MEETING RESULTS- ZIONSVILLE BOARD OF ZONING APPEALS DECEMBER 10, 2019

The meeting of the Zionsville Board of Zoning Appeals occurred Tuesday, December 10, 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. Approval of the November 26, 2019 Meeting Minutes – Not Available

II. Continued Business

<table>
<thead>
<tr>
<th>Docket Number</th>
<th>Name</th>
<th>Address of Project</th>
<th>Item to be considered</th>
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</thead>
<tbody>
<tr>
<td>2019-28-DSV</td>
<td>The Georgian Group</td>
<td>240 N Main Street</td>
<td>Withdrawn by the petitioner, acknowledged by the BZA at the December 10, 2019 meeting, Continued by petitioner from October 8, 2019 to the November 12, 2019 Meeting, Continued from Cancelled November 12, 2019 Meeting to December 10, 2019 meeting. Petition for Development Standards variance in order to provide for the construction of a Single-Family Home &amp; accessory uses which: 1) Deviates from the required side &amp; aggregate yard setbacks and 2) Exceeds the required lot coverage of 35%, to 48% in the Urban Residential Village Zoning District (R-V).</td>
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III. New Business

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<tr>
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<th>Name</th>
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<tr>
<td>2019-32-DSV</td>
<td>C. Longenberger</td>
<td>8250 E 100 South</td>
<td>Approved w/commitments 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 an accessory structure which: 1) Exceeds the allowable accessory square footage in the Low-Density Single-Family Residential Zoning District (R1).</td>
</tr>
<tr>
<td>2019-36-DSV</td>
<td>T. Dugan</td>
<td>40 N 4th 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 addition of a portico to a single-family dwelling which: 1) Deviates from the required front yard setback (portico) 2) Deviates from the required side yard setback (home) in the Urban Residential Village Zoning District (R-V).</td>
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<td>Case Number</td>
<td>Applicant</td>
<td>Address</td>
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<tr>
<td>2019-37-DSV</td>
<td>M. North</td>
<td>8657 E 125 South</td>
<td>Continued by petitioner from December 10, 2019 to the March 4, 2019 Meeting – 5 in Favor, 0 Opposed. Petition for Development Standards variance in order to allow the temporary use of a travel trailer for residential purposes while constructing a primary dwelling in the Rural Single and Two-Family Residential Zoning District (R2).</td>
</tr>
<tr>
<td>2019-38-SE</td>
<td>T. Ball</td>
<td>325 S 1100 East</td>
<td>Continued from December 10, 2019 to the February 5, 2019 Meeting – 5 in Favor, 0 Opposed. Petition for Special Exception to allow for new residential building(s) in an Agricultural Zoning District (AG).</td>
</tr>
</tbody>
</table>

Respectfully Submitted:
Wayne DeLong AICP, CPM
Town of Zionsville
Director of Planning and Economic Development
Town of Zionsville  
1100 West Oak Street  
Zionsville, IN. 46077

Re: Withdrawal of Petition # 2019-28-DSV   240 North Main Street

November 20, 2019

Attention: Chrissy Koenig

My wife Pam and myself have had the honor and blessing to live in Zionsville for over 30 years. This community has given us both the opportunity to share our gifts with others in small business establishments as well as raise our children with Christian morals and values. We have benefited from the best schools in Indiana, a safe environment protected by our Fire and Police, Community gatherings in parks that have created memories and neighbors willing to help at a moment’s notice.

With retirement in the near future and personal medical issues at the forefront, we decided that it was time to begin the beautification of our 14-year rental property located at 240 North Main Street. Plans were drawn for a new 1915 Zionsville Historic Façade and sent to the adjoin neighbors. As a result, we were surprised at the extreme negative response from neighbors regarding our variance request. Prior to the 10.8.2019 BZA meeting, we decided to request a continuance to allow us an opportunity to meet with our neighbors and hear their concerns.

Community is defined as a place that people live together and share a common interest. With this in mind, we meet with the adjoining neighbors and listened. The main common interest was “Keeping the village feel and historic values intact” We lowered the roof line, shrunk the square footage and eliminated the “massiveness that the neighbors did not like”. However, this was not satisfactory to all and thus the desire for compromise appeared to be unobtainable.

