



MEETING RESULTS - ZIONSVILLE BOARD OF ZONING APPEALS MARCH 4, 2020

The meeting of the Zionsville Board of Zoning Appeals occurred Wednesday, March 4, 2020 at 6:30 p.m. in the Zionsville Town Hall Council Chamber, 1100 West Oak Street, Zionsville, Indiana.

The following items were scheduled for consideration:

- I. Approval of the February 5, 2020 Meeting Minutes – **approved 4-0 as written**
- II. Continued Business

Docket Number	Name	Address of Project	Item to be considered
2019-37-DSV	M. North	8657 E 125 South	Withdrawn by the petitioner, acknowledged by the BZA at the March 4, 2020 Meeting. Continued by Board from December 10, 2019 to March 4, 2020 Meeting. Petition for Development Standards variance in order to allow the temporary use of a travel trailer for residential purposes while constructing a primary dwelling in the Rural Single and Two-Family Residential Zoning District (R2).
2020-01-DSV	R. Myers	11690 Sycamore Street	Approved w/conditions as presented & filed w/exhibits & per staff report – 5 in Favor, 0 Opposed Continued by Petitioner’s Representative from February 5, 2020 to March 4, 2020 Meeting. Petition for Development Standards variance in order to provide for the construction of a detached garage which: 1) Exceeds the allowable accessory square footage in the Urban Single-Family Residential Zoning District (R-SF-2).
2020-03-DSV	Appaloosa Crossing	3201 S US 421	Approved as presented & filed w/exhibits & per staff report – 5 in Favor, 0 Opposed Continued by Board from February 5, 2020 to March 4, 2020 Meeting. Petition for Development Standards variance in order to provide for the development of a commercial center which: 1) Deviates from the required width of foundation plantings; and 2) Deviates from the required additional six (6) foot wide strip for landscaping around a parking area in the Rural Professional Business Zoning District, Rural General Business Zoning District and the Rural Michigan Road Overlay (PB, GB & MRO).

III. New Business

Docket Number	Name	Address of Project	Item to be considered
2020-02-DSV	J. Moosey	4554 Summersong Road	<p>Approved as presented & filed w/exhibits & per staff report – 5 in Favor, 0 Opposed</p> <p>Petition for Development Standards variance in order to provide for the construction of a deck and patio with: 1) Reduced rear yard and building line setbacks in the Urban Single-Family Residential Zoning District (R-SF-2).</p>
2020-04-DSV	T. Donnar	145 N Main Street	<p>Continued as Requested by Interested Party from March 4, 2020 to the April 1, 2020 Meeting</p> <p>Petition for Development Standards variance in order to provide for the construction of a Single-Family Home & accessory uses which: 1) Exceeds the required lot coverage of 35%, to 42.2% in the Urban Residential Village Zoning District (R-V).</p>
2020-05-UV	Montessori & Childcare Center by M. Adams	9475 Whitestown Road	<p>Denied – Subject to Adoption of Negative Findings of Fact 0 in Favor, 5 Opposed</p> <p>Petition for a Use Variance to permit a childcare center as a Primary Use in the Low Density Single-family and Two-family Residential District (R2).</p>
2020-06-DSV	M. Marlowe	140 N 4th Street	<p>Continued as Requested by Petitioner’s Representative from March 4, 2020 to the April 1, 2020 Meeting</p> <p>Petition for Development Standards variance in order to provide for the construction of an addition to a Single-Family Home which: 1) Deviates from the required side & aggregate yard setbacks and 2) Exceeds the required lot coverage of 35%, to 40% in the Urban Residential Village Zoning District (R-V).</p>

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



Petition Number: 2020-01-DSV

Subject Site Address: 11690 Sycamore Street

Petitioner: Roy & Lisa Myers

Representative: Michael J. Andreoli

Request: Petition for Development Standards variance in order to provide for the construction of a detached garage which:
1) Exceeds the allowable accessory square footage in the Urban Single-Family Residential Zoning District (R-SF-2).

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

Current Land Use: Residential

Approximate Acreage: 1.44 Acres

Zoning History: Annexed into the Town of Zionsville's jurisdiction in 1997. No prior petitions are known.

Exhibits: Exhibit 1- Staff Report
Exhibit 2- Aerial Location Map
Exhibit 3- Petitioner's Narrative
Exhibit 4- Petitioner's Site Plan
Exhibit 5- Petitioner's Exhibits
Exhibit 6- Petitioner's proposed Findings of Fact

Staff Presenter: Wayne DeLong, AICP, CPM

PETITION HISTORY

This petition received an initial public hearing at the February 5, 2020 Board of Zoning Appeals meeting. At the meeting, the petitioner's representative requested a continuance to the March 4, 2020 meeting of the Board of Zoning Appeals to allow the Petitioner additional time to clarify dimensions of the proposed project requiring the variance.

PROPERTY HISTORY

This property is comprised of 1.44 acres and is presently improved with a single-family dwelling and accessory structures/uses.

ANALYSIS

The site is currently improved with a 3,441 square footage two-story single-family dwelling (the primary structure). Per the narrative included, the petitioner has intentions of constructing an approximate 1,711/2714 square foot 4-bay detached garage to house antique cars and a recreational vehicle. The parcel is currently utilized for residential purposes and accessory buildings and uses all as further described below (data source: Boone County Assessor and/ or Petitioner):

1. Existing dwelling living space: 3,441 square feet (allows for 1,720.5 sq. ft. of accessory)
2. Existing and proposed roofed accessory uses total **4,564** square feet. This total includes:
 - a) An existing 832 square foot attached garage
 - b) An existing 286 square foot utility shed
 - c) An existing 140 square foot utility shed
 - d) A 218 square foot front porch
 - e) A 374 square foot screen porch
 - f) A proposed **2,714** square foot detached garage

As per the itemized list above, the addition of the accessory detached garage causes the property's allowable roofed accessory uses to exceed the number of accessory buildings as well as the percentage allowed by the zoning ordinance by **2,844** square feet. By Ordinance, properties in the R-SF-2 District are permitted by right to be improved with roofed accessory uses whose total square foot area do not exceed 50% of the finished floor area of the primary use, and, is not encapsulated in more than two (2) accessory buildings. While the current Zoning Ordinance requires such restrictions, a review of the development pattern found in the immediate area finds nearby home sites and improvements to the home sites which enjoy the use of detached accessory structures (and in excess of the Zoning Ordinance square footage limitation). Further, the contemplated architectural design of the proposed detached garage is complimentary to the streetscape.

In summary, Staff supports requests which provide for deviations from the maximum roofed accessory square footage (and the number of accessory buildings) requirements when the request, generally speaking, follows this general reasoning: 1) the request is seeking to improve the site with an accessory use commonly enjoyed by other properties in the area (in this case, a detached structure and the number of detached structures), and 2) other properties within proximity to the parcel enjoy deviations from the maximum roofed accessory requirements (to the south). In this specific case, Staff is supportive of the request as detached garages are enjoyed by other lots in the vicinity (some with deviations from Ordinance standards). Uniquely, Staff would, due to the size of the parcel, encourage

the placement of a detached garage that has massing that is complimentary to the area (as in the case with this petition). Due to the residential character of the area, inclusive of the presence of accessory buildings with larger footprints that are reflective of development standards established prior to incorporation into Zionsville, Staff would encourage incorporating architectural characteristics that are reflective of the residential use of the accessory structure on all four sides of the structure. As such, staff would encourage the placement of additional windows on the south side of the proposed building as to enhance the street side view of the proposed structure.

Barring any concerns of the neighbors being made of record during the disposition of the Petitioner's request, Staff would not oppose the request for an additional 2,714 square feet of improvements in association with the 3,441 square foot primary dwelling.

PROCEDURAL – CONSIDERATION OF A DEVELOPMENT STANDARDS VARIANCE PETITION

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

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

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

STAFF RECOMMENDATION

Staff recommends approval of the design standards variance included in Docket #2020-01-DSV, as filed, supporting a **2,714** square foot accessory building including an upper story **for storage**, subject to incorporating two (2) minimum five square foot windows as a part of the southern façade of the proposed building.

RECOMMENDATION MOTION

I move that Docket #2020-01-DSV Development Standards variance in order to provide for the construction of an **2,714** square foot detached garage (totality of the **2,714** square foot is permissible to be contained on more than one level within the detached garage) which exceeds the allowable accessory square footage (providing for **2,844** square feet of additional roofed accessory structures in association with a 3,441 square foot dwelling, all as illustrated on the site plan attached to this report and within the Urban Single-Family Residential Zoning District (R-SF-2) for the property located at 11690 Sycamore Street, be (Approved as filed, based upon the findings of fact / Denied/ Continued) as presented.



- Regional Counties
- Townships
- Zionsville Corporate
- Boone Co Corporate
- Vacated Streets
- Parcels
- Boone Subdivisions
- Boone County Address

- Regional County
- Edge of Pavement
- Miscellaneous
- Railroads
- Roads
- Highways
- BC Legal Drains

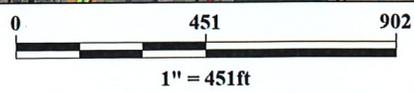
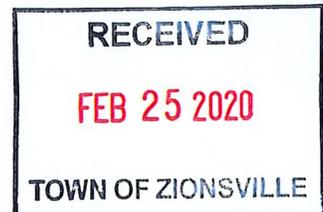


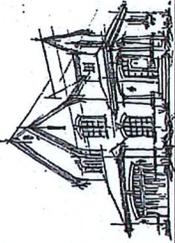
Exhibit 2

NARRATIVE

The applicants, Roy L. Myers and Lisa A. Myers, own the property at 11690 Sycamore Street, Zionsville, Indiana, and have lived at the premises for many years. Their lot consists of 1.44 acres and their house sits well back from Sycamore Street with a wooded front yard in and along the driveway immediately adjacent to Sycamore. They propose to locate and build a four (4) bay garage, including one taller bay for an RV storage. Mr. Myers has a number of antique cars that he would like to store at his property. His preference is to not keep his RV outside but to store that in his detached garage as shown on the site plan. The new proposed garage is 1711 sq. ft., first floor, plus second floor storage area of 863 sq. ft. and covered porch in front of the three (3) bays for additional 154.5 sq. ft., all totaling 2714 sq. ft. The Myers' primary home, after deducting all existing porches and accessory structures, totals 3441 sq. ft. In order to be in compliance with the accessory structure limitations, the Myers' accessory structures cannot total more than 1720 sq. ft. Currently, the Myers' accessory structures total 1850 sq. ft. If the proposed garage is added, the total accessory structure square footage would be 4564 sq. ft. and this exceeds the required limitation by 2844 sq. ft. Given the size of the lot owned by Mr. and Mrs. Myers and its location well back from Sycamore Street, they respectfully request that this additional accessory structure be permitted. Also, the trees surrounding this proposed garage are mature and high and the second story storage area and height for their motorhome will look integrated on the property. A drawing of the structure itself is attached and hopefully the Board feels that this will be nicely done.

Exhibit 3





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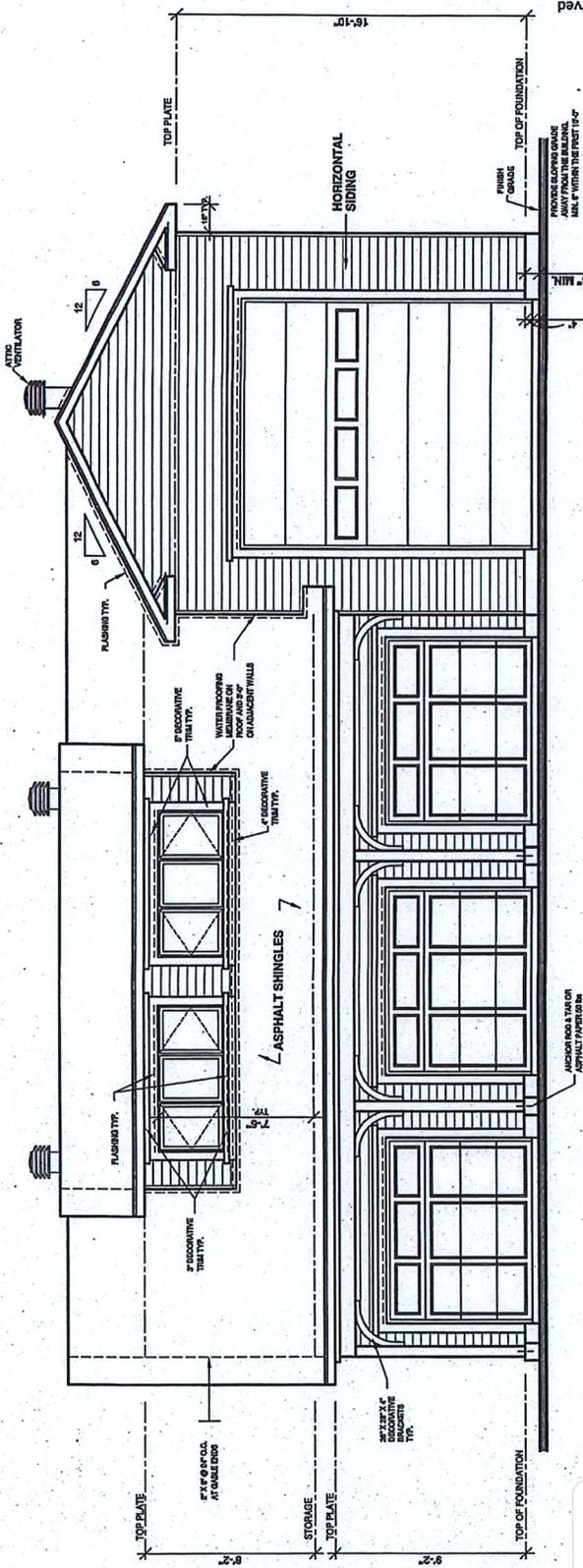
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CUSTOMER INFO

REVISION	NO.	DATE	BY

RECEIVED
FEB 13 2020
TOWN OF ZIONSVILLE

PROJECT NO.	NEW CONSTRUCTION
DRAWING	ELEVATIONS
DESIGNED BY	D.C.
CHECKED BY	M.P.P.B.
DATE	2/10/2017
SCALE	1/8" = 1'-0"
PLANTING	3986
SHEET NO.	1-11

