MEETING RESULTS - ZIONSVILLE BOARD OF ZONING APPEALS MARCH 12, 2019

The meeting of the Zionsville Board of Zoning Appeals occurred Tuesday, March 12, 2019 at 6:30 p.m. in the Zionsville Town Hall Council Chamber, 1100 West Oak Street, Zionsville, Indiana.

The following items are scheduled for consideration:

I. Continued Business

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<th>Name</th>
<th>Address of Project</th>
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<tr>
<td>2018-46-DSV</td>
<td>R. Pabst</td>
<td>8090 E 550 South</td>
<td>Continued from January 8, 2019 to February 12, 2019 Meeting, Continued by Petitioner from February 12 to the March 12, 2019 Meeting, Continued from March 12 to the April 9, 2019 Meeting. Petition for Development Standards Variance in order to permit the establishment of a 1.83 acre lot. (Minimum lot size is 2 acres) in the Low-Density Single-Family Residential Zoning District (R1).</td>
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II. New Business

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<tr>
<td>2019-02-DSV</td>
<td>A. Braun</td>
<td>805 W Pine Street</td>
<td>Approved as presented &amp; filed w/exhibits &amp; per staff report – 5 in Favor, 0 Opposed. Petition for Development Standards Variance in order to provide for the construction of a new single-family dwelling with attached garage which: 1) Exceeds the required lot coverage of 35%, to 43.12% in the Residential Village Zoning District (R-V).</td>
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<tr>
<td>2019-03-SE</td>
<td>D. Gudenkauf</td>
<td>10002 E 100 North</td>
<td>Approved with Right to Farm Commitment as presented &amp; filed w/exhibits &amp; per staff report – 5 in Favor, 0 Opposed. Petition for Special Exception to allow for new residential building(s) in an Agricultural Zoning District (AG).</td>
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<tr>
<td>2019-04-DSV</td>
<td>D. Gudenkauf</td>
<td>10002 E 100 North</td>
<td>Approved as presented &amp; filed w/exhibits &amp; per staff report – 5 in Favor, 0 Opposed. Petition for Development Standards variance in order to provide for the construction of a detached garage which: 1) Exceeds the allowable accessory square footage in the Agricultural Zoning District (AG).</td>
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<td>Case Number</td>
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| 2019-05-DSV | T. Dalberg    | 596 W Linden Street      | Approved as presented & filed w/exhibits – 5 in Favor, 0 Opposed  
Petition for Development Standards variance in order to provide for an addition to an existing single-family dwelling improved with 382 square feet of stone in established side yards serving as pervious surface as recognized by the Board of Zoning Appeals, which:  
1) Exceeds the required lot coverage of 35%, to 45%  
2) Deviates from the required front yard setbacks in the Urban Residential Village Zoning District (R-V). |
| 2019-06-DSV | Rottmann Collier | 160 N Main Street        | Approved with Commitment as presented & filed w/exhibits & per staff report – 5 in Favor, 0 Opposed  
Petition for Development Standards Variance in order to provide for the construction of a new single-family dwelling with attached garage which:  
1) Exceeds the required lot coverage of 35%, to 46%  
2) Deviates from the required rear yard setback in the Residential Village Zoning District (R-V). |
| 2019-07-SE  | S. Boedicker  | 782 N 800 East           | Approved with Right to Farm Commitment as presented & filed w/exhibits & per staff report – 5 in Favor, 0 Opposed  
Petition for Special Exception to allow for new residential building(s) in an Agricultural Zoning District (AG). |

Respectfully Submitted:  
Wayne DeLong AICP, CPM  
Town of Zionsville  
Director of Planning and Economic Development
Petition Number: 2018-46-DSV

Subject Site Address: 8090 E 550 South

Petitioner: Reasa Pabst & Gregg Roberts

Representative: Reasa Pabst & Gregg Roberts

Request: Petition for Development Standards Variance in order to permit the establishment of a 1.83 acre lot. (Minimum lot size is 2 acres) in the Low-Density Single-Family Residential Zoning District (R1).

Current Zoning: Low-Density Single-Family Residential Zoning District

Current Land Use: Single-family Residential

Approximate Acreage: 3.83 overall acres (resulting parcels will be 2.0 acres and 1.83 acres in size)

Zoning History: This parcel was consolidated into the Town of Zionsville’s jurisdiction in 2010. No prior petitions are known.

Exhibits: Exhibit 1 – Staff Report
Exhibit 2 – Aerial Location Map
Exhibit 3 - Petitioners Project Description
Exhibit 4 – Petitioners Proposed Site Plan
Exhibit 5- Transcript, January 9, 2019 BZA hearing
Exhibit 6 – Boone County Health Department Letter
Exhibit 7- Boone County Natural Resource Conservation Letter
Exhibit 8 – Petitioners proposed Findings of Fact

Staff Presenter: Wayne DeLong, AICP, CPM
PETITION HISTORY

This petition received an initial public hearing at the January 8, 2019 Board of Zoning Appeals meeting. At the request of a Remonstrator, the matter was continued to the February meeting of the Board of Zoning Appeals, and at the request of the Petitioner, the matter was continued to the March 12, 2019 meeting.

At the January 8, 2019 meeting, the Petitioner presented information pertaining to the justification of the requested variance, and Remonstrators presented concerns regarding potential negative impacts to the area which, per the Remonstrators, have the potential to occur as a result of the granting of the variance. Subsequent to the dialog between the BZA, the Petitioner, and Remonstrators, the Petitioner consulted with a number of additional professionals regarding the contemplated division of land and eventual construction of a new dwelling on the resulting lot. For reference, the transcript of the January 8, 2019 hearing is attached as Exhibit 5, and letters from Boone County agencies are attaches as Exhibit 6 and Exhibit 7.

PROPERTY HISTORY

The property is comprised of a 3.83 acre tract. Staff is not aware of any prior variance requests for this property.

ANALYSIS

The 3.83-acre combined parcel is currently improved with a circa 1880’s dwelling (addition constructed circa 1960’s) with a detached accessory structure and a corn bin. As proposed, the Petitioner desires to split the parcel to create two (2) parcels, one being a vacant 2.0 acre parcel and the other containing the existing single-family dwelling and accessory structure would become a 1.83 acre parcel.

LOT SIZE

Per Section 194.081, Table 3, the minimum R1 Rural Residential District lot size when utilizing a well and septic system is two (2) acres, therefore the Petitioner must obtain a variance from current Zoning minimum requirements. As contemplated, each parcel would contain the minimum amount of required road frontage and parcel depth. No other zoning related development issues are identified based on the facts presented as part of the petition.

This area is comprised of parcels which vary in size (from 1.25 acres to parcels in excess of 100 acres); there is no established theme as to lot size which reflects the Zoning District minimum of two (2) acres. With this in mind, Staff would note that parcels along County Road 550 South, being directly south and further east of the contemplated 1.83 acre parcel are between 1.25 and 1.57 acres in size, as well as parcels along County Road 800 East, being south of the contemplated 1.83 acre parcel are between 1.69 and 1.81 acres in size. Given that the requested parcel size is already established in the area, Staff is supportive of the petition as filed.
PROCEDURAL – VARIANCE TO PERMIT THE ESTABLISHMENT OF A 1.83 ACRE PARCEL UTILIZING A SEPTIC SYSTEM

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 # 2018-46-DSV, as filed.

RECOMMENDATION MOTION

I move that Docket # 2018-46-DSV design standards variance in order to permit the establishment of a 1.83 acre lot, which results in a deviation from the required minimum 2 acre lot size, within the Low-Density Single-Family Residential Zoning District (R1) for the property located at 8090 E 550 South, be (Approved as filed, based upon the findings of fact / Denied / Continued) as presented.

PROCEDURAL NOTES

As the parent tract was created prior to 1999, the division of the parcel is permissible to occur without the filing of a Plat with the Plan Commission, nor the conducting of a public hearing. Any future division of either the parent tract or the newly created parcel will require the involvement of the Plan Commission (and additional development standards variances).

Based on correspondence with the Boone County Health Department (Health Department) dated November 28, 2018, a location on the contemplated tract has been identified which supports an inground septic system. While the Health Department, based on the submitted information, is supportive of the location, deviating from the minimum lot size of two (2) acres could, in the future, result in the need to install a mound septic system in the event that adequate acreage is no longer available to facilitate a conventional in-ground septic system (in the event that the second system is required to be installed to replace a failed system). Additionally, reducing parcels to less than the minimum lot size of two (2) acres has the potential to reduce opportunities for routing perimeter drains associated with septic systems. While neither of the points raised in this paragraph should be viewed individually as justifications to prohibit the contemplated division of the parent tract, the Petitioner should be fully aware that actions taken based on the granting of the variance could potentially foreclose future opportunities related to waste disposal and drainage that could have otherwise existed if the parent tract had not been divided.
January 1, 2019

Zionsville Town Hall
1100 West Oak Street
Zionsville, IN 46077

RE: 2018-46-DSV R. Pabst

Dear Board of Zoning Appeals Members,

I am asking for a Development Standards Variance to do an administrative divide for the property located at 8090 E 550 S. My goal is to preserve the home that was built in the late 1800's and was our family home for over four decades. The proposed divide will create a 2-acre lot and the home will remain on the 1.833 acreage.

I have furnished a soil evaluation determining that a new septic can be placed on the 1.833 acre for the current home and a letter from the Boone County Health Department verifying the findings. It's my understanding that the property will conform to all other requirements needed for the divide.

I have included a photo of the home.

Thank you for your time and consideration concerning this matter.

Sincerely,

Reasa Pabst
NOTES:

1) All physical improvements herein are shown as they were located in the field on November 26, 2018.

2) This exhibit is prepared based on a recent survey by this firm on the overall boundary of this property. This is not intended to represent an original or reconnaissance boundary survey, a room survey, or a surveyor location report. No omissions have been set on the 2.00 acre parcel shown herein.
Morical
Second.

Wolff
All those in favor, please say aye.

All
Aye.

Wolff
Those opposed?

[No response.]

Wolff
Motion carries.

Shafer
Thank you for your time this evening.

Wolff
Thank you. The next item on our agenda is new business, which was Docket#2018-46-DSV, for the property at 8090 East 550 South. Would the petitioner please come forward and state your name and address for the record?

Pabst
Good evening, my name is Reesa Pabst, and I am at 8090 East 550 South. I grew up in Zionsville, and I moved away. And, then my husband and I were coming back to purchase his parents', the family home, and finish restoring it. My husband passed away a couple months ago, so I have come back to do it myself, and I am just trying to split up the land, and I am wanting to put the house on the 1.83 acres and trying to keep the home, because it is from the 1800s. A big portion of the house is from the 1800s. So, I'm just trying to keep it, and then I wanted to go ahead and do the divide on the land so that nothing can happen in the future where it could get divided down to something that would end up being a subdivision.

Wolff
Ms. Pabst, I'm sorry for your loss. Thank you.

Pabst
Thank you.

Wolff
I do have a couple questions for you.

Pabst
Okay.

Wolff
Specifically one. And, as I was looking at the petition and the division, and let me get my bearings straight. The house is in the, the existing house, is in what is proposed to be the western lot?

Pabst
Correct.

Wolff
Okay. And, I believe there is a detached garage just to the north of that.

Pabst
Yes.

Wolff
And there is another, when I looked at the aerial from the satellite, there was another structure that was there. What is that?
Pabst: That’s a shed, and we are actually, we have already pulled the permits to have that removed. It’s just an eyesore, is what it is.

Wolff: Perfect. So, I guess my concern was that it would be right there on the property line, or proposed property line.

Pabst: Yes. Be removed.

Wolff: And, so we might have an issue there, but it looks like you’ve already taken care of that.

Pabst: Yes.

Wolff: Any other questions for the petitioner?

Jones: So then will the new lot get a separate driveway established for it?

Pabst: Yes. Yes. And, I did check into the code for that, and every, with the highway as far as what the, you know, requirements were. I met the requirements for all of that too. But, I also did the soil testing for a new septic.

Mundy: Is that a new septic for the existing home?

Pabst: Yes. Yes.

Mundy: Okay.

Morical: So, there is new septic for the existing home, and then whatever structure you’re going to build on this, on the new parcel you would have a septic system for that, as well?

Pabst: Yes. Because it meets the two-acre requirement.

Morical: And, whatever septic system you build will have to be sized to meet whatever the size of the house is.

Pabst: Yes. I already had them, I had somebody out there that did all of that work.

Morical: Yes. I read the report and I noticed that the County said the soils are good, which is great, but the report did not necessarily conclude it’s adequate space for a septic of this size.

Pabst: Oh, I’m sorry. He did mark it, and there were pictures of it, and it was for a 2800-square foot home.

Morical: Okay. So, and we don’t deal really so much with septic. That will be a requirement as you go to get your building permit for the particular building you’re going to build.

Pabst: Correct.
Zionsville Board of Zoning Appeals
January 8, 2019

Morical Did you see the language in the staff report kind of identifying some of the potential future issues as it relates to septic and drainage?

Pabst I did. That it could possibly be above-ground at one time, and right now it has been approved for, and I have met with Clayton, as well, to be able to put the septic in beside the current one on the 1.83 without any issues.

Morical Okay. I just wanted to make sure you saw what the staff - -

Pabst --Yes. And, then I figure eventually City is going to be down there, I give it 5 more years maybe. And, everybody is going to have to do that, so, you know, if it fails them, they are just going to have to go to city. I’m not sure if I’ll still be there.

Wolff So, today we’re talking specifically about splitting these two. This isn’t, you know, obviously permission for the septic. That’s a separate issue.

Pabst No, no, no.

Wolff Okay. So, we’re all clear on that? Any other questions for the petitioner? Seeing none, are there any remonstrators here tonight? Please come forward and state your name and address for the record.

Paddock Hi. My name is Shelly Paddock and I live at 8164 East 550 South. I share a property line with 8090 East 550 South. I hope the Council will vote no to the proposed variance.

The rezoning and recent development of the land around us has already caused the issue and runoff and drainage on our property. Sorry, I’m very nervous. I’m not sure why. Hi, Julia. I received the letter from Ms. Pabst presenting the idea that she is dividing the land in order to save the house. I’m not sure how that saves the house. She did not explain, or I didn’t understand her reasoning. My concern is that Mrs. Pabst is trying to preserve the house at the expense of her neighbors. If you allow this proposed variance, one of my concerns is the lot will then be sold, then a house would be constructed on the lot, additional water will run off that lot to our property, causing my driveway to deteriorate quicker than it should. Right now, water stands on our driveway because we are a little bit lower than that lot, and the lot line, where we have mowed, and before when her in-laws lived there, and then her brother-in-law used to mow, and he and I would share mowing their front ditch line. So, but over the years it’s gotten worse, and one of the trees is actually split on the property and it’s kind of falling over because there is a lot of water right there. So, that was my concern.

We purchased our property and built our home in this area because we didn’t want to live in a subdivision or in a neighborhood on a small lot. I appreciate that this parcel of land is now Mrs. Pabst’s property and she has the right to enjoy it fully. However, I don’t believe it should be at the expense of any of her new neighbors, and the landowners, who will be directly affected should a house be constructed on the lot in the future. I’m not an attorney, but perhaps if the goal truly is to preserve the house from being destroyed, Mrs. Pabst could check into having the deed revised with a restriction that the house must be preserved. I’ve
come across many properties with deed restrictions, but again, I am not a real estate attorney or any other kind of attorney.

I struggle with all the change that has happened on our street and the land that surrounds us. Over the years, many of the long-time landowners in this area have tried desperately to convey to you, the members of the Town Council, and to the Planning Commission, we welcome zoning that mirrors what currently is here. Multiple acres with one house. Not multiple homes on one acre. I appreciate the opportunity to share my thoughts, and I hope you will respectfully consider the ramifications to those of us who depend on you, and must live with your decision. Thank you.

Wolff  Mrs. Paddock, can I ask you a question?

Paddock  Sure.

Wolff  Sorry. I just wanted.

Paddock  I’m like a rabbit. I’m going to run. Sorry.

Wolff  Not out of here yet. Can you please again restate your address? Not for the record, but so I can try to find where you’re at on the map.

Paddock  I’m 8164 East 550 South.

Wolff  Okay.

Paddock  The long driveway.

Wolff  So, you share on the eastern side of the property, you have a long piece of driveway, kind of common border there, then your house goes up?

Paddock  Correct.

Wolff  Okay. Great. Thank you. And, if I could, I want to try to make sure I understand your concerns. One would be, I think I heard two. Two primary ones. One is drainage. And, the other one was, I’m going to kind of lump into a density category. Sort of look and feel, dividing this lot from 4 acres to 2 acres.

Paddock  Exactly, it is. When we moved there, there was nothing, and now Pemberton is behind us and all of the new developments and the new subdivision was just approved at the corner of 875 and 550. And, when we get it, you know, there is just a few of us out there, but most of us are on more than 3 acres. A lot of them are on 5 acres, and we appreciate that they let us in. But we abided by the zoning that was there, in place when we got here. And, that’s all we’re asking, because what’s happened is when Pemberton moved in and those houses started to be constructed, that waterway, which used to be just regular runoff and there is a ditch. There was an old farm. We’ve dug it up at least 4 or 5 times. We hit the gas line once, having a fire department come out. Thank God our neighbors, thank goodness our neighbors have a backhoe and can help us with this drainage, but before her in-laws passed away, we had talked to Ron, and told him, you
know, we had a little bit of his property that needed to be dug up because water stood there all the time. Have a giant willow tree there, I mean, and it is giant now because there is so much water.

Wolff  Okay.

Paddock  And, that’s our biggest concern because water stands there almost year-round.

Wolff  Okay. Great. Thank you.

Paddock  Thank you.

Wolff  Anyone else would like to speak to remonstrate against? Please come forward and state your address for the record.

J. Paddock  Jim Paddock, at 8164 East 550 South. I’m not going to sit here and repeat everything my wife has spoken about, but a couple concerns is the drainage. I’ve been working on the drainage, and pretty well got it under control, but there is just a lot of water that runs off there. I’m afraid when they do build another house that’s going to be another issue. So, that is a big concern. The other concern is, you know, the house being built on that property, where it’s going to be, is going to be right on top of like my drive. And, you know, it’s going to feel like a subdivision. You’re building houses right on top of each other. And, if we had the intent of buying 3 or 4 acres when we put it in, and then get a variance for our home so we could, you know, subtract 2 acres from it so we could sell and make money, we would have done the same thing. But, that’s not the intent out there. The intent out there is to build on some land and be a little bit away from the subdivision. Now, I’ve spoken with all the homeowners that are adjacent and around that property, and they are all for “no” on the variance. I mean, there is some here tonight. There is some that had other commitments tonight. But, it’s definitely “no.” So, I’m not sure how you guys vote on this. I haven’t been involved that much. But, as of right now, we are all no for this to happen. And, I feel that this is just an intent to, you know, split it up and make money on both parcels, is what I’m thinking. Not necessarily to save the house. I’m all for saving the house. But there is different ways of doing that. Not dividing the land, building another home to make money on it. I’m not in for that. So, how you guys go about this, wish you a lot of luck, but I’m hoping it’s, you know, honestly it’s the neighbors around that has to deal with it.

Wolff  Certainly. Mr. Paddock, if I may ask you a quick question?

J. Paddock  Yes.

Wolff  You have an unusual lot. Did you build on that lot?

J. Paddock  I did.

Wolff  Okay. So, did you happen to get a variance for that lot?

J. Paddock  What?
Wolff: Do you recall having to get a variance for that lot?

J. Paddock: No. No. absolutely not. That was a little over 5 acres, and it was divided in half, roughly, 2.6, 2.4, plus there was an acre behind that I ended up buying just to keep it. You know, a little bit of cushion.

Wolff: Okay.

J. Paddock: And, there is actually a little bit of land behind that, that I may be in the process of buying it to keep a little bit of cushion. Not to sell to make money on it.

Wolff: So, the drainage issue that, it appears to be for the address that’s in question is, it would be really affecting, and I’m not, I’m not saying this is not important, but it would be affecting your driveway portion of your property?

J. Paddock: Yes. Mostly in that one corner where my part of the first curve goes out. There is a lot of water that stands right there. Always has been. I have kind of worked with all the neighbors and Mr. Pabst at the time, because that was really bad, and spent a lot of money putting some good drainage in, and matter of fact, went on up towards that new subdivision with new field tile that I put solid in, instead of the old clay. So, you know, it’s been some time. It’s part of being out there. You know, it’s not that big of an issue, but it is an issue that I think if you keep building on these lots like they are, it’s going to be a problem. And, I know that all the new houses behind it, they are supposed to have their own drainage and all that worked out. And, hopefully that will work out, but it’s not all built up yet either.

Wolff: Okay. Thank you.

J. Paddock: Thank you.

Mundy: Mr. Paddock, if you don’t mind.

J. Paddock: Sorry about that.

Mundy: I’m trying to understand the impact in terms of drainage that a new house might cause. Is it just the fact that there is going to be, I don’t know, a couple thousand feet that are now going to be impervious, or is there something other. You’ve got water problems now, I guess, but how does this compound that?

J. Paddock: I think because that two acres is fully on a big hill. The full length of that two acres. You go building a house on it, the driveway. You have the water runoff, the rainwater off, that you call it. I think all that will be going straight east off that hill, and just right over my drive onto my property, and if you’ll look on the maps, there is actually another above drainage that runs and splits my property with Ferguson’s, right next to me, straight east of. So, it’s the Pabst, me and then the Fergusons, and there is kind of a normal drain that runs right there all the time. Like a little creek back in the days, you know?

Mundy: It’s an open drain?
J. Paddock  It's an open drain, and then our field tiles and all of our tiles we put in go clear to the road to drain, but I think when you build up on that with all the rain runoff, we are going to get a lot more come through there. And, over time, my driveway was actually, oh 6 to 8 inches above the land, you know, when we paved it. And, that is all filled in and the dirt is actually trying to come up over my drive, and that's how much just normal drainage comes through there. Do we have to deal with it? Absolutely. It's been there, but, I think building a new home it's going to make it even worse. But, the other concern was, if you're trying to save the house, you know, what's the deal with trying to deed off some property to sell to make money. It has nothing to do with saving the house. That is the biggest concern I have, more than just the drainage.

Mundy  Thank you.

Wolff  Are there any other remonstrators who would like to speak tonight? Please come forward and state your name and address for the record.

Stark  May name is James Stark. 5395 South 800 East. We own 5 acres just north.

Wolff  Mr. Stark, what are your concerns tonight?

Stark  Well, we're just kind of a little 5-acre patch out there and we like it that way. We really don't want to be in a subdivision like Jim. No need to go over all that, but as far as the land is concerned, I wanted to make sure that you understood that that's a hill that goes down into that drainage ditch and valley that drains all that out through there. And that hill is a seep. It runs water out of it during the spring all the time. In fact, you come down behind my house down where Jim is talking, where we put the tile, and you can't drive a tractor down there because you'll get stuck, and it's real seepy. Septic system there, my septic system is kind of out away from where that hill, that fence line between me and their property is at, but it stays pretty wet. And, Jim's concerns are exactly right. I helped him when we tried to keep that drained out, but it's a problem, and they call that High Hill out there. Is where they built the subdivision. And High Hill, all that drained down through there. So, it's got county tile down through there at one time. They had problems with it years, and years.

Wolff  Mr. Stark, how long have you been at your property? Guess.


Wolff  1988. And, similar to your neighbors, your concern is primarily drainage, and if we subdivide or if this lot is subdivided tonight, that it would create additional drainage issues?

Stark  Yes. Yes.

Wolff  Okay. Thank you. Any questions for the remonstrator?

Jones  I got a question for Wayne. I'm kind of down here doing a little quick math. We're awful close to getting into the flag lot scenario. The - -
DeLong Lot ratio.

Jones Yes. The 3 to 1 kind of ratio.

DeLong Yes. Certainly that’s not something that’s been requested, and the exact dimensions aren’t identified, what these two lots, what they’re resulting dimensions would be. This corridor of 550 South has a number of flag lot variances, lot depth to width throughout this corridor. But, sure, that is without knowing the final dimensions of what this, what it would look like, that’s a potential risk that the petitioner would run.

Jones Have we actually granted variances for flag lots out there, or is it just one of those things that were there prior?

DeLong No, I’m sorry. Didn’t mean to cut you off. There have been several variances that have been granted over the years. A number of parcels exist in this area that do have these dimensions. They exist prior to the area Plan Commission adopting the lot depth to width ratio, and certainly before the Town adopted that standard with the 2010 reorganization addresses like 8346, I believe have a variance for lot depth to width. There is another parcel on the south side of 550, I don’t know the address exactly off-hand, but yes, there is a number of variances in this area.

Jones But, those are variances granted for something that was pre-existing?

DeLong No. These were newly created.

Jones Newly created after the ordinance?

DeLong Correct.

Jones Okay. But that is part of the reason we sort of created the flag lot, the desire not to allow flag lots was because the combination of space for septic fields and drainage and just kind of everything everybody is talking about?

DeLong Correct. I think that’s why that standard was adopted and certainly when staff was looking at these requests, like the one that’s in front of you this evening, it’s reviewing what do the other neighbors enjoy. Do they enjoy flag lots, dimensions and other deviations, and then the conversation, which would happen later on this evening of, you know, this property asking to enjoy the same things and features that the neighbors enjoy.

Morical Wayne, how far away from the Eastern property line could they build the house? What’s the buffer that has to be there?

DeLong Well, the zoning ordinance would say 5 feet. Is the minimum side-yard setback.

Morical Okay.

Wolff I would like to speak with the petitioner again, but before I do, I want to make sure, are there any other remonstrators that would like to speak? Please come forward and state you name and address for the record.
My name is Christine Jordan. I live at 5455 South 800 East, on the corner lot.

Southwest corner, or West --

--West of the Pabst property.

Yes. Thank you. Ms. Jordan, what are your concerns?

My concerns are just a green space buffer, in general. I know that the Fergusons were not able to come because of a commitment for sports, but she texted me and objects, and I would say that if their position has a bearing on this then, I don’t know if we can ask for a continuance. I feel just that the whole leach field and the fingers, we put a pool in this summer, and there was big, not big, but a substantial process involved to be sure that our leach field was a certain amount of space, and it’s actually on the upper side of our property. So, I’m just shocked based on the information that we received in our construction process that that could even be possible there, but I am not an engineer.

And, the other point that I would just like to make, and I don’t know that it’s appropriate, but the timeline and the intention just does not add up. She resides in Florida, and her husband passed away before she approached her sister-in-law to purchase this property. He was terminally ill at the time that Mr. Pabst passed away unexpectedly, and I honestly, I mean, it is hearsay, but at the closing of that property with her sister-in-law, they told the attorney that they intended to split the property and flip it, and if that is what will happen, which I firmly believe that it will. She does not live here. She did not visit the property. I met her husband many, many times and he would come and stay for a month, and he said she would stay at her mother’s in Carmel. She didn’t like to come to the property. I am sorry to broach that, but I feel very strongly about her intentions. And, if you look at the timeline of the purchase contract versus the timeline that she is presenting, it is off.

So, Mrs. Jordan, I think I heard one of your concerns was, you mentioned green space. I’m going to lump that into density, right? So, you think it might be too much to split the lot.

Especially if you’re on the opposite side of that, the Ferguson’s home is positioned in a way that that is a huge green space buffer that they had in place whenever they built their home.

The other I would mention is, and I think that’s a valid concern. Thank you for sharing. The other thing I would mention is you suggested that you had concerns about how they would get the construction permits or go through the process because you had similar issues dealing with your pool this summer, and we don’t have that in front of us. So, we’re not looking at that. We don’t know what that is. We don’t know where the house would sit or any of that information. So, that’s not what we’re focusing on tonight. So, it’s really just taking that what is one lot today and kind of splitting it up into two. So, that process will happen if it is approved tonight, and there is kind of other mechanisms for that. But, I think I
heard your primary concern was really that it would not fit the feel of the neighborhood. It would create, in your mind, a density issue.

