motion.
- Morical Oh, about Lots 4 through 5?
- Drake That's correct.
- Morical Will you amend your motion to remove the extra Lots 4 through 5 reference?
- Wolff Yes. Please make a note to amend the motion to remove the sewer facilities for Lots 4 through 5. Yes.
- Morical Al, are you willing to second that?
- Wopshall Second.
- Morical Okay. Any discussion? All those in favor, please say aye.
- Several Aye.
- Morical Any opposed?
- Jones Aye.
- Morical Motion carries. Thank you very much, Mr. Price. Then the Docket #2016-03-SE, we've already continued. Now we're on to Docket #2016-04-DSV, A. Nicholson, 160 North Maple Street. Please approach and state your name and address for the record.
- Nicholson Hi, good evening. My name is Andrea Nicholson, and I'm here representing 160 N. Maple Street.
- Morical Please give us an overview of what you're asking for tonight.
- Nicholson Sure. We have purchased this home in January, and there was an existing one-car structure in the back yard. It was a detached structure. It was a safety hazard. The roof had caved in and we have torn down, with a demolition permit, that structure and wish to rebuild a one-car structure in its place. And, with doing so, we are exceeding the variance of the 35% lot to structure ratio. With the new one-car structure, one-car garage we wish to add, it would be relatively the same footprint as the existing one that was removed. It will match the house and it will provide a one-car plus storage for off street parking through the alley behind Maple.
- Morical Thank you. And, is the general location of the proposed new garage the hand-written rectangle?
- Nicholson Yes.
- Morical Okay. Thank you. Any questions for the petitioner?

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- Jones I missed something. Does it get served off the alley behind the property?
- Nicholson Yes.
- Jones Okay.
- Nicholson And, it would all comply with the code to fit within the alley. The certain square foot off the alley and square foot off the structure and the adjoining property.
- Morical Are there any other questions for the petitioner? Hearing none, are there any remonstrators here tonight? Seeing none, may we have the staff report please?
- DeLong Thank you. Staff is supportive of the petition as filed. Certainly, staff comes to you this evening recognizing that the property had been approved with a 170 square foot approximate sized garage which was demolished in January of 2016. The petitioner is proposing to improve the parcel with a new detached garage. Both garages were single car. They are approximately the same size, if you will. Staff identifies three different pieces of logic to support, which is the logic behind staff's support as indicated in the staff report. Predominantly, it is revolving around request is something that others enjoy in the area and the deviation percentage-wise is a minor deviation, in staff's opinion. And, I'd be happy to answer any questions.
- Morical Thank you, Wayne. Any questions for staff? Hearing none, I would entertain a motion.
- Wopshall I'll make a motion. I move that Docket #2014, it says 2014 on here. #2016-08-DSV, Design Standards Variance, to increase the lot coverage allowance to 37% in the Residential Village District for the property located at 160 North Maple Street be approved as filed based upon the Findings of Fact as presented.
- Morical Thank you. Is there a second?
- Evinger Second.
- Morical Al, are you amenable to amend the motion to reflect the Docket #2016-04-DSV?
- Wopshall Yes.
- Morical Thank you. Is there a second for the amended motion?
- Evinger Second.
- Morical All those in favor, please say aye.
- All Aye.
- Morical Any opposed? Motion passes.

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- Nicholson Thank you, Board.
- Morical We return to normal speed. No dissent. Okay. The next item on our agenda is Docket #2016-05-DSV. Mr. Rottmann, please state your name and address for the record.
- Rottmann Todd Rottmann, address 320 West Hawthorne Street, Zionsville. Hopefully, we'll keep this quick, just like the last one. I want to thank you for your time again this evening. And, I promise this will be shorter than last time I was here, because it would be impossible not to.
- Morical I don't know, Mr. Rottmann. I don't know.
- Rottmann Yes. Never say never, right?
- Morical Right.
- Rottmann Okay. So, I'm here representing Kerry and Carol Dienhart this evening for the new home that they want to build at 260 North 3rd Street. The variance they need is to increase the lot coverage from 35% to 42%. Current zoning is set up for minimum 8,000 square foot lot, which would allow a 2,800 square foot amount of coverage. Their lot is an historically small lot of only just under 6,400 square feet, which doesn't fit into that mold. While their lot will only have 2,643 square feet of coverage, which is less than current zoning allows for on new lots, it does put them at a 42% lot coverage on their lot. Since this is going to be their forever home, they need all critical spaces on one level for their safety and potential wheelchair use as they age. They currently live several houses away on the same street, but their current house does not have everything they need on one level, so that's the primary reason for why they are moving. Obviously, they love the neighborhood and they love this street and this provides an opportunity for them to build their forever home. We don't feel that this amount of lot coverage will have a negative impact on the neighborhood since it maintains similar setbacks and lot coverage of properties in the area. It will be compatible in design style with the surrounding properties. It will increase the value of this property. If any of you are familiar with this lot, you'll know that this will eliminate the current eyesore of debris from a previously abandoned project. We aren't adding a curb cut, and it does provide for enclosed off-street parking for them. I appreciate your time and appreciate your consideration. Thank you.
- Morical Thank you, Mr. Rottmann. Any questions for the petitioner? Hearing none, are there any remonstrators here tonight? Seeing none, may we have the staff report please?
- DeLong Thank you. Staff is supportive of the petition as filed. It's been noted that the property was previously improved with a residential structure and other amenities that went with that. The property in 2011 was cleared of those improvements, except for the foundation which has existed since that event. At that time, the lot

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coverage exceeded the current ordinance standards. What is requested is certainly a percentage that is higher than what was there previously, but it's a percentage that's enjoyed by other properties in proximity to the site in question. In summary, staff is supportive of the petition as filed. I'd be happy to answer any questions.

Morical Thank you, Wayne. Any questions for staff? Hearing none, I would entertain a motion.

Evinger I'll make a motion. I move that Docket #2016-05-DSV, Design Standards Variance, to increase the lot coverage allowance to 42% in the Residential Village District for the property located at 260 North 3rd Street be approved as filed based on the Findings of Fact as presented.

Morical Thank you. Is there a second?

Wopshall Second.

Morical All those in favor, please say aye.

All Aye.

Morical Any opposed? Motion carries. Thank you.

Rottmann Thank you.

Morical The next item on the agenda is Docket #2016-06-DSV.