During this 4-week time frame, we had met a wonderful young couple who lived directly across the street from our home. Alex and Chelsea Overbeck had engaged us with kind dialogue and a sincere willingness to compromise. We meet with the Overbeck’s on several occasions and considered their desire to purchase our property. It was their desire to keep the quaintness of the home and its village feel intact. Therefore, we set aside our retirement financial potential and considered the importance of community as a better solution. Zionsville had given and shared so much for us that it was time to consider community first.

It is with great pleasure that we have given the future of 240 North Main street to the Overbeck’s as they will be a part in determining the next generation of the Zionsville Village.

With all of this said, please consider this my written notification that Kerry and Pam Wagoner AKA The Georgian Group, is requesting the withdrawal of petition 2019-28-DSV and its subsequent December 10, 2019 meeting.

I do hope that our neighbors of Zionsville can come to a “common interest” as we are challenged to the needs of ALL. Those that are here as well as those that desire to be a part of our great community.

Blessings and Prosperity to Zionsville,

Kerry & Pam Wagoner

The Georgian Group  
11465 Sycamore Street  
P O Box 641  
Zionsville, Indiana 46077

RECEIVED  
NOV 21 2019  
TOWN OF ZIONSVILLE
Petition Number: 2019-32-DSV

Subject Site Address: 8250/8300 E 100 South, Zionsville

Petitioner: Caleb & Jill Longenberger

Representative: David & Justin Kingen – Downtown Neighborhood Zoning Assistance, Inc

Request: Petition for Development Standards variance in order to provide for the construction of an accessory structure which:

1) Exceeds the allowable accessory square footage in the Low-Density Single-Family Residential Zoning District (R1).

Current Zoning: Rural Low Density Single Family Residential (R1)

Current Land Use: Residential

Approximate Acreage: 16.34 acres

Zoning History: Consolidated into the Town of Zionsville’s jurisdiction in 2010.

# 2016-20-DSV - PL Properties LLC - Lot width to depth ratio
# 2016-41-MP - PL Properties LLC – Derr Farm Primary Plat
# 2016-52-SP - PL Properties LLC – Derr Farm Secondary Plat

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

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

This petition will receive a public hearing at the December 10, 2019, Board of Zoning Appeals meeting, due to the cancellation of the November 12, 2019, meeting which lacked a quorum.

**Property History**

The property associated with this petition came into Zionsville’s rural jurisdiction with the 2010 consolidation of Union Township. In 2016 the approximate 16 acres associated with this petition were subdivided as part of a 4-lot subdivision (2016-41-MP Primary Plat, 2016-52-SP Secondary Plat). The lots also received a variance of development standards (2016-20-DSV) for lot width to depth ratio. The petitioner owns both Lots 1 and 2 of the Derr Farm subdivision. Though the acreage associated with this petition request is focused on Lot 2, as owner of both lots, the ordinance allows this to be looked at as one lot of record.

**Analysis**

Prior to the creation of the subdivision, the acreage associated with this petition was historically utilized for agricultural purposes under the Boone County Area Planning jurisdiction. In 2018, subsequent to the approval of the subdivision, the Petitioner’s new single-family home was completed on Lot 1. As proposed, the Petitioner requests approval for the construction of an accessory structure to be located on Lot 2 (also owned by the Petitioner) to accompany the single family dwelling.

**Variance Request – Accessory Square Footage Exceeding Primary**

The parcel is currently improved with a 7,195 square foot family dwelling (the primary structure). The parcel is currently utilized for residential purposes and accessory uses all as further described below (data source: Boone County Assessor and/or Petitioner):

1. Existing dwelling living space: 7,195 square feet
2. Existing and proposed accessory uses total 8,006 square feet, inclusive of:
   a) A 1,176 square foot attached garage – first floor
   b) A 644 square foot attached garage storage – second floor
   c) A 832 square foot covered front porch
   d) A 90 square foot covered rear patio
   e) A 48 square foot side porch
   f) A 216 square foot garden shed
   g) A proposed 4,800 square foot barn
   h) A proposed 200 square foot covered area attached to the proposed barn

