



**MEETING RESULTS ZIONSVILLE BOARD OF ZONING APPEALS September 13, 2016**

The Regular meeting of the Zionsville Board of Zoning Appeals was scheduled Tuesday, September 13, 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 August 9, 2016 Meeting Minutes
- IV. Continuance Requests

| Docket Number | Name       | Address of Project        | Item to be considered   |
|---------------|------------|---------------------------|---|
| 2016-16-UV    | M. Pittard | 9810 & 9802 State Road 32 | <p><b>Continued to the October 11, 2016 Board of Zoning Appeals Meeting at the request of a Remonstrator</b><br/> <b>4 in Favor</b><br/> <b>0 opposed</b></p> <p><b>Continued to the November 9, 2016 Board of Zoning Appeals Meeting at the request of the Petitioner</b><br/> <b>4 in Favor</b><br/> <b>0 opposed</b></p> <p>Petition for Use Variance to provide for the continued establishment of 2 (two) Commercial Uses on 1 (one) property (neither Business permitted by right) in the (AG) Agricultural Zoning District</p> |

V. Continued Business

| Docket Number | Name | Address of Project | Item to be considered |
|---------------|------|--------------------|-----------------------|
|               |      |                    | None at this time     |

VI. New Business

| Docket Number | Name     | Address of Project | Item to be considered   |
|---------------|----------|--------------------|---|
| 2016-18-DSV   | M. Lyons | 8541 E. 500 South  | <p><b>Continued to the October 11, 2016 Board of Zoning Appeals Meeting</b><br/> <b>4 in Favor</b><br/> <b>0 Opposed</b></p> <p>Petition for Development Standards Variance to provide for an accessory structure which does not comply with the Standards of the Zoning Ordinance (structure as contemplated, is not customarily associated with a residential area)</p> |

|             |             |                     |   |
|-------------|-------------|---------------------|---|
| 2016-21-DSV | J. Thorp    | 290 W. Cedar Street | <b>Approved</b><br><b>4 in Favor</b><br><b>0 Opposed</b><br>Petition for Development Standards Variance to exceed the (RV) Residential Village Zoning District lot coverage requirement of 35%, to 43%,   |
| 2016-22-DSV | S. Crenshaw | 4560 S. 975 East    | <b>Approved with Conditions</b><br><b>4 in Favor</b><br><b>0 Opposed</b><br>Petition for Development Standards Variance to allow for a reduction of the minimum road frontage (minimum dimensions between zero feet and 139.20 feet) and to allow an for an accessory structure to exist prior to a primary in the (R-SF-2) Urban Residential Zoning District |
| 2016-23-SE  | M. Squires  | 1567 N. 1000 East   | <b>Continued to the October 11, 2016 Board of Zoning Appeals Meeting at the request of the Petitioner</b><br><b>4 in Favor</b><br><b>0 opposed</b><br>Petition for Special Exception to allow for a new residential building an (AG) Agricultural Zoning District   |

VII. Other Matters to be considered:

| <b>Docket Number</b> | <b>Name</b>   | <b>Address of Project</b> | <b>Item to be considered</b>                                      |
|----------------------|---------------|---------------------------|---|
| 2016-20-DSV          | PL Properties | 8250 E. 100 South         | Status of Right to Farm document, inclusive of BZA lot commitment |

Respectfully Submitted:  
Wayne DeLong AICP  
Town of Zionsville  
Director of Planning and Economic Development



**Petition Number:** 2016-21-DSV

**Subject Site Address:** 290 W. Cedar Street

**Petitioner:** Barb and Jason Thorp

**Representative:** Barb and Jason Thorp

**Request:** Petition for Development Standards Variance to exceed the (RV) Residential Village Zoning District lot coverage requirement of 35%, to 43%, in order to allow for deck.

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

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

**Approximate Acreage:** 0.17 acres

**Zoning History:** None

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

**Staff Reviewer:** Wayne DeLong, AICP

### **PETITION HISTORY**

This petition will receive a public hearing at the September 13, 2016, Board of Zoning Appeals meeting.

### **PROPERTY HISTORY**

The property is comprised of Crosses 4<sup>th</sup> Addition, Lot 100, 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 an accessory structure totaling 2,983 square feet. As proposed, the Petitioner is seeking approval to improve the parcel with a 336 square foot deck. As proposed, the 35% lot coverage would be exceeded by 8%. Note, until recently the property was improved with a 358 square foot deck (deck has been removed in association with ILP 2016-335 which sought to construct a 336 square foot addition to the existing home).

### **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, the property, until recently, enjoyed the presence of a 358 square foot deck in a similar location.

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 deck), 2) the property previously was improved with a similarly sized and sited deck, and 3) similar deviations are enjoyed by other similar properties in the area (example: 260 W. Cedar, 2012-15-DSV). Given the characteristics of both the subject site and surrounding area, Staff is in support of the Petitioner's request to locate a 336 square foot deck 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**

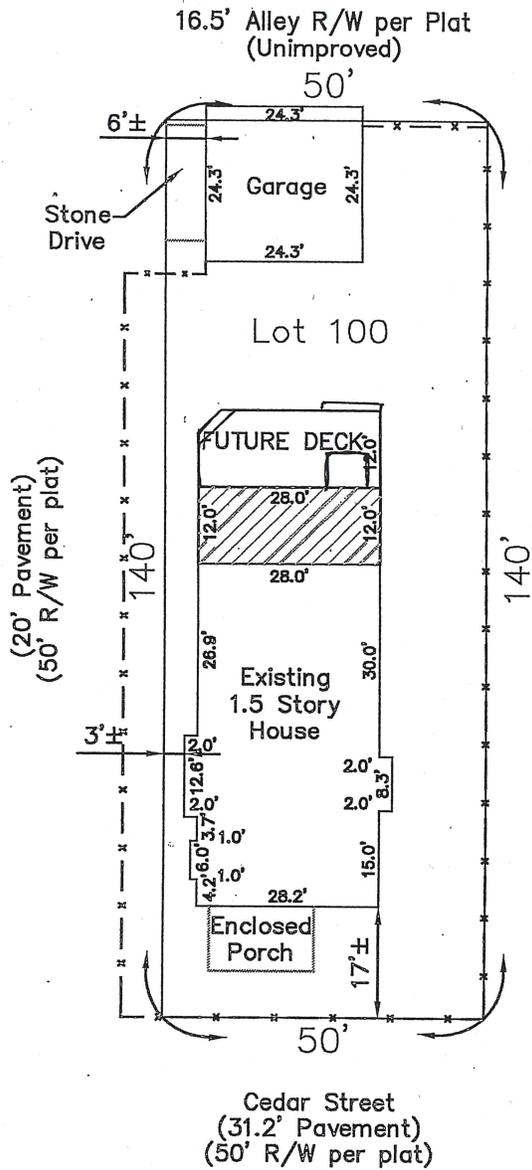
Staff recommends approval of the design standards variance included in Docket #2016-21-DSV, as filed.

**RECOMMENDATION MOTION**

I move that Docket #2016-21-DSV design standards variance to increase the lot coverage allowance to 43% in the Residential Village District for the property located at 290 West Cedar Street be (Approved as filed, based upon the findings of fact / Denied/ Continued) as presented.



Exhibit 2



# RESIDENCE REMODEL & ADDITIO

## JASON AND BARB THORP

290 WEST CEDAR STREET

ZIONSVILLE, INDIANA 46077

SHEET

# AI-2

FIRST & SECOND FL  
PLANS & SITE PL

7 SITE PLAN

AI-2 SCALE 1" = 30' NTS

25 August 2016

Esteemed Town of Zionsville Board of Zoning Appeals,

My wife, Barb, and I wish to petition The BZA for a Variance of Developmental Standards for our property located at 290 West Cedar Street in the Village of Zionsville.

We have lived in Zionsville since May 2004 and have made this community our home. Our two daughters, Emma and Allie, have attended Zionsville Public Schools from Kindergarten to their current grades of 8<sup>th</sup> and 11<sup>th</sup>.

We have always admired the Village area of Zionsville and have dreamed of finding the right property and location to live in this unique setting someday. That day came in the Spring of 2015 when we were blessed to purchase our current home at 290 West Cedar Street. We have thoroughly enjoyed living here now for a little over a year. We are living next to our best friends and have made several new friends with our adjacent neighbors. We enjoy all The Village has to offer.

We are currently in the middle of a 600 square foot renovation of existing home lot usage to our home that will increase the spaces that we most often use. These include our kitchen, bonus room, and creating a Master bedroom suite on the main floor. The existing usage of our lot which includes our recent renovation is 35%.

We are petitioning the Board for a variance of developmental standards to allow us to use 43% of our lot. The extra 8% will be used for an accessory structure wooden deck. The deck will be a 12' x 28' direct extension on the north side of our home that will help us transition from our home to the yard and garage.

We believe the deck will increase the esthetics and value of our property, indirectly increasing the value of our neighbor's properties and The Village as a whole. In addition to allowing us to transition from our home to our backyard, we envision having friends over, enjoying great conversation and using the space for outdoor grilling and eating. We assure The Board that this accessory structure will only add to and enhance the character of our 94-year-old home.

We have spoken directly with all six of our adjoining neighbors and all have voiced their strong support for our project. We are excited about the possibility of the continued transformation of our property and truly only want to enhance this precious community all while creating a home that will be attractive, inviting and will create a comfortable environment to welcome our friends and family.

Thanks so much for your service to our community and the consideration of our proposal.