Mandel Good evening, ladies and gentlemen. My name is Derek Mandel. I live at 761 Franklin Trace here in Zionsville. My wife and I have lived here since 1995, had two kids go through kindergarten through high school here in Zionsville and my wife taught in Zionsville, so we're rooted here in Zionsville. And, I'm here today on behalf of the Boone County Tennis Center. I'm a board member of the Boone County Tennis Center. And, we're here this evening to seek approval of our petition for Development Standards Variance to deviate from the building materials requirement in the Special Use Zoning District. Also here tonight on behalf of our board for the Boone County Tennis Center is the high school tennis coach, Matt Moore, and also Kara Swinford and Meg King, they're fellow board members here as well. A brief history, we are seeking to build an 8-court indoor tennis facility on property located at 4560 South 875 East, which is bordered by the Zionsville Community School system's baseball and softball complex on the west, north and south sides, and the site is about 4.13 acres currently. Let me give you just a brief history of the facility. This came about, and I was checking my iPhone, when I wrote the mission statement back in October of 2012. We'd been talking about it myself, Michael Marine, who's another Zionsville resident and on the board, and also Dave Hunt, who's another Zionsville resident and on the board. We've been talking about putting this, it's a Zionsville originated concept that we've talked about and it has taken several years to get it going and do all the things that we need to do to try to do it right, and it's our goal to make this

the nicest and finest facility in central Indiana. And, I think we have the right people involved, resources involved, and it's our goal to work with the staff to make this a top notch facility that's going to make this community proud and something that will live on long beyond all of us. So, that's our goal is to do everything right. And, we did receive a favorable recommendation from the Town Council, and the recommendation was certified by the Town then to rezone the property from Rural Residential to the Special Use Zoning District. And, earlier today, we learned, my understanding, the rezoning ordinance was approved. I think that was earlier this morning we got notice of that. So, we are asking for a variance to utilize a combination of split face block and metal panels in the construction of the tennis facility. The facility is going to be 58,648 square feet. So, it's going to be a sizeable facility to house the 8 indoor courts and a viewing area where people can comfortably watch the matches and also have all the uses we envision. Currently, the zoning requirements prohibit the use of metal panels, however, historically, we understand large buildings designed to provide non-profit services have utilized a combination of masonry and steel panels, and we've included in our packet examples from the Boys and Girls Club, the Zionsville Youth Soccer, and Interactive Academy as examples of such buildings in the community. So, we brought samples if anyone is interested. We brought samples that I have in the box of the split face block, as well as the metal panel, which I have in the pew behind where we're sitting, which I will be happy to bring up. And, we have the contractors that we've been talking to, we've been working with them to make everything acceptable to staff recommendations. We did note in the staff report that several landscaping recommendations were made, and suggestions that would be complimentary to the height and size of the building. In particular, plantings to serve the block, to block the north and east facades. We also noted the suggestion of foundation plantings, and we understand those concerns and appreciate them and look forward to working with the Town during the plan approval process to address those areas. As I said, the people involved in this project, who started it, Mike Marine, myself, Dave Hunt, it's a not for profit. We're not here to make money on this at all. This is something that we just want to build. Most of us come from tennis families and know a lot of people who are active in the tennis community and there was just a need for a facility on the northwest side of Indianapolis. And, we want to do it right. We want it to be nice and we want it to be the best facility, and that's going to include following the staff's recommendations in terms of planting. We want to do that. We're not looking to, while cost is always a concern, budgetary things are always a concern, we don't want to do this on the cheap and just get by and slap up anything that can go up. We want this to be nice and we're going to work with the Town to do that, including the recommendations made in the staff report. As I said, I brought with me—

Morical --please make sure to speak into the microphone. We record all of these meetings and if you don't talk into the microphone, it's like it didn't happen.

Mandel Okay. I'm use to being in a court and talking before a jury. I roam around all over the place, but I know I've got to get to the microphone. So, this is what we envisioned in terms of a rendering, in terms of the front of the facility and –

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Morical --you've got to head back to the microphone.

Mandel And, the side of the facility, so, hopefully you can see it from there without me getting closer and wandering away from the microphone.

Morical We can, thank you.

Mandel Okay.

Morical What is the color of the roof going to be?

Mandel The color of the roof, we have not decided on final colors. We do have, I did bring with me a sample panel, which I can show you. We're not locked into the color and samples of the split faced block and metal panel as well. But, we're not locked into colors and we want the colors to be something that are not going to be offensive and blend in. But, I'll wander off and grab the panel and I won't speak while I'm doing it. This was provided to me today just as an example of something, and again, colors and not locked into at this point. We're getting close to that stage, but again, we'll work with the staff in terms of coloring and something that's aesthetically pleasing. Let me, hold them up if I—

Morical --I can see them from here, thank you.

Mandel These were given to us by our contractor recently for us to bring in as examples of the coloring and the texture of what would be involved in the process. In terms of the coloring, at least it's been advised to me, there's been no final decisions made on that. But, again, we're willing to work with the staff and make it conform with Zionsville's standards and what the Board pleases. And, I can't reiterate enough, we want this to be nice and we want it to conform, and we're willing to work and we're all certainly willing to listen to get it done properly. Are there any questions that need to be addressed or that you have?

Evinger I think just back to your point, as far as the roof itself, it's matching the siding, then, basically. So, it's not going to be a separate color to be, you know, stand out? It would blend in? That was the original question, wasn't it?

Mandel That was the question, that it wouldn't. That would be the plan as far as I understand it, yes, yes.

Morical Any other questions for the petitioner? I know we got a letter from a remonstrator, which was handed out to us before the meeting tonight, but before we go to that, why don't we ask if there are any remonstrators here in the audience tonight. If you'll please come up to the podium and state your name and address for the record.

Hoftiezer Good evening, Mr. President and the Board. Thanks for letting me be up here. My name is Tim Hoftiezer. I live in Cobblestone Lakes, 8765 Wood Duck Court. I've got letters of such, I could pass out to everyone.

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Morical That would be great. Thank you.

Hoftiezer Thank you.

Morical If you just hand Carol the stack, we can bring them down.

DeLong Is this the same letter you provided earlier, because then we have copies of it already?

Hoftiezer My wife dropped it off last week. All right. In it, we write down several tenets and points. The first thing is that all of us bought our houses knowing that we're protected by the Zionsville ordinances and we paid premium lot prices for where we're located. On top of that, I was not notified of this directly. I had to have a neighbor tell me, and if this is installed, I could probably throw a rock and knock out several car windows from where I live. So, the transparency through mail has been very inadequate and I do not appreciate that. So, we bought premium lots protected by ordinances by our Town, and they're stated on the second page. Secondly, the traffic along there has increased with the growth. During baseball practices and games, there is a great amount of traffic. Their exit and entrance is a blind spot coming from Zionsville Road up. Then also on that, there is a future plan to widen 875 we keep hearing about tonight. Where is that going to happen with their certain plot right now. It feels like that our side will be eaten up, along with our walkway. So, on top of that, so a setback issue for entering and exiting, and also a setback like Azionaqua, the Boys' Club, everyone they spoke of has setbacks for a set of purposes that is lacking in that plan. Then, on top of that, those places they talk about with the mixed metal, that's outside of Town limits. All of them are. We've never, ever done this before. The storage units are all brick. There shouldn't be metal outside my back door when I can't even put one in my own neighborhood.

Morical Mr. Hoftiezer, so you live right on—

Hoftiezer My corner of my lot kisses 875. I'm part of a pie of the cul-de-sac, and my lot, if extended hypothetically, would hit the corner of 875.

Morical Okay. I think we see that. Right. So, you're 8765 in the cul-de-sac. Okay.

