



**MEETING RESULTS ZIONSVILLE BOARD OF ZONING APPEALS**  
**Wednesday, February 3, 2021**  
**6:30 PM (Local Time)**

THIS PUBLIC MEETING WAS CONDUCTED ELECTRONICALLY PURSUANT TO GOVERNOR ERIC J. HOLCOMB'S EXECUTIVE ORDER 21-03 AND GOVERNOR HOLCOMB'S EXERCISE OF HIS POWERS UNDER INDIANA'S EMERGENCY MANAGEMENT AND DISASTER LAW, IND. CODE 10-14-3, *et seq.* ADDITIONAL INFORMATION REGARDING THE MEETING IS PROVIDED IN THE ANNEX PUBLISHED WITH THIS NOTICE.

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**The following items were scheduled for consideration:**

- I. New Member Oath of Office – **Chris Lake**
- II. Election of Officers – **John Wolff (President), Larry Jones (Vice President)**
- III. Approval of the January 6, 2021 Meeting Minutes – **Approved 3 in Favor, 0 Opposed**

| Docket Number | Name  | Address of Project | Item to be considered  |
|---------------|---|--------------------|--|
| 2020-38A-DSV  | 21 <sup>st</sup> Amendment - Outlot "I" of Appaloosa Crossing | 3263 S. U.S. 421   | <b>Continued by Petitioner's Representative to March 3, 2021 Meeting - Approved by Board – 5 in Favor, 0 Opposed</b><br>Petition for Development Standards Variance to deviate from the required off-street parking ratio on a site located in the Rural General Business (GB) District and the Michigan Road Overlay (MRO). |

|             |   |   |  |
|-------------|---|---|--|
| 2020-42-UV  | R. Peerman                                  | 9100 E 100 North                            | <b>Continued by Petitioner's Representative to May 5, 2021 Meeting - Approved by Board – 3 in Favor, 2 Opposed</b><br>Petition for a Use Variance to permit an indoor recreation facility in the Rural Equestrian (RE) District.   |
| 2020-45-DSV | Residential Component of Appaloosa Crossing | 10901 E 300 S (Est) and 3201 S US 421 (Est) | <b>Approved as presented &amp; filed w/exhibits &amp; per staff report – 5 in Favor, 0 Opposed</b><br>Petition for Development Standards Variance to deviate from the required front yard setback to a minimum 20-foot setback for the single-family residential component of the Appaloosa Crossing project located in the Rural Professional Business (PB) District and the General Business (GB) District and within the Michigan Road Overlay (MRO). |

IV. New Business

| Docket Number | Name                     | Address of Project | Item to be considered   |
|---------------|--------------------------|--------------------|---|
| 2020-46-DSV   | M. Perez & O. Piedrahita | 7980 Royal Avenue  | <b>Approved as presented &amp; filed w/exhibits &amp; per staff report – 5 in Favor, 0 Opposed</b><br>Petition for Development Standards Variance to permit two existing residences on a single lot in the Rural Residential Zoning District (R-2).                       |
| 2021-01-UV    | Radiant Skin K. Lyttle   | 60 N Main Street   | <b>Approved as presented &amp; filed w/exhibits &amp; per staff report – 5 in Favor, 0 Opposed</b><br>Petition for a Use Variance to allow microblading services to be offered at existing aesthetic and beauty studio within the Village Business Zoning District (VBD). |

V. Other Matters to be considered:

| Docket Number | Name | Address of Project | Item to be considered     |
|---------------|------|--------------------|---------------------------|
|               |      |                    | Unsigned Findings of Fact |

Respectfully Submitted:

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

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In Attendance: John Wolff, Larry Jones, Steve Mundy, Laura Campins, Chris Lake

Staff attending: Wayne DeLong, Roger Kilmer, Darren Chadd, attorney, Chrissy Koenig.

A quorum is present.

Wolff All right, perfect.

Chadd Before you do that, Wayne or Roger—you guys, I'm having a really, really—

Wolff Darren is a officially frozen.

Jones Yeah, did he freeze?

Wolff Well, I think he's going to go pursue a better internet connection.

Chadd I've got you back now. Yeah, I'm going to have to do that.

Wolff Okay.

Chadd Go ahead and get started. I should be back up and in in 10 or 15 minutes, maybe.

Wolff Great. We'll see you then.

Chadd I've been kicked out three or four times already.

Wolff Okay.

Chadd I'd rather do it now than midstream.

Wolff Agreed. All right. With that, Wayne, if you're ready, I'm ready. Okay. Good evening and welcome to the February 3, 2021 Board of Zoning Appeals meeting. The first item on our agenda is The Pledge of Allegiance. I will look over Wayne's shoulder as I lead us in that.

All Pledge of Allegiance.

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

DeLong We'll call that. Mr. Jones?

Jones Present.

DeLong Mrs. Campins?

Campins Present.

DeLong Mr. Wolff?

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Wolff Present.

DeLong Mr. Mundy?

Mundy Present.

DeLong You have a new member present, Mr. Lake.

Lake Present.

Wolff Welcome, Mr. Lake.

Lake Thank you.

Wolff With that, I believe the next item on our agenda is the new member Oath of Office? Wayne, can I turn that over to you as well?

DeLong Yes. Mr. Lake has a copy as well. He'll just repeat after me while raising right hands. I, Chris Lake...

Lake ...I, Chris Lake...

DeLong ...do solemnly swear...

Lake ...do solemnly swear...

DeLong ...that I will support The Constitution of the United States of America...

Lake ...that I will support The Constitution of the United States of America...

DeLong ...The Constitution of the State of Indiana...

Lake ...The Constitution of the State of Indiana...

DeLong ...and the ordinances of the Town of Zionsville, Indiana.

Lake ...and the ordinances of the Town of Zionsville, Indiana.

DeLong I will faithfully, honestly, and impartially discharge...

Lake I will faithfully, honestly, and impartially discharge...

DeLong ...all of my official duties as a member of the Board of Zoning Appeals...

Lake ...all my official duties as a member of the Board of Zoning Appeals...

DeLong ...for the Town of Zionsville, Indiana...

Lake ...for the Town of Zionsville, Indiana...

DeLong ...without malice and to the best of my skill and ability...

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Lake ...without malice and to the best of my skill and ability...

DeLong ...so help me, God.

Lake ...so help me, God.

DeLong Very good. Thank you, sir. Welcome.

Wolff Thank you, Mr. Lake. Thank you, Wayne. Appreciate it. Welcome.

Campins Welcome aboard.

Lake Thanks.

Wolff Mr. Lake, I'm still optimistic that we're going to get together at some point and get to meet in person in the Town Hall but I told that to Miss Campins a while ago and I don't think that's ever happened yet either, so.

Campins Almost been a year.

Wolff I know. We'll figure it out. The next item on our agenda is election of officers for this coming year. Are there any nominations for President?

Jones I'll nominate John Wolff.

Mundy Second.

Campins Third.

Wolff Thank you. Are there any other nominations for President? Okay. Hearing none, we should vote on that. Wayne, can I turn that to you?

DeLong Yes. Mr. Jones?

Jones Aye.

DeLong Miss Campins?

Campins Aye.

DeLong Mr. Mundy?

Mundy Aye.

DeLong Mr. Lake?

Lake Aye.

DeLong Mr. Wolff?

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Wolff            It's moot point, but aye. Okay, thank you.

Jones            I thought the best part is we nominated, and he never did accept before we voted him in.

Wolff            Next item we need to cover is nominations for the Vice President of our board. Is there any nominations for the Vice President of our board?

Jones            Am I the current Vice President?

Wolff            You are not but I would accept a nomination for you?

Campins        I would second that.

Jones            All right.

Wolff            There's a nomination for Mr. Jones to be Vice President. Are there any other nominations for Vice President? Okay. Hearing none, Wayne, let's turn it over to you.

DeLong        Good. Mrs. Campins?

Campins        Aye.

DeLong        Mr. Wolff?

Wolff            Aye.

DeLong        Mr. Mundy?

Mundy         Aye.

DeLong        Mr. Lake?

Lake            Aye.

DeLong        Mr. Jones?

Jones            Aye.

Wolff            Very good, and congratulations Mr. Jones.

Jones            Thank you very much.

Wolff            The last office we need to elect is Secretary and I would nominate that Wayne DeLong continue his service to us as Secretary. Are there any other nominations for Secretary? Hearing none, Wayne, could you do this one more time?

DeLong        Actually, I would just pause here and note that it would be an appointment and so there would be no need for a vote. I do accept the appointment though, thank you.

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Wolff            Congratulations on your appointment.

Campins        Yes.

Wolff            I believe that covers our election of officers. The next item on our agenda is the approval of the January 6, 2021 meeting minutes. With that in mind, Mr. Lake, you can excuse yourself from this vote because you didn't participate in that meeting.

Lake            Yes, I will abstain. Thank you.

Wolff            Thank you. So with that, is there any conversation or discussion amongst the group about meeting minutes from January 6?

Campins        I was not at that meeting as well.

Wolff            Oh, thank you, Miss Campins. You're right.

Campins        Yes.

Wolff            It was—Mr. Mundy, Mr. Jones, and I were just having a good time. Steve or Larry, one of you is going to have to either make a suggestion on a fix for these minutes or a nomination to approve them as submitted.

Mundy         I move to approve the minutes of the January meeting.

Wolff            Thank you. Mr. Jones, would you second that motion?

Jones            Second.

Wolff            Thank you very much. Wayne, I'll turn this over to you. There'll only be three of us voting on this.

Delong         Yes, go to a roll call of Mr. Wolff?

Wolff            Aye.

Delong         Mr. Mundy?

Mundy         Aye.

Delong         Mr. Jones?

Jones            Aye.

Wolff            Thank you. The meeting minutes are approved. Prior to going to continuance requests, I would like to make a stop here and if there's any members of the public would like to be recognized as participating in the meeting. So, you're just going in attendance with the board. If you want to, you can raise your hand which the lower, kind of middle portion of your screen, you'll see a little hand

icon. You can click that and Mr. Kilmer will recognize you as a participant in the meeting.

Kilmer I do have a number of hands going up. I'll give them just a moment to get in. Those in attendance that have raised their hands are John Meyer, Sally Zelonis, John Towsley, Teresa Knipstein, Janet Martinez, Michael Chapman, Greg M., Tim Ochs, Robbie Blackwell, Deborah Meiring, Ryan Traylor, Shelly A., and Rod Peerman, Alissa Thomas, Felix Rogers, Tim Knoll. Those are all the hands that have been raised.

Wolff Very good and thank you. Welcome to all of the members of our public that are participating in our meeting. Again, prior to going onto continuance requests, I would also like to make a motion to allow the use of regular mail in lieu of certified first-class mail. We had made this motion in the past for safety reasons because of COVID-19. Is—let me rephrase that. Would someone make that motion?

Mundy So moved.

Wolff Thank you, Mr. Mundy. Is there a second to allowing the use of regular mail in lieu of first-class mail?

Jones Second.

Lake Second.

Wolff Thank you. Thank you. Let's take a quick roll call vote on that, Wayne, and then we'll get onto official business.

DeLong Yes. We'll take a roll call vote on that waiver of your rules, just looking for a vote on. Going to the roll call, Mr. Jones?

Jones Aye.

DeLong Mrs. Campins?

Campins Aye.

DeLong Mr. Wolff?

Wolff Aye.

DeLong Mr. Mundy?

Mundy Aye.

DeLong Mr. Lake?

Lake Aye.



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- Wolff            Very good. We are now on Agenda Item #6 which is continuance requests. Are there any petitioners on our agenda tonight who are going to ask for a continuance, essentially asking for more time to prepare? Roger, do you see any acknowledgment there? You're on mute, Mr. Kilmer.
- Kilmer           Yes, I promoted Mr. Tim Ochs.
- Wolff            Very good.
- Ochs             Good afternoon, Members of the Board. Tim Ochs representing the petitioner on the first item on your agenda which is a continued matter involving parking on Outlot I in Appaloosa Crossing. We, uh—I just saw the revised architectural drawings and plan today. That will be submitted to staff, I suspect tomorrow. Because we haven't had an opportunity to get the plans in time for them to be reviewed, we request another continuance to next month. This will be the last continuance request and it is very possible that this could very well be withdrawn before the next hearing. With that, I ask for a continuance to next month.
- Wolff            Thank you, Mr. Ochs. I want to make a note that next month's meeting, I should have in front of me, I believe is on the 3<sup>rd</sup>.
- Campins         Yes.
- Wolff            Well, any discussion amongst the group regarding Mr. Ochs request to continue that petition?
- Mundy           I move that Docket #2020-38A-DSV be continued to the March 3 meeting.
- Wolff            Thank you, Mr. Mundy. Is there a second to that motion?
- Jones            Second.
- Wolff            Thank you, Mr. Jones. Wayne, can we do a vote, please?
- Mundy           You're on mute.
- DeLong         We are getting a little bit of an echo here so probably the best thing to do is if you're not speaking is just to go on mute. I'm not sure what our quality issue is, it does—it is intermittent. Roll call vote, Mrs. Campins?
- Campins         Aye.
- DeLong         Mr. Wolff?
- Wolff            Aye.
- DeLong         Mr. Mundy?
- Mundy           Aye.
- DeLong         Mr. Lake?

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Lake Aye.

DeLong Mr. Jones?

Jones Aye.

Wolff Thank you. That petition is continued to March 3. We'll see you next month. Maybe we won't actually, we'll find out. That brings us to Item #7 on our agenda which is continued business. We just heard the first docket number is continued to next month which brings us to Docket #2020-42-UV for the property located at 9100 East 100 North. Could we please promote the petitioner or the petitioner's representative?

Kilmer I'm in the process of promoting the representative Jason Lueking. Mr. Lueking, if you could please provide your name and address.

Lueking Yes. Can you hear me okay?

Wolff We can.

Lueking Okay. Yeah, my name is Jason Lueking with the law firm of Stoll, Keenon, and Ogden, 300 North Meridian, Suite 1650, Indianapolis, Indiana.

Wolff Thank you, Mr. Lueking. Would you please describe what in front of us tonight?

Lueking Yes. this is a petition for variance of use for an indoor, private, recreational facility. I represent Vaughn and Patricia Peerman. They own property at 9100 East County Road 100 North in Zionsville. That's at the southeast corner of US 421 and County Road 100 North. They have 7.84 acres of property includes a residence and an accessory building. That accessory building includes a full-size basketball gymnasium, six basketball goals, a scoreboard, and hardwood floors. There are photos in your packet and they show this is a beautiful first-class facility. A lot of comments from folks visiting what is known as kind of a basketball barn say the photos don't do it justice, and they're real impressed at the quality and beauty of this particular facility. The history is that this was built in approximately 2005. At that time, Boone County zoning issued the building permit and a gymnasium was constructed and recently paved parking spots were added to the facility. There are 22 paved parking spots located to the north, immediately north of the facility. This facility has been used continuously for training purposes. Now, there's been two prior owners prior to the Peerman Family. The Peerman Family purchased this property in August of 2019.

