The meeting of the Zionsville Board of Zoning Appeals occurred Tuesday, August 13, 2019 at 6:30 p.m. in the Zionsville Town Hall Council Chamber, 1100 West Oak Street, Zionsville, Indiana.

The following items were scheduled for consideration:

### I. Continued Business

<table>
<thead>
<tr>
<th>Docket Number</th>
<th>Name</th>
<th>Address of Project</th>
<th>Item to be considered</th>
</tr>
</thead>
</table>
| 2019-14-DSV   | T. Viskanta| 250 N Maple Street     | Approved as presented & filed w/exhibits & per staff report – 4 in Favor, 0 Opposed  
Petition for Development Standards variance in order to provide for the construction of a patio which:  
1) Deviates from the required side & aggregate yard setbacks  
2) Exceeds the required lot coverage of 35%, to 40.54% in the Urban Residential Village Zoning District (R-V). |

### II. New Business

<table>
<thead>
<tr>
<th>Docket Number</th>
<th>Name</th>
<th>Address of Project</th>
<th>Item to be considered</th>
</tr>
</thead>
</table>
| 2019-18-SE    | G. Throgmartin   | 9825 Windy Hills Drive | Approved with Right to Farm Commitment as presented & filed w/exhibits & per staff report – 4 in Favor, 0 Opposed  
Petition for Special Exception to allow for new residential building(s) in an Agricultural Zoning District (AG). |
| 2019-19-DSV   | K. Whitlock      | 9973 Buttondown Lane   | Approved as presented & filed w/exhibits & per staff report – 4 in Favor, 0 Opposed  
Petition for Development Standards variance in order to provide for the construction of a swimming pool which:  
1) Exceeds the required lot coverage of 20%, to 25% in the Urban Single-Family Residential Zoning District (R-SF-2). |
| 2019-20-DSV   | Lions Park Signage | 115 S Elm Street        | Approved subject to Commitments, as presented & filed w/exhibits & per staff report – 4 in Favor, 0 Opposed  
Petition for Development Standards Variance to allow for signage of an existing not-for-profit business which:  
1) Exceeds the allowed total number of identification signs  
2) Exceeds the allowed sign square footage maximums  
3) Deviate from the allowed location of signage  
4) Exceeds the allowed maximum height  
5) Deviates from the required landscaping requirements in the Special Use Zoning District (SU-7). |

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

August 15, 2019
Petition Number: 2019-14-DSV

Subject Site Address: 250 N Maple Street

Petitioner: Tadas Viskanta

Representative: Kevin Young, The Grounds Guys

Request: Petition for Development Standards variance in order to provide for the construction of a patio which:
1) Deviates from the required side & aggregate yard setbacks
2) Exceeds the required lot coverage of 35%, to 40.54%
in the Urban Residential Village Zoning District (R-V).

Current Zoning: R-V Residential Village Zoning District

Current Land Use: Single-family residential

Approximate Acreage: 0.12 acres

Zoning History: None

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

Staff Presenter: Wayne DeLong, AICP, CPM
**Petition History**

This petition received an initial public hearing at the July 9, 2019 Board of Zoning Appeals meeting. At the July meeting, subsequent to hearing information from both the Petitioner and Interested Parties, the BZA voted to continue the matter to the August 13, 2019 meeting.

It is Staff’s understanding that after the July meeting the Petitioner and interested parties identified modifications and updates to the proposed patio and landscaping, including a reduced patio size, increased pergola setback, access pathway, a drainage plan, and modifications to landscape elements (updates are illustrated in the Petitioner’s Packet as well as in exhibits to this report).

**Property History**

The property is comprised of approximately 0.12 acres of Lot 75 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 an approximate 4,065 square foot single-family dwelling built in 2018 with a 660 square foot attached garage. As proposed, the Petitioner plans to install a patio and is requesting a reduction of the side and aggregate yard setbacks as well as an increase in lot coverage.

**Lot Coverage**

The request, as modified by the Petitioner, seeks to exceed the 35 percent lot coverage maximum by 5.44 percent (of which 2% is permissible by right when using pervious material). Per the Residential Village District (R-V) 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 334.5 square feet of pervious paver patio to the current total footprint of 1,835 (inclusive of the home, attached garage 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. Further many properties in the area enjoy the use of outdoor living space (patio, deck, etc.).

In summary, the request to occupy the site with accessory 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. 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 an accessory use commonly enjoyed by other properties in the area (in this case, a patio/deck, covered front porch and garage), and 2) other properties within proximity to the parcel enjoy deviations from the maximum lot coverage requirements (to the north, south and west). Given the previously
mentioned additional characteristics, Staff is in support of the Petitioner’s request to exceed the permissible lot coverage identified in the Zoning Ordinance. As modified, the request seeks to establish a lot coverage of 40.44%.

**SETBACKS**

Per the R-V Residential Village District regulations, any improvements to the site are required to conform to minimum setback standards (side yard minimum: five (5) feet with 15 foot aggregate) and in no case shall the distance between any two buildings, whether located on the same lot or on abutting lots, be less than 10 feet. The site currently enjoys an 11-foot 8 inch setback along the northern side yard and a five (5) foot setback along the southern side yard, creating a 16 foot 8 inch aggregate side yard setback. As proposed the petition is requesting to install a pervious paver patio (inclusive of an open pergola and trellis structures) which would be setback three-foot, eight inch (3 foot 8 inch) from the northern property line (side yard setback) with the pergola setback six-foot, three inch (6 foot 3 inch) from the northern property line.

Staff’s support of reducing side yard setbacks in the R-V primarily focused on one of two concepts, being 1) that a reduced setback has existed on the property, and the Petitioner is seeking to replicate the encroachment but in the form of a new improvement, or 2) that similar reduced setbacks exist in proximity to the subject site. In this particular case, the Petitioner demolished an existing single-family structure which enjoyed limited encroachment into the required side yard. While this is the case, it is not a compelling characteristic in the current petition filing. What Staff does find compelling, however, is the presence of the driveway to the south of the subject site; a hard surface that runs the length of the south lot line at a reduced setback. As this characteristic exists in the immediate area, Staff is of the opinion that it is relevant to the consideration of the current request. With the above mentioned in mind, staff is supportive of the reduced setback and proposed aggregate side yard setback.

**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, as modified, included in Docket # 2019-14-DSV, subject to substantial compliance with plan(s) presented to the Board of Zoning Appeals.

RECOMMENDATION MOTION

I move that Docket # 2019-14-DSV design standards variance in order to provide for the construction of a patio which 1) deviates from the required side and aggregate yard setbacks and related to the installation of a paver patio, and 2) exceeds the required lot coverage of 35%, to 40.44% (all as illustrated on the site plan attached to this report), in the R-V Residential Village Zoning District for the property located at 250 N Maple Street be (Approved as filed, Approve as recommended by Staff, based upon the findings of fact / Denied/ Continued) as presented.
Tadas Viskanta revised patio design:

1. The overall size of the patio was reduced to 334.5 SQFT
2. The plan was revised to allow better access for moving the trash can from the back to the front of the property: See trash can pathway plan.
3. The Pergola size has been reduce to allow a 6'-3" set back from the property line.
4. All landscape plantings are within the property line.
5. The space between the patio and the property line has been corrected. There is 3'-8" of green space between the patio and the property.
6. The drainage concerns have been addressed and agreement has been made: See drainage plan.

Thank you,

Kevin Young

The Grounds Guys Of Carmel, IN
# Gross Building Construction

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<tr>
<th>SPACE</th>
<th>AREA</th>
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<tbody>
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<td>1110 SF</td>
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<td>First Floor Living Area</td>
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## Livable Gross SF

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## Lot Coverage SF

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<tbody>
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<td>Garage</td>
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<tr>
<td>Front Porch</td>
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<td>Pervious Paver Patio</td>
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<td></td>
<td>2123.5 SF</td>
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</table>

\[
\text{2123.5 SF / 5250 SF = 40.4%}
\]

Exhibit 6
RE: Drainage plan

kgetsanderson@att.net
Wed 8/7/2019 1:12 PM
To: The Grounds Guys of Carmel, IN <CarmelIN.owner@groundsguys.com>
Hey Kevin, my printer is severely malfunctioning. It won't let me print out, or scan the revised Drainage doc you sent.