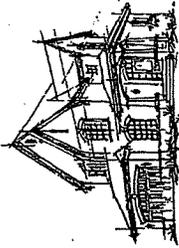


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AREA SCHEDULE	SOFT
OTHER	760
BONUS ROOM	1 007
GARAGE	1 007

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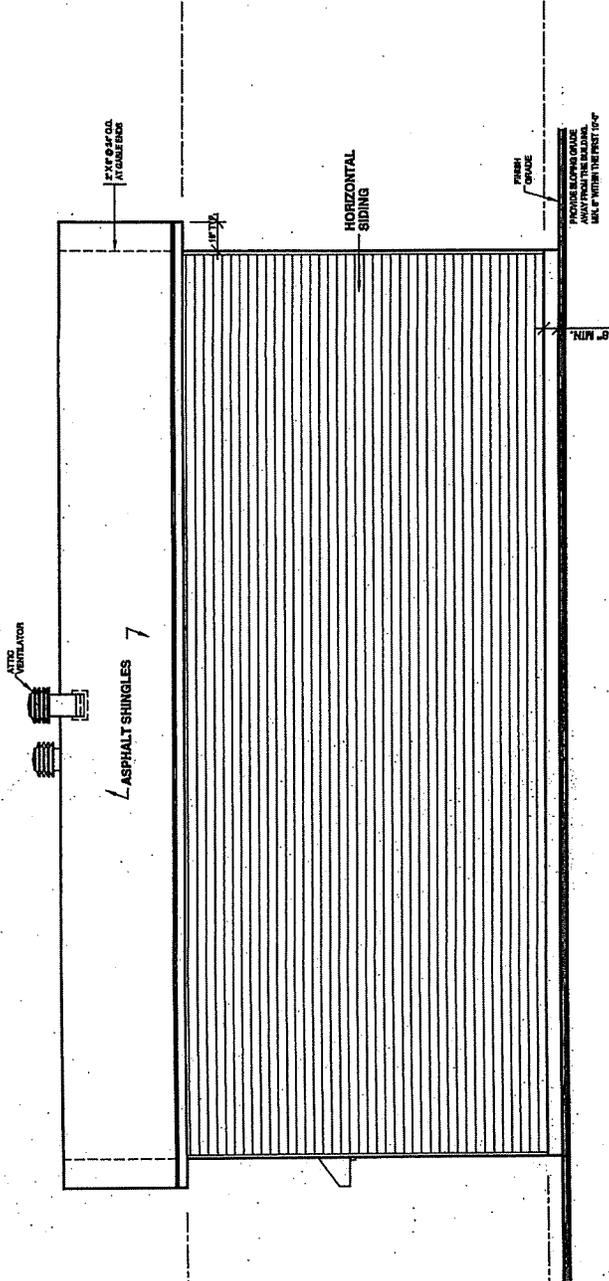
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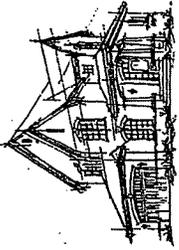
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 CHECKED BY: M.P.
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 SHEET NO.: 2-11

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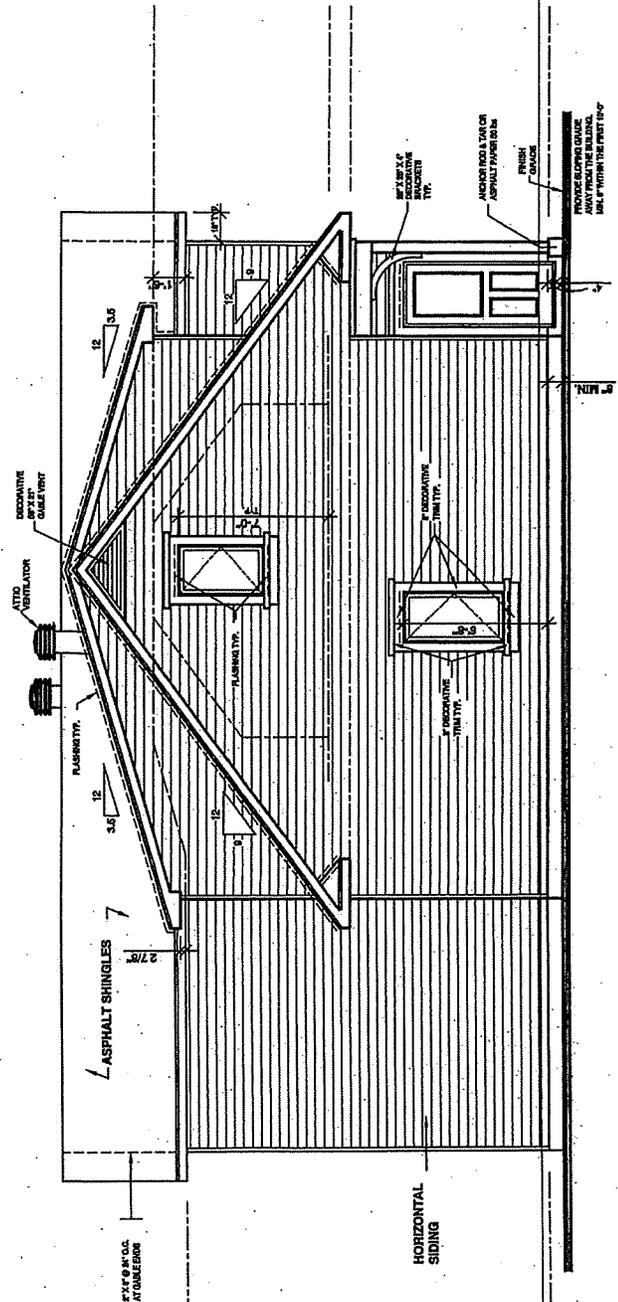
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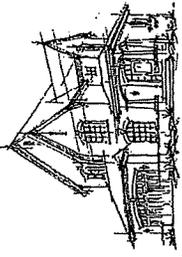
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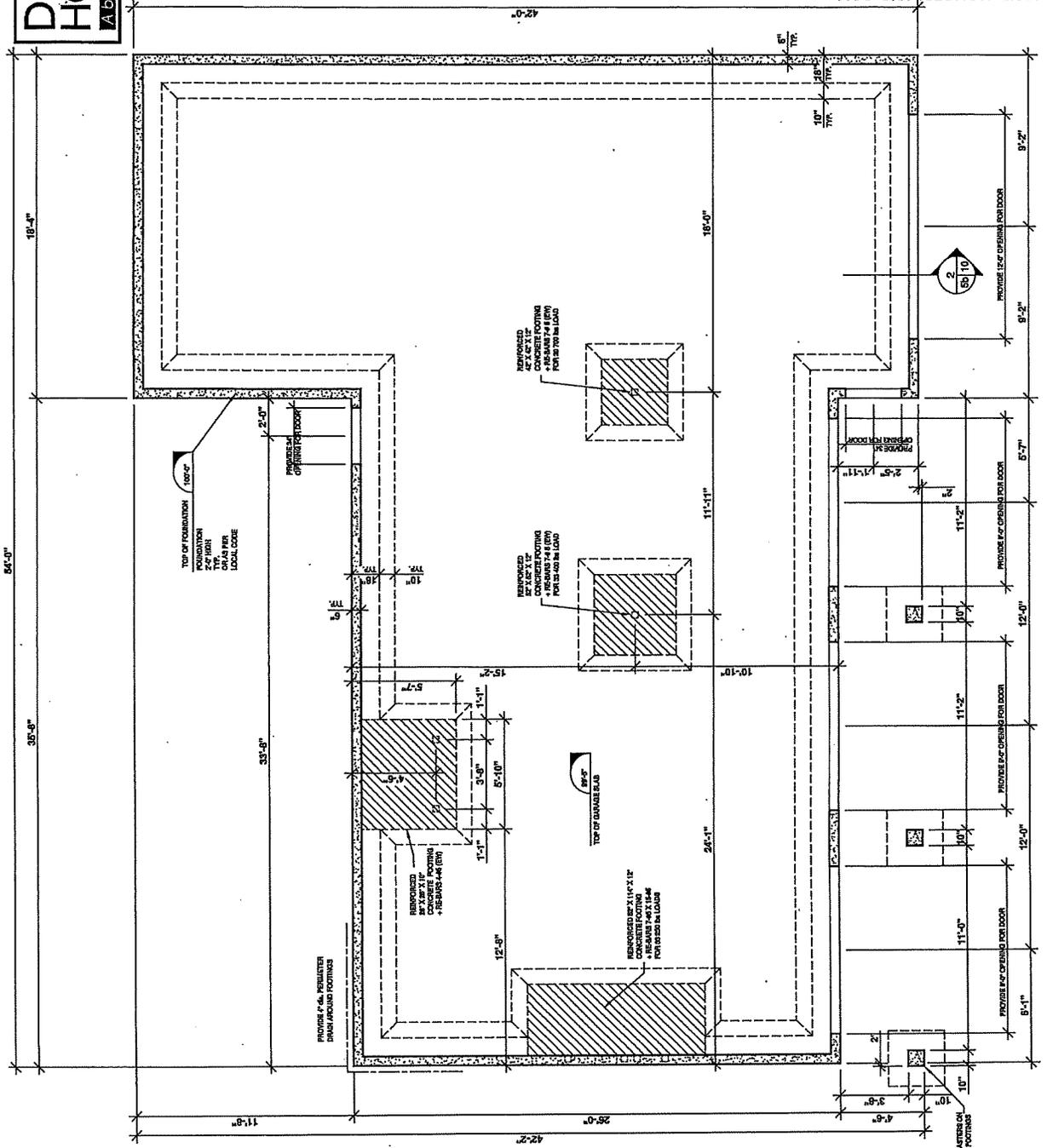
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PROJECT NO: NEW CONSTRUCTION

DRIVING: FOUNDATIONS PLAN (MONOLITHIC SLAB)

DESIGNED BY: DWANNEY | CHECKED BY:

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GENERAL NOTES:

- 1. VERIFY ALL DIMENSIONS BEFORE PROCEEDING.
- 2. CHECK REQUIREMENTS OF DOCUMENTATION ATTACHED TO THIS PLAN.
- 3. CHECK LOCAL BUILDING DEPARTMENT REQUIREMENTS FOR FOUNDATION CONSTRUCTION.
- 4. CHECK LOCAL BUILDING DEPARTMENT REQUIREMENTS FOR FOUNDATION CONSTRUCTION.
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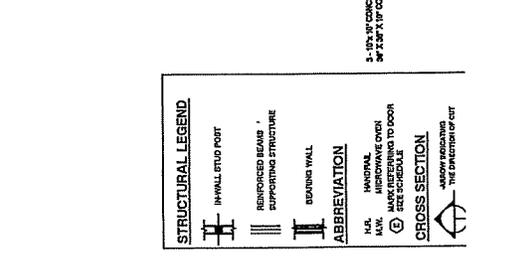
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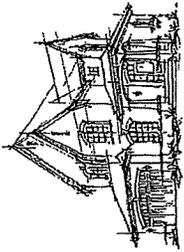
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STRUCTURAL NOTES:

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STRUCTURAL LEGEND





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NOTES:
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CUSTOMER INFO

REVISION	NO	DATE	BY

STAMP BY:

PROJECT TYPE
NEW CONSTRUCTION
 DRAWING
ROOF PLAN
 CHECKED BY

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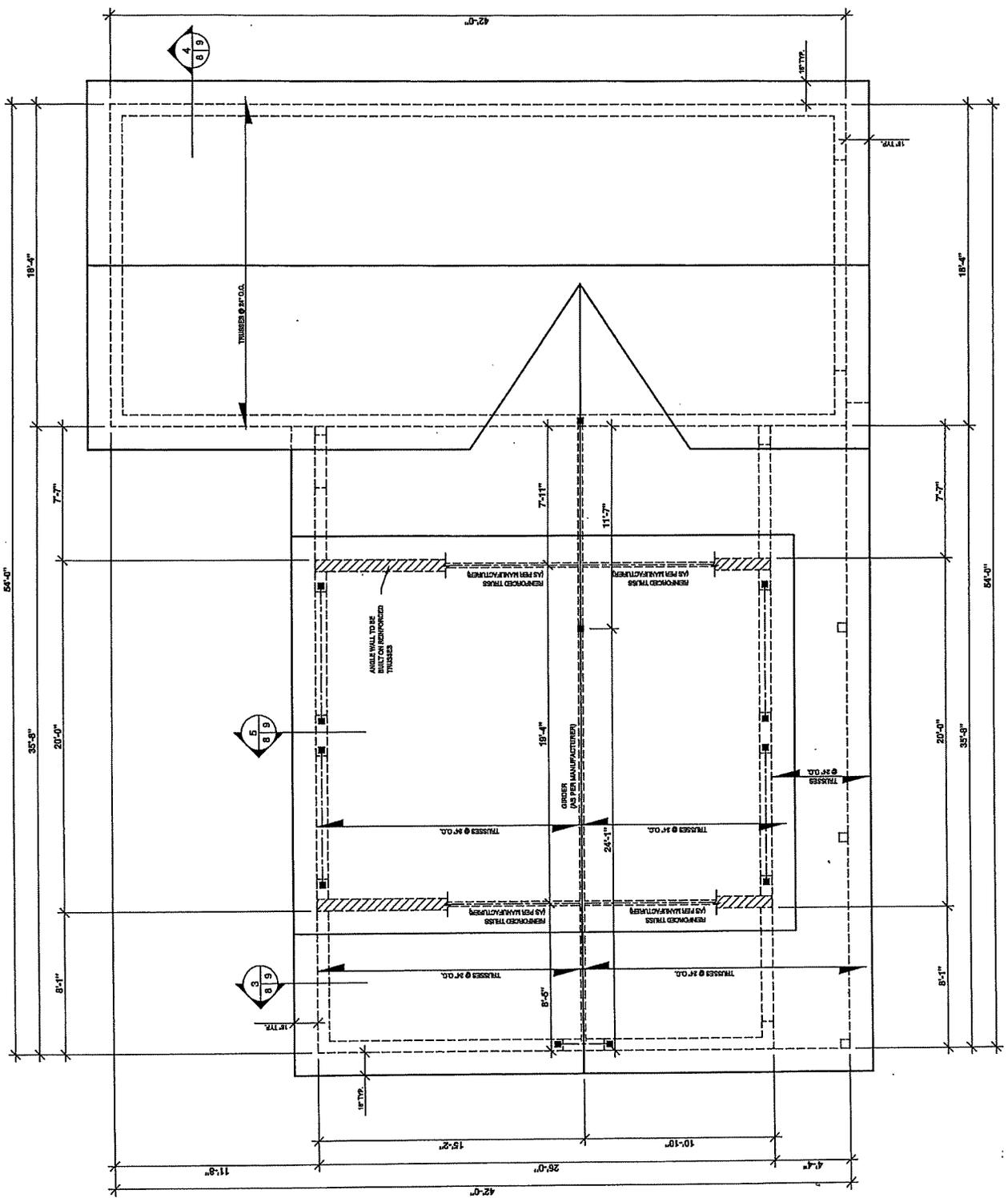
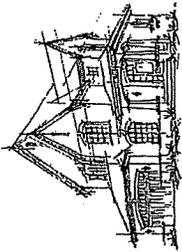


Exhibit 5



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NOTES:

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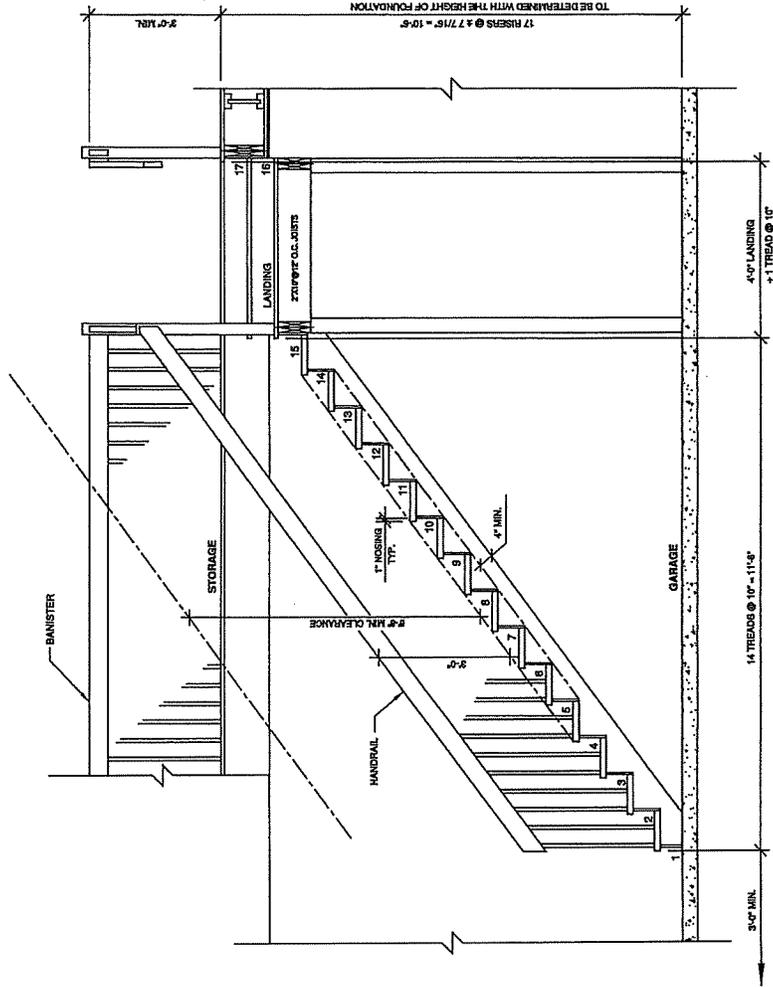
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PROJECT NO
NEW CONSTRUCTION

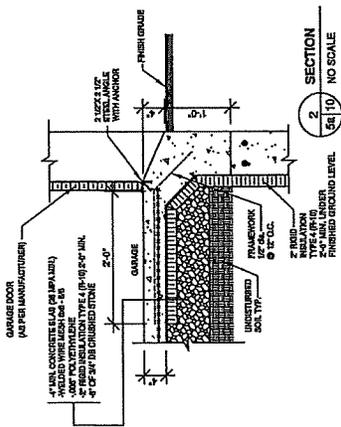
DRAWING
SECTIONS and DETAILS

DESIGNED BY
DRAWN BY

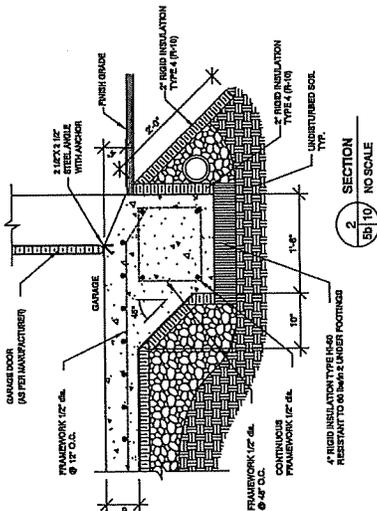
REVISION	NO	DATE	BY



1 SECTION
8/10 SCALE: 1/2" = 1'-0"



2 SECTION
5/8/10 NO SCALE



2 SECTION
5/8/10 NO SCALE

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant **will not** be injurious to the public health, safety, morals and general welfare of the community because: **we have sufficient acreage that this will not appear crowded or cluttered.**

2. The use or value of the area adjacent to the property included in the variance **will not** be affected in a substantially adverse manner because: **we have checked with our surrounding neighbors and they have no objection to an additional accessory structure.**

3. Strict application of the terms of the zoning ordinance **will** result in unnecessary hardships in the use of the property because: **as we have 1.44 acres, an additional accessory structure will allow for continued appropriate use of our property for storage of personal property.**

DECISION

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

Adopted this _____ day of _____, 2020.



Petition Number: 2020-03-DSV

Project Address: Approximately 10901 E. CR 300 South (146th Street) and U.S. Highway 421

Project Name: Appaloosa Crossing - Shops

Petitioner: Harris FLP

Representative: Matthew Price, Attorney for Petitioner
Dentons Bingham Greenebaum LLP

Request: Petition for Development Standards Variance in order to provide for the development of a commercial center which:
1) Deviates from the required width of foundation plantings; and
2) Deviates from the required additional six (6) foot wide strip for landscaping around a parking area in the Rural General Business Zoning District and the Rural Michigan Road Overlay (GB & MRO).

Current Land Use: Unimproved - farmed field

Approximate Acreage: 3.40± Acres (identified as “Shops” Lot on pending Plat) within the 57.53± Acres of the to-be-platted integrated center, Appaloosa Crossing. The requested Variances are only applicable to the 3.40± acre subject site, not the entire integrated center.

Zoning History: 07-EA-16-839 (2008 Rezoning): While under the jurisdiction of Boone County, the property was rezoned from the R-1 Residential Zoning Classification to the GB General Business (44.25± Acres) and PB Professional Business (13.28± Acres) Zoning Classifications with Commitments (*Approved*).
2016-45-CA: Commitment Amendment to permit an automobile fuel station/service station with a convenience store (*Approved*).
2019-44-CA: Commitment Amendment to permit a liquor store, single-family dwellings, major residential subdivision, more than two (2) fast food restaurants, fast food restaurants to be adjacent to each other, a reduction in the side building setbacks to 30 feet (applicable only to the south property line of the southernmost outlot), a reduced number of water features along U.S. 421 to one (1), modifications to the main access drive off U.S. 421, increased number of outlots along U.S. 421 and 146th Street to eight (8), and five (5) respectively, placement of a monument sign on either the north or south side of the primary U.S. 421 Entrance, a right-in only access from CR 300 South (146th Street) west of the main entrance off CR 300 South (*Approved*).
2019-45-Z: Zoning Change to rezone approximately 1.5 acres from the Rural (PB) Professional Business Zoning District to the Rural (GB) General Business Zoning District to allow for additional retail/commercial opportunities (*Approved*).

Exhibits: Exhibit 1 – Staff Report
Exhibit 2 – Aerial Location Map
Exhibit 3 – Petitioner’s Narrative
Exhibit 4 – Proposed Building Rendering
Exhibit 5 – Proposed Landscape Plan
Exhibit 6 – Petitioner’s Proposed Findings of Fact (One for each Variance request)

Staff Presenter: Wayne DeLong, AICP, CPM

PETITION HISTORY

This Petition received its initial public hearing at the February 5, 2020, Board of Zoning Appeals meeting, and was continued to the March 4, 2020, meeting. No new or updated information has been submitted by the Petitioner since the February 5th meeting. Four other Petitions regarding Appaloosa Crossing have been filed with the Planning Department; three of the Petitions were heard by the Plan Commission at its February 18, 2020, hearing and continued to the March 16, 2020, meeting:

- 2020-01-PP Primary Plat of Appaloosa Crossing (Pending Plan Commission Hearing)
- 2020-02-SP Secondary Plat of Appaloosa Crossing (Administrative Approval - Hearing not required)
- 2020-03-DP Development Plan Approval of Shops (Pending Plan Commission Hearing)
- 2020-04-CA Commitment Amendment to relocate a pond/water feature along U.S. Highway 421 frontage (Pending Plan Commission Hearing)

PROPERTY LOCATION, ZONING CLASSIFICATION & PROJECT DESCRIPTION

The subject site is generally located 250 feet south of CR 300 South (aka 146th Street) on the east side of U.S. Highway 421. The subject site is 3.40± acres and is a portion of the 57.53± acres to be developed as the Appaloosa Crossing integrated center. The subject site is bordered on the north by another undeveloped outlot of Appaloosa Crossing; on the east by an internal road of Appaloosa Crossing; on the south by a primary entry into Appaloosa Crossing; and on the west by U.S. Highway 421. The site is zoned Rural General Business (GB) Zoning District and is within the Rural Michigan Road Overlay (MRO).

The Petitioner proposes to construct a multi-tenant, retail building of approximately 23,000 square feet with related parking areas. This will be the first building within the Appaloosa Crossing integrated center. Vehicular access to the subject site will be from U.S. Highway 421 and CR 300 South via internal private streets; no curb cut directly onto the subject site from U.S. Highway 421 is proposed. Pedestrian maneuverability on site will include sidewalks along the front façade of the proposed building. A 12-foot-wide recreation path along U.S. Highway 421 will parallel the building, but no connectivity from the building to the recreation path is shown on the submitted Landscape Plan.

ANALYSIS - VARIANCE REQUESTS

The subject site is within the Rural Michigan Road Overlay (§194.079(C) and is, therefore, required to meet the development standards of the Overlay. The Petitioner requests the following two variances of development standards from the Overlay, both related to landscaping:

1. **Variance of Foundation Plantings (§194.079(C)(15)(b)2.):** This development standard requires “Foundation plantings shall be included along all sides of any building. The minimum width of the planting area shall be five feet; except that, when adjoining a parking area located in the front yard adjoining U.S. Highway 421, the minimum width shall be ten feet.” The Petitioner requests that no foundation plantings be required along the front building façade (the façade facing U.S. Highway 421).

From the Petitioner’s Variance Narrative (Exhibit 3), “A commercial building of this sort is often designed with an awning-type front building façade (providing cover from the elements for patrons, while also limiting the viability of foundation plantings because they would have limited exposure to light and rain), with a sidewalk and individual points of pedestrian customer access into each of the tenant spaces under that ‘awning.’ The design for the Retail Shops, incorporating the awning feature, does not include sufficient space to also accommodate foundation plantings adjacent to the building front.”

If the Petitioner’s Variance Request is granted, the result would be no foundation plantings along the front building façade (facing U. S. Highway 421). The Petitioner’s building design does include an awning feature along the front facade which is unique and would shield the area from sunlight and rain (Exhibit 3). The long-term survival of foundation plantings in this area, under the awning, would be problematic. Additionally, the proposed design of tenant spaces in the building include glass walls on the front façade extending down to grade level. To place foundation plantings where required would result in the backs and root areas of the plants to be visible from the interior of the tenant spaces. The Petitioner is proposing to relocate the landscaping which would have been used as foundation plantings to the eastern portion of the subject site along the interior access drive of the integrated center.

With these items in mind and presuming the retail shops are constructed substantially in the manner of the building rendering presented (Exhibit 4), Staff is supportive of the requested Development Standards Variance for the removal of the required foundation plantings along the front of the building with the landscaping to be allocated to the eastern portion of the subject site along the interior access drive as depicted on the Landscape Plan filed in Docket #2020-03-DSV (Exhibit 5). Absent the presence of the awning features, Staff would re-evaluate its support of the request.

2. **Variance of Parking Lot Perimeter Plantings (§194.079(C)(15)(c)5.b.):** This development standard requires “Where parking areas are located in the front yard, with frontage directly on U.S. Highway 421, a six-foot wide perimeter planting area shall be provided along the front and sides of those areas.” The Petitioner requests that the six-foot wide perimeter planting area not be required.

In addition to the six-foot wide Parking Lot Perimeter Planting area, another landscaping requirement of the Rural Michigan Road Overlay applicable to this subject site is “there shall be a 30-foot wide landscaping buffer within the front yard of all lots with frontage on U.S. Highway 421.” The Zoning Ordinance states the six-foot wide Parking Lot Perimeter Planting area be “in addition to the landscape buffer.” The result of these two abutting landscaping requirements is a 36-foot wide landscaping area be established between the parking area and the subject site’s property line.

If the Petitioner’s Variance Request is granted, the result would be a 30-foot wide landscaping buffer within the front yard of the subject site. The Petitioner is proposing to relocate the landscaping which would have been placed within the six-foot wide perimeter planting area to the eastern portion of the subject site along the interior access drive of the integrated center.

With this in mind, Staff is supportive of the requested Development Standards Variance for the removal of the requirement of a six-foot wide Parking Lot Perimeter Planting area with the landscaping to be allocated to the eastern portion of the subject site along the interior access drive as depicted on the Landscape Plan filed in Docket #2020-03-DSV (Exhibit 5).

PROCEDURAL – CONSIDERATION OF A DEVELOPMENT STANDARDS VARIANCE PETITION SEEKING APPROVAL

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

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

Proposed Findings of Fact from the Petitioner for each requested Variance are attached for the Board of Zoning Appeal's consideration (Exhibit 6).

STAFF RECOMMENDATIONS

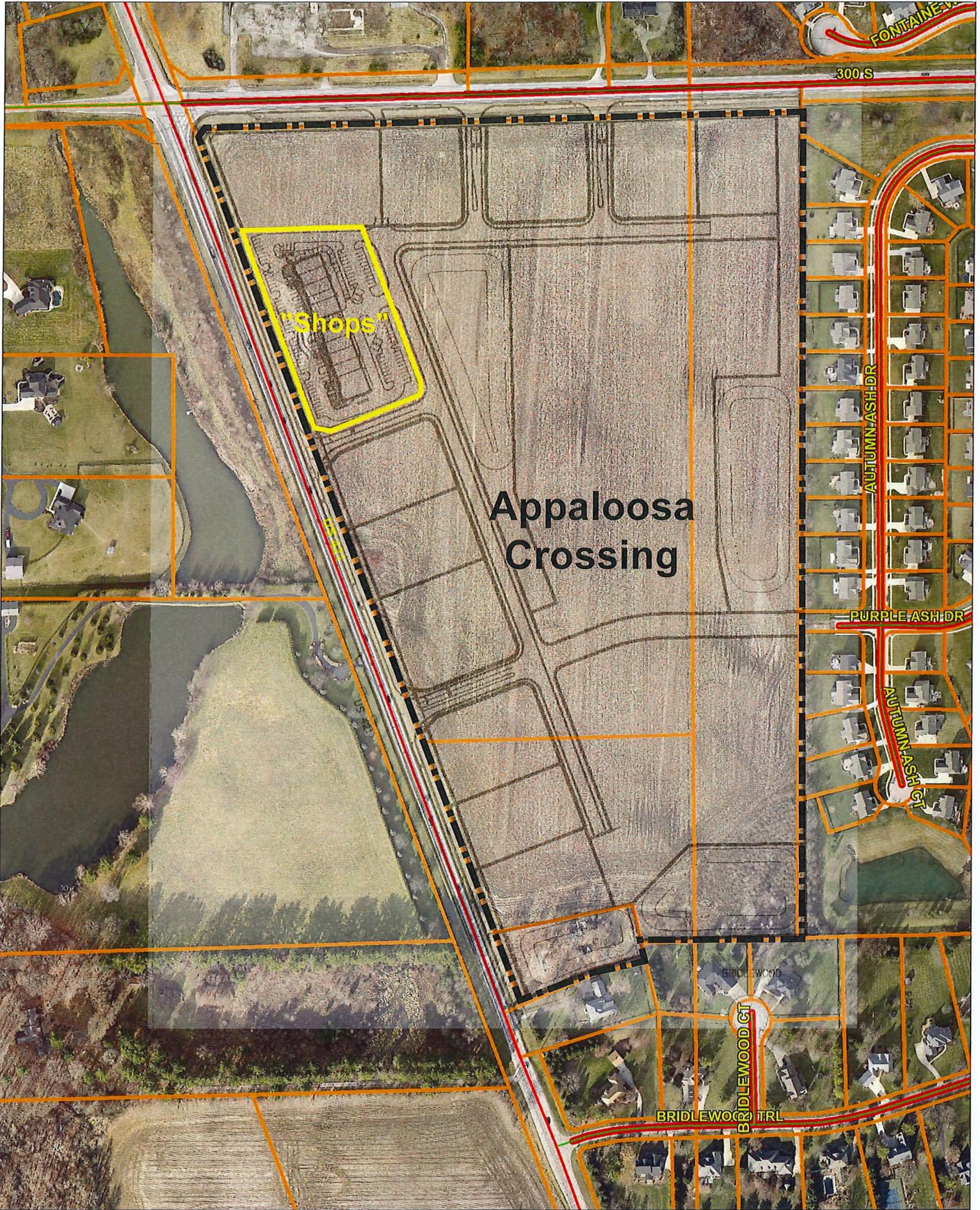
Variance Request #1: **Variance of Foundation Plantings** - Staff recommends approval of the requested Development Standards Variance for the removal of the required foundation plantings along the front of the building, with the building to be constructed substantially in the manor of the building renderings presented, with the landscaping to be allocated to the eastern portion of the subject site along the interior access drive as depicted on the Landscape Plan filed in Docket #2020-03-DSV (Exhibit 5).