Jordan

Yes. We left a neighborhood for the area that we are in now.

Wolff

I said neighborhood, but I meant the area. Yes.

Jordan

Yes.

Wolff

Okay. Thank you, Mrs. Jordan.

Jordan

Thank you. I appreciate it.

Wolff

I would like to speak with the petitioner again. Mr. Paddock, would you like to come back up? Was it Paddock?

J. Paddock

Jim Paddock. 8164 550 South. Can I ask, what’s the flag lots? What does that mean?

Wolff

Flag lots is a term we use where, it’s similar to what your lot is. It is shaped like a flag. So, there is a driveway that goes up, with kind of a narrow property line, and then it gets wider at the top.

J. Paddock

Okay.

Wolff

I don’t think that’s an issue here. At least not in front of me right now.

J. Paddock

It’s never been an issue. Go ahead. I mean, what do you mean by that?

Wolff

What flag lots violate are, well, there are statutes within our zoning rules that discourage flag lots. But, that’s not what we’re talking about tonight. So, I don’t think that’s relevant.

J. Paddock

So, that’s the first time I’ve ever heard of anything like that.

Wolff

Yes.

J. Paddock

So, that’s why I brought it up to see what the issue was.

Morical

Like the parcel to the east of you, 8218 is a flag lot. Is a clear flag lot.

J. Paddock

Oh, okay, east of Ferguson, you mean?

Morical

You guys are 8164, right?

J. Paddock

Yes.

Morical

Yes. And, your property, the people that own the property to the east of you.

J. Paddock

Right.
Morical

That’s a flag lot.

J. Paddock

Okay. Makes sense now.

Morical

So, we generally disfavor those, and to the extent they were created after the zoning code became applicable, then you need a variance. If it were created before the zoning code became applicable, then it’s not a problem. It’s a legal non-conformity.

J. Paddock

Okay. I just didn’t want to miss something in case something else was coming up.

Morical

Yes. That’s what we mean by a flag lot.

Wolff

Is Mr. Paddock not 8164? What is your address, Mr. Paddock? I’m sorry.

J. Paddock

8164 East.

Wolff

Okay.

J. Paddock

I’m the flag lot.

Morical

Next to the other flag lot.

Wolff

Next to 8218?

J. Paddock

Yes.

Morical

I don’t think that’s an issue here.

Wolff

Thank you. Flag lot is not a derogatory term, nor are they a protected class. Mrs. Pabst, would you please come forward? So, I think I heard a couple different concerns. One is drainage issue, and the other primary one was, and again, I may not be using the appropriate term, but density. It was taking one lot, and splitting it into two. Do you have any comments about that?

Pabst

I would just like to say that the 2-acre lot is the minimum out there. That’s just standard. I mean, so I’m meeting the requirements for that. All I’m asking for is the variance for the house. The house is not obviously the drainage problem. So, all I’m asking for is for a variance to leave the house on the 1.8 acres. And, yes, it would save the house, because at that point nobody could actually do anything with that piece of property until City sewer and water came through where they wanted to tear the house down, and then they could possibly do something different with it. But, from what I understand from all of the different departments, nothing else could be done with the house. You know, they couldn’t tear it down and build another one without coming and getting a variance for putting it on a 1.83 acres. So, I am trying to save the house. And, just for your information, my husband was still alive. He did not have terminal cancer. He died from an operation where he bled to death. And, we had bid on the house. He, my husband, signed on that house too. So, I don’t know where you got your information from.
Wolff  I really would like to focus --

Pabst  I apologize.

Wolff  --No problem at all. A challenging situation, but I would really like to focus on what we’re dealing with at hand, which is taking an approximately 4-acre lot and splitting it into 2 lots. And, so, I believe, as I understand the petition, you’re right. The minimum lot size is 2 acres. So, it looks like if we did this, we got one lot that’s in conformance, and then we would have a new lot with the existing structure, which is an older structure, that would require the variance because it is a 1.83 acre lot, which is about 0.17 acres short of what we need to be.

Pabst  Correct. Yes, Sir.

Wolff  Okay. Thank you. Can we have the staff report, Wayne?

DeLong  Thank you. With certainly a lot of the dialogue this evening has covered staff’s support of this petition and the staff, the Town’s review of this petition, is primarily focused on the fabric of the area. Talking about the lot area, the lot dimensions, what do the other, what do the other property owners enjoy in this area? And, certainly from 800 East to 875 there are a number of lots that deviate from the minimum 2-acre lot size. There are a number of lots that enjoy deviations from your depth to width ratios, referred to tonight as the flag lot. But the ordinance talks about it as a depth to width ratio. And, so where staff looks at a request, we are looking at what, just like we do with lot coverage requests and other types of petitions that come in front of you. It is what do the neighbors enjoy? Certainly, the dialogue related to drainage, the dialogue related to density. These are almost routinely topics that are broached during these types of conversations. The BZA has been very well in tune with these conversations. Oftentimes you will work to work through those conversations. Sometimes the petitions are denied. Sometimes they are approved. But, that dialogue occurs routinely. But, specific to the staff review, we’re focused on Article 2, Table 3, which is the lot size, and focusing again on what do the neighbors enjoy in the area, and as the aerial photograph indicates in front of you, the lot area, the lot dimensions. There are parcels that are near this site and in proximity to this site that enjoy the same requests, if not less than what is in front of you this evening. With that in mind, staff is supportive of the petition, and I would be happy to answer any questions.

Wolff  Thank you, Wayne. Any questions for the staff?

Morical  No, but I’ve got a couple of questions for the petitioner again, if you don’t mind?

Wolff  No I don’t. Mrs. Pabst, will you come forward please?

Morical  Mrs. Pabst, have you noticed the drainage issues that have been addressed tonight?

Pabst  I have been married to my husband for 40 years, so I have known that property since I was 17 years old. And, there was actually a creek that went through all the...
Morical

properties along there, including ours, and for some reason, the creek has not been kept the way it was when it used to flow down to the property to the west. And, so, I think that’s a lot of the drainage problem to be honest with you. And, also we don’t have any kind of things at the end of our driveway to let the water flow through. Any kind of, you know, we have a, most of the driveways around there are gravel, so, you know, we don’t have a whole lot of problem with the washout like this gentleman does with his paved driveway. So, I think that’s kind of common with anything around that area.

Pabst

So, you noticed the drainage issues?

Morical

I do not notice any drainage issues. We have, and as far as back behind the property being wet, I walked that back area with the soil gentleman after it had rained, and I was shocked that it was not as wet as it could have been. So, I thought that he would have a problem with the soil, but he said it was, you know, everything was fine. So, no I have not noticed a drainage issue. We are on a hill, so I have no issues with drainage, we’re on that, but I do know, like I said, there used to be a creek that went down at the front of the road, that has not been there for several years now. And, if they’re having a drainage issue, I would say that is probably is related to that fact that that has basically just been removed, and I don’t know where all that water is going off to now.

Morical

Okay. So, a couple things. Did you have the opportunity to review the staff report?

Pabst

Yes, I did.

Morical

Okay. And, the staff report notes the procedure and process by which we act on variances.

Pabst

Yes, correct.

Morical

That is the petitioner, you, need to meet the burden of proof on the three different elements that are stated in the staff report.

Pabst

Correct.

Morical

One of those elements 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. Which is what this whole drainage thing is about. So, to the extent we were to grant the variance, split the two parcels, you build something on the two acres. It’s on a hill. You don’t have a drainage problem. You build something on the two acres that’s going to deflect even more water. They say they’re going to have an even greater drainage problem. That’s a substantially adverse effect on their property.

Pabst

I don’t feel that way. I don’t feel that anything you put on that hill. I’m also actually personally taking a structure down now. So, I mean, I’m also taking a structure down that is, and there is a corn bin that I’m also removing.
Morical: The purpose of splitting up the lots is to allow for a structure to be built on the two acres. Right?

Pabst: Correct. My husband and I originally were going to build on that two acres, yes.

Morical: Which is great.

Pabst: Yes.

Morical: If you build a structure on that two acres, it’s going to deflect more water. It’s going to cause additional drainage runoff to the east. The testimony that we have here tonight is that they’ve already got a drainage problem. If we were to grant this, and you build on top of the hill, or whoever buys the lot builds on top of the hill, it’s going to exacerbate that drainage problem.

Pabst: I do not feel like that would be a problem, no.

Morical: Okay. So, you have the burden of proving that they’re not going to be substantially adversely affected.

Pabst: This is the first we have ever heard of the drainage problem.

Morical: Okay. And, that’s fine. So, that means you haven’t had the opportunity to work through this issue with your neighbors.

Pabst: No, no.

Morical: What we’ve heard, one of the remonstrators tonight asked for the Fergusons, because they’re not able to be here tonight, that we continue this to the next meeting. Everybody, either you or the remonstrators, have the right to one continuance.

Pabst: Well, my problem is is that they’re not here to ask for that continuance.

Morical: No, but she asked for it. And, she has the standing. So, Mrs. Jordan has the standing to ask for that continuance, and I think that’s going to benefit you, because if I had to vote on this right now, I’d say no, because you’ve got the burden of proof on those three elements. That one element of substantially adverse effect, you haven’t yet been able to meet. So, I would encourage you, I’m inclined to suggest therefore that we grant the continuance for one month, and during that time, you work through the drainage issue, and hopefully in a way that’s satisfactory to your neighbors, and come back to us again in February with a variance request that addresses this.

Pabst: Well, can I ask you this, I sent out a letter with my name and phone number for them to call me if they had any concerns. Not one of them called me. So, do you think the concerns are really the water issue, or do you think the concerns are that they don’t want a house being put on two acres that is legally allowed to be done?

Morical: It’s not legally allowed to be done.
Pabst: Well, it’s two acres.

Morical: No, it’s 3.83 acres. You’ve got one house on there now. If you want to, you could take that house down and build another house on there. If you want to be able to split this into 2 acres and 1.83 acres, you need our approval.

Pabst: Correct.

Morical: For you to get a variance, you have the burden of proving these 3 things. I agree with you, they’re not interested in having this project move forward. I also believe that you have property rights, and we all have property rights, and as staff said, there are a bunch of other pieces of property similar to this around there. You’re not creating anything new by this 1.83 or 2-acre issue. But, you are going to be, according to the testimony tonight, exacerbating a drainage problem. That’s not acceptable. We’re not going to approve you just doing that in a way that substantially adversely affects the neighboring piece of property. So, the burden is on you. I’m sorry they didn’t reach out to you in response to your letter. I appreciate you sending out the letter because we always want to facilitate petitioners and the nearby property owners working through issues together instead of us having to make a decision. The reality is, you’re the one that needs to get over that hurdle. Not them. You. So, either you meet that burden of proof, or you don’t. And, right now, you haven’t. So, we can either act, we’ve had a request for a continuance. We’re going to grant that continuance. I would encourage you to work with these guys and figure out the drainage issue. So, whenever you come back next time, you can say, you know what, we came up with a way to address the drainage concerns.

Pabst: Let me ask you this, if he had a drainage issue, why didn’t he bring pictures or something? Something for us to visualize this drainage issue.

Morical: Great question. But again, you have the burden of proof. They have raised the concern.

Pabst: The burden of proof of something I wasn’t aware of. But, I mean, I will work with them. I have no problem with that. But, the question I have is, is I’m asking for 1.83 where the house is. That’s not the drainage issue. The drainage issue is the two acres that could actually be separated.

Morical: You are correct. So, with these split into two parcels, you’ve got the right to build on the two acres.

Pabst: Correct.

Morical: If you build on the two acres, on top of the hill, it’s going to exacerbate the drainage issue to the east.

Pabst: I’m not going to be, I don’t know that I’ll be building anytime soon.

Morical: If we grant this variance request, you would have the right to build a house on the two acres. If so, you know, it’s X and Y and Z. Z causes the adverse effect. If we
grant this tonight, you’d have the right to do something that can cause that adverse effect.

Pabst I guess I’m still confused when the two acres would be legal. That’s what I’m still confused about.

Morical It’s not.

Jones Wait a minute. Isn’t the issue that --

Pabst --Yes it is.

Jones To create the 2-acre lot, you are creating a 1.83-acre lot that is non-conforming.

Pabst Correct.

Morical That’s why you’re here.

Pabst Which is on the other side, though. It’s not in the drainage issue problem.

Jones But, you’re creating a lot that doesn’t meet the standard. You need the variance for the 1.83, not the 2.

Pabst Correct. And, that’s what I was saying. The two acres is what they are saying is causing the drainage issue.

Wolff But, the two acres doesn’t exist today.

Pabst Right.

Wolff It’s 3.83 acres.

Pabst Okay.

Wolff That’s what we’re dealing with. And, so we need a variance to split that up. And, that variance is going to create a problem.

Pabst Yes.

Morical And, you’ve got the burden of proof of working through that, so I would encourage you to take the next month, because we are going to vote here on this continuance. I would encourage you to take the next month to work with your neighbors to address the drainage issue. Maybe talk to them about what your commitment would be to not build the house too far to the east. That is too close to the road. You can’t subdivide this any further than the two if we were to grant that variance, and see if you can work through these issues with them. So, there is no risk of this becoming a subdivision. It’s just going to be the one house on the two acres. There is a whole bunch of other houses like that. So, that’s really not the, this density isn’t really the issue. It’s the drainage the adverse effect on the property to the east.
Pabst  I understand what you’re saying, but, and there could be an issue with it being subdivided later, if somebody wanted to.

Morical  They would not have the right to do that. They would either need to come before us or the Plan Commission.

Pabst  Right, I understand that. But, if there was City water and sewer that came through there, is that, what could be done with that? I’m just curious.

Morical  Well, you can deal with the building department on that, but we’re not going to work through those details with you, but I think what makes sense for us to consider is the continuance request. Unless, Mr. Paddock, you want to--

J. Paddock  May I ask simple questions real quick?

Morical  Sure.

J. Paddock  I’ll make it real quick.

Morical  Oh, John, actually you get to say sure.

Wolff  Sure.

J. Paddock  Jim Paddock, 8164 East 550 South. Do you have to do that every time you come up here? Is that the rule?

Wolff  We do record the meetings, and so then we know who is speaking.

J. Paddock  So, next time I’m up here I won’t do it. Quick question, two questions. If the variance goes through on that 1.8 acre, and she’s talking about the house is tore down, they will not be able to build on it unless there is another variance. Is that correct or incorrect? That is incorrect.

Morical  You’re talking about if the house on the 1.83 acres is torn down, to build another house?

J. Paddock  To build a bigger house, they have to get a variance for that. No, it’s already approved, correct?

Morical  Hold on a second. Let’s let Wayne weigh in.

DeLong  The variance is requesting the establishment of a 1.83-acre lot. If this home that’s on the lot was destroyed, the zoning would permit a new home to be built to replace the house that is lost.

J. Paddock  So, therefore that changes a little bit of things, too, there because that’s still building another, you know, there is a house there under two acres. Which, we are against that, too. You know, we had to have at least two acres to build, so now you’re trying to get a variance for that house to be okay under two acres. That’s a problem for us.
Morical: So, in my, if you look at the aerial, and hopefully you’ve had the opportunity to look at the staff report.

J. Paddock: Yes, I have many times.

Morical: If you look at the aerial, big picture, there are a lot of lots about this size.

J. Paddock: But they’re over two acres.

Morical: No, not on the south side of the street.

J. Paddock: What?

Morical: Right, Wayne?

DeLong: Correct. There is lot sizes that range from 1.25 acres, 1.8 - -

J. Paddock: --Right. Go back in history and time.

Morical: There is nobody more infallible than Wayne. So, the reality is there are lots - -

J. Paddock: --Back in history, they were building stuff on one or half acres too.

Morical: But right around here there are lots on two acres. So, the whole, you know, 1.83 is an issue. Two is an issue. No. We’re not going to hold this up because of that. It’s just not going to be the case. People have property rights. This makes sense except for the adverse effect on your property. You’ve identified two issues. Drainage, totally legit, and your concern of it being built too close to your driveway.

J. Paddock: Right.

Morical: Those are the two things that we would encourage you to work directly with her to try and resolve.

J. Paddock: And, the other thing is, on the creek she is talking about is the one along the side, it runs along the road out front. It’s just the drainage ditch. So, there was no other creek that was there that always worked. Okay. And, the reason it wasn’t behind her house at the time is because my drainage is working, that I’ve been working on.

Morical: And, obviously building a house on that hill is going to have an impact.

J. Paddock: Big time.

Morical: And, you’ve got historic drainage issues.

J. Paddock: Right.

Morical: Right, Larry? Important stuff.
J. Paddock: We do have pictures too. Many pictures. A lot of pictures.

Morical: Which is great. She has got the burden of proof. Will you work with her in good faith to try to address this issue?

J. Paddock: Yes. We'll see what happens.

Morical: Okay. So, talk to those two things. Try to see if you can work through the drainage and see if you can talk to her about where the house could be positioned, a new house, that wouldn't be problematic for your driveway.

J. Paddock: Well, I think there we're probably wasting time. It's not for her to build the house. She's probably going to sell the lot. So, how would you go around dealing with that then?

Morical: So, there would be a commitment as part of the variance that it would be --

J. Paddock: --So, if she would sell that lot afterwards, the commitment would stand in court?

Morical: It would be recorded, and whoever bought it would be bound by that.

J. Paddock: Okay.

Morical: But be reasonable. Seriously.

J. Paddock: I understand. I mean, we've been out there a long time. We can work with it.

Morical: The legit issue is the drainage.

J. Paddock: I used to work with her father-in-law quite a bit. I mean, it was no issue.

Morical: Great.

J. Paddock: It was just a wet problem.

Morical: Well, let's see if we can figure out a way to deal with that.

Evinger: If there is a problem with the ditch out front, you might check with the County and see what could be done too, from the County level.

J. Paddock: Well, the County has worked on that, only every five years.

Morical: But, it's the northeast corner that's got the real problem?

J. Paddock: Yes. That's the normal drainage on top. Because a lot of water goes through her property onto ours. That's happened. It's there. You know, I built there knowing that. It is, it's a drainage problem.

Morical: It's the way God made it. But, you've got the concern about an additional home that will exacerbate it, and she's got the burden of proof to show that her variance is not going to cause a substantially adverse effect.
J. Paddock     Right.
Pabst          Can I ask one question?
Morical        Nope, you gotta do it in the microphone.
J. Paddock     Thank you.
Morical        Thank you.
Pabst          May I ask if your property is in a flood zone?
J. Paddock     It's definitely not.
Pabst          Not in any kind of flood zone at all. Okay.
Wolff          Okay. So, to formalize this, Mr. Jordan, did you ask for a continuance request?
Right, did one of the petitioners ask for - -
?              One of us will.
Wolff          Okay. Thank you. Do we need a motion, or do they have the right?
Chadd          I--they're allowed one by right, if I recall correctly.
Morical        The only issue would be they may not have done it in time. So, we probably should vote on it just for –
?              [Inaudible]
Morical        We've enjoyed all of this. So, I don't want it to end.
Stark          My name is James L. Stark, 5395 South 800 East.
Wolff          Thank you, Mr. Stark.
Stark          I just wanted to ask you boys if you understood what a seep is? Do you understand a seep?
Wolff          I'm going to default to my drainage person.
Stark          When they built my house, it's up on the hill. They dug the basement, and when the boys come over from Illinois to dig it, and the boy was down in the bottom of it and he said, "There is six springs down here in your basement running water." And, they took a pump and started pumping the water out. And, I've got a drain that runs down to daylight, and it runs water all the time. Now, the northeast portion of that two-acre lot, that's what a seep is, boys.
Morical        Okay. Thank you.
Jones

It's a sand vein. If we go around Michigan Road, there south of Pittman's property, in that thing that always takes the --

Wolff

--Oh, sidewalk timber. Yes.

Jones

There is a seep. The water up on the top of the hill is running down through a sand vein comes out the side of the hill down low, and forms a creek that they can't stop because to do it you'd have to go all the way up in the subdivision and re-pipe it all the way out.

Wolff

What I think they did is they dug it up and ran tile. So, it's still there. It just goes underground now.

Jones

Yes. But then it fills in the tile and goes elsewhere.

Wolff

I think we need a motion.

Jones

About the seep?

Wolff

No.

Morical

Okay. I will make a motion. I move that we continue Docket #2018-46-DSV, R. Pabst, 8090 East 550 South to the February 12 meeting of the Board of Zoning Appeals.

Wolff

Is there a second?

Evinger/
Mundy

Second.

Wolff

All those in favor?

All

Aye.

Wolff

Those opposed?

[No response.]

Wolff

Motion carries. Okay, next item on our agenda is other items to be considered. Do we need to do any of these on the record?

DeLong

No, I can just offer you a brief update. Villanueva, we are working through some language finalization on that. The Davis special exception has been recorded. We are waiting receipt of the copy. Lavallette is under our office's review currently related to language. We did have a meeting with Mr. Webb related to Wheat Holdings, and he is working on finalizing those commitments, and Soffa, Frandsen is working on that set of commitments, and the Miller petition is pending recordation currently. So, we are moving forward on a variety of those.

Wolff

Thank you for your diligence. Any other business? Seeing none, this meeting is concluded.
November 28, 2018

Reasa Pabst
164 Olivette St.
St. Johns, FL 32259

Dear Mrs. Pabst,

This office received a set of soil borings dated November 25, 2018 for the lot located at 8090 E 550 S in Zionsville. The soil borings were taken by Mark McClain. In general, the soil borings for this lot are suitable for an in-ground septic system as long as no soil disturbance occurs in the soil boring area between the date of when the borings were taken and the date of when the septic system is installed. Drainage will not be need needed for this lot due to the seasonal high-water table.

Sincerely yours,

Clayton Campbell
Environmental Health Specialist
Reasa Pabst
8090 550 South
Zionsville, IN 46077

RE: 8090 550 S, Zionsville Site Visit

Ms. Pabst and neighbors,

Thank you all for showing me and my co-worker Brian Daggy around your properties in the last week. As we all know, the areas where the properties meet is naturally wet and historically has been a drainage path for approximately 47 acres. Changes in the landscape change flow, water tables and can influence vegetation.

As proposed, a lot will be split and most likely sold for a home lot. This too will influence the flow and quantity of run off in the area. There are a lot of unknowns in the future so at this time no permanent plans or changes can be made to provide a solution to this.

In the last year Mr. Paddock has removed a fence, trees/shrubs, built a dam and installed a non-perforated tile in the area where the properties join. Most of this work was on the Stark property. Both Mr. Stark and Mr. Paddock are happy with the results and see no need for further improvement at this time. The water does stand in the area behind the dam but dries often enough to mow. If Mr. Stark no longer wishes to mow this area we did provide a few recommendations on possible plantings and can follow up on this at a later date.
The water enters the system through tile north of the Stark property and at his north property line through a riser. The tile has a relief on the west side of the drive which may allow water out of the tile during high flows and stand in this area/flow over the Paddock driveway. During normal flows the water is taken to the road ditch. Runoff flows through a culvert entering the natural drainage path that is located on the east side of the drive/Paddock’s east property line. The neighbor to the east did not join us and I was told they had no issues with the property being split. Water also stands on the north and east property line of the Pabst property due to it being the lowest part of the landscape and poorly drained soils. We have attached a map of this and other materials for your reference.

We recommend providing our contact information to whomever purchases the property to allow a conversation on drainage issues that may occur and possible solutions. This conversation should also occur with any contractors and builders on this property as plan are formed. Diversions, rain gardens, wildlife plantings and tile are all possibilities.

Sincerely,

Angela Garrison
District Conservationist
Natural Resources Conservation Service

Brian Daggy
Resource Conservationist
Boone County Soil and Water District
## Map Unit Legend

<table>
<thead>
<tr>
<th>Map Unit Symbol</th>
<th>Map Unit Name</th>
<th>Acres in AOI</th>
<th>Percent of AOI</th>
</tr>
</thead>
<tbody>
<tr>
<td>CudA</td>
<td>Crosby silt loam, fine-loamy subsoil, 0 to 2 percent slopes</td>
<td>0.8</td>
<td>6.3%</td>
</tr>
<tr>
<td>MnpB2</td>
<td>Miami silt loam, 2 to 6 percent slopes, eroded</td>
<td>7.2</td>
<td>59.2%</td>
</tr>
<tr>
<td>MnpD2</td>
<td>Miami silt loam, 12 to 18 percent slopes, eroded</td>
<td>0.0</td>
<td>0.0%</td>
</tr>
<tr>
<td>ThrA</td>
<td>Treaty silt loam, 0 to 1 percent slopes</td>
<td>4.2</td>
<td>34.5%</td>
</tr>
<tr>
<td>Totals for Area of Interest</td>
<td></td>
<td>12.1</td>
<td>100.0%</td>
</tr>
</tbody>
</table>
Dwellings Without Basements—Boone County, Indiana (Patrol)

MAP LEGEND

<table>
<thead>
<tr>
<th>Soil Rating Polygons</th>
<th>Area of Interest (AOI)</th>
<th>Background</th>
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</thead>
<tbody>
<tr>
<td>Very limited</td>
<td>Area of Interest (AOI)</td>
<td>Aerial Photography</td>
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<tr>
<td>Somewhat limited</td>
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<tr>
<td>Not limited</td>
<td></td>
<td></td>
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<tr>
<td>Not rated or not available</td>
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</table>

| Soil Rating Lines    | Very limited           |                      |
|----------------------|                        |                      |
| Somewhat limited     |                        |                      |
| Not limited          |                        |                      |
| Not rated or not available |              |                      |

| Soil Rating Points   | Very limited           |                      |
|----------------------|                        |                      |
| Somewhat limited     |                        |                      |
| Not limited          |                        |                      |
| Not rated or not available |              |                      |

Water Features

- Dams and Canals
- Streams and Canals
- Transportation
  - Rails
  - Interstate Highways
  - US Routes
  - Major Roads
  - Local Roads

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:12,000.

Warning: Soil Map may not be valid at this scale.

Entrenchment of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)
Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Boone County, Indiana
Survey Area Data: Version 21, Sep 6, 2018
Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Oct 12, 2013—Dec 27, 2016
The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

USDA
Natural Resources Conservation Service
Web Soil Survey
National Cooperative Soil Survey
1/18/2019
Page 2 of 5

Exhibit 7
## Dwellings Without Basements

<table>
<thead>
<tr>
<th>Map unit symbol</th>
<th>Map unit name</th>
<th>Rating</th>
<th>Component name (percent)</th>
<th>Rating reasons (numeric values)</th>
<th>Acres in AOI</th>
<th>Percent of AOI</th>
</tr>
</thead>
<tbody>
<tr>
<td>CudA</td>
<td>Crosby silt loam, fine-loamy subsoil, 0 to 2 percent slopes</td>
<td>Very limited</td>
<td>Crosby (93%)</td>
<td>Depth to saturated zone (1.00)</td>
<td>0.8</td>
<td>6.3%</td>
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<td></td>
<td>Treaty, drained (2%)</td>
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<td>Ponding (1.00)</td>
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<td>Depth to saturated zone (1.00)</td>
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<td>Miami silt loam, 2 to 6 percent slopes, eroded</td>
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<td>Miami, eroded (95%)</td>
<td>Shrink-swell (0.10)</td>
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<td>Williamsport (5%)</td>
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<td>Depth to saturated zone (0.98)</td>
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<td>Crosby (5%)</td>
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<td>Treaty, drained (80%)</td>
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<td>4.2</td>
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<td>Pella, drained (5%)</td>
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<td>Rensselaer, drained (5%)</td>
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<td>Shrink-swell (0.05)</td>
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<td>Crosby (5%)</td>
<td>Depth to saturated zone (1.00)</td>
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<td>Depth to saturated zone (1.00)</td>
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<tr>
<th>Rating</th>
<th>Acres in AOI</th>
<th>Percent of AOI</th>
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<tbody>
<tr>
<td>Somewhat limited</td>
<td>7.2</td>
<td>59.2%</td>
</tr>
<tr>
<td>Very limited</td>
<td>4.9</td>
<td>40.8%</td>
</tr>
<tr>
<td>Totals for Area of Interest</td>
<td>12.1</td>
<td>100.0%</td>
</tr>
</tbody>
</table>
Description

Dwellings are single-family houses of three stories or less. For dwellings without basements, the foundation is assumed to consist of spread footings of reinforced concrete built on undisturbed soil at a depth of 2 feet or at the depth of maximum frost penetration, whichever is deeper.