But know that Greta and I approve, and agree with all proposed changes made to the proposal. Both drainage, and aesthetic.

I think you went out of your way to accommodate our concerns of drainage issues and look forward to working with you in joining our side yards.

Let me know if there is anything else you need.

Thanks,

Kenny Sanderson

317 370 2949

From: The Grounds Guys of Carmel, IN <CarmelIN.owner@groundsguys.com>
Sent: Wednesday, August 07, 2019 11:28 AM
To: kgetsanderson@att.net
Subject: Drainage plan

Hi Kenny,

Here is a copy of the drainage plan that I discussed with you and your wife on 08/05/2019 @ 6:30pm. Could you please sign off on the plan and/or write a short letter giving your approval of the plan so I turn it into Zionsville planning office today.

Thank You,
Kevin
The Grounds Guys of Carmel, IN
TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant (will / will not) be injurious to the public health, safety, morals, and general welfare of the community because: **The grant will not be injurious to the public health, safety, morals, and general welfare of the community because the patio is going to be built with permeable pavers which helps with stormwater management by reducing runoff.**

2. The use or value of the area adjacent to the property included in the variance (will / will not) be affected in a substantially adverse manner because: **The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the patio will add value to the property, both visually and monetarily.**

3. Strict application of the terms of the zoning ordinance (will / will not) result in unnecessary hardships in the use of the property because: **Strict application of the terms of the zoning ordinance will result in unnecessary hardship in the use of the property because the owner will not be able to enjoy the property to its full potential. The patio will be a family gathering place to enjoy the outside and all that living in the village has to offer.**

DECISION

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

Adopted this ______ day of ______________________, 20_____.

___________________________________________________________

___________________________________________________________

___________________________________________________________

10

Exhibit 7
Petition Number: 2019-18-SE

Subject Site Address: 9825 Windy Hills Drive, Zionsville, IN 46077

Petitioner: Gerald Throgmartin

Representative: Nelson & Frankenberger, LLC – Rick Lawrence

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

Current Zoning: Agricultural District (Rural)

Current Land Use: Residential

Approximate Acreage: 62.86 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 Site Location Map
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 August 13, 2019 Board of Zoning Appeals meeting.

**Property History**

The acreage associated with this petition was previously a part of the larger parcel to the west and was recently (May 2019) split into a separate parcel (via an administrative process). The parcel contains a guard house with associated accessory uses as well as a structure which was originally constructed as an additional accessory structure (barn). Subsequent to the commencement of the construction of the accessory structure, an amended Improvement Location Permit was sought to remodel / finish a portion of the accessory structure into living space, creating, by definition, what could function as a single-family dwelling. As a single-family dwelling in the Agricultural District requires the approval of a Special Exception in order to function as a dwelling (which is the Petitioner’s intention), Petition 2019-19-SE was filed.

**Analysis**

Given the Petitioner’s interest in converting a portion of the existing accessory structure into 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 recent split of this acreage from the larger parcel, the property is currently considered to be in non-compliance, as a guardhouse and the barn, now exist on the parcel without the benefit of a primary dwelling (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 former association with the larger residential parcel (prior to split), 2) its history of residential usage, and 3) that the location of the improvements is consistent with the development pattern on the east and west sides of County Road 1000 East. Additionally, as the parcel is presently improved with the barn as well as a guard house and associated accessory uses, converting a portion of the existing barn into a 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 2.0 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 #2019-18-SE, subject to the execution of a Right to Farm Acknowledgement Form.

**RECOMMENDATION MOTION**

I move that Docket #2019-18-SE Special Exception Petition in the Agricultural District for the property located at 9825 Windy Hills Drive 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)
Throgmartin Residence
Site Location Map / Aerial Photograph
Throgmartin Residence
Zoning Map

Exhibit 4
TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS  
BOONE COUNTY, INDIANA  

PETITION FOR SPECIAL EXCEPTION

FINDINGS OF FACT

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

The approval of the requested special exception will not be injurious to the public health, safety, comfort, community moral standards or general welfare because the requested special exception would allow for a single-family dwelling that is complementary of the surrounding uses.

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

The use and value of the area adjacent to the real estate that is the subject of the requested special exception will not be affected in a substantially adverse manner because the single-family dwelling would be complimentary to the surrounding uses which are predominantly agricultural in nature.

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

The single-family dwelling will be consistent with the character of the District and land uses authorized therein as it is complimentary to the predominantly agricultural uses in the area and is consistent with the Town of Zionsville Comprehensive Plan.

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

Adopted this 13th day of August, 2019.
Petition Number: 2019-19-DSV

Subject Site Address: 9973 Buttondown Lane, Zionsville, IN 46077

Petitioner: Kevin & Amy Whitlock

Representative: Kevin & Amy Whitlock

Request: Petition for Development Standards variance in order to provide for the construction of a swimming pool which:
1) Exceeds the required lot coverage of 20%, to 25% in the Urban Single-Family Residential Zoning District (R-SF-2).

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

Current Land Use: Single-family residential

Approximate Acreage: 0.5 acres

Zoning History: No prior petitions are known.

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

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

This Petition will receive a public hearing at the August 13, 2019 Board of Zoning Appeals meeting.

**PROPERTY HISTORY**

The property is comprised of approximately 0.50 acres known as Lot 34 in the Buttondown Farm Subdivision of the Town of Zionsville. Staff is not aware of any prior variance requests for this property.

**ANALYSIS**

The 0.50 acre parcel is currently improved with a single-family dwelling and accessory uses, including an attached garage and porches per the Boone County Property Record Card. The Petitioner is seeking approval to construct an in-ground swimming pool (with associated pool decking) and a future patio located in the rear yard. As proposed, the Petitioner is requesting an increase in lot coverage.

**LOT COVERAGE**

The request seeks to exceed the 20 percent lot coverage maximum by 5 (five) percent (of which 2% is permissible by right when using pervious material). Per the R-SF-2 Urban Residential Single Family Zoning District regulations, lot coverage standards states the maximum lot coverage is 22 percent (inclusive of the 2% bonus for pervious material use).

As proposed, the Petitioner seeks to deviate from the standards of the ordinance in order to allow flexibility of the placement of a new swimming pool (with associated pool decking) and a future patio area which will add approximately 1,893 square feet of lot coverage to their rear yard. At this time the Petitioner does not have a final design of the future patio area but has identified the size to be no larger than 225 square feet. The petitioner has stated that the placement of the improvements (inclusive of the future patio area(s) will conform to the set back requirements from property lines).

Generally speaking, Staff’s support of these types of requests, which provide for a minor deviation from the lot coverage requirements, typically follows this general reasoning: 1) the request is seeking to improve the site with an accessory use commonly enjoyed by other properties in the area, and 2) other properties within proximity to the parcel enjoy deviations from the maximum lot coverage requirements. In this particular subdivision, Staff is aware of several other properties in the area which exceed the 20% lot coverage maximum, and three (3) of which enjoy the use of a swimming pool as an accessory use.

Given the at grade nature of the contemplated improvements to the site and that the petition does not contain a request for vertical construction, in the opinion of Staff, the proposal meets the intent of the ordinance and will provide for adequate green space with a minor adjustment to the maximum lot coverage allowance. It is for these reasons; Staff is supportive of the requested variance as filed. Staff’s support primarily revolves around the minor nature of the request, the at grade nature of the request, and that the contemplated improvements are concentrated in proximity to the home’s footprint.

However, as this home site is within a platted subdivision, Staff is conscious of the home site’s presence within a platted subdivision and the interest the Buttondown Farm Home Owners Association (or collective representation of the property owners) may have in the Petitioner’s request. Barring any concerns of the Buttondown Farm Home Owners Association (or any other party entitled to receive personal notice) being
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 would be supportable of the design standards variance for a deviation from the required lot coverage in Docket #2019-19-DSV, subject to substantial compliance with the concept site plan submitted with the Petition (inclusive of the additional proposed patio bump-outs, not exceeding 225 square feet in collective site, as illustrated on the concept site plan).