Hoftiezer Yes. Then, on top of that, the whole plot they have designed for 4 acres fills up the whole land. Our flooding down later in our neighborhood is an issue that I don't know has been addressed or not by them. But, they've got one runoff pond for the high school, which connects to ours, which connects down. It connects down. In that horrid spring of, was it, 2013, we had a huge problem past the pool and then an old original section before the recession. And, the issue of green space versus soil, you know, suck up of drainage issues, over pavement, it's a big concern for us. And, there is a lot of parking spots. And, 8 tennis courts is a great spot. I think this is going to be a great thing to do for our Town. I don't know if this is the right design and place for it. And, then on top of that, we're bypassing ordinances that have been on the books, and they're going to bypass more ordinances on the books for a special project, which is wonderful, but then, in the

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future, what does that also protect other people like me who don't have a voice, we don't have big project names behind us to be protected from development outside our back door that was not originally zoned that way when we bought our property. Without any future considerations where that property could have gone when I bought it. So, that's pretty much my issue we have at hand. The future expansion of 875. There is no room on their side. Then, the whole drainage issue, traffic count, and then, all that metal. We have never allowed that in our Town. It feels like to me, I'm not an expert, sorry. but, all those places they speak of are outside Town limits. ZOSA, the Boys' Club out west. I mean our storage units here are all brick. Why shouldn't this be all brick as well? I have no opposition to a tennis center. I think it's a great idea. I don't play tennis, and by the way, I've been a resident here since the 1990s as well. And, I've got a family that went through the school system as well, so, I have as much tie and investment to this city. I helped build Pleasant View playground. I've been here many, many years. So, it's not like I moved here from out of state. I know what this Town's about, and I don't think it's about putting a big metal shed in someone's back yard without having a voice about it. Thank you for your time tonight.

Morical Thank you, Mr. Hoftiezer. Any questions for Mr. Hoftiezer?

Jones Real quick. How long has that property over there been zoned for, I guess it would be, special use. Right? For school use? What do athletic fields fall under?

DeLong Well, the property previously was zoned R2. And, I do not have the rural use table in front of me. I was working with browser here. The property's been zoned since 7:30 this morning for a special use.

Jones I'm sorry. Not this parcel, the fields next to it.

DeLong The fields next to it, I would say 2008, oh, 9 or 10. 2010, 2009 is when the school rezoned the site for the football fields.

Jones And, most of that parcel, we see that actually sort of wraps around this tennis facility, is actually all school property, right?

DeLong Correct.

Jones Am I hearing correctly, they just had this one outlot they were never able to acquire?

DeLong Right.

Jones Where the tennis facility is—

DeLong --What is proposed this evening has always been under private ownership by a third party.

Morical Do we know what the development plans are for the school property?

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- DeLong They do have a master plan. It does show additional ball fields to the north and, certainly, I don't believe there is any additional buildings that would come further or closer to 875 specific to where this property's located, this 4 acres. They've recently constructed their outdoor tennis center just to the west of this property. It's not indicated on the aerial.
- Morical Mr. Hoftiezer's concern about drainage. Is that, do they need to submit a drainage plan for their approval?
- DeLong There would be drainage reviewed during Plan Commission's review of the development plan. I believe it's the petitioner's intent to demonstrate that the drainage can be accommodated by the schools existing drainage infrastructure, and that the school will agree to provide that access.
- Morical Is that the pond located to the north?
- DeLong That's correct.
- Morical Mr. Hoftiezer, you heard the comments about additional landscaping that would be required. I don't know if we went into detail, but—
- Hoftiezer --I'm sorry. I saw it, but that structure is so vast, it really won't matter. Those aren't going to be evergreens up there. Power line issues, movement in the future. It's a vast structure. And, it's the whole plot. The original plot was set back further with a smaller number of courts, that I saw in the past. Again, I just got wind of this last week. This is all new to me. I have not followed the process. Again, I think it's a great idea. I do. We've got the soccer fields. We've got Azionaqua. I love this idea. I just want it done right. He said that we want to do it right, so let's do it right the Zionsville way as you said. There's never been a metal structure close to a bunch of neighborhoods. Even the school system built an all brick system next to Pleasant View just recently in lieu of where it was supposed to go.
- Morical Wayne, do you see an opportunity to put a berm in, or something that would allow for, on 875, that would allow for more effective screening of this structure.
- DeLong There is a number of opportunities. The dedication of the right of way is per the thoroughfare plan. So, the land that is left to work with is about, the site plan shows that to be about 30 feet. I don't know if anybody is in the audience that could speak to the specifics of the site plan. It's my understanding that the buffer yard and some of that area will be utilized for drainage. There will be a drain pipe underground, which does complicate things a bit with a berm, and it also complicates things a bit with root systems of deciduous and evergreen trees. What staff has discussed with petitioner's representatives, and would certainly present to the Plan Commission at the appropriate time, is discussion of that landscaping package. What staff would encourage is specifically the use of Norway spruces, sunset red maples, and crab apples. So, you get some decent height, 30 to 50 feet, at maturity, yes maturity is a certain date way in the future, but certainly with alterations, spiking, other activities, you can really encourage

that growth to occur more rapidly than just naturally. So, those are some things to think about beyond just berming, getting some landscaping plantings along the north and east facades to provide for some additional screening.

Morical And, our focus tonight as it relates to the variances is on the architectural features, right? So, it's really about the metal siding?

DeLong That's correct. And, certainly, what's been talked about is Interactive Academy, Youth Soccer, Boys' and Girls' Club. Those are three facilities that were all approved in the county by the Area Plan Commission. Those facilities are technically in Town, however, those were not approved by the Plan Commission, the one sitting in these seats every month. Be that as it may, I mean, this property zoned R2, could have had that same request come in front of the Plan Commission that you're seeing tonight as SU-7. So, in essence, if the property would have been left alone and not rezoned to R2, you would have not had the opportunity to discuss this as a variance, but this would fall to the Plan Commission at a future date for discussion. So, the zoning layer of rezoning an SU-7 has added to the discussion, but does create the opportunity for this exact dialogue.

Morical And, again, the variance is about the architectural features of this building?

DeLong That's correct.

Morical If the building was made of all stone, there would be no variance required, or would there still be one?

DeLong There would be no variance. There is, no one's discussed the roof structure. We do have metal roofs in Town. We do have shingled roofs in Town. But, certainly, I think the Plan Commission would be interested as well in discussing next week the roof structure that's being proposed, but no, the variance that's in front of you is for the lack of masonry and the use of the metal.

Morical Mr. Hoftiezer, I don't know if this is practical, but if the eastern wall were masonry, would that help alleviate your concerns?