The ratings for dwellings are based on the soil properties that affect the capacity of the soil to support a load without movement and on the properties that affect excavation and construction costs. The properties that affect the load-supporting capacity include depth to a water table, ponding, flooding, subsidence, linear extensibility (shrink-swell potential), and compressibility. Compressibility is inferred from the Unified classification of the soil. The properties that affect the ease and amount of excavation include depth to a water table, ponding, flooding, slope, depth to bedrock or a cemented pan, hardness of bedrock or a cemented pan, and the amount and size of rock fragments.

The ratings are both verbal and numerical. Rating class terms indicate the extent to which the soils are limited by all of the soil features that affect the specified use. "Not limited" indicates that the soil has features that are very favorable for the specified use. Good performance and very low maintenance can be expected. "Somewhat limited" indicates that the soil has features that are moderately favorable for the specified use. The limitations can be overcome or minimized by special planning, design, or installation. Fair performance and moderate maintenance can be expected. "Very limited" indicates that the soil has one or more features that are unfavorable for the specified use. The limitations generally cannot be overcome without major soil reclamation, special design, or expensive installation procedures. Poor performance and high maintenance can be expected.

Numerical ratings indicate the severity of individual limitations. The ratings are shown as decimal fractions ranging from 0.01 to 1.00. They indicate gradations between the point at which a soil feature has the greatest negative impact on the use (1.00) and the point at which the soil feature is not a limitation (0.00).

The map unit components listed for each map unit in the accompanying Summary by Map Unit table in Web Soil Survey or the Aggregation Report in Soil Data Viewer are determined by the aggregation method chosen. An aggregated rating class is shown for each map unit. The components listed for each map unit are only those that have the same rating class as listed for the map unit. The percent composition of each component in a particular map unit is presented to help the user better understand the percentage of each map unit that has the rating presented.

Other components with different ratings may be present in each map unit. The ratings for all components, regardless of the map unit aggregated rating, can be viewed by generating the equivalent report from the Soil Reports tab in Web Soil Survey or from the Soil Data Mart site. Onsite investigation may be needed to validate these interpretations and to confirm the identity of the soil on a given site.
Rating Options

Aggregation Method: Dominant Condition
Component Percent Cutoff: None Specified
Tie-break Rule: Higher
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:

   Attached is a letter from the Boone County Health department and a certified soil test verifying that a new septic system can be safely placed in behind the home on the 1.833 acres. The property meets all other county requirements for the division. A permit has also been secured for removal of the pole barn located close to the division line on the survey.

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 existing home will remain on 1.833 acres and the division will create the vacant lot size in compliance with the zoning of a 2 acre minimum.

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

   A hardship will be created with the one time administrative divide of the property causing non-compliance for the zoning ordinance of the existing home.

DECISION

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

Adopted this ______ day of ____________, 201__.

_________________________  ________________________  ________________________
Petition Number: 2019-02-DSV

Subject Site Address: 805 W Pine Street

Petitioner: Adam Braun

Representative: Adam Braun

Request: Petition for Development Standards variance in order to provide for the construction of a new single-family dwelling with attached garage which:

1) Exceeds the required lot coverage of 35%, to 43.12% in the Urban Residential Village Zoning District (R-V).

Current Zoning: Residential Village Zoning District (RV)

Current Land Use: Single-family residential

Approximate Acreage: 0.144 acres

Zoning History: No prior petitions are known

Exhibits: Exhibit 1 – Staff Report
Exhibit 2 – Aerial Location Map
Exhibit 3 – Site Plan
Exhibit 4 – Petitioners Narrative
Exhibit 5 – Petitioners Exhibits
Exhibit 6 – Petitioners proposed Findings of Fact

Staff Presenter: Wayne DeLong, AICP, CPM
PETITION HISTORY

This petition will receive a public hearing at the March 12, 2019 Board of Zoning Appeals meeting.

PROPERTY HISTORY

The property is comprised of approximately 0.144 acres including Lots 39 and 40 in the Schick's Addition of the Town of Zionsville. Staff is not aware of any prior variance requests for this property.

ANALYSIS

The 0.144 acre parcel is currently improved with a circa 1927 single-family dwelling and accessory uses, including a detached garage per the Boone County Property Record Card. As proposed, the Petitioner desires to demolish all current structures and construct a new single-family dwelling with an attached garage.

LOT COVERAGE

The request seeks to exceed the 35 percent lot coverage maximum by 8.12 percent. Per the Residential Village District (RV) regulations, lot coverage standards states the maximum lot coverage is 37 percent. The Petitioner is requesting a design standards variance to this requirement for the construction of an approximately 5,186 square feet single-family dwelling with a total footprint of 2,695 (inclusive of the home, attached garage, screened porch and front porch).

While the current Zoning Ordinance requires such restrictions, 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 (but in no case was coverage discovered that exceeded 42%). It should be noted that the parcel, as currently improved, enjoys a lot coverage of 40.5 percent (of improvements which are calculated as part of the lot coverage), thus the Petitioner's request is to increase the current lot coverage an additional 2.62%. Further, many properties in the area enjoy the use of a garage (attached or detached), and outdoor living space (covered/screened porches, patio/deck, etc). All of these characteristics currently exist near the subject site. No other zoning related development issues are identified based on the facts presented as part of the petition, as the Petitioner is able to utilize front yard averaging to obtain lesser than required front yard setbacks.

The request to occupy the site with improvements associated with a single-family home in excess of lot coverage requirements in the Residential Village District (RV) is not uncommon in portions of the Village. In summary, Staff supports requests which provide for 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 a use commonly enjoyed by other properties in the area and / or 2) other properties within proximity to the parcel enjoy deviations from the maximum lot coverage requirements. In this case, Staff does not find that either of these two conditions exist. However, and uniquely, the property is currently improved
with a driveway that creates an additional 476 square feet of hardsurfaced area (approximately), and results in a total lot coverage of 48 percent (when including the existing driveway as part of the overall lot coverage). As the proposed improvements (including the new driveway) reduce the existing lot coverage by three (3) percent, Staff is in support of the Petitioner’s request to exceed the lot coverage permitted by Ordinance by 8.12 % to a total of 43.12%.

**PROCEDURAL – VARIANCE TO DEViate FROM STANDARDS**

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

(a) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

(b) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

(c) *the strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of the property:*

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

**STAFF RECOMMENDATIONS**

Staff recommends approval of the design standards variance included in Docket # 2019-02-DSV, as filed.

**RECOMMENDATION MOTION**

I move that Docket # 2019-02-DSV design standards variance in order to provide for the construction of a new single-family dwelling with attached garage which wil 1) exceed the required lot coverage of 35%, to 43.12% (as further described in the exhibits to this report), in the Residential Village Zoning District (RV) for the property located at 805 W Pine Street be (Approved as filed, based upon the findings of fact / Denied/ Continued) as presented.
THE SITE PLAN WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE POLICY AND ARE THEREFORE SUBJECT TO ANY STATEMENT OF FACTS REVEALED BY EXAMINATION OF SCHEDULE "A" AND SCHEDULE "B" OF A TITLE POLICY.

LOTS 39 & 40 IN SCHICKS SUBDIVISION

LEGEND

= STABILIZED CONSTRUCTION DRIVE

= PERMANENT SEED / SOD IMMEDIATELY AFTER CONSTRUCTION

DESCRIPTION

LOTS 39 & 40 IN SCHICKS SUBDIVISION AS PER PLAT OF SAID ADDITION RECORDED IN PLAT BOOK 4 PAGE 28 IN THE OFFICE OF THE RECORDER OF BOONE COUNTY, INDIANA.

NOTES

THE UTILITIES SHOWN ARE PROPOSED AND THE LOCATION SHOULD BE VERIFIED IN THE FIELD BEFORE CONSTRUCTION.

THE ELEVATIONS SHOWN WERE TAKEN BY MILLER SURVEYING, INC. IN THE FIELD ON JAN. 11, 2019.

THE CONTRACTOR IS RESPONSIBLE FOR THE CLEAN-UP OF ANY SEDIMENT THAT IS TRACKED ONTO ANY ROADS AND TO ANY ADJACENT LOTS.

A SELF-MONITORING PROGRAM INCLUDING PLANS AND PROCEDURES.
EROSION CONTROL NOTES:
1. Land alteration which strips the land of vegetation, including regrading, shall be done in a way that will minimize erosion.
2. Contractor shall comply with all state and local ordinances that apply.
3. This plan shall not be considered all inclusive as the contractor shall take all necessary precautions to prevent soil sediment from leaving the site.
4. Additional erosion and sediment control measures will be installed if deemed necessary by on-site inspection.
5. Sediment laden water shall be detained by erosion control practices as needed to minimize sedimentation in the receiving stream. No storm water shall be discharged from the site in a manner that causes erosion at the point of discharge.
6. Wastes and unused building materials shall not be allowed to be carried from the site by storm water runoff. Proper disposal of all wastes and unused building materials is required.
7. Sediment being tracked onto public or private roadways shall be minimized. Clearing of accumulated sediment shall not include flushing with water. Cleared sediment shall be returned to the site for disposal.
8. Soil which has accumulated next to erosion control devices shall be collected and redistributed on site after each rainfall event, and at least once a week.
9. If installation of storm drainage system should be interrupted by weather or nightfall, the pipe ends shall be covered with filter fabric.
10. All existing structures, fencing, trees and etc. within construction area shall be removed and disposed of off site. Burning is not allowed on site. (Homeowner shall clearly mark any existing trees or structures they intend to keep)
11. Schedule of earthwork activities:
   a) The duration of time which an area remains exposed shall be kept to a practical minimum. The area shall be stabilized as soon as possible.
   b) Topsoil replacement shall take place from March 1 to October 31. Stockpile topsoil at all other times of the year. Permanent and final vegetation and structural erosion control devices shall be installed within seven (7) days after final grading or as soon as possible.

LOSl& 40 IN SCHICKS SUBDIVISION

SILT FENCE CONSTRUCTION

MATERIAL:
- KEEP SILT FENCE PERPENDICULAR AND AFTERTH EARTH DISTURBING ACTIVITY.
- INSTALL SHIFT FENCE CONSTRUCTION.
- KEEP SILT FENCE CONSTRUCTION.

MAINTENANCE:
- REMOVE SILT FENCE PERIODICALLY AND AFTER EACH STORM EVENT. IF PRESENT DAY WEATHER PERMITTED.
- KEEP SILT FENCE PERPENDICULAR AND AFTERTH EARTH DISTURBING ACTIVITY.
- INSTALL SHIFT FENCE CONSTRUCTION.
- KEEP SILT FENCE CONSTRUCTION.

STABILIZED CONSTRUCTION ENTRANCE

MATERIAL:
- INSTALL PILE ENTRANCE PAD AND SEDIMENT DISPOSAL AREA WEAKLY AND AFTERTH EARTH DISTURBING ACTIVITY.
- KEEP SILT FENCE PERPENDICULAR AND AFTERTH EARTH DISTURBING ACTIVITY.

MAINTENANCE:
- REMOVE SILT FENCE PERIODICALLY AND AFTER EACH STORM EVENT. IF PRESENT DAY WEATHER PERMITTED.
- KEEP SILT FENCE PERPENDICULAR AND AFTERTH EARTH DISTURBING ACTIVITY.
- INSTALL SHIFT FENCE CONSTRUCTION.
- KEEP SILT FENCE CONSTRUCTION.

I HEREBY CERTIFY THAT THE DRAINAGE WAYS, PAD ELEVATIONS, AND EROSION AND SEDIMENT CONTROL MEASURES ARE CONSISTENT WITH THE OVERALL DEVELOPMENT PLANS

NATHAN ALTHOUSE
LENS SURVEYOR
805 W. PINE ST.
MILLER SURVEYING 948 CORNER ST. NOBLESVILLE, IN. Ph. 773-2644

THIS SITE PLAN IS NOT COMPLETE AND/OR VALID WITHOUT BOTH PAGES.
February 26th, 2019

Re: 805 W Pine Street Notice of Petition

Dear Neighbors,

Allow us to introduce ourselves—we are Claire and Adam Braun, your new neighbors at 805 W Pine Street.

Enclosed you will find a notice of petition for a variance request of our property. We hope to replace the current structure with a safe, updated home that will accommodate our family as it grows throughout the forthcoming years. Our proposed single-family residence with attached garage requires approval for a lot coverage variance from the Board of Zoning appeals as its lot coverage (43.12%) exceeds the Village Residential Zoning District’s standards (35%). To provide context, the existing structures on our property (i.e., house and detached garage) also have total lot coverage (40.5%) in excess of the zoning standard. The purpose of this letter is to share these details and notify you that our petition will be reviewed at the meeting scheduled for Thursday, March 14th, 2019.

We purchased a home in the Village because we are attracted to the quaint feeling it provides. We believe our proposed home will be consistent with, and perhaps enhance, this beloved and charming area. If you have any questions or concerns, please do not hesitate to contact us. We look forward to moving into the neighborhood and meeting each of you!

Sincerely,

Claire and Adam Braun

317-504-5071
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 are taking an old outdated home with foundation issues and replacing it with a new energy efficient home, thus improving the property.

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 new home will maintain setback requirements from adjacent properties, while providing a better aesthetic on our property and improving property values in the area.

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

   We are looking to design a home that will accommodate a growing family for many years to come. The lot is very small, so adhering to the terms of the lot coverage zoning ordinance limits the ability to build a house with the space to accommodate such family.

DECISION

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

Adopted this ______ day of ______________________, 20___.

_________________________  __________________________  __________________________

_________________________  __________________________  __________________________
<table>
<thead>
<tr>
<th><strong>Petition Number:</strong></th>
<th>2019-03-SE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Subject Site Address:</strong></td>
<td>10002 E 100 North (unassigned address)</td>
</tr>
<tr>
<td><strong>Petitioner:</strong></td>
<td>Daniel Gudenzauf</td>
</tr>
<tr>
<td><strong>Representative:</strong></td>
<td>Roger Kessler</td>
</tr>
<tr>
<td><strong>Request:</strong></td>
<td>Petition for Special Exception to allow for a new residential building in an (AG) Agricultural Zoning District</td>
</tr>
<tr>
<td><strong>Current Zoning:</strong></td>
<td>Agricultural District (Rural)</td>
</tr>
<tr>
<td><strong>Current Land Use:</strong></td>
<td>Agricultural</td>
</tr>
<tr>
<td><strong>Approximate Acreage:</strong></td>
<td>11.06 acres</td>
</tr>
<tr>
<td><strong>Zoning History:</strong></td>
<td>Consolidated into the Town of Zionsville’s jurisdiction in 2010. No prior petitions are known.</td>
</tr>
<tr>
<td><strong>Exhibit:</strong></td>
<td>2019-04-DSV (pending)</td>
</tr>
<tr>
<td><strong>Exhibit 1:</strong></td>
<td>Staff Report</td>
</tr>
<tr>
<td><strong>Exhibit 2:</strong></td>
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<td>Petitioner’s Exhibits</td>
</tr>
<tr>
<td><strong>Exhibit 6:</strong></td>
<td>Findings of Fact</td>
</tr>
<tr>
<td><strong>Staff Presenter:</strong></td>
<td>Wayne DeLong, AICP, CPM</td>
</tr>
</tbody>
</table>
PETITION HISTORY

This Petition will receive a public hearing at the March 12, 2019, Board of Zoning Appeals meeting.

PROPERTY HISTORY

The acreage associated with this petition has historically been an undeveloped forested area with a portion of the subject site serving as a portion of the flood plain of Eagle Creek. Further, in recent years it has supported administrative subdivision procedures (division of land to create the tract which is the subject of the Special Exception request).

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. In the opinion of Staff, the Petition represents a limited presence of residential development in the AG district as the proposed improvements are contemplated to be located within the western extent of the existing forested acreage, and, that the contemplated location is consistent with the development pattern on the north side of County Road 100 North.

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 1.4 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 #2019-03-SE.

RECOMMENDATION MOTION

I move that Docket #2019-03-SE special exception Petition in the Agricultural District for the property located at 10002 E 100 North be (Approved based upon the staff report and the proposed findings / Denied / Continued) as presented (If approved, it shall be required that the Petitioner execute the Right-to-Farm acknowledgement documentation).

PROCEDURAL NOTE

As a portion of the property is within the Special Flood Hazard Area (SFHA) associated with the Eagle Creek (and its duel identification as a Legal Open Drain), 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).
Special Exception Request Summary

Dan Gudenkauf is the owner of approximately 11 acres located at the northeast corner of 1000 East and 100 North, Boone County, Indiana. A small tributary to Eagle Creek runs through the property. The property is wooded, has significant variations in typography and is not tillable. Mr. Gudenkauf is seeking approval to construct his personal residence and an architecturally compatible outbuilding on the property. The outbuilding will be utilized for custom home furnishings work, carpentry and/or furniture repair as well as storage for tools and equipment to maintain the property and other items.

The residence will consist of +/- 3,400 square feet of finished living area. The outbuilding will consist of a 2,000 square foot first floor with a lower level of equal size for storage. In order to construct these improvements as set forth on the attached Site Plan, Mr. Gudenkauf is requesting a Special Exception.

A Special Exception is required because the property is currently zoned Rural AG. Pursuant to Zionsville Zoning Code Section 194.081, Land Use Districts, and Section 194.082, Authorized Uses and Requirements, in order to construct a residence on Agricultural Zoned property of less than 20 acres a Special Exception is required.
TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS  
BOONE COUNTY, INDIANA

Petition for Variance of Special Exception

Findings of fact:

The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:

All proposed improvements will be constructed in accordance with applicable building, health and safety codes. The general welfare of the community will be enhanced by the appearance of the improvements.

The proposed use will not injure or adversely affect the adjacent area or property values therein:

The construction of the residence and other improvements on the subject property will enhance property values in the area and will be aesthetically pleasing. Many other residences in the immediate area also have homes with outbuildings and the Petitioner's use will be consistent with these uses.

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

The subject area is delineated on the Comprehensive Plan as AG, General Agricultural. The agricultural district is designed to minimize the loss of farmlands and significant open lands to residential uses and to maximize the clustering of rural residential lots on the least number of acres located on existing farm lands and significant open lands. The Petitioner's property is wooded and is not tillable. The property has significant variations in topography and is not suitable for agricultural uses. The construction of one home on 11 acres is compatible with the intent of the General Agricultural zoning classification and will not remove any property from the inventory of tillable farmland in the area.

The area of the proposed construction is an area comprised primarily of agricultural uses and uses similar to the Petitioners proposed use. Substantial tillable acreage is located in the immediate area as well as many large residential structures and outbuildings. The proposed improvements will enhance property values by constructing improvements consistent with those in the area.

DECISION

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

Adopted this ______ day of __________, 20_____.

_________________________________  ____________________________________________

_________________________________  ____________________________________________

Exhibit 6
Petition Number: 2019-04-DSV

Subject Site Address: 10002 E 100 North (unassigned address)

Petitioner: Daniel Gudengauf

Representative: Roger Kessler

Request: Petition for Development Standards variance in order to provide for the construction of a detached garage which:
   1) Exceeds the allowable accessory square footage in the Agricultural Zoning District (AG).

Current Zoning: Agricultural District (Rural)

Current Land Use: Agricultural

Approximate Acreage: 11.06 acres

Zoning History: Consolidated into the Town of Zionsville’s jurisdiction in 2010. No prior petitions are known.

2019-03-SE (pending)

Exhibits: Exhibit 1 – Staff Report
          Exhibit 2 – Aerial / Location Map
          Exhibit 3 – Site Plan
          Exhibit 4 – Petitioner’s Narrative
          Exhibit 5 – Petitioner’s Exhibits
          Exhibit 6 – Findings of Fact

Staff Presenter: Wayne DeLong, AICP, CPM
PETITION HISTORY

This Petition will receive a public hearing at the March 12, 2019, Board of Zoning Appeals meeting.

PROPERTY HISTORY

The acreage associated with this petition is undeveloped, non-tillable wooded area, with a portion of the subject site serving as a percentage of the flood plain of Eagle Creek. Further, in recent years it has supported administrative subdivision procedures (division of land to create the tract which is the subject of the Special Exception request).

ANALYSIS

The site is currently an undeveloped wooded area. As proposed the petitioner intends to construct a 3,895 square foot single-family home and proposes the following roofed accessory uses:

1. Proposed dwelling living space: 3,895 square feet
2. Proposed roofed accessory uses total 6,065 square feet, inclusive of:
   a) A 765 sq. ft. attached garage
   b) A 365 sq. ft. attached garden garage (basement level)
   c) A 135 sq. ft. front porch
   d) A 4,000 sq. ft. outbuilding
   e) A 800 sq. ft. covered parking attached to outbuilding

The Petitioner is requesting a development standards variance to allow their total roofed accessory square footage (inclusive of the detached outbuilding as well as the attached accessory garages and porch) to exceed that of their proposed primary square footage by approximately 2,170 square feet. As described in the petitioner’s narrative, both proposed structures would utilize walkout basements, reducing the visual impact of these structures within the surrounding landscape. A variance for height would not be required as the proposed outbuilding would be subordinate in height to the primary.

By Ordinance, properties in the Agricultural AG (Rural) 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 not 20 acres in size, a variance must be sought for the roofed accessory square footage to exceed the primary.

In this particular case and while requested improvement and resulting development pattern is atypical, the property (and its topography) is as well atypical. As the Petitioner is proposing a subterranean improvement and the overall resulting height of the accessory structure is subordinate to the proposed primary structure, Staff is supportive of the request. If the overall accessory uses were above grade, Staff would modify its support for the petition.
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 #2019-04-DSV.

RECOMMENDATION MOTION

I move that Docket #2019-04-DSV design standards variance in order to provide for the construction of a detached garage which 1) Exceeds the allowable accessory square footage, in the Agricultural Zoning District (AG), be (Approved, based on the finding and based upon staff report and presentation / Denied / Continued).

PROCEDURAL NOTE

As a portion of the property is within the Special Flood Hazard Area (SFHA) associated with the Eagle Creek (and its duel identification as a Legal Open Drain), 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 conjunction with the Town’s Ordinance for Flood Hazard Areas) may be necessary (specific to the SFHA).
Development Standards Variance Request Summary

Dan Gudenkauf is the owner of approximately 11 acres located at the northeast corner of 1000 East and 100 North, Boone County, Indiana. A small tributary to Eagle Creek runs through the property. The property is wooded, has significant variations in typography and is not tillable. Mr. Gudenkauf is seeking approval to construct his personal residence and an architecturally compatible outbuilding on the property. The outbuilding will be utilized for custom home furnishings work, carpentry and/or furniture repair as well as storage for tools and equipment to maintain the property and other items.

Mr. Gudenkauf is seeking a Variance of Development Standards. Pursuant to Zionsville Zoning Code Section 194.097(C)(2), Rural Property Development Standards, Accessory Structures are to be "clearly subordinate in height, area, bulk, extent and purpose to the primary structure". The proposed residence will consist of 3,400 finished square feet and the proposed outbuilding will consist of 4,000 unfinished square feet. A Development Standards Variance is requested due to the fact that the square footage of the outbuilding is not clearly subordinate to the square footage of the personal residence. Mr. Gudenkauf and his wife are "empty nesters" and only require a three (3) bedroom home. In addition, Mr. Gudenkauf has several hobbies including woodworking, carpentry and gardening that will take place in the outbuilding.

Square Footage calculations:
A spreadsheet is attached showing the square footage calculation for the dwelling finished space, the dwelling unfinished space and the outbuilding unfinished space. At the lower right side of this comparison it shows that the outbuilding unfinished square feet plus the dwelling unfinished square feet exceeds the dwelling finished square feet by approximately 2,000 square feet.

Front Elevation Visual Square Feet:
Both structures are walkout structures. As such, they appear smaller from the front than the rear. The view from the street will not reflect the total square footage or the size of each structure. their total square footage or size. The square footage of the front facade of the home including the square footage of visible roof area has been calculated. The visual impact of the structures from the road is compared on the attached spreadsheet. The visual square footage for the dwelling is over 1,600 square feet while the square footage of the front facade of the outbuilding is only 600 square feet.

The attached drawing shows the two front elevations at the same scale. The outbuilding is subordinate in height to the residence as the residence is 23'8" tall and the outbuilding is 19' tall (both measured from the view of the front elevation). The dwelling is approximately 4 ft taller than the outbuilding and has more than a thousand square feet of additional visual impact.

Proposed Architectural Plans are attached.

Exhibit 4
**Gudenkauf Residence and Outbuilding**
10002 East 100 North
Zionsville, IN 46077

**Square Footage Comparison:**

<table>
<thead>
<tr>
<th>Dwelling Finished Living Space:</th>
<th>Dwelling Finished</th>
<th>Dwelling Unfinished</th>
<th>Outbuilding</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main Floor</td>
<td>2,260</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Finished Lower Level</td>
<td>1,224</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wine Cellar</td>
<td>116</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Utility/Storage Room</td>
<td>295</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3,895</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Dwelling Unfinished Living Space:       |                  |                     |             |            |
| Dwelling Attached Garage               |                  | 765                 |             |            |
| Garden Garage (Basement)               |                  | 365                 |             |            |
| Front Porch                             |                  | 135                 |             |            |
|                                         |                  | 1,265               |             |            |

| Outbuilding Unfinished Space:          |                  |                     |             |            |
| Main Floor                              |                  | 2,000.00            |             |            |
| Lower Level                             |                  | 1,843.00            |             |            |
| Covered Parking                         |                  | 800.00              |             |            |
|                                         |                  | 4,643.00            |             |            |

| Totals:                                 | 3,895            | 1,265               | 3,895       | (1,265)   |
|                                         |                  |                     | 4,643       | (4,643)   |
|                                         |                  |                     | 5,908       | (2,013)   |

**Dwelling Net Sq Ft Negative**

**Front Elevation Visual Square Foot Comparison:**

**Dwelling:**
- Brick Front Elevation: 756
- Roof Front Elevation: 858

**Outbuilding:**
- Wood Front Façade: 600

**Dwelling Net Visual Sq Ft Positive:**

Exhibit 5
Front Elevation Visual Square footage Comparison

FRONT ELEVATION

FRONT ELEVATION

Exhibit 5
Petition for Variance of Development Standards:

Findings of fact:
The grant will not be injurious to the public health, safety, morals and general welfare of the community because:

All proposed improvements will be constructed in accordance with applicable building, health and safety codes. The residence and companion building will increase the value of the properties in the area and will be an asset to the community.

The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The construction of the residence and other improvements will enhance property values in the area and will be aesthetically pleasing. Many other residences in the immediate area also have homes with outbuildings. The Petitioners residence and outbuilding will be consistent with these uses and will not adversely affect the area adjacent to the subject property.

The strict application of the terms of the zoning ordinance will result in unnecessary hardships in the use of the property because:

Mr. Gudenkauf and his wife are "empty nesters" and do not need or desire a large personal residence. The proposed residence is spacious and designed for their needs. The home includes three large bedrooms with walk-in closets, multiple living areas including a great room, family room, sunroom, deck and a utility/storage area. If the Petitioner is required to strictly adhere to the requirements of the Zionsville Zoning Code it would be an unnecessary hardship on the Petitioner as they would be required to construct a much larger home at greater expense with no additional benefit to the Petitioner.

DECISION

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

Adopted this _______day of _____________, 20__________.