We view this property as essentially a community asset here to Zionsville. It's promoting health and fitness in the community, training of youth primarily from the Zionsville area but also high school, college, even professional athletes in the nearby communities. This asset was built without any taxpayer dollars. For folks that move to the area, a lot of comments that they'll have is there is not a lot of gymnasium space in the Zionsville area. This facility is taxed separately and has increased the county and city's real estate tax base over the years. Our goal through this variance is to allow our clients to, you know, have the highest and

best use of this property but in a limited manner. There is a residence here and also the training of youth in the accessory building will be the uses we see going forward.

We want to comply with all safety requirements. This variance has and will open up the facility for health department, code enforcement, and other inspections. In fact, we've had those already. We hired Tim Moehl, who's going to speak here in a little bit, structural engineer for code inspections and also safety recommendation for the facility. He's filed his report which should also be in your packet. We also had an inspection by Mr. Joshua Frost, Deputy Fire Marshall for the Town of Zionsville. He submitted a report to us as well. To protect and other protections we are going to have for what we view as the folks that are concerned about this property are several use commitments that we've filed and are willing to sign and record with the property, reduced essentially dangerous concerns that we feel adjacent property owners have raised. We place a limit of 20 persons at a time to receive training in this facility. There's no bleachers in the facility, you'll see from the pictures. Spectators are not necessarily encouraged because it's not really built for that. It's built for training purposes but it's rare that we have 20 people training at a time. Usually that's young kids, first and second graders after school who are kind of in a herd of cats kind of mentality, better to train them together as one. We always have at least one adult supervising activities in the facility as well. That's in the use commitments. We placed in the use commitments that typically there's an average of five persons or less that do this particular training in the facility. We've also put limited hours of operation on the site. My clients live at this residence and they don't want any, you know, training to go beyond, you know before 8 a.m. or even after 9 p.m. in the evening. There will be no leagues, no tournaments. We've received some, you know, knowledge of prior, you know, 3V3 tournaments conducted at the site. That is not anything we want to do and we put it in use commitments as they are not allowed.

We've also said that this property must be owner occupied. With the residence next door, the residents would supervise all projects and prohibit offensive activities at the site. Please note this isn't the owner's full-time job, running this particular facility. He's not looking to make a fortune, just recover basic operating expenses using the facility. In the report from the staff, we saw that there was renewal consideration, that could be something that could be addressed. We're open. If this variance is granted, it would be granted for a limited period of time and we have to come back and report to you on the conditions of the site and what's happened since the time that this variance has been granted. The Peerman Family will support a decision that puts a limited time period on the grant of this variance. I know in the staff report, we have to address the Comprehensive Plan. A lot of times their hands are tied from the Comprehensive Plan but we believe that this property and this project is unique. We're on the US 421 corridor. This property immediately adjoins US 421. It's a main commercial thoroughfare in Zionsville and Boone County. It also joins County Road 100. That road has been improved and is now a direct link between 421 and the Pacers Training Complex in Grand Park. We're not completely isolated here. There are some businesses and quasi-businesses close by along the 421 corridor. You'll find a veterinary clinic. You'll find a business that boards horses, a seamless gutter sales business, Family Creek Vineyards Event Center,

Interactive Academy, Zionsville Golf Practice Center, and a nearby mobile home park. All these businesses are right along the 421 corridor near the site.

We've submitted several letters of support and I believe the staff has received some as well. We had 36 letters that we submitted and we had a variety of folks that wrote these particular letters. Some are residents of Zionsville, some are non-residents. There's a basketball coach at Zionsville Middle School. There are teachers at Zionsville and other schools. There are parents. There are professional business men, other women, and various occupations who wrote these letters. Even the teenagers and students that have used the facility have wrote letters. Even some college and professional basketball players have wrote letters in support of this particular facility. The common themes you'll find in those letters is a lack of facilities in Zionsville, other communities have more, this is an asset to the Zionsville community. The letters also show support of the Peerman family that they've opened their doors to others. They're allowing folks to pursue their dreams and improve their skills in a sport that they love. The folks that have written these letters have not seen any observations in offensive behaviors. If there were, being the owner is onsite, the owner is going to shut those activities down.

We've had some concerns raised about impact on property values. Our observations is the property values in this area continue to increase since 2005 or 15 years ago when this was built and in the recent years. This is also a top-class facility. This isn't an offensive facility. It's not something that we believe, like a mobile home park or tattoo parlor or some sort of packaged convenience store, that would drive down property values. Also for noise and activity complaints at the site, while we could install, you know, private and public stables results in perhaps more noise, more activity and smells from the facility, we believe our use is a good use for the site. To conclude, we would request approval of the variance. We believe that would support the highest and best use of the property in a reasonable manner, encourage youth participation in sports, and also the continued use of a valuable neighborhood asset. Like I said, I want Tim Moehl, a structural engineer and associate of my client, to speak next. He's going to discuss safety and building code issues for the property.

Wolff Thank you. Mr. Kilmer, can we get him promoted.

Kilmer I am promoting Mr. Moehl.

Moehl Can you hear me?

Wolff We can hear you, yes.

Moehl Okay, good. My name is Tim Moehl. I'm the President of Moehl Engineering Incorporated. It's located at 99 East 106<sup>th</sup> Street in Carmel, Indiana. I'm a licensed structural engineer and code consultant. I was hired by the Peermans to look and assess the building for compliance with a Class 1 structure. The State of Indiana defines a Class 1 structure as any structure that is used or occupied by the public or by employees, by three or more tenants, and site improved that affects persons with disabilities. So, it's imperative that this building for the use be considered a Class 1 structure. We met with Josh Frost with the Zionsville Fire

Marshall. He came out and looked at the building and gave us some insight into what he thought possibly would be safety items that could be added to the building. I've put plans together for the building. They're in the packet, I believe. There's three plans. There's elevations which is A-101 which shows the exterior of the building and what we—the clouded areas on there show what we intend to do or what we propose done for the building. A-102 is just a floor plan of the building. It gives you a general layout of the building and the general size and dimensions of the building. It also shows the locations of Mr. Frost's suggestions and my opinion on bringing this building into a Class 1 type structure. The third plan is considered a life safety plan. It's a plan that shows egress from the building in the case of an emergency. This building is wide open. It's not an office building that has interior partition walls where you have to find your way out. I still recommended to the owners an addition of another exit to avoid confusion in the time of an emergency. I suggested that we plan another exit on the north elevation at the east end of the building. This is because when you're on the south area of the building against the wall, if there was an emergency, you might not realize that an exit is directly to the east of where you're at but if you're standing there, you can look. You will always remember the door you came in but you can look across the building and see that there's a second exit. I thought this was an optional item. It's not required by the building code but it was just my suggestion. As far as the other items, the doors currently swing inward and for Class 1 structures, doors have to swing outward for egress. So they will be reconfigured in an outward swing and panic or bump hardware will be added to operate the doors. That's on all three, all two existing exits and the proposed exit. A suggestion for an ADA compliant grab bar above the toilet in the bathroom would make the bathroom facilities ADA compliant. Class 1 structures need at least one ADA compliant bathroom.

Mr. Frost is the Zionsville Fire Marshall and he suggested also that the stairs up to the mezzanine of the interior, the underneath section of the stairs be covered by Type-1 or Type-x sheet rock, 5/8-inch Type-x sheet rock. That gives it a one-hour fire rating which is not required but is a good idea. The owners have accepted this. Replacing the smoke detector in the mezzanine area was another suggestion. The building code requires a ceiling height not less than seven feet. So in the mezzanine area, the ceiling does come down to about 5'6". So the mezzanine will be blocked off and walled off so that there's a minimum of a 7-foot ceiling area. The building is non fire-rated construction as it is not required to have fire-rated construction. The size of the building is 6,800 square feet. It's an A-3 occupancy. A-3 is building or occupancy like art galleries, exhibition halls, libraries, museum types and this is what this building would be considered. An A-3 structure does not need a sprinkler system according to the Building Code if it's less than 12,000 square feet. This building is 6,800 square feet so a sprinkler system or fire suppression system is not required by the Code for this occupancy and this size. I think that's what I've got prepared for tonight. If you've looked at the plans and have any questions, I'd be more than happy to answer any questions.

Wolff

I think I only have one. I'll certainly turn it over to the board before we go back to Mr. Lueking. I guess, my question is and—it sounds like your area of expertise and not mine. This is not, as it sits today, a Class 1 structure, correct?

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- Moehl That's correct.
- Wolff So it was not built for use or to be occupied by the public?
- Moehl Well, I wasn't around at that time. Things do get built non-conforming, let's say. So, I believe that it probably was built for public, there are just a few minor items that are needed to change like the door swings. I believe that they're minor items and can easily be done to bring this into conforming Class-1 structure.
- Wolff So, and the suggestions you've articulated tonight are to get it in line with the Class-1 structure and to improve safety for the public. Correct?
- Moehl That's correct.
- Wolff Okay, very good. Do we have any other questions for the engineer on this project?
- Lake Yeah, I've got one, John. Yeah, this is Chris Lake. Tim, if this is not a Class 1 structure today and you're converting it to a Class 1 structure even though it's been operated like that in the past, does the petitioner not have to submit that to the State of Indiana for review given it's a change of occupancy, and then meet all current code standards, such as the energy code, given that they're changing the filed use, or unfiled use to an A-3 occupancy which is probably not what it was intended to be when it was built?
- Moehl No, they're not changing the actual use of the building. They're not changing any structural configuration, any structural numbers aren't being cut or removed or modified. It is just basically I'd consider it just fixing errors in the construction of the building, the original construction, so.
- Lake So, it's always been a basketball court ever since it was built?
- Moehl That's right.
- Lake Okay.
- Wolff Thank you. Are there any other questions for the engineer before we bring Mr. Lueking back?
- Mundy I have a question. If this was always a basketball court, would it have required the alterations you're suggesting to be in conformity with the ordinances?
- Moehl Yes, it should have been built this way. It should have had the door swings out. It should have had an ADA compliant bathroom. The other items, the suggestions by the Fire Marshall, are not code requirements, so they aren't what would have had to have been done in the original construction of the building. The door swings are the major item.
- Mundy Would it have required those changes to be made if this was a personal basketball court used just by the family?

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Moehl No. Private structure used by family, it wouldn't have had to have been a Class 1 structure. Class 1 structure is required when it's open to the public.

Mundy Thank you.

Jones Is this area served by sewer or is it all on septic?

Moehl Well and septic.

Jones So is the well and septic system designed for a 20-person use on multiple occasions during the course of the day.

Moehl Yes.

Jones Really?

Moehl One toilet, one sink.

Jones Septic field?

Moehl Yes.

Jones Was designed for what could be a 100-person use on any given day?

Moehl Yes, in my opinion.

Wolff Any other questions for the engineer this time? Okay. Thank you for your presentation. Can we get Mr. Lueking back?

Lueking I should still be on.

Wolff There you are, perfect. I'm sure my fellow board members have some questions. I'll probably take leadoff on this one. How many hours per week do you feel this facility will be in use, or hours per day if that's an easier number? I'm not going to hold you too accountable but I'm just trying to get a scale of the intensity of the operation.

Lueking Yeah, that might be a better question for my client. Can I have Rod Peerman answer that question?

Wolff Sure, but why don't we wait on that one? I'll get back to that one, and then we'll come back to it. Are you or was your customer, or client, excuse me, aware that this location was cited for the exact same thing prior to their ownership?

Lueking I don't believe they had knowledge at that site.

Wolff Okay. Then, this is something I know you're going to be qualified for, so we can—then, we'll go maybe to your client and see if he can answer the intensity of use question. As you know, we're obligated to adhere to the findings of fact. One of the findings of fact, there's five that we're obligated to honor in this particular

petition, one of them is that there is a hardship for the property. Can you describe the hardship for the property?

Lueking        Yeah, I would say the hardship is the property recently purchased has about 15 years of use is what we found out, you know, later. Some of that we knew before, and it's a facility that has, you know, tens of thousands—could be valued, we think, up to \$300,000 facility that essentially cannot be used for its best use if no variance is granted. So, that's one of the backgrounds and reasons why we are seeking the variance.

Wolff            So, I think the way we've always interpreted that is that there should be a hardship for the property itself. So for example, the property is going to slope to it or something along those lines. I'm not sure you've demonstrated that. You know, the property could be used as it's zoned for its intended use today. It doesn't have a hardship for its current zoning. So, you've created a hardship by putting a barn on it that has a commercial use to it. You see it differently?

Lueking        Yes, the prior owner's created the barn back in 2005.

Wolff            Yeah, so the—if the barn wasn't there, there's not a hardship.

Lueking        Correct.

Wolff            If they're not using the barn for a commercial existence, there's not a hardship.

Lueking        I guess it would be—yeah, the barn would not be used for anything, I guess.

Wolff            A family can certainly use the barn as a recreational barn for themselves, and there would be no hardship.

Lueking        Yeah, we believe it's a hardship not to continue to let it be used by the public.

Jones            Wait a minute.

Wolff            Yeah, we're going to have a lot of people speak to this tonight. I agree, and I have two kids who play basketball. These are nice facilities, but that doesn't make it appropriate for this particular location. With that, I'm going to—I think we may have some more questions for—should we stick with Mr. Lueking right now? Larry, it looks like you may have a comment.

Jones            I just want some clarity. If I'm hearing this correctly, you're saying that a 15-year violation of zoning is the hardship.

Lueking        We believe, yeah, it's been allowed. We could argue this is a non-conforming pre-existing use that was just ignored over the years. We're not aware of any prior violations or citations have been issued prior to the one we found out that was issued to the prior owner a few years ago.

Wolff            Okay. Do we have any questions for—I kind of have one open question which was kind of the intensity of use. The petitioner's representative thought maybe



the petitioner would be best for that. Does anybody have any questions for the petitioner's representative right now?

Mundy I'm not sure who would best answer this but Mr. Lueking, you tend to indicate that this facility has always been used in the manner which it's being used now. Some of the letters of remonstrance have indicated that this was done for the kids of the family. They may have had friends over but there was never a commercial enterprise going on there in terms of training, practice, or any other form. Can you answer to that or is that something that—it's history, I realize, but certainly the letters have indicated that that was its prior use and its use early on.

Lueking Yes. some of the letters, and I've gathered some of the facts from the letters of support that were sent in that folks trained here, you know, in 2005 and beyond, would come here all the time to train or frequently to train over the years or the year and a half that my folks have owned the property. Does that answer your question?

