



**MEETING RESULTS- ZIONSVILLE BOARD OF ZONING APPEALS June 14, 2016**

The Regular meeting of the Zionsville Board of Zoning Appeals was scheduled Tuesday, June 14, 2016 at 6:30 p.m. in the Bev Harves Room at Zionsville Town Hall, 1100 West Oak Street the following items were scheduled for consideration:

- I. Pledge of Allegiance
- II. Attendance
- III. Approval of the May 10, 2016 Meeting Minutes
- IV. Continuance Requests
- V. Continued Business

<b>Docket Number</b>	<b>Name</b>	<b>Address of Project</b>	<b>Item to be considered</b>
2016-10-UV	W. Totty	665 W. Laurel Ave	<b>Continued from the May 10, 2016, and June 14, 2016 meeting, to the July 12, 2016 Board of Zoning Appeals Meeting</b> Petition for Use Variance to provide for the operation of a Bed and Breakfast, (without food service) within a Single Family Dwelling in the (RV) Residential Village Zoning District

VI. New Business

<b>Docket Number</b>	<b>Name</b>	<b>Address of Project</b>	<b>Item to be considered</b>
2016-11-DSV	D. Clarke	9526 E. 300 South (AKA) 9530 E. 300 South	Petition for Development Standards Variance to provide for the Accessory square footage to exceed the Primary square footage in the (R2), Rural Residential Zoning District <b>Approved</b> <b>5 in Favor</b> <b>0 Opposed</b>

2016-12-DSV	G. Dozier	3273 E. 700 South Lebanon IN 46052	Petition for Development Standards Variance to provide for the Accessory square footage to exceed the Primary square footage in the (R2), Rural Residential Zoning District <b>Approved</b> <b>5 in Favor</b> <b>0 Opposed</b>
2016-13-DSV	W. Beam	210 S. 2 <sup>nd</sup> Street	Petition for Development Standards Variance to allow a Lot Coverage increase of 43% over the 35% Lot Coverage allowance in the (RV), Residential Village Zoning District <b>Approved</b> <b>5 in Favor</b> <b>0 Opposed</b>
2016-14-DSV	S. Makinson	155 S. 4 <sup>th</sup> Street	Petition for Development Standards Variance to allow for an existing driveway to encroach into the required 5 ft. side yard setback line in the (RV), Residential Village Zoning District <b>Approved</b> <b>5 in Favor</b> <b>0 Opposed</b>
2016-15-DSV	B. McDavitt	9944 E. State Road	Petition for a Special Exception to locate a single family residence with an existing veterinary clinic (veterinary clinic approved by Boone County Board of Zoning Appeals in a October 1996 public meeting), in the (AG) Agricultural Zoning District (new single family residence to be located on separate parcel from veterinary clinic) <b>Approved with Conditions</b> <b>5 in Favor</b> <b>0 Opposed</b>

**Other Matters to be considered:**

2016-03-SE, Gunter, Status of Right-to-Farm document

Respectfully Submitted:

Wayne DeLong AICP

Town of Zionsville Director of Planning and Economic Development

June 16, 2016



**Petition Number:** 2016-11-DSV

**Subject Site Address:** 9526 E. 300 South (AKA) 9530 E. 300 South

**Petitioner:** David Clarke

**Representative:** David Clarke

**Request:** Petition for Development Standards Variance to provide for the Accessory square footage to exceed the Primary square footage in the (R2), Rural Residential Zoning District

**Current Zoning:** (R2), Rural Residential Zoning District

**Current Land Use:** Residential

**Approximate Acreage:** 6.19 Acres

**Zoning History:** No prior petitions are known.

**Exhibits:** Exhibit 1- Staff Report  
Exhibit 2- Aerial Location Map  
Exhibit 3- Structure Layout  
Exhibit 4- Site Plan Exhibit  
Exhibit 5- Petitioner’s proposed Findings of Fact

**Staff Reviewer:** Wayne DeLong, AICP

## PETITION HISTORY

This petition will receive a public hearing at the June 14, 2016 Board of Zoning Appeals meeting.

## PROPERTY HISTORY

This property is comprised of Lot 2, which is 2.87 acres and Lot 3, which is 3.32 acres for a total of 6.19 acres. Lot 3 is presently improved with a single family dwelling (with accessory structures attached to the single-family dwelling including patios, stoops, porches, and decks). An Improvement Location permit application was submitted and approved for a 4,000 square foot barn. During the review for the barn, it was noticed that the proposed covered porches would place the square footage of the structure over the allowable accessory square footage requirement. The barn was permitted and the Homeowner has submitted this petition to allow for the additional square footage of the covered porches (attached to the barn).

## ANALYSIS

The site is currently improved with a 4,995 square footage single family dwelling (the primary structure). The parcel is currently utilized for residential purposes and accessory buildings and uses all as further described below (data source: Boone County Assessor and/ or Petitioner):

1. Existing dwelling living space: 4,995 square feet
2. Existing and proposed accessory uses total 7,060 square feet. Per the applicant, this total includes:
  - a) A 900 sq ft garage
  - b) A 4,000 sq ft pole barn
  - c) Existing porches and patios: 60 sq ft
  - d) A proposed covered porch (attached to the barn) 900 sq ft
  - e) A proposed covered porch (attached to the barn) 1,200 sq ft

As per the itemized list within the petition application, the addition of the accessory square footage of the porches exceeds the primary by 2,065 square feet.

By Ordinance, properties in the R2 District are permitted by right to be improved with Accessory Structures which exceed the 1) height, 2) area, 3) bulk extent, and 4) purpose to the Primary Structure IF the property is at least 20 acres in size AND is classified as a Farm. As the subject site is neither 20 acres in size nor a Farm, a variance must be sought (in order to improve the property as proposed by the Petitioner). While the current Zoning Ordinance requires such restrictions, a review of the development pattern found in the immediate area finds that large home sites are typical of the area (though less than 20 acres in size AND not classified as a Farm), and improvements to the home sites include large estate type homes (with some enjoying Accessory Structures which exceed the 1) height, 2) area, 3) bulk extent, and 4) purpose to the Primary Structure). However, as this home site is within a platted subdivision, staff is conscious of the home site's presence within a platted subdivision and the interest of the Les Arbres Minor Subdivision Home Owners Association (or collective representation of the property owners) may have in the Petitioner's request. Barring any concerns of the Les Arbres Home Owner's Association (or any other party entitled to receive personal notice) being made of record during the disposition of the Petitioner's request, Staff would not oppose the request

as over 1,000 square feet of improvements are associated with the daily occupancy of the primary dwelling. In as such, the Petitioner's request to improve the property with covered areas associated with an permitted accessory all within one building envelope (being the lone area being improved with stand-alone structures), in staff's opinion, meets the intent of the Ordinance (by keeping the portion of the property dedicated to stand-alone accessory structures subordinate in mass to the primary structure and subordinate to the number of areas dedicated to structures associated with the primary improvement on the property). Additionally, it is noted by staff that a portion of the properties surrounding or near the subject site enjoy the use of one large accessory building in addition to the primary use.

#### **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 #2016-11-DSV.

#### **RECOMMENDATION MOTION**

I move that Docket #2016-11-DSV design standards variance to provide for Accessory Structures which exceeds the square footage of the Primary Structure (providing for 7,060 square feet of accessory structures in association with a 4,995 square foot dwelling), be (Approved as filed / Denied/ Continued) as presented.



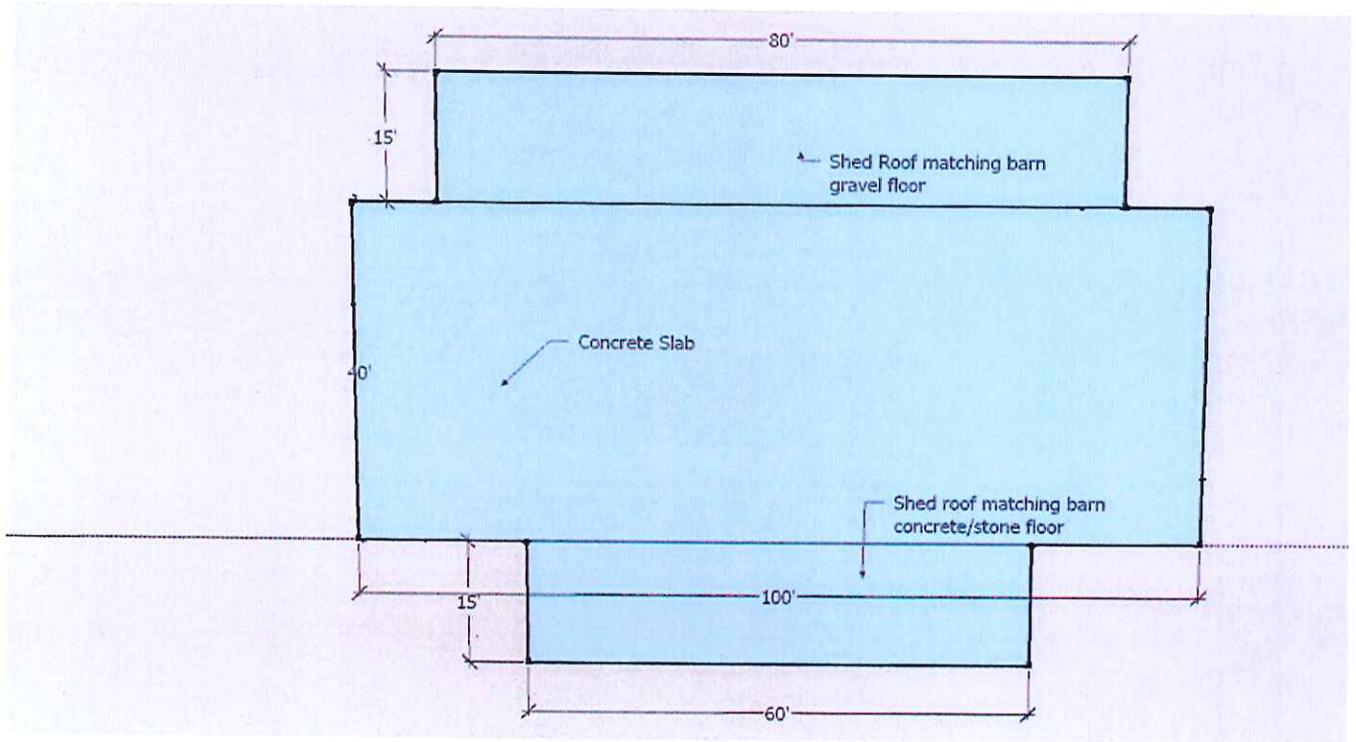


Exhibit 3



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:

We are requesting a variance for accessory structures, principally open porches for the front and rear of our stone barn. We are attempting to recreate a Lexington, Kentucky style barn shown in the pictures included in your docket. The porches, although attractive in design, can realistically only be seen by the principal dwelling on Lot 2, our residence. We have talked with two of the three adjoining neighbors, Catherine/David Haun and William/Joy Derocker directly and they believe the style to be attractive and fitting of the property. The covered porches will also help to keep people and yard adornments protected from the elements as well.

- 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 is largely addressed in statement 1. Additionally, the richness of the overall stone design and construction that matches the principal residence will add to the overall appearance and ultimate value of the property.

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

I believe that the zoning requirements should not be strictly applied because the combined properties, Lot 2 and Lot 3, represent a total property size of approximately 7 acres and we are in a very rural area with residences very far apart and not practically visible to one another. The esthetic value of the porches I am adding will enhance to visual appeal of my property and most probably help the neighborhood in maintaining higher property values as a result.

DECISION

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

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Petition Number:** 2016-12-DSV

**Subject Site Address:** 3273 E. 700 South Lebanon In 46052

**Petitioner:** Gregory and Catheryn Dozier

**Representative:** Gregory and Catheryn Dozier

**Request:** Petition for Development Standards Variance to provide for the Accessory square footage to exceed the Primary square footage in the (R2), Rural Residential Zoning District

**Current Zoning:** (R2), Rural Residential Zoning District

**Current Land Use:** Residential

**Approximate Acreage:** 4.67 Acres

**Zoning History:** No prior petitions are known.

**Exhibits:** Exhibit 1- Staff Report  
Exhibit 2- Aerial Location Map  
Exhibit 3- Elevations, Foundation, and Floor Plans  
Exhibit 4- Site Plan Exhibit  
Exhibit 5- Petitioner's proposed Findings of Fact

**Staff Reviewer:** Wayne DeLong, AICP

## PETITION HISTORY

This petition will receive a public hearing at the June 14, 2016 Board of Zoning Appeals meeting.

## PROPERTY HISTORY

This property is comprised of 4.67 acres and is presently improved with a single family dwelling and accessory structures. Historically the property has enjoyed 4,990 square feet of accessory uses (4,104 square feet of accessory uses were demolished in in 2015, and 1,440 square feet have since been constructed).

## ANALYSIS

The site is currently improved with a 1,329 square footage single family dwelling (the primary structure). The parcel is currently utilized for residential purposes and accessory buildings and uses all as further described below (data source: Boone County Assessor and/ or Petitioner):

1. Existing dwelling living space: 1,329 square feet
2. Existing and proposed accessory uses total 2,326 square feet. Per the applicant, this total includes:
  - a) A 506 sq ft garage
  - b) A 60 sq ft covered front porch
  - c) A 30x48 Pole Barn (1,440 sq ft)
  - d) A 320 proposed covered back porch

As per the itemized list within the petition application, the addition of the accessory square footage of the barn exceeds the primary by 997 square feet.

Staff is supportive of the petition as filed, as 1) the property, until recently, was improved with accessory uses which were well in excess of the primary use of the site (in terms of height, bulk and area), and 2) other similar properties in the area currently enjoy accessory uses which exceed the size of the primary use of the property.