Variance Request #2: **Variance of Parking Lot Perimeter Plantings** - Staff recommends approval of the requested Development Standards Variance for the removal of the requirement of a six-foot wide Parking Lot Perimeter Planting area with the landscaping to be allocated to the eastern portion of the subject site along the interior access drive as depicted on the Landscape Plan filed in Docket #2020-03-DSV (Exhibit 5).

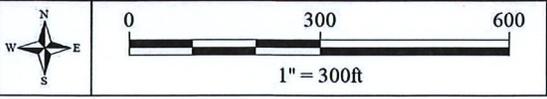
RECOMMENDATION MOTIONS

I move that Docket #2020-03-DSV, Variance Request #1 being a Development Standards Variance for the removal of the required foundation plantings along the front of the building, with the building to be constructed substantially in the manor of the building renderings presented and with the landscaping to be allocated to the eastern portion of the subject site along the interior access drive as depicted on the Landscape Plan filed in Docket #2020-03-DSV (Exhibit 5), be (Approved as filed, based upon the findings of fact and subject to the proposed Commitments / Denied / Continued) as presented.

I move that Docket #2020-03-DSV, Variance Request #2 being a Development Standards Variance for the removal of the requirement of a six-foot wide Parking Lot Perimeter Planting area with the landscaping to be allocated to the eastern portion of the subject site along the interior access drive as depicted on the Landscape Plan filed in Docket #2019-35-DSV (Exhibit 5), be (Approved as filed, based upon the findings of fact and subject to the proposed Commitments / Denied / Continued) as presented.



Appaloosa Crossing



Appaloosa Crossing - "Shops" Location - Exhibit 2

**APPALOOSA CROSSING
ZIONSVILLE**

**VARIANCE NARRATIVE
2020-03-DSV**

Harris FLP is requesting a variance of development standards to provide for development of a Retail Shops building within the Appaloosa Crossing development site, specifically located immediately south of the corner outlot near the southeast corner of U.S. 421 (Michigan Road) and 300 South (146th Street).

Because the Retail Shops outlot will consist of a multi-tenant building, with an awning and multiple tenant entry points in front, with drive-thru windows on the sides, and loading in the rear, it is impractical or impossible to provide the otherwise-required 10-foot wide foundation plantings around the front perimeter of the building. A commercial building of this sort is often designed with an awning-type front building façade (providing cover from the elements for patrons, while also limiting the viability of foundation plantings because they would have limited exposure to light and rain), with a sidewalk and individual points of pedestrian customer access into each of the tenant spaces under that “awning.” The design for the Retail Shops, incorporating the awning feature, does not include sufficient space to also accommodate foundation plantings adjacent to the building front. The overall landscaping plan further mitigates the degree of the variance requested by including plantings along the sidewalk fronting the building, allowing for these plantings to provide greenery while not being located in the shade below an attractive awning feature.

An extensive landscaping area, however, will be provided in the rear portion of this outlot, along an interior access drive. Plus, the U.S. 421 (Michigan Road) overlay requires an extensive landscaping width (30-feet) along the road frontage.

Additionally, given the extensive 30-foot wide landscaping buffer to be provided along the Michigan Road frontage as required by the U.S. 421 (Michigan Road) corridor overlay district, the otherwise-required 6-foot wide parking lot perimeter planting strip would be superfluous. Within the context of this already-required 30-foot wide landscaping space along the road frontage, such an additional and modest (6-foot) planting strip would not be noticeable or beneficial, and would only result in a hardship on the outlot, resulting in a smaller and less desirable building.



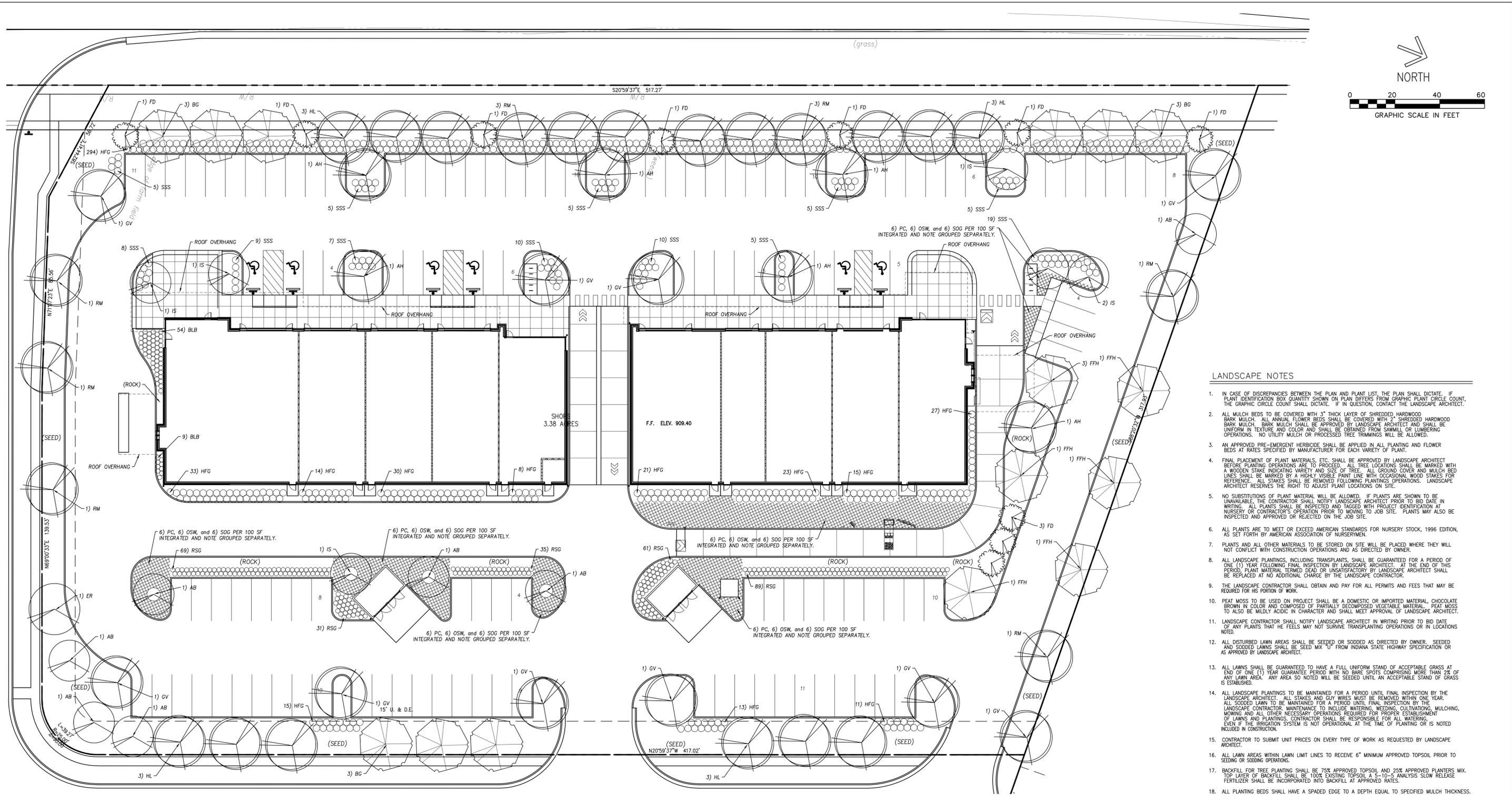
146TH & MICHIGAN SHOPS

ZIONSVILLE 12/11/2019

CONCEPTUAL DESIGN



Exhibit 4



- ### LANDSCAPE NOTES
- IN CASE OF DISCREPANCIES BETWEEN THE PLAN AND PLANT LIST, THE PLAN SHALL DICATE. IF PLANT IDENTIFICATION BOX QUANTITY SHOWN ON PLAN DIFFERS FROM GRAPHIC PLANT CIRCLE COUNT, THE GRAPHIC CIRCLE COUNT SHALL DICATE. IF IN QUESTION, CONTACT THE LANDSCAPE ARCHITECT.
 - ALL MULCH BEDS TO BE COVERED WITH 3" THICK LAYER OF SHREDDED HARDWOOD BARK MULCH. ALL ANNUAL FLOWER BEDS SHALL BE COVERED WITH 2" SHREDDED HARDWOOD BARK MULCH. BARK MULCH SHALL BE APPROVED BY LANDSCAPE ARCHITECT AND SHALL BE UNIFORM IN TEXTURE AND COLOR AND SHALL BE OBTAINED FROM SAWMILL OR LUMBERING OPERATIONS. NO UTILITY MULCH OR PROCESSED TREE TRIMMINGS WILL BE ALLOWED.
 - AN APPROVED PRE-EMERGENT HERBICIDE SHALL BE APPLIED IN ALL PLANTING AND FLOWER BEDS AT RATES SPECIFIED BY MANUFACTURER FOR EACH VARIETY OF PLANT.
 - FINAL PLACEMENT OF PLANT MATERIALS, ETC. SHALL BE APPROVED BY LANDSCAPE ARCHITECT BEFORE PLANTING OPERATIONS ARE TO PROCEED. ALL TREE LOCATIONS SHALL BE MARKED WITH A WOODEN STAKE INDICATING VARIETY AND SIZE OF TREE. ALL GROUND COVER AND MULCH BED LINES SHALL BE MARKED BY A HIGHLY VISIBLE PAINT LINE WITH OCCASIONAL WOOD STAKES FOR REFERENCE. ALL STAKES SHALL BE REMOVED FOLLOWING PLANTING OPERATIONS. LANDSCAPE ARCHITECT RESERVES THE RIGHT TO ADJUST PLANT LOCATIONS ON SITE.
 - NO SUBSTITUTIONS OF PLANT MATERIAL WILL BE ALLOWED. IF PLANTS ARE SHOWN TO BE UNAVAILABLE, THE CONTRACTOR SHALL NOTIFY LANDSCAPE ARCHITECT PRIOR TO BID DATE IN WRITING. ALL PLANTS SHALL BE INSPECTED AND TAGGED WITH PROJECT IDENTIFICATION AT NURSERY OR CONTRACTOR'S OPERATION PRIOR TO MOVING TO JOB SITE. PLANTS MAY ALSO BE INSPECTED AND APPROVED OR REJECTED ON THE JOB SITE.
 - ALL PLANTS ARE TO MEET OR EXCEED AMERICAN STANDARDS FOR NURSERY STOCK, 1996 EDITION, AS SET FORTH BY AMERICAN ASSOCIATION OF NURSERYMEN.
 - PLANTS AND ALL OTHER MATERIALS TO BE STORED ON SITE WILL BE PLACED WHERE THEY WILL NOT CONFLICT WITH CONSTRUCTION OPERATIONS AND AS DIRECTED BY OWNER.
 - ALL LANDSCAPE PLANTINGS, INCLUDING TRANSPLANTS, SHALL BE GUARANTEED FOR A PERIOD OF ONE (1) YEAR FOLLOWING FINAL INSPECTION BY LANDSCAPE ARCHITECT. AT THE END OF THIS PERIOD, PLANT MATERIAL TERMED DEAD OR UNSATISFACTORY BY LANDSCAPE ARCHITECT SHALL BE REPLACED AT NO ADDITIONAL CHARGE BY THE LANDSCAPE CONTRACTOR.
 - THE LANDSCAPE CONTRACTOR SHALL OBTAIN AND PAY FOR ALL PERMITS AND FEES THAT MAY BE REQUIRED FOR HIS PORTION OF WORK.
 - PEAT MOSS TO BE USED ON PROJECT SHALL BE A DOMESTIC OR IMPORTED MATERIAL, CHOCOLATE BROWN IN COLOR AND COMPOSED OF PARTIALLY DECOMPOSED VEGETABLE MATERIAL. PEAT MOSS TO ALSO BE MILDLY ACIDIC IN CHARACTER AND SHALL MEET APPROVAL OF LANDSCAPE ARCHITECT.
 - LANDSCAPE CONTRACTOR SHALL NOTIFY LANDSCAPE ARCHITECT IN WRITING PRIOR TO BID DATE OF ANY PLANTS THAT HE FEELS MAY NOT SURVIVE TRANSPLANTING OPERATIONS OR IN LOCATIONS NOTED.
 - ALL DISTURBED LAWN AREAS SHALL BE SEEDED OR SODDED AS DIRECTED BY OWNER. SEEDED AND SODDED LAWNS SHALL BE SEED MIX "J" FROM INDIANA STATE HIGHWAY SPECIFICATION OR AS APPROVED BY LANDSCAPE ARCHITECT.
 - ALL LAWNS SHALL BE GUARANTEED TO HAVE A FULL UNIFORM STAND OF ACCEPTABLE GRASS AT END OF ONE (1) YEAR GUARANTEE PERIOD WITH NO BARE SPOTS COMPRISING MORE THAN 2% OF ANY LAWN AREA. ANY AREA SO NOTED WILL BE SEEDED UNTIL AN ACCEPTABLE STAND OF GRASS IS ESTABLISHED.
 - ALL LANDSCAPE PLANTINGS TO BE MAINTAINED FOR A PERIOD UNTIL FINAL INSPECTION BY THE LANDSCAPE ARCHITECT. ALL STAKES AND GUY WIRES MUST BE REMOVED WITHIN ONE YEAR. LANDSCAPE CONTRACTOR MAINTENANCE TO INCLUDE WATERING, WEEDING, CULTIVATING, MULCHING, MOWING AND ALL OTHER NECESSARY OPERATIONS REQUIRED FOR PROPER ESTABLISHMENT OF LAWNS AND PLANTINGS. CONTRACTOR SHALL BE RESPONSIBLE FOR ALL WATERING, EVEN IF THE IRRIGATION SYSTEM IS NOT OPERATIONAL AT THE TIME OF PLANTING OR IS NOTED INCLUDED IN CONSTRUCTION.
 - CONTRACTOR TO SUBMIT UNIT PRICES ON EVERY TYPE OF WORK AS REQUESTED BY LANDSCAPE ARCHITECT.
 - ALL LAWN AREAS WITHIN LAWN LIMIT LINES TO RECEIVE 6" MINIMUM APPROVED TOPSOIL PRIOR TO SEEDING OR SODDING OPERATIONS.
 - BACKFILL FOR TREE PLANTING SHALL BE 75% APPROVED TOPSOIL AND 25% APPROVED PLANTERS MIX. TOP LAYER OF BACKFILL SHALL BE 100% EXISTING TOPSOIL. A 5-10-5 ANALYSIS SLOW RELEASE FERTILIZER SHALL BE INCORPORATED INTO BACKFILL AT APPROVED RATES.
 - ALL PLANTING BEDS SHALL HAVE A SPADED EDGE TO A DEPTH EQUAL TO SPECIFIED MULCH THICKNESS.