Mundy I'm not sure.

Lueking Yeah, I think Mr. Peerman can speak to that too on some of the knowledge he's picked up from the prior owners. There may be people in the audience too that have a little more history on the training at the facility, and who's been there, who's been training.

Wolff Is Mr. Peerman available to speak to us tonight?

Lueking I believe he is.

Wolff Okay. Let me rephrase that, he's hired you to do this. Does he want to speak? I have a couple questions potentially for him.

Peerman Can you hear me?

Wolff We can.

Mundy Yes.

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

Peerman Rodney Peerman, 9100 East 100 North, Zionsville, 46077, residence with my family.

Wolff Thank you, Mr. Peerman. The question I asked earlier was, and I'm not going to hold you accountable to this, but I'm trying to get a scope of the intensity of use. So, how many hours per week would you say that the barn is occupied with basketball players or trainers or whatever, you know.

Peerman On an average, there are only—I allow two hours a day from 3:30 to 5:30 where there are what you're conceiving as masses which is Zionsville kindergarten through third grade players that come into the facility. It is utilized three to four other hours per day on average that there is one to five personnel here. So, you're

looking at that type of breakdown. At that, there's very minimal traffic. There's very minimal people. It's more of a studio at that point than the two hours a day that we have Zionsville children here.

Wolff So, two hours a day with kids, three to four kind of more private lessons or one-on-one type of instruction, so approximately six hours a day of use.

Peerman That is correct.

Wolff Okay. I believe, Mr. Mundy—I don't want to put words in his mouth, but I believe Mr. Mundy was asking, do you have any, understanding that you're the property owner for the last maybe couple years, any sense of how the property was run or what the intensity of use was prior to your ownership?

Peerman I do. I actually know all prior owners personally. I've asked them about it. The original owners were like myself, the Roberts that wanted some private training, etc..., and do things of that nature although they had a person by the name of Ed Schilling and people that were here and a few professional players that participated. The second or intermediate owners were the ones that I'm living the sins for because he was here to professionally train, only professionally train not give to the Zionsville community. He also tried to Air BNB the house so that—actually, the technical owners did not live here. Then, I heard at some point, they tried to have weddings and parties and things that were exterior to the facility, of which none of those I want. I live here. I would never want to the safety of my family worrying.

It's an invite-only private type facility. I think there's some misconception on what you think when you say public gym. This is not to be a public Gold's Gym where you have just people swiping in and out or anything. It's an invite-only type of environment. Part of my goal in life is to help and give back to my Zionsville community. So that's when you see the traffic. The traffic is first and third, you know, graders. I'm very much concerned about the safety. So when they said that there were safety issues, I wanted to make sure that the building was compliant. I did not realize that doors going in versus going out if I have people here were a problem. So, I want to fix that... I never even until I was just blown away from someone saying that this place was cited previously, never knew that. I know that there's been hearsay and there's been stuff but I was never told Joey Burton or whomever or the Jalins received a \$2,500 fine. I know that this whole noise has gone on and there's a whole separate subject matter to this that we have not and aren't going into at the moment. However, that's not our goal. Our goal is to just help the community.

To the other question as well, I'd like to address, which is on the assessment and the hardship. I personally take a hardship to it because when the assessment of the house was done and I went to purchase it having no knowledge or anticipation of making this a commercial facility, was told that it was \$250,000 more dollars than what it would be if this structure wasn't here because of the facility and everything else. So, I was mis-sold something that I would have purchased for about \$500,000 that I purchased for over \$700,000 because of the fact that it had a class, what I would call a pristine building which you can, well you can't see but it's behind me. So that is a hardship for me that I'm going to

have to swallow a pill that I purchased something that I was told had an assessed value of almost \$200-300,000 that I now can't use except now for my child to play basketball. So, I accept that as a hardship.

Wolff Yeah, we traditionally haven't necessarily thought about financial hardships on those types of acquisitions as actual hardships. The hardship rule is generally defined as, is there something wrong with the property that prevents you from using it as it is, as it's zoned for, let me rephrase that, as it's zoned for. Our attorney could probably say it even better than I could. I do have—I want to follow up with a couple things you said. I lost my train of thought.

Peerman Just interrupting a bit, and I apologize. When I purchased this house, I purchased this because my son was involved with sports and I just wanted to have a place for myself to have a man cave or whatever you want to call it. I did not know at the time of any thought of this was being used, leveraged, people coming here or not. I bought the house with no intent. COVID actually brought out the most of how I could also help with buildings and places and businesses being shut down and how could I help my community. As a coach of youth, I noticed that Zionsville did not have the facilities like where I came from in New York City and/or Fishers in our move when we first came here that had a plethora of places for children to go to and a safe place for people to be.

Wolff Okay. Fellow board members, do we have any questions for the petitioner or the petitioner's representative or the engineer?

Mundy Mr. Peerman, you say when you purchased that you had no intention of commercializing the facility there?

Peerman Absolutely not. I take a little bit of offense to my neighbors saying that I sent out a letter that was misleading. When I sent out the letter, my child was playing on a fifth grade or sixth grade team and their team was practicing here. So, that's all that was practicing here was his two teams that would come in here and practice, then himself. Only during the onset of COVID-19 and everything and when a friend of mine that was training my son was put out of work and everything else, we said this would be a facility that could help others because they have no place to go. So that's when we thought about—again, it's not to be commercial but to recoup. There's an extensive amount of money that it takes. I mean, the heating bill alone can be over \$1,500 a month just to have it heated. It's a large facility so I should be able to recoup those. I'm not looking to be able to make millions of dollars off of this facility or have traffic impacted. It's to make back what we have, but in the offering of the people.

Wolff Mr. Peerman, have you spoken with—we do, we did receive several letters of support from all over our community and some other communities. We also received some letters of remonstrations. It's mostly surrounding your immediate area. Have you had meetings or spoken with any of these neighbors on this subject matter?

Pearson Quite ironically, we've attempted numerous times, my next-door neighbor, though we've told the stories of the people and how exciting it has been for my son to see a famous person in here and get knowledge and skill sets from them.

They've said and agreed to it but then they mention ethnicity [sic] and they don't appreciate ethnicity [sic] in this area. I'm not trying to bring that in as a he said or point out, but it's ridiculous that what we're going through with that part of it. They never come here. I've asked them to come in and see the facility. I've done my best to be a part of this community and try to help it. Yeah, we've offered to talk to them. They said that people go on their property so I've put cameras outside to monitor those areas so that there's no way which, there will be legal proof that that will show who did it. I mean, the goal—I'm worried about my family as well so I would never invite someone on this property that would be of any offense or defenses.

Wolff So, if I could paraphrase what you said, Mr. Peerman. You feel like you've made a concerted effort to reach out to the neighbors and communicate with them and—

Peerman Yes, absolutely. I mean, I've spoken to my next-door neighbor who is worried for his family and everything else. I'm trying to do whatever I can to ensure the safety of this area. There's never been a police report and I'm installing and doing and filing, and whatever I need to do to make a person feel safe. That's my goal.

Wolff Very good. Any other questions for the petitioner, petitioner's representative, or the engineer we spoke with?

Campins Just to clarify, the barn prior to your ownership, was used for the same purpose that you are using it for? Is that correct?

Peerman As I'm told and have heard from both the owner and his trainer, the person that I purchased it from, the Jalins and the Joey Burton trainers, yes. They were full-fledged just wanting to have college and professional people in here and train.

Campins Personal training?

Peerman Yes. the original—I'm sorry. I didn't mean to cut you off, ma'am.

Campins Oh, that's okay.

Peerman The original owners, as well, had Ed Schilling and LaSalle Thompson who works with numerous things and they were doing it. Their sons were in high school at the time but LaSalle and others were in here training and doing private training.

Campins Okay. Have you had a facility like this in the past? Have you ran a facility like this?

Peerman I have not ran a facility like this. I've been a coach, and I've been a technologist. That's actually my other passion is to bring my technology and give to the players as well. I've put electronic systems in here to track what they do and help them be more efficient and proficient in what they do. So, I'm just trying to bring my subject matter expertise to the game of basketball.

Campins Okay. Thank you.

- Wolff Any other questions at this time?
- Jones Mr. Peerman, just to confirm, did you add the 22-car parking lot?
- Peerman No, sir. That was part of my purchase.
- Jones Part of the purchase?
- Peerman It was here. It was existing when I pulled in, so it was part of the purchase. It was not—
- Jones You purchased the property when?
- Peerman I purchased the property in August of 2019 and took ownership September 6. I have not made any structural improvements to any of the property.
- Wolff Good discussion. Any other questions?
- Campins Oh, I had one. Is there lighting, like along the road? I know when I drove down there, is there lighting that lights up the drive that goes towards the barn at all for safety?
- Peerman I have a, whatever it is, a 400,000-Joule light that can light the parking lot so that you have sufficient lighting and I have lighting around the area. I've refrained from putting it in the driveway right now because my neighbor has complaints of lighting. He says that the lights shine in his windows and he's worried about that and doesn't like it. So, we put up—I didn't. It came with the property as well. He had asked that point before. So, the previous owners put up a privacy fence to shield the lighting. I would love to put some lighting out there to make it even more safe but I've refrained from it just because I'm scared he's going to complain that there's lighting.
- Campins Is there signage at all so that—I mean, I know one of the complaints was people that could not find the barn so they pass it up and go to the next neighbor. Is there any signage at all—
- Peerman I haven't put anything—I have not put anything out there because again, not wanting this to be a, you know, a conglomerate strip mall or anything of that nature. It's invite-only. I do know that Google—I'm going to work with them on getting the GPS locator corrected. Right now, if you type in 9100 sometimes you go toward the polo farm. So, I've had that actual problem because I take care of my parents as well who live here who are elderly. We've had three emergency ambulance calls from Zionsville and they go to the wrong location. So, I've worked to try to figure out how to get a better pin map so that if you say 9100, you don't turn left.
- Campins Okay. Thank you.
- Mundy Mr. Peerman, you've said it's invite-only and the group that's here, the two hours, the first through third graders, is that right?

- Peerman That is correct. That is invite as well.
- Mundy Pardon me?
- Peerman That is invite, though. It's the first and third grade little Zionsville teams. Then, there's technically one other. It's a fourth-grade team. T.Y. Hilton runs that team with his son. So, they know and come here too but it's a team that's been invited here.
- Mundy Okay. The others, when you say invite, is this through the school system or just—how do you source those that you invite?
- Peerman I'm working with the IBA who has Zionsville teams. So, he puts together the people that live in Zionsville so that they don't have to travel all the way to Indianapolis to practice and they practice here.
- Mundy You said an IBA?
- Peerman Indiana Basketball Association.
- Mundy Okay. Thank you.
- Peerman Academy, so.
- Wolff Very good. Any other questions? Okay. I think at this point, we will turn it over to public comment. Roger, if you want to get ready for that. Prior to us opening that discussion, I would ask that those members of our public, we would ask you to please state your name and address for the record to participate in our conversation. If you did send in a letter of support or remonstrance, we do have it. The staff does a very good job. I have them organized. They categorize them for us all. So, if you want to just repeat those words, that's not necessary. We already have that information as part of our packet. If you have additional content to add, we certainly, or depth to add to our conversation, we certainly want to hear that. Once again, please state your name and address for the record, then feel free to state your thoughts but please be concise. I think this is going to be—this could be rather lengthy, so I'm going to ask—I may cut you off. If you're going to repeat something that somebody's already said, that's not necessary. You kind of just echo those thoughts and say you agree with the previous commenter. Yeah, so with that, Roger, I will kind of let you lead this.
- Kilmer Thank you. The first hand we have raised is for John Meyer. I'm promoting him to panelist.
- Wolff Thank you.
- Meyer Hello. My name is John Meyer. I live at 9376 E 100 North Zionsville, Indiana. Just some points I want to say is, we would like to keep the use for Rural Equestrian. I'm having trouble pronouncing that, the use it is now. The activity is growing. We have a big concern if this does get passed that it's just going to get bigger and bigger. Allowing 20 cars in and 20 cars out, there's cars that sit on the

road, a problem with traffic going in and out. It's very dangerous on that corner with 421 and 100 North. We just want to kind of get our neighborhood back. The original barn as everybody's discussed was done by the Roberts and was for their sons and daughter. That was the original use and he wanted them to play basketball, and he built the gym for that. Since then, it's become a problem. The Jalins were cited as well and they decided to sell the property and not mess with it anymore. I disagree with the owner. He told me he knew ahead of time what all had happened. So, I feel like the hardship is not on the money thing at all. I don't think there is any hardship in this situation at all. So, I would like the board to deny this.

We don't want to begin a business, a bunch of businesses out here. We moved out of the city to get away from that. If Mr. Peerman feels like that is something that he wants to do then it should probably be done in a certain commercial area. The barn could be moved. I know it's expense on that. That's where we're at. We want to have our neighborhood back and not have all this traffic in and out on a daily basis. There's some—like you, some said, there's as much as 60 cars coming in and out of here, people waiting to get in and out. You can't get through on the road because you've got people waiting for the other cars to get out to dump out between the hours of 3:30 to 5:30, as he said. I may be off on the hours there but it's—a lot of times, it's all day 24/7 a majority of the time. It's just something that we don't need in the neighborhood. Thank you.

Wolff            Okay. Thank you, Mr. Meyers. So what I think I heard your concerns were is that you're concerned about traffic and also the fact that it may get more and more intensive use. If we allow this, it may get more excessively used. You are—you would prefer that the area stay zoned as it is today?

Meyer           Right. There's a lot of safety issues. A lot of us neighbors have all got hit by people pulling out in front of us, so there is a big safety concern especially with the road being paved now. People are driving faster through here. We have people turn around in the drives all the time or they'll see us out. They'll ask where the basketball facility is as was stated earlier. It's just annoyance basically.

Wolff            Okay.

Meyer           I've been here for 15 years and it's just—every owner has got worse and worse on this situation.

Wolff            Mr. Meyer, have you spoken with Mr. Peerman directly about this?

Meyer           Yes, we talked in probably March or April of last year. He said he was just to use the use for his sixth-grade boy at the time. When March or when COVID, the state lifted it on May 1, that's when business increased dramatically. It wasn't just sixth graders. We've got people driving in and out of there. You've got professional players. You've got college players. It really got busy as of May 1.

Wolff            Okay. Thank you very much.

Meyer            Thank you.

Wolff Roger, we'll go back to you.

Kilmer Thank you. The next individual I'm promoting is Brian Traylor.

Taylor All right. Sorry, you cut out there. You got me?

Wolff We do.