Respectfully submitted,

Barb and Jason Thorp

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 deck will be constructed in accordance with all safety codes under the review of our architect, Wayne Olander, and our General Contractor, Fentress Builders, both Angie’s List Super Providers for several years. The deck will be low to the group (2 standard steps high). We desire to use this structure as a connection point to continue to build and strengthen relationships through outdoor cookouts and just spending time with friends and family. This deck will blend in well with our home esthetically and will provide for many evenings of enjoyment. In short, we believe this structure will promote morals and general welfare of the community while having no injurious effect to public health or safety.
- 2. The use or value of the area adjacent to the property included in the variance (**will / will not**) be affected in a substantially adverse manner because: This accessory structure will add value to our home, indirectly increasing value to the adjacent homes and the neighborhood as a whole. Outdoor spaces are sought after features in homes in The Village and will certainly be an asset to our home’s value. The materials used and the design are high quality. We envision matching with this some upper end landscaping to create an appealing back yard, visually and functionally.
- 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 moved in to a home where 35% of lot coverage was already being used. We have renovated the existing structure with an upscale remodel maximizing our most used living spaces. To enjoy the full experience of home ownership in The Village we desire to craft an outdoor space that will be inviting and allow us to connect in different ways with our family and friends. We have observed other homes in The Village enjoying their primary structure or an accessory structure that appear to occupy above the maximum of the terms of the zoning ordinance and we would like to simply do the same. We are petitioning the Board for a modest increase in lot coverage and know that we will use this space efficiently and thoroughly for the enjoyment of our family all while improving the look of our community.

DECISION

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

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

\_\_\_\_\_

\_\_\_\_\_



**Petition Number:** 2016-22-DSV

**Subject Site Address:** 4560 S. 975 East

**Petitioner:** Susan Crenshaw

**Representative:** Beth Sease & Roger Burrus

**Request:** Petition for Development Standards Variance to allow for a reduction of the minimum road / lot frontage (minimum dimensions between zero feet and 139.20 feet) and to allow an for an accessory structure to exist prior to a primary in the (R-SF-2) Urban Residential Zoning District

**Current Zoning:** (R-SF-2) Urban Single Family Residential Zoning District

**Current Land Use:** Residential

**Approximate Acreage:** 10.39 acres

**Zoning History:** None

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

**Staff Reviewer:** Wayne DeLong, AICP

## **PETITION HISTORY**

This petition will be heard at the September 13, 2016 Board of Zoning Appeals meeting. The Minor Plat Petition (2016-46-MP) is docketed for hearing at the September 19, 2016 Plan Commission meeting.

## **PROPERTY HISTORY**

The overall subject site is improved with one (1) single-family dwelling and associated accessory structures.

## **ANALYSIS**

As proposed, the Petition is seeking to divide the existing 10.39 acre parcel into three single family residences (scheduled to be presented to the Plan Commission for consideration at a future Plan Commission meeting). Associated with the contemplated division is the necessity for a variance from 1) the minimum lot frontage requirements (on a public street) as well as from 2) the prohibition on the presence of an accessory building without the benefit of a primary structure (as the overall site is currently improved with a single-family dwelling and accessory structures (and the contemplated division would result in a stand-alone accessory structure on a yet to be built on lot).

Generally speaking, Staff primarily focuses its review of contemplated parcel splits which do not follow adopted standards upon two main items: development pattern and existing characteristics. In this particular case, two (2) single-family dwelling currently utilized the existing 1,400 foot long shared driveway (with the first of the two homes being nearly 900 feet from the public street). Further, existing single family dwellings to the east and west of the subject site currently utilize similar configurations and share similar characteristics to the contemplated division. As the proposed division does not introduce new characteristics to the area, Staff is supportive of the plat to facilitate the contemplated division.

## **MINIMUM ROAD / LOT FRONTAGE**

By Ordinance, property in the R-SF-2 district is required to provide for a minimum of 75 feet of frontage on a public street. The standard, among other things, is intended to ensure that the lot has adequate access to public services as well as emergency services.

In this particular case, the contemplated lots would be utilizing an established private driveway (one which already serves one dwelling with zero feet of frontage on a public street). Further, as previously mentioned in this report, other single-family dwellings in the immediate area also utilize shared drives of varying lengths for access to the homes all while having reduced frontage on a public street. Staff is supportive of the continued utilization of the existing driveway (and intensification thereof) with the adoption and recordation of a shared access easement (establishing perpetual maintenance of the drive).

### **ACCESSORY BUILDING**

By Ordinance, a buildable lot is required to contain a primary structure in order for it to be improved with an accessory building (or use). A result of the contemplated division would locate an existing 24-foot x 40-foot barn on Lot 1 (without the benefit of a primary structure). As the intention is for Lot 1 to be improved with a primary structure in the future, the deviation from the zoning requirement would be temporary.

Given the size and location of the lot as well as the existing characteristics of the area, Staff is supportive of the continued existence of the accessory building on the future Lot 1, but for a temporary period of time. Staff would support the existence for a period not to exceed three (3) years at which time either 1) a compliant single-family dwelling has been constructed which supports the presence of the 960 square foot accessory building, or 2) the accessory building is demolished (with the benefit of a demolition permit to effectively remove the structure from the Boone County tax rolls). Additionally, it should be noted that the RDF-2 zoning limits both the number of accessory uses permitted to be located on a property as well as the total amount of square footage associated with accessory uses on a property (therefore, the contemplated single-family dwelling will need to be of a size and dimension to support the continued presence of the accessory structure IF the accessory structure is to remain on Lot 1).

### **PROCEDURAL – VARIANCE TO DEVIATE FROM STANDARDS**

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

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

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

### **STAFF RECOMMENDATION**

Staff recommends approval of the petition as filed, subject to both the establishment of a perpetual access easement serving the contemplated lots (language of the access easement to be reviewed and approved as a part of the Subdivision Plat) and the execution of a Zoning Commitment stating that the 960 square foot accessory building would be removed from the subject site prior to September 13, 2019 in the event future Lot 1 remained absent of a single-family dwelling (note: commitment should be void in the event that the 10.39 acre tract is never divided to establish a lot which contains the 960 square foot accessory building as the sole vertical improvement on the lot).

**RECOMMENDED MOTION**

I move that Docket #2016-22-DSV design standards variance to allow for both a reduction of the minimum road frontage and the continued presence of a 960 square foot accessory structure on the future Lot 1 all in the (R-SF-2) Urban Residential Zoning District for the subdivision located at 4560 S. 975 East be (Approved, based on the finding and based upon staff report and presentation / Approved, based on the finding as presented / Denied / Continued).

I move that Docket #2016-22-DSV design standards variance to allow an for an accessory structure to exist prior to a primary in the (R-SF-2) Urban Residential Zoning District on Lot 1 of subdivision located at 4560 S. 975 East be (Approved, based on the finding and based upon staff report and presentation / Approved, based on the finding as presented / Denied / Continued).