By Ordinance, properties in the R-1 (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 (in order to improve the property as proposed by the Petitioner). Absent compliance with the definition of Farm, the Ordinance limits accessory uses in a manner which maintains the presence of accessory uses, as accessory (as to not dominate the use of the property and become Primary use of the property. Specific to the current improvements, securing a variance to allow the roofed accessory square footage to exceed the primary square footage by 811 square feet.
As a part of the review process, Staff examines the established development pattern found in the immediate area to the subject site, in an attempt to identify similarly situated properties enjoying similar deviations. While the current Zoning Ordinance requires such restrictions, a review of the development pattern found in the immediate area finds several development configurations which are not supported by the current Zoning Ordinance (example: flag lots, percentages of accessory buildings, heights of accessory buildings, non-conforming uses, and lots with reduced road frontage). While the identified development pattern is atypical for the community, a request seeking a minor deviation from Ordinance standcards in areas of the community which contain established non-conformities is not.

The request, in the opinion of Staff, constitutes a minor deviation from the Zoning Ordinance and, given the size of the Lot of Record which is the subject of the filing and the scale of the totality of the contemplated improvements, the contemplated placement of the improvements, and the presence of non-conformities in the immediate area (West: legal non-conforming landscaping operation; accessory over primary, East: accessory over primary), on its face, appears supportable.

Further, as the site is within a platted subdivision, staff is conscious of the contemplated improvements presence within a platted subdivision, and, the interest of the Derr Farm Minor Subdivision Home Owners Association (or collective representation of the property owners) may have in the Petitioner’s request. Barring any concerns of the Derr Farm Home Owner’s Association (or any other party entitled to receive personal notice) being made of record during the disposition of the Petitioner’s filing, Staff would not oppose the request.

With the above in mind, Staff is supportive of the request to approve a variance to exceed the primary square footage with 811 square feet of additional roofed accessory structure (of which 200 square feet is designed to provided covered storage while being open to the elements), not being subordinate to the Primary Structure, noting that contemplated improvements of Lot 2 are accessory in nature, subordinate to the improvements on Lot 1, and the contemplated improvements on Lot 2 are not intended or permitted to be utilized as a primary structure unless proper permits are secured from both the Town of Zionsville and from Boone County.

**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 is supportive of the Development Standards Variance petition included in Docket #2019-32-DSV (based on the submitted conceptual site plan and renderings), as filed.

**RECOMMENDATION MOTION**

I move that Docket #2019-32-DSV C. Longenberger Development Standards Variance petition in order to provide for the construction of an accessory structure on Lot 2 in Derr Farm which 1) Exceeds the allowable accessory square footage, in the Low-Density Single-Family Residential Zoning District (R1), for the property located at 8250/8300 E 100 South be (Approved as presented / Approved based upon the staff report and the proposed findings / Denied / Continued).
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 detached accessory structure shall be similar in size to the existing single family structure and will be similar or smaller in size to many other detached accessory structures in the nearby vicinity. The detached accessory structure will be set back over 400 feet from East County Road 100 South and will therefore not be injurious to the public health.  

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 detached accessory structure will be used for residential purposes only and will be used in a similar fashion to other detached accessory structures in the area. The detached accessory structure will consist of new construction, which will increase the value of the subject site and the surrounding properties.  

3. Strict application of the terms of the zoning ordinance (will / will not) result in unnecessary hardships in the use of the property because:  
   The proposed detached accessory structure will be subordinate in height, area, bulk extent and purpose to the primary structure. Only when the square footage of the detached structure is added to the area size of the exterior porches and attached garage does the proposed accessory barn become non-compliant. Therefore, this variance request is a very minor deviation from the ordinance and the proposed structure will be consistent with the other detached accessory structures in the vicinity of the subject site.  

DECISION  

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

Adopted this ______ day of ________________________, 20____.  

_________________________________  ________________________  ________________________
Petition Number: 2019-36-DSV

Subject Site Address: 40 N 4th Street

Petitioner: Thomas & Pamela Dugan

Representative: Thomas & Pamela Dugan

Request: Petition for Development Standards variance in order to provide for the addition of a portico to a single-family dwelling which:
1) Deviates from the required front yard setback (new)
2) Deviates from the required side yard setback (existing)
in the Urban Residential Village Zoning District (R-V).

Current Zoning: Residential Village Zoning District (RV)

Current Land Use: Single-family residential

Approximate Acreage: 0.16 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 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 December 10, 2019, Board of Zoning Appeals meeting, due to the cancellation of the November 12, 2019, meeting which lacked a quorum. The Petitioner has provided both personal and published notice for the December 10, 2019, Board of Zoning Appeals meeting as personal and published notice had not been previously provided.