Hoftiezer Part of the concern is, now it's after the fact, because, as again, I got wind of this late, is when they widen 875, which is not tonight, I know that, where is that widening going to take place? Is it going to take place on the west or the east, a little bit of both? The traffic blind spot, I mean, there is a lot of safety issues that they approved, I understand that. The brick, I think, Mike should step forward on that issue. He is the one who directly backs into that. That's nice. I prefer all brick myself. That's where we've always feels like we've done, and those places when they were built, was there a big residential buildup around it already? Or did the residential growth come after everything was built. The land of Interactive is so by itself on Michigan Road. In comparison of apples to apples with those structures is not the same. Those structures were built either so far out of Town at the time, and then the growth came around it, or there was so much land already around it, and they could set it back, and that sort of thing they have,

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both of them are set back. They're set back quite a bit from, through parking lot and through, you know, a setback. It feels over paved and large. I know we're talking about materials tonight, I apologize. But, it's not fair to compare those structures to this structure. There are two different situations now.

Morical Thank you, Mr. Hoftiezer. Any further questions?

Jones Yes. I'm going to butcher your name.

Hoftiezer That's okay. You can call me Tim, please.

Jones Tim, so, behind the Cobblestone houses between 875 and the residences, is that sort of a biking trail or part of a trail that's intended to be connected in? Is that what I'm seeing on the aerial?

Hoftiezer Are you talking about on our side of the neighborhood?

Jones On the east side of 875.

Hoftiezer That is not connected in. I don't know the Town's plan with that. There was that Heritage Trail proposed from that dog park, that the Parks and Rec put in, that they were going to connect into Lebanon. I don't know the details. I read everything through, you know, the Sentinel Times. I don't go to a lot of meetings. I apologize. I don't know that information. A great question. It's pretty, but it does have a dead end on both ends.

Jones Well, and I think the long-term, and that's even kind of interesting that we're picking that up. It's something to bring up with that previous project that we discussed. Then, Wayne, what we're looking at is a 35 foot setback from the center of 875. Correct? Half right of way?

DeLong The dedication of a 55 foot path.

Jones Okay. So, there's 55 then another—

DeLong --The ordinance would only require a 10 foot building setback line, but an overall 20 foot buffer. So, what would be required by ordinance is a 20 foot setback from the edge of the proposed right of way, which is 55 feet from the center line.

Jones So, what we're seeing along the east edge of the property is, from the center line to the road, is a 55 foot setback plus another, what is that in there? What's the additional building setback line?

DeLong It's in total, you would see 75 foot setback from the center line of 875.

Jones To the building line?

DeLong To the required minimum building line.

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Jones And, then the building sits back beyond that line, correct? Is what we're looking at?

DeLong That is what you're looking at. Might ask the petitioner if someone could speak if there is any additional changes that are happening with the building that are pushing it forward.

Jones I guess what I'm grinding away at is that we'll have the same kind of half right of way and setbacks on the other side of the property, so we're getting close to 200 feet between the resident lots and the structure. Am I doing my math correct?

DeLong Correct. I don't know the dimensions of the right of way along 875 on the east side.

Jones On the east side?

DeLong It looks as if appropriate right of way has been acquired.

Jones And, then any future widening of 875 would happen within that existing right of way. In fact, if you look at the Exhibit 2, it starts to show the right of way line and then the actual lot lines. And, then I guess the final comment I'd make is that my past history, I've built these kind of buildings, pre-engineered steel buildings with steel skin and a masonry base and you're doing a masonry base because it's durable, withstands lawn cutting and the general wear and tear. The balance of it going up is steel panel with insulation and, you know, it's basically designed to withstand the wind loads and get the clear span locations and so there's actually a lot of method to why it's assembled and put together the way it is. Just that it's the most efficient layout. You start trying to run masonry up that high and on those kind of walls, one, you end up with something that's quite monolithic looking, and two, it's just a long-term maintenance item for anybody that does it. You know, walls that big, they get wind load, heat, sun, they move, they expand, they contract. Long-term, the tennis facility would have a better ability to plant and do some low screening that over time would grow up to cover that, than I think what you'd end up. I know what you're saying would look good, and I've seen the self-storage units in downtown Zionsville, but those are actually sort of smaller scale and tucked back in.

Hoftiezer That's the issue, tucked back in. That's why I agree with you there. Tucked back in. Let's tuck that back in. I mean, this is a curveball that none of us in our neighborhood expected. I understand that it's free will and all that issue at hand, but there's ordinances in Town that hopefully protect us homeowners when we bought our lots at a premium. So, that's why I'm here.

Morical Okay. Thank you very much for your comments, Mr. Hoftiezer. Are there any other remonstrators here tonight? Seeing none, would the petitioner come back up please? Does the Boone County Tennis Center, the non-profit, own this property?

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- Mandel Yes, we purchased the property. Yes, we do. We put money on, we own the property, if and presuming everything would go through. It's ours. We own it.
- Morical So, you have a purchase agreement that's contingent upon this?
- Mandel Correct.
- Morical Okay. So, you haven't actually purchased it yet?
- Mandel Correct. We've put money down, but we have a signed agreement to purchase the property. But, obviously, if this didn't go through then the owner was kind enough, because he recognized what we're trying to do for the community and extended that courtesy to our group, which virtually no one, you know, that's such a kindness that he did. So, that's where we are with that, yes.
- Morical So, you may be familiar that in order to approve a variance request the petitioner needs to meet the burden of proof on 3 factors? I'll just read two of those that I think are relevant to this discussion. The first is the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. And, the second, which is actually the third item is, the strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of the property. I'm struggling with those two items. Mr. Hoftiezer stood up and articulately pointed out how significant an impact this is going to have on, kind of, the view shed to the neighboring residential pieces of property. Would you care to talk to how this would not cause a substantial adverse effect on that subdivision?
- Mandel Yes, and I appreciate your comments in coming here this evening. And, I would point out, we have had an ongoing dialogue with the homeowner's association President of Cobblestone, who's known about our intentions from as far back in September, October. We had several town halls, which were well attended, including by the President, I believe, I'm not sure he's from Cobblestone. Oscar is his name and we've had an ongoing communication with him and trying to work with him and keep him advised of what's going on, or that we intended on going through with the project. And, we have had communication with the Cobblestone leadership, at least on a number of occasions. With regard to the aesthetics of it, I mean, Tim proposes, we make it brick. And, I think from a practical standpoint, anyone that's familiar with facilities such as for a tennis club or a sports facility, it would be so cost prohibitive the project would just, it couldn't go forward in terms of making it happen. Any other tennis facility that I'm aware of in the State of Indiana that I've been in, and I've been in many of them, you know, to have it all brick it would be cost prohibitive. And, we think, and I'll get to your other concern in a second, the other element, is that the value that this is going to bring to the community and the hundreds and thousands of people that will get the benefit, hundreds over time, over years of students and Zionsville youth and Boone County youth and neighboring counties use that will use for it, is going to be substantial. The parking issue, which ties into part of it, there is only going to be, I believe, 50 spots. On 8 courts, the most players that would be on there would be 32 at one time with some fans. It's not going to