RECOMMENDATION MOTION

I move that Docket #2019-19-DSV design standards variance in order to provide for the construction of an in-ground swimming pool which exceeds the required lot coverage of 20%, to 25%, in the Urban Single-Family Residential Zoning District for the property located at 9973 Buttondown Lane, be (Approved as filed, based upon the findings of fact / Approved as recommend by Staff/ Denied/ Continued).

PROCEDURAL NOTE

Applicable requirements of the Indiana Pool Code (Code) have not been reviewed by the Town in conjunction with the application seeking a Variance of Development Standards (as the filing does not, and is not required to, contain construction details associated with the pool’s contemplated installation). The final location of the pool may be influenced by Code requirements identified during the normal course of review of an Improvement Location Permit associated with the contemplated improvements.
Dear Neighbor,

Hopefully, you are enjoying your summer! We are writing to explain the notice and plot plan you are receiving.

We would like to install a swimming pool in our backyard at 9973 Buttondown Lane. Buttondown Farm has a 20% land coverage allowance compared to many neighborhoods in Zionsville that are 30%, like Colony Woods. We have been told it is very rare to only have a 20% land coverage allowance on a half-acre lot. The pool and patio we would like to install will only increase our land coverage to 25%, so there will still be so much green space in our yard. In order to build our pool, we have to get a variance from the Zionsville Board of Zoning and Appeals. Part of that process is notifying all of our adjoining neighbors of our plans. Please see the attached plot plan and Notice of Public Hearing statement.

We also plan on replacing and repairing the fence that divides Colony Woods and Buttondown Farm on our property by the end of August.

Please know we will be respectful in the use of our pool and not cause a disturbance to our neighbors. We hope that the pool will greatly improve the appearance of our backyard.

We have enjoyed living in the home we built for 18 years and are really hoping to stay in Zionsville and Buttondown Farm for some time. We are at a point in our life where adding a pool would bring great joy to our life and the timing is finally right for our family.

Please let us know if you have any concerns or questions about this project.

Thank you,

Kevin and Amy Whitlock
317.446.4617

Exhibit 3
Future Additional Patio

Not to Exceed 225 sq. ft.

18x44 Total Pool W/
Undertrack Cover

1,191 sq.ft. Pool
Deck & Patio
Replacement

Scale: 1" = 30'

Kevin & Amy Whitlock

Phone
Address: 9973 Buttondown LN
City: Zionsville
State: IN
Zip: 46077

A

Plot Plan

07/11/2019

Approved

Jul 31 2001

Exhibit 4
TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

   The pool will not be injurious to the public health, safety, moral and general welfare of the community because we will have an automatic pool cover for safety.

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

   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 we are only adding a pool to the center, backyard of our half acre property with a minimum of 25 feet to the next property line from the perimeter of our pool deck. We will be significantly improving the landscaping to our backyard and adding value to our home.

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

   Strict application of the terms of the zoning ordinance will result in unnecessary hardships in the use of the property we have owned for over 18 years because we would not be able to improve our backyard and install a swimming pool and continue to enjoy our home in Zionsville. The amount of land coverage we are asking for is very comparable to other neighborhoods in the Zionsville Community.

DECISION

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

Adopted this ______ day of ____________, 201__.

________________________________________  ________________________________

________________________________________  ________________________________

1 Exhibit 6
Petition Number: 2019-20-DSV

Subject Site Address: 115 S Elm Street

Petitioner: Zionsville Lions Park, Inc.

Representative: Michael Rinebold

Request: Petition for Development Standards Variance to allow for signage of an existing not-for-profit business which:
1) Exceeds the allowed total number of identification signs
2) Exceeds the allowed sign square footage maximums
3) Deviates from the allowed location of signage
4) Exceeds the allowed maximum height
5) Deviates from the required landscaping requirements in the Urban Special Use Zoning District (SU-7).

Current Zoning: Urban Special Use Zoning District (SU-7) which conforms to the Office Business District (B-O) Development Standards

Current Land Use: Not-for-Profit Park & Sports Fields

Approximate Acreage: 18.64 acres

Zoning History: Staff is not aware of any previous petitions

Exhibits:
Exhibit 1 – Staff Report
Exhibit 2 – Aerial Location Map
Exhibit 3 – Petitioner’s Narrative
Exhibit 4 – Petitioner’s Lion’s Club Park Map
Exhibit 5 – Petitioner’s Signage Exhibit
Exhibit 6 – Findings of Fact

Staff Presenter: Wayne DeLong, AICP, CPM
PETITION HISTORY

This petition will receive a public hearing at the August 13, 2019, Board of Zoning Appeals meeting.

PROPERTY HISTORY

The property is comprised of approximately 18.64 acres including a clubhouse, office, nine (9) baseball/softball fields, batting cages, a basketball court, a sand volleyball court, playground facilities, restroom facilities, a gazebo, two (2) shelter houses, a concession stand as well as score keeper boxes and a surface parking lot. The property is the home of the Zionsville Lions Park, a not-for-profit organization which has been serving the Town of Zionsville and the surrounding communities since 1930. Lions Park hosts many community events throughout the year and has also been the home of the Zionsville Little League for several years. Uses within the overall site continue to be consistent with the Urban Special Use Zoning District (SU-7) which conforms to the Office Business District (B-O) development standards.

SIGNAGE - VARIANCE REQUEST – Size / Number of Signs / Placement / Height

The site currently benefits from several wall / building signs, three (3) freestanding signs as well as numerous incidental signs throughout the property, all serving to identify areas within the property. The Petitioner is requesting approval of a development standards variance to allow for the installation of an identification sign to the back portion of an existing freestanding scoreboard fronting Sycamore Street (but oriented toward the athletic fields internal to the park). Additionally, recognizing that the existing Lions Park signage is viewed as being grandfathered (exceeding allowed number, size, location and height), the Petitioner would like to use this opportunity to also request a variance in order to provide for the longevity (and maintenance) of the existing grandfathered signs.

In an effort to best summarize the need for the variances, Zionsville’s Urban sign code in special use districts (194.167) allows for a maximum of four (4) identification signs (any combination of freestanding, building, suspended or window signs) with one freestanding identification sign being permitted for each street frontage of the lot with additional limitations on the maximum sign surface area applying individually to each street frontage. The Lions Park property benefits from frontage on two streets with approximately 900 feet of Elm Street frontage and 1,000 feet of Sycamore Street frontage. Additional development standards require minimum setbacks for freestanding identification signs, height limitations and landscape requirements.

As proposed, the property would be improved with one (1) 48 square foot additional identification sign to be located on an existing scoreboard sign standing approximately 15 feet in height. Specific to the height, while the sign structure is approximately 15 feet in height, the elevated road bed of Sycamore Street reduces the appearance of height associated with the structure. Specific to the structure, as the petition proposes to utilize the existing scoreboard structure (encroachment into the right of way would not be significantly intensified as a result of this petition), no new freestanding signage is being requested to be added to the premises.

As presented, Staff is of the opinion, given the established characteristics listed above, the proposed signage achieves a level of inclusiveness, embraces a scale and material palette reflective of the characteristics found throughout Lion’s Park and represents a modest addition to the existing grandfathered signage package. Specific to the existing setback, in Staff’s opinion, the Petitioners
request to place the additional signage on the back of the existing grandfathered scoreboard, allows for continued maintenance without an additional freestanding sign structure being added to the premises. With that in mind, Staff would not oppose the request to approve a variance to allow for an additional 48 square foot of identification signage to be installed upon the existing scoreboard structure, as well as memorializing the existing grandfathered signage.

Final sign design/specifications will be reviewed by the Town Staff at the time the Petitioner seeks an Improvement Location Permit associated with the proposed improvements.

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 is supportive of the Petition, as filed, subject to substantial compliance with the submitted elevation.

RECOMMENDATION MOTION

I move that Docket #2019-20-DSV (Development Standards Variance) for the property located at 115 S Elm Street to allow for signage of an existing not-for-profit business, which exceeds the allowed total number of identification signs, exceeds the allowed sign square footage maximums, deviates from the allowed location of signage, exceeds the allowed maximum height and deviates from the required landscaping requirements all within the Urban Special Use Zoning District be (Approved as presented/ Approved as recommended by Staff / Denied / Continued).