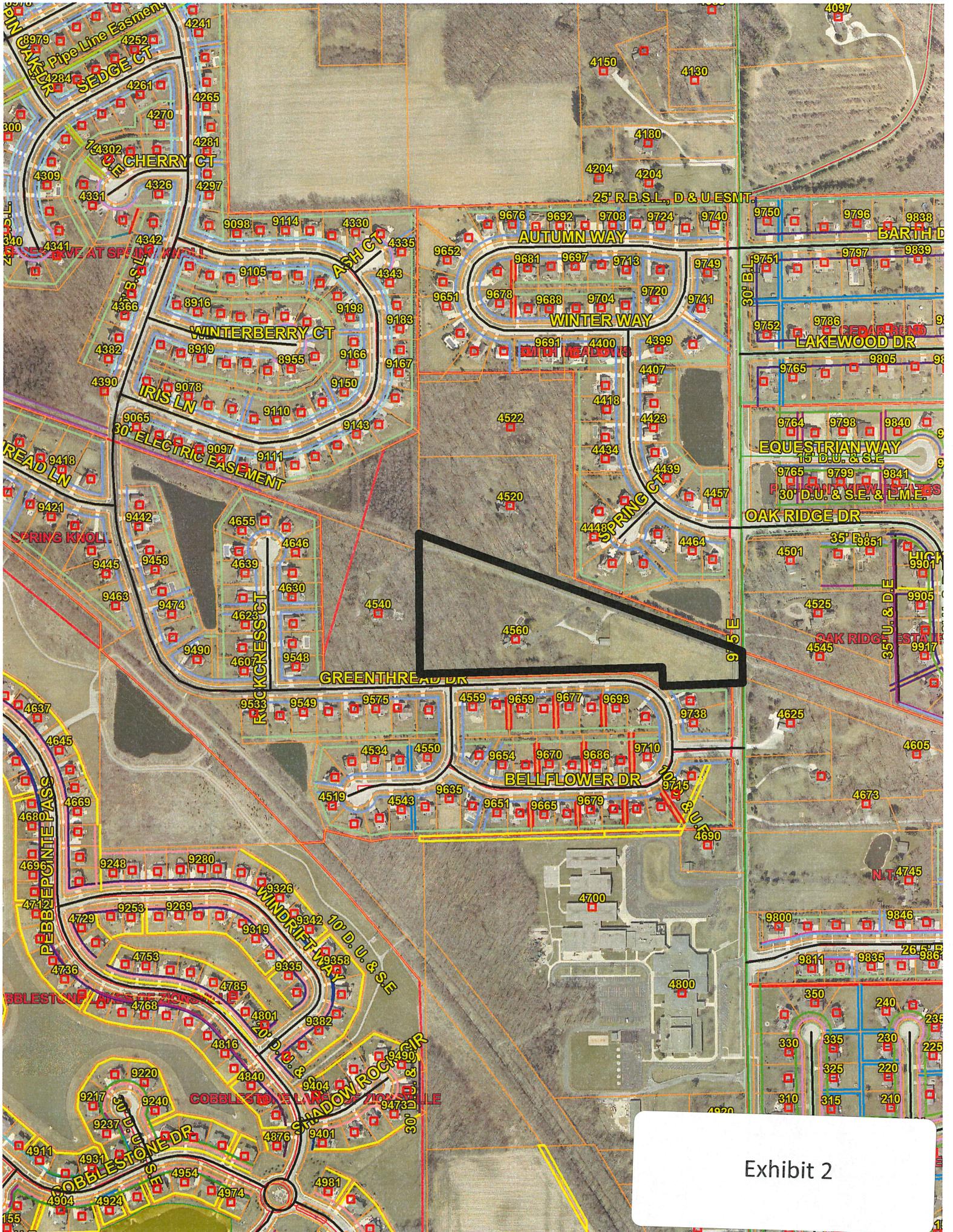
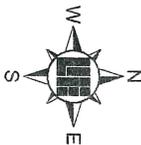
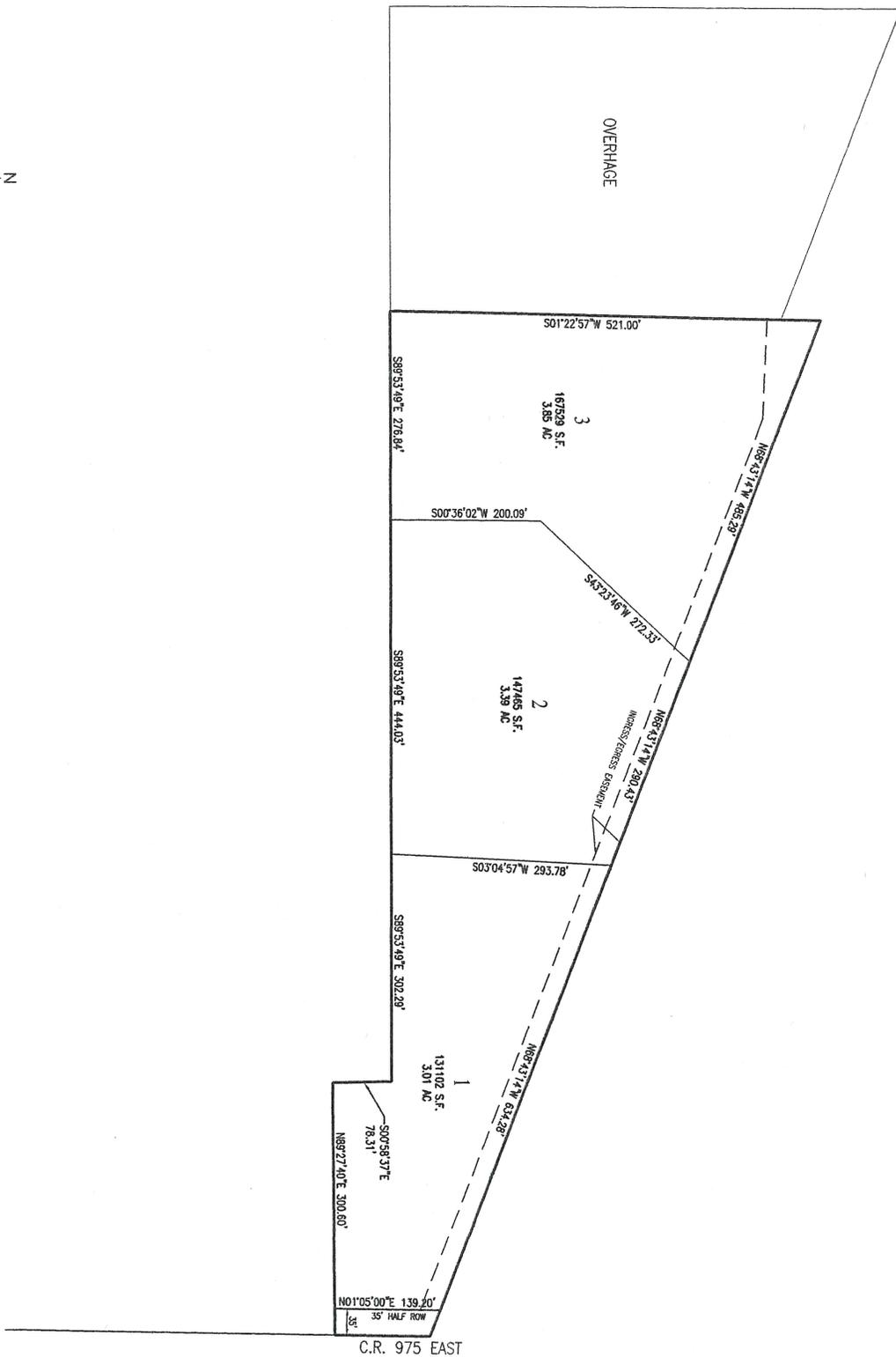


Exhibit 2

CRENSHAW SUBDIVISION  
 ZIONSVILLE, INDIANA  
 SITE PLAN



SCALE: 1" = 100'



Property Owner:  
**SUSAN CRENSHAW, TRUSTEE OF  
 THE SUSAN CRENSHAW REVOCABLE  
 TRUST**  
 4560 S. 976 E.  
 ZIONSVILLE, INDIANA 46077  
 PHONE: 317-443-8586

This instrument prepared by: Brad Kalin as agent for owner  
**WEIHE ENGINEERS**  
 Land Surveying and Engineering  
 Landscape Architecture  
 1117 N. W. 10th Avenue  
 Indianapolis, Indiana 46280  
 317.846.6611  
 800.443.6408  
 317.843.0586 fax  
 WEIHE ENGINEERS, P.C., ARCHITECTS

Exhibit 3

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS  
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

By SUSAN CRENSHAW, TRUSTEE OF THE SUSAN CRENSHAW REVOCABLE TRUST

FINDINGS OF FACT

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because: **Public health, safety, morals and general welfare of the community will be enhanced by the proposed minor plat, which will comply with the Zionsville ordinances in all other respects, and allow for further improvements to the property.**
2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: **the proposed minor plat and additional lots will remain low density single family housing; covenants, conditions and restrictions shall ensure that the future homes and structures are consistent with or exceed the development standards in the area; and a permanent access easement will benefit all lots plus the existing lot west of the property.**
3. Strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of the property because: **petitioner did not create the need for the variances, or the peculiar shape and dimensions of the property. Similarly, the existing common access drive was created prior to petitioner's ownership. There is a limited market for lots of this size and dimensions. Improvements to the property would not likely be made under a strict application of the ordinance, and lastly, combination of lots would not be likely without subdividing the property.**

DECISION

It is therefore the decision of this body that this VARIANCE petition is APPROVED,

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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



**Petition Number:** 2016-23-SE

**Subject Site Address:** 1567 N. 1000 East

**Petitioner:** Madalyn Squires

**Representative:** Michael Andreoli

**Request:** Petition for Special Exception to allow for a new residential building within the (AG) Agricultural Zoning District

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

**Current Land Use:** Agricultural

**Approximate Acreage:** 20 acres

**Zoning History:** none

**Exhibits:** Exhibit 1 – Staff Report  
Exhibit 2 – Aerial / Location Map  
Exhibit 3 – Site Plan  
Exhibit 4 – Petitioner’s Narrative  
Exhibit 5 – Findings of Fact

**Staff Reviewer:** Wayne DeLong, AICP

### PETITION HISTORY

This Petition will receive a public hearing at the September 13, 2016, Board of Zoning Appeals meeting. There is no evidence of a prior approval for Special Exception for the existing dwelling. A Petition for Minor Plat approval is scheduled to be heard by the Plan Commission at its September 19, 2016 meeting.

### PROPERTY HISTORY

The property is comprised of three (3) tracks, two (2) of which are 40+/- acres, and one (1) which is 80 +/- acres, and is presently zoned for both residential and agricultural purposes.

### 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. While the Petition represents an expansion of residential development in the AG district, the area proposed to be improved with the new dwelling is to be located along an existing common driveway (with the new dwelling being located in-between two existing single-family dwellings).

### 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 two (2) miles 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 #2016-23-SE.

**RECOMMENDATION MOTION**

I move that Docket #2016-23-SE special exception Petition in the Agricultural District for the property located at 1567 N. 1000 East, Sheridan IN 46069 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**

**ROAD FRONTAGE / LOT DEPTH TO WIDTH RATIO**

As indicated in the Petitioner's filing, the new single-family dwelling is intended to be located on a 20 acre parcel deriving access from a common drive. In order to facilitate the division of the parent tracts, a plat petition has been filed with the Plan Commission for its consideration at its September meeting. Additionally, the Petitioner is aware that obtaining a variance from the Board of Zoning Appeals (specific to lot frontage and depth to width) is also required (in order to facilitate the buildability of the lot which is created from the contemplated division).

**FLOOD ZONE**

As a portion of the property is within the Special Flood Hazard Area (SFHA) associated with the Eagle Creek, it is subject to additional development restrictions (limitations of size, placement, and floor elevation of buildings). Dependent on the location of any contemplated improvements, approvals from the Federal Emergency Management Agency, Indiana Department of Natural Resources, the Boone County Surveyor, and / or the Town (in conjunctions with the Town's Ordinance for Flood Hazard Areas) may be necessary (specific to the SFHA).