Taylor All right. Good evening. My name's Brian Traylor. I live at 10319 East 100 North. I am a mile to the east of this property. I want to agree with the staff report and the staff recommendation for denial on this. There is no hardship. This property, if the idea of the hardship is the financial one then that's just a financial mistake not a hardship on the property. This property has been an ongoing issue. If the owners as they said were buying it without intention of using it as a commercial property then going back to not using it as a commercial property should be no hardship in addition to what they, you know, what they were already expecting as a primary residence. The idea of the ethnicity is just—I take offense to that on behalf of all of our neighbors. That's not it, has nothing to do with that. I think that's kind of a cheap shot and not appreciated. So on behalf of the neighbors, that's just not the case. We have a good group of people out here and take great offense to that. So, that's all I have. Thank you.

Wolff Mr. Traylor, I think if I could summarize your concerns, your primary concern was that the hardship was not met in this particular petition?

Traylor Not met at all. Thank you.

Wolff Thank you.

Mundy Can I ask a question here?

Wolff Certainly.

Mundy Mr. Traylor, could you comment on any traffic issues that you've observed as a result of the facility there?

Traylor You know what, my comments would strictly be speculation because I live a mile to the east like I said. I can't say exactly where the cars are coming from. I do know that there are cars. There are cars coming at a high rate of speed. Is it because of basketball court? I can't say that it is. It may also be partially just because our road has been paved in the last year and a half or two years and that's caused a little bit more traffic and faster. So, I won't use the traffic because being a mile away I can't directly see the property. I can't say that that's definitely where the cars are coming from.

Mundy Thank you.

Wolff Roger, is there anybody else who wants to speak?

Kilmer Yes, sir. I'm promoting Greg M., no last name provided.



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- Wolff Thank you. Mr. M., are you there? I would also note that while we're waiting, someone did write a comment in the chat and we will observe those as well.
- Meiring Can you hear me now or—
- Wolff We can.
- Meiring Okay. Sorry about that.
- Wolff No worries. Could you please state your name and address for the record?
- Meiring Absolutely. Greg Meiring. I'm at 9401 East 100 North. I'm just on the same road as the Peermans. I agree with Mr. Traylor. I've never met him but the whole thing about ethnicity is just ludicrous, has nothing to do with any such thing. I also am appalled that that is even brought up. He didn't experience the traffic— Mr. Traylor doesn't experience the traffic that we do because he is on the opposite side of 421. All the traffic increase or at least the majority of it would be to the west side of, or to the east side of 421. We do have a lot of traffic. This used—up until two years ago, this was a gravel road. As you know, 100 is a small country road. So, it's just a large increase in traffic that this road was not made to handle. So, I am concerned about the safety. I have never met Mr. Peerman. I'm sure he's a fine gentleman. I have never met him. I have no quarrel with him. It's just the whole traffic and I am concerned about decrease in property values for that reason. That's pretty much all I have to say.
- Wolff Thank you, sir. So if I could summarize, you are concerned about the traffic and the safety issues that that may cause as well as if there's an increase in amount of traffic and car flow that it may decrease the property values?
- Meiring That is correct.
- Wolff Thank you very much for participating.
- Meiring Thank you.
- Wolff Roger, I'll turn it back to you.
- Kilmer Okay. We do have a few more hands raised. I would like to note that Mr. Peerman is one of those hands raised. He would like to have an opportunity after everyone speaks to address the **comments being made.** [inaudible].
- Wolff Yes. Mr. Peerman and Mr. Peerman's representative, we will certainly let you have the opportunity to speak again after the public portion of this hearing.
- Kilmer So, I'm promoting Deborah Meiring.
- Wolff We can. Would you please state your name and address for the record?
- Meiring I will. Deborah Meiring, 9401 East 100 North Zionsville, Indiana.
- Wolff Thank you. What are your thoughts on this petition?

Meiring My concern was the traffic and the numbers of cars that are in the parking lot at any given time. We have 20 people that come out and 20 people that come in, and the numbers don't add up with what Mr. Peerman said. There is many more cars than would be required for the amount of people he said would be in the facility.

Wolff Okay.

Meiring Our concern also is the number of hours per day that the facility is used. He had said that he would, he or someone would be able to supervise the people in the gym. I'd like to understand how that's going to happen because there are people in there at all hours of the day and I'm not sure who would be supervising.

Wolff Okay. Your concern there would be that if there isn't supervision, it would be a safety issue or?

Meiring If there's no supervision, if someone gets hurt, how is that going to be handled?

Wolff Okay. We will ask Mr. Peerman. Mr. Peerman will have a chance to speak so I will be sure to ask him how does he intend to have it supervised. In addition, you also mentioned that you were concerned about the traffic and you felt that the traffic was being under represented currently. Is that correct?

Meiring Correct.

Wolff Okay. Very good. Thank you for your comments.

Kilmer At this time, we have one more hand raised. It is Janet Martinez. I would promote her.

Wolff Okay. Yeah, please do, thank you.

Martinez Sorry. I was muted. I'm here.

Wolff That's okay.

Martinez My name's Janet Martinez. I live at 1041 North US Highway 421. I live on the north corner of 421 and 100 on the east side right across the street from the owner. I have a lot of concerns of course, but traffic has been one because sometimes they will park in the property in the grass. I think that happens when they have so many cars that people don't want to wait to get out so they want to park their cars along the road. I've had that happen to me several times. The traffic is the concern because I've walked across my street and people were pulling out of there and pulling out of there and I can't my mail. I know the road's busy all the time but I've been almost hit by someone who's pulled out from that side road crossing the street to get my mail. That's, you know, a big concern of mine. We've lived there 61 years. We've had that—not 61 years, we bought the farm in 1961. My dad bought it and our family has had this farm that long and we're very concerned about the value of our property with this facility going up over there. The idea that our—you know, would you want to build a

house across the street from this gymnasium? If we had to sell our land for my mother, you know, to take care of her, would our value drop tremendously? I believe it would. Also, I don't think it's adding any value to our community out there. I think it is going to hurt our little community and we need things that are going to, you know, help the area and keep our peaceful country setting the way it's been there since 1961 for us.

Wolff Okay. So what I think I heard you say was you have concerns about traffic and the safety that comes along with the increased amount of traffic.

Martinez Yes.

Wolff Your concerns about the property values and that would someone want to— would it decrease the property values or would someone be less likely to build a home across the street from a facility like this

Martinez Right.

Wolff To summarize, you're inclined to keep the zoning as it is to help promote the community or maintain the community.

Martinez And maintain the farm as is.

Wolff Thank you very much for participating.

Martinez I'm sorry?

Wolff I said, thank you very much.

Martinez Oh, thank you.

Kilmer We have had a couple more hands raised.

Wolff Yeah, Roger?

Kilmer Yes.

Wolff One more moment. I would articulate to all our community members, we've had some people against this particular petition. I did see one comment in the chat. If you are in favor of this, you are also welcome to speak. Again, please be concise and don't repeat the same points over and over but this is not just those who are against the petition. You may also speak if you are supportive of the petition. So with that said, Roger, please continue.

Kilmer Promoting Theresa Knipstein.

Wolff Miss Knipstein, are you there?

Knipstein Hello, there. I'm Theresa Knipstein-Meyer. My address is 9376 East 100 North. We live right next door to the barn that's asking for the variance tonight. I have

sent two emails directly to Mr. Wayne DeLong that I believe the board has already had the chance to see. I've made some very—

Wolff We do have them.

Nepstein Thank you. I've made some very direct pieces about public versus private uses. We were originally here in 2005 when the barn was going up as well and we were very, had a very wonderful opportunity to get to know the Roberts as they brought their children up into the area of basketball which we loved as well to watch. It was a personal amenity and as we noted, it was a critical distinction between the personal and commercial. It was used for limited number, small traffic pieces and it obviously was not a commercial which is not permitted in this zoning district. We feel that the town of Zionsville has many individuals with that personal land use and we were very powerfully excited about it continuing to stay Equestrian Rural Zoning. You know, we've had other examples which the town of Zionsville has done such an amazing job like the Pearson's Tennis Center which I referenced in my email. You know, that was—Tennis acquired the land. They sought the zoning approval from your board, and that prior to opening placed its operation near like uses not immediately adjacent to homes. You know, it's a really critical facility inside of our town that a facility should be built where it's properly zoned like the Pearson Tennis Center.

We feel that the owner has been unable to articulate or demonstrate any true hardships which has already been communicated. I think it's likely because he may have not had the intentions to keep his commitments, and we feel that this is not being lawfully done. We understand that there is concern of property owners with this variance getting approved, the activity will increase even more. I have a concern personally of who's going to watch these 20 people coming in and out. How is that monitored if it was to be approved? We have vehicles turning around like you said in our driveway. We have concern about coming off of 421 and turning right onto 100. We have a lot of young drivers out here. There is concerns about the variance violates our covenants and our conditions. Obviously there's still concern about the fire and structural pieces that were alluded to earlier. We feel that there is an increase of waiting traffic now that has increased since our January meeting that was allowed in contingency of this. We are very, very concerned and we request that you deny this variance for many reasons but these are some of those that I hoped you would consider.

Wolff Thank you. I would note that we did receive your email so we do have that as part of your record as well. Thank you for your comments.

Knipstein Thank you.

Kilmer I'm promoting Michael Chapman.

Wolff Thank you.

Kilmer To be a panelist.

Wolff Are you there?

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- Chapman I'm here.
- Wolff Perfect. There you are. Mr. Chapman, please state your name and address for the record.
- Chapman I'm Mike Chapman, live in Spring Knoll Preserve. I've been in Zionsville since 1987. Grew up on a dairy farm in southwest Indiana. So, I have total, I think, appreciation for the changes taking place out here on Michigan Road and concerns that the neighbors have. Having said that, I have a daughter that trains at that barn out there. She's AAU basketball and we've been all over the middle section of Indiana for good training. I've got to tell you that this is a state-of-the-art facility with state-of-the-art trainers that their hearts are in the right place. I really believe we're cutting off our nose to spite our face as a community if you guys don't look at the bigger value here of what this barn is adding. The technology that this man has in place is above and beyond anything that we've seen and we've been looking for three or four years for this type of training out there. So, I certainly appreciate having come from a farm and a farming community the concerns but there should be some way that we can keep this open for personal training here in Zionsville. We will be so much more competitive in three to five years, as our teams will be here at the high school, if we allow this to continue. If we don't, it's going to cost us. So we've heard a lot from the neighbors. I know there's lots of letters that have been written on behalf of this barn. I'm a little disappointed that we haven't had more of them step forward and say something here this evening.
- Wolff Thank you, Mr. Chapman. If I may summarize, you think this is a first-class facility as well that provides excellent training as well as an asset to our community.
- Chapman Beyond question. It's—we're really—I can't imagine not allowing this to go forward. We need this. You have to drive—we drive an hour one way to Finch Creek just to get good training out there. To have this, something like this, close to Zionsville, you're going to increase the competitiveness of this community and its athletic sports. It's a mistake to close down this barn.
- Wolff Okay. Thank you, Mr. Chapman. Roger, I'll turn it back to you.
- Kilmer Hand raised is Greg M. I believe he spoke earlier.
- Meiring I think I'm on. Are you there?
- Wolff We are.
- Meiring I'm sorry about that. Yeah, I just wanted, if I could, if I could get a clarification on the private use versus commercial use. I'd like for someone on the board to kind of explain that to me because I don't fully understand the difference. Then the other thing I would like to say, on the letters pro and con, who's in favor and who's not in favor, the ones that aren't in favor are the ones on the immediate road that get all the adverse effects from it. I have no doubt it's not a first-class gymnasium but if you don't live—if you lived in the area—I guess my question to you is, would you want to live on the road or right next to that barn because of

all the adverse effects? Every neighbor that I know of is against it. So, you know, we have a vested interest because we live in this neighborhood. Those that train at the gym, get the amenities of the gym but they don't get the adverse effects of it. I'd just like to get a clarification on the private versus commercial use. I don't really understand that.

Wolff Thank you for your comments. I will seek that clarification and I might even do it from our town representatives. They can speak that language better than I can. So if you hang tight, we will have a staff report here in a few minutes and I will be sure to ask them that question. So, thank you.

Meiring Thank you very much.

Wolff Roger, do we have anyone else looking to speak?

Kilmer Mr. Wolff, there are no other hands raised. I will remind you though that there were some comments in the chat. I don't know if you want those read into the record or how you want to address those.

Wolff So, can we—I'm looking at them now. I'm happy to, just for sake of conversation, I would encourage all of my board members to look at them. Is there any way we can capture those for the minutes?

Kilmer Yes, we can do that.

Wolff Okay, perfect. So if I just went back to them real quickly, there is first Mr. Sloan that is fully in support of the petition. Then, Mr. Peerman, we're going to talk to him in just a moment. Then, Caleb was very in support of the petition as well, feels like it's an asset to our community. Then, Mr. Sloan was also concerned or didn't think the traffic impact based on the location was that much of an issue. Okay. If there's no further comment, I will close that portion of our conversation. I do have some questions for Mr. Peerman and his representative. Perhaps, now would be more appropriate for us to have the staff report.

DeLong Thank you. Staff is happy to provide this information. As the staff report indicates, staff is not supportive of the petition as it's been filed. In essence, the zoning speaks to and supports any level of use that is permissible by ordinance. That includes a home occupation. That would also include some level of equestrian activity. These accessory uses that are home occupations are required to be subordinate to the primary structure which is not the case here. So trying to put this into the box of a home occupation simply is not possible in terms of the mere size of the structure. Staff's non-support of this petition primarily revolves around the Comprehensive Plan, the zoning for the district, and the fact that your ordinances allow for occupations and activities like this but when they are subordinate to the primary use of the property which is residential. There are certain criteria within the ordinance that a home occupation can operate under. They are permitted and permissible to be in a detached structure. They are permitted to have an employee which is a person who is a non-resident. They can have a certain level of intensity in terms of visitors to the property. When it's indoor instruction, the ordinance doesn't actually put a cap on the number of

persons that can receive indoor instruction however, the limit on visitors to the property are no more than two vehicles so that does structure that somewhat.

Again, staff is not supportive of the petition as it's been filed and certainly happy to answer any questions. Specific to the question about the commercial aspect of this that's been discussed, the definition in the ordinance of "indoor recreational use" does not quantify or mention the word commercial in terms of compensation in nature. It's silent to that activity. It doesn't, uh, it's not addressed. Certainly, if this was a different type of facility and met a different definition then, yes, that might come into play. The fact that money is being exchanged or some sort of compensation is potentially happening here is not germane or contained within the definition. So, I hope that clarity is offered. If there's additional information, I'd be happy to dive into it further or certainly the BZA attorney can as well dive in.