## 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 #2016-12-DSV.

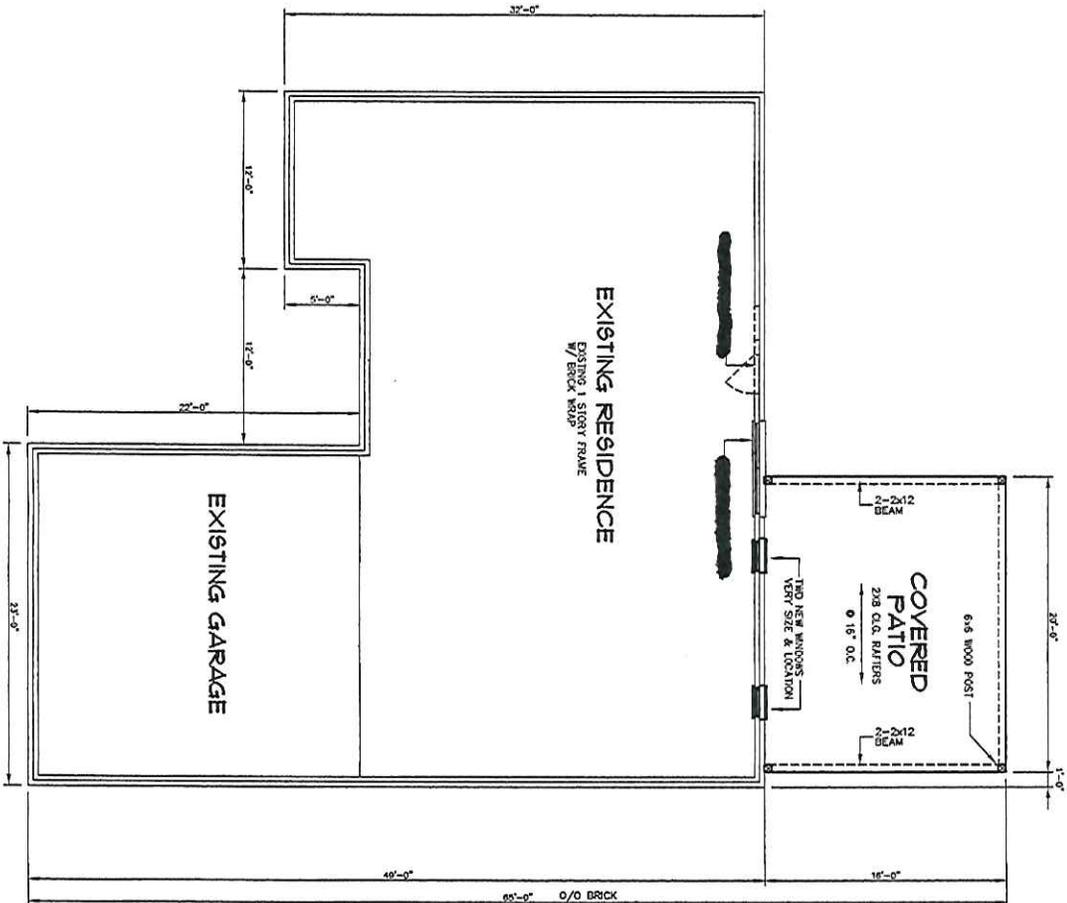
**RECOMMENDATION MOTION**

I move that Docket #2016-12-DSV design standards variance to provide for Accessory Structures which exceeds the square footage of the Primary Structure (providing for 2,326 square feet of accessory structures in association with a 1,329 square foot dwelling), be (Approved as filed / Denied/ Continued) as presented.



700 S

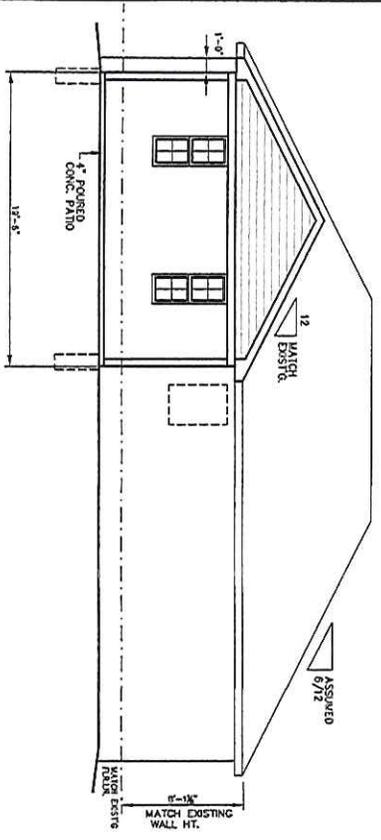
Exhibit 2



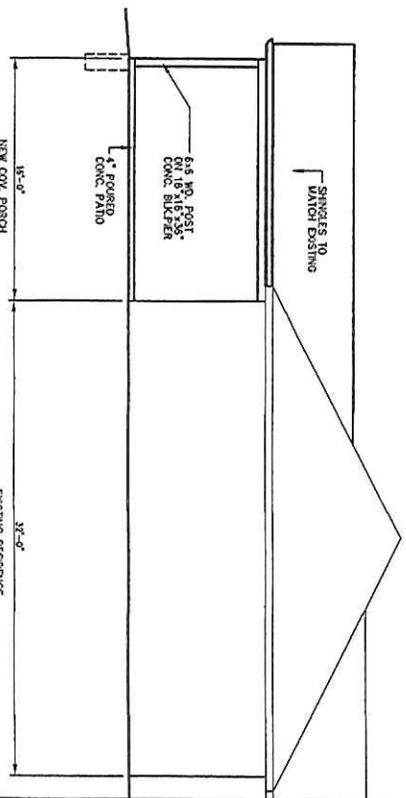
**FLOOR PLAN**  
SCALE: 1/8" = 1'-0"

Exhibit 3

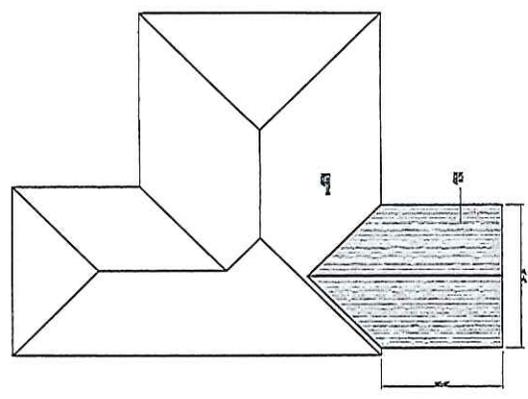
 <p>Palladian Custom Home Design Palladian Home Design, Inc. (317) 852-6483 10000 E. 100th Street, Suite 100 Indianapolis, IN 46241 © PALLADIUM, INC.</p>	<p>DATE: <i>March 25, 2014</i></p> <p>PROJECT: <i>Mark Dozier</i></p> <p>NOISE: _____</p> <p>OTHER: _____</p> <p>SEALS: _____</p> <p>REVISIONS: _____</p>	<p>THE DOZIER RESIDENCE 3273 E. 700 S. LEBANON, IN.</p>	<p><b>PERMIT SET</b></p>	<p>SHEET NO. <b>A.FP1.1</b> FLOOR PLAN</p>
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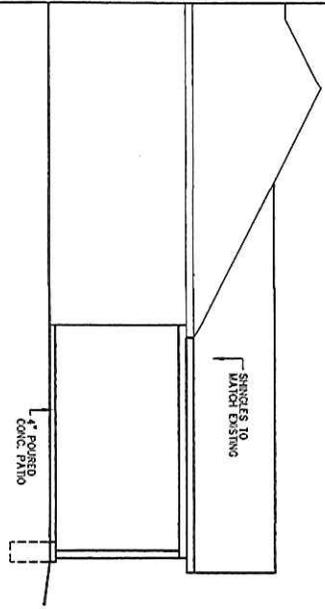
**REAR ELEVATION**  
SCALE: 1/8"=1'-0"



**LEFT ELEVATION**  
SCALE: 1/8"=1'-0"



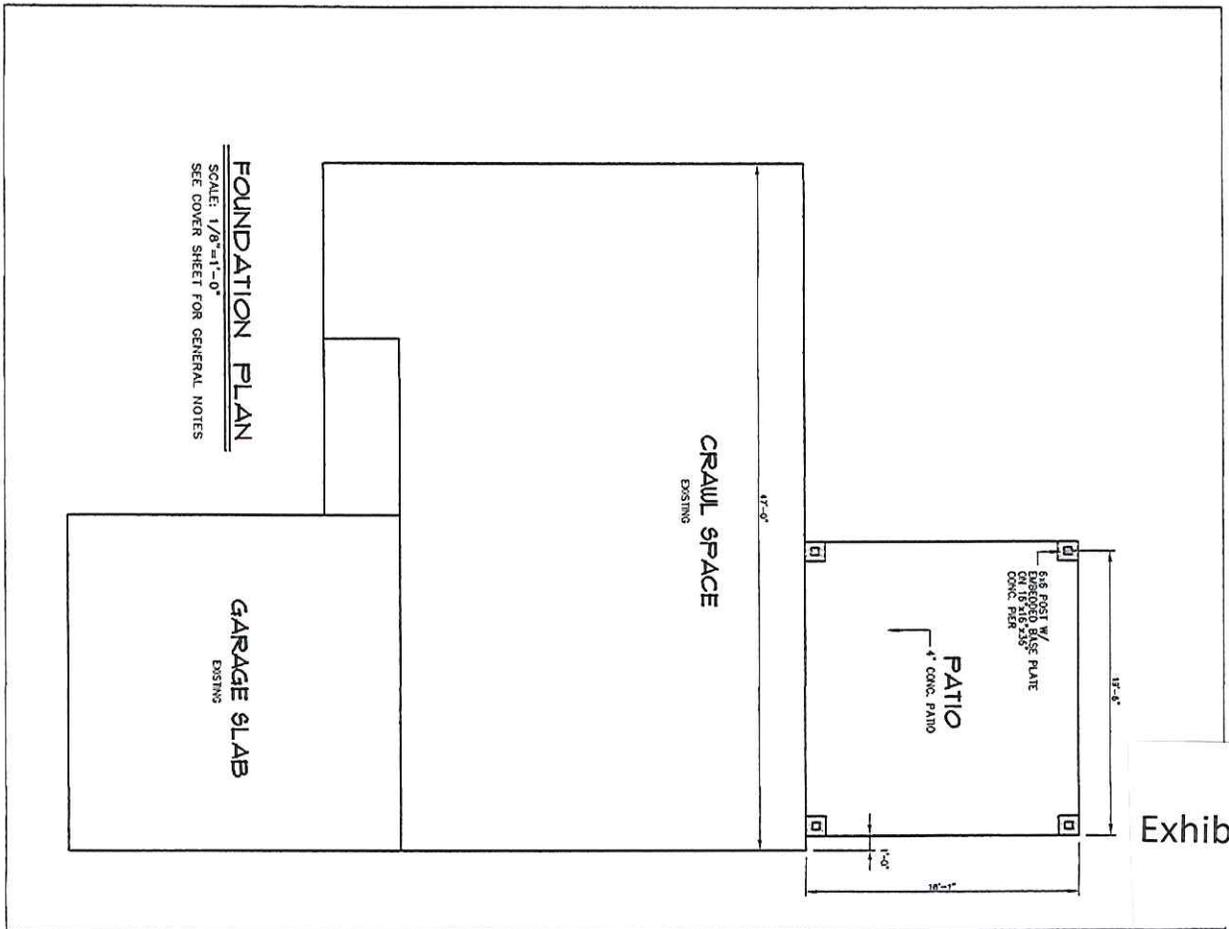
**ROOF PLAN**  
SCALE: 1/8"=1'-0"



**RIGHT ELEVATION**  
SCALE: 1/8"=1'-0"

Exhibit 3

 <p><b>PALLADIAN</b> EXTERIOR DESIGN</p>	<p>3273 E. 700 S. LEBANON, IN. THE DOZIER RESIDENCE</p>	<p>DATE: 1/15/11 DRAWN BY: [Signature] CHECKED BY: [Signature] DESIGNED BY: [Signature] PROJECT NO.: P15080</p>	<p>PERMIT SET SHEET NO. A.ELL11 ELEVATIONS</p>
	<p>3273 E. 700 S. LEBANON, IN. THE DOZIER RESIDENCE</p>	<p>DATE: 1/15/11 DRAWN BY: [Signature] CHECKED BY: [Signature] DESIGNED BY: [Signature] PROJECT NO.: P15080</p>	<p>PERMIT SET SHEET NO. A.ELL11 ELEVATIONS</p>



**FOUNDATION PLAN**  
 SCALE: 1/8"=1'-0"  
 SEE COVER SHEET FOR GENERAL NOTES

Exhibit 3

 <p>Paladian Bas Pkls. com        (317) 852-6483        ©TALAMON INC.</p>	<p>PLAN NO. P15080        DATE: 11/23/2016        DRAWN BY: M. H. S. S. S.</p>	<p>THE DOZIER RESIDENCE        3273 E. 700 S. LEBANON, IN.</p>	<p>PERMIT SET        SHEET NO. A.FD1.1        FOUNDATION PLAN</p>
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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:

*we will be enhancing the appearance of property and establishing an area for outdoor relaxation.*

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:

*All areas North, West, & South are farm fields of over 50 acres. each. The area East of (3 acres) we are owners.*

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 petition for Development Standards Variance to provide for the Accessory square footage to exceed the Primary square footage in the (R2) Rural Residential Zoning District*

DECISION

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

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
 \_\_\_\_\_



**Petition Number:** 2016-13-DSV

**Subject Site Address:** 210 S. Second Street

**Petitioner:** Walter L. Beam

**Representative:** Walter L. Beam

**Request:** Petition for Development Standards Variance to allow a Lot Coverage increase of 43% over the 35% Lot Coverage allowance in the (RV), Residential Village Zoning District

**Current Zoning:** (RV) Urban Residential Village Zoning District

**Current Land Use:** Single-family residential

**Approximate Acreage:** 0.16 acres

**Zoning History:** None

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

**Staff Reviewer:** Wayne DeLong, AICP

### PETITION HISTORY

This petition will receive a public hearing at the June 14, 2016, Board of Zoning Appeals meeting.