_________________________________  ______________________________
_________________________________

Exhibit 6
Petition Number: 2019-05-DSV

Subject Site Address: 596 West Linden Street

Petitioner: Deanna & Theodore Dalberg Jr.

Representative: Todd Rottmann

Request: Petition for Development Standards variance in order to provide for the addition of an existing single family home which:
1) Exceeds the required lot coverage of 35%, to 45%
2) Deviates from the required front yard setbacks in the Urban Residential Village Zoning District (R-V).

Current Zoning: Residential Village Zoning District (RV)

Current Land Use: Single-family residential

Approximate Acreage: 0.12 acres

Zoning History: No prior petitions are known

Exhibits:
- Exhibit 1 – Staff Report
- Exhibit 2 – Aerial Location Map
- Exhibit 3 – Petitioners Existing Survey
- Exhibit 4 – Petitioners Proposed Site Plan
- Exhibit 5 – Petitioners Narrative
- Exhibit 6 – Petitioners Exhibits
- Exhibit 7 – Petitioners proposed Findings of Fact

Staff Presenter: Wayne DeLong, AICP, CPM
PETITION HISTORY

This petition will receive a public hearing at the March 12, 2019 Board of Zoning Appeals meeting.

PROPERTY HISTORY

The property is comprised of approximately 0.12 acres of parts of Lot 29 and 30 of Cross’ Fourth Addition of the Town of Zionsville. Per the Boone County Property Record Card, the parcel is presently improved with a single-family dwelling with additional accessory uses. Staff is not aware of any prior petitions for this property.

ANALYSIS

The 0.12 acre parcel is currently improved with a single-family dwelling and accessory uses, including an attached garage. These are considered to be existing legal non-conforming improvements (front yard encroachments).

LOT COVERAGE

The request seeks to exceed the 35 percent lot coverage maximum by 10 percent (of which 2% is permissible by right when using pervious material). Per the Residential Village District (RV) regulations, lot coverage standards states the maximum lot coverage is 37 percent (inclusive of the 2% bonus for pervious material use). The Petitioner is requesting a design standards variance to this requirement for the addition of approximately 350 square feet to the current total footprint of 2,009 (inclusive of the home, attached garage and patio). It should be noted that the parcel currently enjoys a lot coverage of 40% of which 8% is a permeable patio, per the Petitioner’s narrative.

While the current Zoning Ordinance requires such restrictions, 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 enjoy deviations from current coverage standards (but in no case was coverage discovered that exceeded 42.6%).

In summary, the request to occupy the site with improvements associated with a single-family home in excess of lot coverage requirements in the Residential Village District (RV) is not uncommon in portions of the Village. In summary, Staff supports requests which provide for 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 a use commonly enjoyed by other properties in the area and 2) other properties within proximity to the parcel enjoy deviations from the maximum lot coverage requirements (to the south and east).

Given the previously mentioned characteristics (inclusive of the fact that the site currently is improved with 40% percent lot coverage), Staff is in support of a request to exceed the lot coverage to a total of 43% (with 5% of that coverage being existing pervious materials adhering to the required minimum 5-foot setback), with the condition that a request approximately 160 square feet of stone/pavers located on the north side of the home west of the existing gate be
returned to green space. Without the returned greenspace, the requested lot coverage would be atypical for the area, in the opinion of Staff (regardless of being pervious or impervious).

**SETBACKS**

Per Section 194.052.(c), the minimum typical Residential Village District (RV) front yard setback is 20 feet for primary structures, or the average setback of the block (whichever is less). Being a corner lot, this parcel enjoys two front yards and two side yards. In this particular case, front yard setback averaging is not beneficial for the Petitioner in either case, thus the requirement for the variance.

**-WEST LINDEN STREET FRONT YARD**

The Petitioner is requesting a variance of setback along Linden Street for a front porch addition which would require a 7.75-foot setback when the average setback along the North side of Linden Street is 19.25-foot. Therefore, the requested setback is not permitted by right.

As noted by the Petitioner in their narrative, parcels along the entire south side of West Linden Street (block bounded by North Fifth Street and North Sixth Street) enjoy a much smaller front yard setback. While this may be the case, Staff does not consider that as the lone justification criteria as related to the variance request.

However, in the opinion of Staff, what is more relevant is the 1) unique relationship 590 West Linden Street (property directly to the south) has with the right of way line (absent how the south side of West Linden Street interacts with the subject site), 2) the proximity the subject site has to a non-residential use, and 3) the separation that exists between the back of the curb of West Linden Street and the contemplated improvement and that a portion of the existing improvements currently sits 8.75 feet north of West Linden Street.

As for 590 West Linden Street, the improvements, while enjoying a reduced front yard setback, occupies less than approximately 30 percent of the lot’s frontage (a scale that is similar to the Petitioner’s request). Specific to proximity to a non-residential use, and unlike a preponderance of single-family residential uses in the Residential Village District (RV), residential lots which are directly adjacent to non-residential uses likely experience characteristics which are unique due to their proximity to the non-residential use. As such, Staff has routinely suggested that residential improvements in these situations be evaluated on a case by case basis as property owners seek to make modifications, when those modifications are contrary to residential zoning district language (in cases where the immediately adjacent use is non-residential) and can be utilized to mitigate potential intermittent negative impacts (on the subject site) which could result from the presence of the non-residential use. As to the current distance from the travel lane of West Linden Street, while the distance is atypical, if the right of way was improved with a sidewalk, would result in nearly 10 feet of separation between the addition and the back of the sidewalk (which, in the opinion of Staff, is adequate given the unique relationship the property has with its surroundings, including the established reduced front yard setback resulting from the attached garage’s encroachment into the front yard setback along West Linden Street.
-NORTH SIXTH STREET FRONT YARD

The Petitioner is requesting a variance of setback along North Sixth Street for an addition to the dwelling which would require an 11.75-foot setback when the average setback is 14.41 feet, therefore the requested setback is not permitted by right.

As previously mentioned in this Report specific to proximity to a non-residential use, and unlike a preponderance of single-family residential uses in the Residential Village District (RV), residential lots which are directly adjacent to non-residential uses likely experience characteristics which are unique due to their proximity to the non-residential use. As such, Staff has routinely suggested that residential improvements in these situations be evaluated on a case by case basis as property owners seek to make modifications, when those modifications are contrary to residential zoning district language (in cases where the immediately adjacent use is non-residential) and can be utilized to mitigate potential intermittent negative impacts (on the subject site) which could result from the presence of the non-residential use. Additionally, the requested front yard setback is not dissimilar to the front setback enjoyed by 595 North Sixth Street (improved with an 11.73 foot front yard setback).

-STAFF SUMMARY (SETBACKS)

Given the above characteristics which are unique to both the West Linden Street front yard requested setback and North Sixth Street front yard requested setback, Staff is supportive of the requests (given the scale, massing, proposed distances, and relationships with the surrounding improvements). If these unique features and characteristics were not in existence, Staff’s support for the requested setbacks would need to be reevaluated.

PROCEDURAL – VARIANCE TO DEViate FROM STANDARDS

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

(a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

(b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

(c) The strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of the property:

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

STAFF RECOMMENDATIONS

Staff recommends approval of the design standards variance included in Docket # 2019-05-DSV, related to the requested setbacks. Staff recommends approval of the design standards variance
included in Docket # 2019-05-DSV related to the lot coverage, subject to the removal of approximately 160 square feet of stone/pavers within nine (9) months of the issuance of the Certificate of Occupancy associated with the contemplated improvements.

RECOMMENDATION MOTION

I move that Docket # 2019-05-DSV design standards variance in order to provide for an addition to an existing single family dwelling which 1) Exceeds the required lot coverage of 35%, to 43% and 2) Deviates from the required front yard setbacks from both Sixth and Linden Streets (as further described in the exhibits to this report), in the Residential Village Zoning District (RV) for the property located at 596 West Linden Street be (Approved as filed/presented, based upon the findings of fact / Approved as recommended by Staff, based on the findings of fact / Denied/ Continued) as presented.
SURVEYOR LOCATION REPORT

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

Legend

---

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

Linden Street
(28' Pavement)
(50' R/W per plat)

SITE: 596 West Linden Street

HAHN SURVEYING GROUP, INC.
Surveyors & Engineers
2850 E. 96th St., Indianapolis, IN 46240
PHONE: (317) 846-0840 or (317) 846-4119
FAX: (317) 846-4298 or (317) 582-0662

CERTIFIED: May 18, 2012

Chad D. Hahn
Registered Land Surveyor,
Indiana #20300031
Job No.: 2012051314
Sheet 2 of 3

Exhibit 3
February 24, 2019

RE: Deana and Tod Dalberg, 596 West Linden Street
Petition for Variance of Development Standards

We have been living in our home for multiple years and have made some wonderful improvements along the way. Since we need several variances for our next round of improvements, we are writing this summary so that you know what we are planning to do.

The first variance we are asking for is to reduce the front yard setback along Sixth Street. Being on a corner lot makes the Sixth Street side of our lot considered a front yard when typically it would be a side yard with a much smaller setback requirement. The average home setback is 14.5’ and we are asking to be at 11.7’ which is the most predominant setback and it matches 2 of the other 3 houses adjacent to ours.

The second variance we would like is to reduce the front yard setback along Linden Street to 7.7’. The average setback along our side of Linden Street is 19.3” but those are all front yards of lots which are turned 90 degrees from ours. Our setback will still be 5’ to 19’ further from our property line than all of the houses across the street from us. Plus, our requested setback variance is only for a new entry vestibule for our front door which is only 11’ wide.

The final variance we are requesting is for lot coverage. The allowable amount without a variance is 35% impermeable and 2% permeable. We are requesting 37% impermeable but feel this extra 2% is made up by our driveway being permeable gravel instead of paving. The rest of our variance is for 8% permeable which is our existing rear patio, we are not adding more permeable area.

With all of this in mind, we hope you find that these variances are acceptable. Thank you for your consideration.

Deanna and Tod Dalberg, petitioner/owner
dldalberg@hotmail.com
PLAN KEYNOTES:
1. Built-in bench open below.
2. 1-1/2" square prefinished metal handrail at 36" above nosings.
3. Stone hearth at 16" A.F.F.
4. Two-sided gas fireplace.
5. Infill existing window with wall to match adjacent type.
6. Window ledge bench at 15" above upper landing.
7. Remove wall back to landing and install new guardrail at 36" above nosings to match new second floor railing.
8. Reuse existing mantle, tv niche above.
9. Concrete stoop and steps.

ELEVATION KEYNOTES:
1. Existing fascia, gutter, and eave to remain.
2. Prefinished aluminum gutter to match existing.
3. 6" trim to match existing.
4. Prefinished metal flashing over 2x2 sill with sloped top.
5. 6" fascia trim with aluminum drip edge.
6. 10" trim to match existing.
7. Lap siding to match existing.
8. Standing seam metal roof.
9. Raised picture frame moulding.
10. Stone pillars to match existing stone with light fixture mounted to top.
11. Stone veneer to match existing stone.
12. 1-1/2" sq. prefinished metal handrail at 36" above nosings.
13. Concrete stoop and stairs.
14. Chimney with insulated gas vent flue - clad in siding to match existing house.
15. 20" square stone cap with sloped top.
16. Gate to match existing fence.
17. Prefinished metal drip edge.
18. Trim to match existing.
19. Rip trim as required for roof slope.
TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because this project will increase the value of this property, is in keeping with the historical style of the home, matches the scale of adjacent houses, does not encroach on the corner vision triangle, matches the setback of 2 of the 3 other houses along Sixth Street, has a much larger setback from Linden Street than all properties across the street, and has less impervious lot coverage than multiple neighbors because the driveway plus another 8% of the lot coverage is permeable.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because this project will increase the value of this property, is in keeping with the historical style of the home, matches the scale of adjacent houses, setback variances are not adjacent to neighbors' houses, and only 37% of the coverage is house with the rest being open air space.

3. Strict application of the terms of the zoning ordinance will result in unnecessary hardships in the use of the property because this lot is an historic small lot (only 5,227 square feet) so the allowable amount of coverage is 1,829 square feet instead of the 2,800 square feet allowed on the required 8,000 square foot lot in current zoning, other neighbors enjoy larger impact lot coverage and home sizes, the average setback along Linden Street is based on properties oriented in a different direction than this property and cuts the property almost in half, other neighbors enjoy smaller setbacks on both adjacent streets, and other neighbors already have variances for lot coverage.

DECISION

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

Adopted this ______ day of ______________________, 20__.

_____________________________  ______________________________

_____________________________  ______________________________

_____________________________  ______________________________

_____________________________
Petition Number: 2019-06-DSV

Subject Site Address: 160 N Main Street

Petitioner: Rottmann Collier Development LLC

Representative: Todd Rottmann

Request: Petition for Development Standards Variance in order to provide for the construction of a new single-family dwelling with attached garage which:
1) Exceeds the required lot coverage of 35%, to 46%
2) Deviates from the required rear yard setback in the Residential Village Zoning District (RV).

Current Zoning: Residential Village Zoning District (RV)

Current Land Use: Single-family Residential

Approximate Acreage: 0.12 acres

Zoning History: No prior petitions are known.

Exhibits:
Exhibit 1 – Staff Report
Exhibit 2 – Aerial Location Map
Exhibit 3 – Petitioners Cover Letter
Exhibit 4 – Petitioners Proposed Site Plan
Exhibit 5 – Petitioners Exhibits
Exhibit 6 – Petitioners proposed Findings of Fact

Staff Presenter: Wayne DeLong, AICP, CPM
PETITION HISTORY

This Petition will receive a public hearing at the March 12, 2019, Board of Zoning Appeals meeting.

PROPERTY HISTORY

The property is comprised of approximately 0.12 acres of Lot 30 in Oliver’s Addition to the Town of Zionsville. Staff is not aware of any prior variance requests for this property.

ANALYSIS

The 0.12 acre parcel is currently improved with a circa 1870 single-family dwelling which will be demolished in order to build a new two-story single-family dwelling, an attached garage and additional attached covered accessory square footage.

LOT COVERAGE

The request seeks to exceed the 35 percent lot coverage maximum by 11 percent (of which 2% is permissible by right when using pervious material). Per the Residential Village District (RV) regulations, lot coverage standards states the maximum lot coverage is 37 percent (inclusive of the 2% bonus for pervious material use). In this specific case the petitioner is anticipating 3% of the total lot coverage will be pervious material.

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. The Petitioner proposes lot coverage of 2,412 square feet for the single-family home with attached garage and accessory uses which would result in lot coverage of 46% (with 3% being pervious material). Further, many properties in the area enjoy the use of a garage (attached or detached) and covered accessory porches. Both of these characteristics currently exist on the subject site.

The request to occupy the site with improvements associated with a single-family home in excess of lot coverage requirements in the Residential Village District (RV) is not uncommon in portions of the Village. In summary, Staff supports requests which provide for 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 a use commonly enjoyed by other properties in the area and / or 2) other properties within proximity to the parcel enjoy deviations from the maximum lot coverage requirements (to the north, east, and south). Given the previously mentioned additional characteristics, Staff is in support of the Petitioner’s request to exceed the lot coverage permitted by Ordinance by 11% to a total of 46% (inclusive of 3% lot coverage comprised of pervious pavers).

SETBACKS (REAR YARD/FIRST STREET)

Per the Residential Village District (RV) regulations, any improvements to the site are required to conform to minimum setback standards (rear yard minimum, 20 feet). However, as First Street is considered a Front Yard, the petition can benefit from front yard averaging as well to calculate the setback from First Street. Given the reduced setbacks along east side of First Street supporting accessory structures, Staff is
in support of the proposed +/- 4-foot rear yard setback as illustrated on the Petitioner’s site plan attached to this staff report.

**PROCEDURAL – VARIANCE TO DEVIATE FROM STANDARDS**

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

(a) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

(b) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

(c) *the strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of the property:*

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

**STAFF RECOMMENDATIONS**

Staff recommends approval of the design standards variance for a setback from the right of way of First Street of +/- 4’-0”, subject to substantial compliance with the submitted concept site plan and concept elevations (illustrative of the covered front porch), and would be supportable of a lot coverage increase of up to 46% in Docket #2019-06-DSV (when inclusive of at least 3 percent of the total lot coverage incorporating pervious materials).

**RECOMMENDATION MOTION**

I move that Docket #2019-06-DSV design standards variance to provide for the construction of a new single-family dwelling with an attached garage and covered front porch, which: 1) Exceeds the required lot coverage of 35%, to 46% (when inclusive of 3 percent of the total lot coverage including pervious materials) and 2) Deviates from setback along First Street (all as illustrated on the site plan attached to this report), in the Residential Village Zoning District (RV) for the property located at 160 N Main Street be (Approved as filed, based upon the findings of fact and substantial compliance with the submitted site plan and concept elevations / Denied/ Continued).
February 06, 2019

RE: 160 North Main Street
Petition for Variance of Development Standards

My name is Todd Rottmann. I am a village resident and the owner of Rottmann Collier Development. We own 160 North Main Street and are designing a custom home for a family who's matriarch grew up in the Village. We have tried to minimize the size of the home so it fits within the Main Street context, but we still need variances for lot coverage and rear yard setback.

We are requesting 46% lot coverage when current zoning allows 37% (combination of impervious and pervious paving areas). We feel this variance is appropriate because other homes along Main Street already have similar lot coverage variances and our requested coverage is equal to or less than multiple houses along Main Street. PLUS, 3% of our coverage is pervious paving (lets water through) and 3% is covered front porch, leaving only 40% covered by the house and garage. As water runoff into the streets is a concern in the village, we have positioned the house so that there is an ample side yard to collect water runoff from downspouts. As a side note, our lot size is only 5,227 square feet, but if it were on the 8,000 square foot lot that current zoning requires we would not need a variance at all.

Because our garage is attached to the home, our garage is considered to be part of the "house". Therefore, we are supposed to be 20' away from the property line. We are proposing to be 4'-6" back from the property line which is the average setback of garages along First Street and equal to or more than all but one garage on our block.

As an architect, Village resident, and Chairman of the Zionsville Architectural Review Committee which helps ensure the character of the Village is preserved, I am making sure that our home design will be respectful to the scale and character of Main Street. To do so, we are designing the house to be a traditional style, we are setting it comfortably away from the sidewalk, and our Main Street façade has several different wall planes and a usable, covered front porch along the entire front of the home.

With all of this in mind, we believe this particular house on this particular lot is appropriate and these variances are warranted. Thank you for your consideration.

Todd Rottmann, petitioner/owner

todd@rottmanncollier.com
317.840.3944

Exhibit 3
PRELIMINARY EAST ELEVATION

SEARS RESIDENCE
26 FEBRUARY 2019

ROTTMANN | COLLIER
ARCHITECTS

Exhibit 5
TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because this project brings back home ownership to this property, will increase the value of this property, matches the scale of adjacent houses as seen from both streets, and will maintain similar setbacks from the public way and adjoining properties as surrounding houses.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because this project brings back home ownership to this property, increases the value of this property, is similar in lot coverage to other homes along Main Street, some neighbors already have variances for lot coverage, will maintain similar setbacks from the public way and adjoining properties as surrounding houses, and neighbors already have garages at similar setbacks along First Street.

3. Strict application of the terms of the zoning ordinance will result in unnecessary hardships in the use of the property because this lot is an historic small lot (only 5,227 square feet) so the allowable amount of coverage is 1,829 square feet instead of the 2,800 square feet allowed on the required 8,000 square foot lot in current zoning, other neighbors enjoy similar lot coverage and home sizes, some neighbors already have variances for lot coverage, and the garage will be further from the street than the average setback of the neighbor’s garages.

DECISION

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

Adopted this __________ day of ____________________________, 20___.
Petition Number: 2019-07-SE

Subject Site Address: 782 North County Road 800 East Whitestown

Petitioner: Stephen & Jaimie Boedicker

Representative: Stephen & Jaimie Boedicker

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

Current Zoning: Agricultural District (Rural)

Current Land Use: Unimproved

Approximate Acreage: 7 acres

Zoning History: Consolidated into the Town of Zionsville’s jurisdiction in 2010. No prior petitions are known.

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

Staff Presenter: Wayne DeLong, AICP, CPM
**PETITION HISTORY**

This Petition will receive a public hearing at the March 12, 2019 Board of Zoning Appeals meeting.

**PROPERTY HISTORY**

The acreage associated with this petition previously improved with a single-family dwelling which was destroyed by a fire in 2014. The original dwelling, construction in 1996, was located on the property prior to Boone County’s adoption of the ordinance language requiring that a Special Exception be obtained through the Board of Zoning Appeals for residential structures proposed to be constructed within an Agricultural zoning district.

**ANALYSIS**

Per Section 194.019 (F) of the Zoning Ordinance, titled *Avoidance of Undue Hardship*, rebuilding the dwelling on the parcel would have been permissible, without requiring a Special Exception, if an Improvement Location Permit had been requested within six (6) months of the destruction of the prior home, with a certificate of occupancy being issued within two years of the issuance of said Improvement Location Permit. Unfortunately, the ability to utilize the Undue Hardship section has passed, and therefore, based on the current Zoning Ordinance and the Petitioner’s interest in constructing a single-family dwelling on acreage zoned AG, the Petitioner 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.

Additionally, due to the events that occurred in 2014, the property is currently considered to be in non-compliance as a pole barn associated with the previous homestead remains, without the benefit of a primary dwelling, on the property (an action which is not supported by the Zoning Ordinance).

In the opinion of Staff, the Petition represents a limited presence of residential development in the AG District 1) due to the configuration of the parcel, 2) its history of residential usage, and 3) that the contemplated location of the proposed improvements is consistent with the development pattern on the west side of County Road 800 East. Additionally, as the parcel previously was improved with a single-family dwelling and associated accessory uses, constructing a new single-family dwelling would return the parcel to a compliant status with the Zoning Ordinance.

**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 3.3 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 #2019-07-SE.

**RECOMMENDATION MOTION**

I move that Docket #2019-07-SE special exception Petition in the Agricultural District for the property located at 782 North County Road 800 East be (Approved as presented / Approved based upon the staff report and the proposed findings / Denied / Continued).

(If Approved as recommended, it shall be required that the Petitioner execute the Right-to-Farm acknowledgement documentation)
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;

   proposed use will be single family residence and garage.
   This will be our primary residence.

2. The proposed use (is / is not) will not injure or adversely affect the adjacent area or property values therein; and

   I would expect our home to increase the value of the area.

3. The proposed use (will / will not) will be consistent with the character of the District, land uses authorized therein and the Town of Zionsville Comprehensive Plan.

   The land previously had a residence until recently. Our blueprints and designs are available for review. We believe they keep with the character of the area.

DECISION

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

Adopted this ______ day of ____________, 201__.

__________________________________  ____________________________________
In Attendance:  John Wolff, Joe Kremp, Larry Jones, Julia Evinger, Steve Mundy.

Staff attending: Wayne DeLong, Darren Chadd, attorney.
A quorum is present.

Wolff Good evening, and welcome to the March 12, 2019 Board of Zoning Appeals meeting. The first item on our agenda is the Pledge of Allegiance.

All Pledge.

Wolff The next item on our agenda is attendance.

DeLong Mr. Kremp?

Kremp Here.

DeLong Mr. Jones?

Jones Present.

DeLong Mr. Wolff?

Wolff Here.

DeLong Ms. Evinger?

Evinger Present.

DeLong Mr. Mundy?

Mundy Present.

Wolff Thank you. The next item on our agenda is a new member oath of office. Wayne, will you help us with that.

DeLong I will administer that to Mr. Kremp.

Wolff Thank you.

DeLong Please stand, raise your right hand. Feel free to reference the paper. This is not a quiz. I, Joe Kremp

Kremp Repeat after you?

DeLong Yes.

Kremp I, Joe Kremp

DeLong do solemnly swear
Kremp do solemnly swear

DeLong that I will support the constitution of the United States of America

Kremp that I will support the constitution of the United States of America

DeLong the Constitution of the State of Indiana

Kremp the Constitution of the State of Indiana

DeLong and the ordinances of the Town of Zionsville

Kremp and the ordinances of the Town of Zionsville

DeLong I will faithfully and honestly

Kremp I will faithfully and honestly

DeLong and impartially discharge

Kremp and impartially discharge

DeLong all of my official duties as a member

Kremp all of my official duties as a member

DeLong of the Board of Zoning Appeals for the Town of Zionsville

Kremp of the Board of Zoning Appeals for the Town of Zionsville

DeLong without malice

Kremp without malice

DeLong and to the best of my skills

Kremp and to the best of my skills

DeLong and ability, so help me God.

Kremp and ability, so help me God.

DeLong Congratulations.

Kremp Thank you.

Wolff Mr. Kremp, welcome. I did not get a round of applause when I was sworn in, so, that is the sort of reputation you have. Also, welcome to all our or local community high school members. Some of you are getting this done ahead of schedule. Good job. The next item on our agenda is the approval of the February
Evinger I will make a motion to approve the minutes as presented.

Wolff Thank you. Is there a second?

Jones Second.

Wolff All those in favor?

All Aye.

Wolff Those opposed?

[No response.]

Wolff Motion carries. The next item on our agenda is continuance requests. Are there any petitioners here tonight requesting a continuance? Seeing none, moving on to continued business. Docket # 2018-46-DSV. Please, will the petitioner please come forward and state your name and address. Welcome back. So, will you please state your name. I want to start the conversation, but will you give us your name and address.

Pabst Reesa Pabst. I’m at 8090 East 550 South.

Wolff Thank you. So, Mrs. Pabst, as you know we have a new member tonight, and we had a fairly lengthy conversation a couple months ago, but I think it’s important that we kind of hit the reset button, and let’s try to understand what it is you’re asking for. We heard some remonstrators, and so they had some concerns, and let’s also try to understand what you’ve done to help mitigate those concerns.

Pabst So, what I asked for was a variance to split my property, which I am asking for the home to stay on 1.83 acres, and to create a 2-acre lot. And, as a reminder of the last meeting concerning the variance, my husband and I inherited part of the property, and from a family estate. After my father-in-law died, there were several people interested in the property, one of which was a neighbor. I was unaware until the last meeting who the neighbor was that was interested in the property, but it happened to be the Paddocks that were interested in purchasing it for their son. I don’t know what the circumstances were as to why they didn’t purchase the property. It was all dealt with by a lawyer, so having said that, when they did not come back to look at the property or show any interest in it, the lawyer had come to us and said that he was going to go ahead and have it appraised by a realtor, and see about putting it on the market. At that time, he had come back to us and told us that he had a realtor that had a developer that was interested in the property. At that time, my husband and I decided that we did not want to see the home tore down, so, having said that, we went ahead and decided to move forward with purchasing the property from the rest of our siblings, and we did so. So, you know, it was always in the family’s interest to keep the house. They had actually done very extensive remodel to the outside of the home in the
last two years, and spent a lot of money doing that, so it’s always been, you know, they’ve had it in the home for over 50 years, I mean in the family for over 50 years, so it was just always that we would try to keep the home in the family, or keep it standing, because it was from the mid-1800s. So, having said that, I am just here tonight to try to see about getting it.