**Property History**

The property is comprised of approximately 0.16 acres of the North Half of Lots 105 and 106 of Crosses 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. Per the 1986 Inventory of Historic Properties, the existing dwelling is listed as Contributing.

**Analysis**

The 0.16-acre parcel is currently improved with a single-family dwelling and accessory uses, including a detached garage. The dwelling is considered an existing legal non-conforming improvement (side yard encroachment).

**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). In this particular case, front yard setback averaging is not beneficial for the Petitioner, thus the requirement for the variance.

**Fourth Street Front Yard**

The Petitioner is requesting a variance of setback along Fourth Street for a portico addition to their existing front porch which would require an approximate 7-foot setback when the average setback along the West side of Fourth Street is 8.4-foot. Therefore, the requested setback is not permitted by right.

Parcels along this portion of Fourth Street (both on the East and West sides) enjoy a much smaller front yard setback. As the proposed portico encroachment exclusively supports an existing front porch to the dwelling, is not living (habitable) space, and is a feature enjoyed by other properties in the Village, Staff is supportive of the petition as filed.

**Setbacks (Side Yards)**

Per the RV Residential Village District regulations, any improvements to the site are required to conform to minimum setback standards (side yard minimum: 5 feet with 15-foot aggregate). The circa 1880 home was built on the southern property line and therefore the parcel currently enjoys a non-conforming +/- five (5) inch side yard setback from the south property line. Staff is in support of the petitioner’s continued use of the +/- five (5) inch southern side yard setback as
the petition is not seeking to do any work in this area, the petitioner rather is seeking to memorialize the homes historical side yard setback. This gives the parcel a total side yard aggregate from the property lines of approximately 16 foot, nine (9) inch, as illustrated on the Petitioner’s site plan attached to this staff report.

-Staff Summary (Setbacks)

Given the above unique characteristics, along with scale and placement of the contemplated improvements, which are not, in Staff’s opinion, out of character for the immediate area, Staff is supportive of the requests as filed.

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 # 2019-36-DSV, related to the requested setbacks, subject to substantial compliance with the submitted site plan attached to this report.

Recommendation Motion

I move that Docket # 2019-36-DSV design standards variance in order to provide for the addition of a portico to a single-family dwelling which 1) Deviates from the required front yard setback (portico) 2) Deviates from the required side yard setback (home), (as further described in the exhibits to this report), in the Residential Village Zoning District (RV) for the property located at 40 N 4th 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.
Dear Neighbors,

Tom and I are replacing our aging and ill-functioning front door with a solid wood painted door to be painted to complement and be in keeping with the exterior of our home here at 40 N. 4th Street. In this process, we would desire to add a portico to provide shelter over the new door for visitors and deliveries from the elements. We were advised by our contractor, Zac Chapman of Innovative Homes that we would need to petition the Zionsville Board of Zoning Appeals in order to request a development standards variance to address setback regulations. Hence you are receiving this mailing as per process requirements.

We anticipate the roofline of the portico would extend no more than four feet from the existing east wall of the home. It will likely be less, but we are building in some flexibility to account for potential surprises in dealing with an 1880's home.

Thanks and hope for your support during this process. We are thrilled to be in the village and continue to enjoy making our house a home.

Happy Holidays,

Sincerely,

[Signature]

Exhibit 4
Picture Door

Q#: J115823 Ln#: 2

Email Date: 8/01/2018
Email Time: 01:26 pm

Notes:
Drawings are for general reference only and may not be built to the exact detail shown.