### PROPERTY HISTORY

The property is comprised of O. P. Block 4. Lot 1. of the Town of Zionsville. Staff is not aware of any prior variance requests for this property.

### ANALYSIS

The 0.17-acre parcel is currently improved with a single-family dwelling and accessory structures totaling 2,980 square feet. As proposed, the Petitioner is seeking approval to improve the parcel with a 96 square foot addition to the Primary Structure, to be installed over an area of existing patio, and an 80 square foot tool shed. As proposed, the 35% lot coverage would be exceeded by 8%. Note, the 7,303 square foot lot currently enjoys 41.38% lot coverage. As the 96 square foot addition to the dwelling will be located in an area currently improved with a patio, the addition to the dwelling could occur today, by right. Therefore, what requires consideration is the 80 square foot tool shed.

### LOT COVERAGE

Per the RV Residential Village District regulations, lot coverage standards states the maximum lot coverage is 35 percent. The overall area developed prior to the adoption of the current Ordinance standards, and review of parcels and improvements in the area did reveal that some parcels in the area enjoy deviations from current coverage standards. Further, many properties in the area enjoy the use of a detached garage. Both of these characteristics currently exist on the subject site.

In summary, Staff supports requests which provide for minor deviations from the lot coverage requirements when the request, generally speaking, 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 (in this case, a detached structure), and 2) other properties within proximity to the parcel enjoy deviations from the maximum lot coverage requirements. As previously mentioned, both of these characteristics currently exist, in addition to the characteristic being that the subject site currently deviates from lot coverage maximums. However, one additional unique characteristic exists in this case: the site adjoins both the Village Business District to the east and more importantly, a utility building (phone company switching station) to the north. The utility building, in particular, enjoys a lot coverage which far exceeds the standards of the Ordinance. Given the subject site's proximity to this non-residential use being located in a residentially zoned area and the associated lot coverage, and the previously mentioned additional characteristics, Staff is in support of the Petitioner's request to locate an 80 square foot shed on the property which results in a lot coverage of 43%.

**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 #2016-13-DSV, as filed.

**RECOMMENDATION MOTION**

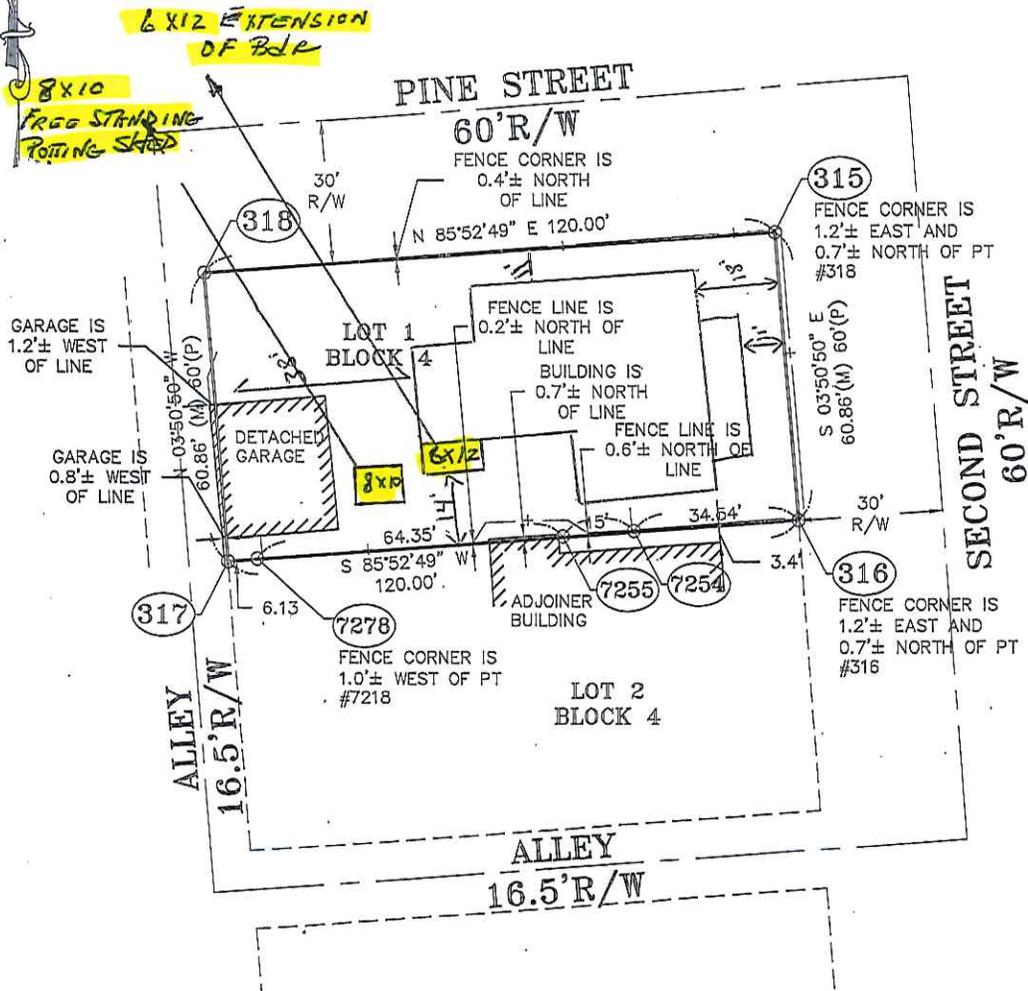
I move that Docket #2016-13-DSV design standards variance to increase the lot coverage allowance to 43% in the Residential Village District for the property located at 210 S. Second Street be (Approved as filed, based upon the findings of fact / Denied/ Continued) as presented.



Exhibit 2

# RETRACEMENT SURVEY

LOT 1, BLOCK 4 IN THE ORIGINAL PLAT OF ZIONSVILLE,  
BOONE COUNTY, INDIANA



## LAND DESCRIPTION

LOT #1 IN BLOCK #4, IN THE ORIGINAL PLAT OF THE TOWN OF ZIONSVILLE, BOONE COUNTY, INDIANA, AS PER PLAT OF SAID ADDITION RECORDED IN PLAT RECORD 2, PAGE 57 IN THE OFFICE OF THE RECORDER OF BOONE COUNTY, INDIANA.

## LEGEND

- x ——— EXISTING FENCE
- R/W ——— RIGHT OF WAY
- (P) ——— PLATTED DIMENSION
- (M) ——— MEASURED DIMENSION

## POINT INVENTORY

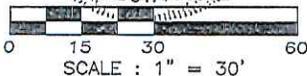
POINT #	REMARKS
7278 7254 7255	5/8 IRON ROD SET ON SOUTH LINE
315 318	5/8" IRON ROD WITH YELLOW CAP STAMPED MILLER SURVEYING SET
317	EXISTING IRON PIPE FOUND
316	EXISTING IRON PIPE FOUND IN CONCRETE



*K. Nathan Althouse*

10/18/13  
DATE:

R.L.S. LS20400007

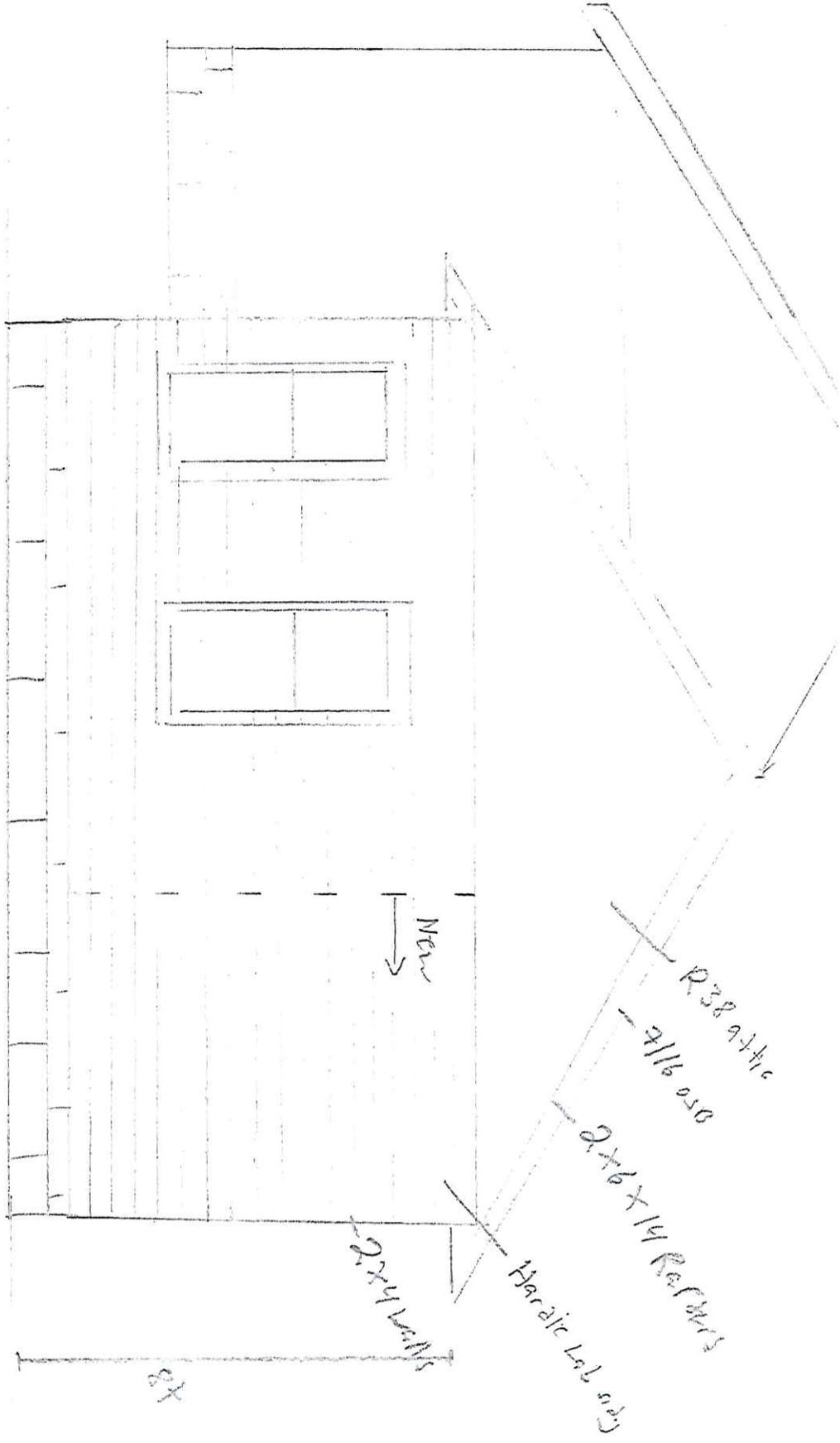
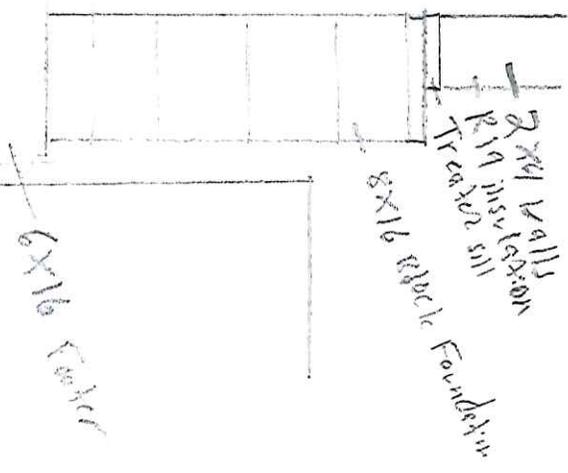
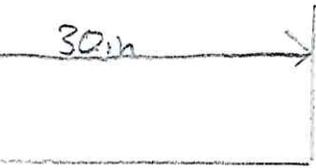


<b>MILLER SURVEYING INC.</b> 948 CONNER STREET NOBLESVILLE INDIANA 46060 PH. # (317) 773-2644. FAX 773-2694		
LOCATION: LOT 1, BLOCK 4 IN THE ORIGINAL PLAT OF ZIONSVILLE BOONE COUNTY, INDIANA	DRAWN BY: MJJ	PREPARED BY: KNA
FIELD WORK COMPLETED: 10/18/13	SCALE: 1" = 30'	FIELD BOOK: 575
CLIENT: MARVIN MILLER	DATE: 10/25/2013	PAGE: 32,38
DESCRIPTION: RETRACEMENT SURVEY	JOB NUMBER: B34847	SURVEY

THIS SURVEY IS NOT COMPLETE AND/OR  
VALID WITHOUT BOTH PAGES.

**PAGE 1 OF 2**

Pine Street



South

Exhibit 4

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 grant allows for additional living area and is in keeping with the ambience and setting of the home and village area from a historical perspective. There are no issues that would impact public health or safety. This is a historical village home and our desire and intent is to preserve that perspective of the home.*
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 overall changes in the property will only tend to increase property values by encouraging other owners to increase the care and attention to their properties.*
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 home is small and the inability to make the proposed changes will only degrade the future values of the property & its ability to meet the needs of even a small family as my wife & I. The granting of this request allows the home to better meet the minimal requirement for a smaller two bedroom home.*

DECISION

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

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_

\_\_\_\_\_



**Petition Number:** 2016-14-DSV

**Subject Site Address:** 155 S. Fourth Street

**Petitioner:** Scott and Emily Makinson

**Representative:** Scott and Emily Makinson

**Request:** Petition for Development Standards Variance to allow for an existing driveway to encroach into the required 5 ft. side yard setback line in the (RV), Residential Village Zoning District

**Current Zoning:** (RV) Residential Village Zoning District

**Current Land Use:** Single-family residential

**Approximate Acreage:** 0.27 acres

**Zoning History:** INV-2016-20 (Complaint)

**Exhibits:** Exhibit 1 – Staff Report  
Exhibit 2 – Aerial Location Map  
Exhibit 3 – Existing Site plan  
Exhibit 4 – Findings of Fact

**Staff Reviewer:** Wayne DeLong, AICP

### PETITION HISTORY

This petition will receive a public hearing at the June 14, 2016, Board of Zoning Appeals meeting.