I did work with my neighbor, all my neighbors, and got several people out there to try to work on the drainage issues. The Paddocks had met with, and you probably have a copy of it, I had submitted that from the Natural Resource Conservation Services. I did get Angela Garrison to come out and meet with us. She met with me twice. She met with Mr. Stark at one time, and she also met with Mr. Paddock. And, there was also Brian Daggy that came out with the Boone County Soil and Water District. They met and Mr. Paddock explained to them that he didn’t currently have any drainage issues. That he had corrected them. They looked at our property, and all the properties surrounding, and had said that they could not really come up with a hypothetical for a home being built, but they did say that there were safeguards that were put into place in the building departments and all the permitting process for drainage, if and when something is built on that 2 acres. And, she also had offered to come out at a later date when somebody was deciding to build and work with them on the drainage. I don’t know if you have a copy of the topo, as well, but it did show the elevations of everybody’s property, and unfortunately, the Paddocks are at a very low level where their property kind of, everything kind of goes down to them. But, they do have a creek that I had mentioned at the last meeting. It’s a stream that has been there for, I think they put in this report for over 40 years, that is one of the diversions that they are having that goes across their driveway. She did not feel like our property would be a very big impact on it if we did go in and make sure that we, that somebody had done the proper drainage when they build a home. We also, I also want to point out that all roads lead to my property. All of my neighbors, drainage, comes to my front yard because the huge drainage ditch that crosses the road is actually in front of my property. So, I am going to be just as conscious about drainage as anybody, any of my neighbors. With this last rain, I did go out and look at the property again, and behind me to make sure there wasn’t any wet areas. I did see a couple of very minor wet areas, and driving around Zionsville, I could not believe how many people were under water. I just want to say that Brian Daggy from the Soil and Water District joking said to me when I said I was unaware of their being drainage issues because I haven’t lived in Zionsville for 30 years, and he said to me, he said, “Well, my business card has a lily pad and a frog on it, if that tells you anything.” So, I did try to work with my neighbors. I did go around to all the other neighbors and speak to them, and I got no resistance from anybody as far as putting a home on the 2 acres. They were ecstatic that the older home was going to be able to stay, and everybody was very welcoming and signed letters to that effect, and I did furnish those, as well.

Wolff Thank you, Mrs. Pabst. I think I am going to try to sum this up.

Pabst Okay.

Wolff And, you correct me where I go wrong.
Pabst  Okay.

Wolff  We’re talking about one parcel that is currently 3.83 acres.

Pabst  Yes, sir.

Wolff  And you would like to have that split into two parcels. One that is 2, and one that is 1.83 acres.

Pabst  Correct.

Wolff  As we will discuss in a few moments, the staff feels that the size of those parcels is consistent with other parcels in the area. We had some neighbors have concerns regarding what splitting that parcel into would do, and adding a house to it, and to help work through that issue, you have hired some experts, and they did a bunch of drainage studies, and I think what I heard was nobody exactly knows what’s going to happen when you put a house on it because water is a little bit unpredictable. So, it’s difficult to interpret what’s going to happen, but you have a better understanding of where the water goes, and where it might go, but adding a house that we don’t know what it looks like, how big it is, or where it is going to sit is a pretty hypothetical situation.

Pabst  Correct. And, they did not want to go into hypotheticals. But, the way that the hill is, it’s got a very good slope on it going down towards the drainage at the road, and Brian Daggy did say that he felt like a house could be built at the slope where everything went towards the front of the property where it should go to the drainage.

Wolff  Thank you. Are there any questions for the petitioner?

Pabst  Excuse me. This is my brother. Can you come up?

Wolff  Absolutely. You’re welcome to speak. Come forward.

Pabst  He can’t talk. He lost his voice.

Wolff  Or you can whisper to her and have her do it. But we just want to make sure we get it on the record.

Pabst  Oh, yes. We are also taking down two structures. There is a corn bin that has been there for years and years, and there is also, we’ve permitted to take down a barn that has been sitting there for several years, as well. So, there are two structures that are being removed.

Wolff  You’re right. Thank you for bringing that up. That is important.

Roberts  Also, I’ve been doing excavating for many years - -

Wolff  Can you state your name and address for the record please?

Roberts  Greg Roberts.
Pabst      And your address.
Roberts  9085 State Road 38, Sheridan.
Wolff     Thank you.
Roberts  I’ve been doing excavating for many years, and most all these properties have perimeter drains anyway. When they build new homes anyhow, any of the ones in the suburb areas, and I just wanted to reiterate that, and she has natural fall, and the soil hasn’t been tampered with. You know, it’s not build-up, it’s not home-made. It’s natural. And, basically what I’m saying is that I don’t, you know, even from my experiences over the years, I don’t see a problem with building a house on that acreage because it is a natural slope, and 90% of the property, the fall is in the front of the property, the adjacent road in the front.
Wolff     Thank you.
Roberts  Thank you.
Wolff     And, also, thank you for bringing up the removal of a couple of accessory structures. We did talk about that last meeting, we brought it up, but thank you for doing that. Any questions for the petitioner?
Jones     I guess my question along that line though is, while you have met with all these individuals and they have given you all this information, there still is no real drainage plan to alleviate any of the problems that might be created. It’s still pushing off the, it still pushes off the correction of any potential problems to a future owner, or adjoining property owners, or Zionsville. In other words, what you have told us is, even by your own account, driving around the Town of Zionsville, you understand there is drainage issues everywhere.
Pabst     Correct.
Jones     But, you’re not really proposing anything to alleviate that with the ability to get this variance to partition off this piece of property.
Pabst     Well, I have met with your Well and Septic Department, which approved the well and septic on the 1.83 acres.
Jones     But a well and septic isn’t drainage.
Pabst     I understand that. I’ve also met with your street division and contacted, I think it was Nick Parr. Spoke to him about the drainage, and I contacted every department I could contact through the city trying to get any kind of, but I’m going to be honest with you, all of them told me that the Building Department has safeguards for the drainage issues when building a home. And, I would have to defer to Wayne DeLong about that because that is basically what I have been told by all the departments.
Jones     Does the Building Department have safeguards?
DeLong With any new construction, there is certainly going to be drainage ordinances and building codes that speak to the positive drainage that is required to be perpetuated with any new development. The characteristics that have been discussed and previously discussed this evening, as well, are not atypical or foreign. I mean, these are every day encountered items that are routinely addressed when a 2-acre parcel is thought of to be built upon by somebody who then needs to take upon the right requirements to put in the right drainage, structures, perimeter drains, outfall places, routing drainage accordingly. So, the safeguards themselves are the ordinances of the Town of Zionsville building code, which mandates positive drainage, and like, those rules are implemented on a daily basis.

Jones Okay.

Wolff Any other questions for the petitioner?

Kremp Can I?

Wolff Absolutely.

Kremp So, I’m the new member, so I don’t want to paddle too far out into the deep waters, I don’t float in the deep water, but I do have a couple questions. Because I wasn’t here for the first meeting on this. But, I have read through the transcript. The drainage that exists right now on the property, is it your view that the existing improvements don’t contribute to the problem that exists at the northeast corner, that the northeast corner of the property, that that’s all coming from, that’s coming down from the north?

Pabst It is coming from that new subdivision, yes, but I don’t know that it was ever just coming from that new subdivision. There is, if you look at the plat, that I think there was a copy of that furnished, that shows that it was a natural drainage that came from the north.

Kremp So, the 1.83-acre parcel that you want to create with the existing improvements, it’s your position that those improvements aren’t contributing to any sort of drainage issue in the northeast corner?

Pabst No, no. The 1.83, and I’m not, all I’m trying to do is just save the home. I’m not doing any improvements other than I did check to make sure I could put a new septic in there if it was needed. But, I will say that Mr. Paddock did take part of our property. He took down part of the fence, and he built a berm on part of our property when he alleviated his drainage issue, which I have no problem with. I mean, we want to be neighborly, and we want to get along with all our neighbors, so that was not a problem for him to do that, but, you know, we have tried to work with him. And, I was unaware that that had gone on, but that had happened within the last year.

Kremp But you’re establishing through this process, and if a 2-acre parcel, we’re being asked to approve a 1.83-acre parcel that is below the existing requirement - -
Kremp --to the east of that there will be a 2-acre parcel that would be consistent with the zoning requirements. And, that 2-acre parcel is where this drainage issue exists at the northeast corner, if I’m correct.

Pabst Correct. Yes.

Kremp And, so this is quick, I don’t want to take more of everybody else’s time. I saw the initial submission had a plan that had a hand-drawn line where the 2-acre split would occur, and I’ve seen something that, is that a supplement to it that has actually a metes and bounds description where there is a lot line - -

Pabst I actually did have my surveyor redo that, and it was turned in by the surveyor.

Kremp Okay. My question is, if the petition is approved, is the petitioner bound by those lot or by that lot description? Are we approving 1.83 acres that they could somehow resize, or is it going to be that lot size as shown on the resubmitted plan?

DeLong The 1.83 acres would, if it changes, it would have to come back for an additional variance if it were to get smaller.

Kremp Okay, are we approving the dimensions then?

Wolff Are you implying that if we made a diagonal line here and a diagonal line there, we stayed at 1.83 acres - -

Kremp Can they adjust the 1.83 acres, if we approve the petition, can they adjust the 1.83 acres?

Wolff No. We are approving the 1.83 acres.

Kremp So, the 2 acres has to stay on the east side?

Pabst Correct. Yes.

Wolff Correct.

Kremp And, last question, and I’ll shut up.

Wolff No please go ahead.

Kremp And, I promise I will not be like this. I noticed on your plan that you have the driveway, the current driveway is located on both sides of what that lot line would be on your plan.

Pabst That would be moved, yes.

Kremp So, your intention is to move it all onto the 1.83 acres?
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Pabst  Yes.
Kremp  Okay, thank you.

Wolff  Good questions. Thank you. We may have you come back up.

Pabst  Okay.

Wolff  Are there any remonstrators here tonight? Please come forward and state your name and address.

S. Paddock  Shelly Paddock, 8164 East 550 South.

Wolff  And, Mrs. Paddock, if I remember, you’re directly to the east. Correct?

S. Paddock  Correct. It’s our property that is affected.

Wolff  Okay, great. What are your concerns?

S. Paddock  I just first want to correct something that Mrs. Pabst said. We did not approach anyone to buy the property. Her sister-in-law, Judy, called me and asked if we would be interested and I said I would talk to my grown son, and his future wife, and then let her know. Which a couple days later I called her back and said they have no interest. So, we did not seek that.

Wolff  Yes. For everybody involved, I want to stay inside our lane here. I’m really just worried about taking 3.83 acres and cutting it up into 2 and 1.83. That’s really my focus and so some of these transactions that may or may not have had that I was not involved in or I couldn’t hear myself, I’m not overly interested in any of those.

S. Paddock  I’m not either. I just want to make sure that everything is clear, and truthful, if that matters.

Wolff  Yes. Certainly. So, you, last time, and I want to give you an opportunity to speak. The last time, you had some concerns about drainage.

S. Paddock  Correct.

Wolff  Actually, you also had some concerns about the lot size. Could you please review your concerns, and can you also talk to what Mrs. Pabst may have done to alleviate or not alleviate your concerns?

S. Paddock  Sure. First of all, the only reason that they’re concerned about the lot sizes, it’s your rules, not mine. I didn’t make them. That’s the Town of Zionsville. So, I don’t have a problem with the lot. As long as the drainage is addressed. And, as far as what was done. When we moved there 25 years ago, not a year ago, we dug with her father-in-law, and mother-in-law, who lived in the property, they were our neighbors. We talked to them, along with our other neighbors, that the three properties connect. They all adjoin. And, they said, there is an issue with drainage here. All of us agreed, on their properties, as well as ours. So, we said, well, we’re going to put a driveway in, so let’s, how about this, we all three work
together to make that work for all of us. Not just so we could have a driveway. We removed the fence. Of course, with permission, with working with her in-laws, who then owned the property. We were good neighbors, and we were friends with them. So, there was never a relationship with, I had never met Mrs. Pabst until the first night that we were here. So, I don’t have a problem with the building a house if you give them the variance. They’re your rules. As long as everybody is following the same rules, I am good with that. The drainage issue, is,… our driveway is right along that fence line. It’s probably less than 7 feet, maybe 10, from the fence line and the fence, actually part of her fence is on our property, because the line is not directly straight. So, we have a tree that is on our side of the fence that is on her property, which we’re going to have to address because it’s going to fall over on that lot, because the water. And, it’s not their fault. It’s just the way the property is. It’s not, no one built it up. No one stacked dirt or dumped or did anything. It is the natural fall of the land. And, we have dug up our yard. We have dug up our neighbor’s yard. We have redone that drain about 4 or 5 times since we have lived there in the 25 years. It’s dug up now. She didn’t hire an engineer. As far as I know. She called Boone County. They called me. They came out. They met with my husband. We talked to them. They just said, you know, “Do you have a problem?” Because, when she called, what the drainage, what they said to us was, “Mrs. Pabst called and said you have a problem with drainage.” We don’t have a problem, I mean, it drains. I mean, it’s low. We understand that. Only problem, my only concern that we have is if you put a house on there, and it doesn’t all go forward. Rain doesn’t know which direction. It’s the path of least resistance. It’s just, and I’m not trying to be difficult. Seriously not. I am not. I’m just trying to, let’s just make sure that we don’t create a bigger problem. Our other neighbors, it’s right now, our side of the drive, the east side, it is completely, you can’t walk through there. It’s soupy right now. And, yes, there was a natural-like drainage. It’s not a creek. It’s just a path that goes through. It’s dry most of the time. I mow it. And, between our other neighbors to the west of us, but when it rains, everything runs downhill.

Wolff So, Mrs. Paddock, did you see the information that the various groups provided that Mrs. Pabst had put together about the elevation changes and those?

S. Paddock Yes.

Wolff And, after reviewing that and taking a look at that, and your experience for living there for 25 years is that it’s going to go to the east?

S. Paddock Well, yes, some of it is. The majority of that back corner is going to go set in that. We have a huge willow there, and there is a reason it’s a huge willow. It’s because the water just stands there.

Wolff And, is there something that Mrs. Pabst could do to help alleviate those concerns?

S. Paddock Just, I mean, the whole idea, I thought was the last meeting was, was that she was supposed to have somebody draw something, do something to give us some idea if they put a house there, when somebody puts a house there, what their plan was. Are they going to put a culvert in?
So, I think the challenge with that statement was Mrs. Pabst isn’t going to put a house there. Somebody else may in the future, but we don’t know what house it is, or where it’s going to sit. So, it’s difficult to address it specifically at this time. In addition, I think what we also heard was that part of building a house, there comes some obligation to make sure that you address the water that comes off of a house. That’s part of the building process in getting building permits and those types of things. So, that may help alleviate the condition?

Maybe. But, what’s going to be left is that we get to deal with it once she sells the property to the next people. Then she just takes her bag of cash and goes back to Florida, and then we have to deal with the new landowner.

Again, I am not concerned about transactions right now. I’m not worried about selling the property. I’m really worried about 3.83 acres going to 2 and 1.83 acres.

But, the reason that it’s going to that is to build a house on, correct? Is that not the goal?

I have no plans in front of me of a house. I can’t see that. I have no visibility to that.

Okay. But is that not something you would take into consideration?

Well, I think it is because you voiced a concern about drainage.

Right.

And, I think we can logically follow the thought that if you sell this you are going to put a house on it, but I don’t know where the house is going to go.

Me either.

It’s difficult, you asked for plans, and it’s difficult to address plans when I don’t have a specific house in front of me. And, I don’t expect Mrs. Pabst to build a house there, or have someone develop a house, or plan a house there for us. That’s not a reasonable ask.

Correct. But you asked for her at the last meeting to work with us to try to find a solution to drainage in case that did happen. That was what you said to her, not me. You suggested that she work with us to try to find a solution when it was developed.

And, it sounds, from what I have in front of me, is that she had conversations with you and other neighbors.

No. She talked to the Boone County, she talked to the Boone County resources.

Let me rephrase that. I think what she said was she had the Boone County resources talk to you.
S. Paddock  Correct. But, they didn’t do anything. They just said she called and said we had a drainage problem.

Wolff  So, I do have some results of those studies in front of me. Have you seen those?

S. Paddock  Yes.

Wolff  Okay. So, they did do something.

S. Paddock  Well, yes. Sure. They printed out the topo from all around us. I mean, but they didn’t say, you know, here is a solution. Here is what something you could do. You could add some kind of landscaping or some kind of, you know, there was no, I mean, we understand what’s already there. We already had maps. I’m not exactly sure, I mean, this was just an exercise in futility then. We just went through the motions for the same results as we had before, which is no solution. No suggestion.

Jones  Can I suggest an alternative view of this?

Wolff  Absolutely.

Jones  So, if this lot was 4.1 acres, and you’re dividing it into two 2.05-acre lots, we wouldn’t be having this conversation at all. Correct?

Wolff  Correct.

Jones  But, go ahead. Walk up and ask the question and state your name and address.

J. Paddock  My name is Jim Paddock. 8164 East 550 South. Are you making a hypothetical example because we done that at the last meeting and it doesn’t pertain to this. Because I would still be here.

Jones  No, I’m going to follow through with what we discussed at the last meeting.

J. Paddock  Okay.

Jones  And, the last meeting what we discussed is that there is a request for a variance to create a 1.83-acre lot.

J. Paddock  Correct.

Jones  Once you step up and are asking for a variance, I do not think it’s unreasonable to ask that there is some sort of plan put together to identify and deal with an identified problem. And, the problem that keeps coming up is that there is a long-term drainage issue in the back part of this property. Your statement and your desire to impose the correction of that upon the Town of Zionsville isn’t really what I consider equitable for the ask. If you want to get a variance, assemble a plan that addresses the Paddock’s issue, and it will be a commitment that will run with the parcel that you are attempting to create. If you don’t want to do that, pick your path. But, last meeting, that is what we asked for, and going out and talking to our, you know, getting approval for a septic field, is not drainage. The
information you provided us, it’s nice, but it isn’t a fix. It isn’t a fix that equates to something that will solve an issue that we can all see potentially happening.

Pabst Can I come up?

Wolff I’ll have you back up. Hold your thought for one second. I’ll have you back up. Do you have any other questions for remonstrators?

Jones No.

Wolff Mr. Paddock, do you have anything else?

J. Paddock All I was going to add, it wasn’t, they didn’t come to me to talk about this to try to work this thing out. And, I’m not talking about just the corner.

Wolff Who didn’t come to you?

J. Paddock The Pabsts. They were supposed to come with us, or come with me and work this thing out.

Wolff Did the - -

J. Paddock --that was just the County and the U.S. She called them. So, not me. I didn’t set that up. She did. But, I want to address one thing too. We’re talking about the east whole side of that property. Not just a corner. Not just drainage that comes from up north, because I have addressed all that. We’re talking about just drainage that’s happening on the east side. So, you know, we keep talking about what’s behind me and all this, has nothing to do with this issue. Okay? So, I just wanted to bring that up.

Wolff Okay. Thank you. Are there any other remonstrators who would like to speak tonight? I will have you guys back up. Please come forward and state your name and address for the record.

Stark My name is James Stark, 5395 South 800 East. We adjoin that property and have for years to the north, and that corner down there where she said the we encroached and built kind of a dry dam with a tube through it to slow that flow of the water down, coming from the north. But, all I want to say is that 2-acre lot that she is wanting to have, about two-thirds of that, and clear up to the north on the Paddock property, that all drains down to that corner, and that is swampy wet. It’s what I call a seep. And, so it’s wet all the time back there. So, to be able to put a septic system in that area, if you are going to do that, seems a little bit difficult because it’s going to stay pretty wet. I want to say that your rules say that it’s 2 acres for a lot. I think the easy solution to that is to just kinda hold up to that, boys, and just, if it’s going to be 2 acres to let’s just do it that way. Thank you.

Wolff Thank you, Mr. Stark. And, I would add to your comment, again, I don’t have a septic plan in front of me to approve, so I’m not overly concerned about that, but your point about sticking to the 2-acre lot limit is noted. Any other remonstrators here tonight? Seeing none, Mrs. Pabst, will you come back up? So, it sounds like
your neighbors still have concerns about some of the drainage issues, things headed, water headed their way, and it sounds like it is happening currently, and I think they feel that a house would make that problem worse.

Pabst Having said that, I understand their concerns, and I did try to meet with them, as well. And, I was at both meetings that Angela came to. Angela also offered to come out --

Wolff --Who is Angela?

Pabst Angela is from the Department of Agriculture resources that you have, one of these studies on. She said that she would come out and work with whoever was building a home there, or whatever was going to be built there, and work with them on the elevation of the property, and to work on alleviating any drainage issues. Now, I want you to understand, I walked that property after the rain, and I walked back there. I have photographs on my phone of very little standing water back there. I was able to walk back there on my property without sinking into any mud or anything, but the front of my property, which I will be now addressing, and I’m sorry that Mr. Jones doesn’t think that this should be part of the drainage issue, but I will be addressing an issue about my drainage in my front yard because my front yard is soaking wet, and like a lake, because Stark’s property comes to mine. The people, all of them, come into the big thing in the front of my property. So, it all stands in my property if it overflows. So, I’m going to be very diligent in trying to make sure there are no drainage issues and to also correct mine. And, I do intend to be in the home, and I don’t know why I keep being told that I’m not. But, I am. So, yes, I know you don’t care about that.

Wolff Staying in my lane here.

Pabst Yes. Do you have any other questions?

Wolff I turn to the group.

Jones Well, it’s not a question. It’s just a statement. You know, and the statement is, and I’m sure your friend can address this.

Roberts This is just a brief statement. Let’s say this room right here that we have here, two-thirds of this property is on a hill, and at a 9-foot slope, I’m 6’2”. If you were to stand down at the creek, down at the bottom, water runs downhill. But you only got one-third of the property going towards them. We’re cutting two structures down, and the rest of it runs downhill. Now, you know, Archimedes will tell you, water seeks its level. It’s only common sense. That’s all I gotta say.

Pabst Well, I would also like to say that I am not the highest elevation here. The Stark property is, and the property to the west of me is at a higher elevation. So, it’s coming off of their properties, as well. It’s not just coming off of my property.

Wolff Certainly. But, I think the chance we had last time was that --

Pabst --And, I have diligently tried to address it. I have done, I contacted anybody and everybody that I could contact to try to work with trying to fix problem, and I
don’t intend to stop. I will make sure that it gets taken care of. I am, I want to be neighborly, but I do feel like the 2 acres, it stands on its own. I mean, the 1.83 is basically really what I’m asking for here, is for the home to be on the 1.83, and all of that runs down to my front yard, just so you know.

Wolff Thank you.

Pabst Thank you.

Wolff Wayne, can we have the staff report?

DeLong Thank you. As shared in the January meeting, staff is supportive of the petition seeking the request that’s in front of you this evening related to the lot size. The lot size as requested and as indicated in the petitioner’s packet is an area that is comprised of a variety of lot sizes. With that in mind, staff, much like with any other petition, be it lot coverage or lot size, we are looking for compatibility in comparison to lots in proximity to the subject site, and the 1.83 acres is a lot that is size that is found in the area, with some being larger and some being smaller.

Wolff Thank you, Wayne. Discussion amongst the group?

Evinger Since there is nothing proposed to be built on the lot at this time, it does seem like it would be a very difficult challenge to try to put in some kind of a plan without knowing what’s going to be there. If we were inclined to approve this motion tonight, is there anything other than the building code itself in going between all the different Boards at the time something would be constructed that we could add to as a commitment at this time, short of an engineering plan?

Jones There is a very simple fix. The petitioner needs to hire an engineering firm and given a 2-acre lot we know how much hardscape they could put on it, they can do the drainage calculations and they can make a commitment to put in the fix. And, if they choose to have that address this property and their 1.83-acre, however they want to do it, it’s fine, but at that point, there would be a commitment tied to the property that would bind the current owners, the future owners and would provide a fix for the known issue. And, if the petitioners do not wish to do that, that is their right, but they are asking us for a variance.

Mundy If I could ask our drainage expert a question. Larry, that fix, I guess it seems to me that the fix may actually include more property than that 3.83 acres. That may, since water does flow downhill, the fix might be on the property to the east in order to get water out of there, so I guess I would add to that that I don’t see a flaw with your argument there, but it may also involve that the neighbors be part of the fix.

Jones Yes. They may need to be. But, that would be, once again, the petitioner is seeking to partition off a piece of property for value, for financial renumeration, and there is no reason to expect to be provided the variance to do that, which is to leave the remaining property on 1.83 acres. They need to sit down and come to terms with the adjoining property owners to put together something that will run with the property, and you’ve got the history, you’ve got the plans, you’ve got 80% of the work done. You just gotta make the commitment to spend the money,
put the plan together, get everybody to approve it, and then put it together as commitment. I’m sorry to say this, I’ve done this decades ago. Now much larger estates, much larger homes, but basically a private individual who rebuilt a regulated drain across his property and tied in the adjoining neighborhoods. And everybody was happy.

Wolff Mr. Jones. In that scenario, or in this particular scenario, I’m more concerned about, what does that plan look like? Does that include where the house would be located?

Jones Once again, you can, with a 2-acre parcel, there is generally going to be some parameters that they can set out to what would be the building pad, if you want to call it that. You know, where the driveway is going to go. Basically, what you’re talking about is taking a portion of the land across the east side of this, dedicating what 10 or 20 feet to be a drainage easement. Probably have to put in some pipe. Do a little calculation. It’s not that difficult. But you have to be willing to hire the engineering and commit to it, and in exchange, that gives the neighbors something to approve, and accept, and it gives something that a fix can be put in place, and it can be enforced. And, it doesn’t get enforced just by assuming the Town of Zionsville is going to make, you know - -

Pabst I want to correct, I never said anything about the Town of Zionsville. But, I do want to say that Mr. Paddock did say that he hardly has no drainage problems in that area. He currently has no drainage problems. So, I’m not sure what I would be fixing until a house was put there. That’s what I’m trying to say.

Wolff [Inaudible] 42:51

Jones Can I speak?

Wolff One second. Sorry. I want to finish with you real quick. So, Larry, your concern is when we look at our burden of proof here, the use and the value of the area adjacent to the property, including the variance, will not be affected in a substantially adverse manner. You think granting this variance would violate that?

Jones Correct. Granting the variance - -

Wolff --In your mind, the petitioner has not solved that problem?

Jones Correct. Well, we have remonstrators.

Wolff We may always have remonstrators.

Jones Correct. But, we do not have any proposal that solves the issue the granting of the variance could create.

Wolff So, we’ve done research. We have a better understanding of the issue.

Jones Correct.
Wolff  We don’t have a proposal to address the fact that we may substantially affect the neighbors’ property.

Jones  Correct.

Wolff  Mr. Paddock.

J. Paddock  I just wanted to say that it was mentioned I didn’t have a problem. The reason I didn’t have a problem with the north of me was because I fixed that problem. Is all I’m trying to address. They’re making it seem like I didn’t have a problem with the east property line. I just want to make sure that’s on the record. If you build a house or a structure or do anything different, that problem will be worse. I’m okay with what I got. I’m dealing with it, on the east side. When they came out to talk to me, they mentioned, in the paper, that I didn’t have a problem. I don’t have a problem with the drainage in the back. And that’s why she sent them to me, thinking I had a problem back there. I got that addressed.

Wolff  Mr. Paddock. I’m not worried about that.

J. Paddock  I know you’re not. But when things get brought up, I just want it to be on the record what’s clear or not clear, so we don’t go back in history and go, well this wasn’t mentioned. This wasn’t agreed to.

Wolff  Thank you.

J. Paddock  I just wanted to clear them up where the property line is and where the problems are.

Wolff  Thank you.

J. Paddock  Okay. That’s all I wanted.

Wolff  Mr. Paddock, before you wander off, I have a couple thoughts for you. So, you’re still of the opinion that granting this variance will adversely affect your property?

J. Paddock  It definitely will. Yes.

Wolff  Okay. If the petitioner were to come up with a more specific plan that included how they would address, we have now identified that there is a water issue. We know where the elevations are. We know where the water should be going, in theory. Water has a mind of its own. If the petitioner were to get a more specific plan that actually addressed the issue itself. For example, to Mr. Jones’ point, adding pipe or drainage, would that alleviate your concerns that this is adversely affecting your property?

J. Paddock  I guess you’re telling me that it would, yes.

Jones  Well, no.

J. Paddock  Because, all I’m saying is, I don’t want any more issues with my property. And, whatever they do on that property, I don’t want any more issues. So, I guess if
they come up with a proposal, what’s going to happen, if something ever happens on that property, I’d like to be aware of it. Yes. And, then we could probably work something out.

Jones There’s no guarantees, but there are civil engineers that could - -

J. Paddock There’s no guarantees. I’m finding that out to the north of me. You guys got all that property in there - -

Jones --Go through the area and put together a plan that should generally solve the issue, the creation of an easement, doesn’t affect anything.