Exhibit 5
Customer Quote
Quote # SQC091477_4
Rogue Valley Door - Direct Sales
123 NE Beacon St
Grants Pass, OR 97526

PO #Q127808

Entered By: John Brown Johnb@roguevalleydoor.com 3/1/2019

Name: ***SEE NOTES***

Door Info

Thickness: 1-3/4
Pattern: 4067
Species: DF
Width: 3/0
Height: 6/8
Stile: 5-1/2
Sticking: Mod Ovolo Sticking
Top Rail: 5 1/2
Bottom Rail: 9 1/8
Glass Type: 
Panel Type: 1-3/8 HRP
Rogue Premium: Premium Plus

Additional Details

Door Model - 4067, Premium Plus 5yr
Wnty Lag Bolt. *Custom Option
Selected*, Comments: ***DOOR TO
VBE-2-1/16***, Stile and Rail Dimensions
Includes 1/2" Sticking Width, Standard
Lead-Time

All Images are Interior view  Est Weight: 70

Builders First Source #877
1717 W Washington Street, Indianapolis IN
46222

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

   ITS PRIMARY PURPOSE IS TO PROVIDE A TASTEFUL, MINIMAL OVERHANG FOR A NEW FRONT DOOR, THUS PROVIDING SHELTER FROM THE ELEMENTS FOR VISITORS AND BEAUTIFICATION/UPGRADE OF THE EXISTING ENTRANCE TO THE HOME IN KEEPING WITH THE STYLE/AGE OF HOME AND VILLAGE.

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 PROJECT IS INTENDED TO ENHANCE THE VALUE/FUNCTIONAL/LIVABILITY OF THE EXISTING HOME WITHOUT NEGATIVE IMPACT TO SURROUNDING PROPERTIES.

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

   FRONT DOOR VISITORS/DELIVERIES WILL CONTINUE TO BE SUBJECT TO THE ELEMENTS WITHOUT SHELTER.

DECISION

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

Adopted this ______ day of __________________, 20____.

________________________________________  __________________________________

________________________________________  __________________________________
Petition Number: 2019-37-DSV

Subject Site Address: 8657 E 125 South

Petitioner: Michael & Charlene North

Representative: Michael North

Request: Petition for Development Standards variance in order to allow the temporary use of a travel trailer for residential purposes while constructing a primary dwelling in the Rural Single and Two-Family Residential Zoning District (R2).

Current Zoning: Rural Single and Two-Family Residential Zoning District (R2)

Current Land Use: Vacant Land

Approximate Acreage: 6.4 acres

Zoning History: Consolidated into the Town of Zionsville’s jurisdiction in 2010. Prior to consolidation this land was approved by the Boone County Area Plan Commission as part of the

Exhibits: Exhibit 1 – Staff Report
Exhibit 2 – Aerial Location Map
Exhibit 3 – Keeler Minor Plat
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 December 10, 2019, Board of Zoning Appeals meeting.

**PROPERTY HISTORY**

The property is comprised of approximately 6.4 acres, Lot 3, of the Keeler Minor Plat, a 4 lot rural subdivision, of the Town of Zionsville. The subdivision was approved by the Boone County Area Plan Commission and recorded in 2006 prior to coming into Zionsville's jurisdiction in 2010. Staff is not aware of any prior petitions for this property.

**ANALYSIS**

Three (3) of the four (4) lots included in the minor plat were purchased by the Petitioner with intentions of building a home on lot 1, lot 3 and Lot 4. In 2015 the Petitioner completed a single-family home which is occupied by the Petitioner, and in 2017 completed a single-family home on lot 4 for a related party.

Anticipating that a single-family home was soon to be built on the remaining vacant lot 3, work began to facilitate that concept, and a “camper” (travel trailer) on the property to be used for temporary residential occupancy for his family while the new home is built.

While the zoning ordinance offers temporary residential occupancy of a “manufactured or mobile home” to a person(s) expecting to build a permanent residence (per Section 194.082 Rural Authorized Uses & Requirements and 194.110 Rural: Manufactured Homes), it does not offer the same latitude with a “camper” (travel trailer) or any other type of recreational vehicle which is not manufactured with the same design criteria found in a mobile home or modular home (as per Section 675 Indiana Administrative Code 15). The specific language of the Zoning Ordinance is as follows:

Section 194.082 (B) *Temporary residential occupancy.*

1. **During construction.** In all zoning districts, a permit may be issued for the temporary placement and occupancy of a manufactured or mobile home outside of a mobile home park, to a person intending to build a permanent residence on the property. The temporary permit is for a period of two years and may be renewed for an additional one-year period if construction of the dwelling has started, but has not been completed.

2. **Health issue.** A permit may also be issued to an applicant whose own health or the health of another necessitates care, and where the facts show that an unnecessary hardship would occur if not permitted to locate a manufactured or mobile home adjacent to the residence of one who is able to provide such care or in need of such care. The permit would be for the lifetime of the person needing care and is renewable every fourth year from the date of issuance.