Certainly, I wanted to provide a little clarity on the commercial aspect of the building. Certainly, Class 1, Class 2 commercial design release issuances, these are items that are found in Indiana Advisory Code Section 675. It's been something that's been on the books for 30 some odd years or more. Be that as it may, I mean, I can only suspect that this building just like it's been described was originally built as a Class 2 structure. The building code that's applicable in terms of commercial buildings was not applied by the county and rightfully so. This was a building that came through for permitting most likely as a Class 2 structure for personal use, and at some point in time morphed. If it did have a Class 1 rating, it would have been minimum, have a commercial design release assigned to it and with it. There would be a stamped set of plans that would exist potentially if the State would have done that at that time. So there's a few pieces of evidence that would have substantiated the Class 1 status and the commercial design release in the state review. So, a couple different things additional to add here. Certainly be happy to answer any questions you may have.

Wolff Any questions for the staff? When we talk about home occupancy in that portion of our code, could you provide an example? I guess, maybe I'm thinking of like hairdresser or something along that. Would that be—

DeLong Certainly, I mean, you could have a profession such as beautician, hairdresser, accountant, lawyer. It could also be an equestrian sport, firearms training discharge. These are, I mean, I mentioned equestrian, because it's a Rural Equestrian area. That would be a permissible home occupation where a trainer would come in, offer training to students that are visiting the property under the employ of the property owner. So that's an example of an outdoor home occupation. It's very routine to see that in Zionsville and certainly Boone County. Certainly, to your example, a hairdresser, beautician is another example.

Wolff Thank you, Wayne. Any other questions before we speak with petitioner again?

Lake Wayne, I have a question. I asked this earlier of Mr. Moehl, but I find it hard to believe that you can operate as a Class 1 structure without any approval from the State of Indiana. Going from a Class 2 to a Class 1 structure must require some sort of approval at the state level because fire and building safety at the state level approves all Class 1 structures.

- Jones Chris, I think what's going on here is that what the petitioner is doing is agreeing to bring the building up to a Class 1 structure but he's not saying it's going to go through the process of actually generating an architecturally stamped set of drawings and resubmitting them to the state for a Class 1, for a building permit for a Class 1 structure. Does that make sense? I mean, yeah, which is—I mean, it's nice but I think to your point is, if they had come along to say they were going to build a basketball training facility and there was going to be a commercial structure built to a Class 1 nature, they never would have gotten the permit if the land underneath had been zoned Rural Equestrian. Correct? Am I right, Wayne?
- DeLong That is correct and certainly a local building permit would be sought to facilitate the changes that are articulated in the information that's been provided to you. Certainly, we would question at that time you know, is what level of State permitting would be necessary related to the, you know, State building code at that time.
- Lake Do we know if the neighborhood association—I assume they have a neighborhood association, they're in a neighborhood with covenants. Has the neighborhood association given their opinion on this use? I mean, we've heard from residents but—
- DeLong I'm not personally aware. I don't know if any staff on this call is aware of that either.
- Lake I believe their covenants do not allow this either.
- Mundy I would be surprised if there's a HOA there. I mean, this is a rural setting and that's not typical in a rural setting that you have a homeowner's association with covenants and restrictions.
- Lake There are covenants with the land and it is deemed a neighborhood. That's all I was wondering.
- Wolff Good questions, good discussion. I will certainly ask Mr. Peerman that question. Any other—while we have staff on the hook, any other questions for staff? Okay. If not, before we turn it over to the board for discussion, I think we have a couple pieces of clarification from our petitioner. Roger, would you please promote petitioner's representative and/or the petitioner?
- Kilmer I'm promoting both Mr. Lueking and Mr. Peerman.
- Lueking Can you hear me?
- Wolff We can, thank you.
- Lueking I'll go ahead first. Rod may want to go with some of his comments.
- Wolff Certainly.



Lueking           The issue on the covenants. We're aware of the plat. The plat is for a 6-lot subdivision that was provided to the staff and there are no sets of formal covenants like you would normally see in a residential type subdivision, very limited. It does refer to the zoning code in that plat but no restrictions like you'd see in your typical residential subdivision. As far as no neighbors supporting this particular project, we did submit the letter from Skylar Freeman and Natasha Freeman in support. That was in our first set of packet that we submitted. Let's see, what was the other question? Lawfully done—we believe we are going through the lawful process here through the variance proceedings to obtain a variance for the property. I think I'll turn it over back to Rod, who I know has some input here.

Peerman           Yeah, I mean, this started with statements and addressing nothing on the commercial side but the processes were going on. So, I have attempted to do the right thing and make this. I'm open to any concessions or things it is. We're not trying to make a huge commercial business. If it's overwhelming, then you curtail down to, my problem was like, now I forget, Mr. DeLong was speaking about, as a home studio business. It's unfortunate that this barn needs upwards of ten people to be here to produce what it did. So, that's the only reason that we're doing it. We're trying to make sure that the variance. I'm not really interested in some conglomerate commercial business. Now, my neighbors think that. A significant amount of the traffic and to address some of those points, 100 has become a thoroughfare to get to Westfield and all of the new residents and everything else and the commercial area that is down there by 31. It was paved and people are using it as an alternate. When you are working construction on 421, this was the detour. So the amount of traffic going through has increased, not because of—I mean, even if you constitute 20 cars, that's 20 cars going to the first entrance. Now, I do know for a fact and I watch it, for the year and a half that I've owned the property, it is heavily policed and there has not been one accident on 100, not one. Look through your police records, you'll notice there's never been an accident. So, as far as I know, I'm not increasing traffic. There is a significant amount of traffic on my property because there are semis doing 60 and 80 miles an hour every day through there. I'm not complaining about that and 100 has very limited traffic except for people mostly going past me.

I do take offense to Brian who commented about this is not a safety issue. The demonstrant [sic] letters that I received talked about personal safety. The two people that spoke against me tonight talked about they can't come outside because of the people on my property, that's an issue. Why? I do not want safety problems on my property. I make sure. Everything is invite-only. If you want me to only have five people come on the property to train, then fine, let's concede to it and move on. I feel it's a misconception on the word commercial. Chris, I'm trying to do the right thing and put the things in place that weren't done before me and make it right. So if it's got to be a Class 1 to have five people in here, I'm trying to make it that and do the appropriate properties. So Larry, I'm looking at that. If I need to put in permits, if I need to do things, that's why we're here. I was told by Mr. Peeples and Kilmer that I needed to do this process so that the people calling in every few weeks and complaining about people on my property would go away, put this variance in. I'm not legal, so I hired Jason to help me because it does not fit in what Mr. DeLong spoke about, two people or one little thing. So, I'm only trying to make it right and make it legit.

I'm trying my best to help the community. I know everybody, or my neighbor feels, I'm not but I'm not the previous owners. I'm not trying to be here just for NBA and dollars. I really honestly want to help the Zionsville community. If I have to, I'll put 25 horses in here or I'll demo the building because my taxes are here because of this. I mean, that's the only thing I'm looking at right now is to help the community and people. If you only want five, then let's concede and let's do it. If I need a license or I need to permit it, let's do it but it is a hardship to me because I did get mis-sold on the fact that the value of the property with this building on it. It is invite-only so we know who comes and goes so stop the safety issues. Somebody talked about parking on 100. Since I've been here, I have made sure that no one ever parks out there. Now, granted there may be one or two that sit on the side to be sure they don't drive through my grass to get here. If someone is trying to pull out, it's only wide enough for one car. If I need to make it two-wide, then I'll make it two-wide so that no one's ever on 100. The only reason that people even stop out there on 100 is to allow someone to get out without driving on my grass on a one-wide road.

The value of the properties around here, run a true MLS report. My neighbors purchased this in 2020 from someone that bought it in '13 and it was triple in price. I paid more in one year than the person before me. So, let's not talk about property values going down because of a barn. Everyone else here has a barn. The Roberts, the original owners, that's actually a misconception on those parts too because my neighbor knows for a fact that Ed Schilling put this barn, part of this, in here. My floor is from the 2002 World Games and he had it put in here for free to offset training dollars. So, they were in here with LaSalle Thompson and other people during the Roberts tenure, and charging people to train here.

Wolff                    Mr. Peerman, there was also a question from one of the remonstrators about how you plan on supervising those who are here at the facility.

Peerman                That is correct. So, I have a electronic lock that only a few people that are mostly family members and my trainer, one per se, employee that comes in here and trains. There are no other trainers allowed in here. There are no... anyone that would, if you're calling it revenue, revenue generators or anything. I have Mr. Blackwell who's in here and he is here or I am here. There is never training before 7-8:00 in the morning and there's never anything past 8-9:00 at night that is not my family in here enjoying my barn.

Wolff                    Okay.

Peerman                So, that should answer that. We are always here. It is a safety, I mean, I'm very much concerned that, let's talk of it if you're saying NBA players in here. If he was to fall and break his leg, imagine what my insurance would be.

Wolff                    Okay.

Peerman                Or a child.

- Wolff            What's that, I'm sorry?
- Peerman        Or a child being in here.
- Wolff            Sure.
- Peerman        I honestly do, I mean, I can't say it any other way. It's a shame that I'm going to have to demo this building because of the fact that you don't feel that it's right to be an asset for the community. I mean, if I had to, I would love to partnership officially with Zionsville and say, here, here's your time for this space and then allow me to, or my trainer Robert Blackwell to have some sort of a living not trying to create this commercial environment of millions and millions of dollars. If it's 20 cars, let's take it to 10. Let's take it to whatever is needed that this facility can stay in place.
- Wolff            Any other questions or comments for the petitioner or the petitioner's representative?
- Mundy          Mr. Peerman, I was unable to see—I believe you through the chat put up a comment or two, maybe more. For some reason, mine get truncated so I was not able to see what you put up there using the chat feature on the—so if it was something you haven't—if it was something you've already covered, then fine, disregard. If it's something you put up and haven't covered, I was unable to see it.
- Peerman        I was just trying to make sure or ensure that as they were flying through and asking some questions that I was answering to them and we didn't forget it because I do want to answer it. I had comments in there of ethnicity, so I answered them. I had comments on traffic, so I'm trying to answer them. So anything that my neighbors feel is in offense, I'm trying to work with them. Like I said, I put cameras up. I do things. I'm trying. The township told me to put this variance in to make sure that it was considered in my layman terms legit. I'm not trying to pull the wool over anyone's eyes, so I did it and it's caused this whole windstorm of commercial blah blah and all of that. So, that's what it is.
- Wolff            Okay, thank you. Roger, I think we're going to move to the board's discussion. I would note that you mentioned that two people have raised their hands. At this point, we have closed the public portion of the comments. There may be additional questions for our petitioner, but we have closed the public portion of the comments. So, let's move forward to the board discussion.
- Jones            Yeah, the issue that always sort of pops up is if this had been kept as a private use that an individual that lived in the house gave lessons to people that showed up at the gym he built in his accessory structure, this thing would never have gotten to this point. Once it started moving over, that there's a 22-car parking lot out there, that's when all the issues start to snowball. Whether it's parking or access off of 100. You know, if this facility was truly in a commercially-zoned location, then the signage, the traffic, the ability to get in and off the streets, the amount of parking, all that would have been addressed in that issue. The other thing that always concerns me about this is we're hearing about how this is such a great facility and that there's no others in the area. Well, when you allow things

like this to happen, they undercut the ability of someone trying to do actually a facility that would meet all the standards. So, as much as everybody's talking, we're working to the benefit of the community, we're actually working against it by allowing things like this to happen because basically it's taking away from business from people trying to actually do things correctly. It was interesting when you were bringing up the comments about NBA players or kids getting hurt at this facility. It's probably absolutely correct. A commercial facility would have commercial insurance and would probably carry the proper amount of liability coverage for those things.

One of the things that kind of popped up in my head to look into was what are the actual property taxes on this and how is this property being taxed? Is it being taxed at the 1% residential rate or the 3% commercial rate? Basically, once again, what's happening is, the rest of the Town of Zionsville is subsidizing this business. So, it just—as much as I appreciate everything Mr. Peerman's doing and all the letters of support and how it's a great thing—at a certain point, it has grown outside of being a good thing into being just another business operating, you know, outside of the code and zoning and multiple other violations. So, I don't know.

Wolff Mr. Jones, would you look at this differently if one of the commitments the petitioner had offered was that he would limit it to private instruction for no more than 2-3 individuals at a time, or would you think the same of the petition?

Jones Question is, who enforces that?

Wolff Yeah, reasonable point. Thank you, Mr. Jones. Any other comments from the board?

Mundy I struggle with the application to the point of hardship. Mr. Peerman said he bought the place with no intention of commercializing it, yet it appears that it is the hardship is that the cost of maintaining and operating that facility is costly. Yet I can't see that that is a hardship as we view hardships for zoning purposes. I think the people that need to be listened to are the neighbors. They are the ones that have to live with additional traffic, people in and out. It is not zoned for that activity. Requesting that we change to allow that activity, I think we've—this is one where we've actually seen the effects of it before it gets a chance to come to the Board of Zoning Appeals. The neighbors don't like it. I can't say that the hardship has been caused by not allowing this change to be made.

Wolff Thank you, Mr. Mundy. I generally would agree with some of your thoughts. I think the hardship is a challenge here. The way we traditionally view maybe the hardship obligation, I don't think the petitioner has done that in this case. Also, the number 5, I don't think it—I think it does interfere with the Comprehensive Plan. I don't think it's consistent with that. The challenge is, this is a beautiful facility. Mr. Peerman is trying to, as far as we know, as far as we can tell, provide it to many of our community members and I think that's a good thing. We have several letters saying that they support this thing. Maybe even people saying that we're picking on Mr. Peerman. That's not our intent at all. We are obligated to follow the rules and use the findings of fact. We have zoning ordinances that benefit all of us in our community. When things get outside of that, we have rules

and procedures to kind of get it back into conformity. So I, you know, generally think the facility is great. I'm glad that he wants to benefit the community but I don't think it's appropriate or legal as it doesn't follow our rules. So, I'm not sure if we are in a position to move forward with him. That's my two thoughts. So if either of our other board members have any thoughts, I'd love to hear them; otherwise, I'd entertain a motion.

Campins I just want to add, if Mr.—if he still only owned the property since August of '19 in a year and a half and it is already increased in activity in that time, you know, I'm almost—I'm concerned with the growth of that going forward. So, he—I mean, it must have been known ahead of time going in that he would be using this facility in this form, so.

Wolff Yeah, we did have one of the remonstrators state that they were concerned about the intensity of use and how it may increase. I think that is echoed by your thoughts as well. Mr. Peerman did say that, you know, he didn't think that he was contributing to the traffic and that the traffic was a result of other things. There probably is an increased amount of traffic whether he's there or not but there's, I mean, the facts are the facts. If there's 20 cars there or there's 10 cars there because of him, then he is increasing the traffic. They got to go left or right out of his driveway. Most of them are probably going to go left to 421. That is an increase in traffic. So, I think that is a valid concern from some of our community members. Any other thoughts?