generate any significant traffic at any one setting. There might be a tournament on a weekend or so, but it's not like the magnitude of a soccer tournament or a baseball tournament. It's tennis. It's going to get its people through there, but in terms of the resources having to do with traffic, increased traffic, we don't anticipate there to be significant traffic from experience with other tennis clubs. With regard to the aesthetics, some of the suggestions you put out with the shrubbery and the trees, we think that can address a large degree, with time as they mature to grow, to help with making it pretty for people to go by. And, we think we can work with some of the suggestions by the staff to make that happen, to get it looking nice. Is it ever going to look like a brick facility? No. But, there's a reason why there is no brick tennis facilities around. Because it's just, it's not going to happen. And, the community, we think, in terms of the value, turn it into one of your other elements, is going to increase. Whether there is statistics on it or not, but a tennis center, we believe, brings a level of prestige and access and will bring people to the community inside the community to use it, people outside the community to put money into it, to put resources into it. And, we believe that the facility, I think it can certainly be argued that having that kind of access to a first class, maybe the best tennis facility in the state in your neighborhood and access can arguably for every reason to say that it might decrease their value, I think an argument can be made it's going to significantly increase value to have that kind of access, if it's done right. If it's done right with staff, communicating with the staff to make it look right by what you can do, trees, shrubbery, building it off the road. I think you indicated with the numbers, it's built off the road even more than the minimum in terms of the numbers that you put there. So, we're willing to do everything we can to get it done right within reason. Cost obviously is a factor. This is a privately funded matter. There is not getting any money from the state. Not getting any money from the school. This is something that we've hit the pavement on and got into the community and reached out to different families. We have corporate sponsorship. I would like to point out, our facility is called the Boone County Tennis Center, but it's renamed the Pearson Automotive Tennis Center. John Pearson, a long-time Zionsville resident, and a long-time tennis player, tennis family, is excited about the project. He's got involved and has committed a corporate sponsorship to be involved with this. We're renaming in light of his generosity and vision to make this a better Zionsville. This is a man and a family who's been in Zionsville in excess of 50 years, and he believes in this project and believes this is going to be done right. And, he wouldn't put his name behind it, nor would any of us board members, unless we're going to do it right, to make it something this community can be proud of. And, it will be proud of it, because we're going to work with staff. We're going to do what it takes within reason. We don't have an unlimited budget, but we've got good support from several businesses in addition to Pearson who've committed various sponsorships to this that we're not disclosing at this point, but commitments, financial commitments to be involved with this. We have private members from inside Zionsville, Boone County, who have committed memberships, so we're going to try to do everything within reason, within the cost reason, to satisfy those elements that you pointed out, Mr. Morical, that need to be satisfied with as far as the elements to make this go forward.

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Morical Well, you've effectively addressed the first element that I didn't read, which is that the approval will not be injurious to the public health, safety, morals and general welfare of the community. In other words, I think that everybody agrees that having the tennis center in Zionsville is terrific. It's a great idea. Would love to have you guys build it. The question is, is this facility on this piece of property with this variance the right thing to do. And, that goes to the other two elements, which is the substantial adverse effect on neighboring properties and is essentially this zoning variance necessary for the development of this parcel.

Mandel I think the variance is necessary in order to come within budget. And, we've gone and studied several tennis facilities in Fort Wayne, Evansville, all throughout Indiana, to find out how is it done. We got the blueprints from one in Evansville. We went and toured and got insight from one in Fort Wayne, which is one we really like in terms of it being a first class facility. So, we've looked at numerous tennis facilities all throughout the state to try to figure out what's the best way to do it that we can make it a first class facility, and measuring the cost, and every one of those has some degree of the metal that we're talking about. It's not going to be just a metal shed. We think there are things that can be done, you know, to alleviate that concern and make it aesthetically pleasing, not just with the trees and what not. And, I'm not the contractor person part of who put together the petition. We do have Max Mouser and several others, who I believe, communicated with the staff who can better address that, but I think we have made some suggestions in there to make that more aesthetically pleasing. I don't see the substantial, and, the value I think could be argued, and I'm not here to argue, we're here to get a facility. I'm not looking to pick any arguments, but I think having a tennis center in a facility increased, in my opinion, I'm a tennis player and I might be a little bit biased, but I think that's a level of prestige. A tennis club, golf club, those are the kinds of things when people are looking to move to a community and they're coming in from out of state, they've been transferred from some company, they're going to look at Zionsville if it's got a first class tennis center. It's going to attract more people with certain demographics and income that will bring, you know, come to this community because of a facility like that, presuming it's done right.

Morical How tall is it going to be?

Mandel I don't know that off the top of my head. But, I'm sure it's in the submitted materials that went to the staff.

Morical Again, my question isn't so much of you guys building a tennis facility in Zionsville. I think that's great. You guys building it with masonry around the bottom, metal sheeting on the top, the sizing of it, that you've reviewed other facilities, all that's great, great, great. The question is, should we be granting this variance on this piece of property to put the tennis center right there? And, I'm glad you didn't buy it yet.

Mandel What?

Morical I'm glad you didn't buy it yet.

Jones Well, but maybe a couple other questions to look at is, one, so probably the best buyer for this property is the school system. So, what would the school system do? And, if it was the school making this proposal, would we hold it to the same level or same standard. And, if the school doesn't buy it, obviously it's not particularly an attractive piece. It's being used sort of as a farm. I understand the concern about the adjoining property owner's value when they look out and see this. But, I think there's also a certain value in having a tennis facility nearby your neighborhood. So, I live in Austin Oaks and we've got outdoor tennis courts and then we have a building that's been converted into an indoor tennis court. The neighborhood would love to bulldoze the damn thing. It's just a maintenance sucking mess. So, while it looks like a very nice barn-type item, it's the maintenance, the sprinkler systems, you know, we're trying to find uses for it. The neighborhood would just as soon bulldoze it. But, we get into a situation where we have a few residents who really love it. They bought in the neighborhood to be there, and so we're put in between. The benefit of having a tennis facility in an area next to other athletic fields is it sort of puts all those kind of uses together. It doesn't generate really any high amount of trash or other, you know, it's not going to generate a lot of trash. There is not going to be, I think, a lot of retail going on. I'm sure there is going to be some pop machines and some other stuff. A few amenities. But, in terms of a commercial structure and how it actually would impact the adjoining neighborhoods, I think there is probably going to be a certain amount of the neighbors in there that would really love to have that facility close to them since it's more of an adult use than it is a kid use, than the other soccer fields and baseball field attract.

Mandel Can I add to that as well? I know numerous Cobblestone residents who I play tennis with regularly and agree. I'm not just talking one or two, you know, I'm probably talking close to 10 that I've heard from who are excited about the facility. And, in terms of that area, as you said, Mr. Morical, why that area? That area is the ideal area. You've got 12 outdoor courts within walking distance for this. Having this indoor facility built the way that we're going to work with the staff to get it built will become the premier tennis, and I'm not trying to sound like a salesman, it will be from seeing many tennis courts, indoor and outdoor, to have the outdoor and indoor that close to one another, will be the premier in all of central Indiana, if not all of Indiana as far as having a tennis facility, as will be so well used by so many youth in Boone County. To have that access, right now, Boone County, Zionsville kids have to go to Carmel. They have to go to 38th Street. They have to go, you know, all the way to the east side to play tennis. And, that quite frankly, impedes, you know, the Zionsville tennis. I'm also the Zionsville Middle School boys' tennis coach, I've been doing in addition to my full-time job, I do that. I've done that for the last 7 years where I come back and teach the Zionsville Middle School kids. These kids don't have an avenue where they can go like the Carmel kids to, or some of the other communities where it's right close by for them to do that. And, having an indoor/outdoor facility here will enable the Zionsville kids, the athletes of Zionsville and the families of Zionsville to love and play the game of tennis and have it, and that's the perfect location. I can't think of a better location for the youth of our community, is to have it there because of the connection to the outdoor courts and the ability. So,

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in answer to your question, I don't think there is a better parcel, presuming we build it right and work with the staff to get it as good as we can within the confines of the budget to get it done than that facility right there.