Ornamental Trees & Shade Trees

Key	Type	Name	Size	Height	Width	Exposure	Notes
BG	Shade Tree	Nyssa sylvatica / Black Gum	2.5"	30-50 ft.	20-30 ft.	Full sun to part shade	Salt tolerant / Attracts birds
HL	Shade Tree	Gleditsia tricanthos f. Inermis / Skyline / Honey Locust	2.5"	35-45 ft.	25-35 ft.	Full sun	Salt tolerant
GV	Shade Tree	Zelkova serrata / Green Vase	2.5"	60-80 ft.	40-50 ft.	Full sun	Should be used on island / Salt tolerant
FFH	Shade Tree	Carpinus betulus / Frans Fontaine Hornbeam	2.5"	30-40 ft.	20-30 ft.	Full sun to part shade	Should be used on island / Poor salt tolerance
RM	Shade Tree	Acer rubrum / Red Maple	3.5"	40-70 ft.	30-50 ft.	Full sun / part sun	Can be damaged by road salt
FD	Ornamental Tree	Cornus florida / Flowering Dogwood	1.5-2"	15-30 ft.	15-30 ft.	Full sun to part shade	Not salt tolerant / Attracts birds & butterflies
AH	Ornamental Tree	Carpinus caroliniana / American Hornbeam	1.5-2"	20-35 ft.	20-35 ft.	Part sun to full shade	Salt tolerant / Attracts birds
AB	Ornamental Tree	Amelanchier x grandiflora / Autumn Brilliance / Apple Serviceberry	1.5-2"	15-25 ft.	15-25 ft.	Full sun to part shade	Salt tolerant / Attracts birds
ER	Ornamental Tree	Cercis canadensis / Eastern Redbud	1.5-2"	20-30 ft.	25-35 ft.	Full sun to part shade	Poor salt tolerance / Attracts butterflies
IS	Ornamental Tree	Springa reticulata / Ivory Silk	1.5-2"	20-25 ft.	15-20 ft.	Full sun to part shade	Tolerates road salt / Attracts butterflies & hummingbirds

Ornamental Shrubs & Grasses

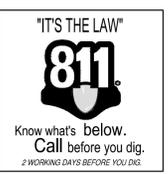
Key	Type	Name	Size	Height	Width	Spacing	Exposure	Notes
HFG	Grass	Pennisetum alopecuroides / Hameln / Fountain Grass	2 G	1.5-2.5 ft.	1.5-2.5 ft.	3'	Full sun to part shade	Ornamental / Attracts birds / Salt tolerant / Drains well
BLB	Grass	Schizachyrium scoparium / Little Bluestem / Blue Paradise	2 G	2-3 ft.	1-2 ft.	2'	Full sun	Dwarf habit / Tolerates drought, salt, & dry soil
RSG	Grass	Panicum virgatum / Red Switch Grass / Chesapeake Sky	2 G	3 ft.	1.5-2 ft.	2'	Full sun	Dwarf habit / Tolerates drought, salt, & dry soil / Tolerates dry & wet soil
SSS	Ornamental Shrub	Spiraea Danersorum / Snow Storm	2 G	3 ft.	3-5 ft.	5'	Full sun	Salt tolerant / Attracts butterflies

Gravel Area Plugs

Key	Type	Name	Size	Height	Width	Spacing	Exposure	Notes
PC	Flowering Perennial	Coneopsis palmata / Plains Coneopsis	2.5-3in sq plug	1.5-2.5 ft.	1-1.5 ft.	3 ft.	Full sun	Low salt tolerance / Needs extra care at establishment / Attracts butterflies
OSW	Flowering Perennial	Tradescantia obtusifolia / Ohio Spiderwort	2.5-3in sq plug	2-3 ft.	1.5-2.5 ft.	3 ft.	Full sun to part shade	Not salt tolerant
SOG	Grass	Bouteloua curtipendula / Side-Oats Grama	2.5-3in sq plug	1.5-2.5 ft.	1.5-2 ft.	3 ft.	Full sun	Salt tolerant / Attracts birds

NOTE: LANDSCAPE ROCK WHERE NOTED SHALL BE DECORATIVE IN A STYLE AND COLOR SELECTED BY ARCHITECT.

REVISIONS	
DATE	DESCRIPTION
01/27/20	1 TOWN OF ZIONSVILLE COMMENTS

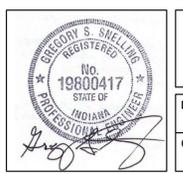


STRONGBOX COMMERCIAL

7661 N PERIMETER ROAD
INDIANAPOLIS, IN 46241
PHONE: (317) 550-0090

SNELLING ENGINEERING, LLC

13295 Illinois Street
Suite 142
Carmel, IN 46032
Ph: (317) 697-0100
www.snellingeng.com



APPALOOSA CROSSING SHOPS

U.S. 421 AND C.R. 300 SOUTH
ZIONSVILLE, INDIANA

DRAWN: GSS
CHECKED: GSS

SCALE: SEE PLAN
DATE: 01/27/20

LANDSCAPE PLAN

SHEET: **C501**

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

The reduction in foundation plantings will not impact the public health and safety, and will promote a site development scenario with significant landscaping otherwise provided, which will benefit the general welfare of the community and the aesthetic character of the subject site.

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

The reduction in foundation plantings will be unnoticeable and immaterial to the properties adjacent to this commercial development. The subject outlot(s) are oriented toward the U.S. 421 (Michigan Road) frontage, which is a heavily-traveled transportation corridor. Additionally, the deviation will not be visually noticeable due to the significant landscaping otherwise required within the Michigan Road corridor overlay, further benefiting the use and value of the area adjacent.

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

Within the context of this development proposal, located within the Michigan Road corridor overlay, the requirement for foundation plantings underneath awnings along a multi-tenant commercial building, necessitates such a deviation because such plantings would detract from the architectural theme for the structure and result in such plantings being obscured by the awnings, compromising the health of the plantings and the aesthetic value of such plantings. Therefore, the strict application of the terms of the ordinance, within the context of this specific development scenario, represents an unnecessary hardship in the use of the property.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED/DENIED.

Adopted this _____ day of _____, 2020.

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

The reduction in parking lot perimeter landscaping will not impact the public health and safety, and will promote a site development scenario with significant landscaping otherwise provided, which will benefit the general welfare of the community and the aesthetic character of the subject site.

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

The reduction in parking lot perimeter landscaping will be unnoticeable and immaterial to the properties adjacent to this commercial development. The subject outlot is oriented toward the U.S. 421 (Michigan Road) frontage, which is a heavily-traveled transportation corridor. Additionally, the deviation will not be visually noticeable due to the significant landscaping otherwise required within the Michigan Road corridor overlay, further benefiting the use and value of the area adjacent.

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

Within the context of this development proposal, located within the Michigan Road corridor overlay, parking lot perimeter landscaping necessitates a deviation. The Michigan Road corridor overlay requires significant landscaping above and beyond the typical commercial development scenario. Therefore, the strict application of the terms of the ordinance, within the context of this specific development scenario, represents an unnecessary hardship in the use of the property.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED/DENIED.

Adopted this _____ day of _____, 2020.



Petition Number: 2020-02-DSV

Subject Site Address: 4554 Summersong Road

Petitioner: Jeanne Moosey

Representative: Bob Donaldson - G.R. Donaldson, LLC

Request: Petition for Development Standards variance in order to provide for the construction of a deck and patio with:
1) Reduced rear yard and building line setbacks in the Urban Single-Family Residential Zoning District (R-SF-2).

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

Current Land Use: Residential

Approximate Acreage: 0.35 Acres

Zoning History: Annexed into the Town of Zionsville’s jurisdiction in 1998.

- Rezone (Multifamily to R-SF-2) Town Council Certification 5/27/1998
- Board of Zoning Appeals Approval 8/19/1998
 - Variance of lot width at building setback requirements.
 - Variance of street frontage requirements for Lots 9, 10, 21, 22 & 44.
 - Variance of minimum rear yard requirements Lot 27.
 - Variance of front yard setback requirements from 35 feet to 15 feet.
- Primary Plat approval with waivers 10/19/1998
- Board of Zoning Appeals Approval 3-28-2000
 - #2000-V-04 Variance of all lots (except Lots 1, 2, 3 & 21) to permit open decks to encroach up to 20 feet into the rear setback.

Exhibits: Exhibit 1- Staff Report
Exhibit 2- Aerial Location Map
Exhibit 3- Petitioner’s Narrative
Exhibit 4- Petitioner’s Existing Site Plan
Exhibit 5- Petitioner’s Proposed Site Plan & Exhibit(s)
Exhibit 6- Petitioner’s Proposed Findings of Fact

Staff Presenter: Wayne DeLong, AICP, CPM

PETITION HISTORY

This Petition will receive a public hearing at the March 4, 2020 Board of Zoning Appeals meeting.

PROPERTY HISTORY

The property is comprised of approximately 0.35 acres known as Lot 10 of the Ravinia Subdivision of the Town of Zionsville. Per the Boone County Property Record Card, the parcel is presently improved with a single-family dwelling and accessory structures/uses. Staff is not aware of any prior petitions for this property.

ANALYSIS

The site is currently improved with a 4,290 square foot single-family dwelling (the primary structure). Per the narrative included, the petitioner has enlisted the services of a contractor to remodel the dwelling and add a sunporch to the property, all of which has been approved and permitted. Additionally, the petitioner would like to add an elevated deck in the rear of the dwelling coming off of the sunroom with stairs leading to a ground level patio. The proposed deck does not require a variance (per BZA approved petition #2000-V-04 allowing open decks to encroach up to 20-feet into the rear setback). The proposed location of the patio, however, encroaches into the required 25-foot rear yard setback and therefore requires approval of a Development Standards Variance.

REAR YARD SETBACK

As proposed, the Petitioner seeks to deviate from the standards of the ordinance in order to allow flexibility of the placement of a new pervious patio that would enjoy a minimum rear yard setback of five (5) feet. By Ordinance, property in the R-SF-2 Residential District is required to provide for a minimum rear yard setback of 25 feet for improvements other than an open deck (previous approved per BZA to encroach up to 20-feet into the rear setback).

In the case of the subject site, the lot is uniquely configured and adjacent to nine acres of the subdivision's passive common space, which the proposed deck and patio will overlook. Additionally, due to the subdivision layout and positioning of the existing single-family dwelling, the improvements will sit significantly further west than the adjacent homes and will not be close to other outdoor living space established by adjoining land owners.

Given that this request is for an at-grade pervious improvement to the site (which would be allowed by right if it were a deck) and 1) does not contain a request for vertical construction, and 2) results in the active area associated adjoining a vast passive common space, and 3) whose location is a distance from neighbors outdoor living space, in the opinion of Staff, the proposal meets the intent of the ordinance and adequate separation from the neighboring parcel will be provided with the adjustment to the minimum setback.

However, as this home site is within a platted subdivision, staff is conscious of the home site's presence within a platted subdivision and the interest the Ravinia Home Owners Association (or collective representation of the property owners) may have in the Petitioner's request. It is our understanding that the petitioner and petitioner's representative have met with and discussed the proposed improvements with the HOA President. Barring any concerns of the Ravinia Home Owners Association (or any other party entitled to receive personal notice) being made of record during the disposition of

the Petitioner's request, Staff would not oppose the request for a five (5) foot minimum rear yard setback for the proposed at grade pervious improvements.