PROCEDURAL NOTES

A portion of the site is within the Special Flood Hazard Area of Eagle Creek. As such, 1) existing improvements to the site, additional improvements, and modifications to the site, are regulated by the Flood Districts portion of the Zoning Ordinance, and, as well, requirements of the Indiana Department of Natural Resource, and 2) are at risk of loss due to the potential impact of floodwaters. Additionally, given the existing scoreboard’s proximity to the right of way of Sycamore Street, the potential for conflicts with existing and future utility infrastructure does exist.
July 30, 2019

Notice to Property Owners Adjacent to Lions Park in Zionsville

Dear Neighbors:

Re: BZA 2019-20-DSV Notice of Public Hearing

Please accept this notice of a petition filed before the Town of Zionsville's Board of Zoning Appeals scheduled for August 13 at 6:30pm.

This is a simple petition to seek approval to convert the back of an existing scoreboard currently located in Lions Park into locator signage for the park and Zionsville Little League that currently faces Sycamore Street.

The petition contains the necessary information and copy of proposed signage that designates Lions Park as the home of Zionsville Little League which has been the case since 1953. (Picture included) This would be the first such signage to promote one of the longest running community organization relationships in Zionsville and would complement the source of public pride for the 3 generations and more to come which has been the contributions of Zionsville Little League and Zionsville Lions Club to the Town of Zionsville.

As a past president of Zionsville Little League and current member of the Lions Club I am grateful for the opportunity to submit this petition for approval to promote two of the long-standing community assists in the town of Zionsville.

Thank you in advance. You may contact me by cell phone 317.383.6543 with any questions.

Regards,

[Signature]

Michael Rinebold
Zionsville Little League, Past President
Zionsville Lions Club, Member
Lion's Club Park
Home of Zionsville Little League
Zionsville, Indiana

Field #1 - Jr./Sr. Baseball
Field #2 - Majors Baseball
Field #3 - Majors Softball
Field #4 - Rookie Baseball (7 Year Old)
Field #5 - Rookie Baseball (8 Year Old)
Field #6 - AAA Baseball
Field #7 - AA Baseball
Field #8 - Rookie Softball
Field #9 - Softball

ZIONSVILLE
LIONS PARK

HOME OF
ZIONSVILLE
LITTLE LEAGUE
zionsvillelittleleague.org
TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant (will / will not) be injurious to the public health, safety, morals, and general welfare of the community because: The proposed signage project will utilize existing structures currently visible from passing cars on Sycamore Street and not be commercial or electronic in design.

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 proposed signage project will utilize existing structures currently visible from passing cars on Sycamore Street and not be commercial or electronic in design. The signage will promote a long-standing community not for profit benefiting the Town of Zionsville youth.

3. Strict application of the terms of the zoning ordinance (will / will not) result in unnecessary hardships in the use of the property because: The proposed location for the new signage will utilize existing scoreboard structure which currently visible from the street. To deny this petition allowing locator signage of Lions Park and Zionsville Little League will prevent future generations of Little Leaguers to know Lions Park is the home of baseball and softball opportunities for all.

DECISION

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

Adopted this ______ day of ______________, 201__.

__________________________ __________________________

___________________________ __________________________

__________________________ __________________________
In Attendance: John Wolff, Joe Kremp, Steve Mundy, Julia Evinger. Absent is Larry Jones.

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

Wolff Good evening, and welcome to the August 13, 2019 Board of Zoning Appeals meeting. The first item on our agenda is the Pledge of Allegiance.

All Pledge.

Wolff Thank you. The next item on our agenda is attendance.

DeLong Mr. Kremp?

Kremp Present.

DeLong Mr. Jones?

DeLong Mr. Wolff?

Wolff Present.

DeLong Ms. Evinger?

Evinger Present.

DeLong Mr. Mundy?

Mundy Present.

Wolff Thank you, Wayne. The next item on our agenda is the approval of the July 9, 2019 meeting minutes. Any discussion amongst the group? Otherwise, I will entertain a motion.

Evinger I’ll make a motion that the minutes be approved as presented.

Wolff Thank you. Is there a second?

Kremp Second.

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

All Aye.

Wolff Those opposed?

[No response.]

Wolff Motion carries. One quick admin note. We have on our agenda tonight for training and Larry is unable to attend tonight’s meeting, so I am going to kick
that down the road. So, I just want to make sure we all hear the same message. So, we will take that off the agenda for tonight, and with that, let’s move on to the next item on our agenda, which is continuance requests. Are there any petitioners here tonight seeking to continue their petition? Please come forward and state your name and address.

Young

My name is Kevin Young.

Wolff

Mr. Young. Which petition are you referring to?

Young

The 250 North Maple Street.

Wolff

The 250 North Maple Street. Oh, the first one on our agenda.

Young

Yes.

Wolff

So, Mr. Young, last week, or, I’m sorry, last month we spoke and kind of gave you a couple charges, and asked you to work with the neighbors, and you need some more time to do that?

Young

Nope.

Wolff

Okay. You’re ready to go.

Young

Ready to go.

Wolff

Okay. One second.

Young

Sorry, I’m confused.

Wolff

I am too. It happens. I had a long weekend. You know how it goes. Are there any petitioners here tonight that would like to continue to the September meeting? Seeing none, next item on our agenda, is Mr. Young.

Young

All right. Sorry about that.

Wolff

No, you’re good. Mr. Young, well, this is Docket #2019-14-DSV for 250 North Maple Street. So, we asked you last month, excuse me, to work with the neighbors and gave you a couple challenges. Could you give us a recap of what your project is, and what progress you made since we last spoke?

Young

Yes. It’s a paver patio on the north side of the homeowner’s house. I did meet with the neighbors to the north, discussed the drainage issues, came up with a plan. We discussed it. They approved. So, we are going to run the downspouts to the front, that mediates some of that water. We are going to put a French drain in, and then we are going to do a gravel sump, kind of in the back towards the alley for that French drain to kind of drain it too, and they think that will help quite a bit. So, they were in agreement with that.

Wolff

Perfect. And, then I think we also had, the Town was concerned about the location of the pergola.
Young I pushed that back. It’s now six feet three inches from the structure to the property line.

Wolff Okay.

Young So, we have just kind of shortened the size of the structure.

Wolff Okay.

Young And, then the trash can way, we’ve got a pathway now that we have changed the plan so the trash can can get in and out on his property.

Wolff Okay. And, we read the minutes last month, and I want to be clear. The neighbor, I think, was being neighborly. She just was expressing concern that it probably should be logical that they should be able to stay on the property. So, I don’t think it was an un-neighborly thing. I think it was a reasonable request. With that, what questions do we have for the petitioner?

Mundy What’s shown on Exhibit 5, is the trash can pathway, is that pavers?

Young He’ll go through his lawn, across the patio and then out to the front with that.

Mundy Okay. So, that’s just - -

Young --That just kind of shows where he is going to, the path he is going to take.

Mundy Okay. All right. Thank you.

Wolff Any other questions for Mr. Young?

Kremp So, you met with the neighbors to the north. Did you meet at all with the neighbors to the south?

Young I tried to knock on the door a couple of times, and was not able to get ahold of them.

Wolff Okay. And, I actually do have one additional question. The neighbor to the north expressed the primary concern was drainage. It sounds like you’ve worked with them, and thank you for that. They also had some concerns about the plantings. Can you discuss the plantings along that north border?

Young It was a sharon that had been there for probably 35 years, or whatever. They actually kind of cut that back, the portion of it that was on his property, and we are going to leave the part that’s on their property, and there was a Lilac that’s actually on the homeowner’s property that we are going to take out, but once it’s gone we are going to replace it with some Miss Kim lilac. This is a dwarf lilac. But she will still be able to have the lilac and the fragrance and everything.

Wolff Okay.
Young  She was in agreement with that.

Wolff  Perfect. Thank you. Any other questions for the petitioner? Thank you. Are there any remonstrators here tonight? You can speak for or against. Seeing none, Wayne, can we have the staff report?