J. Paddock That is correct.

Jones It’s going to be in the side yard, and it’s not a buildable area anyways, but I’m assuming if they brought to you some sort of stamped engineered drawing saying, hey, we’ve hired these people and they have come out and looked at this area and they said if we do this, it should resolve that, then by rights you should be happy.

J. Paddock I guess you’re saying that that’s what will make it work.

Jones Well, at that point - -

J. Paddock You’re trying to get me to agree to anything, but I’m saying, I think that’s the problem we’re having.

Jones I’m not trying to get you to agree to anything, what I’m trying to do is get the Pabsts to understand that there are professionals out there who can put together plans that can be presented to you and the neighbors, and based on their professional credentials they can most likely say yes…

J. Paddock That’s the right direction.

Jones …This should resolve what we see going on.

J. Paddock That’s the right direction. Correct.

Wolff Okay. Let’s get this back on task.

Jones All right.

Kremp Can I ask just some follow-up questions?

Wolff Absolutely. Yes.

Kremp So, the grant of the variance, having an adverse impact on you. If the property, if the 2-acre property is never developed, would the granting of that variance ever have any adverse effect?
J. Paddock  If something is in agreement on drainage, I don’t care what they do on that property. So, if you just make it a pasture with a bunch of cattle on it, we got a drainage problem. So, I want whatever happens because you’re giving somebody a variance for less than 2 acres, and we can go to the past, and we’ve built houses on an acre in the past, but that’s not what is zoned today. It’s 2 acres. You made people all around me go 2 acres. I understand that. So, I just want to get kind of an agreement what’s going on with the drainage so I don’t have any more drainage problems. So, we’re wanting to give a variance, but not worry about what they're building on the 2 acres. I understand that. But, I am not agreeing to anything, and you know, and I’m not for anything until I know what’s going on so I don’t have to pay even more money to fix what I’m fixing. I moved out there with water going through that property. I don’t want any more.

Kremp  But you agree it will be the act of actually developing the property that has the impact on you?

J. Paddock  Well, I know what’s going to happen, but you say you don’t really care right now.

Kremp  But that’s the assumption.

J. Paddock  So, yes, it’s going to impact that property. You know, I’m a betting man like anybody. I know what’s going to happen on that property.

Wolff  Thank you, Mr. Paddock. Will you come back up? So, Mrs. Pabst, I see this going, are there any questions for the petitioner right now?

Mundy  I guess leaving the last meeting, I assumed you were going to have an engineering company come out and look at potential effects and solutions, so is there a reason you didn’t do that?

Pabst  I was not aware that’s what I was told to do. I actually had talked to Wayne, and he said to contact some of the different departments with the city and the state to talk to them about the drainage, and Angela came out with Natural Resources, and came out and she said she would also work with whomever in the future when that property is developed, that they would not do hypotheticals on it because it was just impossible to do. That people would change the grade of the land. Lots of things can happen. They want to put a basement in. I mean, there is just a lot of variables there, and I don’t feel like I could do an engineering study with my neighbors because, to be honest with you, I tried to meet with them. I did contact them, and I did go to both meetings, and I got resistance. My situation is that what if I was to put a pole barn there like all my other neighbors did. My neighbors directly across from me have a pole barn. Mr. Paddock has a very large barn or garage at the back of his property. My neighbors to the left of me have a big pole barn, and the gentleman behind me, Mr. Stark, has two buildings behind his property. I literally have a house and a garage, and I’m tearing down two structures on the 2 acres. So, I’m a little perplexed as to the 2 acres is a legally buildable piece of property, and I’m only asking for the 1.83 for the home to be left on, and all of that falls to the front of my yard. So, I was not aware that I was told that.
For us to grant a variance, we talked about this last time.

Right. I understand that. I understand that.

That those three - -

--Right.

Okay.

But, I am wondering, what if I wanted to put a pole barn there? Do I just go get the permitting for that, and put a pole barn up on that 2 acres?

Well, the 2 acres doesn’t exist today.

Well, I’m saying on my property.

On the 3.83 acres, Wayne can walk you through it better than I could, but there are some accessory structure limitations and things like that, but there are opportunities to do that, yes.

So, I mean, I’m saying that I can actually still build on that piece of property now, and still not have to see a civil engineer, and I just don’t understand why I would have to bring in a civil engineer for hypothetical. It just doesn’t make good sense. I’m thinking, I mean, and especially when he has done all, you know, taken all three properties and taken care of the drainage, the drainage problem that currently exists. They would actually be fixing a hypothetical drainage problem.

Stay close.

Okay.

Larry, your thoughts on that last comment, which is an interesting comment.

That they could build a pole barn on it without permission, or without, they could build a pole barn on that - -

--an accessory structure.

An accessory structure on that as long as it meets the size requirements and blah, blah, blah.

Yes.

Sure.

Which would - -

--Be permissible on a 3.83-acre site.
Wolff  Yes.

Jones  They’d be limited to a certain size, but at that point, they probably wouldn’t be adding a second driveway. They probably would not be adding additional hard surface.

Wolff  Yes.

Jones  So, while the Paddocks may have some drainage issues up in that corner, basically it wouldn’t probably have any real net effect. The issue is, like I said, it’s, once again, I’ll say it one more time. There are engineering firms that you can give the parameters of what you think might be built, and the driveway, and they can create a drainage plan that might alleviate what existing problems are out there, and at that point, they bring that forward to us with the commitments and they sign, and the stamp, and if the Paddocks then, at that point, want to say, well, we still don’t want it, at least at that point, we, as a Board in granting a variance, have done our due diligence to alleviate a known issue so that the petitioners can get the financial benefit of subdividing a piece of land that they own.

Wolff  So, a more formalized, what is the term here? Engineering drawing?

Pabst  Well, I’m not sure why you keep referring to a financial benefit. My problem is this, it’s 3.83 acres that I cannot personally take care of. I’m a single woman. And, I financially cannot - -

Wolff  --Mrs. Pabst, I want to get this right back to the point here.

Pabst  All right.

Wolff  So, I think we have a couple opportunities. We can continue this, and be very specific in what we’re asking for, or we can vote on this. I think you have an inkling on where a few of the Board members feel currently if we voted on it. I don’t want to speak for everybody, but you can probably infer some of that. If we continue it, I think I’m going to defer to Mr. Jones and specifically what he is asking for, which is a detailed plan with commitments addressing how you will address the drainage issue.

Pabst  I’m still confused how I would address these drainage issues without knowing what is being built on that property. I just don’t think that any engineer would do that.

Jones  Mr. Rottmann is in the audience somewhere, aren’t you?

Pabst  And, my other issue would be - -

Jones  --Can I borrow you for a minute?

Wolff  Mr. Rottmann, would you please state your name and address for the record?

Jones  And professional qualifications.
Okay. Is it an out-of-the-question question, didn’t make any sense, but, within certain parameters, a person could propose a buildable lot area on a parcel of land, an area for the septic field, identify what we would call a drainage easement, and then have a civil engineer put together enough of a plan to alleviate both the existing and potential drainage problems on a 2-acre site fairly reasonably, fairly clearly, and then put together a drawing and a document that then would be a commitment added to the property and move forward?

I definitely think that that is a possibility. That there could be some assumptions made, which would probably limit the size of the house, or the amount of hardscape, or impermeable area, and then drainage calculations could be run upon a certain amount of impermeable area, and then solutions for drainage issues that might be caused could be developed for that. Another route that I was thinking about is we want to tie something, or you guys want to tie something to this variance that is a commitment not knowing what’s going to be built there. The commitment to the variance could be that a stamped and certified drainage plan be part of the requirement for building permit so that it shows zero additional runoff from the site with that design. But, that could be a commitment that could be tied to it that would say, you know, who the registered engineer would have to do the calculations and say that the runoff is no worse than now. Or you could even put it that it’s 5% better or 10% better, or something.

I think that seems like a more reasonable ask.

Thank you very much. Let me go backwards. If we approve a variance tonight, with what the second suggestion, or the first, Larry’s suggestion or the suggestion that Mr. Rottmann brought up, could we tie a commitment to this property so that if someone purchased the property, the commitment is on the property and they couldn’t develop it without adhering to the commitment?

That’s correct. And, certainly your lawyer can answer that much more eloquently than I.

I will refer to Mr. Chadd to sum that up.

Sure. That’s what we do frequently.

Okay. Larry, does that address some of your concerns?

What’s funny is as I was doing the research for the other items on the Docket tonight, I was - -

--There’s other items on the agenda tonight.

I know, I understand. And, I notice there was a house going up where we had this same discussion about, and they actually did go out and get a civil engineer to put together a plan for the drainage, and as I drove by it today, it appears that none of
that has gone in. Now, maybe in the end, they’ll clean up and it will get shaped up. It’s mid-construction. But, as to date, it doesn’t look like any of what we discussed and asked them to do is going on. We have no way to enforce it, per se. We don’t have any way to really track it, go find out about it. Hence, my reluctance to create a verbal or written commitment attached to a piece of property that kicks a known issue down the road. There is a fix. French drain, some pipe, get some tile with a trench, maybe a 4-inch drain with some stone. Could be a 6-inch perforated tile. But, there is a way to put together a plan that fixes the known issues in that, and gets it in place so that there is a commitment. There is a drainage easement. The drainage easement created along the side of the property, it is known from the time the property gets sold, it alleviates the issue, and we are done.

Evinger May I just make a comment?

Wolff You may.

Evinger The property that you’re referring to actually came before us with an actual plan for the house, and had met with the Street Department to be able to address the drainage issues. In that case, we had a known quantity. We knew that there was going to be a house. We knew the size and we knew what was going on in that area. Here we know that there is, you know, drainage issues. We don’t know that this property is necessarily contributory by itself, in and of itself, and to come up with an engineering plan that is hypothetical that could change the future is a little bit, I don’t, know the best interest necessarily. I think it’s better, as Mr. Rottmann had said, to come up with having a commitment that at the time of pulling a building permit that there would be a drainage plan with the civil engineer that would address any drainage issues, that that structure at that time would create, because again, the structure, it could either not be developed on that 2 acres; it could have a potential house; it may be some other structure altogether, if a neighbor buys it and wants to put a pole barn, or something else on it for their own use. So, I think that at this point, I think we do need to just look at this as having an engineering commitment at the time of development.

Mundy I agree.

Wolff Thank you.

Mundy I think that doing it that way would accommodate for whatever is planned to be built, and would fit the need.

Pabst Okay. I feel like that is fair. Thank you.

Wolff One last question, if we were to approve the variance with that commitment, that would tie it to the property, that would say, are you amenable to what we have been discussing this last couple minutes?

Pabst Yes.
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Wolff  Then we would tie it to the property saying that an engineering study will need to be done with any development plan or any building plan, building permit, that would not only address the water issue, but improve the water drainage issue?

Pabst  Yes. Yes.

Wolff  Okay. Thank you. Any further discussion for the group?

Evinger  Just one more. And this commitment would be recorded so that it would run with the land to Larry’s point. Correct?

Wolff  Yes. Correct?

Kremp  It would have a mechanism once this has been satisfied that it is released to record, right. That we just, once, if they develop.

Chadd  I think that’s part of the standard language, I believe.

Wolff  So, if the building permit is issued, okay. Mr. Paddock. Sounds like, it looks like you have something else to say.

J. Paddock  I just gotta keep adding to this stuff that gets twisted around. We agreed to some stuff that happened in ’07 and ’08 on the buildings behind us, and we had to go through this whole crap again in 2012, and for some reason, minutes weren’t recorded. Some got lost. We had to start all over, and they did something totally different behind us, and we had it all worked out. So, we get a lawyer involved, and gets us agreed, and gets voted on, whatever happens, and then they go trying to get a permit on this, I’ve got to get a lawyer to fight it, because that’s not what we agreed upon. And, then when I gotta come in here and say, “Hey, what’s in the minutes? What was agreed upon?” Well, I don’t know. That was 6-7 years ago. Because, hypothetically, we don’t know what’s going on in this property, and when, or if any. Correct? So, you’re trying to hold her to standards, and you guys vote, and whatever happens, and there is a lawyer that says that’s agreeable. And I got to fight it 10 years from now where I have to hire a lawyer to say that’s not what was agreed upon, and I have no proof of that. So, I just want to get that stated. Okay.

Wolff  Further discussion.

Jones  Hence my preference for the plan, and the design and the commitment on the front end, not, I understand what you’re saying. You know, you should be able to make a commitment that it runs with the land for something to be done in the future. My preference is, you fix the problem now.

Evinger  How do you fix something that you don’t know what the issue is going to be until it’s actually built?

Jones  Because there is a known site. There is a buildable area. There is certain parameters, you know, on a 2-acre site, you cannot build a 1-acre house. So, the house will be somewhere under, whatever. There is the ability to actually put
together a reasonable set of assumptions for what could be developed on the site, that addresses the existing draining conditions.

S. Paddock If I may, I’m sorry, Mr. DeLong. I don’t have a problem with either direction that you decide to go in as long as there is something also that runs with the deed that says who will enforce this when it’s to happen. Who will check, police it, and who will pay any cost or expense? Do we come back to the Town of Zionsville then? Or Boone County? Are we calling the Ag Department saying we now have a drainage problem? I can’t mow part of my property, part of the year, when it’s tore up because we are going to have to redo another drainage tile. Seriously, I’m not, I’m really, I don’t have a problem with Mrs. Pabst. I don’t know her. I’m sure she is a fine person. I don’t have a problem with her selling the property and making a profit. I don’t have a problem with her building a house. I don’t care if she lives there and has cattle. It’s your property. I’m fine with that. I don’t have any interest. I just don’t want it to cause, seriously, right now, along my driveway, there is water standing in my driveway that runs, because it is downhill. The whole east side of our driveway.

Wolff Thank you. I understand there is a drainage issue.

S. Paddock I understand that. So, my question is, what is –

Wolff Your question is, what is the enforcement mechanism?

S. Paddock How do we make sure that the next person, if it ever happens, our hypothetical person. Who is the hypothetical police that check on this that make sure it’s done, and enforce that it’s done?

Wolff Thank you, Mrs. Paddock. I understand your question. Wayne, could you?

DeLong Well, I want to explore a couple different points. But first, Mrs. Paddock’s comments about who enforces commitments. Commitments, the language in the form document that this Board routinely uses has trip wires in it that the Town has enforcement abilities, as well as the adjoiners who receive notice. So, that’s how the standard form works, so it could be 2 years, 7 years, or 2 months until a petition is filed to build or a permit is sought to build a home. So, let’s just kind of reflect a minute on a couple different petitions that you’ve had over the years where you have had similar issues like this. So, thinking about the petitioner, or the matter that you’re both aware of, Ms. Evinger, Mr. Jones, that things are happening that people aren’t following through. Which one is that? The property that’s being improved where whatever was committed to wasn’t being done.

Evinger Well, I don’t know that nothing is being done. I just know that we had one particular home that came before us that was in the Village.

DeLong Right, so the one on 3rd Street. Okay. So, that 3rd Street project has had numerous touch points, if you will, with the Town related to permanent drains will impact development features that are being put in there. That project, as Mr. Jones pointed out, had a quantifiable conversation, worked strongly with the Street and Storm Water Department and provided that data, that drainage study that was reviewed by this Board. So, that was one outcome where you had very
specific data that you could work from. Another project that you worked on, on Academy Drive, I believe it was, where you set a dollar amount, $1000. Again, you were approached with a project that had a set data amount that you could quantify and you set a dollar amount that the petitioner would invest into working with the neighbors within a certain period of time, and focusing on an outcome. And, that actually ended in a reasonable outcome that was positive for everyone. In other projects you’ve set areas where a home could be built or not built, positively influencing the outcome of drainage. There has been discussion tonight that the water sheds two-thirds one way and one-third another way. I mean, you don’t have that information quantified by a P.E. or an engineer, but it can be determined by the topo. So, you know, a couple different tools. Staff is certainly not objecting to a commitment executed to encourage that conversation. It certainly doesn’t sound like it creates, it doesn’t answer the questions that folks are looking for. You know, the drainage study could be just a simple water shed study, you know, someone coming up with some parameters like Mr. Jones is suggesting, we’re saying maximum scenario that could be improved on the property to generate some numbers. Certainly state law calls out that water is the common enemy, and water is, no property is allowed to discharge more than it’s discharging today. So, that’s an outcome that’s going to be achieved no matter what by Indiana law, to the best of my understanding. In summary, staff is happy and obliged to facilitate anything that you come up with, but certainly some effort to quantify some things now on the front end, while it might have more cost and take a little bit more time, I think it would have a better outcome in the long run.

Wolff Mr. Rottmann, do you have some color to add to this?

Rottmann Just a little bit. I am an outsider on this project, so there is a lot of he said, she said about drainage issues and problems, and honestly, I can’t keep track of it, and I don’t think anybody has quantified it, so I think kind of what Larry was getting at, and that I support, is that if an engineer went out now, and actually did a drainage calculation on the property as it is now, we would know of there even was a problem related to the property, where right now, it’s just he said, she said. So, maybe they don’t have to design a house on it, but they can at least tell us what’s going on so that when we talk about if a house goes up there, we’ll know would it really cause more problems. Is there potential for issues with that. So, I think that’s kind of what Wayne was getting at a little bit too is, engage an engineer now to determine what is happening with the property so you really understand what we’re talking about. That’s all.

Wolff Thank you. Any other discussion? Mr. Jones, would you like to make a motion to continue this with an engineering study?

Jones I would make a motion that we continue this Docket # 2018-46-DSV, to allow the petitioner the opportunity to meet and bring us, if they so choose, bring us a proposal for a engineered solution to the issues that appear to exist.

Wolff Is there a second?

Mundy I’d like some clarification. I’m not sure exactly what - -
--What are we continuing? We are continuing to give the petitioner an opportunity to put together a more formalized plan to fix, or a solution to the issue.

I’m going to turn to our counsel to make sure I have this correct, but I believe we have a problem with the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. We don’t have a way, what you’re suggesting is that we don’t have a way to address that right now without a more specific engineering study that shows what the drainage currently is and what we can do, what the plan is to do to address that issue.

Correct.

And, so what your suggestion is, let’s continue that and get that study completed so that we can have that information.

We will offer the petitioner the opportunity to continue this Docket so that if they choose, they can proceed to provide that information, meet with their neighbors, do whatever. So, it’s an opportunity to continue. And, if they chose not to do it, and come back next month, then at that point, we can make a motion to deny if we so choose.

If they wanted to proceed to a vote this evening, I mean, does the petitioner have the right to do that at this point?

I’m not sure what motion Mr. Jones just made, whether to continue this or - -

I understand. The motion that I should be making is a motion to continue this until whatever the next BZA meeting.

So, we need to act on that. The Board can do that if it so desires.

Correct.

But, I guess my question was, if the petitioner would rather have a vote this evening on the petition as it stands.

If Mr. Jones makes a motion to continue, and it gets a second, you need to act on that.

Okay.

And, depending on how that goes, I guess, it would be your next step.

So, I will make a motion to continue to the next Board of Zoning Appeals meeting the petition known as # 2018-46-DSV, for the property located at 8090 East 550 South to the next meeting on April 9.

Is there a second for that motion?
Mundy: That motion was merely made. The petitioner can do whatever they like.

Jones: Correct.

Mundy: I guess I want it to be specific so the petitioner understands what it is we would expect before we would listen to this again, which is the drainage issue. And I, you know, at this point, I think we do have a question about the point B of the three that we need to consider, and the only evidence we have comes from remonstrators who have adequately described the problem, which may or may not be affected by a new residence, or a new structure there. So, I’ll second the motion.

Wolff: Thank you. All those in favor, please say aye.

All: Aye.

Wolff: Those opposed?

[No response.]

Wolff: Motion carries.

Jones: So, Mrs. Pabst, do you understand what the request is?

Pabst: Yes.

[Braun: Looking for a petition of lot coverage, variance of lot coverage. The plan is, my wife and I are going to remove the existing structure at 805 West Pine Street, and build a new house there. The new house would have a coverage of 5,186 square foot, which would put us at a lot coverage of 46.12%. I think a couple of the things to note on this is the existing property currently has a 40.5% lot coverage, and if you take into account hardscapes, then the existing property would have a 48% lot coverage, and our new property would actually reduce the lot coverage there by 3%.]

Wolff: Thank you, Mr. Braun. Are there any questions for the petitioner?

Evinger: Do we have drainage issues on Pine Street?

Wolff: I hope not. It’s going down.

Braun: If we do I might just walk out the door.

Wolff: I’ll be right behind you. Are there any questions for the petitioner? Seeing none, are there any remonstrators here tonight? Thank you. Please come forward and state your name and address for the record.

Zelonis: Sally Zelonis, 40 South 3rd Street, here in Zionsville.
Wolff  Sally. Can you say your last name slowly for me?

Zelonis  Zelonis.

Wolff  Zelonis. Thank you.

Zelonis  I actually don’t know Mr. Braun. I live in the Village. I have spoken to this group before, and I have noticed on the agenda there are actually three properties, excluding the one that you just dealt with, but three that are in the Village requesting a variance from 43% to 45% to 46%. When the property that you mentioned on North 3rd Street, in the last discussion, I spoke against that. You may remember. You may not. I think you said tonight there are rules and you have them and there are guidelines and I have looked through the staff recommendation on all three of these properties. I understand completely what they’re asking for, and I can totally understand in this instance, you know, that the current property has 40% taken, but I guess my point is that the Village is the way the Village is. There are all kinds of lots and percentages, but we’re taking up more and more of that green space, and I object to that. And, I just wonder, what are the requirements for if we are not going to meet them, and I know, and I haven’t been able to check in the planning office, there is a new house, it was tear-down, a demolition in the Village, right in front of the library. And, I forget the street name because I walk it all the time and I don’t need to know the names, but it seems to me that there wasn’t a variance requested for that new house that is going in there. The foundation has been laid. I saw the block today. So, people are building new houses and they are conforming to the requirements and not exceeding them, and the house on North 3rd Street, that house takes up so much of that lot. And, yes, I was here. They brought in all these folks to talk about drainage and everything, and we told you, neighbors told you, that’s the wettest spot on the street. And, I mean, they’ve got a pump running out of that basement now constantly. I guess, the whole point that I’m trying to make, and it’s not specifically these properties, but we have regulations and I think we need to follow them. And, I understand that there are exceptions in the Village that were done so long ago, but you did another variance for the property at the corner of Fifth and Cedar, and to the point about thing being stated that you have to require, when you issue the variance, you require them to do, that lovely house that got divided into two lots had a wonderful gazebo. We have been in the Village for 21, almost 22 years. Had a gazebo on it, and the owners promised that they were going to put that back. Well, guess what. They’re gone. There is a new house on that corner lot. It’s beautiful, don’t get me wrong, it’s beautiful. But, that gazebo is nowhere to be found. There was a promise that was made. You know, that was an historic structure. That was, you know, I walked by it. I drove by it. People in town identified with that gazebo. If we keep doing that, then what makes Zionsville special is not going to be Zionsville special.

Wolff  So, Ms. Zelonis, I’m going to kind of give a big picture and try to get it back down to a little bit more narrow. We treat all these cases individually, and you’re kind of giving us a kind of a broad spectrum.

Zelonis  Exactly.
And, so we do look at these individually. And, that’s important because no two of them are exactly alike, and again, thank you for participating, also. I certainly appreciate neighbor feedback. So, with that in mind, I want to talk about this one right in front of us, right now.

Yes. Actually, I have read through it. I read through the staff recommendations, and I agree. I think he is right. It’s actually going to be a smaller footprint. And, I think the other part of that, though, is in the procedural part you have to do, and those three questions that you have to do.

Let’s talk about those.

Yes. What I’m saying is, there is nothing, unless you define morals, which I am not quite sure how the definition of, the approval will not be injurious to the public health, safety, morals and general welfare of the community.

That doesn’t seem like it applies here.

Yes. But, what I’m saying is what takes into consideration green space? What does? In my estimation, none of those do. So, my point to you is, can we fix that?

I don’t think I can fix it tonight. Can’t fix the drainage issue, but I’m working hard on it.

No, I know. That’s what I’m saying is that there are other things that I think especially in the Village need to be taken into consideration.

I agree with you. And, I also agree with you as a member of our community that our Village is a special thing. And, I think we should do our best to make sure we continue that legacy for years to come. With that in mind, I want to get back to this petition, and these three requests. I think we both agree that the actual lot coverage is going down, so that’s a good thing.

Yes.

We’re making an improvement there. And, I don’t think this particular petition is injurious to the public health, safety, morals and general welfare of the community. I don’t think we have a problem there. And, I don’t think by adding a new house, taking an old legacy house, and reducing it, I don’t think it’s going to negatively affect the neighbors’ property values.

The only thing I would say there is, and to his credit, he hasn’t asked for a variance in height or, you know, that we state that in other parts of the comprehensive plan. I know that they’re bungalows in that area. And, I would just hope that the design would be fitting with the area. We don’t ask that there. We can’t require that there. But, at the same time, isn’t that what you want? I would hope so.

Certainly.
Zelenis  I mean, we’ve allowed some other houses in the Village that you and I all know are huge, too huge, and I should have been here to say something, and I didn’t. I mean, you know, that’s my fault. But, you don’t want a towering house over the neighbor next door.

Wolff  No, you certainly want something appropriate. Agreed.

Zelenis  Yes. And, we don’t require that in here.

Wolff  Yes. So, I do want to address the last one, which is the strict applications of terms of the zoning ordinance will result in an unnecessary hardship in the use of the property. Now, that’s an interesting question.

Zelenis  I think that’s a really difficult one.

Wolff  Yes. So, the way we looked at this, or the way I choose to look at this is, if you look at a house built in 1920 that’s got two bedrooms and one bathroom.

Zelenis  Actually try 1880.

Wolff  Perfect. Even better. That doesn’t have modern fixtures, that doesn’t have modern plumbing, electric, all those types of things. Without granting this variance, it’s going to be very difficult for them to create a house that would meet modern living standards, modern living expectations, and be consistent with the quality of life that we expect here in Zionsville.

Zelenis  Right.

Wolff  So, that’s where I think that we, actually this particular petition, because we treat all of them individually. I think it addresses these issues. I think they have met those burdens on this particular one. And, again, I know you’re concerned about green space, and this one actually is going down. So, I think that’s a good thing.

Zelenis  Yes. And, not this house, but the house on the corner of, or the property that was divided on Fifth and Cedar, I was here that evening, and that - -

Wolff  - - Can’t get this one, though.

Zelenis  No, but what I’m saying is, the person who was petitioning, you know, said it was a burden on them because they needed to divide the property so they’d have the money to fix up the property they’re in. I have a hard time with that one. You may not, but I have a hard time with that. You know, why did you buy the property if you knew it had to be fixed up, but you couldn’t do it without the sale of a substandard lot.

Wolff  We also do believe that people have personal property rights, or I shouldn’t say that. I believe that people have personal property rights.

Zelenis  Right. I understand.
Wolff  And, I do want to respect those. Thank you. Is there any questions for the remonstrator?

Zelonis  Thanks for listening.

Wolff  Again, thank you for participating. No questions? Wayne, can we have the staff report?

DeLong  Thank you. As indicated earlier this evening, staff is supportive of the petition as filed. In this particular case, we took a little bit larger look at the overall site. With the size of the existing driveway, it really draws your eye to the property and really rose to something that we thought should be a part of the consideration this evening with the removal of that driveway, the shrinking of the existing driveway. It overall reduces the lot coverage that’s there today by a few percentage points. Certainly on a case by case basis, that certainly is advantageous, and with those thoughts in mind, staff is supportive of the petition as filed and I’d be happy to answer any questions.

Wolff  Any questions for the staff? Thank you. Is there someone else who would like to make a comment? I want to give everybody a chance.