Jones This might be a question more for Darren. I just want to confirm something. So, if this gets denied, they'd have to wait another year to come back before they could make any other kind of request, correct?

Chadd Yes. Yeah, there is a wait, I'm pretty sure it's one year after a denial.

Jones If the petitioner wanted to ask for a continuance to see if there is some chance to see if they could come up with a little more solid plan and that would gain some approval from the neighbors, that's also at their option, correct?

Chadd Sure. They could certainly, ask, yep.

Wolff Mr. Jones, I see where you're going. We always try to be amendable to helping everyone, being fair. If you could, could you offer anything that you would be more in favor of?

Lake I was actually thinking about this the other day. What if their drive came off of 421 and took all the traffic off of the road to the north altogether? The traffic on that road from cars cueing to get in and out because it is a one-lane entry drive. If you move that access drive somehow onto 421 parking on the west side of the barn instead of the north side of the barn.

Mundy I'm not an expert at this but I think that would require the State approval for a curb cut.

Lake Didn't say it'd be easy.

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- Jones            Yeah.
- Mundy           True.
- Lake             That's not the point.
- Campins        It's a thought.
- Jones            That's going to draw a little more scrutiny from the State in terms of the permitting and the zoning of the property.
- Lake             I just—if you had a guy that bought a house to the north and he had an excavator that he used to dig himself a pond and then he decided to buy six excavators because he wanted to get into the business and he was taking excavators out there with trucks all day long, the neighbors would complain that, hey, now that's a commercial use. That's essentially what's happened here. You know—
- Jones            Chris, we've previously shut that type of operation down. It was a farmer who was leasing out some of their property for an excavation property and that's what was going on. Now, if that farmer had had six combines out there driving around in a circle all day, that would have been perfectly fine but then he started crossing over the line and leasing space out to an excavating company, he was in violation of his agricultural zoning.
- Wolff            We need to move forward one direction or the other. Is there any tangible ways—I think Mr. Lake offered a potential solution. Another one would be to severely—I know, I should not—that's not the appropriate word, to significantly limit the intensity of use and be very specific about that. Mr. Jones, you expressed concerns about how do we police that. I don't have that answer. Board Members, do we want—well, I'll leave it up to you.
- Lake             You could also simply widen the drive to make it so that cars don't have to cue to wait for some cars to come out before other cars can go in. That's another option along with limiting traffic count, use count.
- Jones            Does the petitioner's counsel have any input on this?
- Wolff            What about the hardship issue? I still don't think we've addressed that appropriately.
- Lake             I do not feel there's a hardship.
- Jones            Yeah, it's a non-starter. We've never really allowed financial considerations or lack of due diligence on a purchaser's efforts to be considered a hardship.
- Wolff            With that, should we bring the petitioner's representative forward or do we have a motion?
- Jones            Let's bring the petitioner's representative forward one more time to see if he's got any input and see what happens.

- Wolff            Okay. Very good. Roger, would you please promote Mr. Lueking?
- Kilmer           I will do that. Mr. Peerman is also requesting to move forward also.
- Wolff            Okay.
- Lueking          Yeah, can you hear me?
- Wolff            I can, thank you.
- Lueking          I definitely think we would be, you know, we could look at the access from 421 and the expansion of the driveway as a couple options. I don't know if that gets us there. The number of users at the facility at a time, that could be something we look at too as well. That's really nothing that Mr. Peerman and I have discussed. So, I'd probably want to get some feedback from him on other types of possibilities.
- Wolff            Okay. I guess to be excessively blunt, I don't think we have a hardship that we can adhere to at this point. I'm not saying there isn't one. I'm saying the one we have in front of us, I don't think we can give a vote for this petition. The other ask is, if you are asking for a continuance, I want to be very specific. The expectation is that we've heard several concerns from neighbors. You know, I think it's intensity of use. I think it's traffic. I think it's safety. Then, my ask is the hardship. With more time, we would expect those issues to be addressed.
- Lueking          Yeah, those are pretty tough, a tough to road to hoe, really.
- Wolff            Well, it's up to you. We can have a vote now or you can ask for a continuance.
- Peerman          If I could ask a question, I was sent down the commercial path by Zionsville. This whole thing has blossomed from just some concerns with my neighbors and arguably so to justify this but I'm trying to figure out the home studio, the invite, the beauty shop parlor. It's by invite or not invite, by appointment only. If I need to be at "x", then I should be allowed to be at some kind of meet in the middle. I do think the facility is not behooving to have one person but there should be a limit if it's five people for a team or something and it's by appointment only. What is wrong with that? My neighbor that's against it said that if it was five or ten cars, he'd be for it. So, let's meet where it acceptable or amendable by my neighbors and get away from this commercial whole nonsense as well or this becomes a gun range or an equestrian farm. I mean, I'm forced in another direction, because I don't need it.
- Wolff            Okay. Mr. Peerman, you know, I guess, you're the boss here. You paid your legal counsel. So, our ask was, I think, we've heard—you've heard the concerns but maybe somehow with traffic, safety, intensity of use, and then in this and it will fall back on your representative. We do have to adhere to the findings of fact. I think we have our trouble with the hardship. I don't think you should use your monetary loss as a hardship. I think there may be a way of finding one but that's not the one you can use. With that, would you like more time to work with your neighbors and address those issues if possible?

Peerman I have to at least figure out the correct way of which this should be presented because if it's not from a recoup of finance, okay. I should be allowed or people should be allowed to come here. Now, if I need to just say, my friends are in here and it's free, then that's what I'll do but yes, I need—I guess, I need a continuance because I have to figure out. You're correct, I mean, I was sold a bill of goods but now I'll go a different direction if it is. I'm not interested in making this a conglomerate commercial facility.

Mundy You know, if I could say something here, Mr. President. I have not heard anything that has made me believe that I would change my mind on this when the hardship would be, it would not be met. That the Comprehensive Plan is effected. This is not bringing all the constraints down to a point where everybody is happy. I don't think you're going to be able to satisfy that given the zoning that you have and the hurdle you have to meet it. So, I am not in favor of a continuance.

Wolff Okay. Mr.—Roger, will you please just put the board back together?

Kilmer Yes, sir.

Wolff Okay. Mr. Mundy, I think you raised an interesting point. Your comment is that, hey, I'm not sure if there is a way to get a petition we can approve. Any other thoughts? We have two directions to move forward. We can make a motion to continue this in hopes that the petitioner can find a solution, or we can make a motion to vote on this petition as it is in front of us.

Lake I feel like there is some good being done in the facility so I'm in favor of a continuance. I'd make a motion to continue this.

Wolff Thank you. Mr. Lake, you are making a motion to continue Docket # 2020-42-UV?

Lake Yes, until the next meeting.

Wolff I just want to make sure—I want to make sure we have the right timing on it. Roger, will you only promote Mr. Lueking, please?

Kilmer Sure.

Wolff Mr. Lueking, are you there?

Lueking Yes, it looks like I got promoted.

Wolff Okay, very good. Quick question, if we do—if this continuance motion passes, the next meeting is on March 3. Is that an appropriate amount of time? Do you need more time or is that fine?

Lueking I would think we need more time. I would think it's more of a 60-day time frame to do what we need.

Wolff One moment. I want to grab my calendar here somewhere. Somebody have one in front of them.



Lake Yes.

Wolff What is the April date?

Lake Next, or the 7<sup>th</sup>.

Wolff April 7<sup>th</sup>. Okay. So Mr. Lueking, you would be asking for April 7<sup>th</sup>.

Lueking That would be—yeah, that’s fine. Thank you.

Wolff Thank you.

Jones I would like to make one more comment before we—

Wolff Roger, we can go back to the regular board, thank you. Go ahead, Mr. Jones.

Jones I would—you know, the—I understand Mr. Peerman kind of resists the commercial label being applied to what he’s doing, his operation. Basically, any time you have a substantial number of people and you’re collecting a fee for them being there, it’s a commercial business, just a business. I don’t like at all the idea of commercial businesses you know working their way into land that is zoned, you know, Agricultural or the Residential Equestrian that they have here. One of the things I’m going to want to see or probably ask for and I’m just putting it out here is some sort of sunset be placed on whatever comes in because obviously this enterprise has existed out there for numerous years. The problem with it, what started off as a more or less private individualized basketball kind of training session morphed over into a commercial enterprise and that’s what’s causing the concern. Once again, I don’t believe it is a hardship on Mr. Peerman’s part that he bought a property thinking he was buying something that was legit and he didn’t. That’s just his own personal act of due diligence but with that being said, I’d be looking towards a sunset clause so this thing doesn’t get passed onto somebody else if things change. Does that make any sense what I’m saying?

Wolff It does.

Jones Okay.

Wolff It’s consistent with what we’ve done in the past.

DeLong I do want to draw the board’s attention to petitioner’s counsel pointing out that they are not available that date of April 7. It appears in your chat.

Wolff Okay. So it looks like the date after that is May 5.

DeLong Certainly, if the board was so inclined to grant a continuance tonight, certainly clarify for the petitioner and certainly Mr. Chadd may need to weigh in as to what is permissible on the property, the building during this continuance process. Certainly code enforcement is indeed stayed because the petitioner has filed the variance. What does that also mean to the occupancy of the building?

- Mundy           What's the status now, Wayne?
- DeLong           I personally, I don't—I've not been on the property recently or at the property recently. It's my understanding that activities are continuing. Certainly, that's not the best footing a petitioner can give themselves in working with their neighbors, working with the Board of Zoning Appeals if the activities that are indeed subject of a variance are continuing. So certainly, that might be another topic for if you are inclined to entertain a continuance.
- Jones             On the other hand, it's also giving them a 90-day opportunity to maybe see if they can test out something that might be more palatable to everyone and prove they can do something.
- Mundy            You're suggesting—yeah. In other words, Larry, you're saying let them continue to do what they're doing?
- Jones             Well, I'm saying that they now have a 90-day window, is what they're asking for, to come back before us. That also provides them time to actually maybe put in place—the one time I drove by the property, there was 18 cars in the lot. So, I firmly believe everything the neighbors are saying is correct. You go on Google Earth, you can go back a few years and see where they're parking out on 100. So, the point of it is during the next 90 days while they're trying to work through what might be agreeable and see if they can get support of the neighbors. The neighbors may just say no and all we've done is allow them to operate for 90 more days. They might be able to use that time to come up with a better working solution for all parties and have something that would be agreeable with the neighbors and more agreeable to us, and have proven they can abide by same.
- Wolff            Mr. Jones, would you please offer what you are more agreeable to?
- Jones             All right. I would be agreeable to a 90-day continuance for the petition, whatever the numbers are—
- Wolff            Hang on one second. There was one—okay, let's do this a different way. There is a motion on the floor which is a continuance. I asked for clarification on the date which now is going to be May 5. Is there a second to that motion?
- Jones             Second.
- Wolff            Thank you. Mr. Jones, would you please add the amendments that you were thinking to that motion?
- Jones             The amendment that I would like to add to the motion is that over the next 90 days the petitioner (1) see if he can come to some sort of accord with the neighboring people who are remonstrants, (2) demonstrate he can actually adhere to same, and (3) just be prepared that whatever he comes forth, we're going to ask for a sunset clause on it.
- Wolff            Okay. Was there another comment there?

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Jones I don't think so.

Wolff You didn't specifically specify limiting the use to what it's currently at, did you?

Jones Correct. I did not.

Wolff Okay. Would you like to?

Jones Nope.

Wolff Okay. Darren, are we on the up and up, right now?

Chadd Sorry. Yes, you're good. You're fine.

Wolff Okay. There is a motion on the floor. There is a second on that motion. We need to make a vote. This is to continue the petition to May 5, 2021. Wayne, I guess we have a motion on the floor, we need to act on it. Will you please do a roll call vote?

DeLong Roll call vote, yes. Mr. Lake?

Lake Aye.

DeLong Mr. Jones?

Jones Aye.

DeLong Mrs. Campins?

Campins No.

DeLong Mr. Wolff?

Wolff Aye.

DeLong Mr. Mundy?

Mundy Nay.

Wolff Motion carries. This petition will be heard on May, I believe it's May 5, May BZA Meeting. Challenging petition. To the petitioner and the petitioner's representative, please bring us something better that we can act upon. Thank you. Next item on our agenda is Docket #2020-45-DSV for the property located approximately at 10901 East 300 South and 3201 South US 421. Roger, will you please bring the petitioner's representative forward?

Kilmer I'm in the process of promoting Mr. Matt Price representing the petitioner.

Price Good evening, Mr. President, Members of the Board. My name is Matt Price. I'm the attorney for the petitioner and their development. With me tonight, I have three representatives from Neer Development team in addition to myself. Those

are Terry and Larry Neer, who are the owners of Neer Development, along with our civil engineer Brett Huff. All three of us are available to answer question for you this evening. I would like to be able, Roger, to share my screen which I think I can do by pressing the green button here. Can everyone see that okay?

All Yes.

Price Okay. Very good. Well, let me give you just a little bit of overview, maybe a little bit of background on the Neers themselves. My slides aren't moving here. I think they've frozen over time here. Let me see if I can fix that. The, uh Terry and Larry Neer are builder partners with Epcon which makes an empty nester, active-adult type community product. Low-maintenance homes, these are homes that each of which are equipped with a courtyard hence the name Courtyards of Appaloosa. They are very experienced in Zionsville and I know many of you are familiar with their original project in town which is the Courtyards of Zionsville, which is just north of the Saint Alphonsus Church. That project has been very successful, very well-received by the community. 62 total homes, there is one left for sale now. As part of the approval process for that project, we sought really the same variance with regard to the front setback as we're seeking here today, which is specifically to permit a 20-foot front yard setback. I'll explain a little bit about the nature of why that's necessary and kind of how we find ourselves here today with respect to this provision in the zoning ordinance.