### PROPERTY HISTORY

Staff is not aware of any prior variance requests for this property.

### ANALYSIS

The 0.27-acre parcel, a part of Dunn's of Crosses Addition, has been improved with a driveway and sidewalk of which a portion encroaches into the required 5-foot side yard setback. Prior to replacement, the driveway was located 4 feet, 4 inches from the property line.

The need for the variances arises as the surface of the new driveway is as close as 3 feet, 7.5 inches to the property line. In summary, the Petitioner is requesting to utilize much as an additional 8.5 inches of encroachment into the side yard setback.

The purpose of the regulation is to encourage the separation of driveways and uses associated with driveways from adjoining lot lines, when in the Village Residential District (the Town's only residential district to contain a setback standard specific to driveways). The setback provision was enacted, in part, due to the narrowness of some of the lots in the Village Residential District.

In this particular case, the surface installed within the setback area, while associated with the driveway, is not directly in front of the garage door; the surface leads to a side yard gate. Given that the surface functions more as a sidewalk than a driveway, staff is supportive of the installation and location. However, as concerns have been raised (as captured in INV-2016-20) about the presence of the encroachment, staff would suggest, if the encroachment is approved by the Board of Zoning Appeals, that ground cover or low plantings be installed along the perimeter of the surfaced area (being the area which encroaches more than 4 feet 4 inches into the setback) in an effort to reduce the visual presence of the surfaced area from the neighbor to the north.

### PROCEDURAL – VARIANCE FROM DEVELOPMENT STANDARDS

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

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

*(c) the strict application of the terms of the zoning ordinance will result in practical difficulties 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 #2016-14-DSV.

**RECOMMENDATION MOTION**

I move that Docket #2016-14-DSV design standards variance to reduce the driveway side yard setback requirement in the Residential Village District for the property located at 155 S. Fourth Street be (Approved based upon the findings in the staff report / 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 design and dimensions of the new driveway create a more pleasing visual harmony to the neighborhood. It does not encroach upon any neighboring property or public right of way. Since it roughly follows the old driveway footprint, and the footprint of the old driveway was not harmful to the community, the new driveway footprint is also not harmful to 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 driveway is an improvement both visually and structurally upon the deteriorated asphalt driveway it replaced. Being of a better quality and design than the old driveway, the new driveway adds value to our property, to the adjacent properties, and to the neighborhood because it is much nicer looking and safer to navigate.

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

We installed the driveway in good faith and trusted the expertise of a reputable contractor who we believed was aware of all the zoning requirements in Zionsville. We constructed the entrance to the driveway to match the original footprint. We mistakenly relied on the knowledge and expertise of our contractor, however we learned later that the new driveway is 16.5 inches below the 5 foot side yard setback requirement at the point where the driveway curves out toward the pathway to the gate and 8 inches below the 5 foot requirement at the apron.

DECISION

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

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Petition Number:** 2016-15-SE

**Subject Site Address:** 9944 E. State Road 32

**Petitioner:** Bruce and Donna McDavitt

**Representative:** Jeffery Jacob

**Request:** Petition for a Special Exception to locate a single family residence with an existing veterinary clinic (veterinary clinic approved by Boone County Board of Zoning Appeals in a October 1996 public meeting), in the (AG) Agricultural Zoning District

**Current Zoning:** Agricultural District (Rural)

**Current Land Use:** Agricultural

**Approximate Acreage:** 37 acres

**Zoning History:** none

**Exhibits:** Exhibit 1 – Staff Report  
Exhibit 2 – Aerial Location Map  
Exhibit 3 – Site Location  
Exhibit 4 – Conceptual Elevations  
Exhibit 5 – Petitioner’s Cover Letter  
Exhibit 6 – Findings of Fact

**Staff Reviewer:** Wayne DeLong, AICP

### PETITION HISTORY

This Petition will receive a public hearing at the June 14, 2016, Board of Zoning Appeals meeting.

### PROPERTY HISTORY

The parent tract consisted of 37 acres. In 1996, the landowner petitioned the Boone County Board of Zoning Appeals for a Zoning Classification request to allow for a large animal Veterinary clinic (request was approved).

### ANALYSIS

Based on the applicant's interest in constructing a single-family dwelling on acreage zoned AG, the applicant is required to request a Special Exception. 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 has historically been occupied by land associated with agricultural buildings (note, approximately 1,000 square feet of accessory uses are currently located on the 30 acre parcel).

### RIGHT TO FARM / PROXIMITY TO AIRPORT

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.

And, while the north-south runway of the Indianapolis Executive Airport is within approximately 5,000 feet of the subject site, the Zoning Ordinance does not require any special notice or restrictions associated with the proposed dwelling's proximity to the facility. It is mentioned here in this report only as a courtesy to the Petitioner.

### 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 #2016-15-SE.

**RECOMMENDATION MOTION**

I move that Docket #2016-15-SE special exception Petition in the Agricultural District for the property located at 9944 E. State Road 32 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 NOTES**

**HEIGHT, BULK, AREA, AND INTENSITY**

As indicated in the Petitioner's filing, the new single-family dwelling is intended to be located on a 30.98 acre parcel zoned AG. As such, the zoning would permit the parcel to be utilized as a Farm and enjoy accessory uses which are not subordinate to the height, bulk, area, and intensity of any single-family dwelling located on the 30.98 acres. In the event that the parcel, by potential unknown future actions, is ever reduced to a size which is less than 20 acres, this action could result in rendering the improvements as non-conforming with the Town's Zoning Ordinance (in regards to height, bulk, area, and intensity, unless the amount of accessory uses at the time of the action are both smaller and shorter than the primary use of the parcel).

**LEGAL DRAIN**

As a portion of the property contains the Dye Legal Drain, it is subject to additional development restrictions (setback from Legal Drain).

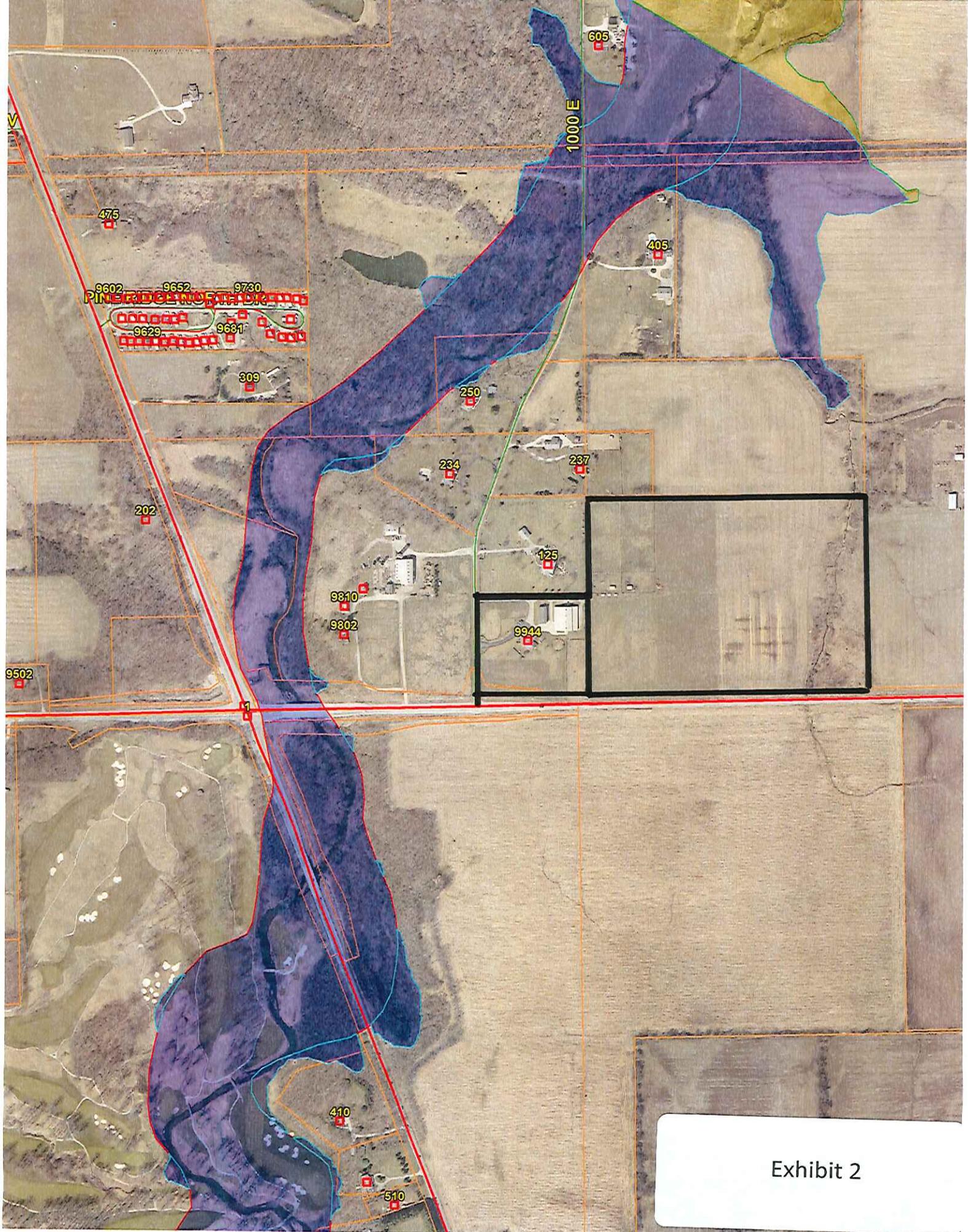
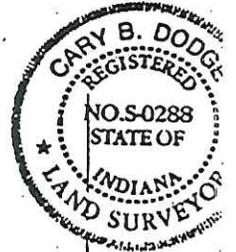


Exhibit 2

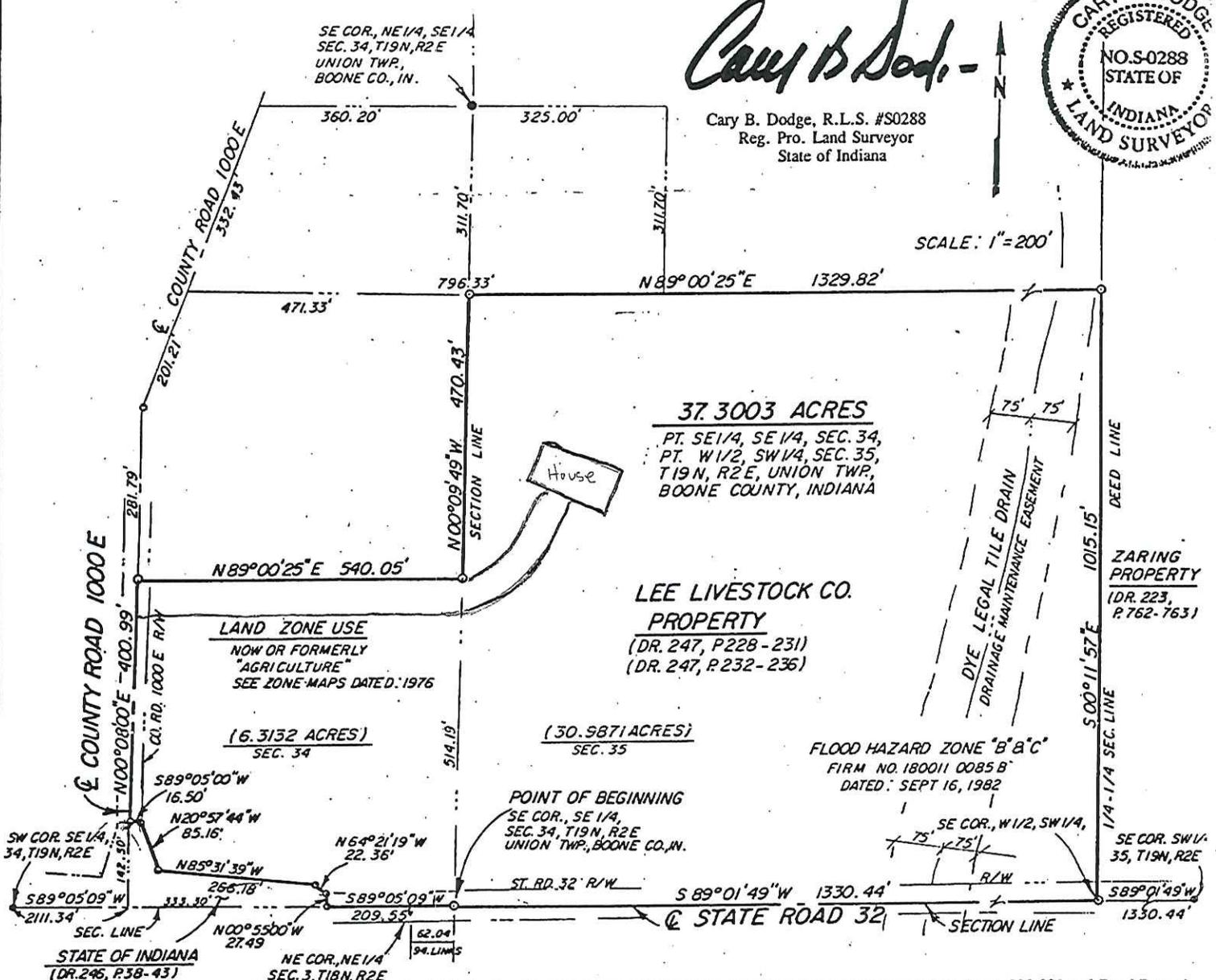
# ANDERSON & ASSOCIATES

*Cary B. Dodge*

Cary B. Dodge, R.L.S. #S0288  
Reg. Pro. Land Surveyor  
State of Indiana



SCALE: 1" = 200'



**37.3003 ACRES**  
PT. SE 1/4, SE 1/4, SEC. 34,  
PT. W 1/2, SW 1/4, SEC. 35,  
T 19 N, R 2 E, UNION TWP,  
BOONE COUNTY, INDIANA

**LEE LIVESTOCK CO.  
PROPERTY**  
(DR. 247, P.228 - 231)  
(DR. 247, P.232 - 236)

**LAND ZONE USE**  
NOW OR FORMERLY  
"AGRICULTURE"  
SEE ZONE MAPS DATED: 1976

**(6.3132 ACRES)**  
SEC. 34

**(30.9871 ACRES)**  
SEC. 35

**FLOOD HAZARD ZONE "B" & "C"**  
FIRM NO. 180011 0085 B  
DATED: SEPT 16, 1982

**POINT OF BEGINNING**  
SE COR., SE 1/4,  
SEC. 34, T19N, R2E  
UNION TWP., BOONE CO., IN.

**STATE OF INDIANA**  
(DR. 246, P.38-43)

**NE COR., NE 1/4**  
SEC. 3, T18N, R2E

**Purpose:** The purpose of this assignment was to divide the Lee Livestock Company Property, as recorded in Deed Record 247, Pages 228-231 and Deed Record 247, Pages 232-236, Boone County Recorder's Office, for partial sale.