DeLong  Yes. Thank you. The staff is supportive of the petition as it has been amended this evening, based upon the submittals to your report and based upon the correspondence in the file, as well as the communications that were documented from the last month’s meeting. Again, staff is supportive of the petition as it’s been amended, and I’d be happy to answer any questions.

Wolff  Thank you, Wayne. Any questions for staff?

Kremp  Just one. The recommendation, which I think is what will be keying off of in a motion, refers to the plans presented to the Board of Zoning Appeals. Can we just clarify that to be the plans that, or the more recent plans?

DeLong  Yes.

Kremp  Okay.

Wolff  Good comment. The other one, do we need to be any more specific about the drainage that was discussed with the neighbor to the north. Do we need to include that to make sure that is?

DeLong  Well, on the record, the petitioner has described it as a French drain with the drainage downspouts being oriented to the front. Certainly, if there is any additional detail that can be given to incorporate that into your record, it certainly would be helpful.

Wolff  Okay. Do you have an opinion on that?

Evinger  I think the way the plan is shown here, with the French drain, that is pretty explicit, at least to me.

Wolff  What exhibit? Did I space one?

Kremp  No, it’s on Exhibit 6. I guess it’s the second. It would be the third page, or fourth page.

Wolff  Perfect. Actually, I did miss that. So, thank you. I think that probably meets my concerns. Any other discussion amongst the group? Seeing none, I will entertain a motion.

Evinger  I move that Docket # 2019-14-DSV, design standards variance, in order to provide for the construction of a patio, which, one, deviates from the required side and aggregate yard setbacks and related to the installation of a paver patio, and two, exceed the required lot coverage of 35% to 40.44% as illustrated on the site plan attached to tonight’s report in the RD Residential Village zoning district.
for the property located at 250 North Maple Street, be approved as recommended by staff and based on the findings of fact as presented tonight.

Wolff Thank you. Is there a second?

Mundy Second.

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

All Aye.

Wolff Those opposed?

[No response.]

Wolff Motion carries. Mr. Young, thank you for taking your time, for working with the neighbors. Next item on our agenda is new business, which brings up Docket # 2019-18-SE, for 9825 Windy Hills Drive. Will the petitioner’s representative please come forward and state your name and address for the record?

Lawrence Hi, Frederick Lawrence with the law firm of Nelson and Frankenberger at 550 Congressional Boulevard, Suite 210, Carmel, Indiana.

Wolff And that was Frederick Lawrence?

Lawrence Yes.

Wolff Thank you, sir. Would you please briefly describe the petition and the request in front of us tonight?

Lawrence Yes, thank you. For the record, my name is Rick Lawrence, an attorney with Nelson and Frankenberger. We represent the applicant, Gerald Throgmartin in his request for a special exception before the BZA this evening, that consists of a special exception to allow a single-family dwelling in the AG district. The applicant has worked with the Department of Planning regarding this proposal, and the matter before you this evening reflects staff input and suggestions in order to comply with all the applicable zoning ordinance and requirements.

Behind Tab 2 in your brochure is an aerial photograph of the site. The subject real estate is outlined in yellow, and it’s at the southwest corner of County Road East 200 North, and County Road North 1000 East, having a common address of 9825 Windy Hills Drive. The site is approximately 62.86 acres, and is a split from a larger parcel to the west. As I said, the real estate is zoned AG, agricultural district, and the request before you this evening seeks a special exception to allow a single-family dwelling on the real estate. Behind Tab 3 of your brochure is the site plan, including the location of the dwelling house, along with the access roads and guard house off of County Road North 1000 East. As noted in the staff report, this structure was originally constructed as an accessory building, but pursuant to an amended improvement location permit, the applicant sought to remodel and finish a portion of the living space, which could function as a single-family dwelling. That’s necessitating the special exception before you
this evening. Also as noted in the staff report, allowing the special exception for the single-family dwelling will return the parcel to compliant status with the zoning ordinance due to the presence of a barn and guard house without a corresponding single-family dwelling on the parcel, which occurred when the parcel was split last year. In conclusion, we have believe the granted special exception is consistent with the existing site improvements, historical use of the property and the real estate and the surrounding uses. The staff is supportive of our request, which is subject to the applicant’s execution of a right to farm acknowledgement. We thank you for your time this evening and can answer any questions you might have.

Wolff  Thank you, Mr. Lawrence. I know I have one and we’ll turn it over to the group in just a moment. It references a guard shack. Is that guard shack occupied? Is it a residence for a security officer or something along those lines?

Lawrence  It’s a security officer, it is not occupied as a residence.

Wolff  So, no one lives there?

Lawrence  Correct.

Wolff  Okay. Thank you. What other questions do we have for the petitioner?

Evinger  This looks like a body of water. I was just wondering if you have anything showing where that might be, like, in a flood zone.

Lawrence  Not in the documentation I provided. We did look that up when we were doing the research, and I don’t believe there is a flood zone in this area.

Kremp  And, if you could just clarify for me, that the existing structure is being enlarged, or is it just being remodeled?

Lawrence  It’s being remodeled. It’s a replacement of a structure that was there before, and originally, it was constructed to just be a barn and accessory building, and over time it has kind of adapted its use to having somebody, or wanting somebody to be able to live there.

Kremp  Maybe I misspoke, when I said remodeled. It sounds like you’re saying it’s going to be new construction on that site where the pad was, or is the prior building still going to exist?

Lawrence  The prior building is still there. This is a remodel of that existing building.

Kremp  Okay. Thank you.

Evinger  Because it was a guard shack, there was no, like, working facilities? No washrooms or bathrooms or anything like that at this time, is there? Is that something that’s new that’s going to be added?

Lawrence  In the building we’re talking about today, or the guard?
Lawrence No, there is a bathroom, a functioning bathroom there. What has happened is adding a kitchen basically has caused this to change over to a single-family dwelling status.

Wolff So, this was two properties, and you’ve gone through the process to make it, to separate the two properties out. At one point, I’m sorry, this was one property, and we’ve gone through the process to separate out into two properties, and this was an accessory structure on that one larger original property, and now it has been separated out, and we would like to turn it into a residence?

Lawrence Correct.

Mundy And, this will be the owner’s residence?

Lawrence No, the owner resides in the larger parcel to the west. This would be a residence for a family member or friend of the family.

Mundy Okay, but it is intended to be used as a permanent residence or a full-time residence for someone?

Lawrence Future or potential use, yes. But it’s not being built for the idea that it’s going to be resided in 100% full-time.

Mundy I’m not sure I can capture exactly what you said, but is it that there is now a kitchen in the former barn, which is requiring that it be considered a residence?

Lawrence It’s part of the remodel of this structure. They added a kitchen, which was the subject of an improvement, amended improvement permit, to do this. What then happened, is my understanding, when it went into be reviewed for the occupancy permit, it was determined that this changed it from accessory structure to single-family dwelling, because the addition of the stove, so now we’re looking to get the approval of the special exception to tie everything together.

Mundy Okay. Thank you.

Evinger When you said the property wasn’t going to be 100% occupied full-time, it makes me think it would part-time, which makes me think like income-producing property, like Air BNB?

Lawrence No.

Evinger Okay.

Lawrence It would be for family and friends who might be in town.

Evinger Guest house.

Lawrence Yes.
Kremp And, so at this point there are no more improvements to be made to the property. You’re finished, and this came up when you were just getting your, see about - -

Duncan You can’t have your shower or stove, so we wanted to put the showers in originally, and now they want to put the stove in, and you can’t. So, if somebody were to come and stay for a period, they would have a stove.

Lawrence And, this is Bill Duncan, a representative of Mr. Throgmartin.

Wolff Okay. Thank you. Are there any remonstrators here tonight? Seeing none, Wayne, may we have the staff report?