Shafer  Randy Shafer. I live right next door to Mr. Braun’s proposal, and I’m on the west side of his house, and I’m thrilled that he’s doing something to that house. The only thing I just want to make sure of, again, I have learned a lot about drainage tonight.

Wolff  You and me both.

Shafer  Probably more than I ever want to know, and I’ve built probably  - -

Jones  -- I could talk some more if you’d like.

Shafer  I’ve built about 50 houses, and I’m a builder, and I’ve built about 50 house in the Village of West Clay, so I know all about drainage, and so the only thing I would want is to just make sure to keep the grade between our houses as it is now. Because, my back yard is the lowest point of all four houses. I get everybody’s water, and just hope the gutters would be routed appropriately like to, is that Pine Street? Eighth and then out to Pine Street, and not on my property. Because there is only going to be 11 feet between my house and his house. I think everything else is fine.

Wolff  Great. Thank you.

Shafer  Yes.

Wolff  Mr. Braun, will you come back up?

Braun  Yes.

Wolff  So, I think it was Shafer, had a couple concerns. One is the grade of the property, and do you have any plans for adjusting the grade, changing the grade?
Braun No. Grade is staying as it is.

Wolff The grade stays as is. And, strangely enough, drainage is back. Where, do you have any plans for the gutters and how those will be alleviated from the property?

Braun We have not gotten that far into our design yet. Mr. Shafer and I have actually talked about this, and I am willing to do everything I can and work with him to make sure that the drainage is handled in a way that would not affect his property.

Wolff Thank you two for being good neighbors. Okay. Any other questions, comments or concerns?

Evinger Mr. Braun, just with the designing of your home, obviously it looks like you are trying to stay in the conformity of what the Village aesthetic might be. Can you speak just to your design quickly for the remonstrator?

Braun It is a 2-story home, so it will stand a little taller than the houses on either side of it, but it has that very traditional Zionsville home feel to it.

Wolff And, there is no, as you understand the plans, there is no other variance request for height?

Braun That’s correct. This is the only variance request.

Wolff Any other questions or concerns? Seeing none, I will entertain a motion.

Mundy I move that Docket # 2019-02-DSV, design standards variance, in order to provide for the construction of a new single-family dwelling with attached garage, which will, one, exceed the required lot coverage of 35% to the 43.12% as shown in the exhibit, in the residential Village zoning district for the property located at 805 West Pine Street be approved as submitted.

Jones Second.

Wolff Is there a second? That was Mr. Jones.

Jones Yes.

Wolff Thank you. All those in favor, please say aye.

All Aye.

Wolff Those opposed?

[No response.]

Wolff Motion carries. Good luck, Mr. Braun.

Braun Thank you very much.
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Wolff The next item on our Docket is # 2019-03-SE, for Gudenkauf, at 1002 East 100 North. Will the petitioner please come forward and state your name and address for the record?

Kessler Hi, I’m attorney Roger Kessler, and I am here with Dan Gudenkauf tonight, who is the owner of the property, and we’re actually seeking two things this evening. One is the special exception, which was just mentioned, and that is necessary because Mr. Gudenkauf owns just a little over 11 acres, and he is in the agricultural-zoned district up at 1002 East 100 North, and in the agricultural-zoned district you’re required to have 20 acres for a single-family home. He has 11, and so we are asking for a special exception to put a home and an outbuilding on 11 acres versus 20.

Wolff Thank you, and while you’re here, can we also go over the design standards variance real quick, and we’ll talk about both of those, and then we’ll address them individually up here?

Kessler Okay. Good. That would be a great idea.

Wolff I’m trying to make up some time.

Kessler So, Mr. Gudenkauf is building a single-family home and an outbuilding. His square footage of the outbuilding will exceed the square footage of the residence, and so that’s why we need a variance. Mr. Gudenkauf and his wife are retiring. She has lived in Zionsville for 10 years, and they want to make this their retirement home. They don’t need a large home. It is fairly substantially-sized, but it is not going to be bigger than the outbuilding. Mr. Gudenkauf has several hobbies that he would like to use the outbuilding for, and I have also included some numbers in there on calculations of the front elevation square footage from the road. The properties will both be built as walk-outs, because the property slopes down to a creek, and it has very good drainage. And, so that’s the reason why he’s asking for the development standards variance, as well as the special exception.

Wolff Perfect. And, in our packets of information there are some renderings of the proposed structures. Are those, to your understanding, accurate with both dimensions as well as, it looked like they were brick siding.

Kessler Yes. That’s almost completely brick, all four sides. The only thing is the sun room.

Wolff Perfect. Are there any questions for the petitioner?

Evinger Are either of the structures built in the flood plain?

Kessler No.

Wolff Any additional questions for the petitioner?

Jones Real quick, oh, I’m sorry.
Evinger  Oh no, I was just going to ask one more. And, that’s with the outbuilding. I know you mentioned there were hobbies. Is this also going to be something that’s commercial, or is it just hobby?

Kessler  Oh, no. Absolutely not.

Evinger  Okay. Thank you.

Jones   As far as the garage with its two-story face on one side, on which side? Is that on the north side, away from the street?

Kessler  Yes. The view from the front will be just the front of the home and the front of the outbuilding, which it would just be a single-story from the street. The two-story part faces the north and the agriculturally-zoned area to the north.

Jones   You’ve got one of your site exhibits here, and there is two kinda yellow boxes with an X in each, so which is the house and which is the outbuilding?

Kessler  The house would be the one on the left.

Jones   The one that sits back farther from the road?

Kessler  Yes.

Jones   Okay. And, I’m assuming there will be a driveway connecting all of it.

Kessler  Correct.

Kremp   Can I ask why there is a substantial distance between the two? Is it a topography issue?

Kessler  No, it’s just they wanted some space.

Wolff   Any other questions? Thank you, Mr. Kessler. Is there anyone here tonight to remonstrate? We have two petitions in front of us right now. One is the design standards variance and one is the special exception. So, if anyone wants to speak against or for those, please come forward. I don’t see anyone. Wayne, do you have the staff report for us?

DeLong  Yes. I can first address the special exception. I want to just clarify a point or two. With the special exception petitions, those are always up for consideration as residential structures are permissible in the agricultural district, and certainly as noted by the petitioner when the acreage is 20 or greater, the rights related to those structures do change. But, since the parcel is less than 20, there is a different level of consideration that needs to be given. Minimum lot size, I believe in the ag area, is potentially less than 11, but certainly it’s a good-sized piece of property. Your test, if you will, is this reducing agricultural land? And, is this proposal compatible with the surrounding area? And, the piece of property that’s in front of you this evening is not an agriculturally functioning piece of ground per se, as tillable, you know, production. It’s serving other purposes,
certainly, but the petition is not seeking to reduce, you know, productive land that is in your community. Specific to the special exception, there is the right to farm language, as well as the just, alert, if you will, to the proximity to the airport, to which the property is located. The right to farm commitment is something that is routinely executed when it comes to these types of petitions. Specific to the variance request, the variance is requesting, you know, the size of the accessory structure versus the primary, again, because we are back to the less than 20 acres in size, and staff is certainly supportive of the petition. Rarely does a property have the opportunity to host a two-story accessory building and provide a subterranean component. Certainly that’s a very creative way to provide a little additional accessory area, and support the petitioner’s interest, and move this type of property into a more productive life. Again, staff is supportive of the two petitions as filed, and I’d be happy to answer any questions.

Wolff Thank you, Wayne. Any questions for Wayne?

Evinger Has the petitioner agreed to the right to farm commitment?

Kessler Absolutely.

Evinger Okay.

Wolff And, the petitioner is aware there is an airport somewhere nearby.

Kessler Yes.

Wolff Perfect. Any other comments, conversations, discussions, concerns? Seeing none, I think what we should do is entertain these one at a time, and I think we should start with Docket # 2019-03-SE, which is the special exception. I will entertain a motion for that petition.

Jones I’ll make a motion, I guess. I move that Docket # 2019-03-SE, special exception petition in the agricultural district for the property located at 10002 East 100 North be approved based on the staff report and the proposed findings as presented. If approved, it shall be required that the petitioner execute the right to farm acknowledgement documentation.

Wolff Thank you. Is there a second?

Evinger Second.

Wolff All those in favor, please say aye.

All Aye.

Wolff Those opposed?

[No response.]

Wolff Motion carries. Let’s address the second petition in front of us, which is # 04-DSV. I’ll entertain a motion for that.
Kremp I'll make a motion.

Wolff Thank you.

Kremp I move that Docket #2019-04-DSV, design standards variance in order to provide for the construction of a detached garage, which one exceeds the allowable accessory square footage in the agricultural zoning district be approved based upon the finding and based upon staff report and presentation.

Wolff Thank you. Is there a second?

Evinger Second.

Wolff All those in favor, please say aye.

All Aye.

Wolff Those opposed?

[No response.]

Wolff Motion carries. Thank you.

Kessler Thank you.

Wolff Next item on our agenda is Docket #2019-05-DSV, Dalberg for address 596 West Linden Street. Will the petitioner please come forward and state your name and address for the record?

Rottmann Todd Rottmann, address 320 West Hawthorne Street. With me tonight are Deanna and Todd Dalberg, the homeowners. If you have any questions that I can’t answer, they are available for that. We are asking for three variances this evening. Two of them are front yard setbacks because this property is located on a corner, and the third one is for lot coverage. I’ll address them one at a time, fairly briefly.

The addition on the west side of the home along Sixth Street is a sun room, and the average front yard setback along that street is 14 1/2 feet. But, if you look at the exhibit, which is the area map, and on that we have identified the setbacks of the homes along that street, and so our setback that we’re proposing actually matches two of the three homes that are in that block. The one that is further back that kinda sets the front yard setback further is the anomaly. The second variance is for the front yard that curves along Linden Street. If you look at the site plan that’s actually of this property only and of the house, you’ll notice that the average front yard setback essentially bisects this property in half. That’s because the other houses on this block, the properties are oriented north/south instead of east/west, and so they’re a different type of orientation and not really reflective of an influence on this property. We’re putting a new entryway on the house, because there is just a recessed door there now, and then a front porch and then a front walk-out to this street. So, we do need a front yard setback on that. But,
once again, if you look at the area map that shows the surrounding area, you’ll see that everybody across the street is either over the property line, or very close to it. So, as far as a streetscape along Linden Street, we’re still further back than half the houses on that street. The third variance is for lot coverage. And, I have a couple of exhibits I’d like to pass out if I could.

Wolff Certainly.

Jones Is this the drainage plan?

Rottmann Only engineered. So, according to the Town of Zionsville currently, if you have a landscape bed that is mulch it doesn’t count against you as lot coverage. If you have a landscaped bed that is landscape rock, it does count against you as lot coverage. And, so the exhibit that I just handed out is the drawing that I created of the property itself with the various areas identified, if we count landscape rock as lot coverage, then if we mulch those landscape rock areas, and do this addition, we end up with 2% less coverage than we have today. So, it’s an improvement on the property, this project. However, I have an issue with putting mulch over landscape rock just because mulch isn’t considered lot coverage when landscape rock is. So, what I would like to do is get the approval for the 45% lot coverage, which is what we noticed for and what we’re asking for today, but to not have to put landscaped mulch over top of landscape rock in order to accomplish that, and have on this particular lot the landscape rock not be considered lot coverage or paving. I think typically people think of gravel as, you know, driveways and gets compacted down and water runs off of it. But, in this case, this landscaped rock was actually put in in the past couple of years because of drainage problems in the Village that were causing a swamp basically between the two houses. Nothing would grow. It was always wet. Nobody could use it. So, they put in the landscaped rock with stepping stones as an effort to get the water to soak in to the ground better than it did when it was soil and grass, and it has eliminated the problem, and so there is now not any drainage problems between this property and the neighbor because of the rock. I’d hate to cause new ones by having to mulch that area, which the mulch would just get washed off anyway.

Wolff So, Mr. Rottmann, I think I want to try to understand that a little bit better. So, as I look at this handout--

Rottmann Yes.

Wolff There are 190 square foot mulch bed, is that what we’re discussing?

Rottmann Yes. So, we’re discussing the mulch bed to the north that’s 196 square feet, and the mulch bed to the east, which is 186 square feet.

Wolff Yes.

Rottmann Those two mulch beds, they’re currently landscaped rock that was put in for drainage.
Okay. So, I think what I heard, and I just want to make sure I’m clear on this. I don’t think we have the privilege to consider that not hardscape. That’s going to be, it is hardscape. That’s by definition. That’s a rule we can’t change, but what we could do is use that, understand that it is landscaped rock, and it is pretty close to a pervious, so we would have to approve the square footage at 45. Does that make any sense what I just said?

So, if you approve 45% hardscape –-

--That doesn’t include those two beds, correct?

No. It does not.

Okay. So, I’m glad we talked.

To me, in a future hearing, I would love to get landscaped rock, which is 100% permeable taken off the list of items that are considered paving or hardscape. We’re talking about permeability, and this was put there because it is permeable. I don’t want to see the homeowner suffer because of it. I mean, we can get the, we can mulch them, and then they don’t count as hardscape, and then we’ve got the 45% and we’re okay.

Okay.

We don’t want to have to mulch them, which would cause more runoff problems, because mulch is not as permeable as the landscape rock is.

So, I can have this in front of me plainly. What is the current, without any, today, what is the lot coverage? Percent?

If you count landscaped rock.

We do.

47.

47?

Yes.

And, what are you proposing?

If we put mulch over it, we’re at 45.

If we don’t put mulch over it, and we leave it what you’re suggesting.

Yes. I think you’re at 52.

Wayne, I’ve got a question for you. So, we’ve talked about, there is the hard surface of the house, and then there is the hard surface that we count for
sidewalks and walks, but I always thought that driveways didn’t get counted towards.

DeLong Correct. The driveways are removed from the lot coverage calculation.

Jones Okay.

Rottmann So, while I list the square feet of the driveway, it is not in any of the calculations, nor is the front sidewalk. The reason I put it on here is to show that their driveway is semi-permeable, it’s not paved.

Jones But, then any areas that we have that, so, I’m wondering if we could call these mulch beds, or these landscaped beds something else.

DeLong Well, let me back up a step. What I want to send down, is the best resolution aerial photograph that we could gather for this evening, and I don’t have it labeled in any fashion. And, certainly to back up, as you know, staff is always very supportive and encouraging of, you know, gravel and other surfaces being used, and certainly would never want to calculate a landscape bed that somebody casts gravel in and has no other functionality than simply a landscape bed. But, in this particular case, you have a petition that has a 7-foot wide, for example, graveled area that is functionally a walk-way, and certainly it’s also a landscape bed, so the aerial photograph illustrates the, you know, it’s certainly a very nice improvement on the north side of the house. We certainly fully recognize the issues with the growth and the shadows of items, but you have, you know, gravel that’s functioning very nicely, but it’s also functioning as a pathway, and so it’s the challenge for staff to not include that in the calculation when it’s so plainly visible on the site. It’s not something, of course, that jumps out at you with the fencing and the screening. Again, it’s a very lovely setting, but staff cannot ignore the presence.

Rottmann We can pass this down.

Wolff Yes, and here is another, you know how that - -

Rottmann --The walkway is about 4 feet, and there is raised planter beds on one side and landscaping on the other.

DeLong So, I mean, as you evaluate petitions all very individually and uniquely, you have a lot coverage situation that exists today, the gravel that’s, you know, functioning how it is, but when it’s used in this fashion, in the past this has been considered lot coverage. Petition on Linden Street a few years back is a petition I’m referencing back to that had this exact same situation where they had flagstones that was a walkway caught in the net, if you will, of lot coverage, but it is somewhat complex conversation that we are here tonight advocating that mulch is a better solution than what’s there today.

Evinger Is the rock bed in the front of the house represented in the photo? It didn’t look like it. It looked like that might be like a stoop or a step or something else rather than a rock bed. I’m referring to this right here, in the photo. I identified this in the photo.
Rottmann: Oh, on the right-hand side. Yes, it’s a graveled area with stepping stones, as well. It’s where the air conditioner is.

Evinger: Okay.

Jones: But, there is also some planting beds in there around those air conditioners?

Rottmann: Yes. I mean, it’s a fully landscaped design space, you know. It’s got a character to it. It’s just that if they had put mulch down, it would have washed away and not helped the problem.

Jones: So, I got a question. We make motions, or a motion. The issue is we don’t want to set a precedent that we have just chosen to ignore something, that is called out in our statutes. But, if in making the motion we do call it out, that we have got a stone bed, or whatever, and that we’re not including it in these calculations, does that help us with a work-around. In other words, we’ve identified in calling out that we’re not counting it because it’s - -

DeLong: --In this particular case, I think considering a relationship of the home to the north, which is the parent home for this particular block, and certainly that very close relationship it has, and the limited sunlight that enters that little corridor, if you will, I think those are very distinct characteristics that would define, differentiate any action related to anything else that would come up.

Wolff: As we have discussed, all properties are unique. All petitions are unique. So, I’m not overly worried about a precedent being set, because this is a unique case in itself. With that being said, are there any other questions? We haven’t talked about the side yard setbacks or anything else. Is there any other questions? The side yard setbacks, it’s a challenging lot. It’s on the corner. I live on a corner lot myself. I appreciate those challenges. Any other questions for the petitioner?

Rottmann: The last item was the other handout I gave where I list the impermeable area of the surrounding properties, you know, we’re at 1938 and we’re by far the least amount of impermeable in that block, and so I just wanted to show that example that while some people, the driveway doesn’t count against them, half their property is driveway. So, that property is actually contributing more, you know, water runoff than we are, and so that’s the purpose of that exhibit, to show that we’re actually better than the neighbors as far as contributing water runoff.

Wolff: So, what you did for this calculation was look at roof space, or property - -

Rottmann: All the property record cards, and site observations.

Wolff: The difference is, your driveway is permeable?

Rottmann: Correct.

Wolff: And, many of the other properties aren’t. So, what you’re trying to articulate is the fact that you have - -
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Rottmann --And, there's lots of other improvements on those properties that don't show up in the property record cards, like some of the sheds and pads and paved walks and things like that that people do without permits and I just want to make sure we were showing that we aren't outside of the norm for this area.

Wolff Perfect.

Evinger Wayne, if somebody wanted to come in, if this homeowner sold their home, and somebody else came in after them and wanted to put in a concrete drive, do they need to pull a permit?

DeLong They would, only for the street cut. It would not, that's the limit of the permit. Certainly, the review would also look to confirm that the driveway is more than 5 feet from the property line, which is a requirement of zoning and that would be something that would be caught during the application for the driveway cut.

Evinger Just right now, we do have a lot of impermeable space, but should this home trade at some point in the future and somebody wanted to put in more hardscape, I'm just wondering how that would affect it.

DeLong It would not. With driveways being exempt from the calculation.

Evinger It still wouldn't. That's fine. Okay.

Rottmann And, I did not put the driveway in these numbers, so it's not helping or hurting it at this time.

Wolff Any other questions for the petitioner?

Kremp Just so I can get oriented on it, but one question for Wayne. In looking at the materials, there is a reference to removal of the 160-feet, approximately 160 feet of square stone pavers. I just want to make sure I know that what you're referring to there. That is the - -

Rottmann --That is the 196 square foot on the north side. It was just estimated at 160, but since then I created the exhibit to get the exact number.

Kremp Okay. So this is the accurate number.

Rottmann That is the accurate number. Yes.

Evinger One more question, too. Below those rock beds, is there any other kind of a drain or any other kind of a tile or anything that is behind the rock?

Rottmann I don't think so because there is no, like onto the street or anything with it.

Mundy You said this was done within the last year or so?

T. Dalberg No, probably four years ago.

Mundy Were you the owners, then?
T. Dalberg: We were, yes.

Mundy: So, was anything done besides filling that with rock. I mean, was there soil, compacted soil, taken away?

T. Dalberg: No, sir.

Mundy: So, it really didn’t probably change the permeability at all. It allowed you to walk on dry surface, perhaps, with water right underneath you.

D. Dalberg: Yes, I don’t think it was very dry surface. It was mud between our two houses, and it was old railroad-tied beds that were just completely rotted and falling apart and seeping into the mud that was in the middle. So, we had those built back up.

Wolff: Will you tell me your name and address for the record?

D. Dalberg: Deanna Dalberg, 596 Linden Street.

Wolff: Thank you.

Mundy: Yes. Well, dry might be an exaggerated term. You could walk across it without getting mud on your feet, but the water still had no place to go that it didn’t have before.

Rottmann: Yes, I think the issue was before when it was standing water that there is opportunity for it to run off-site or go elsewhere and that the rock has contained it and not spread the water further out.

Mundy: Okay.

Wolff: Are there any remonstrators here tonight? Oh, we have a drainage issue, someone’s got to talk about it. Seeing none, Wayne, can we have the staff report?

DeLong: Yes. Staff spoke to, I think, many of the points in your earlier presentation. Certainly, staff is supportive of the efforts of the petitioner. Certainly, you know, while we’re speaking in the staff report about compliance with the ordinance, the efforts of the petitioner to do that while that’s been spoken about, as Mr. Mundy pointed out, you have the water is still there. It’s retained. It’s not moving. Mr. Jones’s articulation as a potential alternative way to review this is certainly something that staff would look at. I don’t see a precedence issue. I mean, this is such a unique site with relationship again with the property to the north, really reducing this property’s ability to get rid of its own water.

Wolff: And, Mr. Rottmann spoke earlier, and just so we’re clear, he is correct. Mulch is a permeable surface.

DeLong: Correct.

DeLong: Rock, what’s there currently is not, by definition according to, we recognize stone gravel as a permeable surface, and it’s probably your 2% lot coverage.
credit, but in this particular case, you have it incorporated into pathways and other features. Staff would not agree that this is merely a landscape bed. I mean, this is a functional corridor with stepping stones. This is a sidewalk to allow ingress and egress from point A to B. So, that’s where the rub, if you will, is in the dialogue. Staff is looking at it through one lens, and the petitioner and landowner’s representative are looking through it through a different lens. Staff does not disagree with the logic behind that, but we need to look at things through a certain mechanism.

Wolff And, a consistent one. With that in mind, I don’t, Mr. Jones. I mean, mulch versus - -

Jones --Yes, I know. I don’t want to put mulch over stone. That just doesn’t make any sense.

Wolff Well, I’m not sure mulch would do any better than stone. I don’t know. I haven’t had a drainage study.

Jones Yes. I mean, that’s why I was trying to seek a way in the motion just to call out that it exists. That way, once again, I understand the precedent and everything is unique. But, at least that way we have identified it. We’re not ignoring it. Does that make sense? Go ahead.

Wolff I think what you’re looking at is to support, I believe Mr. Rottmann appointed a 45% lot coverage.

Jones Correct.

DeLong And, you can just go ahead and recognize in the motion that the nearly 400 square feet of stone, if you will, as identified in the petition, is part of your overall credit towards permeable surface.

Wolff Well, I think we have got to be careful here because, Todd, will you come back up? What you’re asking for is 45%.

Rottmann That’s what we noticed.

Wolff But, that is not including the mulch beds.

Rottmann Correct.

Wolff So, if we included the mulch beds, we’re at 52%. And, so what he asked for was that we change what we consider permeable, which I don’t think we can do.

DeLong That’s what I was suggesting about recognizing and increasing the credit from 2% to - -

Wolff --Okay.

Mundy You can do that?
Well, as the Board, you’re looking to support, if that’s what you’re doing, you’re looking to support the petition as it’s been filed.

And, our rationale is that there is permeable surface there that did not get credit?

Correct. That would be my - -

--So, basically within the motion what we’re going to do is increase the permeable percentage based on the facts presented, which means, once again, I think I said I always do the precedent, other than drainage, precedent is the only other word I use, but the idea is that anyone else coming before us, as long as they confine themselves to the same situation, that they had areas of a property without something like this, were going to be unusable or unsafe or mosquito traps, whatever. We’ve closed the loop versus, because I would rather not allow a 52% lot coverage ratio because there we’re - -

Certainly seems high. In addition, I think it’s also important to recognize that currently we’re at 47%.

Currently it’s 47%. Yes.

So, we’re making improvements, but we’re giving a little latitude on permeable surfaces.

So, there is no concern that the notice for this is not accurate then, or, so if somebody else wanted to be critical of if we grant the motion with these changes that, you know, third parties that were relying on those provisions, would they be able to attack this, maybe attack is a strong word, be critical of this as not compliant.

I think attack might be the right word. But, I think you’re okay. I think that’s what Larry is getting at. That their application, their notice requests approval of 45%, and if you give them this leeway - -

--I guess it’s the leeway part that I just want to make sure we’re okay. That we can give that leeway.

I think so. I mean, it sounds like there has been discussion of this as a unique circumstance. It’s a unique gravel area over there.

It’s a unique lot. It’s a corner lot, small lot. I think Wayne described the property to the north as the parent.

I believe from the property records, yes.

I think it’s important to note that the Dalberg’s did talk to the neighbors and there is support letters from all of the neighbors in the packet and they were all aware that there was going to be no change to those areas. In fact, the neighbor to the north benefits.

The likelihood of them being critical of this anyway is very low.
Rottmann  Right. The scope of work hasn’t changed from the notice or from the discussions with the neighbors.

Wolff  Mr. Rottmann, thank you for bringing that to our attention. That is important to note.

Evinger  I think we need to be careful about having the, I support the petition, but just again, going back to precedent, if we do say that it’s 45% and then go to 52%, and then say it’s because we gave leeway on permeability, I suspect that we will see other petitions come forward that are going to be similar, and they’ll each say that they’re a unique property because every one of our petitions is unique. So, I think that we do need to probably craft something a little bit individual for this particular property.

Wolff  I would agree. Wayne, do you have any thoughts on that comment? Sorry to put you on the spot.

DeLong  I mean, you’re coming up with individual language. I mean, this is a corner lot. The relationship is fairly tight on the two side yards because of that. I can probably ponder this for a few minutes.

Rottmann  One option, which isn’t the preferred option, is to go with the plans as presented that showed as a mulch bed so it truly is 45% lot coverage per the notice, and then we spend the next year before this gets built trying to re-define maybe some of the permeability issues or, as a standard for the Town, not just for this property, but as a standard for the Town, how do you look at permeable surfaces and should that really count as your lot coverage percentage?

DeLong  I would be very afraid of building into the ordinance that you could, any property, could put 8% of its lot coverage in stone. I think this is incredibly unique given the relationship of the two properties and their proximity to just have this on any street in any location of the Village. I’m not, be concerned about.

Wolff  Agreed. So, with that thought, would have an updated recommended motion?

DeLong  Well, it goes back to what Mr. Jones is focusing on. I mean, it’s the, you have a northern side yard that’s in the shadows of both the existing home, as well as the neighboring home to the north. I mean, seldom do you see this type of relationship between basically what is someone’s functional rear yard that’s actually by ordinance a side yard.

Evinger  Can you incorporate that into the motion?

Jones  I was thinking of one. I mean, you want me to try it?

Wolff  Well, Joe, let me get your opinion real quick. Sorry to put you on the spot, but I think we all, this seems like a reasonable request. It seems like a very unique situation. And, I understand the unique challenges of this particular property. Do you have any thoughts on what might, an amended motion might look like?
Jones  All right. Here’s the motion. I move that Docket # 2019-05-DSV, design standards variance, in order to provide for the, or in addition to an existing single-family dwelling, which, one, exceeds the required lot coverage ratio of 35% be increased to 52% allowing for that 15% of this is due to the use of permeable pavers and a permeable stone pathway around the property, and two, deviates from the required front yard setbacks from both Sixth and Linden Streets as further described in the exhibits to this report in the residential Village zoning district RV, for the property located at 596 West Linden Street to be approved as presented based on the findings of fact. I got lost down here. And, approved as recommended by staff based on the findings of fact as presented.

Wolff  Do you have a comment about that motion?

Evinger  Well, I think the motion is on the table so we need a second, but I would like to amend the motion.

Jones  Okay.

Wolff  Is there a second?

Evinger  Second.