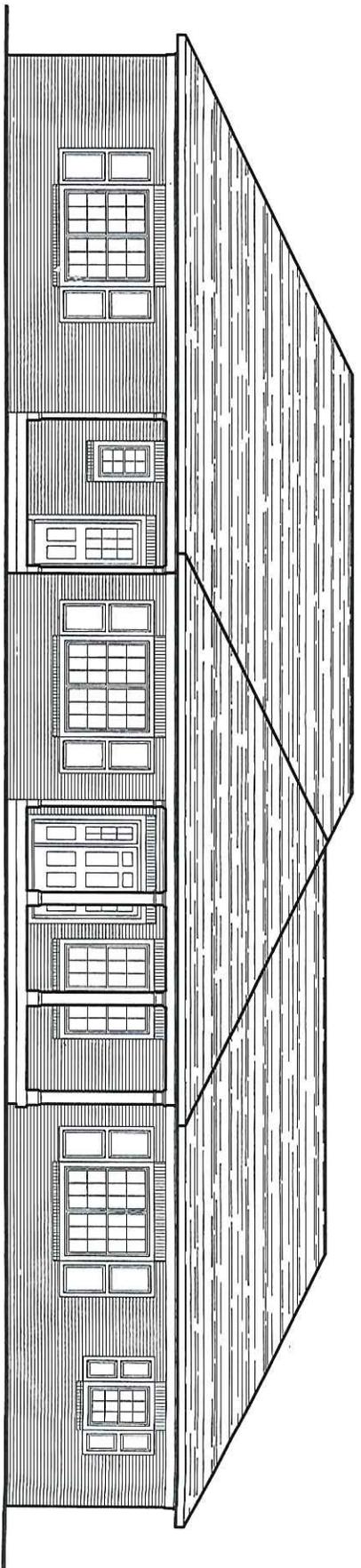
**Basis of Bearings:** Bearings are in agreement with the Indiana Department of Transportation as shown on the Reconstruction of the Intersection of State Road 32 and U.S. Highway 421, Project Number F-135-2 1989.

**Class of Survey:** Class "D" Indiana Survey Standards (Title 865, Article 1, Chapter 12)  
The Theoretical Uncertainties due to random errors in measurement of the boundary corners with respect to the referenced controlling corners, as stipulated by Indiana Statutes, is ± 1.00 foot.

**LAND DESCRIPTION (37.3003 Acre Tract)**  
(A part of the Lee Livestock Company Property, DR 247, P228-231 & DR 247, P232-236)

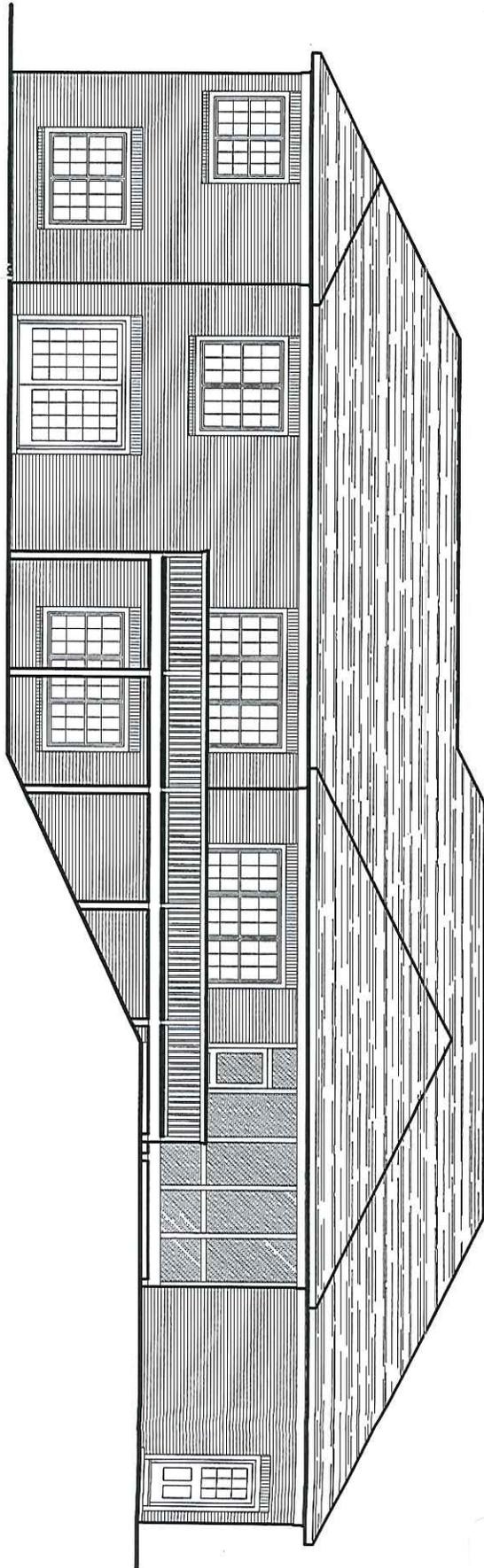
A part of the Southeast Quarter of the Southeast Quarter of Section 34 and a part of the West Half of the Southwest Qu 2 East, Union Township, Boone County, Indiana, more fully described by:

Beginning at the Southeast Corner of the Southeast Quarter of said Section 34; thence South 89°05'09" West, along tl of State Road 32, a distance of 209.55 feet; thence North 00°55'00" West, a distance of 27.49 feet; thence North 64° line of the State of Indiana Property, as recorded in Deed Record 246, Pages 38-43, a distance of 22.36 feet; thence N a distance of 266.18 feet; thence North 20°57'44" West, along said Right of Way, a distance of 85.16 feet; thence So



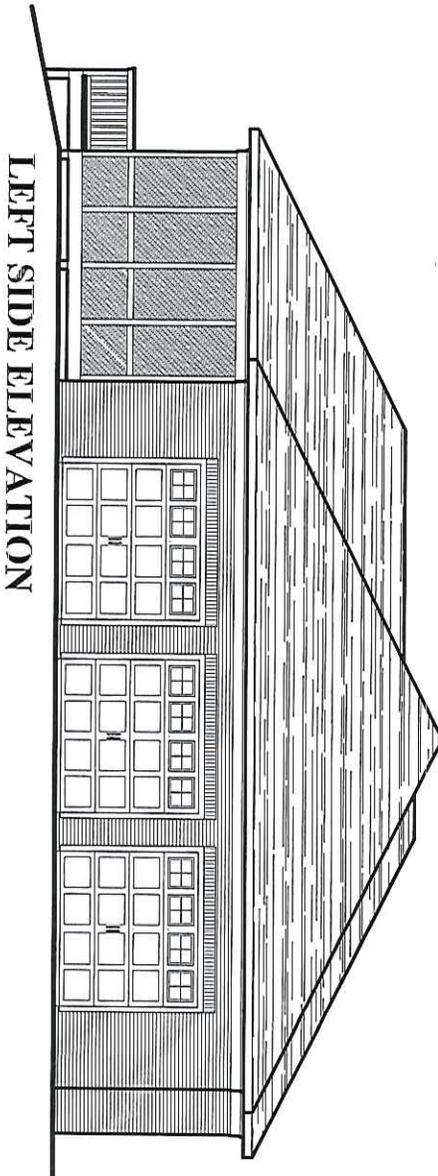
FRONT ELEVATION

McDAVITT RESIDENCE



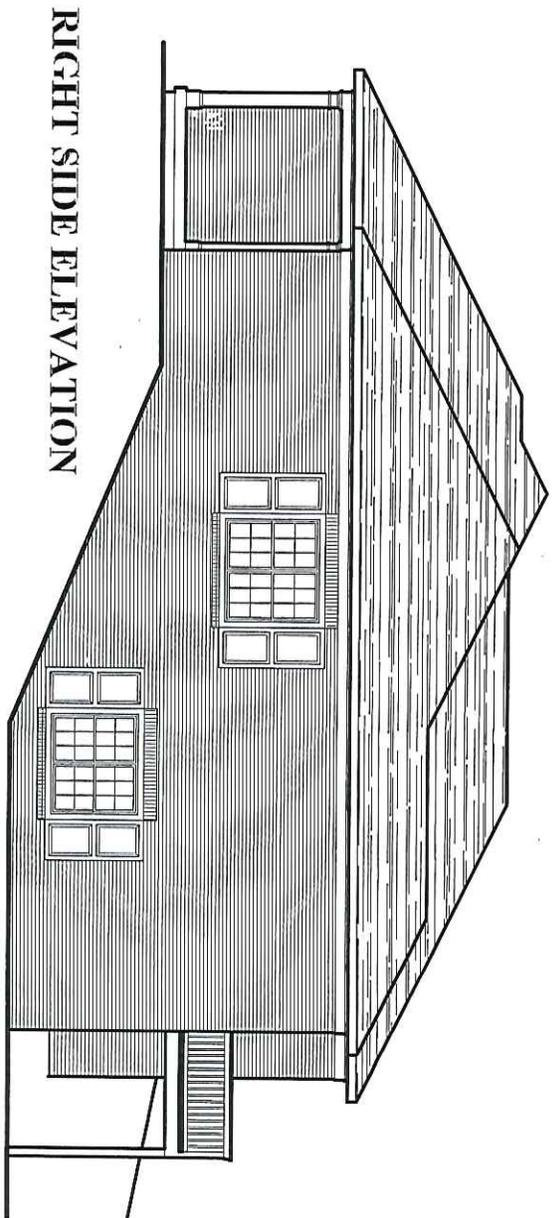
REAR ELEVATION

MCDAVITT RESIDENCE



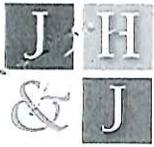
LEFT SIDE ELEVATION

MDAVITT RESIDENCE

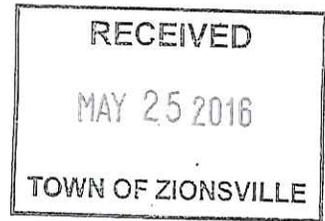


RIGHT SIDE ELEVATION

McDEVITT RESIDENCE



Jacob, Hammerle & Johnson  
LAW OFFICES



May 25, 2016

Zionsville Board of Zoning Appeals – Town of Zionsville  
c/o Zionsville Town Hall  
1100 W. Oak Street  
Zionsville, Indiana 46077

RE: Special Exception – Petition Number: 2016-15-SE

Board of Zoning Appeals:

At the helpful suggestion of staff, I am supplying a more detailed description of McDavitt's Special Exception Request. In so doing, some historical background may be helpful.

In 1996 the McDavitt's purchased 37 agriculturally zoned acres along State Road 32 from a livestock exchange. The ground is generally located east of US 421, on the north side of SR 32. Shortly thereafter, the McDavitt's sought the County's assistance in determining how to locate a small and large animal veterinary clinic on the property. Boone County's ordinance in 1996 did not contain a large animal veterinary clinic classification. Accordingly, the McDavitt's filed a "Zoning Classification Request" with the Boone County Area Plan Commission. You will note from the attached Staff Report/Agenda/Minutes (Exhibit 1) that the County Area Plan Commission utilized the related definitions of a farm, veterinary hospital and riding stable; drawing on those relevant sections of its Ordinance in order to craft the necessary zoning standards by which the clinic would operate. Ultimately, on October 23, 1996 the McDavitt Zoning Classification Request was approved. Shortly thereafter, the clinic (and its large animal related out buildings, riding areas and turnouts) was built, opened for business, and to date continues to operate on AG-Agricultural zoned ground.