DeLong Yes, thank you. Your body is generally familiar with your practice of hearing special exceptions from time to time related to brand new construction for single-family residences. This same body is also customarily familiar with petitions seeking accessory structures that may have features to them that drive them to be basically single-family dwellings, but yet you regulate those with some capacity to keep those in check with the area. In this particular case, you have a piece of property that has always had a single-family residence on it. Generally, in this same location that has been converted over time with various improvements, and is reaching back to again have the single-family dwelling put back almost in the exact same place, but for a period of time was improved with a structure that was still built to residential standards given the improvements to the area. So, this petition, while atypical, still gets you to the same answer that you generally find when someone comes to you asking for a special exception petition approval process for an agriculturally zoned piece of property, one single-family dwelling on a piece of property with accessory uses. In this particular case you have a piece of property that is sized to actually function as a bona fide farm, if it so chose. Staff is supportive of the petition. Certainly, is supportive of the information that has been provided to you this evening, and adds clarity to the petition process, and I’d be happy to answer any questions.

Wolff Thank you, Wayne. Any questions for Wayne?

Mundy I don’t have a question for Wayne, but I do have another question for the petitioner. This parcel was split off from a larger parcel, but it still has the same owner? Is that correct?

Lawrence Technically, the owner of the western parcel, the larger parcel, is an LLC. Mr. Throgmartin’s LLC. This parcel is owned in Mr. Throgmartin’s name by himself.

Mundy Okay. So, it’s more of a curiosity question. Just trying to figure out.

Lawrence For noticing purposes, we took the whole two parcels together and noticed out around those two parcels together.

Mundy Okay.

Wolff Thank you for your diligence on that. Any other questions for the petitioner or Wayne? So, I think what, in my mind, and I may be adding a narrative that I don’t need to, but I think it was an accessory structure. They did some
remodeling, and Wayne, what happens when you do that is sometimes your accessory structure leaves accessory and goes into residence, and that’s the case here. And, 6.2 acres seems - -

Mundy --An unintended consequence.

Wolff I think I heard that as well. Any other discussion amongst the group, otherwise I will entertain a motion?

Mundy I’ll take a swipe. I move that Docket # 2019-18-SE, special exception petition in the agricultural district for the property located at 9825 Windy Hills Drive, be approved as presented and recommended by staff. Also note that it shall require that the petitioner execute a right to farm acknowledgement documentation.

Wolff Thank you, Mr. Mundy. Is there a second?

Kremp Second.

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

All Aye.

Wolff Those opposed?

[No response.]

Wolff Motion carries.

Lawrence Thank you for your time this evening.

Wolff Thank you.

Kremp I appreciate your materials too. I work with your firm quite a bit and always happy.

Wolff Very thorough. The next item on our agenda is Docket # 2019-19-DSV for 9973 Buttondown Lane. Will the petitioner please come forward and state your name and address for the record?

Whitlock Hi. We’re Amy and Kevin Whitlock, 9973 Buttondown Lane.

Wolff Thank you, Mrs. Whitlock. Would you please describe what’s in front of us tonight?

Whitlock Sure. We have a petition for development standards. We have currently in our neighborhood a 20% lot coverage, and we’re asking for 25% lot coverage to build a swimming pool. We back up to Colony Woods, and they have a 30% lot coverage, as do a lot of neighborhoods in Zionsville. We have heard that ours is one of the more strict ones. So, we are just asking for 25% land coverage to move forward with our pool.
Perfect. And, one note, one question. The illustrations that we have, it sounds like there is a little bit of design work still to be done on where a patio might be going?

We thought maybe we could add future, no, we have met with the designer again. So, it’s the original design is what we’re going to be going with.

Okay. So, do we not need, there was a note here about 225 square feet. Am I looking at the right note here?

Not that we see.

Can we have the 225 square feet in case we want to add like a - -

You’ve asked for it here, and so we can discuss that.

We would like to have it for the future.

And, if you don’t do it, then you’re not in trouble.

Okay. If we can keep it, that would be great, just so we have some flexibility in the future. But, I mean, if it has to stick to that plan, we understand that.

Let’s, for our discussion purposes right now, let’s leave it in there.

Okay.

And, if you choose not to do it, that’s your prerogative.

Okay.

But, if the conversation goes in another direction, then we may remove it, but let’s keep it in there for right now.

Okay.

And, then one other note that we always like to mention is, we certainly represent the Town of Zionsville. We do not represent your homeowner’s association or anything like that, so if there is an approval process that you need to go through with them, then that’s separate of what we’re doing right now. Any questions for the petitioner? Talkative group tonight.

You mention the repair of a fence that’s between yourselves and Colony Woods. What’s the status of that fence?

We have taken the fence down, and it is completely resolved.

My back hurts.

So, that’s all been agreed upon between neighbors and we just removed the fence altogether.
Evinger  Okay. Thank you.
Wolff  Any other questions or comments? Thank you. Are there remonstrators here tonight to discuss this project? Seeing none, Wayne, we’ll take the staff report.
DeLong  Thank you. With these types of petitions, we often focus primarily on the neighborhood characteristics. Some other features are found in the neighborhood that are being requested that are currently enjoyed by other interested parties or just neighbors that are a little bit farther away. In this particular case, this neighborhood does have a few lots that are improved with pools that are over the accessory square footage as listed in your ordinance. This property is also one of the larger lots in this neighborhood, as compared to the other properties in proximity. Given those two features, staff is supportive of the minor deviation, which requested this evening, and certainly is supportive of the additional 225 square feet of hard surfaced area, if that is sought some time in the future.
Wolff  Thank you, Wayne. I do have just a question. Not necessarily, just in general. It is unusual to me that this is 20% lot coverage. Do you have any history on that?
DeLong  Not offhand.
Wolff  Sorry to put you on the spot.
DeLong  No, I do not have that history offhand. I mean, this development was developed within the Town. This is not an area that I’m aware of that was annexed in. Developed in the County and then annexed in. There is some variation between districts as lot coverage goes. Certainly, Colony Woods has much larger lots. The lot that’s in discussion this evening is much closer to that lot area than others, but no, I don’t have the answer offhand as to the particulars of this zoning.
Wolff  Yes. And, this lot is a little unusual. It’s not a traditional rectangle shape. It’s got a little bit of a pie to it. Any other questions for staff?
Kremp  I have one. It appears that there is an easement at the back, or along your back lot line. Just to clarify that when it comes to coverage requirements, easements aren’t excluded, are they? Because, I suspect that property, you’re mowing it, but it’s not something you could ever build into.
DeLong  Correct. It’s not, it’s part of your lot. It’s part of your lot calculation. It’s something that you’re mowing and maintaining, but yet, your rights of usability are limited. That’s correct.
Evinger  It appears that from the drawing that it may abut up close to it, but it does not enter into the easement. Correct?
Whitlock  Correct.
Wolff  Any other questions, comments or discussion? Otherwise, I will entertain a motion.
Kremp I guess it’s my turn. I move that Docket # 2019-19-DSV, design standards variance, in order to provide for the construction of an in-ground swimming pool, which exceeds the required lot coverage of 20% to 25% in the urban single-family residential zoning district for the property located at 9973 Buttondown Lane be approved as filed and based upon staff’s recommendation.

Wolff Thank you. Is there a second?

Evinger Second.

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

All Aye.

Wolff Those opposed?

[No response.]

Wolff Motion carries. Good luck with your project.

Whitlock Thank you.

Wolff The next item on our agenda is Docket # 2019-20-DSV, for 115 South Elm Street. Will the petitioner please come forward and state your name and address for the record?

Rinebold Thank you, Mr. President. Mike Rinebold, 2982 Stone Creek Drive, Zionsville. My pleasure to be here representing the Zionsville Little League and Zionsville Lions Club on this simple petition, although I know it may be considered, may state differently, that there is a lot going on there, but I promise you it is simple and I’ll be brief in my comments.