3. **Regulations.** The following regulations shall apply to the temporary occupancy of a manufactured or mobile home:
(a) The structure is to be located on the same property as an existing residence or located on property on which a permanent residence with a valid ILP is intended to be built within two years;

(b) The structure should be served by the same address, water supply and sewage facilities serving the existing residence or the residence under construction, subject to the approval of the county’s Board of Health;

(c) The structure shall remain on its wheels and shall not be placed on a permanent foundation;

(d) Applicable front, side and rear yard regulations of the district in which it is located are to be observed;

(e) Occupancy of the structure is restricted to relatives, persons employed in the care of the property owner (employed on the premises of the property owner) or the owner of the property who intends to construct a permanent residence;

(f) The structure used for temporary occupancy shall have a ground floor area greater than 500 square feet;

(g) The manufactured or mobile home shall be tied down as per the requirements of the One- and Two-Family Dwelling Code or the manufacturer’s recommendation;

(h) The perimeter of the manufactured or mobile home shall be completely enclosed, except for access and ventilation openings. The perimeter enclosure may consist of skirting materials installed in accordance with the manufacturer’s installation specifications and secured as necessary to provide stability, minimize vibrations and minimize susceptibility to wind damage and to provide adequate insulation to protect exposed piping. Perimeter enclosures other than skirting shall meet requirements of the One- and Two-Family Dwelling Code and the requirements set forth by the Fire and Building Department of the town.

Based on the Zoning Ordinance, the temporary placement of a “manufactured or mobile home” on the Lot would be supportable, by right, for a period not to exceed two (2) years at which time either 1) a compliant single-family dwelling has been constructed, or 2) the accessory building is demolished/removed from the property (with the benefit of a demolition permit to effectively remove the structure from the Boone County tax rolls). However, as a “camper” (travel trailer) is not defined as a permissible temporary residential use within the zoning ordinance, Staff did not identify support in the Zoning Ordinance of the installation of such an improvement for temporary residential purposes while constructing a primary dwelling.

Specific to the Petition itself, Staff has reviewed the application and has concluded that the Petition does not adequately demonstrate, due to the inherent health and life safety features incorporated into a manufactured or modular home as per 675-IAC-15 (Industrialized Building Systems), that:

a “camper” (travel trailer) installed on Lot 1 of Keeler Minor Plat adequately addresses the public’s interest in achieving community expectations related to health, safety, and general welfare of the community due to the fact that the Zoning Ordinance specifically supports the placement of a mobile or manufactured home in these specific instances and a “camper” (travel trailer) is not constructed to Industrialized Building System standards.
In the event that the “camper” (travel trailer) in question indeed achieves the minimum requirements of 675-IAC-15 and could receive a “Seal of Acceptance” from the State of Indiana as if it were a manufactured or mobile home structure, Staff would re-evaluate its opinion.

**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 denial of the design standards variance included in Docket # 2019-37-DSV, related to the temporary use of a travel trailer for residential purposes while constructing a primary dwelling.

**RECOMMENDATION MOTION**

I move that Docket #2019-37-DSV design standards variance in order to allow the temporary use of a travel trailer for residential purposes while constructing a primary dwelling, (as further described in the exhibits to this report), in the Rural Single and Two-Family Residential Zoning District (R2), for the property located at 8657 E 125 South 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.

**PROCEDURAL NOTE**

The responsibility of affirming that conformance with any Covenants and Restrictions associated with Keeler Minor Plat remains with the applicant as to the placement and occupancy of residential improvements within the subdivision.
COVER LETTER

December 10, 2019, BZA Meeting
Variance of Development Standards
8657 East 125 South, Lot #3 Keeler Estates
Zionsville, 46077

BACKGROUND

Michael & Charlene North bought Lots 1, 3 & 4 of Keeler Estates on February 2nd, 2011 with the intent of building custom homes on those lots and making the property into a family compound. All of the lots are 6 +/- acres. (see attached lot layout)

Currently Michael & Charlene North (parents) reside on Lot #1. Lot #2 is owned by Tom Miller (no relation). Brittany North (daughter of Michael & Charlene) built a new home in 2017 and resides on lot #4.