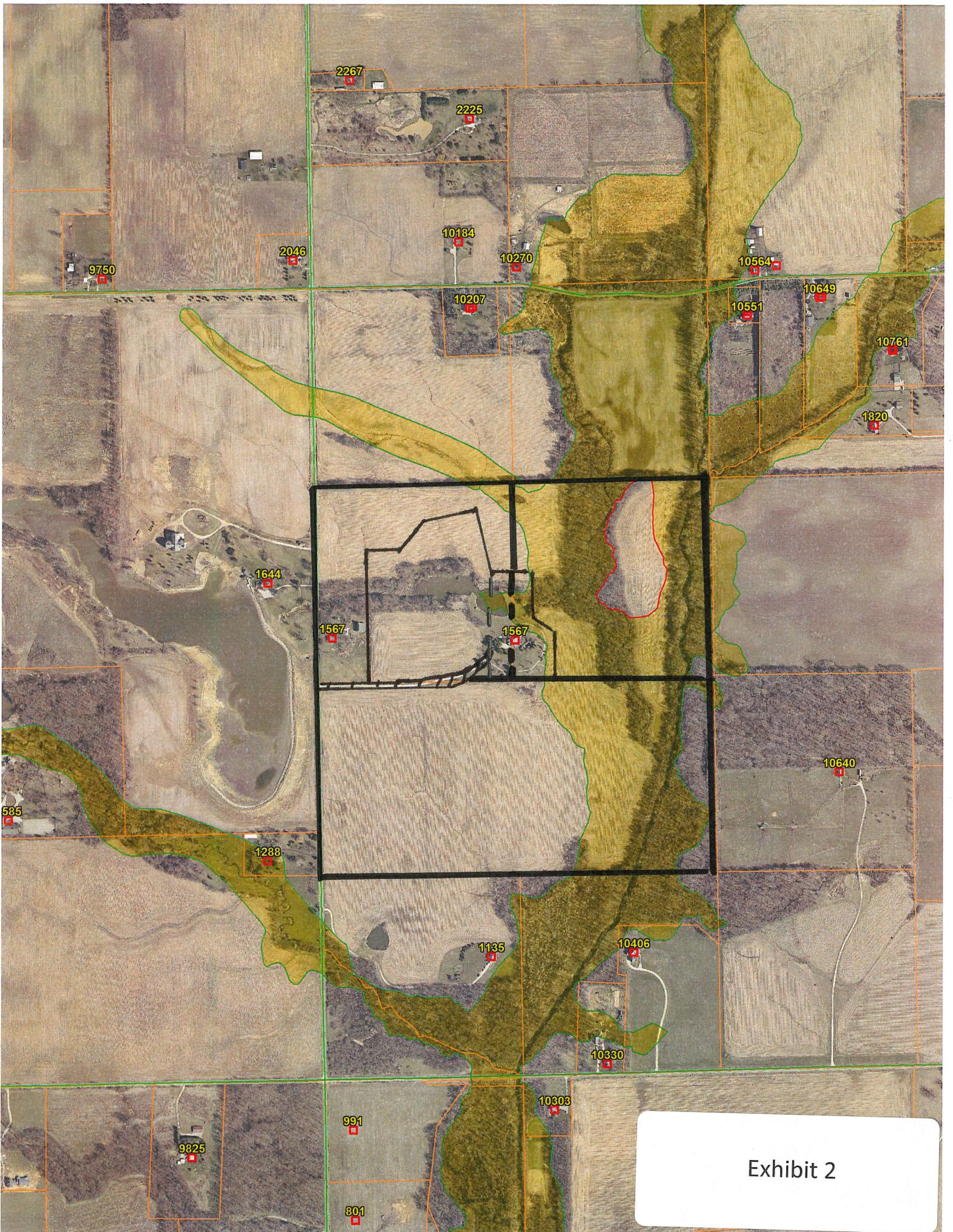
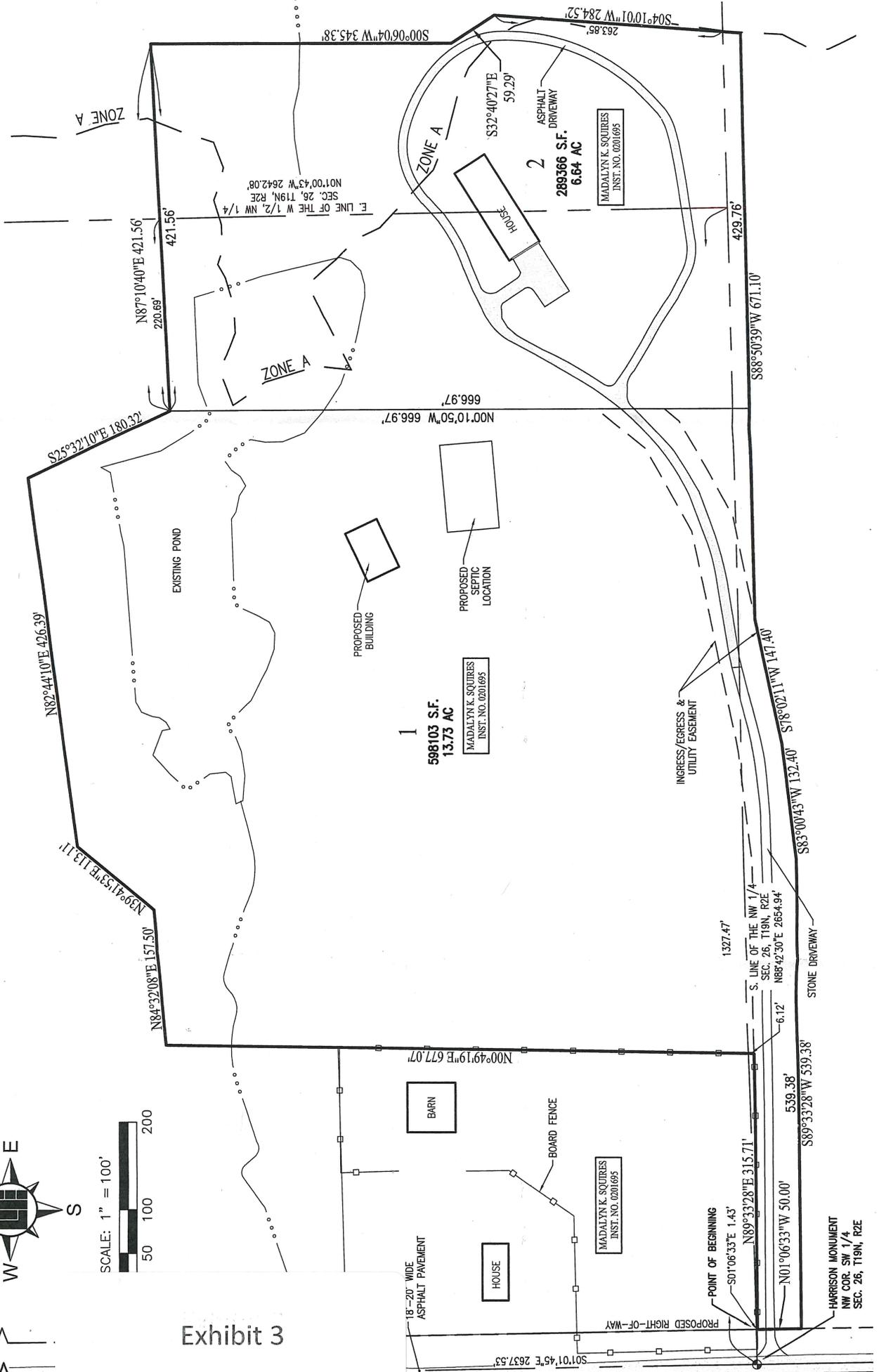


Exhibit 2



Exhibit 3

04 DEGREES 10 MINUTES 01 SECOND WEST 284.52 FEET PASSING THE SOUTH LINE OF SAID NORTHWEST QUARTER SECTION AT 600.00 FEET; THENCE SOUTH 88 DEGREES 50 MINUTES 39 SECONDS WEST 671.10 FEET; THENCE SOUTH 78 DEGREES 02 MINUTES 11 SECONDS WEST 147.40 FEET; THENCE SOUTH 83 DEGREES 00 MINUTES 43 SECONDS WEST 132.40 FEET; THENCE SOUTH 89 DEGREES 33 MINUTES 28 SECONDS WEST 539.38 FEET; NORTH 01 DEGREE 06 MINUTES 33 SECONDS WEST 50.00 FEET TO THE POINT OF BEGINNING, CONTAINING 20.37 ACRES, MORE OR LESS.