The McDavitt's Special Exception request is to permit construction of a single family residence on 30 of the 37 acres owned by the McDavitt's. The veterinary clinic which currently sits on the 37 acres would be split (the McDavitt's acquired the parcel pre-1999 and it has not since been split), creating two parcels of 6+/- acres (vet clinic) and 30 +/- acres (residence).<sup>1</sup> It should be noted that the attached site plan (Exhibit 2) is an approximate location of the McDavitt

<sup>1</sup> Please note, the County GIS system denotes the McDavitt land as being two parcels with two corresponding parcel identification numbers. In short, this is a result of the tract being divided by an internal County Section Line. The Section Lines are a grid system of lines that are used to map the location of land. Historically any piece of land was recorded in the County "Section Books" and identified exclusively by its section location. Our County Auditor requires a parcel, split by section line, to be given two parcel identification numbers. As a result the land shows up in the "For Reference Only" GIS System as two separate tracts of land, despite legally existing as one parcel. In sum, the McDavitt property, as per the deed, is one parcel.

residence and driveway. Further, I have attached elevations of the proposed McDavitt residence (Exhibit 3). Please note this is also a concept only.

The McDavitt's would make the following Voluntary Commitments related to the Special Exception Request:

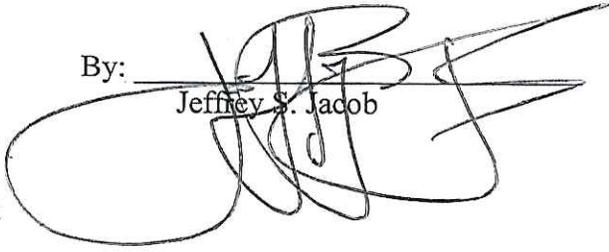
1. The grant of Special Exception would be contingent upon the McDavitt Veterinary Clinic being a separate approximately 6 +/-acre parcel and the McDavitt residence would be located on the remaining acreage (Exhibit 4);
2. The McDavitt single family residence would meet all Zionsville zoning requirements and requisite building codes; and
3. The McDavitt's will obtain a state approved Road Cut Permit in order to install direct access for the 30 +/- acre single family residence onto SR 32.

Sincerely,

JACOB, HAMMERLE & JOHNSON

By:

Jeffrey S. Jacob



cc: Bruce and Donna McDavitt  
Enclosures  
JSJ/cg

Petition No.: \_\_\_\_\_

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS  
BOONE COUNTY, INDIANA

PETITION FOR SPECIAL EXCEPTION

FINDINGS OF FACT

- 1. The proposed use (~~will~~ / will not) will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;

The subject parcel is adjacent to SR 421 and located in a mixed use area, including smaller lot single family residences.

- 2. The proposed use (~~is~~ / ~~is not~~) will not injure or adversely affect the adjacent area or property values. The construction of an ordinance compliant single family residence on a large estate type parcel in this area is a desirable use that will enhance the character and surrounding values.

- 3. The proposed use will ~~will not~~ ~~will~~ be consistent with the character of the District, land uses. Such residential use is consistent with the current nature of the area and consistent with the comprehensive plan.

DECISION

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

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_

\_\_\_\_\_

**Town of Zionsville  
Board of Zoning Appeals  
June 14, 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 June 14, 2016, meeting of the Board of Zoning Appeals for the Town of Zionsville. 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 May 10, 2016, meeting minutes, which were distributed to the Board as part of the meeting packet. Are there any questions or comments on the minutes? Hearing none, I would entertain a motion.

Evinger I make a motion to approve the minutes as presented to the members.

Morical Thank you. Is there a second?

Wopshall Second.

Morical All those in favor, please say aye.

Zionsville Board of Zoning Appeals  
June 14, 2016

- All Aye.
- Morical Any opposed? Motion carries. Thank you. The next item on the agenda is continuance requests.
- Andreoli Thank you, Mr. President. For the record, my name is Mike Andreoli. I represent the Totty family and the application currently pending before the Board under old business. Just as a way of history, this was an automatic continuance granted at the request of the neighbor last month, continued to this month. We filed some 12 days ago, a request to continue to table it to the July meeting. We've got some additional work to do. We're doing some additional work with regard to a safety plan and some other things with regard to vetting people that would come into the facility, and a number of other things that we're doing and we didn't think we could get them all done and submitted to staff before staff report. So, we want to respectfully request a continuance. We will be ready to present, we believe, at next month's meeting.
- Morical Thank you, Mr. Andreoli. One request for you. I know that the Town previously sent a cease and desist letter to your clients in July relating to the Airbnb activity, and there was some communication back and forth for them to wrap up reservations that were occurring into September. We would be interested in receiving an affidavit from your clients that identifies what rental activity occurred from September 15 through today.
- Andreoli I'm sorry?
- Morical I'm interested in knowing whether your clients complied with the cease and desist order and the communications between you and counsel for the Town from the September 15, 2015, date.
- Andreoli Is there some suggestion, or is the Board, I'm not trying to quibble with you, but I want to understand. Is there some suggestion that somehow or another they haven't complied?
- Morical There actually is. In the record, we've received letters to the effect that there have been reviews on the Airbnb site that occurred after September 15, 2015. That leads us to the conclusion that maybe the activity had continued after that date and that the order from the Town had not been complied with.
- Andreoli Respectfully, Mr. Chairman, has that letter been sent to me and maybe I've already received it, and it's an old letter, but if there is something of recent vintage, it would be nice, in order for me to respond to that at some point, to have received what complaint that you may have received with regard to that. If you're asking me to submit an affidavit.
- Morical There was. I believe it was in the supplemental letter from Steve Hillman and Pamela Hillman dated June 1, 2016, where they included screen shots of Airbnb reviews and comments that appear to have occurred after September 15, 2015.

Zionsville Board of Zoning Appeals

June 14, 2016

- Andreoli Yes. Having not received that and not knowing about that letter, I have not received it. Nobody submitted it to me. If it's June 1, 2016, letter, I'm not aware of it. So, I'd be happy, rather than take time tonight or go through it with you, I'd be happy to go ahead and work with staff to get a copy of that letter so that I have that. We can do it one of two ways. I'll talk with my clients. We can do an affidavit, or have them here to answer any questions that the Board may have. They were intending to come anyway, so we can do it a number of different ways.
- Morical No, I appreciate that. Between the two, I'd be interested in seeing the affidavit that talks to any rental activity that occurred from September 15, 2015 –
- Andreoli --any what?
- Morical Rental activity.
- Andreoli Oh, rental activity.
- Morical The Airbnb activity is rental.
- Andreoli Sure.
- Morical And, I know that your clients had mentioned that they were going to host a member of their church for a period of time.
- Andreoli Right. And, they've had family come in and stay with them. But, if you're talking about being on Airbnb or any of those rentals, I'd be happy to talk with them about that.
- Morical That would be great. Thank you, Mr. Andreoli.
- Andreoli Great.
- Morical Any questions for Mr. Andreoli on this continuance request?
- Evinger I think you've covered it with the questions regarding continued activity. Thank you.
- Morical Okay. Thank you. Any comments from staff? No comments.
- Andreoli Mr. President, staff did give me a copy of that letter, so I'm in possession of it now. Thank you.
- Morical Perfect. So, hearing none, I would entertain a motion on the continuance request.
- Evinger I'll make a motion for a continuance for Docket # 2016-10-UV to be continued until the July meeting.

Zionsville Board of Zoning Appeals

June 14, 2016

- Morical            Thank you. Ms. Evinger. Would you be amenable to amending that motion to note that, as a condition of that continuance, the petitioner will supply the affidavit that we've discussed tonight?
- Evinger            Yes.
- Morical            Thank you. Is there a second?
- Jones                Second.
- Morical            All those in favor, please say aye.
- All                    Aye.
- Morical            Any opposed? Motion carries.
- Andreoli            Thank you.
- Morical            We'll see you in July. Thanks. The next item on our agenda is Docket # 2016-11-DSV, D. Clarke. Please approach and state your name and address for the record.
- Clarke                David Clarke, address 9530 East 300 South, Zionsville.
- Morical            Great. Thank you. If you could give us a brief overview of what it is you're requesting here tonight.
- Clarke                Basically requesting a variance from the standards. I guess to sum it up, I'm not sure if you want to go to the Findings of Fact or run through the whole Docket?
- Morical            No, just from a big picture perspective.
- Clarke                Big picture.
- Morical            I know you've got a permitted barn, and you're interested in adding some porches, is that right?
- Clarke                Yes. Probably the most explanatory is the picture in the back that shows a stone, sort of, antique Lexington-style barn that we're trying to recreate on the property. And, it's very much in that image. You can see the principle residence on the property is also all stone, and so the two, keeping in the style, tie together very well. The issue becomes with the allowance for accessory use, which essentially covers the porches, front and rear. We'd obviously like to keep the door structures, the wood doors, etc. out of the weather. And, also, I do mention in here that none of the neighbors are really within any sight of this. I'm on about a 7 acre parcel and I've talked to 2 of the 3 neighbors. They have gone over what we're doing there and think the style is very fitting to the property. And, as far as valuations, etc., should only really enhance the value of the property. I don't know if there is anything else directly that I could answer other than that. I mean, there is not a hardship, per se. It's more just the aesthetics and probably shielding

Zionsville Board of Zoning Appeals

June 14, 2016

the windows, doors, etc. from the elements and any plantings, etc. that we would put under there.

Morical Okay, thank you Mr. Clarke. And, your house is within a platted subdivision?

Clarke Yes, there is 3 properties in the so-called subdivision. I've got 2 of the 3 lots, which totals the 7 acres.

Morical And, does your subdivision have covenants that you need to comply with?

Clarke Yes, we're all within covenant coverage as far as the structure itself, etc. There is nothing on the square footage of accessory structures in the covenants, but as far as a barn shop, it's all within the covenants.

Morical So, what you're proposing to do is in compliance with your covenants?

Clarke Yes, it is.

Morical Okay, great. Thank you. Any further questions for the petitioner? Thank you very much, Mr. Clarke. Are there any remonstrators here tonight? Seeing none, may we have the staff report please?

DeLong Thank you. As outlined in the staff report, staff is supportive of the request as filed. Certainly, it's noted that the permit has been issued for the barn itself. What is being requested are porches, covered porches if you will, for the barn. Staff focuses on the idea that if someone is having a large accessory structure, that its impact be isolated to one particular area of the property. In this case that is being accomplished. Therefore, staff is supportive of the petition as filed and I'd be happy to answer any questions.

Morical Great. Any questions for staff? Hearing none, I do have one quick question for you, Mr. Clarke. If you could turn to your Findings of Fact real quick.

Clarke Yes.

Morical The third Finding of Fact that's strict application of the terms of the zoning ordinance 'will not result in unnecessary hardships in the use of the property because', we believe you probably intended to say 'it will result'.

Clarke Yes, you're right.

Morical Are you amenable to saying 'it will result'?

Clarke Yes.

Morical Okay, thank you. Any further questions or comments by the Board? Hearing none, I would entertain a motion.

Zionsville Board of Zoning Appeals

June 14, 2016

Jones I move that Docket # 2016-11-DSV, Design Standards Variance, to provide for accessory structures which exceed the square footage of the primary structure providing for 7,060 square feet of accessory structures in association with a 4,995 square foot dwelling, be approved as filed and presented.

Morical Thank you. Is there a second?

Wolff Second.

Morical All those in favor, please say aye.

All Aye.

Morical Any opposed? Motion carries. Thank you.

Clarke Thank you.

Morical The next item on our agenda is Docket # 2016-12-DSV, G. Dozier. If you could please approach the podium and state your name and address for the record and give us an overview of what it is you're requesting here tonight.

Dozier Yes, good evening. My name is Greg Dozier. We reside at 3273 East 700 South, Lebanon. We are part of what was just annexed into Zionsville from Perry Township. What we're asking you to look at is, we have removed 4100 square feet of accessory buildings already on this property. We bought it, it was originally a cattle barn, if you will, on about 60 acres. And, we bought 4 1/2 acres, 4.67 acres, but we tore down 2 barns that were already there. They were a little bit dilapidated. And, now, we also tore off what, they had a deck on the backside of the house, which was built in 1995 and it was pretty dilapidated also, so we tore it off. And, now, we're just petitioning, we would like to have a covered porch because the back of our house faces the south and more to the west, so we have sun all day long. And, this is only going to be about a 300 square foot add-on to the back of the house as far as accessory area.

Morical Okay. Thank you very much, Mr. Dozier.

Dozier Yes, sir.

Morical Are there any questions for Mr. Dozier? 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. As petitioner has indicated, this property previously in 2015 was improved with a large amount of accessory structures. What the petitioner is asking is to put back a portion of that. Certainly, staff is supportive of that concept, and I'd be happy to answer any questions.

Morical Thank you, Wayne. Any questions for staff? Hearing none, I've only got one quick follow-up question for you, Mr. Dozier. It looks like our proposed third Finding of Fact. Carol, is that something we could address later?

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- Drake Yes.
- Morical Okay, thank you. Any further questions or comments by the Board? Then I would entertain a motion that would contemplate that the Findings of Fact be further revised, instead of just rendering a decision based upon the findings in the record.
- Evinger Okay. I move that Docket # 2016-12-DSV, Design Standards Variance, to provide for accessory structures which exceeds the square footage of the primary structure, providing for 2,326 square feet of accessory structures in association with a 1,329 square foot dwelling be approved as presented subject to providing more thorough Findings.
- Morical Is there a second?
- Wopshall I'll second.
- Morical Thank you. All those in favor, please say aye.
- All Aye.
- Morical Any opposed? Motion carries. Thank you, Mr. Dozier. Welcome to Zionsville.
- Dozier Thank you.
- Morical The next item on the agenda is #2016-13-DSV, W. Beam. If you'll please approach the podium and state your name and address.
- Beem I am Walter Beam. The address is 210 South 2nd Street, the corner of 2nd and Pine Street here in Town. We are requesting a change from the normal requirement of coverage from 35% to 43% with an outbuilding that will push it over that, or to the 43%.
- Morical Right. And, that's your 80 square foot tool shed?
- Beem Yes, that is correct.
- Morical Okay. Great. Thank you. Any questions for Mr. Beam? Hearing none, are there any remonstrators here tonight? Seeing none, we would appreciate the staff report, Wayne.
- DeLong Thank you. Staff is supportive of the petition as filed. It's noted that the property currently enjoys a touch over 41% of lot coverage. The request in front of you this evening is for a total of 43% to provide for a tool shed for Mr. Beam. It's interesting to note that this parcel is adjacent to two particular land uses that enjoy a very large percentage of lot coverage. And, certainly, that's something that's existed over time, and certainly to provide for lot coverage as requested this evening certainly does not deviate from the overall fabric of the community.