To give you just a little bit of a view of the streetscape associated with our project, we proposed to have a 30-foot street from back of curb to back of curb which is as we've done in the original courtyards project. You'll see kind of as you're looking on the left-hand side, we have a green belt which is where that tree is located, sidewalk, and then we propose to have a 20-foot minimum setback to the home from the back edge of the sidewalk. Now, some of the homes are adjacent to the roadway and are not equipped with a sidewalk. These are private streets not required to have a sidewalk and for those homes, which I'll specifically identify, we're requesting for the 20-foot setback to apply from the back of curb to the front of the home. This gives you kind of another vantage point for what that looks like vis a vis the streetscape. This is an overall plan that was included in your packets. It's the—with our application, it's what's referred to in the staff report as Exhibit 4. This is the just over 25-acre area right in here that comprises the residential portion of Appaloosa Crossing. It's comprised of a total of 84 lots. Again, these will be the courtyard-style homes very similar to what you see in the Courtyards of Zionsville today. The standard—and I'll talk a little bit about this although it's done, it's treated very well in the staff report—the standard that's applicable to properties that are located or zoned under the former Boone County zoning ordinance with regard to the front setback is this: it's the greater of 20 feet from the right of way or 70 feet from the midpoint of the, from the center line excuse me, of the adjoining road. That's the word it uses, is "road." What the staff report notes is that that standard is not particularly useful because it's unclear. What they have surmised that it means is that the 70 foot from the half right of way or from the center line of the road, probably referred to situations where a property was abutting an existing right of way as opposed to being within a modern subdivision like what you see here. So, they've supported the variance really for that reason, the 20 foot being an adequate distance from

the road right of way to the building consistent with the use of the property for this type of a development. I might also add I've got data, if you'd like to see it.

I might add that we think this is a very positive land use from the standpoint that it provides a nice transition from the single-family residential uses to the east, east being at the bottom of the drawing, and buffers those uses from the commercial uses along the Michigan Road corridor and 146<sup>th</sup> Street. We also believe that it will contribute to overall property values in the area, not detract from them. The home values that have adjoined the Courtyards of Zionsville have each enjoyed very significant property appreciation consistent with single family residential appreciation generally in Zionsville but also on a very robust fashion meaning that they haven't missed a step with regard to that appreciation. So, we believe that there's some history that the granting of this variance like this will not in any way adversely affect adjoining property values.

Having just watched the hearing before us, this is not a use variance but nevertheless we do have a type of hardship present here with regard to the use of our property that is somewhat unique. That is we have a zoning standard that establishes a front yard setback, but it does so in a way that applies to every zoning district that can be developed for residential uses. What I mean by that is that it's kind of a one-size fits all approach to the zoning ordinance that we all as Zionsville residents inherited from Boone County back when we originally consolidated. It does not seek to distinguish for example between a setback on Michigan Road from a setback on Second Street. The rest of the Zionsville ordinance does just that. It adjusts the applicable front yard setback depending on the nature of the street and the size of the lot and the size of the home as opposed to kind of this one-size-fits-all approach under the Boone County zoning ordinance that we inherited which is by its nature vague and by which the town has previously and in this case, encouraged us to seek a variance in order to apply really a more appropriate front yard set back consistent with the type of use that's being proposed here. I'd like to also just show you some of the sample of the architecture because I think it also gives you a flavor for what the Neers are proposing here and shows you some of the differentiation of the front facades. They'll be a number of variations. These are not all of them. These are just a few representative samples. This size of home approximately 25 feet in height so they're not two-story homes. You'll see the varying architectural treatments and building materials that make up the courtyard homestyle that we're proposing here. Terry, Larry, Brett, and I are all available to answer any questions that you have and we would respectfully request all of the requested front yard setback variance. Thank you for your time this evening.

- Wolff            Thank you, Mr. Price. Also, thank you for addressing the hardship. That is always the challenging finding of the fact and I think you did it well. Any questions for our petitioner tonight, petitioner's representative?
- Jones            Matt, the lot sizes we are seeing here, how do those compare with the lot sizes over in the Arbors?
- Price            The Arbors? I'm not sure I know.

- Jones Isn't the development you're talking about the one that's where the streets are Arbor Way and Cypress, the previous development behind the church?
- Price Oh, behind the church? Well, they—I'll tell you they should be virtually identical. Terry or Larry may be able to chime in. I'll tell you why is because that property was zoned R-4 under the Boone County, I say Boone County, the inherited zoning ordinance from Boone County. With regard to lot frontage and the depth of those lots, I believe it is nearly identical. Terry just chimed in that they're identical.
- Jones Yeah. Didn't we do that development, though as a PUD?
- Price We did not. It was zoned R-4 and we obtained this variance and then went through with platting. That was really it.
- Jones All right.
- Wolff Any other questions for the petitioner?
- Jones So this would be what I'd call a zero-lot line type development? Does that—
- Price Yeah, it pretty much, it meets the side and rear set back development standards for the district which would be the same as the R-4 north of Saint Al's, but they're reasonably close together, yeah. They're low-maintenance homes. I know you know this but I'll give you a little flavor for some of our other board members. Of the 62 home sites in the Courtyards of Zionsville, there are two school-aged children in the entire development. Many homeowners are snow birds, so this time of year, they're lucky to leave here as I sit in my cold office right now. So, it's a relatively low-intensity land use, not kids, you know, 55 and over type of demographic.
- Jones Then, overall with the entire Appaloosa development, so will either of the other entries going out either on Michigan 421 or going out onto 146<sup>th</sup> or whatever up there, will either of those have light at them, traffic signals?
- Price Yes. So, I do believe we anticipate a full signal at our main entrance on Michigan Road. I do not believe, at this time anyway, I suppose there could be some warrant in the future but our initial traffic studies have not reflected that there would be a need for a signal off of 146<sup>th</sup> Street.
- Jones Okay. So—so, one of the things—my only concern with the layout is just the odd placement of that drive into the neighborhood of whatever we call the 421 entrance being kind of, you know, when you're doing a left and a right, you know.
- Price Yeah.
- Jones Is there any reason that can't be brought up to be more in line. If there's going to be a signal out there at 421, that's going to be the main in and out for the neighborhood probably.

Price            Actually, the—let me flip back here to something that might help. I'm sorry. I may have to go back to the beginning and do that again. The—to answer your question, yeah, we could certainly take a look at that as we go forward. This variance, we did the same kind of timing last time with the project which is we wanted to be able to secure that we could have the 20-foot front yard setback and then come into the development plan. So, we could actually look at aligning that. The actual front though of the entire project as far as entrances over here and we're anticipating that this is the amenity center, right here, so, that's where we're envisioning the kind of the front of the project being. Although, you know, that's just because the orientation or the amenity center is there. We've done it out at Courtyards of Zionsville.

Wolff            There was a comment that it was done intentionally to discourage drive thru traffic.

Jones            Drive through to where?

Wolff            Yes, exactly what the point is.

Price            Yeah, I suppose just in terms of if you—I apologize for that.

Wolff            If someone cut off Michigan Road and cut in a corner.

Price            Yeah, I think just, I supposed it could be theoretical that if you had somebody come through here and kind of do one of these, you know, to get if there was some event at the corner, that kind of thing.

Jones            Yeah, I know, it seems like a—it's not the shortest of cuts I can see but—

Price            Yeah, it's not like just cutting off the corner of the lot, that's for sure. I agree.

Jones            Yeah, I know. I'm just thinking with a, you know, an older clientele, keep it simple.

Price            Yeah, we can certainly look at that. We are in the early stages of our final engineering on this. We have not filed anything. We're waiting to see this approval this evening hopefully and then allow us to go forward. We can certainly look at that.

Jones            All right.

Price            We do have an older, we have an older demographic.

Wolff            Any other discussion? If not, Roger, will you please look and see if there's any members of our public who wish to speak for or against this petition tonight?

Kilmer           We do have one hand raised and it's Terry Neer, the petitioner that Mr. Price was referencing. Let me promote him quickly to see if he has something to add at this time.

Wolff            Perfect, thank you. Are you there?

- Near            Yeah, that was a—that was an error. I meant to hit chat.
- Wolff            Oh, okay.
- Near            I'm not very schooled at this.
- Wolff            Neither are we, so no problem. Roger, are there any other community members who wish to speak for or against this petition at this time?
- Kilmer            There are no hands raised.
- Wolff            Thank you. Wayne, I think that puts you on the hook.
- DeLong            Certainly. As the staff indicates, we are supportive of the petition as it's been filed. Certainly as Mr. Price indicated, there are a few cases here in town where we've, you know, reviewed the normal setback standard and certainly concluded that it works great in a meets and bounds county road type of conversation but it really struggles to work well on a platted subdivision situation especially, when compared to how we actually require a different style and size of right of way dedication and even the size of the road itself. I know these will be private streets but at the end of the day, the fire protection ordinance actually is something that exists and assists in making the size of roadway that we need to facilitate movement of the fire apparatus. Certainly, you know, staff again is supportive of the petition as it's been filed. Certainly, we do rely on developers, in particular folks like the Neers that work in a very specific genre of construction, to provide standards that work best for their clientele. Certainly, as this matter goes through the Plan Commission, I'm sure the Plan Commission will focus on the sidewalks and connectivity on both sides of the streets. I believe the Plan Commission will look to hear how in an empty-nester community, the sidewalks are not something that is desired for mobility purposes on both sides of the street. Certainly, this is a topic that has been discussed previously and certainly will be in the future with other projects. This connectivity conversation though is one that's very typical in many communities. Again, staff is supportive of the petition as it's been filed. I'm happy to answer any questions.
- Wolff            Thank you, Wayne. Any questions for staff?
- Mundy            Wayne, and I think Matt also, you mentioned these are private streets so they will remain private and are they a narrower street than typically found? No?
- Price            No. As Wayne was mentioning, one of the things we did during the original Courtyards of Zionsville and we're carrying over here is we're actually building the streets to the 30-foot width but maintaining them as private so they meet the town's desired width but never the less are maintained as private streets. What we found is is that the wider street is better for our demographic as well as far as we think a safe roadway. Then, also as you know, from our past lives that you know Mr. Lance and others have always been concerned that sometimes a private street gets turned over to the public. That's not our intention but building it to the town standard is the way to makes sure that if that were ever done then it's at town standard.



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Mundy Thank you.

Wolff Any other questions for staff or discussion amongst the group? If not, I would entertain a motion.

Lake I move that Docket #2020-45-DSV a petition for development standards variance to deviate from the required front yard setback to a minimum 20-foot setback for the single-family residential component of the Appaloosa Crossing project be approved based upon the findings of fact and based on the staff report and presentation.

Wolff Thank you, Mr. Lake. Is there a second to that motion?

Campins I second.

Wolff Thank you, Miss Campins. Wayne, I'll turn it over to you.

DeLong Certainly. Mr. Jones?

Jones Aye.

DeLong Mrs. Campins?

Campins Aye.

DeLong Mr. Wolff?

Wolff Aye.

DeLong Mr. Mundy?

Mundy Aye.

DeLong Mr. Lake?

Lake Aye.

Wolff Thank you. Motion carries. Good luck, Mr. Price, with your project.

Price Thank you Mr. President, Members of the Board, having a nice evening.

Wolff You, as well. Next item on our agenda is new business which brings us to Docket #2020-46-DSV for the property located at 7980 Royal Avenue. Please bring the petitioner forward.

Kilmer I am promoting Mr. Brian Tuohy who is representing the petitioners.

Wolff Very good.

Tuohy Great. Mr. President, can you hear me?

- Wolff            We can. Would you please state your name and address for the record?
- Tuohy            I will. Good evening, my name is Brian Tuohy. My address is 50 South Meridian, Indianapolis, Indiana. I'm here this evening representing the petitioners on case #2020-46-DSV. And thank you to the Members of the BZA for your time in this long evening in hearing our case.
- Wolff            What have you—Mr. Tuohy, what have you brought to us tonight?
- Tuohy            It's not as complicated as your earlier case, I'll start by saying that.
- Wolff            Thank you.
- Tuohy            Thank you. Can we share our screen with you which will start off right now? Can you see that, Members of the Board?
- All                Yes.
- Tuohy            Good. So, Members of the Board, here with me tonight is Maggie Perez and her husband Oscar Perez. Miss Perez is a research scientist at Eli Lilly and her husband works out at the Indianapolis Airport. They live in Eagle's Nest, a subdivision. They've been Zionsville residents for about 12 years. They bought this 12-acre site at 7980 Royal Avenue and 7984 Royal Avenue, there's two addresses and I'll get to that in a minute, in September of this year. You see, the site is at the very west end of Zionsville. It's actually really close to the Hendricks County line. On the site, there are two rather old dilapidated houses, one very dilapidated garage, and one barn in need of significant repair.
- The reason we're here tonight is the Perezes would like to remodel both of those houses, add onto the houses so that they can occupy one and then Miss Perez's parents can occupy the other. When they went to get a building permit in Zionsville, the site is zoned R-2 which only allows for one single-family residence on one parcel even though on this 12-acre parcel's there's been one home there since about 1946 and another home since about 1969. So, there's been two homes on Royal Avenue on this 12-acre parcel for what 70 plus years on one and 40 some years on the other. Next slide, please. So Members of the BZA, you can see it's west of I-65, Royal Avenue, west of Indianapolis Road and just east of Harmon Avenue. Then, that's Harmon Avenue at the top kind of left-hand side of that slide. The site is that 12-acre site. Up there, if you look towards where the word Royal Avenue is, to the left of that, you can see the aerial photograph of these two structures. I'll show you a better picture of it in just a second. So those are the two long existing structures. The one at the left-hand side, there's a north-hand side, is the one that's about from 1946 and the one to the right is the one from about 1969.
- Next slide, please. So, that's the older of the two structures. As you can see, it's not in pristine condition. I'll leave it at that, but the Perezes would like to move into there from their home in Eagle's Nest. They'd like to add onto the back of it to make it a little more livable than the current condition and to renovate the inside of that. That's the reason we need the variance tonight. That's the

hardship. They can't occupy both of these homes, they can't add onto them without a variance because there's two homes on one lot even though the lot is almost 13 acres in size. Next slide, please. So that's the southern view of the house I just showed you. Again, you can see, it's evidence it's in need of repairs. Next slide, please. That is the rear side, so that would be the west side of that home, again pretty tough condition. Next slide, please. That's the garage that they would like to renovate to make usable and add onto the back of it as shown on the site plan. Next slide, please. That's the home where the parents would live. It's about 150 feet plus separated from the home I just showed you. To get you oriented, Royal Avenue is off to the left, so the front door is out to the left of that house. That's a side door there. Next slide, please. That's the side, the other side, of that same house. That's again where the mother and father would reside. Next slide. That's the barn which I mentioned as you can see it is also in need of some repair. Next slide, please. So to get us oriented here, Royal Avenue is up at the top of that drawing. So that's looking sort of east and north would be sort of to the left. What the Perezes proposed to do is add onto the back of the north house and add onto the side of the south house, and add onto the back of the garage. In order to do that, they need this development standards variance because again, in the R-2 district, you can only have one primary residence on a lot. There have been two homes on this lot for, as I said, many, many years, decades.