This instrument prepared for:

MADALYN K. SQUIRES F

N01°06'33"E 2661.56'  
N01°01'45"W 2637.52'  
COUNTRY ROAD 1000 EAST

S04°10'01"W 284.52'  
263.85'  
S02°40'27"E 59.29'  
ASPHALT DRIVEWAY  
289366 S.F.  
6.64 AC  
MADALYN K. SQUIRES  
INST. NO. 0201695

ZONE A  
E. LINE OF THE W 1/2, NW 1/4  
SEC. 26, T19N, R2E  
N01°00'43"W 2642.08'  
421.56'  
N87°10'40"E 421.56'  
220.66'

ZONE A  
N00°10'50"W 666.97'  
666.97'

EXISTING POND  
PROPOSED BUILDING  
PROPOSED SEPTIC LOCATION  
MADALYN K. SQUIRES  
INST. NO. 0201695  
1  
598103 S.F.  
13.73 AC

INGRESS/EGRESS & UTILITY EASEMENT  
STONE DRIVEWAY  
S83°00'43"W 132.40'  
S78°02'11"W 147.40'  
S88°50'39"W 671.10'  
429.76'

N82°44'10"E 426.39'  
S25°32'10"E 180.32'  
N84°32'08"E 157.50'  
N09°41'37"E 113.11'

N00°49'19"E 677.07'  
1327.47'  
S. LINE OF THE NW 1/4  
SEC. 26, T19N, R2E  
N88°42'30"E 2654.94'  
6.12'539.38'  
S89°33'28"W 539.38'HARRISON MONUMENT  
NW COR. SW 1/4  
SEC. 26, T19N, R2E

18'-20" WIDE ASPHALT PAVEMENT  
HOUSE  
BARN  
BOARD FENCE  
MADALYN K. SQUIRES  
INST. NO. 0201695  
POINT OF BEGINNING  
S01°06'33"E 1.43'  
N89°33'28"E 315.71'  
N01°06'33"W 50.00'

S01°01'45"E 2637.53'  
PROPOSED RIGHT-OF-WAY

### Narrative

Petitioner requests a Special Exception to construct a Single Family Residence on Lot Number 1 (13.73 acres). Further, the Minor Plat will allow Dr. Squires existing home on Lot 2 (6.64 acres) to be sold. Petitioner will commit to no further splits on the remaining farm land acreage she owns. The proposed site of the septic system and proposed building site have been located and the primary residence for Lot 1 is under architectural design. Please note that when Dr. Squires took title to the property in December 2001, this was by Quitclaim Deed as her marriage was dissolved in September 1997 and she was the owner, together with her then husband, well prior to 1999.

Petition No. 2016-23-SE  
*M. Squires*

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

**PETITION FOR SPECIAL EXCEPTION**

**FINDINGS OF FACT**

1. The proposed use **will not** be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare because:

**The proposed building Lot is 13.73 acres and is suitable for well and septic.**

2. The proposed use **will not** injure or adversely affect the adjacent area or property values because:

**Applicant owns all adjacent property and it consists of combined AG and residential.**

3. The proposed use **will** be consistent with the character of the District, land uses authorized therein and the of Zionsville Comprehensive Plan because:

**Residential is a permitted use in the AG District by way of Special Exception.**

**DECISION**

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

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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**Town of Zionsville  
Board of Zoning Appeals  
September 13, 2016**

Pledge of Allegiance was said and attendance was taken.

Present: Vice Chairman, Larry Jones, Al Wopshall, John Wolff, and Julia Evinger. Not present: Greg Morical.

Staff attending: Carol Sparks Drake, attorney; Janice Stevanovic.

A quorum is present.

- Jones I'm going to call to order the September 13 Zionsville Board of Zoning Appeals meeting. The first order of business is the Pledge of Allegiance.
- All Pledge.
- Jones Wayne's not here, so, Janice, you want to take attendance?
- Stevanovic Yes.
- Jones Thanks.
- Stevanovic Greg Morical?
- Stevanovic Al Wopshall?
- Wopshall Present.
- Stevanovic Larry Jones?
- Jones Present.
- Stevanovic John Wolff?
- Wolff Present.
- Stevanovic Julie Evinger?
- Evinger Present.
- Jones Do we have enough for a quorum?
- Stevanovic Yes.
- Jones There we go. So, the first item on the docket is 2016-16-UV, M. Pittard for 9810 and 9802 State Road 32. My understanding is there is a request for a continuance. Is this correct?
- Drake There is, and I believe Mr. Andreoli wants to address you on that item as well.

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- Andreoli Thank you, members of the Board. We understand this is an automatic continuance. We have no quibble with that, of course, pursuant to your rules. However, the attorney for the remonstrator has asked that it be tabled or continued to the October meeting. My clients are going to be out of town in October, so we would respectfully ask, and we have no problem with this, that it be tabled to the November meeting when they can be in attendance and participate in the meeting.
- Jones I don't know if we have any concerns with that. Are there any people in support or who want to remonstrate against this here this evening? Hearing none, the other question is do we want to request them to re-notice?
- Wolff For the counsel, would you recommend that we have them re-notice?
- Drake It's really within your discretion. I would note that your Agenda gives folks a heads-up that a continuance has been requested, but it does say to the October 11, 2016, meeting, so someone looking at your Agenda might assume and show up in October. They would learn at that time that's it's not on your Agenda, but that is at your discretion as to whether you want these folks to re-notice or not, and I would share that the date of your November meeting is Wednesday, November 9.
- Andreoli And, Mr. President, I'll be happy to go ahead and send the remonstrator's lawyer a letter and let him know and confirm that the meeting was tabled to that particular date. I don't think it should be up to Staff to have to do that. I know Janice would, but I'll be happy to go ahead and undertake that, but I would respectfully request, since it's not our motion for continuance of the hearing, we should not have to re-notice it, especially given that it's tabled in a public forum like this. And, again, I'll be happy to go ahead and give him notice that we're not going to do it in October, we're going to do it at the November meeting.
- Jones Okay. Do we have a motion regarding the continuance?
- Wolff I'll make a motion. I make a motion to continue Docket #2016-16-UV to the Wednesday, November 9 BZA meeting.
- Jones Second?
- Wopshall I'll second.
- Jones All those in favor?
- All Aye.
- Jones Any opposed? So we move the hearing for 2016-16-UV to November 9 and without any additional notice.
- Evinger Yes, Mr. Chair, may I just make a point of order real quick?
- Jones Sure.

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- Evinger            Going back to Item #3, we had approval of the August 9, 2016, meeting minutes.
- Jones              Yeah, I did skip over that didn't I.
- Evinger            Which we didn't receive them in our packets. At least I didn't.
- Jones              We didn't get meeting minutes for the –
- Drake              Those minutes are still under review.
- Evinger            I'm sorry.
- Drake              They will be distributed to you for action at your next meeting.
- Evinger            Thank you very much.
- Drake              Thank you.
- Jones              Thank you for pointing that out. Okay. It's also my understanding regarding Docket #2016-23-SE that there might be a request for continuance on that project.
- Andreoli           Thank you, Mr. President. For the record, my name is Mike Andreoli and I represent Dr. Squires on her petition for platting as well as for special exception to allow single family residences in the AG district. After some discussion and analysis between Counsel and Staff, it was suggested that we would need a variance, potentially two variances, with regard to this particular project and, in essence, instead of trying to go through, even though we would get a favorable Staff Report and get a special exception tonight, then come back at a later time for variance, I think our preference would be to go ahead and table this to the October meeting. We'll make our application. We'll have to re-notice because we'll now have a variance from development standards as part of our packet, so that will be a re-notification requirement where we'll re-notice everybody with regard to that, but we would respectfully request that you table this matter to the October meeting and then we can hear it all at one time.
- Jones              Mr. Andreoli, thank you for pointing out that there will be a need for some additional notices. That takes one item off our plate. Do we have any discussion about this? Anyone who would like to make a motion? I'm sorry. Is there anybody here in the audience that wants to have any comment regarding it? Okay.
- Wopshall          I'll make a motion. I move that we continue Docket #2016-23-SE on the, that's 1567 North 1000 East, until the October 2016 Board of Zoning Appeals meeting.
- Drake              Which for clarification is October 11.
- Wopshall          Okay, thank you.

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Jones A second?

Evinger I'll second.

Jones All those in favor.

All Aye.

Jones Any opposed?

Andreoli Thank you.

Jones All right. The next item we have up is Docket #2016-18-DSV, M. Lyons. The project address is 8541 East 500 South. Wayne's not here. I guess we've got a fair amount of commentary regarding this project. Yeah, I guess the first question is, is the petitioner here? Mr. Lyons? Okay. I guess the nature of this is that there has been permits issued at one time. The permits have been –

Stevanovic A brief overview of the project Mr. Chairman is that the structure that was installed is not an approved structure in a residential zoning district and so it was determined that the structure would require a variance. We've attempted to contact Mr. Lyons to come before the Board and at this time have not had communication from him.

Jones Okay. Is there anybody in the audience who wants to have any commentary on this?

Schiferl Hello, Kevin Schiferl, 8552 East 550 South. My wife will speak next. She, too, would like to speak. We live immediately behind this property and odd that I find myself here about this, but importantly so. We have lived in our house peacefully up until last August for 16 peaceful, bucolic years when we were confronted with our neighbor, Mr. Lyons, discharging firearms into a cargo container that he buried, and that is what this is about. We brought it to the attention, and I'd like to thank Staff, Wayne, Janice, as well as Carol, for putting up with us. I also want to make sure this is mentioned. We are here tonight despite never having received notice of this being on the Agenda. We are here because, and Janice well knows this, and so does Carol, that I have been very vigilant as service on the Plan Commission here in Boone County I try to pay attention to these things, and we actually, I've postponed a trip out of town to be here tonight, and my wife, who's heading to Colorado, has done a little bit the same, although it may be overstating to say she postponed it, but I want to give a little bit of history here. As I said, we lived peacefully on our land for a number of years and owned it well before that. We've lived on Zionsville since 1988. Our neighbors sold their house and in moved the Lyons family. We wish them well, and we want to be good neighbors. We never, didn't meet them. They didn't come over and introduce themselves. We never saw them and all of a sudden there's a lot of construction activity going on, all of which was done without any permits being asked for. First step, of course, is one would think that