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

Wolff              I will make a motion. I move that Docket # 2016-13-DSV, Design Standards Variance, to increase the lot coverage allowance to 43% in the Residential Village District for the property located at 210 South 2nd Street be approved as filed, based on the Findings of Fact as presented.

Morical            Thank you. Is there is second?

Jones              Second.

Morical            All those in favor, please say aye.

All                 Aye.

Morical            Any opposed? Motion carries. Thank you, Mr. Beem. The next item on our agenda is Docket # 2016-14-DSV, S. Makinson.

Makinson         Good evening. My name is Emily Makinson. I live at 155 South 4th Street. Behind me is my husband, Scott, and two of our kids, Sadie and Rogan. We're here to request a variance for our new concrete driveway. My husband and I have lived in our home for 13 years. We love the Village. We love Zionsville and our neighbors. Some of them are here to speak their support for us tonight, and some have written letters of support. In the time that we've owned our home, we've put a lot of work into it. Our latest and, hopefully what would be one of our final projects, was to improve the driveway. We had previously an old asphalt driveway that was in really bad shape and was also dangerous to walk on for some of our older relatives. We decided to install a concrete driveway. We researched the permit requirements, and to the best of our ability, researched the Town zoning ordinances. We also hired a reputable contractor to complete the work. As they had done work elsewhere in Zionsville, we trusted their expertise and knowledge on the Town requirements. After the driveway was poured, we learned that it did not entirely meet the requirement for a 5-foot side yard setback on the north side. As you can see from the pictures, the driveway does not meet the requirement at 2 points. The first point is the lower left-hand corner where it meets the apron. That lower corner, it is at most 8 inches below the requirement. Our property line then angles out away from our house, so the driveway is within the required 5 feet until you reach the pathway area leading to the gate midway up, and at that point, it's 16 1/2 inches below the 5 foot requirement. If you compare the pictures of the old driveway to the new, you can see that the width of the new driveway, where it meets the apron, matches the original driveway footprints at the apron. We used that original footprint as a guideline for where to place the new driveway. So, those 2 points on the left-hand side are the 2 points at which the driveway falls under the 5-foot requirement. I'm concerned about how it will look if the concrete needs to be cut at those 2 points. I don't know a lot about concrete cutting, but I just don't know how that's going to look for ourselves and for our neighbors. When we installed the driveway, we acted in

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good faith and had only good intentions for the neighborhood. We relied on our contractor and thought we were meeting all of the Town requirements. We believe the new driveway is a significant neighborhood improvement in both safety and appearance. The driveway remains entirely within our property line. It positively impacts the value of adjacent and neighboring properties, and is visually pleasing to the community. For these reasons, we ask that the BZA approve our request for variance of development standards. My family and I would like to thank you for your consideration.

Morical Thank you. Did you receive a copy of staff's report?

Makinson Yes.

Morical Where they made the recommendation of having some plantings between you and the property to the north--

Makinson Yes.

Morical What do you think about that?

Makinson We'd be happy to do anything that would make it more appealing to everyone.

Morical Okay. Thank you. Are there any other questions for the petitioner?

Wopshall How far is the house from the property line?

Makinson It's 6 to 9 feet, I think, on the corner and then as the property line goes out, I think it's 10 to 15 feet further for the back. I'm not really sure though.

Jones Hey, Wayne. I have a question. My understanding has always been when it comes to setbacks, it's regarding any kind of permanent structure and that driveways and fences and walks and any of that kind of stuff are considered non-permanent in that they can be removed if needed and they do not actually require any kind of foundation. Is that not the same when it comes to setbacks for driveways and this kind of stuff?

DeLong The Village residential area is the sole residential district that specifically includes language in its chapter within the ordinance that speaks to a driveway setback. So, it is unique to this zoning district.

Jones Hence, their contractor might not have been as familiar with that specific language since it's kind of unique to us, correct?

DeLong Potentially.

Jones Okay.

Morical Thank you. Are there any other questions for the petitioner? Let's see if there are any remonstrators first, and then we can see whether or not it makes sense to call

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up anybody who is going to speak on behalf of your petition. Are there any remonstrators here tonight? Seeing none, may we have the staff report, please? Oh, are you a remonstrator? Okay. Come on up, sir. Sorry I missed you back there. If you would come to the podium, sir, and state your name and address for the record, that would be great.

Harris My name is Gerald Harris and I live at 145 South 4th.

Morical So, sir, you live immediately to the north?

Harris That is correct.

Morical Okay. Thank you. And, what would you like to say to the Board tonight?

Harris There was a letter that was submitted to you folks, and I'm sure you've had more than adequate time to read it, and I think it is very self-explanatory.

Morical And, we have all received that letter. Thank you.

Harris Do you have any questions on that letter?

Morical Do you have a concern with the location of the driveway as they've poured it?

Harris That is correct. It basically is very clear that it does not conform with the Town ordinance.

Morical And, that's why they're here tonight. One of the things that we do is we grant variances, which is by definition an exception. So they are coming to request an exception tonight.

Harris I'm opposed to it.

Morical Why?

Harris You have ordinances in place. They're very clear. And, if someone was negligent in not checking those before the driveway was put in, then that is their problem, not mine.

Morical That's true, but we hear from people who want an exception to the zoning code and there are several items that they need to prove in order to be eligible to receive a variance from us. And, there are 3 in this case. Do you want me to read those to you? The first is that the approval will not be injurious to the public health, safety, morals and general welfare of the community. The second is that 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 third is that the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. Do you feel like the presence of the driveway and walk area encroaching upon that 5-foot setback is a problem for public health, safety, morals and the general welfare of the community?

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- Harris I feel that it is definitely affecting the resale value of my property.
- Morical Because it's closer to your property than the 5-foot setback?
- Harris Definitely.
- Morical The staff has recommended having the petitioner put in plantings between the driveway and your property line. Is that something that would help alleviate your concern?
- Harris I'm sorry. I didn't understand what you said.
- Morical What staff suggested is that ground cover, or low plantings, be installed along the perimeter of the surface area in an effort to reduce the visual presence of the surface area from the neighbor to the north.
- Harris That still doesn't change the fact that it's going to affect the resale value of my property.
- Morical Compared to the asphalt driveway that was there in the past, and the new concrete driveway, you feel that the asphalt driveway was better for the value of your home?
- Harris Well, it was over where it should have been, and basically, it didn't encroach into the area.
- Morical Have you received an opinion from a realtor, or anyone, that has advised you that the presence of the driveway into the setback area would adversely affect your—
- Harris --No, and I have not received anything from the Makinsons that says that it enhances the value of my property.
- Morical Do you believe that it's going to impact the value of your property in a substantial adverse manner?
- Harris I do, because it's going to make the lot look even smaller.
- Morical Okay. Thank you. Are there any other questions for the remonstrator?
- Jones I just want to confirm something. So, down at the, let's call it the point where the driveway connects to 4th Street, so is the new concrete drive basically in the same place as where the old asphalt drive was at that point?
- Harris No, it's not. I believe there were photographs that showed the old driveway and now photographs that show the new driveway, aerial view. And, I think that it's quite obvious that it has been made larger.

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- Wolff Mr. Jones. If I look, I'm not sure if the apron has been changed, but if you look at the apron where what I would define as the driveway apron, where the driveway was poured, it looks similar in that particular—
- Morical --According to the photographs, the width of both the old and the new driveway is 18 feet 11 inches. But, of course you're right, Mr. Harris, that the width of the driveway as it gets closer to the garage is wider.
- Harris There was much room that they could have made the driveway wider. They could go almost to Pine Street, all the way across their front yard. So, if it had to be made wider, they had more than adequate room on their property, and they would have been in compliance.
- Morical Are there any other questions for the remonstrator? Hearing none, thank you very much Mr. Harris. We appreciate your time.
- Harris Thank you.
- Morical Is there anyone here tonight that would like to speak, well actually, would the petitioner like to make any comments and rebuttal and then we can offer other people the opportunity to speak?
- Makinson I would just confirm that the contractor did take out a portion of the apron where we have some flooding, and then put it back. So, you can see the seams on the driveway, that the old driveway hit the same seams on the apron and it is exactly the same width at the entrance.
- Morical Okay. Great. Thank you. Is there anyone who would like to speak in favor of the petition tonight? Please state your name and address for the record.
- Moyer Good evening. My name is Terry Moyer, and I live at 420 West Pine. That would put the entire length of our side yard, which is the longest part of our property facing directly toward the Makinson's property. The day that they put their concrete driveway, tore out the old asphalt and put in the concrete, we were outside, we were standing on our porch. They had a very reputable company. The company came in, did a great job clearing things, cleaning things. It is a complete improvement to their property. One of many that they've made along the way. Every improvement that they make in their property improves the value of their property. It improves the value of my property, and frankly, it improves the value of the remonstrator's property. What they've done is a nice thing. It's been completely done within their property line, and they did it in good faith. To ask at this point for that concrete to be cut, I think, has a potential to damage an investment that they made. It also could damage the yard. It creates more chaos within the neighborhood, and I would respectfully ask you to grant this variance.
- Morical So, ma'am.
- Moyer Oh, sorry.

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- Morical            No, that's fine. I've got a question and the rest of the Board may as well.
- Moyer             Yes, please.
- Morical            So, in your opinion, the replacement of the asphalt driveway with the concrete driveway, and in its current configuration, including the walkway over to the north side of the garage to the back yard, enhances the value of your home and the neighborhood as a whole?
- Moyer             I absolutely believe that.
- Morical            Okay. Thank you. Were there any other questions?
- Wopshall         Well, if they would have complied with the rules and made the driveway just like it was, just made it concrete, would that be true also?
- Moyer             Well, if they would have known what those rules were, they did their best. They acted in good faith, going and looking. The fact that it encroaches a few inches into a setback. It's on their property line, I don't think it in any way diminishes the neighbor's property, whether across the street or the contiguous property. Again, these are beautiful improvements that they've made. The value of that home went up and I guarantee you, I'm not a realtor, but I've bought and sold a lot of homes. The value of all of our homes has been improved based on what they've done to their home.
- Morical            Thank you. Are there any other questions?
- Moyer             And, I do have a letter on record that I've submitted as well.
- Morical            Yes, yes. Thank you very much. We appreciate that. Anyone else tonight to speak in favor? Please approach the podium and state your name and address for the record.
- McCauley         I'm Ryan McCauley. I live at 375 West Pine. This is across the street and to the south. I agree with what she just said, as well as, if the S-curve, I think you're referring to as the decorative 'S', if that is removed, it makes it not a unique driveway. With the way it is now, I think it's unique. It adds to the value of my home and everyone surrounding. If that's removed, it's just a normal driveway. I don't believe it negatively affects the resale of my home. If it was removed, I don't know if, it looks great right now. If it's changed, I don't know what that does. And, that's all I have.
- Morical            Okay. Thank you. Any other questions? Thank you. Is there anybody else who wants to speak in favor of the petition? Any other remonstrators here tonight? Petitioner, would you like to say anything further? You don't have to if you don't want to. No? Okay. Thank you. May we have the staff report please, Wayne?
- DeLong            Thank you. Staff is supportive of the petition as filed with the item that's been discussed this evening, which is some low ground cover and staff would refine

that just a touch more to be, you know, something evergreen, something a little more hardy to last all the seasons of the year. This is a unique situation. This district is the sole district, like I mentioned earlier, that has the setback standard for driveways. That was enacted, in part, due to the proximity of dwellings in the Village next to one another, to keep the activity, the driveway, you know, a little bit more isolated into the parcels. In this particular case, you have a lot line that runs at an angle. While this is the surface of a driveway, per se, the surface that's predominantly being discussed is not one that a vehicle will traverse. This is an area for pedestrian movement, if you will, on the property, for lack of a better way to describe it. Again, staff is supportive of the petition as filed with the caveat regarding the ground cover, and I'd be happy to answer any questions.

Morical Wayne, if they had simply re-poured the driveway and used some type of path, with pavers or otherwise, to the gate on the north side of the garage, would that have required a variance?

DeLong We've talked about that internally, and the answer is, we believe no. The ordinance exempts sidewalks and other features from setback standards, and, certainly, from lot coverage standards. So, the answer would be no, and certainly, using different materials would further define that role, but given that we have material that's poured with the driveway, it certainly has a direct relationship with the driveway, hence that's the action that's in front of you this evening.

Morical So, if it were a sidewalk, it would not require a variance?

DeLong That is correct, but, in staff's mind, most sidewalks that we see are form-poured concrete. The driveway that's in front of you this evening is a form-poured driveway. It really starts to get a little murky, but if someone were to come in with an existing driveway and they're merely just throwing down flagstones, if you will, or any sort of material to help them get from one point to another, that's typically looked at as a sidewalk.

Evinger May I ask a question? What is the width of a standard sidewalk?

DeLong These days, on just residential, on your lot, 4 feet.

Evinger And, this apron that we're talking about, this little side curve, which actually serves as a pathway, is less than 4 feet? So, actually it's less invasive than maybe a full sidewalk would have been?

DeLong Correct. There are portions that are, I mean, I don't have the scale in front of me, but certainly it could be less than that, and less intrusive, yes.

Evinger Thank you.

Morical Thank you, Wayne. Any further questions for staff?

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Jones Yes, Wayne, I've got a quick question. Do you have any knowledge of the history of this 6-foot difference between surveys on what's called the north edge of the property?