Wolff  Would you like to make, well, we need to address that, don’t we?

Chadd  It has a second. If someone wants to suggest an amendment, they can.

Evinger  Just, again, with your 15% due to the specific circumstances surrounding the property.

Jones  So, just change it to that?

Evinger  Unless you would like to embellish on it a little bit further.

Jones  No.

Evinger  Okay.

Mundy  So, what is the motion, then?

Jones  So, it would be that it exceeds the required lot coverage ratio of 35% to 52% - -

Evinger  --based on the unique circumstances of the property.
Jones

There we go. And, deviates from the required front yard setbacks, from both Sixth and Linden Streets, as further described in the exhibits of this report, in the residential Village zoning district RV, for property located at 596 West Linden Street be, let’s see, approved as, how are we doing this? This is where I fall apart. Approved as presented based on the findings of fact.

Wolff

Is there a second to the amended motion?

Kremp

Second.

Wolff

Thank you. All those in favor, please say aye.

All

Aye.

Wolff

Those opposed?

[No response.]

Wolff

Motion carries.

Rottmann

Thank you.

Wolff

Thank you.

Wolff

You guys are all wondering where Greg is now, aren’t you? Next item on our agenda is I believe Docket # 2019-06-DSV, Mr. Rottmann, at 160 North Main Street. Will the petitioner state your name and address for the record please?

Rottmann

Todd Rottmann, address 320 West Hawthorne Street. We’re the owners of the property, and we have a buyer that we’re designing a home for on that. They actually grew up in the Village and are returning back, and so they’re very excited to move on to Main Street. As such, we need two variances. The first one is for the rear yard setback off of 1st Street, which is also somewhat a front yard setback because it’s 1st Street. Typically, we are right at the lot average setback for that block with where we’re positioning our building. The caveat is that the garage is attached to the house, and the ordinance states that if the garage is attached, you know, the house has to be 20 feet off the rear property. So, we’re matching all the other garages on the street. It’s just the ordinance is written that it should be 20 feet if it’s the rear yard, or it’s okay if it’s a front yard, being 1st Street, so we need to get the variance just to clear that up. And, then the second one would be for the lot coverage. We’re requesting 46% lot coverage on this property. It’s worth noting a good portion of that is permeable pavers on the south side of the house for outdoor space, and they have got a front porch that goes across the entire front of the house. If you look at the site map that we provided that shows the general area, you can see that we’re by far not the most lot coverage on this particular block, and we’re trying to stay back from the sidewalk a little bit to kinda help with not overwhelming the sidewalk.

Wolff

Mr. Rottmann, do you have, you mentioned pavers for I believe it was the back area kind of adjacent to the garage. Is that correct?
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Rottmann: Yes.

Wolff: Do you have an approximate square footage of what that might be? And I won’t hold you to stickler, just a round number.

Rottmann: I can give you a percentage of lot coverage what that is.

Wolff: Percentage would be great.

Rottmann: All right. So, that’s 3% of the lot coverage of those pervious pavers, and then another 3% of the lot coverage is the front porch.

Wolff: Thank you. And, as I look at the property, when I drove by it, it appears you mentioned earlier that it has an attached garage, and we have seen a lot of changes in that area, and I believe there are a few other attached garages, if I’m not mistaken that are very similar in style.

Rottmann: Yes. What we’re finding is that there is a lot of empty nesters moving to the Village, and/or families that want to age in place, the people of the Village. They aren’t moving out and therefore having an attached garage allows them to age in place.

Wolff: So, an attached garage is a benefit, not a benefit may not be the right word, but it’s really a requirement for, or in line with consistent, or consistent with new house standards and the way we expect to live in 2019 and those types of things.

Rottmann: Yes. It’s a practice that’s accepted in all historic neighborhoods, except for a few throughout Indianapolis and surrounding area.

Wolff: Are there any other questions for the petitioner?

Jones: You guys are going to kill me. So, this thing sits about, this lot sits about two feet below 1st Street.

Rottmann: Two feet below?

Jones: Yes. The rear?

Rottmann: Oh, yes. Yes, it’s a very significant slope there.

Jones: Is that of concern to you?

Unknown?: Yes, there are no storm sewers on 1st Street.

Wolff: Well, son of a gun.

Rottmann: So, we are keeping all of the water on our property because it can’t make it to 1st Street. And, we did make sure that we have a wide yard on the south side of the property in order to absorb water.
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Wolff So, with the current structure you’re not changing the elevation?

Rottmann No.

Wolff It’s consistent to what it is today. It just happens to be two feet below 1st Street.

Rottmann Right. I mean, as the garage comes out, it needs to come out at that 1st Street level.

Wolff Or you have to get an aggressive tire.

Rottmann Yes.

Wolff Any other questions?

Jones I don’t know, it sounds like we have some people that might want to speak to this project.

Wolff Perfect. I enjoy the discussion. Are there any remonstrators here tonight? Please come forward and state your name and address for the record.

M. Mindel This is Michael Mindel and Delma Mindel, and we live at 145 West Walnut, which is a corner lot, and we are across the street from this. 1st Street is higher than everything around, and as 1st Street drains into this lot, 1st Street drains into our lot, and we don’t want to see any more water on 1st Street than we already have. So, we want to make sure that the lot is not elevated, and that gutters do not discharge onto 1st Street.

Wolff Okay. So, I want to be clear here. You’re on the corner of Walnut and First?

M. Mindel Yes.

Wolff Perfect. Thank you. And, your concerns are that you’ve got water issues.

M. Mindel We have water issues now from water draining off of 1st Street.

Wolff Perfect. And, so you want to make sure that this particular variance doesn’t make those worse?

M. Mindel Yes.

Wolff And, you’re suggesting that, can you repeat your two suggestions?

M. Mindel That the gutters do not discharge out to 1st Street, and that lot is not elevated so it discharges onto 1st Street.

Wolff And, I’m sorry. Can you repeat your name one more time for me?

M. Mindel Mindel. M-I-N-D-E-L.

Wolff Mindel. I should have got that.
M. Mindel I’m Michael and this is Delma.

Wolff Thank you, Mr. Mindel.

D. Mindel Lance Lantz and I - -

Wolff --Would you actually - -

D. Mindel I’m sorry. Delma Mindel.

Wolff Thank you.

D. Mindel 145 West Walnut Street, Zionsville, Indiana. We have lived here since 2004. We live in an historic home. In 1888 it was moved from Eagle Village, probably in 1883 over to Zionsville. You can imagine what that was like. At the present time, we have lots of water that comes down 1st Street. Washes down our driveway, and we had a French drain installed to try to take care of that as it runs south, so when that water runs south, nonetheless, it runs around our garage, which has a gravel floor, because it was built in 1922, and runs down into our patio and runs down into our cellar every time we have a really big rain. On two different occasions when the sewers overflowed, we had excrement in our basement. That’s a huge, huge problem. Lance and I talked about how there was originally curbs along 1st Street because we can see where they were when it’s dry. Our grass gets brown where the curbs were, or is probably are.

Wolff And, this is Lance Lantz?

D. Mindel Pardon?

Wolff This is Lance Lantz you’re referring to?

D. Mindel Yes. Lance Lantz. Yes.

Wolff Thank you.

M. Mindel On 1st Street, it gets raised, and raised, and raised again.

D. Mindel Yes, raised and raised. So, we’re really concerned that this house, the driveway, will allow water to come onto 1st Street. We’re aware of that. The other driveways do as well. May have already, the improvements to the Village garages, may have added to our water problem. As my husband said, there are no, there is no storm sewers on 1st Street. And, so restaurant alley has a really big number for us in terms of water problems. So, we’re really, really, really concerned about this. We have received notice from our insurance company that they will no longer cover drainage problems into our basement as a result of sewer overflow. So, that will be on us the next time something like that happens. Now, I realize that the Town needs to do something about the drainage on 1st Street, so that’s another problem besides this, but this is what we want to address.
Wolff Thank you. I guess I have a question. And, I’m making an assumption, which is always a bad idea, but I would assume that the water going down 1st Street would go from the north to the south. Is that not right?

D. Mindel Yes. It comes that way, but where we are, we’re just right kind of at the bottom.

Wolff Okay.

D. Mindel So, it does run down.

M. Mindel It runs down from Ash.

Wolff Yes.

M. Mindel But it also runs down from Cedar.

D. Mindel From Cedar. Because I know that, because when we walk into the Village to go to dinner, I notice that I have to exert a little bit of effort walking south from our property on 1st Street. So, I know I’m walking uphill, and so that’s one of the issues that happened there.

Wolff So, you feel like if I put a big pump right here, and shot water off of this property, you feel like it would head your way?

D. Mindel Yes. There is no doubt.

Wolff Okay. Thank you.

D. Mindel Thank you.

Wolff Are there any other remonstrators here tonight? Seeing none, Todd, do you have a minute? So, they have some concerns about water. Do you have any thoughts about that?

Rottmann I can guarantee we won’t discharge any of our water onto 1st Street. We won’t have any downspouts discharge onto it. It will discharge onto our property and, as mentioned, the topography is such that 1st Street is elevated on this side of the property.

Wolff Would you be willing to make a commitment that the gutters and downspouts won’t go towards 1st Street?

Rottmann Absolutely.

Jones Todd, is this house going to have a basement?

Rottmann Yes.

Jones So, where does the sump pump discharge?
Rottmann So, the sump pump discharges underground in a French drain system surrounded by permeable stones, and it’s about 10 to 20 feet long, and it percolated into the ground. It’s not above-grade and it’s not into the storm sewer system.

Jones Okay.

Evinger Are the downspouts going to be buried, as well, to go into — —

Rottmann --No, they’ll be onto grade so that the ground can absorb it.

Evinger Okay.

Kremp Which side of the house would that be on?

Rottmann The south side. That’s where we’ve got the yard. What we’re talking about is an underground drain system for the sump.

Jones But you know you’re pumping from one hole to the other hole, that will eventually drain back to the first hole.

Rottmann Well, there is, you know, we have to stay close to the house because there is trees that we’re trying to preserve along the south side.

Jones Wayne, are there any provisions to do any kind of storm sewer work on 1st Street?

DeLong I’m aware of a project that’s been through some level of design and public discussion. I’m not aware offhand of where that project would terminate. I know it is certainly somewhere in Claghorn’s potentially, but not certain offhand, and certainly I’m not aware of any funding that’s currently being set aside to facilitate that.

Mundy You probably looked at all alternatives, but are there no storm sewers on Main Street that the sump could be directed toward?

Rottmann We’re not allowed to tie in. At least we haven’t been yet.

Jones You can tie drainage in the storm sewers. You can’t tie it into the public sewer.

Rottmann You can’t tie it into the, yes.

Mundy Well, yes, public, of course not. But, storm sewers, you can’t tie it into the storm sewers?

Rottmann We have not had to before. In 20 some projects it’s not been a requirement because the French drain system that we use is an acceptable alternative that hasn’t had any problems or complaints yet, so I think it’s a non-issue.

Mundy Even in very low-lying areas? I think Larry is right. You probably wind up, it circulates back and forth, and maybe you can keep it circulating until enough has percolated through, but I guess that’s the hope.
So, the idea is you take sump pump, water goes into this pit that’s filled with stone, and - -

--No, it’s linear.

Okay.

It’s like 10 to 20-foot long of over-sized pipe.

Okay.

It’s perforated, set in gravel.

And, where is this at compared to the surface of, like, are we below surface, below-grade.

Yes. Below frost depth. So, you’re like 3 feet deep.

Okay. And, the water, the idea is the water runs along that pipe, and when it has an opportunity to go.

Right. The pipe can handle the entire capacity of what’s being pumped into it, and then it percolates out.

Todd, do you know if any of the adjoining houses have basements in that or anything?

I don’t believe any of them do.

No, that’s not, well they have a cellar. The house to the north of our back property has a cellar.

Yes. Most, they’re pretty dark and awful places, but the HVAC and water heater is in there. Once improvements were made. They used to be for storing of canned goods and in case of tornados.

While we have Todd here, any other questions? It looks like we may have one more remonstrator. Any other questions for Todd before we? Thank you. Thank you, Todd. Come on up and state your name and address.

Sally Zelonis, 40 South 3rd Street. Just a question, what’s the distance? I know those lots are narrow there to the adjoining houses from each side.

Are you referring to the distance between the houses?

Yes. So, in other words, if that French drain is on the south side, what’s the distance to the property line? And the same on the north side, just, I’m curious, because I know that lot is narrow?
Wolff  Perfect. Are there any other remonstrators before we bring Mr. Rottmann back up?

Rottmann  All right. So, on the north side of the property, I have spoke several times with that homeowner about distance to property, preservation of trees, types of landscape to plant, etc. Their home is pushed to the north side of their property, so between the houses, 20-25 feet. To the south, the majority of our house is at 18+ feet away from the property line. There is one section where it’s 14 feet away from the property line, and that house, it’s pretty close to the property line. It’s probably 5 feet away. So, we’re 20 to 23 feet away from that house. There is an incredible amount of yard, and the house to the south just built a new garage and just got a variance to do the thing that we’re doing.

Wolff  Mr. Rottmann, we’re on the, what side of the house would the proposed French drain go?

Rottmann  South.

Wolff  The south side.

Rottmann  Yes.

Mundy  Does the house to the south of this lot have a basement, do you know?

Wolff  I think it was a cellar.

Rottmann  I don’t believe so, because it’s a bungalow.

Unknown  We have a dirt cellar.

Mundy  You’re in the house immediately south of this lot?

Unknown  Yes.

Mundy  Thank you.

Jones  So, back to your question, Todd, is there storm sewers on Main Street?

Rottmann  The water is on First. I don’t know where the storm is.

Jones  Not the sanitary, but the storm?

Rottmann  Correct. I do not know where the storm is on this property.

Jones  Wayne, does Main Street have storm sewers?

DeLong  I don’t have that information offhand in front of me as to where those are located.

Unknown?  There are some by Black Dog Books, there is a storm sewer there.

Jones  And, that’s the other - -
Wolff  --Yes, that’s pretty far south.

Mundy  In the way of storm cellar, or storm sewers, on First. Yes, I think you’re absolutely right on that one.

Rottmann  Yes. My dad lives two doors down, did live two doors down from this property until a couple weeks ago, and so had done a lot of maintenance and we owned another property on Main Street. I don’t remember seeing any storm drains when I’m out there cutting grass and shoveling snow.

Wolff  So, I think we heard a commitment.

Jones  Of what, the French drain?

Wolff  No, that’s design. I think we heard a commitment that they would not discharge any water towards 1st Street, including downspouts.

Mundy  And, they would stay with the existing grade.

Wolff  Wayne, can we have the staff report?

DeLong  Yes. Staff’s review of this petition is based upon the lot coverage conversation, and staff is supportive of the petitioner’s efforts here, and certainly recognizes the impervious surfaces that are proposed. The setback request is something that is routinely supportive given the dual front yards that are located on Main Street and 1st Street. So the setback that’s proposed is something that’s enjoyed by others in the area. Again, staff is supportive of the petition as it’s filed, and I’d be happy to answer any questions.

Kremp  Wayne, does staff, Mr. DeLong, I apologize. Do drainage issues like this, that were just being discussed, impact or come into staff’s decision-making when you’re coming up with your recommendation?

DeLong  The drainage calculations are not a part of the zoning ordinance, and therefore they’re not in the layering of the recommendation, nor does that appear in the staff report. This dialogue routinely occurs related to drainage, but as far as zoning requirement, we’re looking for positive drainage. How that’s ultimately facilitated, as long as it meets minimum standards of the building code, that’s where staff’s review, authority is. Oftentimes you find that there is a higher standard level of care that might be necessary and is brought up by interested parties that have local knowledge that is spoken to like it is this evening.

Kremp  So, it doesn’t impact your view, then?

DeLong  No. Correct. It does not.

Jones  It doesn’t impact the view, but it’s also not technically part of the process to review it, actually.
Much like the discussion earlier this evening, the drainage is reviewed at the time of the building permit. We’re, again, looking for deposited drainage. No property is entitled to shed more water than what it is currently discharging and appropriate steps need to be taken to mitigate if it does.

And, just to clarify since we are the architect for it and we’ve worked on about 20 houses in the Village, we put together a storm water pollution prevention plan with every single one of our plans when we file for permit, which has the topography on it. So, that is part of the review process for our project, so we can make a commitment that we’ll do the storm water pollution prevention plan including topography as part of our application for building permit.

Will your driveway that connects 1st Street have a culvert underneath it?

There is not any water that I can tell that needs to pass through, as long as we can contain the water, you know, within our property that might exist there.

Does it slope into 1st Street? The driveway?

It’s essentially level with it. I believe, I understand that the remonstrator’s issue with water drainage. I tried to pull up the Boone County GIS on my phone, but the connection here wasn’t good. It’s my understanding the topography that it does flow to the south, and that it does flow to the west and it flows to that property on 3rd Street that the remonstrator earlier talked about. That’s where the water goes. There has been two garages - -

Yes. Because it’s coming, you’re getting it coming at head lots means with Lance as well. You guys are getting it coming from the west, because the west is raised. So, you guys are getting it coming from the west, and you’re getting it coming from the north. No doubt about it. I don’t believe that anything that’s done on 1st Street at our property, and the two properties south of it, which have both experienced new construction of garages within the last three years contributes any water or additional problems to 1st Street at all. And, I wish I could pull up the GIS mapping, but like I said, we pull it up, we do the contours and we have to do contours on our plan and prove to Lance that we aren’t going to shed any water off of our property. It’s part of it. If we need to make a commitment that we’ll do a negative slope on the drive, and then do like a trench drain before the garage door, we could do that. I mean, then there would be, I mean, we’re talking zero runoff from our property. It’s a non-issue.

There is a drainage issue. You’re contributing to it.

There is currently no drainage issue that this property is contributing to, or will contribute to in the future.

Thank you. Do you have another comment?

I just want to correct that impression that there is no water running from Cedar north on 1st Street. Because I have stood at the end of my driveway, in heavy,
heavy rains, and watched that water running down 1st Street down our driveway. I have witnessed this happening. So, there is lots of water coming from that direction. Coming off of Claghorn, coming down the street, probably even coming from some of the new driveways. So, there is considerable water. That is water that is flooding into our cellar. Thank you.

Wolff Okay. Thank you. I think what we heard Mr. Rottmann commit to was that there won’t be any water off of this property that will go on to do that, and to address that he has agreed to right now I think two commitments. One is that all of the water will not be evacuated towards 1st Street, and two, that, how long do you think that driveway would be? It can’t be long.

Rottmann So, on our property, it’s 4 feet 6 inches, but 1st Street is actually 11 feet off the property from that location, so you end up with what looks like a 15-foot driveway.

Wolff So, you’ve also committed to that, and to further help the issue, you have committed to creating a negative slope and a drain at the bottom of the driveway, or near the garage.

Rottmann We would probably pull it off and probably go like 4 feet, you know, off of 1st Street, which is kind of like the natural low point for the property there anyway, and have the drain there letting the water go out into the yard versus towards 1st Street.

Wolff Thank you. Any other questions, thoughts, concerns.

Evinger Not regarding this individual property, but Wayne, when we have Creekside Development and we have all those bio, kind of, engineered collection points for storm water, is there something possible like that for 1st Street. I know that’s not for tonight, but something to think about.

DeLong The design when it was first created, I’m not sure it was at in a time that you had the number of low impact development features that you do see today. I would suspect as that design advances and appears again for public discussion, those types of features would be more prominent. I mean, you’d find the Town building those features in Creekside. We build those features on Main Street itself, near Town Hall. It is something that is more commonplace, if you will. But, I’m not involved in the design of that, but certainly I would think that the Town’s embracing of that concept would be carried through as best it could on 1st Street.

Jones A lot of times those bio-swales will still have a storm sewer or storm pipe connection. So, basically their retainage in terms of holding to release what goes into our storm sewer system and into the creeks and down the flow, but the point is there is still an outfall, a mechanical outfall, and with Todd’s property, with this property, what he is proposing, everything is going to stay onsite.

Kremp When I agreed to do this, Greg Morical said always look to you on drainage.

Jones Don’t.
Wolff  I assume you live on a hill. I don’t know that, but I assume.

Jones  I’m actually on the low end of the hill.

Wolff  Now we know.

Jones  But I did figure out a way to actually run my perimeter drain tile, so it open sites. So, my sump pump never runs.

Wolff  So, as I look at a property, we’ve had some remonstrators and some neighbors that are concerned about 1st Street, and it sounds like, and I believe their opinion that there is a water problem there that is not created by this property, that exists today. It’s there. And, I think what Mr. Rottmann has proposed is that he is going to commit to not making the water problem any worse by keeping all of his water on his property, or going someplace else. I’m not sure, if we had another petitioner in front of us, what else could they do. I’m not sure there is anything else you could do to address this issue, for this particular property. Wayne, I think, is hearing the message that probably that something larger needs to be addressed, but that’s not what we’re looking at right now.

Jones  Yes. At some point, the Town has to address its storm sewer issues because every little variance we give has an incremental effect on it.

Unknown?  Well, the Town has improved the storm sewers on 3rd Street and 4th Street, but not east of 3rd Street.

Jones  So, hopefully their, guys, - -

Wolff  --So, no further discussion, I’ll entertain a motion.

Jones  You’d get buried in a drainage swale, is what’s going to happen to me. I’m sorry, Wayne, has somebody already made that comment? Is that why you’re chuckling.

Mundy  I’ll make a motion. I move that Docket # 2019-06-DSV, design standards variance, to provide for the construction of a new single-family dwelling with an attached garage and covered front porch, which, one, exceeds the required lot coverage of 35% to 46%, and includes both 3% of the total building coverage, including pervious material, and two, deviates from setback along 1st Street, as illustrated in the site plan attached to this report in the residential Village zoning district for the property located at 160 North Main Street be approved with the commitments that the developer has included that there will be no discharge of water from the lot onto 1st Street, the grade will not change from existing, and that there will be a negative drain onto the property from 1st Street at the driveway. I think that’s all I need.

Wolff  Thank you. Is there a second?

Jones  Second.
Wolff  All those in favor, please say aye.

All  Aye.

Wolff  Those opposed?

[No response.]

Wolff  Motion carries.

Rottmann  Thank you.

Wolff  Thank you.

Unknown?  To the members of the Board, I want to give you a handout that might propose a solution for further problems of rain water captured said drain water in cities and towns, courtesy of [inaudible]

Wolff  Do you by chance know when this was published?

Unknown?  It was just in the latest issue of [inaudible]______.

Wolff  Okay, so recently. Perfect. Thank you. All right, we have one more item on our agenda tonight. Docket # 2019-07-SE, Bodecker at property 782 North 800 East. Please come forward and state your name and address for the record.

Bodecker  My name is Steven Bodecker. This is my wife Jamie. Our current address is 1427 North US Highway 421. Today we wanted to talk to you about 782 North 800 East. We’re requesting a petition for special exemption to allow for new residential buildings in an agricultural zoning district. So, my wife and I are currently looking to purchase the property 782 North 800 East for use to build a single-family home. Currently this is zoned agricultural as is noted, but previously there was a house on it, which was built in 1996. When this was built, it was before the time where at the adoption of the ordinance language to require it to be to go through the process to get it zoned appropriately. So, then it burned down in a fire in 2014, and it’s recently come on the market. So, looking to buy it and take it back, ask for the exception to build the single-family home on the property.

Wolff  Great. I have a couple questions, if you don’t mind. Approximately how many square feet are you thinking about?

Bodecker  It ends up being just under 5,000 square feet.

Wolff  And, for you, have you seen the staff’s report?

Bodecker  Yes.

Wolff  Okay. So, you’re familiar with the right to farm, and your proximity to the airport.
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Bodecker  
Yes.

Wolff  
Okay. No problems there. Great.

Jones  
Are you going to retain the pole barn that’s on the site?

J. Bodecker  
At this time, the plan is to, yes.

Wolff  
There is in our packet, I’m going to call it Exhibit 3, but I’m not sure if you have it in front of you. I can show it to you, but there is a red box. Is that where approximately - -

Bodecker  
Yes, the approximate plan for where we would locate the house on the lot.

Wolff  
Perfect. And, then it looks like just to the north of that, is that the pole barn location?

Bodecker  
Yes. Yes, it’s a little bit north and then slightly west.

Wolff  
West. Yes.

Bodecker  
That’s where the pole barn currently is.

Wolff  
Great. You don’t happen to have a creek or a waterfall or anything else in there, do you?

Bodecker  
No, not right now.

Wolff  
Any other questions for the petitioner? Seeing none, are there any remonstrators here tonight? Seeing none, I’ll take the staff report.

DeLong  
Thank you. Yes. As indicated earlier this evening in a different special exception petition, your test, if you will, is to review the site and its agricultural purpose currently, and the history is fairly clear as indicated by the petitioner. This property has been used for residential purposes for a number of years. Certainly the loss to the fire is something that took it out of that purpose for a number of years. This petition serves to literally replace and re-establish the existing standard that once was and enjoyed by the property. With all that in mind, staff is recommending approval, and I’d be happy to answer any questions.

Wolff  
Thank you, Wayne. Any questions for the staff?

Kremp  
Just one question with respect to the owner’s authorization. When these come through, are they typically required to be specific as to what they’re agreeing to?

DeLong  
I’ll get the form in front of me to see what it says in the first place.

Kremp  
The reason I ask is it has a, there is an authorization that’s executed but it’s got a list of different options, and none of them are actually specified.
DeLong: Well, oftentimes we will see these where applicants, seller, landowner, will scratch out or circle very specific items. This particular application, I think because the party is probably using an older form, it certainly calls out the special exception. They didn’t necessarily eliminate of the choices that are in our service lines, if you will. But certainly in theory, this party could reuse this authorization until the notary stamp expired anyway.

Kremp: From counselor’s perspective on showing that.

Chadd: I don’t have a problem with it. I don’t think it’s uncommon to see pretty broad authorizations.

Evinger: Can we correct it tonight and just have them identified, which one they’re here for? I know we have the Docket in front of us, but just so that they close the loop.

Wolff: It’s just a little clerical we need to fix. No big deal. That’s great. Thank you. Good catch.

Mundy: Wayne, I think this is a question for you that you indicate here. The pole barn makes this non-compliant now. There is no residence there. Does the pole barn and the size of that, and the subsequent building, if this is approved, and a home built there, does it require anything else or does it become compliant once a single-family resident is build there?

DeLong: I know we looked at this in the office. I want to say, given the size of the home that’s contemplated, it brings, it would be addressed.

Mundy: It would be in compliance.

Wolff: And, currently the property is out of compliance?

Mundy: Right.

Wolff: Any other comments? Seeing none, I will entertain a motion.

Kremp: I’d like to make a motion. I move that Docket # 2019-07-SE, special exception, petition in the agricultural district for the property located at 782 North County Road 800 East be approved based upon the staff report for the proposed findings, and once approved that the petitioner execute the right to farm acknowledgement documentation.

Wolff: Thank you. Is there a second?

Mundy: Second.

Wolff: All those in favor, please say aye.

All: Aye.

Wolff: Those opposed.
Wolff  Motion carries. Good luck, Wayne, I believe that wraps up our petitions. Are there any other matters to be considered?

DeLong  Just you have a very brief - -

Wolff  --Can I get you guys to hang out for one second so we can get you the excess document? Yes.

DeLong  With the petition starting from the bottom to the top, the Bobbitt petition we do have that alley as officially vacated by the Town of Zionsville.

Wolff  Great.

DeLong  As far as the listing of other items, other various items or working with these various parties, we did receive a draft version of the Leet Holdings commitments, but we did turn those back to the petitioner for some additional provisions. And, then, I know on Wildwood the applicant is still working with the neighbors. I’m not sure how much headway they’re truly making at this point related to resolving the outstanding items. And the Ainsley Park continues to not wrap itself up, unfortunately.

Wolff  Thank you, Wayne, for the update. Seeing no other business, this meeting is adjourned.