you'd check into what the requirements are when you start doing things. Not in your bailiwick but perhaps others. A big pond was built. I think DNR may have some issues with that and, importantly, two cargo containers. And, I don't know if Janice has provided you all with the pictures of what we're talking about or not. I provided Staff probably over the last year or so with about 20-some pictures and if you don't have them, I would ask that they be made available to you, but literally we're talking cargo containers were put on the land. One was just set out sitting open to my backyard, to our patio, to our home that we spent a goodly amount of money on. The other interestingly enough was, as I mentioned earlier, buried and by buried I want to make sure you understand that, and if I'm repeating if you, do you have the pictures, do you all have the pictures? Okay. I don't think there will be any dispute on this, Janice or Carol can correct me if I misstate this, but there literally was a cargo container placed on the ground like we would place it here and then earth put up over and around it. No engineering. No safety aspects taken into account. With doors and, of course, you know a cargo container, literally these are the containers that go on the ships that bring us goods from China or that we send, mostly hopefully send elsewhere. And, we saw this going on and had no idea fully of what was going on and what brought it to our attention was the use of this area as the end of what someone would call a very crude firing range, and the pictures that I took and sent in here will show that, because in addition you'll see targets. You'll see those things that are there. When it came to our attention, it came to our attention because we have horses. We have – I'll get there. She's telling me what to say. Dogs, and all of which when we got this brought to our attention, because unfortunately among our dogs is a dog who is quite skittish and has bouts of diarrhea when made nervous. And, as you might know, it's a bad combination when you have firearms less than 200 feet, let me say that again, firearms being discharged less than 200 feet from your home in a residential area. And we asked what was going on about this, and Mr. Lyons largely wasn't very responsive. He seemed angry at our inquiry, which I thought was a reasonable one of why are you firing guns near our house. And from there, it's been about a year. I've looked back at my records here that I brought it to the attention of the Town, the issue of the firearms discharge is not before you. It's going to be something dealt with by the Town, but with regard to the lack of compliance with zoning and variances and etc. What happened after that, just to make sure it's all set forth, and again if I misstate something, I'll ask that Staff please correct me, is that Mr. Lyons was contacted and told—he'd already done this work, that he needed to apply for a permit, and a former employee of the Commission, a gentleman by the name of Jason Faucett, allowed him to apply for a permit. Now, what's important about this is that the statutes and your rules make pretty plain and clear that if you do something and apply late for a permit that you are to be assessed, I guess I'll call it a fine or a fee, which is five times the amount of the actual fee, and that was not done here, and so we take some issue with that, but it may be of no consequence because what happened after that is the permits were applied for, but as part of the application for permits, even a late permit, it still involves an inspection of the premises that you're proposing to build for safety, for all those things that we as citizens are concerned about. And so, Mr. Lyons either refused to allow this or it never did happen, but more importantly that's where Staff was directed to among others, I believe, by Counsel, along with research that I had done that I brought to the

attention of Staff to the end that cargo containers are not buildings. Cargo containers are exactly that; they are cargo containers, and do we really want to start a precedent of allowing in Zionsville cargo containers to serve as accessory structures?

It was determined thereafter, and there's a letter, and again, I hope this is in your packet, that structure as contemplated was not one associated with #1, residential use and, therefore, not appropriate and, it was determined, and I think quite appropriately, that a permit should never have been issued. So again, it was a late permit even at that, but I understand Mr. Lyons was refunded his monies for the permits and then we were hoping that these things would be taken care of and rectified. The—several more months went by. There was a change of Staff with regard to the actual inspector, and more recently we've had more good activity in that I can report to you that the aboveground, never-buried-under-earth cargo container that was about 200 feet from our back door was, in fact, removed. Although that took much more time than it should for a simple matter of removing it, and Staff can fill you in on that, because it was moved from the back of the yard to the front yard where it sat for another two months, and finally it was moved, I think about three weeks ago at that. But, we still have this buried cargo container. Now, what's important about this is when the late application for a variance was filed, the representation was made in the application that this underground, and I say it's underground, it's above ground, but buried under earth, cargo container was being applied for, for purposes of storage. Now, this is important. This is in a, we live in an area called Boone's Meadow. There are six lots. It's a platted subdivision. The house lot sizes range from ours, which is about six-some acres on up to 12 acres. All large, at least 3,600 or more square foot homes with outbuildings and, in fact, this particular house of the Lyons already had a detached building structure garage with an above-office use, and so, when we questioned the need for additional devices to store things in, but the representation, this is important, was made that it was for storage. I saw what it was being used for, and I would tell anyone if you were to go inspect it, which apparently has not been allowed, you will see lots of rifle and bullet holes in it because it was being used for anything other than storage, perhaps storage of used spent ammunition, but not storage of goods. But the representation was made that it was for storage. More recently, in the papers that have been filed, and I believe in the representation that has been made in the petition you all have before you right now, is that this is to be proposed to be used for what sounds to be something quite nice, which would be a storm shelter for a family. I've got to tell you, I take it with a grain of salt that all of a sudden now what was a rifle range, then represented to be storage, is now in fact going to be used for, would ever be used for, anything like a storm shelter. #1 because it's about 350 feet from the home that it's being attached to, so it's actually closer to my home than this home, and while one could see, you know, Dorothy running, "Auntie Em, Auntie Em," to a storm shelter, I would doubt that this would be where you would place a storm shelter at the very corner of your lot nearest your neighbor, so I don't believe that to be the case at all. But aside from that, you get back to the very heart of what it was that I think Wayne and Staff looked at, which is a cargo container buried in earth, which has never been engineered for that purpose, even suitable for human habitation even if it's only for temporary

points. There's absolutely no ventilation, no air. There's only one method in and out. A method that, by the way, like all cargo containers is locked only from the outside. I think it's a safety hazard from the standpoint if kids are playing out there, which by the way they do, that a kid could get put in there and locked, and Lord knows when they would be let out. I wanted to give you all that background on this because we now find ourselves in this situation. Mr. Lyons was told by Staff, and again if I misrepresent this, please correct me, Staff, was told by Staff that he needed to apply for this variance, which he did. He made his application and has sat on it and sat on it and sat on it, and Janice can well tell you, I think I've made monthly visits, or if not monthly emails and calls, to follow up on this and am frustrated because of the fact that nothing's being done, and so we find ourselves here tonight, not noticed to be here, but here tonight requesting that this body please reject this petition and stand behind what has been determined by Staff, which is that this is a structure, if you even call it a structure, which doesn't comply with the zoning ordinance and therefore should be disallowed and I've probably said more than I need to, but I wanted to give you a full picture of it, and that's all I have to say although I'm sure Carolyn has more.

Jones                   And Mrs. Schiferl before you get started, well what we need to, as the Board of Zoning Appeals, is look at, is sort of more or less the merits of what's currently going on here. And, it's my understanding, our understanding, is that he's, Mr. Lyons has been given notice that needs to file notices and basically complete the variance request procedures, which he has not done to our understanding to date, and so while we're interested in hearing what you have to say, it really, we aren't really going to be, I don't think having an actual hearing this evening. I think what we need to do, sort of as a Board, is sort of maybe discuss a little bit amongst ourselves about whether or not we want to, you know, grant any kind of additional continuance and make one more try at reaching out to Mr. Lyons about getting this done and then maybe the other option we have available to us is that we do make some sort of motion to actually serve him with a notice of the violation to make sure we've actually got the process started to enforce a removal if he continues to fail to comply with the requests that have repeatedly been made as well as, you know, get the story straight. Is that--?

Schiferl               I'm all about fair notice and hearings and public consideration of things. I'm not suggesting to the contrary. I am suggesting, however, the frustration with the process where we are truly every step along the way law compliant. We had to apply for a variance when we built our barn. I mean, and did all those things, and it continues to baffle me how individuals who fully comply with everything are continuing to be frustrated by those who don't, so I appreciate that, but I wanted to make sure that the full record was before everybody and, if we do ever have a hearing I would ask that Staff let the pictures, that we supplied be shown to the rest of the Board of Zoning Appeals, but I think Carolyn did have something she wanted to say.

C. Schiferl           I'm Carolyn Schiferl, 8552 East 550 South, Zionsville. I just want to make sure that the process is followed. We had to do it for our barn before we could actually build it. We had to get it approved. When someone just decides to do

whatever they want willy-nilly, I really think that's a disservice to the community and then for someone to say, "Well it's a storage shed. Okay well, no I mean it's going to be a storm shelter, that's it." If you've been in a storm you're not going to run, your family, when you already have a basement 300 feet from your back door through the storm to get to this shelter. So, let's make sure people are honest in their applications, and you hold everybody to the same requirements and don't give somebody a free pass because they just decided to go ahead and do it ahead of time. That would really not be a service to the community.

Wolff Are you the property, as I look at the map, to the west?

C. Schiferl We, our property is adjacent to the south of the Lyons property.

Wolff Okay, thank you.

C. Schiferl So our properties are adjacent, and the shooting range is a huge problem, because if you go to the NRA website, the spray, if you actually build the shooting range the right way, even if we're allowed to shoot in Zionsville, don't know about that. I don't think we are. If you build it the right way, the spray range is my backyard where my animals and we belong, so it shouldn't be allowed.

Wolff Thank you.

Evinger Can I just ask a quick question, too? So are they still discharging firearms?

C. Schiferl I have asked for advance notice, so I received advance notice, so I could remove my animals and myself from our property while the shootings going on.

Evinger Okay, so through 2016, it's still going on?

C. Schiferl As far as I know, but not on a daily basis or anything. But I've asked for notice and I was given notice, so that I could remove my animals and my persons from our property before they decided to shoot on their property that they own.

Evinger No, I understand. And then one more question for you, too. Have you contacted the Boone County Sheriff?

C. Schiferl I have not, but I guess that's what we're supposed to do next time, so we will.

Jones And is there anyone else with any commentary on this? So, where are we at with this?