Next slide, please. So in examining the findings of fact, I don't believe that allowing the granting of the variance which will allow them to improve the residence and occupy them, I don't think that would cause any kind of injury or damage. In fact, that will add value to this property. The use or value of the area adjacent to the property will not be affected substantially in an adverse manner. While there's been two homes there for many, many years and this granting of the variance will allow improvements to be done to those residence, I think that will increase the value of the site, should increase value to the surrounding area, and it will allow a capital investment in two long existing dilapidated homes. I believe that will have a positive impact on the use and values of areas adjacent to the site. Then, usually the difficult one in variances is whether the strict application of the zoning ordinance will or will not result in an unnecessary hardship in the use of the property. Well, this is one of those few cases where it seems to me, it meets that on almost all elements. The site has long had two residences and without these variances, those existing residences wouldn't be able to be improved and slightly expanded as the Perezes propose to do. So, the strict application of the zoning ordinance would be an unnecessary hardship because it would limit their ability to improve and add onto old existing residences that are in very poor shape. So, I respectfully would suggest that the three findings of fact are met in this case which is pretty unusual. It's unusual to find a 12-acre parcel that's had two houses on it for that long, and they've fallen in disrepair. Next slide, please.

So the staff I believe supports the variances due to the age of the existing residence and the acreage. They are supportive of the continued existence of the two single-family residence on one parcel. We greatly appreciate working with them. It's always pleasant to work with Zionsville but it was good to work with

Roger Kilmer in this case. The staff is also supportive of the request to permit the proposed additions, provided the additions stay within the area shown on the site plan exhibit and that's exactly what the Perezes plan to do. Next slide.

So, Members of the BZA, again thank you for hearing our case. It's a 12-acre site. It has only two residential dwellings and a garage and a barn on it. One home was constructed we think about 1946. The other one was about 1969, so it was 75 and 52 years ago. The petitioners who are Zionsville residents want to move into the larger northern home and improve it and they want to have a home for their mother and father in the smaller southern home, and without these variances they can't improve and occupy or add onto the residential structures. The variances would allow for substantial improvements to both structures and allow for a capital investment in the property. The petitioner agrees that the variance would only apply to the two existing residences and their proposed additions as shown on the Exhibit 3 to the staff report. With that, we would of course try to answer any questions you might have and we respectfully request the approval of these variances to allow for the renovations to the two long existing structures. Thank you for your time, Mr. President.

Wolff Thank you. I thank you for your detailed presentation and calling out the findings of facts. I do want to call out a couple moments. You saw the staff report and the staff recommended conditions. Just to articulate them in our conversation as you had them in your last slide, the staff was recommending a condition based on the fact that if one of the houses was sold off, that the parcel be split into two, as well as the staff was supportive of this variance in respect to the existing structures but if one of the structures were demolished, then it's no longer supportive. Are those clear to you?

Tuohy Yes, sir, and we agree with them.

Wolff Very good. Very, very good. What other questions do we have for the petitioners' representative tonight?

Mundy Does this also include the improvements to the garage?

Tuohy Yes, sir.

Mundy Does it include improvements to the barn?

Tuohy Yes. They're not going to add onto the barn, Mr. Mundy. They're just going to fix it.

Mundy Fix it? Okay. Thank you.

Wolff Any other questions for the petitioner's representative? Seeing none at this time, Mr. Kilmer is there anyone from the public who wishes to speak for or against this petition?

Kilmer Give them a moment to raise their hand if they choose to. Mr. Wolff, there are no hands raised.

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- Wolff Thank you, Mr. Kilmer. Mr. DeLong, can we turn it over to you for the staff report?
- DeLong Yes, thank you. Staff is supportive of the petition and certainly as articulated this evening, there's a number of factors that are impacting this family's ability to move forward with the real estate improvements that they so desire to pursue. Certainly, there are some caveats to how to best move forward. Again, staff is supportive of the petition. I would note and I'm looking at my desk to see if I have it, I can't put my hands on it right away but we did have an email come in from a remonstrator. So, I just want to make sure that's noted in the record, the concerns about the development of the property. I don't know the definition of what the email was saying as per development versus what the petitioners' noting but certainly mentioning it here for the record.
- Wolff Thank you, Wayne. Any questions for staff? Seeing none, any discussion amongst the group? We lost our momentum after the first petition. If there's no discussion amongst the group, I would entertain a motion.
- Mundy I move that Docket #2020-46-DSV a development standard variance to provide for the continued existence of two existing single-family dwellings on a single parcel and allowing for additions to the existing dwellings within the area depicted on the site plan exhibit be approved as presented and recommended by staff.
- Jones I'll second.
- Wolff Thank you, Mr. Mundy. Thank you, Mr. Jones. Mr. DeLong, I'll turn it to you for a roll call vote.
- DeLong Mrs. Campins?
- Campins Aye
- DeLong Mr. Wolff?
- Wolff Aye.
- DeLong Mr. Mundy?
- Mundy Aye.
- DeLong Mr. Lake?
- Lake Aye.
- DeLong Mr. Jones?
- Jones Aye.
- Tuohy Thank you, Members of the BZA and have a good evening.

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- Wolff Thank you, Mr. Tuohy and good luck with your project.
- Tuohy Thank you, sir.
- Wolff Okay. The next item on our agenda is Docket #2021-01-UV for the property located at 60 North Main Street. Roger, will you please bring the petitioner forward?
- Kilmer I am promoting Kayla Trammel.
- Trammel Hello, can you hear me?
- Kilmer Yes, we can. Please introduce yourself and your address, please.
- Trammel Yes. I'm Kayla Trammel and I'm the owner of Radiant Skin located at 60 North Main Street, Zionsville, Indiana 46077.
- Wolff Thank you, Miss Trammel. Would you please describe the petition in front of us?
- Trammel Yes, I am looking for a petition for a use variance to allow for microblading services to be added to my existing business located in the Village Business Zoning District.
- Wolff Why do you need the use variance?
- Trammel So, I am an esthetic and beauty studio. So, I'm a registered nurse and we have a medical director associated with our practice. So, we're kind of considered kind of like a med spa/beauty studio. So, within our kind of business, microblading services are very common to semi-permanent makeup and we've had a lot of interest with our clients and kind of with 90% of our clientele wanting us to add this service. So without the, I guess, the kind of what would you say, the variance located within the Village District, I am unable to do that. So, I'm looking for a use variance.
- Wolff Very good. Can you—I'm sorry. I didn't know what this was until, you know, I looked it up at 2:30. I still don't know what it is. Would you please describe what microblading is?
- Trammel Yeah, so microblading is semi-permanent makeup. So, it's not permanent like tattooing. It's not using a gun. What it's using are just kind of little tiny needles that deposit pigment into the epidermal layer of the skin. What that does is kind of give that more kind of semi-permanent makeup like if someone were to shade in their brows. So that's a really hot trend that's going on right now. It's been probably a big trend for the last five years and it continues to grow. Then, you don't have to do your makeup with your brows and it makes you look like a put-together person. Within the village, we are a really—so, it lasts about one to three years. I forgot to mention that, depending on your lifestyle and stuff. That's when you come back in for a touch up. So, I've been in business for about over three years. Then, me and my husband reside in Zionsville. So in 2018, we moved up here and I knew right then and there, I wanted to bring my business up here. So that's when we with the help of Tammy Kelley found a space located on Main

Street. At that time, I didn't really look. I knew I wanted to expand and eventually offer all these services. At that time, I wasn't ready quite yet. So, I never really knew kind of like the, what would you say, the zoning within Zionsville. So then when that time came where we started getting a lot of requests and wanting to offer that service, that's when I kind of started looking into it and then came to you guys.

Wolff Very good. As I look at the use variance in your findings of fact, really what I think that we've touched on is just new technology that maybe that our current zoning didn't necessarily think about or address.

Trammel Yeah.

Wolff That's one interpretation of it. This is a little bit out of my purview, but is this—is there some sort of medical requirements or like licensing or training that you have to do to provide this service?

Trammel So what we just need is we need to contact the Boone County Health Department and the Indiana State Department of Health just to have, you've got, I guess, the Boone County Health Department come and survey the area just to make sure we have like a sink within the area, that Kate who would be the person doing it, has designated sharp containers, her room kind of fits the standards and the needs. Then, Kate, I would put her through—the only training she would need, well besides her aesthetic license in the State of Indiana is to do OSHA training which is blood borne pathogens just to make sure, you know, she's up to date training on that with how to dispose of stuff, how to properly sanitize things and stuff like that. Then, other than that, it's just working underneath our business license.

Wolff Okay. To be abundantly clear, we don't do anything with the health department or Boone County. So, whatever permits and training and certification you need, that will certainly be outside of this board.

Trammel Yep, yep, yep. I already—so, how I kind of—I already reached out to them prior and they said once you, if you guys gave the approval, then that's all they would need to know because it's not properly zoned. So, then that's what I would bring if, you know, whatever. If you guys approve, I would take that to them and then that would be all with the Boone County Health Department.

Wolff Very good. One thing I would note is that when we have these types of situations that are in front of us, we are often dealing with things that we don't necessarily know what it's going to look like in four or five years, or three years or tomorrow.

Trammel Yep.

Wolff In the staff report which I know you saw, it was proposed that potentially a timeline be put onto it. The intent of this is not that we restrict your business or rather that we give the town the opportunity to say, yep, this was exactly what we thought it was and it was a good idea, and Miss Trammel's a good community member and let's just keep going forward, she's great. Or it says, you know, wait, this has turned into a problem and now we have to go back and readdress it.

So if we talk about the concept of a timeline, do you think –what do you think is an appropriate timeline for you to start this business or start this service line or whatever you want to call it and allow you to establish some clientele and report and for us to come back in and check and make sure that it is what we thought it was?

Trammel I mean, I would say like six months to a year because that would be people getting their touch ups, because there's touch ups that are required about six to eight weeks out. Then, I mean, just to then get established but I think that would be a good timeline.

Wolff Okay. Well, let me be even more nice than that.

Trammel Yeah.

Wolff You're going to have to come back and see us and I don't think you want to do that and we don't want to fill up the town's schedule. So what if we say, like it would be maybe two to three years. Would three years be a perfect timeline?

Trammel Oh, yeah. That's perfect for me.

Wolff I'll ask my fellow board members and see what their thoughts are on that. I think we would like to put a timeline on this just to make sure we know what we're getting into. Okay, very good.

Trammel That sounds good.

Wolff With that, any questions from my fellow board members to the petitioner tonight? Mr. Jones, I'm assuming you're a micro-blading expert.

Jones Oh, yeah. I fill in often. I prefer blues in my eyes. I need to update and I do my lips in a ruby red.

Trammel Well, if you need a touch up, you know where to find me.

Wolff All kidding aside, any questions for the petitioner tonight?

Jones Pretty straight forward.

Wolff Yep. Hearing none, are there any remonstrators from our people who would like to speak for this petition in our community?

Kilmer Mr. Wolff, there are no hands raised.

Wolff Very good. Mr. Kilmer, thank you. Wayne, that leaves it to you for your micro-blading expertise.

DeLong Uniquely, I could hear some as well. I won't get into that in the front here. So with this petition, staff is supportive of the petition as it's been filed. You know, the idea of the sunset clause, yes, that is your standard language; however, staff can echo the point that we have as well been contacted for years about the why is



this not a part of your zoning ordinance. It's because we have a standard related to tattooing and we don't regulate and differentiate how that message is articulated so to speak. This is a great conversation here and certainly we would actually encourage as we work through the year long, 14-month process to update our zoning code that we actually include microblading as a part of the services that are allowed in the Village Business District, basically semi-permanent tattooing, semi-permanent makeup if you will. Certainly, you could articulate a timeline that's been agreed to and certainly sounds fine. Certainly, I would add a caveat to that if at such time that the use is permitted by right in the district such a check-in is not required. Certainly, yes, I do own a hair salon currently in a different community therefore I'm not regulating it as well. Certainly, I've had this industry within my business from time to time. So, I am personally aware of the talents that are required and necessary for micro-blading. With all that said, staff is recommending approval as the petition has been filed and certainly subject to any sunset clause and I'd be happy to answer any questions.

Wolff Thank you, Wayne. I just want to repeat what I think you said which was that if we do put a sunset clause on this particular petition but then later on our code gets changed so that this would be allowed, we don't need to go back to that sunset clause.

DeLong That would be staff's suggestion, yes.

Wolff Very good. I think you also articulated what I was trying to say earlier which was the fact that our code doesn't necessarily reflect this newer technology of microblading which isn't necessarily tattooing. I know, I think those are two different things and I think that we've articulated that here in our conversation. Any questions for staff?

Jones Just I want to make sure I heard that correct. When we ask for a three-year sunset, that means in three years we can come back and kind of re-up the petitioner. If we change the zoning and then they don't need anything, right?

DeLong That would be correct.

Wolff That's what staff is proposing.

Jones As part of our motion, we don't really need to call that out but in our sunset language? Did that make sense?

Wolff So Mr. Jones, I would say that the proposed motion based on the findings of facts as presented would articulate that point.

Jones Okay.

Wolff Any other discussion amongst the group?

Mundy I guess from that I know nothing about this either or knew nothing about it, but what I've learned from my wife and she didn't know it either, she Googled it. I'm not sure that there's even a need to put in a sunset. It doesn't sound to me like the ordinances that are in other communities would require that. It doesn't

sound to me like it's the sort of thing that we would need to do that with but it probably won't hurt. At the same time, I'm not sure that it's necessary.

Wolff Good point, Mr. Mundy. I would be amendable to that conversation as well. Any other discussion amongst the group? If not, I would entertain a motion.

Campins I move that Docket #2021-01-UV a use variance to allow for microblading services as permitted uses in the Village Business Zoning District VBD at 60 North Main Street be approved as filed based upon the findings of fact as presented. Do we want to add the sunset clause to that?

Wolff I defer to you.

Campins I don't think it's needed.

Wolff Very good.

Mundy I'll second that.

Wolff Is there a second to that motion?

Lake Second.

Mundy Second.

Wolff I think I saw Mr. Lake first. Thank you, Mr. Lake for the second. Wayne, I will turn it over to you.

DeLong Certainly. Mr. Mundy?

Mundy Aye.

DeLong Mr. Lake?

Lake Aye.

DeLong Mr. Jones?

Jones Aye.

DeLong Mrs. Campins?

Campins Aye.

DeLong Mr. Wolff?

Wolff Aye. Mrs. Trammel, good luck with your new product line.

Trammel Thank you so much, you guys. I am so thankful to be a part of this community.

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Wolff            Thank you, and have a good one.

Trammel        Thank you, too.

Wolff            Next item on our agenda is other matters to be considered. Wayne or staff, do we have anything that we need to discuss?

DeLong         I'm not aware of anything, just except us providing methods to get some signatures on some findings of fact. Have that on our radar as something to do.

Wolff            Okay. When you have all your free time to work on that. Okay. With no other matters, Mr. Lake, welcome to our group. Glad to have you. Thank you for your participation. With nothing else, this meeting is adjourned and we'll see you in a month.