DeLong I do not.

Jones Does the petitioner have any? It's just an interesting bit of information that there seems to be a 6-foot variance between what the north property line is and just a little background information on it.

Harris Mr. President, if I'd be allowed to speak.

Morical Please state your name and address.

Harris My name is Mark Harris. I live at 7755 Walker Cup Drive in Brownsburg, but prior to that I did live at 145 South 4th Street. Gerald Harris is my father. From the time that they moved into the property in 1970, we were in charge of maintaining the entire side lot between the two driveways. The previous owner, Paul Hoover, had told my father that, basically, the property line split that. And, Paul Hoover and my father built a common patio across the entire side yard between the two garages. So, from my father's driveway to Hoover's garage there was a common patio that you will probably see in some satellite photos that you may have. So, from 1970 until, basically, the last 40 years, my parents have lived there, plus, they have maintained that entire side yard. It wasn't until Makinson's began renovating their home that they were informed that the property line was at the angle. And, therefore, the other thing that they run into, my parents run into, is the fact that they have the center lot on the block. So, every survey that has happened between 3rd and 4th, Oak and Pine has pushed my parents' property in because the surveys have been done from the center of the streets inward. And, as Oak Street has been widened, Pine Street has been renovated, those lines have changed. And, that is the fear that my parents have been running into since the property line issue was raised, is the fact that if everyone around them continues to get a new survey, that their property increasingly shrinks, and therefore their property value declines. Thank you.

Jones Real quick question. You said there was an existing patio between the two properties across the---

Harris --That is correct. That was built by Paul Hoover, who moved from the property in the late 90s, I believe, and my father. They built it commonly across the property. So, it went from within 2 feet of that garage, as it was previously built, all the way to my parents' driveway with the exception of about a foot, foot and a half between railroad ties and patio.

Jones So, did that get removed as part of the Makinson's reno?

Harris We removed it once they began their renovations because it was being damaged by the contractors.

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- Jones Okay. So, since 1970, there has always been some sort of hard surface crossing back and forth within this.
- Harris Probably since 1975, if I had to guess.
- Jones So, there was a pre-existing, what would I call that term, set of conditions.
- DeLong Grandfathered pre-existing, nonconforming. Is that what you're looking for?
- Jones Yes.
- Morical Larry, it appears from the one survey item that's included in the packet, that that may have been further to the east. Wayne, is that—
- DeLong --That would appear to represent hard surfacing and that would appear to be the area that's being discussed.
- Morical That is directly north of the garage?
- DeLong Correct.
- Jones I guess what I'm grinding away at is it seems like there has always been some sort of hard surfaced area within that 5-foot setback line since the 70s. And, so, now we're back seeking to review the granting of a variance to allow something that is continued, or some version of it been there for the last 41 years. That sound about right? 25 and 16 is 41 still? I guess my point is it seems like having something in that side yard area at a certain point in time was seen as an amenity to both property owners.
- Harris Correct. Mutually.
- Jones Now, having something in that bit of a side yard is considered a deficit?
- Harris Prior to the renovations to 155, the property lines appeared to run down the two driveways. Once the property line was surveyed and defined, now the property line does run at the angle, and it looks very irregular compared from a street view. My parents have since installed a fence near the property line to define their property line, and it looks, to be honest, quite awkward from the street view, but it is on the property line. So, you know, what was at one point aesthetically appealing from the street is not necessarily so any more. That fence 30 years ago, if they had decided to have built it between the two neighbors would have probably gone straight down the middle of that common strip of grass just to the south of the tree that used to be there. That was also removed because the construction and the trucks and everything had started to damage the roots and it was in danger of collapsing or falling over. So, my parents had that removed at their expense.
- Wolff Thank you for adding clarity.

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- Harris            You're welcome.
- Wolff            I'm assuming, so as I understand what you're saying, the assumption was that the property line ran perpendicular to 4th Street?
- Harris            Correct.
- Wolff            As opposed to at the angle.
- Harris            Correct.
- Wolff            Which offers me some explanation because it appears that, are you aware, how long have your parents, the garage been in its place where it currently is? Because it appears that it's sitting on the property line, is it?
- Harris            That garage has been there prior to my parents purchasing the property in 1970.
- Wolff            Right. When the assumption was that it was still parallel?
- Harris            Correct.
- Wolff            I'm sorry. Perpendicular. Yes, okay.
- Harris            Right.
- Morical          Are there any other questions for Mr. Harris?
- Evinger          I have a question for staff.
- Morical          Okay. Thank you, Mr. Harris.
- Harris            Thank you.
- Morical          Go ahead, Julia.
- Evinger          Okay. Just looking again at the survey, there is the solid line which appears to be the current survey line, boundary line, but then there is the dotted line, which I think you referred to earlier as far as it looked like there was a variance. So, again, which, is that historically, the dotted line, historical boundary line? I'm looking at this page.
- DeLong          I don't have any information on what that dotted line is seeking to represent.
- Jones            I found it interesting that it showed up on the, I don't know what the proper term for the map.
- DeLong          Correct. That map, the aerial photograph is overlaid with property record card information. So, it's something that is existing to a point that the county auditor

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is picking it up. But, without title work and some other due diligence, those answers aren't in front of us this evening.

Jones And, if it's of any help, I've run across this with older properties where over time the starting points for surveys get, kind of, redefined and the dimensions get tightened up and you get a deep gap. I mean, you know, properties that go back hundreds of years, it happens.

Morical Wayne, could you provide a little further clarity on exactly what you're suggesting for the ground cover or low plantings? Are you suggesting that it run the full distance west to east of the northern boundary of the driveway?

DeLong What staff is suggesting is basically on the Exhibit 3, the hatched area that's in red would be improved with some sort of low ground cover, be it some sort of hardy evergreen. You know, there are evergreen plantings that just have very little height to them that can just take the edge off that visual appearance, if that is, it sounds like that might be part of the concern this evening. But, the remonstrators have installed a fence, so, it sounds like there is some level of attempt by some party to lessen the impact that is being raised this evening for the visual appearance. But, as far as staff, just a low ground cover, you know, something that's evergreen, along that hatched red area along the perimeter would be sufficient.

Morical Do you see that more as a suggestion than a requirement?

DeLong Correct. At this point, it's a suggestion. Again, the remonstrators have installed a fence, and seem to have taken matters into their own hands.

Morical Okay. I don't want us to require somebody to do something that doesn't add actual value. Any further questions for staff? Hearing none, I would entertain a motion.

Jones I'll make a motion. I move that Docket # 2016-14-DSV, Design Standards Variance, to reduce the driveway side yard setback requirement in the Residential Village District for the property located at 155 S. 4th Street be approved based on the findings in the staff report as presented.

Morical Thank you. Is there a second?

Evinger I'll second.

Morical All those in favor, please say aye.

All Aye.

Morical Any opposed? Motion carries. Thank you very much. The next item on the agenda is Docket # 2016-15-DSV, B. McDavitt. Please state your name and address for the record.

- Jacob            My name is Jeff Jacob, and I'm an attorney with offices at 345 South Main Street here in Zionsville. I'm here on behalf of Bruce and Donna McDavitt. They are the owners of a small and large animal veterinary clinic located on State Road 334 and County Road 1000 East. Generally, what we're talking about is between 421 and Indianapolis Executive Airport on the north side of 32. The southernmost building in that, on County Road 1000 East, is the McDavitt Veterinary Clinic. I've provided to you some history of how that came to be approved in the county in the mid-90s. I'm happy to talk about that and answer any questions, but getting to the meat and potatoes of the matter in front of you. The clinic currently sits on 37 acres. It's presently small and large animal veterinary clinic. It has equestrian use and hay production. The McDavitts are seeking approval to locate a single-family residence on the bulk of the ground to the east. Now, as part of your submission you should see a concept drawing of the home. It is a ranch residence, and additionally, we supplemented our petition with INDOT approval for a driveway cut. So, what our plan would be, would be to segregate off the clinic into a smaller tract, assuming your approval here this evening. We were thinking it would probably be about 7 acres would comprise the veterinary clinic and the bulk of the ground, 30 acres or so, would be the single-family residence. In terms of the area, I'm sure many of you have driven by recently, it's somewhat unique. There is cattle. There is grain and hay fields and then a handful of large tract residences. We believe that our special exception request and proposed use is consistent with that character of the area, and more importantly, the comprehensive plan calling out low density single-family residential use. Further, there has been some discussion this evening about findings. We do not believe this will be injurious to the public, and, in fact, not only will it not adversely impact property values, we believe it will enhance them. So, I'm happy to answer any questions. We do ask for your approval tonight of the special exception allowing the McDavitt single-family residence to be located on the bulk of the acreage. We request your approval of the special exception consistent with the staff report this evening. Thank you.
- Morical           Thank you, Mr. Jacob. In your letter to the Town, you noted the McDavitt's willingness to make three voluntary commitments related to the special exception request.
- Jacob            Yes, those remain. One of which has been satisfied in that the INDOT permit has been granted and approved in part of your file this evening.
- Morical           And, for the road cut?
- Jacob            Yes, sir.
- Morical           So, that leaves two, which would be, number one, that the special exception would be contingent upon the McDavitt Veterinary Clinic being a separate approximately split 6 plus or minus acre parcel and the McDavitt residence would be located on the remaining acreage, and number two that the single-family residence would meet all zoning requirements and requisite building codes?

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Jacob Correct.

Morical So, you would contemplate splitting the parcels.

Jacob Approximately 30 and 7 acres is about what we're seeing. We want to get in and do a little bit more work, and make sure that there are no other issues on the clinic parcel, and that fits with the couple of issues just so you're aware. We intend to install the road cut onto 32, so we've preserved it. We don't believe that that's the best use and the safest use, so we have a common drive easement that we have engineered that's also part of your application through the veterinary clinic where they'll access the residence.

Morical And, would your clients be amenable to agreeing that prior to any type of construction of this house on the property that the parcels would be split?

Jacob Yes, sir. That deed will be recorded and that acreage will be defined.

Morical Okay. Thank you. Are there any other questions for the petitioner?

Evinger Just, I have a couple of questions. One, being as close in proximity to the airport, I know there have been some restrictions before as far as building residences because of the noise. Are there any kind of covenants or anything that we need to address tonight as far as variance for the airport authority?

DeLong No. We list the presence of the airport in the staff report, but anything specific that's to be tied to this dwelling, it would be up to the petitioner to make those accommodations if they so choose.

Evinger Okay. And, then, second question would be, with having the curb cut on 32 and having a 30 acre tract of land for the single residence, is there any inclination or intention in the future of making this like a minor plat to add additional residences?

Jacob My gut reaction would be no, but the McDavitts are here and I will certainly ask. Do you guys plan on putting any additional residences where you would plat that it would remain 30-ish acres? No plans to turn this into a minor plat whatsoever.

Evinger Okay. Thank you.

Morical Mr. Jacob, your clients are willing to sign the right to farm acknowledgment.

Jacob Yes, very much so. In fact, a portion of the ground will be farmed in hay production.

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

Jones Yes, one other question. So you have the driveway permit off of 32?

Jacob Yes, sir.

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- Jones But, it sounds like the intent is probably to connect it through the clinic property over to whatever the road is there to the north of—
- Jacob --1000 East and that--we will be on the north edge of the clinic property. We will comply with the setback requirements from a driveway to a property line, even though it isn't required.
- Morical Very funny, Mr. Jacob.
- Jones Here's the question. It sounds like, though, they aren't intending to put the driveway into 32 at this time.
- Jacob They will install a culvert, an INDOT petition for driveway cut is valid for one year from issuance, and they will install the culvert and do the minimum requirements so that that is realized so that that permit has been considered active. They don't intend to use that.
- Jones Okay. That was my—
- Jacob --It would be purely a resale issue so that they are preserving their right.
- Jones Correct. That's what I wanted to make sure that it wasn't a situation where they'd applied and got approved for something that if some day in the future they go to sell it had expired. So they actually intend to do the work to comply with the curb cut portion, just not connect it up to the house at this point.
- Jacob Correct. I would almost see it as a farm access point for hay production if it would ever be needed.
- Morical Are there any further questions for the petitioner? Hearing none, thank you very much Mr. Jacob. 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. The home site that is contemplated here is generally the area where the property has been improved with other buildings associated with agricultural operations. Certainly, the impact to the surrounding areas, as the petitioner's agent has indicated or has spoken to, is maintaining the fabric of large lot single-family development within this area, while still preserving farm land. The right to farm has been mentioned, and certainly voluntary commitments is something else that staff is interested in seeing wrapped up as well. Again, staff is supportive of the petition as filed, and I'd be happy to answer any questions.
- Morical Thank you, Wayne. Any questions for staff? Hearing none, I would entertain a motion and note pursuant to the petitioner's representative's statement, that the property would be split in 2 parcels prior to any type of building of this construction of the new house, would be a condition upon the grant of the variance. I would entertain a motion.

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- Evinger            Okay. I'll attempt to add in all the language here. I move that Docket # 2016-15-SE, Special Exception, petition in the agricultural district for the property located at 9944 East State Road 32 be approved based upon the staff report and the proposed findings as presented with the condition of the property being split into 2 parcels prior to construction of the new house, as a condition of the grant.
- Morical            Thank you.
- Wopshall          I'd like to also add an amendment this motion to require the petitioner to execute the right to farm acknowledgement.
- Morical            Julia, are you amenable to that amendment?
- Evinger            Yes, I am.
- Morical            Excellent. Is there a second?
- Wopshall          I'll second.
- Morical            All those in favor, please say aye.
- All                  Aye.
- Morical            Any opposed? Motion carries.
- Jacob              Thank you for your time.
- Morical            Thank you, Mr. Jacob. Do we need to stay on the record to do anything further, Carol? Thank you very much. This meeting of the Zionsville Board of Zoning Appeals is adjourned.