Drake Well, Mr. Lyons, after significant prodding, did file his variance petition. He was not on your Agenda last month, I believe due to the incompleteness of his filing, as well as he didn't serve notice or do notice of publication. He is on your Agenda this month, so this is the first month that he's appeared on the BZA's Agenda. Again, he, to our knowledge, did not publish the requisite notice or notice by certified mail for this hearing, and my understanding is he really hasn't responded to the Planning Department since July. Given the status and prior

instances, you may recall other petitioners who you had some challenges in helping them move forward but, when you're in a violation situation, and he has been advised of that, he is to move forward in an expeditious and diligent manner. I leave it to your discretion whether that has occurred, so I would recommend that if you are so inclined, you continue this to the October meeting with a directive to Staff as to what Mr. Lyons must do by October or he'll be dismissed, because under your rules the Board may dismiss a petition for lack of prosecution when the petitioner fails to appear at two meetings. October will be that second meeting. That said, since he has been incomplete last month and done nothing since, and he has not been served with an official notice of violation letter on this cargo container that Mr. Schiferl described, which is still there, I would submit that you might also consider what directive you want to give Staff about going ahead and getting that notice of violation out, so the clock is running on that letter should he continue to fail to appear in front of you in October.

Jones            When it comes to a violation notice, an official letter, is there a certain amount of time they have to comply with that?

Drake            There is. The clock runs on it, but there's a suspension, if he takes the action to file for the variance, but that suspension necessitates that he move forward in an expeditious and diligent manner, and if he doesn't show up in front of you for two months, and you act upon that petition, then the violation letter is going to be triggered without the pending filing holding it in suspension.

Jones            So really, what you're saying is we have the option available to us to go ahead and request the Staff issue the violation letter now versus waiting until October to find out if he does not show up at a second hearing.

Drake            Yes. I mean he's getting the advantage in a way as though the violation notice had been issued and it's in suspension. It hasn't been issued yet.

Jones            But this has been ongoing since, the first notice I see here is December of 2015, correct?

Stevanovic      Approximately, yes.

Jones            Okay. So this has been –

Schiferl         Since last summer. I mean—

Drake            Mr. Schiferl, as you know, you will need to come to the microphone.

Schiferl         I should know better. I apologize. Again –

Drake            Have you ever seen me –

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- Schiferl I think the answer to your question again, I will defer to Staff on this, I think the December may be the official action, as far as the alertness of the issue to Staff. I have the, my emails going back to last summer, in September so, yeah.
- Wolff I guess, I mean it seems the, I've never spoken to Mr. Lyons, but from the feedback I'm getting from the Town and those involved in the process, it seems like I'm inclined to have the Staff issue a notice of violation as well as continue this to next month and, which will consequently put him on the, you know--
- Jones So, Carol, just a quick question. Would that require us to make two separate acts? The request for continuance and also the request to issue the notice of violation?
- Drake I think you can do it in the same motion, much like you approve something and make it subject to commitments. You can continue this docket to the October 11 meeting, directing Staff to advise this petitioner that he must serve the requisite notice and appear in October and also giving him his violation notice.
- Jones So it's almost three parts. A motion for a continuance. A request for the notices to be completed and then the request that Staff issues the violation. Anybody want to make a motion?
- Wolff I'll give it a shot. I would make a motion that Docket #2016-18-DSV, for the property at 8541 East 500 South, be continued to the October 11 BZA meeting, and I would direct the Staff to inform the petitioner that he must provide notice, the appropriate notice. In addition, I would direct the Staff that the petitioner should be issued a notice of violation as well.
- Jones Second?
- Wopshall Second.
- Jones Any discussion?
- Evinger Just quickly, along an amendment to that, do we want to also strongly suggest that he appear in October as well as serve notice?
- Drake I would recommend that be included.
- Wolff I'm amenable to that addition.
- Wopshall I second that, too.
- Jones Okay. All in favor.
- All Aye.

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- Jones Any opposed? Motion carries. The next item we have on the Agenda is Docket 2016-21-DSV, Thorp for 290 West Cedar Street. Is there anyone here to speak on this project?
- B. Thorp Good evening. I first want to thank Janice and Chrissy for walking us through this process. As you know, it's super detail oriented and so thank you. I also want to direct your attention to the cover letter that my husband and I put together in your packet and, when we were first rough drafting that cover letter, he said, "Barb, do you think you're going to be able to talk to all six of the homeowners before?" And I said, "Oh, yeah absolutely," so he wrote in there we have spoken to all six of the homeowners that are adjacent to our property. However, I have spoken to five of the six, because the sixth one I did not realize they are actually renters that live in that home, and so I did not speak to one of the homeowners specifically. So I wanted to make sure that I was forthcoming with that. That's all I have.
- J. Thorp Well, thank you for taking the time to hear us, distinguished Board and Mr. Chairman. I, too, want to thank Janice and Chrissy, especially Staff, for helping us through this process. This is our first go-round of this. We are Jason and Barb Thorp of 290 West Cedar Street. We purchased the home last May. It's been one of our dreams to live in the Village atmosphere. We've been eyeballing homes there for a number of years. We've been Zionsville residents. We lived out on the west side since 2004 and our girls have gone to schools throughout, but we are basically just coming before you today to ask for a variance to development standards to build an accessory structure, which is a low standing deck that will exit the rear of our house, which is the north side of our property. This deck will allow us to help transition between our back door and our yard and the detached garage. We have brought some sample materials of what we are going to use. We plan on using a high-grade composite. It will not require a railing and we believe that this deck will fit in nicely with our property and the layout. We plan on, in the spring, also putting in some high end landscaping to make this whole backyard a visually appealing and attractive structure, which from the five neighbors that we have spoken to, are all fully supportive. We think that it will improve the look of the community in keeping with the appearance of our 94-year-old home. We know that it will raise our property value and indirectly raise those values of those around us, as well as The Village as a whole. So that's what we're here for basically and we're open to any questions or concerns that this Board may have for us.
- Evinger Let me just ask which property of the six were you not able to contact.
- J. Thorp It's the northwestern property. The catty-corner.
- Evinger Okay. Thank you.
- B. Thorp Would you care to see the sample? I brought it.
- Jones Real quick the 600 square foot renovation is basically renovation of the existing house. It's not an addition.

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- J. Thorp            It is a renovation. That was an area that was already occupied when we purchased the home. It was a dilapidated brick porch that set there, and we've basically used that space for the additional renovation. We have approximately, we've been given October 21 as the finish date for that project, so we're well underway with that. Just under roof and finishing some interior design, but that was a part of the initial, and when we applied for that permit, we realized we were at, right at 35 percent of lot coverage, and that was using the more, I don't know, we've seen two different sizes for our property, and so we decided to use the more conservative numbers for this assessment, and so it would bring, the new accessory structure would bring us up to approximately 43 percent.
- Wopshall            So the original area was outside and now it's enclosed?
- J. Thorp            Yeah, the original area was outside. That was originally set up to be used as like a brick patio where they had a grill set up and was the exit to the home, but it was in disrepair and we ended up using that area, just that area, to do the renovation of the home.
- Wopshall            Thank you.
- J. Thorp            And so it's actually, that's actually a 336 square foot area. We did a two-level renovation and so that's where the 600 square feet come from. There's the portion on the bottom and then the upper portion is a bonus room that would be included in that 600 square feet.
- Jones                Okay, now those numbers make sense then. So is there anyone here that has any additional comments either for or against the project? Discussion amongst the Board?
- Evinger             Does Staff have a recommendation?
- Stevanovic          Certainly.
- Jones                I keep forgetting about the Staff.
- Stevanovic          Petitioner's is requesting an increase in lot coverage to 43 percent in order to construct an accessory structure, a deck. Knowing that the petitioner is seeking to improve the site with an accessory structure that other residents enjoy in the area, and that the property was previously improved by a similarly sized deck, and that the area residents enjoy a similar deviation from lot coverage requirements, Staff is supportive of the petition, and I would be happy to answer any questions.
- Jones                Anyone have any questions? Any of my fellow esteemed Town of Zionsville Board of Zoning Appeals Members have – that's the first time I've ever been called esteemed. I wanted to be sure to – all right do we have a motion?

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Evinger I'll make the motion. I move that Docket #2016-21-DZV, which is for 290 West Cedar Street, be approved for the design standards variance, to increase the lot coverage allowance to 43 percent in the Residential Village District for the property, well I already had it in there sorry, 290 West Cedar Street, be approved as filed.

Jones A second?

Wolff Second.

Jones Any discussion? All those in favor?

All Aye.

Jones Any opposed? Motion carries. Thank you very much.

J. Thorp Thank you very much.

Jones The next item we have up is Docket #2016-22-DSV, Crenshaw, property address of 4560 South 975 East.

Sease Good evening. My name is Beth Sease and I am standing in for my partner, Roger Burrus, who is unfortunately out of the country right now, and we represent Susan Crenshaw, who is the Trustee of the Susan Crenshaw Trust, who owns property at 4560 South 975 East. And Susan is here along with Brady Kuhn, who is a professional surveyor with Weihe Engineering and he's involved in our project. It's a public hearing and we have provided the notices and the certified letters to adjoiners and received most of them back. You've received the packet and, as you are aware, the Crenshaw property consists of 10.39 acres and it's zoned urban single family residential, R-SF-2, and Newt and Susan Crenshaw purchased their property in 1997 and in 2011 they transferred it into a revocable trust in Susan's name. When they purchased their property, Mr. and Mrs. Doris owned the property immediately adjacent behind their property and they eventually, that property was eventually sold to Dr. Overhage and Dr. Bruner in 2000, and as you'll see on the plat the Overhages own a 50-foot easement for the driveway access to their property and the two owners have shared the expenses, including paving the driveway and have very friendly terms. And I give you the background just so that you can know that the Crenshaws did not create the situation for which we are asking a variance tonight. This was set up by the predecessors to the Crenshaws and the Overhages. They did not create it. Well right now the Crenshaws are trying to sell their home and they have found that the market is kind of limited for such a large lot and so they would, they have proposed that they would like to divide their 10.39 acres into three different lots. Each of which, you have in the packet, would be over 3 acres each parcel. So there would be a maximum of two additional homes built on their current acreage. You can see that description in your packet.