Lot #3, the subject of this variance request, is still owned by Michael and Charlene North but earmarked for Nick North (son of Michael & Charlene) and his family to build a new home.

PROPOSAL

An 18 month variance of developmental standards for the temporary use of a camper on Lot #4 prior to the benefit of having a primary residence on the property.

The 18 month variance time frame was calculated by adding the standard 12 month building permit duration plus the typical building permit extension of 6 months.

Having been in the custom home building business for the past 25 years, and given the potential of winter weather delays, I am confident 18 months will be an adequate time frame to complete the construction of a new home.

To clarify, allow a variance for Nick North (son of Michael & Charlene) and his family to temporarily reside in a camper on the property, Lot #4, for up to 18 months while constructing a new home.

MISCELLANEOUS NOTES

The building permit application process has started and we anticipate having permits in hand by the end of December.
TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant (will will not) be injurious to the public health, safety, morals, and general welfare of the community because:
   THIS REQUEST FOR A VARIANCE IS TEMPORARY IN NATURE AND THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE WILL IMPROVE FROM GRANTING THE VARIANCE AND BUILDING A NEW HOME ON 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 ADJACENT PROPERTY'S VALUE WILL ACTUALLY INCREASE DUE TO THE IMPROVEMENTS TO THE LAND FROM THE CONSTRUCTION OF A NEW 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:
   NICK, JENNIFER NORTH, AND FAMILY WILL HAVE NOWHERE TO LIVE WHILE BUILDING A NEW HOME. NOR, WOULD THEY BE ABLE TO AFFORD TO BUILD A NEW HOME ON THE FAMILY PROPERTY IF FORCED TO FIND A HOME TO RENT.

DECISION

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

Adopted this ______ day of ____________________, 20__.

__________________________________________  ____________________________  ____________________________
Petition Number: 2019-38-SE

Subject Site Address: 325 S 1100 East, Zionsville

Petitioner: Ramon and Julie VanSickle

Representative: Tim Ball

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

Current Zoning: Agricultural Zoning District (AG)

Current Land Use: Vacant Land

Approximate Acreage: 2.5 acres

Zoning History: Consolidated into the Town of Zionsville’s jurisdiction in 2010.

2019-33-Z Approved rezone from Rural Airport (AZ) to Agricultural (AG) Zoning District

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

Staff Presenter: Wayne DeLong, AICP, CPM
PETITION HISTORY

This Petition will receive a public hearing at the December 10, 2019 Board of Zoning Appeals meeting.

PROPERTY HISTORY

The approximate two and a half (2.5) acres associated with this petition has historically been utilized for agricultural purposes. Additionally, it was part of a petition for the rezone of 5.22 acres from Rural Airport (AZ) to the Agricultural (AG) Zoning District (2019-33-Z). The petition was given a favorable recommendation to Town Council at the September 16, 2019, Plan Commission meeting followed by the rezone approval and adoption of ordinance #2019-21 from the Town Council on October 7, 2019 (subject to written commitments).

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 existing tillable acreage between two established single-family residences. Further, as proposed the parcel would enjoy approximately 300 feet of lot width and a depth of approximately 350 feet. Given the proposed lot configuration, the selected location for the contemplated single-family residence is not atypical for parcels with substantial depth.

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 (in its current configuration) of the Indianapolis Executive Airport is within approximately 0.3 mile 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. Further, Indiana Code stipulates regulatory standards, in specific cases, related to noise sensitive construction and height limitations (by example) per Sections 8-21-10-2 and 8-21-10-3. For additional information on this topic, the Petitioner should contact the Indiana Department of Transportation, Airport Section.
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 RECOMMENDATION

Staff recommends approval of the Special Exception Petition included in Docket #2019-38-SE, subject to execution of the Right-to-Farm acknowledgement (as required by Ordinance).

RECOMMENDATION MOTION

I move that Docket #2019-38-SE T. Ball Special Exception Petition in the Agricultural District for the property located at 325 S 1100 East be (Approved as presented / Approved based upon the staff report and the proposed findings / Denied / Continued).