PROCEDURAL – CONSIDERATION OF A DEVELOPMENT STANDARDS VARIANCE PETITION

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

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

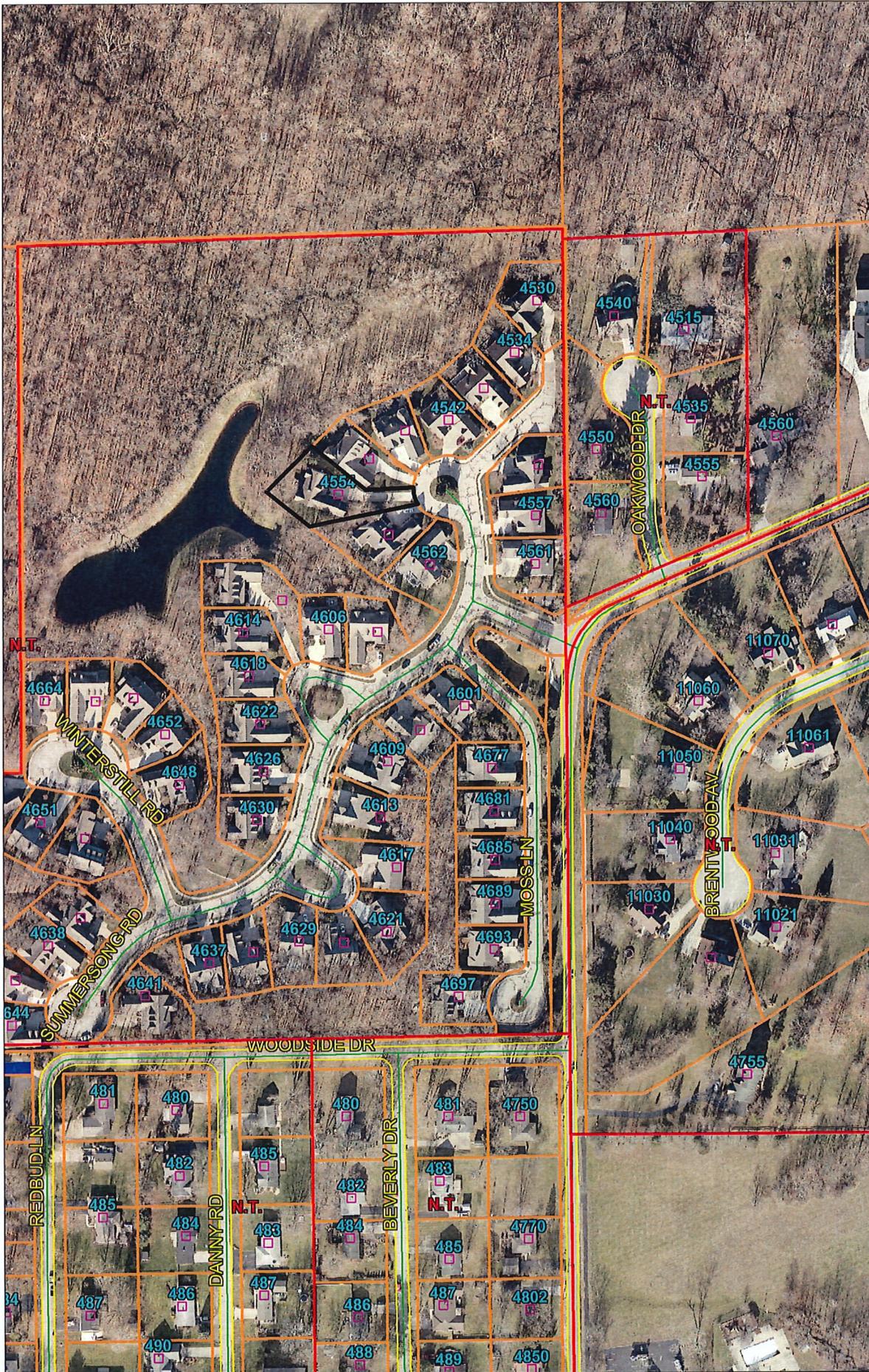
Proposed Findings of Fact are attached for the Board of Zoning Appeal's consideration.

STAFF RECOMMENDATION

Staff Recommends Approval of Petition # 2020-02-DSV, subject to substantial compliance with the submitted site plan attached to this Report.

RECOMMENDATION MOTION

I move that Docket #2020-02-DSV Development Standards Variance in order to provide for the construction of a deck and patio to the existing dwelling which has a reduced rear yard and building line setback (patio only) in the Urban Single-Family Residential (R-SF-2) Zoning District for the property located at 4554 Summersong Road be (Approved as filed, based upon the findings of fact and substantial compliance with the submitted site plan / Denied as Presented/ Continued).



- Regional Counties
- Townships
- Zionsville Corporate
- Boone Co Corporate
- Vacated Streets
- Parcels
- Boone Subdivisions

- Boone County Address
- Regional Count
- Edge of Pavement
- Miscellaneous
- Railroads
- Roads
- Highways
- BC Legal Drains

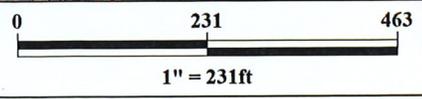
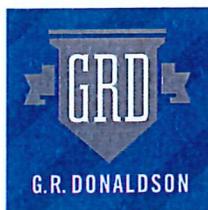


Exhibit 2



January 23, 2020

Dear Ravinia Property Owner,

I am writing to inform you of an upcoming variance petition for my client, Jeanne Moosey, who owns the residential property at 4554 Summersong Road in your subdivision.

Attached you will find a Notice of Public Hearing from the Town of Zionsville Board of Zoning Appeals. Mrs. Moosey has hired my firm to do a remodel of this home which includes a new rear Sunporch addition with a proposed deck and patio attached. There is a required 25-foot rear building setback line for all properties in R-SF-2 Districts of which your subdivision is currently zoned. The new sunporch will not encroach into the 25-foot setback line however, to logically provide access to an outside deck and patio area an encroachment will be required.

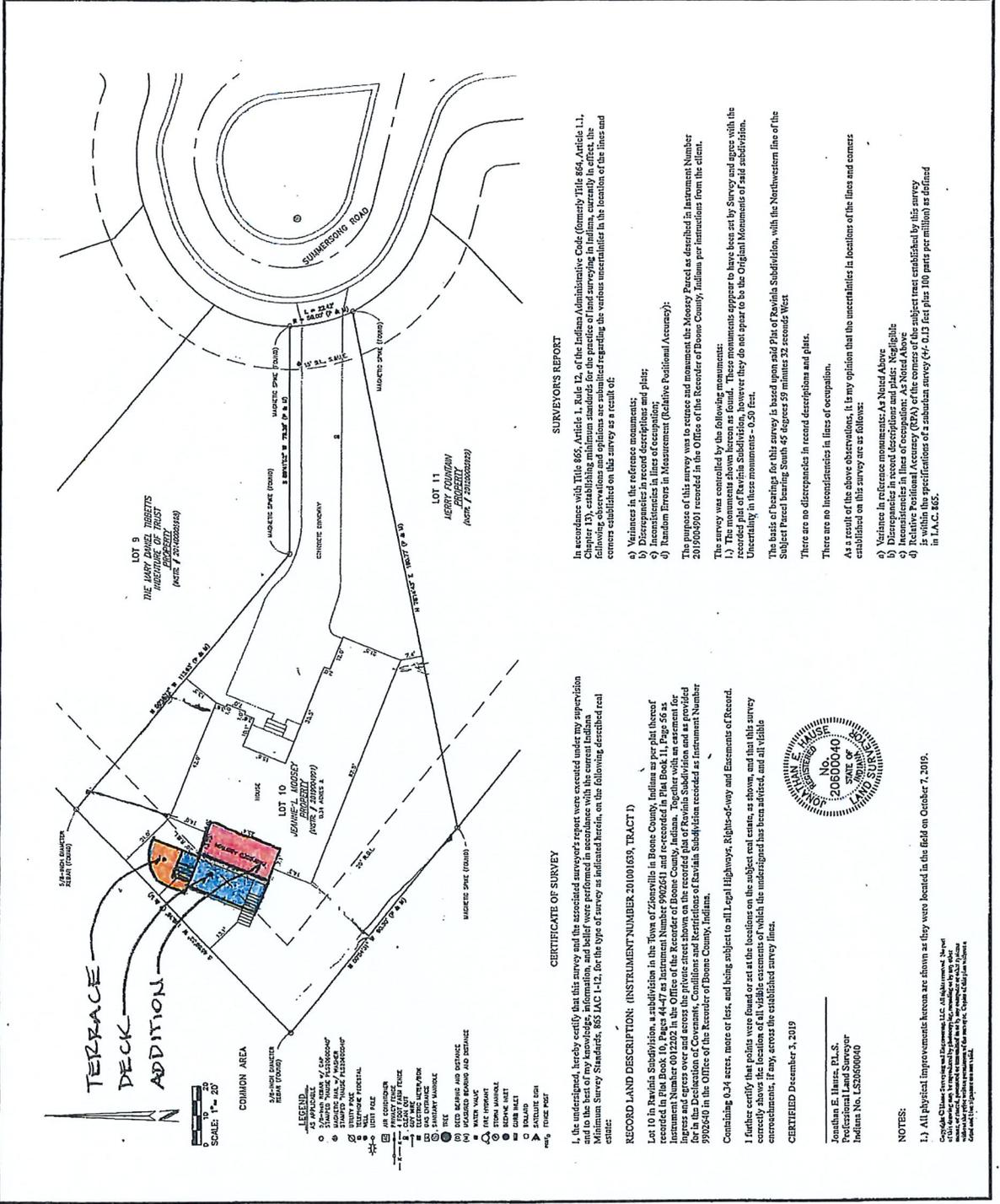
There is in place a variance from the Development Standards of the R-SF-2 District for your subdivision. It was approved on March 28, 2000 permitting open decks to encroach up to 20 feet into the rear setback for all lots in Ravinia, with the exception of Lots 1,2,3, and 21. Mrs. Moosey's residence is located on Lot 10. The proposed deck design for this property will encroach 14 feet into the building set back therefore well within the permitted 20 requirement.

The proposed ground level patio accessed from a stair off the deck will also be in the 25-foot building setback and therefore will need variance approval.

I have attached a Site Plan with highlighted areas noted for this proposed addition. The red highlight shows the proposed new sunroom addition that does not encroach on the rear 25 foot set back line. The blue highlight represents the proposed new deck with stairs to the patio on the north end of the deck. The orange highlight represents the proposed new ground level patio. Additional drawings and details have been submitted to the Board of Zoning Appeals and are on file at their office if you would like to learn more about the project. You are also welcome to contact me per the contact information noted below.

Sincerely,

Bob Donaldson



SURVEYOR'S REPORT

In accordance with Title 865, Article 1, Rule 12, of the Indiana Administrative Code (Commonly Title 864, Article 1.1, Chapter 13), establishing minimum standards for the practice of land surveying in Indiana, care was taken to effect the following observations and opinions are submitted regarding the various uncertainties in the location of the lines and corners established on this survey as a result of:

- a) Variance in the reference monuments;
- b) Discrepancies in record descriptions and plat;
- c) Inconsistencies in lines of occupation;
- d) Random Errors in Measurement (Relative Positional Accuracy);

The purpose of this survey was to assess and monument the Moosey Road as described in Instrument Number 2019000500 recorded in the Office of the Recorder of Boone County, Indiana per instructions from the client.

The survey was controlled by the following monuments:
 1) The monuments shown herein as found. These monuments appear to have been set by Survey and agree with the original monuments shown on the plat. These monuments do not appear to be the Original Monuments of said subdivision. Uncertainty in these monuments - 6.50 Feet.

The basis of bearings for this survey is based upon said Plat of Ravinia Subdivision, with the Northwestern line of the Subject Parcel bearing South 65 degrees 59 minutes 32 seconds West.

There are no discrepancies in record descriptions and plats.

There are no inconsistencies in lines of occupation.

As a result of the above observations, it is my opinion that the uncertainties in location of the lines and corners established on this survey are as follows:

- a) Variance in reference monuments: As Noted Above
- b) Discrepancies in record descriptions and plats: Negligible
- c) Inconsistencies in lines of occupation: As Noted Above
- d) Relative Positional Accuracy: As Noted Above

As a result of the above observations, it is my opinion that the subject tract established by this survey is within the specifications of a standard survey (4'-0.13 feet plus 100 parts per million) as defined in I.A.C. 865.

CERTIFICATE OF SURVEY

I, the undersigned, hereby certify that this survey and the associated surveyor's report were executed under my supervision and to the best of my knowledge, information, and belief were performed in accordance with the current Indiana Minimum Survey Standards, 865 I.A.C. 1-12, for the type of survey as indicated herein, on the following described real estate:

RECORD LAND DESCRIPTION: (INSTRUMENT NUMBER: 201001639, TRACT 1)

Lot 10 in Ravinia Subdivision, a subdivision in the Town of Zionsville in Boone County, Indiana as per plat thereof recorded in Plat Book IV, Pages 44-47 as instrument Number 992651 and re-recorded in Plat Book II, Page 56 as instrument Number 992649. The subject parcel is bounded on the north by the line of the subject tract as shown on the plat, on the east by the line of the subject tract as shown on the plat, on the south by the line of the subject tract as shown on the plat, and on the west by the line of the subject tract as shown on the plat. The subject parcel is bounded on the north by the line of the subject tract as shown on the plat, on the east by the line of the subject tract as shown on the plat, on the south by the line of the subject tract as shown on the plat, and on the west by the line of the subject tract as shown on the plat.

Containing 0.24 acres, more or less, and being subject to all Legal Highways, Rights-of-way and Easements of Record.

I further certify that points were found or set at the locations on the subject real estate as shown, and that this survey correctly shows the location of all visible encumbrances of which the under-signed has been advised, and all visible encumbrances, if any, across the established survey lines.

CERTIFIED December 3, 2019



Jonathan F. House, P.L.S.
 Professional Land Surveyor
 Indiana No. LS20600040

NOTES:

- 1.) All physical improvements hereon are shown as they were located in the field on October 7, 2019.
- Copyright © 2019 by Jonathan F. House, P.L.S. All rights reserved. No part of this survey may be reproduced by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of Jonathan F. House, P.L.S. Copying or distribution of this survey without the prior written permission of Jonathan F. House, P.L.S. is prohibited.

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

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

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

The deck and patio will be entirely located in the private rear yard of the subject property. The design and materials will meet all local building codes necessary for the homeowners and their guests safety. The building rear set back area of 25' is not recorded as a utility easement therefore it will not interfere with current or future utility services. A storm drainage plan will include pervious patio stone or brick pavers.

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

Residential properties in this subdivision typically have and utilize outdoor space by installing decks and patios. This addition was designed by the owner of Holeman Landscaping and Design, one of the oldest and most respected companies in the Greater Indianapolis area. Materials will be of the highest quality and aesthetically complimentary to the home and neighborhood.

3. Strict application of the terms of the zoning ordinance **will** result in unnecessary hardships in the use of the property because:

Access to and from the new sunroom without a terraced deck and steps exiting to a patio on the north end of the sunroom (per proposed plans), would require an approximately 11 step stairway from the south end of the sunroom exit door terminating at ground level in order to stay within the current rear 25' building set back line. This would be an over 7' 6" distance from the floor of the sunroom down to ground level.

A variance from Development Standards of the R-SF-2 District zoning was approved on March 28, 2000 permitting open decks to encroach up to 20 feet into the rear setback (a rear setback of 25 feet is required per the R-SF-2 District) for all lots in Ravinia with the exception of Lots 1, 2, 3, and 21. The subject property is on Lot 10 and the proposed deck will encroach 14 feet into the building set back.

DECISION

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

Adopted this _____ day of _____, 20__.



Petition Number: 2020-05-UV

Subject Site Address: 9475 Whitestown Road

Project Name: Zionsville Montessori & Childcare Center

Petitioner: Mark and Nadia Adams

Request: Petition for a Variance of Use to permit a childcare center as a Primary Use in the Low Density Single-family and Two-family Residential District (R2).

Current Land Use: Vacant Parcel

Approximate Acreage: 4.74± acres

Zoning History: No previous filings for Board of Zoning Appeals or Plan Commission actions.

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

Staff Presenter: Wayne DeLong, AICP, CPM

PETITION HISTORY

This petition will receive a public hearing at the March 4, 2020, Meeting of the Board of Zoning Appeals. No other petitions for this project have been filed at this time, but it is anticipated that should the Use Variance be granted, Variances of Development Standards may be requested. Regardless of additional Variances, approval of a Development Plan would be required from the Plan Commission.