You'll also note that there is also another long driveway just immediately parallel to the Crenshaw's driveway with a very similar situation and in 2011 Scarlet

Kramer came and requested that her 12.5 acres, immediately to the north, that she had a minor plat created there, and her lot was divided into two different lots. One was 6.74 acres with her existing home, and one was 5.81 acres for a new lot. And that new lot has since been improved with a very nice new home. So my client is proposing and you'll see in your plat that there would be three lots. The first lot would be 2.94 acres and that contains, that right now there is an existing barn, garage, and it has an attached corral and then her lot 2 is where her very nice existing home exists and it is about 6,000 square feet and that lot would be 3.39 acres. And then behind, immediately behind her house is 3.85 acres that we are proposing that is mostly wooded. And just for comparison, the Overhage property that I spoke about a few minutes ago is 5.6 acres and it is very similar to the size of the Kramer lot that was minor platted a few years ago. The petitioner will do covenants very similar to the Kramer property subdivision, and it will protect the architectural standards, keep the common driveway maintained and clear for access for all four lots. In order for this to happen, we are requesting that two variances of the development standards be granted and we thank you for your consideration. The first variance is a reduction of the minimum road frontage, which is 75 feet which was required. This property has 147 feet on the front of the first lot, lot #1. The second variance we would like to ask permission for is to allow for that accessory structure to exist prior to the primary construction. There's an existing barn/garage on that lot. In Staff's report that we have seen, and we're grateful for their careful consideration, they suggested that a time period be allowed for removal of that barn of three years. We initially were hoping for five years, but I think three years, I've talked with my client, and she's agreeable to that for that. We don't think it's going to take that long, but would be agreeable to three years for the removal of that barn or building if no primary structure is on that lot. So we believe that this meets the standards for you to grant these two variances and we will be presenting a, we have a petition for a minor plat at a future meeting for the Plan Commission.

- Jones Are there any members of the audience that either want to speak in support or remonstrate against? Hearing none, do we have a Staff Report?
- Evinger Can I just ask a question, please, before?
- Jones Sure.
- Evinger Just curious. We've had other minor plats come before us and one of the concerns has been emergency vehicles, has that been considered?
- Sease I didn't hear your question. I'm sorry.
- Evinger We've had other minor plats come before us and one of the concerns has been access for emergency vehicles for a fire.
- Sease Oh, okay.
- Kuhn Brady Kuhn with Weihe Engineers. I did contact the Fire Department and talked with the Assistant Chief, I think, who is in charge of development standards and

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he indicated that the existing driveway for a minor plat is acceptable, so we actually reached out to say, “Do we need to put some kind of a turnaround in here for you?” And they said we don’t.

Evinger Okay, thank you.

Jones So Janice, do you have any comments?

Stevanovic Staff is supportive of the request to deviate from the lot frontage requirements as existing parcels to the east and west of the site have similar configurations and this project does not introduce new characteristics to the area. Staff is supportive of the intensification of the shared drive and recommends the adoption and recordation of a shared access easement. As a result of the division a 24 x 40 foot barn would be located on lot 1. Given the size and location of the lot, plus the characteristics of the area, Staff is supportive of the request to allow an accessory structure to exist without benefit of a primary structure, but for a temporary time. Staff would be supportive of a three year timeframe in which the primary building be constructed, which would meet the size and dimensions required to support the existence of the accessory structure or Staff would be supportive of the demolition of it. I’d be happy to answer any questions.

Evinger Just one more question, too. Will utilities with these lots be served by city water and city sewer?

Stevanovic That is something that’s going to be vetted through the – go ahead, Brady.

Kuhn The standards required that we have city water and sewer, and we’ve not asked for a variance from that requirement.

Jones I’m sorry you will or will not?

Kuhn We will not ask for one.

Jones And the existing barn on lot 1 is how big?

Kuhn I don’t have the exact square footage off the top of my head.

Crenshaw Hi, I’m Susan Crenshaw. I’m the owner of the property. The barn, it’s an original barn that was constructed with the house, and I can’t even tell you exactly, we bought the house in 1997. It’s a three stall barn, and it’s got a small tack room.

Jones Okay. As I read through here it says it’s 960 square feet.

Crenshaw Okay.

Jones So it’s not going to be of any size. It’s never going to cause –

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- Crenshaw        It's a smaller barn for the property size. I don't think it'll be a problem if you're concerned about how it will marry with a house. I think it will be fine.
- Jones            I just wanted to make sure we weren't setting up for one of those situations where you would have a barn bigger than the house, but not in this situation.
- Crenshaw        I don't anticipate that. Yeah, in the covenant, yeah okay go ahead.
- Sease            In the covenants we're anticipating, we're requiring a minimum square footage for the house, and they would be much greater than that, yeah.
- Jones            Any additional comments or questions? You just look like you had some intent.
- Wopshall        No, no I'm just, for one thing, okay you're not comfortable with the three-year time limits –
- Sease            Oh no, we are. I mean, I said initially we would have liked to have had the five years, but it won't take that long to sell a lot. We anticipate and I know that realtors have expressed that there is an interest in lots of that size in this area, so we don't really think there will be a problem in selling that lot and we would just let it run with the lot that there would be a requirement to build on it within three years or to remove the barn.
- Wopshall        There's always the option to come back to us and try to petition for longer time, too. Thank you.
- Sease            Okay, thank you.
- Jones            Do we have a motion?
- Wolff            We have two separate motions, correct?
- Jones            Correct.
- Wolff            And we want to include on the first motion, on the second motion we want to include that it is limited or we would ask that it be addressed within three years.
- Drake            I would just note, if you look at the Staff recommendation at the bottom of page 3, Wayne has a discussion about the commitments. My understanding is all this acreage could still be acquired by a single owner, so I think his point there is well taken about how to word potential commitments, and I suggest that the commitment, as well as the alternative in there, be included in the motion concerning the accessory building.

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- Wolff            Counsel, I will take a stab at this and I'll assume you'll correct me where I go wrong. All right. I move that Docket #2016-22-DSV, design standards variance, to allow for both a reduction of the minimum road frontage and the continued presence of a 900 square foot accessory structure on future lot 1, all in the R-SF-2 Urban Residential Zoning District for the subdivision located at 4560 South 975 East be approved based on the findings and based on the Staff Report and the presentation, with the additional commitment that the accessory structure be brought into compliance with a primary structure within three years or that commitment should be void in the event the 10.39 acre tract is never divided to establish a lot which contains a 900 square foot accessory building as the sole vertical improvement on the lot. What did I miss?
- Drake            I think that's fine, and we'll work with counsel on the standard commitment language to effectuate that.
- Wolff            Thank you.
- Jones            Any discussion? All in favor –
- Drake            You need a second.
- Jones            Oh, I need a second. I'm sorry.
- Wopshall        I'll second.
- Jones            Second. Now discussion? All in favor?
- All                Aye.
- Jones            Any opposed? Motion passes.
- Evinger         And then the second, were we going to? I guess that was, that took everything, right? We had two motions. That was both combined correct with all of our intent?
- Drake            The commitment was probably better placed with the second motion.
- Wolff            You know what, let's do it that way.
- Drake            You can just indicate, as you have in the past, incorporating that same commitment, but you do need a second motion.
- Wolff            Okay. And we're referring to the commitment to address this within three years as well, and/or the option to essentially void it if it does not subdivide. Well, I'll give it a shot again. I move that Docket #2016-22-DSV, design standards variance, to allow for an accessory structure to exist prior to a primary in the R-SF-2 Urban Residential Zoning District on lot 1 of the subdivision located at 4560 South 975 East be approved based on the findings and based on the Staff Report and presentation with the additional commitment that it be addressed

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within three years of today's date or that commitment be void in the event the 10.39 acre tract is never divided to establish a lot which contains 900 square foot and an accessory building as the sole vertical improvement on the lot.

Jones Discussion? I'm sorry second?

Wopshall I'll second.

Jones Discussion? All those in favor?

All Aye.

Jones Any opposed? Motion passes.

Evinger So for clarification, the first motion did not contain the subject to the three years, is that the way that works.

Drake They've actually included the commitment in both motions.

Evinger In both, okay.

Drake It's the same commitment, same language. We have boilerplate that Janice has for commitments in general.

Evinger Okay.

Drake And then those commitments would reflect the three years as well as if it's never subdivided.

Evinger Okay.

Drake If it remains a whole tract that can make –

Evinger But it won't impact the frontage variance that there is that contingency?

Drake No.

Evinger Okay.

Drake Not the way that we'll draft the commitments.

Evinger Got it. Okay, thank you.

Wolff Thank you, Counsel.

Jones The next item we have under other matters to be considered is Docket #2016-20-DSV, PL Properties, the status of the right to farm document.

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Stevanovic      Just to let you know that that is in progress. I don't yet have the recorded copy in my hand, but I do know that it's in progress.

Jones            Thank you very much. Seeing that there's no further items on the docket, do we have a motion to adjourn.

Evinger         I make a motion to adjourn.

Jones            Somebody second it.

Wopshall        Okay I'll second.

Jones            All in favor say.

All                Aye.