(If Approved, it shall be required that the Petitioner execute the Right-to-Farm acknowledgement documentation)
WRITTEN COMMITMENTS CONCERNING THE USE OF REAL ESTATE

WHEREAS, pursuant to Ind. Code § 36-7-4-608, et seq., Ramon L. Van Sickle and Julia A. Van Sickle (collectively, “Owner”) have applied for a zone map change affecting that certain real property located in the Union Township, Boone County, Indiana, more particularly described on Exhibit A attached hereto and incorporated by reference herein (the “Real Estate”); and

WHEREAS, Owner desires to make certain commitments in connection with such application;

NOW THEREFORE, in accordance with Ind. Code § 36-7-4-1015(a)(1), the Owner of the Real Estate, hereby makes the following commitments (“Commitments”) concerning the Real Estate:

1. All prospective and current Owners of the Real Estate (or any part thereof) are hereby put on notice that the Board of Commissioners of Boone County have established an AZ-Airport Zone Classification and that the Indianapolis Executive Airport has been zoned to that classification, as set out in Ordinance Number 2004-11 adopted August 23, 2004. The AZ-Airport Zone designation allows The Hamilton County Board of Aviation Commissioners, or another operating airport authority, to conduct airport-related activities, including the building and maintenance of hangars, and the taking off and landing of planes, as permitted in the definition of the AZ-Airport Zone Classification, subject to any limitations or restricting commitments agreed to by the Hamilton County Airport Authority, the owners of Indianapolis Executive Airport. The airport is allowed, as a matter of right, to own, operate and conduct its business as defined in the AZ-Airport Zone Classification, and all prospective and current Owners of the Real Estate (or any part thereof) are urged to examine the AZ-Airport Zone Classification so to understand the extent of the airport’s ability to operate now and in the future.

2. The Owner acknowledges for itself, its heirs, its successors, and its assigns that the Real Estate may experience significant levels of aircraft operations, and the Owner is erecting a building designed for a noise sensitive use upon the Real Estate, with the full knowledge and acceptance of the aircraft operations as well as any effects resulting from the aircraft operations.

3. Further, the Owner, and all successors in title to the Real Estate (or any part thereof) acknowledge their understanding of Ind. Code § 32-30-6-10 (or as it may be recodified) which limits the circumstances under which a public use airport operation may be a nuisance in order to reduce the potential for the state to lose the benefits to the state’s air transportation system that are provided by public use airports. Specifically, a public use airport operation or any of the operation’s appurtenances may not become a private or public nuisance by any changed condition in the vicinity of the locality that occurs after the public use airport operation operates continuously on the locality for more than one (1) year if the following conditions are met: (1) The public use airport operation was not a nuisance at the time when the operation began operating at that locality; (2) The public use airport operation is operated in accordance with the rules of the Indiana department of transportation, aeronautics section; and (3) There is no significant change in the hours of the operation of the public use airport operation.

4. These Commitments shall run with the land, be binding upon the Owner of the Real Estate and subsequent owners of the Real Estate. These Commitments may only be modified or terminated by a decision of the Zionsville Plan Commission.
IN WITNESS WHEREOF, the Owner has executed these Written Commitments Concerning the Real Estate this 10th day of October, 2019.

Ramon L. Van Sickle

Julia A. Van Sickle

STATE OF INDIANA )
COUNTY OF BOONE )

Before me, a Notary Public in and for said County and State, personally appeared Ramon L. Van Sickle and Julia A. Van Sickle who acknowledged execution of the foregoing as their voluntary act and deed.

Witness my hand and Notarial Seal this 10th day of October, 2019.

Christine I. Koenig
Notary Public

My Commission Expires: 6-14-2022
My County of Residence: Boone

I affirm, under the penalty of perjury, that I have taken reasonable care to redact each Social Security number in this document.

This instrument prepared by MELISSA R. GARRARD, Attorney at Law, P.O. Box 478, Lebanon, Indiana 46052
TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS  
BOONE COUNTY, INDIANA  

PETITION FOR SPECIAL EXCEPTION  

FINDINGS OF FACT  

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

2. The proposed use **(will / will not)** injure or adversely affect the adjacent area or property values therein; and  
   
   The proposed special exception will **not** injure or adversely affect the adjacent area or property values. We plan to follow the rules & development standards of the Town of Zionsville.  

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 proposed special exception will be consistent with the character of the District and should increase the value of the surrounding homes.  

DECISION  

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

Adopted this ____ day of ______________________, 20__.