SITE LOCATION, ZONING AND PROJECT DESCRIPTION

The 4.74± acre subject site is classified as Rural and is zoned Low Density Single-family and Two-family Residential District (R2). It is comprised of two unimproved lots on the south side of Whitestown Road. The smaller of the two lots has frontage on Whitestown Road and would provide vehicular access to the larger lot which does not have frontage on any public right-of-way. The subject site is bordered:

- on the north by two single-family residences (zoned R2) and, on the north side of Whitestown Road, by the Cobblestone Lakes residential subdivision (zoned R-SF-2);
- to the east, the subject site is bordered by six single-family residences (zoned R2) each having frontage on CR 950 East;
- to the south is undeveloped acreage (zoned R2);
- and to the west is additional undeveloped acreage (zoned R2).

The Petitioner proposes to construct a single-story, commercial building of approximately 9,000 square feet with related parking areas to be used as a childcare center. The proposed building is designed to serve up to 85 children, ranging in age from 3 months to 6 years old, and 12 staff. A commercial kitchen would be included within the building to provide meals for the children and staff. Vehicular access to the development will be from Whitestown Road. In addition to the building, Petitioner proposes two outdoor playscape areas, a garden area, and a bioretention/rain garden (Exhibit 4).

ANALYSIS

The Zionsville Zoning Ordinance provides the following definition which would apply to the proposed use:

DAY CARE CENTER. A commercial facility or single-family home licensed and/or regulated by the state's Department of Public Welfare for the care and/or education of human beings.

A **DAY CARE CENTER** shall not be considered a home occupation.

Day Care Center (childcare center) is not a permitted use at the proposed R2 zoned location. The use of Day Care Center is permitted by right in the following Rural zoning districts: LB, GB, UB, PB, I1, and I2 (all of which are business or industrial districts). The use of Day Care Center is permitted by a Special Exception in the following Rural zoning districts: AP, AG, R4, and MF. It should be noted that Elementary and Secondary Schools are permitted uses in the R2 zoning district, however these uses typically involve significantly larger tracts of land which allow for required bufferyards to protect adjoining residential uses. Discussion regarding bufferyards is provided later in this Staff Report.

In evaluating the appropriateness of the proposed use at the subject location, the existing surrounding uses and the Town's Comprehensive Plan must be considered. The 2010 Comprehensive Plan's Land Use Map identifies this area for Single-family Residential - Low

Density. This is described as "...a mixture of housing opportunities similar in scale with a density ranging from less than 1.0 to 2.0 Dwelling Units per gross acre." The existing surrounding single-family residential uses are consistent with the Comprehensive Plan. A commercial use, such as the childcare center being proposed, is not considered at the subject site or within the immediate area.

In reviewing the location map (Exhibit 2) and the proposed site plan (Exhibit 3), the proposed building would be located "in the back yard" of eight existing residences. The undeveloped properties to the south and west of the subject site are also identified on the Comprehensive Plan's Land Use Map as being for Single-family Residential - Low Density. If these properties were to be developed in accordance with the Comprehensive Plan, the proposed Day Care Center would be encircled by single-family residential uses.

Bufferyards

The Zoning Ordinance does address bufferyard requirements in the Rural districts. Specifically, "Bufferyards shall be required to separate land uses from each other in order to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly building or parking areas, or to provide spacing to reduce adverse impacts of noise, odor or danger from fires or explosions." Bufferyards are required from new commercial uses when abutting existing residential uses. No bufferyards are identified on the Petitioner's site plan at this time. It is anticipated that the Plan Commission would require bufferyards in their review for approval of the Development Plan.

If the subject site's zoning classification were such that the proposed use would be permitted by right, such as the PB district for the following discussion, a Level "D" bufferyard between the proposed use and all adjacent, existing residential uses would be required. From the Zoning Ordinance, "Bufferyard requirements are stated in terms of the width of the bufferyard and the number of plant units required per 100 linear feet of bufferyard. The requirements of a bufferyard may be satisfied by any of the alternatives illustrated (*within the Ordinance*). The quantity and type of plant materials required by each bufferyard are specific and identified in the Appendix (*reference division (L)(3)(g) in the Ordinance*). The specifications of each bufferyard and its alternatives are illustrated in this section. Each alternative depicts the total bufferyard located between two parcels."

A Level "D" bufferyard could be accomplished with a width as small as 15 feet or ranging up to 30 feet in width. Four (4) width options are available for the Level "D" bufferyard. The number of required and types of plantings is determined by the width of the bufferyard. Essentially, the wider the bufferyard - the fewer required plantings; the narrower the bufferyard - the more required plantings. This Level "D" bufferyard would be required on all property lines. Staff, additionally, would be supportive of the use of a minimum 6-foot tall, opaque fence as a buffer, substituting it for a landscape buffer.

Time Line

Typically, the Board of Zoning Appeals weighs heavily the concept of establishing a "sunset date" (or "check in date" / "renewal date") for any Use Variance it approves within the Town. As such, if the Board of Zoning Appeals is inclined to favorably consider the petition, the Board of Zoning Appeals should discuss this topic with the Petitioner during the course of the public hearing while noting the Petitioner's timeline for investment and improvement to the site.

PROCEDURAL – CONSIDERATION OF A USE VARIANCE PETITION SEEKING APPROVAL

The Board of Zoning Appeals shall hear, and approve or deny, all requests for Use Variance requests as provided for by the Zionsville Zoning Ordinance. A Use Variance may be approved only upon written determination that:

- (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;*
- (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;*
- (c) The need for the variance arises from some condition peculiar to the property involved; and strict application of the terms of the zoning ordinance would result in an unnecessary hardship in the use of the property;*
- (d) The strict application of the terms of the zoning ordinance would result in an unnecessary hardship in the use of the property;*
- (e) The approval does not interfere substantially with the Comprehensive Plan*

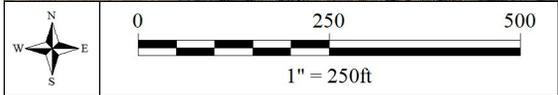
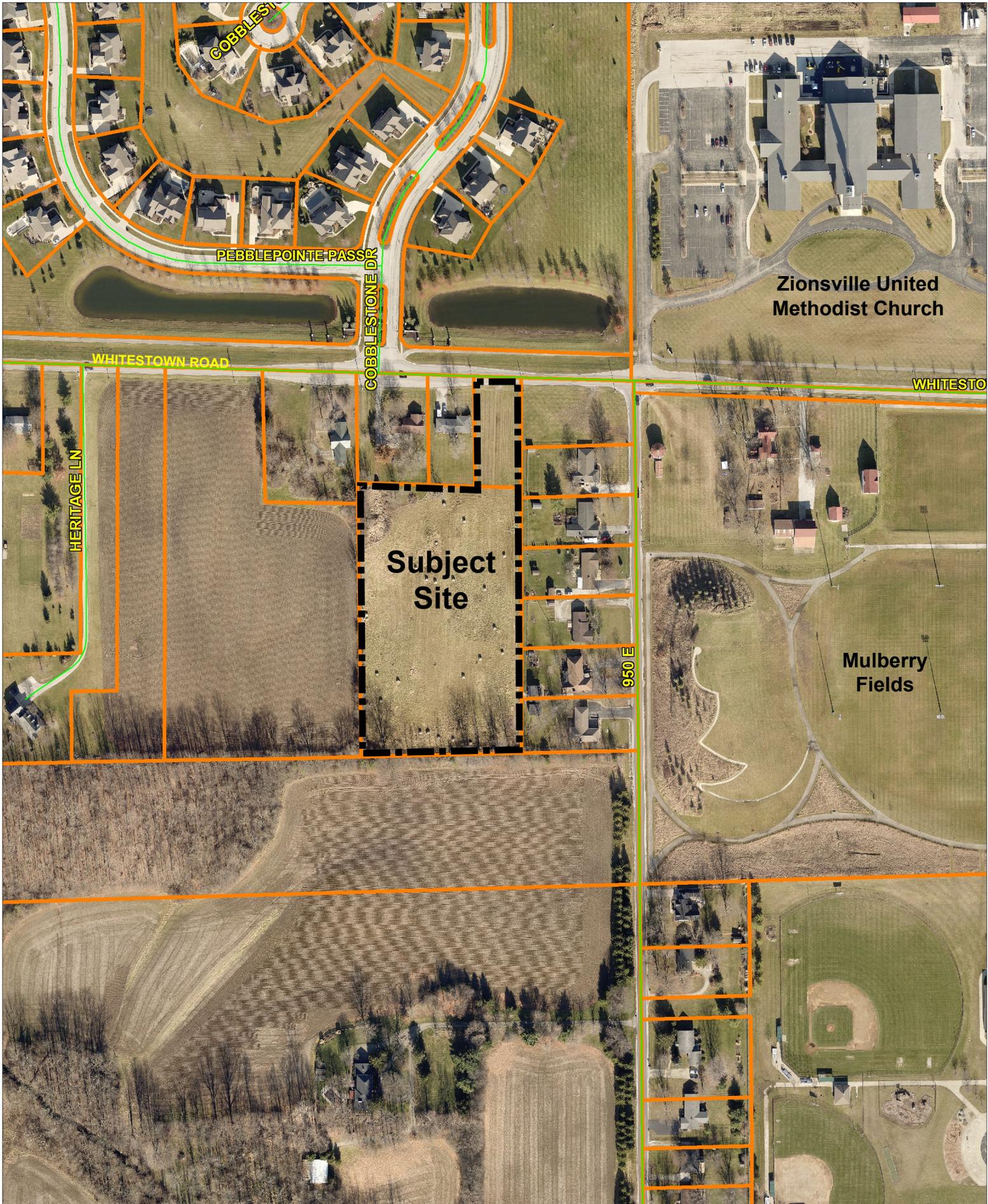
Proposed Findings of Fact from the Petitioner are attached for the Board of Zoning Appeal's consideration (Exhibit 5).

STAFF RECOMMENDATIONS

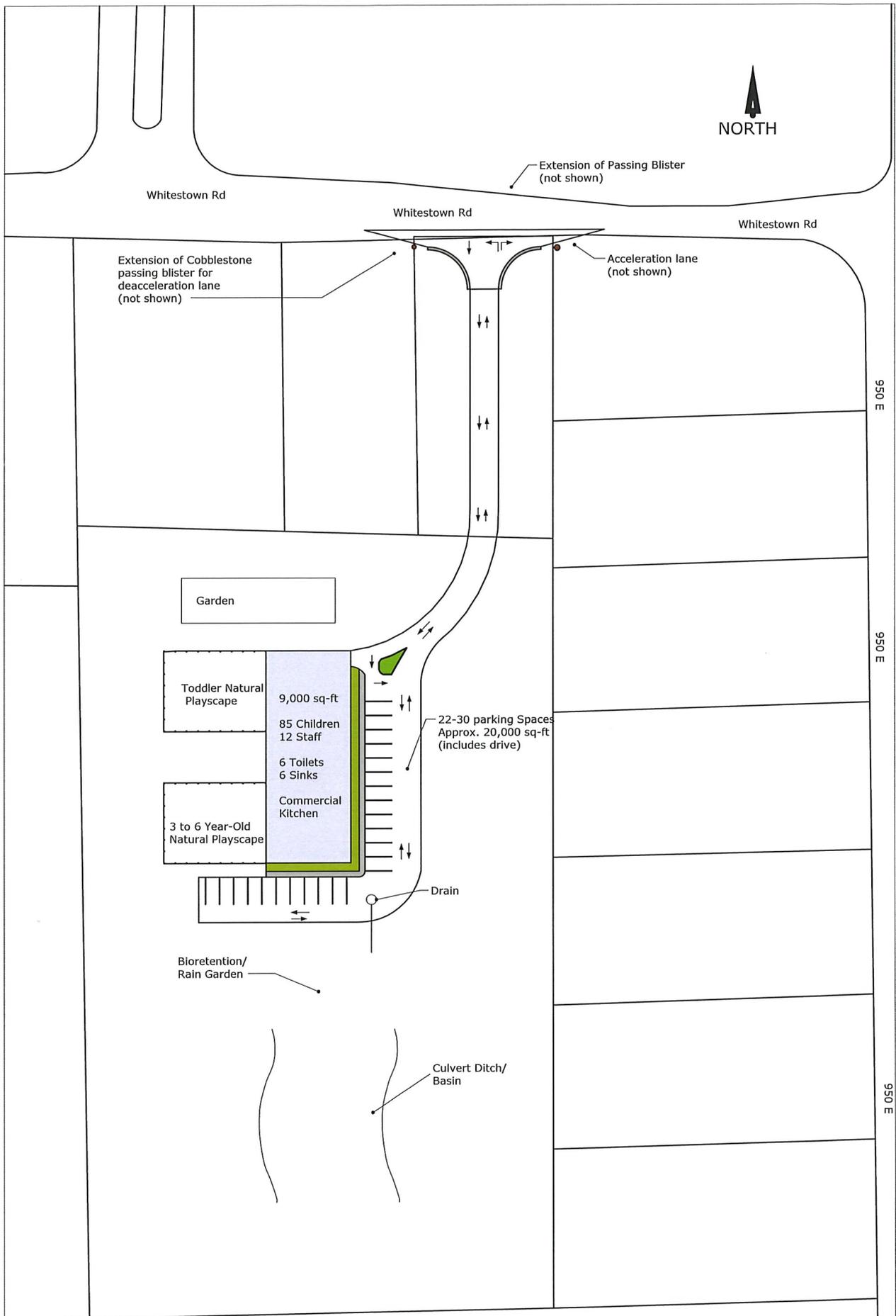
Staff recommends approval of the Use Variance for a Day Care Center (childcare center) as a Primary Use at 9475 Whitestown Road as described and depicted in Docket #2020-05-UV, with the addition along all property lines of the subject site of: 1) a Level "D" bufferyard; 2) the installation of a minimum 6-foot tall, opaque fence; or 3) a combination of 1) and 2).

RECOMMENDATION MOTION

I move that Docket #2020-05-UV Use Variance to permit a Day Care Center (childcare center) as a Primary Use at 9475 Whitestown Road, be (Approved as filed, based upon the findings of fact / Denied / Continued) as presented, with the addition along all property lines of the subject site of: 1) a Level "D" bufferyard; 2) the installation of a minimum 6-foot tall, opaque fence; or 3) a combination of 1) and 2).



Montessori and Childcare Center - Exhibit 2



Extension of Cobblestone passing blister for deceleration lane (not shown)

Extension of Passing Blister (not shown)

Acceleration lane (not shown)

Garden

Toddler Natural Playscape

9,000 sq-ft
85 Children
12 Staff
6 Toilets
6 Sinks

3 to 6 Year-Old Natural Playscape

Commercial Kitchen

22-30 parking Spaces
Approx. 20,000 sq-ft (includes drive)

Drain

Bioretention/Rain Garden

Culvert Ditch/Basin

950 E

950 E

950 E

Not to Scale

Mark and Nadia Adams
6670 Regents Park Dr.
Zionsville, IN 46077

Re: Development of 9475 Zionsville Road which is adjoining to your property

February 19, 2020

Dear Adjoining Neighbors to 9475 Zionsville Road:

We hope this letter finds you well! We are writing to you because we would like to create a Montessori childcare center and private school on the property located at 9475 Zionsville Road. This property is currently zoned R2 Low Density Single-family and Two-family Residential District, which a permissible use includes an elementary and secondary school. Since our school would serve children ages 3 months to 6 years of age, we are seeking a variance of use.