Morical Okay. Thank you. Mr. Hoftiezer, do you have some further comments?

Hoftiezer Oscar never approached any of us in the cul-de-sac, and the HOA issue. Secondly, why didn't the school system buy it already and develop it, and if they did, they'd have it set back further. I don't disagree about how cool this location is tied to the other tennis locations, etc. It needs to be set back. It needs to be aesthetically pleasing for everybody who walks by it. This plot is too small for how big this structure is. This structure eats up the whole thing. There is no way they can mask this behind a few trees. It's going to be massive. And, then the noise, the hours, the traffic. He's underestimating, I think, how much traffic that's going to create. How many cyclists go through there. It's a lot. A lot of blind spots. I'm done. I'm sorry to take your time tonight. It's late. Sorry.

Jones You're fine.

Morical No, no. Thank you.

Wopshall All we're deciding today is the materials.

Hoftiezer I understand that. But, the bigger picture, I was not aware of that discussion, the bigger picture. I was never aware of this until recently, so that's why my points are over-exaggerated with other things. I apologize. You're right with materials. I apologize to stay on point. I apologize.

Morical No, no. That's fine. I mean, the variance is about the materials, but we still have to answer these broader questions on the development. Any other remonstrators here tonight? Staff report please.

DeLong Thank you. As indicated, the property is zoned SU-7 by action of the Plan Commission and certainly the Town Council and ultimately the Mayor has signed off on that proposed resolution making it official. Staff is supportive of the concept of the tennis center being located on this property. The height is not a piece of information that's clearly indicated within the filing. Certainly, for the BZA staff believe that the first 10 feet of the building is the courses of block. The ultimate height of the building would be about 36 feet at peak. Certainly, there is internal standards for tennis facilities based upon certain criteria, free span clearance areas for game play, if you will. Staff is encouraging of landscape plantings that serve to screen the facility, certainly as mentioned previously, Norway spruces, red sunset maples and crabapples. Those are 3 types of species that can achieve some pretty significant height pretty quickly to serve to screen the facility. As far as the right of way widening, certainly the site plan in front of you anticipates that happening, so staff believes the appropriate dimensions are there to work from and have discussions about. As indicated, the variance this evening is related to materials. Certainly, it's up for discussion with a history of those materials in the Town. Boone County has been supportive of those

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materials. Certainly, that's a different conversation than what the Town would have, it's in your geographic area today are facilities that enjoy the use of metals and some level of masonry. Again, staff is suggesting that if the petition were to go forward with proposed materials, that landscaping be installed to mitigate the view shed issue for the public. Again, staff is recommending approval subject to the items as discussed. And, I'd be happy to answer any questions.

Morical Thank you, Wayne. Any questions for staff? Any discussion amongst the Board?

Wolff I'm challenged. Specifically, I certainly appreciate the need and the desire for many of our community members and including our Town Council and Mayor supporting projects like this. I appreciate that. The question I'm asking myself is, if I was to live at the remonstrator's address, would I want to look at that in my back yard. That would be one side of it. The other side that I'm looking at is, well, just past that facility, or proposed facility is the community's high school and middle school's sports facilities, which would be consistent in nature with this use. So, this is a challenge for me.

Wopshall Well, if we deny this, the building can still be built, just use the proper materials. It still doesn't affect the neighbors any differently, except it looks different.

DeLong Correct. The use is permitted by zoning. What's in front of you this evening is a discussion about the architectural features. There have been some questions this evening, certainly one of those is, at least from staff, is the use of landscaping, what would that do to potentially screen the facility? One item for discussion potentially is to ask to see some sort of architectural rendering with those plantings brought in, ghosted in if you will, to give you an idea of what screening would look like, 2, 3, 7, 10, 20 years out. I don't know if that would reach to address any remonstrator concerns. But, certainly, that's one item up for potential discussion.

Morical Carol, is our focus tonight to only answer the 3 questions in the context of the materials and not the overall building? In other words, do we need to answer the question of whether the use and value of the adjacent property in the variance would not be affected in a substantially adverse manner as it relates only to the materials that are being put on this structure? Not the structure itself?

Drake Yes. Because, the materials are the variance.

Morical Okay. So, in terms of the use, intensity and the size of this, and putting it in this place, that question has already been decided by the Town Council, by granting this zoning change.

DeLong The rezoning allows for the construction of a, allows the property to be used by a non-profit. It doesn't say tennis center. It doesn't say—

Morical --But they did that in the context of this tennis center?

DeLong Yes, 100% understanding that the rezoning was to serve—

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- Morical --So, our elected officials, directly elected officials, decided they're okay with this.
- DeLong Yes.
- Morical So, the only question for us is, are we okay with the masonry up part of the way, metal siding up the rest of the way?
- DeLong Yes.
- Morical Well, that focuses it. Any further discussion? Hearing none, I would entertain a motion.
- Jones I move that Docket #2016-06-DSV, Design Standards Variance, to deviate from the building materials requirement in the SU-7, Special Use Zoning, be approved as filed and as presented.
- Morical Is there a second?
- Wopshall I'll second.
- Morical Are you amenable, Larry, to amending your motion to have it be subject to an enhanced landscaping plan approved by the Plan Commission?
- Jones Yes.
- Wopshall I second that too.
- Morical Okay. All those in favor, please say aye.
- All Aye.
- Morical Any opposed? Motion carries. Thank you very much. The last substantive item on our agenda tonight is Docket #2016-07-DSV, 91 South Main Street. Let the record reflect it's Mr. Price again. Mr. Price, if you'll please give us an overview of what it is you're asking for tonight.
- Price Absolutely. Yes, thank you, Mr. President. I'm here on behalf of the applicant CK Price Properties, LLC, principal of which is my father, Ken Price, who's sitting in the front row right there. To give you just a little bit of an overview of this project, CK Price has the Carter building under contract. Our contract is contingent upon the granting of this variance. It's really the last remaining step in our due diligence process relating to this variance. Just to give you a little bit of an overview of the site and I'll describe the nature of our variance. I know you're all familiar with it, but behind Tab 1, we've circled the building, which is at the northeast corner of Oak Street and Main Street. This was a building constructed in 2005. It's 3 levels, 14,000 square feet. It's been vacant for the last few years, as you all are probably aware. Initially commissioned as a toy museum for Mr.