As President of Zionsville Little League, when I took office in 2016, it was always some goal of mine, given the lack of signage at Lions Park notifying those that pass by that it’s the home of Zionsville Little League. And, it has been since 1953, and we are very proud of that relationship. We are proud of the relationship with the Lions Club, who supports this petition, as well, and thought that using an existing structure to notify the public that this is the home of Zionsville Little League would be the right way to do it. It so happens that the scoreboard that was put in place years ago to facilitate Field 3, which, on Exhibit 2 that you have, the southwest corner of the property, with Sycamore Street and Elm Street, that that would be ideal. If you turn to Exhibit 5, that’s the concept. Very simple. Lions Club approved that. We had originally even put in their logo, but they asked for that to be withdrawn and just use Zionsville Lions Club, and then denote that it’s the home of Zionsville Little League with our logo. We are reaching out to Indy Prographics, which I think the Town is familiar with, and has done work around the Town in various locations, would be the contractor or choice to do the construction using high-quality materials, which obviously we will work with staff to do that. I’ve had no contact from any neighbors. Obviously, you can tell from the map we had a large area to cover. I think almost 16 certified letters were sent out, and of those, 12 at last count were received and
noticed, but have not received any contact from that. Just happy to answer any questions. I thank the staff for their time and energy in working with me on this. Like I said, it’s been years in the making, and I’m happy to get to this point and get it up, hopefully before Fall Festival.

Wolff Thank you, Mr. Rinebold. I do have a couple questions for you. Or, at least one. The nature of the sign, that it is going to advertise that this is Lions Park and this is home of Zionsville Little League. Correct?

Rinebold Correct.

Wolff So, you’re not going to put a Coca-Cola sign up there or Bub’s Burgers or somebody else?

Rinebold Correct.

Wolff Okay. And, this, you mentioned Field 3. I just wanted to make sure I reference this. That is the southwest corner of the property.

Rinebold Correct.

Wolff And, this is the existing scoreboard that is there today, and you’re referring to the back side of this existing scoreboard?

Rinebold Correct. I often refer to it as the scoreboard manufacturer has the best advertising space in Zionsville today. And, unfortunately, we didn’t get the scoreboard paid for by that.

Wolff Any other questions for Mr. Rinebold?

Evinger One comment. Just given your longevity at the park, it’d be nice to see like “established,” or “since,” something like that.

Rinebold Yes. I think that’s what we’ll add in, versus, we’ll take out the website and use “since 1953.” Absolutely. Thank you.

Kremp Dovetailing off the first question regarding the use of the sign, would the petitioner be willing to enter into written commitments that limit the use of the sign to Zionsville, well actually Zionsville Lions Park, and/or the Little League? My only concern is that there could be newer folks down the road, and they may see that as an opportunity to, because it is a very prominent placement. Is that something that would, that the owner, or the petitioner would be willing to do?

Rinebold I think based on staff’s comments and the staff report, given the nature of the sign and the intent, as noted there, we’d be happy to enter into that, and make that a stipulation that we would seek Town approval before any changes are made.

Kremp Just to clarify what I mean by that, it would be a written commitment that it’s part of the condition of our approval that would appear on the public record, so that if somebody down the road tried to do something and put a Coca-Cola sign
on it, for example, that it would be a commitment not to do so, so that the owner could not turn that into a revenue-generating sign.

Rinebold I’m here on behalf of the petition with the Lions Club. As owners, I think they would be fine with that, but if ownership were to change, I think that sets a different situation.

Kremp Then that is an issue, then, for me, because I want to make sure, while I support what you’re doing, I think it would be wonderful for, you know, the Town to have Zionsville Little League signage there. The sign location, especially if we’re approving a 6 x 8 sign, could be construed as being valuable down the road, and I would want to make sure that that’s not something that occurs because if somebody would come to us and said, listen, we want to put up a billboard, you know, let me back up. If the scoreboard didn’t exist, and somebody came to us this evening and said I want to put up a sign right there, and by the way, I want to be able to put advertising on that sign, I doubt that it would get a really good reception. So, the concern that I have is that you’re saying that you cannot commit for the owner on this.

Rinebold No, I would be willing to commit to that.

Kremp You can? Okay, I’m sorry. I misunderstood.

Rinebold Yes, definitely.

Wolff So, let’s just hash that out real quick, because, I agree with your comments. I think what we would ask our commitment would, one, be that it’s obviously for Zionsville Little League, and two, Lions Park, and then if we deviate from there, I think we’ve got issues. So, is that too restrictive, or does that meet your, you know, Lions Park, we’re fine with and Zionsville Little League we’re fine with. If you want to put established in 1953, I think that’s really great, but outside of that we just want to be restrictive so that we don’t have another advertisement up there. Is that in agreement?

Rinebold Yes. No advertisement.

Wolff Great. Any other questions for the petitioner?

Mundy On Exhibit 4, where it shows the field layout, is that, I see a couple little black dots here and there. I don’t know if those are, is the location of the sign indicated on that drawing? Do you know?

Rinebold It was not identified to me, that I noticed. But, it’s just right in the corner.

Mundy Yes. And, it faces, this sign would face Sycamore.

Rinebold Correct.

Mundy Okay. And, it’s at the very outer portion of the outfield.

Rinebold That’s right.
Mundy Okay.

Wolff Any other questions for the petitioner? Thank you. Are there any remonstrators here tonight? Please come forward. Seeing none, Wayne, may we have the staff report?

DeLong Thank you. What’s in front of you this evening is, as Mr. Rinebold indicated, a petition that looks rather complicated but actually is not. The petitioner came to us a few months ago and sought information on how to seek this type of approval. The Town certainly recognized this as an opportunity to have a conversation about how do we address the complexity of the signage and the other improvements out there, and how do we cast a net over those and give those some additional validity from your regulations, and so that’s what this petition looks to do, is address the existing non-conformities, if you will, and address those and give those some level of relief as they currently exist. The one item that does deviate from that thought process is the request for the additional copy on the reverse side of the existing scoreboard. What’s in front of you this evening is a request to communicate a non-commercial message, being for the non-profit use, and certainly the dialogue this evening is certainly helpful. Another way to handle that dialogue would be to establish that written commitment, our office would help facilitate that document. And, it could potentially be as simple as the, you know, tying the petitioner to the exhibit of the elevation of the sign as it’s written today. I mean, this is the copy, the substantial compliance with that copy. That way, you’ve got the two users locked down. If there is the additional copy about, since 1953, or whatever the case may be, certainly, that could be in there, as well, and that would be one way to tie up that language. Certainly, we’re happy to help facilitate that, the creation of that document, for the benefit of the petitioner. I would mention, and it’s a great point, it’s most likely the line weight itself on Exhibit 4 does obscure the presence of the sign structure on the southern-facing part of Field 3. The sign structure is just a few feet inside of the right-of-way, or I’m sorry, outside of the right-of-way, interior to the facility, but the sign structure is outside of the right-of-way. The sign face that would be installed, would also be outside. There may be a time or two for maintenance purposes, or installation purposes where workers might encroach into the right-of-way. They would certainly want to communicate with the street department about that activity if that will be the case, but other than that, you have a structure that is outside by a few feet of the current right-of-way. Again, staff is supportive of the petition. Certainly, the petition as filed, and I’d be happy to answer any questions.

Wolff So, Wayne, the staff’s position on this is one that, again, in line with our conversation, we have a couple non-profits that represent our community well, and we’re happy to allow for that, but, two, this is also a way to get many of the other things that are going on on this property kind of locked up and cleaned up.

DeLong Certainly, when we see a petition opportunity like this to address other items that could benefit from longevity conversations, that’s something we wrap into this and the petitioner agreed and submitted that. You know, again, I should say staff is supportive of the petition, primarily revolving around the concept that we have an existing sign structure that is on the property. As pointed out by the Board, I
think this conversation would be radically different if this was a brand-new sign structure, whatever the messaging, just the additional intensification of the message would be of a different potential conversation. But this is an existing sign structure, which changes the dialogue in staff’s opinion.

Wolff Agreed. Any questions or comments for staff?

Kremp Wayne, I like your suggestion about including the elevation. Would it be possible then to include with that the dimensions since they’re either in the body of the commitment or on the elevation itself, so we know what we’re talking about? I saw a mention in the petition, I think, a 48 square feet.

DeLong Certainly in the body of the commitments, you could see the sign structure providing for an approximately 48-square foot sign package as illustrated in Exhibit A to this exhibit, or to this commitment.

Kremp All right. And, again, to just re-emphasize, if we use the elevation, I still think that the body of the commitment should specifically reference Lions Club and Zionsville Little League.

DeLong Okay.

Kremp Just one final question. Does the Little League pay for the signage?