Carter's very expansive and beautiful toy collection, it also had kind of some couple of ancillary uses for an ice cream shop and there was an arcade-like feature in the basement, which you may recall at the time it was open. Behind Tab 2, we put together a site plan that depicts the property. It has several parking areas but a couple that I'll describe that are relevant to the variance request. The property is equipped with, we counted at least 6 on-site parking spaces to the east or rear of the building on a brick, kind of, parchment area. It also has a garage which houses, we think, up to 3 cars inside the garage space. Then, I'll go ahead and mention it because it's also included with this property is, south of Oak Street on the property immediately adjoining the Carter building, there are 6 off-site parking spaces that come with the Carter building property that are dedicated parking for uses that are within the Carter building structure. Behind Tab 3 is a front view of the property. As you all know, Mr. Carter spared no expense in his design and construction of the building. It represents really one of the more modern facilities or buildings in our downtown today. It's ADA compliant. It's fully sprinkled. It has a functioning elevator, which goes to the 3rd and top floor. It's filled with high ceilings and very nice finishes throughout, and we believe it will be well suited with some additional work for some type of mixed use development, including some retail, office and perhaps a restaurant use. Behind Tab 4, and I'll move quickly, is a view just looking north up Main Street. As we all know, there is some parking available along each side of Main Street. Behind Tab 5 shows the rear parking area. This is immediately on the east side of the building, the rear portion of the building. You can see the garage doors for the garage space. It has kind of a ramped entrance. I think some of that's to represent ADA compliance. Some of that, I think, is just Mr. Carter's background as a mover. There is a lot of just bells and whistles and features to the building that I think were for his convenience in moving items in and out of the building. And, then, behind Tab 6 is a view looking kind of south and west. The off-site 6 parking spaces would be on the left side of that photograph, on the other side of those cars which are parked facing east on Oak Street, where the on-street parking is located. Then, behind Tab 7, we presented to the Governmental Affairs Committee of the Chamber of Commerce last Thursday, and received the support from the Chamber of Commerce for this variance request. Let me just make two closing comments, and then I'll be opening it up for questions you may have. My family and extended family owns a couple of properties along Main Street. We own 58 North Main, which is where the Persnickety Stitchers is located and a hair salon, and then my father, also, over the last couple of years, purchased the Potpourri building, and did, as you may have seen, a number of improvements to the building inside and out, but they're particularly striking when you look at the front of the building and the rear along First Street, well, actually the second front now along First Street. We've made it a practice that when we've invested in a property in Zionsville, we've made substantial improvements to the property. We've gone through the school of hard knocks in learning a little bit about the commercial real estate environment in Zionsville. Frankly, have had some success, but also made our share of mistakes. But, believe that we're uniquely positioned to really elevate our game, if you will, and move into a larger structure. I will tell you it is a bit of a leap of faith. We do not have an end user identified right now at all. We hear rumors of various uses from software companies to potentially a small retailer to something called a Tap

Room. And, we've not talked with any of those business entities. We've just heard that through area brokers. Our intent is to do, much like what we've done most recently at the Potpourri building, which is to have a mixed use of clientele that are good tenants from a business standpoint, but also good tenants from a mixture within the Zionsville business community. Just to give you a little bit of flavor for the Potpourri building, we have the Perfumery in that building. We have the cell phone and computer repair business, which is also on Main Street. And, then we have a variety of other uses that are more office in nature, like some business consulting firms, a licensed physician that have occupied some of the other spaces at the Potpourri. We think the same can be done in an appropriate mixture inside the Carter building. But, we realize that's going to be a work in progress. It's going to be something that's going to take a great deal of effort and additional investment, because the space is really not laid out for any particular use. It's going to require remodeling and additional efforts and investment. Here's why we're here today. When Mr. Carter got a variance in 2005 to build the Carter building, that variance was limited to a toy museum. And, the grant of the variance specifically says that basically, if there is any change of the use, you need to come back to revisit the parking variance that was granted at that time. In doing some of the math, and I've talked about it with Wayne, it appears that the required parking for Mr. Carter's toy museum was 18 parking spaces. Under Zionsville's village zoning ordinance and the way we calculate parking, he was required to have a parking space for every 1000 square feet of gross square footage divided by 2. And, so, what we came up with was, I think that's right. I'm doing my math wrong. I'm sorry. Yes, it's 3 per thousand feet. I knew that didn't sound right. Multiply that times 14,000 square feet. Divide that by 2, and we came up with the 18, or 17 1/2 rounded up to 18. And, so, what we're proposing to do and what our variance request is, is to essentially mirror that, except not for a toy museum use, but to propose that we have up to 10,000 square feet of what we're calling commercial uses, which would be a mixture of retail, office and perhaps a restaurant, plus up to 4,000 square feet of residential space. The 3rd floor is organized and decorated like a condominium. It's got high ceilings, a kitchen, bathroom facilities and could be used as a dwelling. When you do the math for that, 10,000 square feet of retail or office, plus up to 4,000 square feet of residential, you come out with essentially the exact same number of required parking spaces as what Mr. Carter originally was required when he sought his initial variance in 2005. Now, that variance was made subject to having off-site parking remain dedicated to the Carter building, and we would do the same here. We would commit that the 6 off-street parking spaces that are off-street and off-site, behind the book store on the south side of Oak Street, would also remain designated for use and connection with the Carter building structure. So, we would respectfully request the approval and would be happy to answer any questions you have about the petition.

Morical So, Mr. Price, when you're talking about those other dedicated spots, those are not shown on the site plan. Is that correct?

Price They are not. That site plan really just shows our site, and so it is a separate parcel that can be separately deeded, as we understand.

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- Morical Is that behind Tab 1?
- Price It is. I have a close-up of it, as well, that has a, uh, it's off the listing, the commercial listing, which I could also show to you.
- Morical Okay. So, it's those parking spaces plus you've got the available parking spaces on the east side?
- Price Correct. Which we count as a total of 12. We marked it off and the width of the off-site parking and the width of the parking immediately behind the building appear to us to be the same. So, it'd be a total of 12 dedicated parking spots, 6 on-site and 6 off-site for the building.
- Morical I think the site plan behind Tab 2 talks to the number of spots behind the building as being 5.
- Price I know that's what it shows.
- Morical It's the darn architect?
- Price Yes, I don't know. We walked it, paced it off.
- Jones So, Matt, you're asking to provide 6 fewer spaces than you're required. You can provide 12, you need 18. So, the variance is for the 6 spaces you can't do?
- Price Yes, that's correct.
- K. Price I [Ken Price] actually took the scale off of the parking spaces that are south of Oak Street and measured the same width, it's actually a little wider behind the building than it is in the existing parking lot across the street, which has 6 parking spots painted off and everything.
- Morical It's really 6.
- K. Price And, I'm an engineer, not an architect.
- Morical Okay. That's great. Any further questions for the petitioner?
- Price Can I say one thing just to clarify what Mr. Jones asked about the variance for 6, there is one caveat to that which is, we're not seeking out a restaurant use, but the restaurant calculation is a little bit different. It, and I always have to look at this for some reason, it's 1 for every 3 feet. So, what we wanted is to have at least some flexibility if a small restaurant came in and was also wanting to locate there. And, so, I just wanted to make, that's why we use the term commercial. We'd be happy to make a commitment with respect to the number of seats. We were thinking maybe something like a 50-seat restaurant maximum, something like that. So, you'd have assurances that there wasn't a huge restaurant coming in that would make the ratios different than what we're describing in front of you this evening.