Rinebold Yes. And, actually, it’s been me that’s been funding the entire process so far, so hopefully I plan on getting reimbursed.

Wolff So, the answer is no, hopefully.

Rinebold It’s been donation so far from the Rinebold family, but I would hope to be reimbursed.

Wolff Mr. Rinebold, I’m going to ask you another question along those lines, and it’s just, I apologize for my own ignorance, but often times in the field that we’re referring to, I see softball. Is that a part of the Zionsville Little League? Is that part, is it all in the same community, or is that another entity there?

Rinebold Great question. If I may, yes, it is Zionsville baseball and softball.

Wolff Okay.

Rinebold We’re very proud of our softball prowess over the last decade or so, and is a big part, and growing part, of the league. So, we’re very excited about our softball opportunities, and if I mentioned, we just sent two teams from this area, soon to be, from Whitestown. But, central region headquarters, which the Zionsville Little League would feed into, through the district and state tournament, the Little League World Series starts on Thursday, so tune into ESPN and every game will be covered. Softball just wrapped up. Their World Series will be shortly.

Wolff And, then another question, for the record. Mr. Rinebold, how long have you been involved with the Zionsville Little League?
Rinebold  I became involved in 2011, my son’s first start. I came on the Board in 2012, and President in 2016.

Wolff  Well, thank you for your service to our Community.

Rinebold  Thank you.

Wolff  Any other comments, questions, concerns? Otherwise, I will entertain a motion.

Kremp  One final question for Wayne. Just for Wayne. In the proposed motion, it talks about exceeding maximum height. Do we need to stipulate what that would be, or could that be construed as allowing signage to be higher? Even if we use the elevation, is it possible that down the road this could be misunderstood when somebody says you agreed to exceed the maximum height, but you didn’t say by how much? If you could maybe help me understand that.

Chadd  While Wayne is flipping pages, I would recommend that you specify. That will probably always be my answer. You can’t be too specific. In the same part of the staff report where it refers to 48 square feet, it also indicates approximately 15 feet in height. I see no problem in including that information.

Kremp  When I was making my little notes here, it was a lot of ‘by this’, ‘by that’, ‘exceeds the height by this’, and so if we make the motion tonight, do we have to include that, or can we just have that, can you guys just clean that up based upon what the report says?

DeLong  Well, we probably want specificity in your motion that you’re supporting a sign package as it’s demonstrated in the petitioner’s application, including an additional sign copy area not exceeding 48 square feet located on an existing sign structure of approximately 15 feet in height.

Wolff  You do that better than us. I’m just going to say that. Why don’t we take a stab at a motion, and we will look down the way and make sure that we have it articulated before we do something upon it.

Evinger  I think you have ownership of it.

Kremp  I will make a motion, slowly, so that Wayne can correct me when I get off the beam. I move that Docket # 2019-20-DSV, development standards variance, for the property located at 115 South Elm Street to allow for signage of an existing, not-for-profit business, which exceeds the allowed total number of identification signs, exceeds the allowed sign square footage maximums up to a maximum of 48 square feet, deviates from the allowed location of signage, exceeds the allowed maximum height.

DeLong  Yes, I would suggest for non-for-profit, which for new copy area exceeds the maximum up to 48 square feet in size, and up to 15 feet in height. I think you’re wanting to cast the net over what’s existing, but also provide for the additional that’s requested, above and beyond what’s out there today.
Kremp With new copy area, can you give me that one more time?

DeLong I apologize if I replay that in my head.

Wolff No need to apologize.

Chadd We may want to restart this just so we have it correct.

DeLong You mention the non-for-profit business signage, which, for new copy area, exceeds permitted size by 48 square feet, and for height may be up to approximately 15 feet in height. As I work through this myself.

Wolff Would another option be to work our way through motion, and then add an amendment to the motion to refer to the restrictions that we would like to see on the new copy area?

DeLong Yes. That would be another option for you.

Wolff I will refer to counsel. Tell me where I should go. Is that appropriate.

Chadd I guess my thought might be that you could make your motion as it’s presented here, and approve the request, approve “as presented and as recommended by staff, and specifically that the new copy area not exceed 48 square feet and the sign structure not exceed 15 feet.” You can tack that to the end of your motion, to specify those details.

Wolff Okay. I think that will help, and when we refer to new copy area, we’re referring to the sign that we have in Exhibit 5. That’s the new copy area. Okay.

Kremp So, we’re going to redo this again.

Wolff Thank you.

Kremp I move that Docket # 2019-20-DSV, development standards variance, for the property located at 115 South Elm Street to allow for signage of an existing, not-for-profit business, which exceeds the allowed total number of identification signs exceeds the allowed sign square footage maximums, deviates from the allowed location of signage, exceeds the allowed maximum height, and deviates from the required landscaping requirements all within the urban special use zoning district, be approved as presented and recommended by staff with the qualification that the maximum copy area for the new signage not exceed 48 square feet, and the maximum height of the sign not exceed 15 feet.

Evinger Can I make a friendly amendment in that it also includes that it’s to be put on an existing sign structure? That’s what we talked about as far as an existing sign.

Wolff Mr. Kremp, are you amenable to that?

Kremp I am.

Wolff Thank you. Is there a second?
Evinger  Second.

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

All  Aye.

Wolff  Those opposed?

[No response.]

Wolff  Motion carries. Mr. Rinebold, thank you.

Rinebold  Thank you.

Wolff  That was a challenging one. Thank you. You had a comment. Go ahead. Moving on.

Kremp  My comment was that I have read the minutes for my first few meetings, and I do not present well on the record at this point.

Mundy  There are things in there, in memory, that I assumed we did.

Wolff  I have got to be more articulate than that. I have to be. Next item on our agenda is other matters to be considered. Wayne, do you have any updates for us?

DeLong  Yes. Just very briefly on Zionsville Underground, the petitioner is still working through details related to the plan of operation. On the other two items here, on #2018-19-DSV and #2017-11-DSV for Wildwood Designs, we have not had any update from the applicant. As we have spoken to this Board previously, we are not confident that the project is moving forward anymore, but we don’t have any confirmation one way or the other. And, on the Fischer Homes project, the developer still continues to work through some design criteria in order to finalize the build out of the project in order to put those homes in the marketplace, so they are still working, but I have not heard the Fischer name mentioned in the context of Ansley Park in about 2 years. So, I would imagine both of these items are not moving forward.

Wolff  Wayne, is there anything we should do to address those two items?

DeLong  Well, and certainly this might be a legal question for a later date, but if you have a party that’s not executing the commitments and the variance was approved subject to those commitments.

Chadd  Generally the variance really wouldn’t take effect without them. If you want to take action on it, I probably wouldn’t tell you that you can’t, to address it and make it clear what the plan is.

Wolff  Okay.
And, on your Ansley Park petition, the motion of the Board of Zoning Appeals at that time was approving the petition subject to an amendment to the plat, which was taking an area of land and marking it preservation area, and without adherence to that condition of that approval, the variance, sounds like it’s in the same status as the Wildwood Project.

As we think about training, and when Mr. Jones returns, I’m wondering if we shouldn’t discuss some of those things, and also add in if we shouldn’t put the sunset period on some of these types of things, that if you don’t do a substantial body of work prior to this date then, I’m sure if that’s appropriate or not, but maybe a worthwhile discussion point.

That’s right. Yes.

Any other matters to discuss tonight?

To your point, as far as not just only education for us, but that’s something, as far as procedural, probably should be part of our ordinance too, don’t you think? As far as what the, if we were to rescind, I guess, take back a variance approval after a certain procedural event? Whether it’s like a 90-day notice, or something like that.

Certainly consulting state law to see what it speaks to.

Correct.

And, certainly if there is an ordinance language that’s necessary above and beyond what the state law would call out.

It would just protect us, I think, if in the event that we did, you know, take action that it’s something we can fall back on.

Yes. And, I don’t think there is a standard in terms of a statutory time limitation. I think some ordinances have one, and it varies from project, or type of approval, but wouldn’t be a bad idea.

We’ll discuss more going forward. Thank you. No other matters. This meeting is adjourned.