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- Morical So, essentially though, you're asking for a 6 space variance, so it would bring your total to 18. If you had an intensity of use that would require more than 18, you would come back before this Board?
- Price That's right.
- Morical Okay. Thank you. Any further questions for the petitioner?
- Jones Hey, Matt, is the building sprinkled?
- Price It is.
- Jones Okay. Which is a huge plus for having a mix of residential and retail and restaurant and all that kind of stuff.
- Morical Yes, and it's great to have that building get a new life. Any remonstrators here tonight? Seeing none, may we have the staff report, please?
- DeLong Thank you. As indicated in the staff report, staff is supportive of the petition as filed, and certainly very reasonably articulated by the petitioner's representative. Certainly, there is a history with the property. It was built, very purpose-built, and a variance was granted for that specific purpose. In order to utilize the building and move it into its next life a variance is required from that previous approval. Again, staff is supportive of the petition as filed, certainly recognizing the existing variance with the parking ratios as articulated. Again, staff is recommending approval and I'd be happy to answer any questions.
- Morical Wayne, should we change the motion to actually identify the number of spots for which we're providing a variance?
- DeLong Certainly for clarity.
- Drake I'd recommend.
- Morical Oh, if Carol would recommend, then we have to do it, because you always want to listen to your lawyer. Right? So, how would you recommend that we change that then, Carol? So is the variance reducing--
- Drake Parking spaces for a commercial building in the Village Residential Zoning District from 18 to 12.
- Morical Okay. So, we're essentially reducing the required number of parking spaces by 6?
- Drake Correct.
- Morical Okay. So, reduce the number of parking spaces for a commercial building, blah, blah, blah, by 6. Right?

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- Drake Yes.
- Morical Okay. Any questions for staff?
- Evinger I would just like to agree with you. I think if there is an intensity in use, if there is a change of use other than the office and retail that's been historically there, or is projected to come, if we do have a restaurant I think that we should address that again. They should come before us, so I think somehow we need to incorporate that into this.
- Morical Wayne, is it accurate to say that to the extent there would be a restaurant that would have additional parking use requirements that, prior to having that use, they would need to come back before the Board to get another variance if they needed more than a total of 18 spots?
- DeLong Right. It's going to put that review burden on the staff to catch that. Certainly, if there is a magic number that the Board wanted to articulate this evening, it certainly makes it crystal clear as to what that ceiling is.
- Morical The magic number is, we're giving them a pass on 6. Right?
- DeLong Correct.
- Jones And, I wouldn't mind actually for once going the opposite direction. I've been through the building, actually talked to different groups about buying it years ago. Mr. Price and their crew is going to have some practical difficulties of converting it over into any kind of restaurant, retail use. It's just going to be immensely cost prohibitive to get the duct work and do some stuff, and so, given the fact that there's outside parking across the lot, there is street parking and the Town of Zionsville's invested a certain amount of money in creating public parking within easy walking distance, I'd be more apt to try to throw them a bone to keep it a little more open in the variance that we're granting so that they can actually go pursue other businesses and don't find themselves in the bite of, if they attract one, they've got to go through a whole design process and then come back again.
- Morical So, are we meaning generous, Larry? Does anybody recognize this guy? So are you proposing on the floor, Larry? Are you calling an audible to give them, like, 20 spots? 8 extra. Is that what you want?
- Jones Sure.
- Price That flexibility would be very valuable. It would be very handy.
- Morical You made somebody happy.
- Jones Well, you know a lawyer to represent me when the other people jump me in the parking lot, so.

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- Morical I think you waited them out. Okay. Thank you. Any other further questions, comments? If none, I will entertain a motion. Larry?
- Jones No, I'll stay on the sidelines on this.
- Wolff I guess I would like some clarity. We specified, are we reducing by 6?
- Morical So, we are reducing by 8 now. Let's call it the Larry Amendment.
- Wolff And, we just want to make sure that's clear. I'll try to work that in there somewhere.
- Morical Can you read that? So, it's towards the end right before the parenthetical.
- Wolff Okay. I move that Docket, oh, are you looking for a motion?
- Morical Yes.
- Wolff Great.
- Morical Now's the time.
- Wolff Thank you. I move that Docket #2016-07-DSV, Design Standards Variance, to allow for a reduced number of parking spaces for a commercial building in the VBD, Village Residential Zoning District, to be reduced by 6, I'm sorry, reduced by 8, be approved as presented.
- Morical Thank you. Is there a second?
- Jones Second.
- Morical Thank you. All those in, oh, any discussion?
- Evinger I still, without the end user in mind, and, I understand, I appreciate and I want to have a tax base in Zionsville, but knowing that we do have some pressures on parking and depending on what that use is going to be and because it's undefined right now, for us to put in any kind of parking ratio without even knowing what the actual use is going to be, I think, is a little silly on our part. However, knowing that he needs to have some kind of variance to be able to—
- Price --Can I say?
- Evinger Sure, go ahead.
- Price One of the things to keep in mind, though, is, and I respect what you're saying. I think, though, Mr. Carter's variance was for 6 in 2005. And, that was before streetscape and before the Town's parking lot, which created 52 net downtown spots. The parking study that we did actually demonstrated that, in general, while

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there was some tight times, particularly on a Friday night, parking was generally available. And, so, the two additional spots to make it an 8 would go a long way towards us not coming back all the time and giving us some certainty that we have a viable use for a property that we're making a really enormous leap of faith on.

Evinger Sure, and with office and retail, you would find times it would not interfere with other restaurant uses.

Price Right.

Evinger But, if it does become a high intensity use, and it is a restaurant, then you'll be competing with the same spaces that the current restaurants are. And, I'm not trying to say that your restaurant should not be included because of, you know, you're the last one in, but I think the Town does need to address parking. And, I was on the Chamber of Commerce when that study was done, I was a board member, and I do think that we still need additional parking facilities and that's something the Town's going to have to address in the future. But, I do think that. Go ahead, I've said my piece.

Morical Thank you, Julia. Good stuff. Good comments. I think we're ready for a vote. All those in favor of the motion, please say aye.

All Aye.

Morical Any opposed?

Evinger I'm abstaining.

Morical Thank you. Motion passes.

Price Thank you, Mr. President. Thank you for your time tonight.

Morical Thank you. Carol, do we have any other items we need to address before we adjourn?

Drake No, the two sets of commitments are both in progress.

Morical Thank you. There being no further matters coming before the Board, I hereby, but we need to sign these Findings. Okay. We're adjourned. Thank you.