As parents with young children we believe in early childhood education. We have a passion for nurturing children into becoming lifelong learners. We would like to create a unique offering that does not currently exist in our community – we would like to open a Montessori childcare center and private school that would serve children ages 3 months to 6 years of age. The Montessori philosophy was developed by a physician scientist, Dr. Maria Montessori, who observed and studied how children best learn and take in information. Her observations led to an educational philosophy that focuses on preparing the child's environment in a way that will foster a lifelong, deep love for learning. Montessori incorporates things like gardening, a natural setting, and a prepared classroom environment; therefore, we think the property we currently have under contract, 9475 Whitestown Road, would be a great location for this style of learning.

We envision a building that is aesthetically pleasing, designed with modern techniques and constructed with high-end materials to provide a comfortable and more environmentally friendly design. We envision gardens and outdoor playground(s) focused on natural elements instead of the traditional commercial playground equipment. The remaining acreage of the site will include more biodiversity of our native Indiana plants, grass and some newly planted trees. We also plan to incorporate a nature path for the children so they may explore and learn about our local environment.

We are scheduled to present our vision to the Board of Zoning Appeals (BZA) on March 4th. Please see the enclosure for the official start time and location of this public hearing. Also, please find the enclosed sketches regarding a preliminary site map, preliminary entrance design, and additional information. Please note that engineered/final prints are to follow, contingent on a successful BZA verdict.

Respectfully,

Mark and Nadia Adams

Enclosures: DRAFT site plan, DRAFT entrance design, Additional Operational Information, Notice of Public Hearing

Additional Operational Information

Zionsville Montessori & Childcare Center
9475 Whitestown Road
Zionsville, IN 46077

Normal Hours of Operation:

Monday – Friday 7:00am – 6:00pm

Ages of Children:

3 months through six years of age

Outside Lighting:

Aesthetically placed around building and sign

Entrance way and main drive, as required

Parking lot as required

Signage:

Per sign ordinance of the town, likely masonry post(s) with our logo.

Parking:

Per town requirements number of spaces per child and staff member. Estimated 22 to 30 spaces.

Entrance:

Per town requirements for arterial roadway entrance contingent on feasibility and traffic study as required

Admittance:

Guest must be escorted

Enrolled children and their guardians only

Entrance Design Concept (Preliminary)

Zionsville Montessori & Childcare Center
9475 Whitestown Road
Zionsville, IN 46077



Design Concept:

The access point, contingent of feasibility, could be designed with one inbound lane and two outbound lanes (A). The access point should include a right turn lane (B) and a left turn passing blister (C). This should be an extension from Cobblestone Drive

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

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

- 1. The grant (**will / will not**) be injurious to the public health, safety, morals, and general welfare of the community because:
The grant will not be injurious to the public health, safety, moral, and general welfare of the community because the intended use, Private School/Childcare Center, will be beneficial to children and the community and licensed by the appropriate regulatory bodies.
- 2. The use or value of the area adjacent to the property included in the variance (**will / will not**) be affected in a substantially adverse manner because:
The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse way because the intended use will be an amenity for the neighborhood and community.
- 3. The need for the variance arises from some condition peculiar to the property involved and the condition (**is / is not**) due to the general conditions of the neighborhood because:
The need for the variance arises from some condition peculiar to the property - The current zoning ordinance (R2) authorized uses includes an Elementary School, but not a daycare center. It is in close proximity to schools and parks. It's natural setting will aid in the learning and development of children.
- 4. The strict application of the terms of the zoning ordinance (**does / does not**) constitute an unusual and unnecessary hardship if applied to the property for which the variance is sought because:
The strict application of the terms of the zoning ordinance does constitute an unusual and unnecessary hardship if applied to the property because infant children through five-year-olds (Pre-K) are unable to have education and/or childcare, but elementary age (Kindergarten and above) is a permitted use.
- 5. The grant (**does / does not**) interfere substantially with the Comprehensive Plan because:
The grant does not interfere substantially with the Comprehensive Plan because the property is located across the street from a park and middle-school. The development of the land will take into account nature, a garden and a natural play-scape. The property entrance will be on an arterial road, Whitestown Rd., and designed as such. The zoning of the property as R2 is not changing.

DECISION

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

Adopted this _____ day of _____, 20____.

Zionsville Board of Zoning Appeals
March 4, 2020

In Attendance: John Wolff, Julia Evinger, Larry Jones, Jeff Papa, Steve Mundy.

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

Wolff Good evening, and welcome to the March 4, 2020 Board of Zoning Appeals meeting. The first item on our agenda is the Pledge of Allegiance.

All Pledge.

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

DeLong Mr. Papa?

Papa Present.

DeLong Mr. Jones?

Jones Present.

DeLong Mr. Wolff?

Wolff Present.

DeLong Ms. Evinger?

Evinger Present.

DeLong Mr. Mundy?

Mundy Present.

Wolff Thank you, Wayne. The next item on our agenda is the approval of the December 10, 2019 meeting minutes, which should be in your packet. Any discussion amongst the group?

DeLong Yes. Actually, we're still working through this.

Wolff Disregard that. The next item on our agenda is the approval of the February 5, 2020 meeting minutes, which are in your packet. Any discussion amongst the group about that draft?

Mundy I was not present, so I will not vote.

Wolff Thank you, Mr. Mundy. If there is no additions or corrections, I would entertain a motion.

Evinger Move to approve the minutes as presented.

Papa Second.

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

All (except Mundy) Aye.

Wolff Those opposed, please say nay.

[No response.]

Wolff Thank you. Motion carries. The next item on our agenda is continuance requests. Are there any petitioners here tonight seeking, and we do have some admin work to do here, seeking to ask for a continuance to a later BZA meeting? Please come forward and state your name and address for the record. Okay. While we are here, we are going to deal with a couple other tasks. We had petition # 2019-37-DSV, where the petitioner asked to withdrawal the petition request. I think we need to act upon that request and entertain a motion to accept that withdrawal. Any discussion? Seeing none, I would entertain a motion to accept the withdrawal requests for petition # 2019-37-DSV.

Evinger So moved.

Jones Second.

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

All Aye.

Wolff Those opposed, please say nay.

[No response.]

Wolff Motion carries. Moving on, we have the petitioner for Docket # 2020-04-DSV sent an email asking to continue their request. This is 145 North Main Street, to the April 1, 2020 meeting. We have always accepted these. Any discussion amongst the group?

? 3:05 [inaudible]

Wolff Absolutely. You filed in a timely manner, so you're absolutely entitled to that. Any discussion amongst the group? Seeing none, all those in favor, or I'm sorry, I'll entertain a motion.

Papa So moved.

Wolff Thank you. All those in favor of continuing Docket # 2020-04-DSV.

Evinger Second.

Wolff Thank you. Please say aye.

All Aye.

Wolff Those opposed please say nay.

[No response.]

Wolff Motion carries. Actually, we didn't need to make a motion on that. That's fine. Moving on to Docket # 2020-06-DSV. This one we did receive the email on from the petitioner asking for a continuance request. Any discussion amongst the group about that? Hearing none, I would entertain a motion.

Mundy Move to continue # 2020-06-DSV until the April BZA meeting.

Wolff April 1, 2020. Thank you, is there a second?

Papa Second.

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

All Aye.

Wolff Those opposed, please say nay.

[No response.]

Wolff Motion carries. I would note at this particular time that the April 1, 2020 meeting is scheduled during Zionsville Community Schools spring break. So, I think we will have a quorum here and shouldn't have a problem, but moving on. Double check to make sure there is no other continuance requests tonight. Seeing none, we are going to move on to continued business, which brings us to Docket # 2020-01-DSV, for 11690 Sycamore Street. Will the petitioner please come forward and state your name and address for the record?

Andreoli Thank you, Mr. President. For the record, my name is Mike Andreoli, 1393 West Oak Street. I am here with Mr. and Mrs. Roy Myers, who are with us tonight. They are seeking a development standards variance to locate an additional accessory structure on their property out on Sycamore Street. They have a need to have a place to store their motor home. They have had it for a period of time. It sits outside. It's probably better for the neighborhood, as well as for the use of the home itself to have a bay to put it in, and in addition they are proposing three additional bays for some antique cars and some other things that Mr. Myers has. They have lived on the property for a substantial number of years. It is right on Sycamore Street. It is a 1.44-acre property. So, it's a fairly large tract by Zionsville's standards in terms of close to the Village, but it's a long strip where Mr. Ferree owns and several others along that area across from Pittman Farms on the north side of Sycamore Street. He is well back from the road, and the location of the building itself will be positioned such that will be in the trees, and even given the height of it, there is substantial trees around it, access will not come in from that building from an additional cut on Sycamore Street, but they will just simply use the driveway that they have to be able to access it and be able to get to the structure itself.

We have provided a drawing that Mr. Myers had provided with regard to the structure, and as you can see, and I hope you can agree, it does not look like a normal garage or anything of that nature. It's quite nicely done. It was a custom-build that he had asked them to do, so that the building itself would fit into the neighborhood. Fit into his own property, as well. Look more like it's part of the house then some type of storage building or anything like that. So, it will be a legitimate construction, and won't be a pole barn or anything like that, and you've had an opportunity to be able to see the black and white renderings of that. In discussing this with staff, Mr. DeLong had mentioned that given the location of one of the sides that doesn't have as much relief to it, it would be advantageous to put two windows there so that it looks like basically a residential structure all around, and we're agreeable to that. That's in the staff report and part of his recommendations. We didn't do another drawing and have it custom done until we knew we had approval, but upon approval, if you grant us approval to move forward, we will have that design incorporated into the building so that that will be applied for when the building permit is requested.

Other than that, I stand ready to answer any questions that you have. We have not had any comments from neighbors. Not to suggest that neighbors would be here tonight having comment, we just have not had any negative comments at this point, but we stand ready to listen to any remonstrance or hopefully answer any of your questions if you have them. We did get a favorable staff report in this situation and, as I say, where the building will be located will be in the wooded area, far enough off the road that we think it will look part of the property and not look, stick out, and look like a simple add-on after the fact. Thank you.

Wolff Thank you, Mr. Andreoli. Any questions for the petitioner's representative? Mr. Andreoli, as I look at the map, I'll start. It looks like the building is situated, I'm trying to get my bearings, 35 feet off of the property line.

Andreoli Yes.

Wolff And, that's, as I look at that, it looks like there's the road, there is a little grass median, there is a sidewalk for public benefit and then a little more grass.

Andreoli Yes.

Wolff And, then you have the property line. Is that accurate?

Andreoli Yes. That is accurate. We originally had it 30-foot off, but were reminded by staff that there is a 35-foot setback for that.

Wolff Okay.

Andreoli So, we re-designed the plot plan to make sure that we were in compliance with your setback requirements so that no variances are requested with regard to that.

Wolff Thank you. And, you are amenable to adding some windows per the staff report?

Andreoli Yes. Absolutely. I think in my discussions with Wayne I said that actually was a good idea. Especially if any of the building is facing Sycamore Street, we want it

to look as much as a residential structure as anything, and Mr. Myers is absolutely committed to doing that. As I say, he just didn't want to engage in the additional cost of re-designing it with two windows unless we knew we had approval, but as part of your commitment, it won't be a problem. We are fully all in with that.

Wolff Thank you. What other questions?

Mundy I assume there will be a significant number of trees removed.

Andreoli I'm sorry?

Mundy There will be a number of trees removed?

Andreoli There will be. So, we - -

? 10:45 [inaudible]

Wolff Would you state your name and address for the record, just so we know? We keep track of all this stuff.

Myers Roy Myers.

Wolff Thank you, Mr. Myers. And, you are at the address that we're discussing tonight. Correct?

Myers Yes. I'm at 11690 Sycamore.

Wolff Perfect. And, I think the question was about regarding the tree removal for this particular site.

Myers Yes. Without it being totally flagged out like it was at one time, there is about 22 trees that they would have to, and they're anywhere from 4 inches to some dead ones that's in the woods. I've got some photos I could share, but I didn't bring it with me. But those would have to be taken down. But we're trying to leave a lot of the surrounding area so you can't really see the building from Sycamore.

Andreoli We're only going to take the trees out, I think, with regard to the footprint being we get to it from the side, and then the footprint of the building itself. Still leaves plenty of trees to the north and to the west and some vegetation even to the south on Sycamore. So, it's tucked away back in there pretty nicely. With regard to the height, the comment that I made in the narrative, there is going to be some tall trees around it, so the height of the building won't seem to cause any difficulties or problems in terms of visually because you still have got all those tall trees in that particular area all along Sycamore Street encompassing that for the most part.

Myers Yes. And, landscaping also.

Andreoli Yes. We're going to do some landscaping, and some other things around the building itself, and put that as part of our building permit, and in fact, if you want

to put that in any recommendation that we have landscaping that would be approved by staff, it would be fine. We're planning on doing that anyway, but as far as the approval process that won't be a problem.

Wolff Any other questions?

Evinger As far as the interior, just looking at the building plans themselves, it doesn't look like you have any plumbing in the property.

Myers No, no plumbing. There probably would be eventually electric ran into it. Right now, it's proposed as an unfinished space.

Evinger Okay.

Andreoli Yes. We had to include the actual above area in the actual calculations, but the footprint will remain as we designed it and we originally looked at just the footprint in terms of the actual square footage, but we had to go up because it's a storage area, but there is not going to be any plumbing. It won't be an accessory structure that would be occupied or anything of that nature. That's always a concern, I know, with something this size that somebody would use it for occupancy or try to put bedrooms or bathrooms in it. Absolutely that's not what this is going to be used for. It will have electricity because there will be lights.

Myers Yes, lights.

Andreoli But, other than that, there won't be no plumbing or anything of that nature.

Evinger Okay. Thank you.

Wolff Any other questions. Seeing none, are there any remonstrators here to speak for or against this particular petition? Seeing none, Wayne, may we have the staff report?

DeLong Thank you. The staff is supportive of the petition as filed, and amended that this evening, and certainly the actions between last month and this month further modified the petition related to setbacks and other items. All those have been, all of staff's points that were raised last month have been addressed within the filing. Staff would note that the development pattern along Sycamore Street and other portions of the older area of Town, more original to the footprint of the community, especially the metes and bounds parcels, do enjoy larger accessory uses than what you might find in other portions of Town. Certainly, across the street on your aerial photograph and just to the west, immediate west, or immediately east or a little bit further to the east, are parcels that do enjoy larger accessory structures. With that, staff is examining what is requested here. Certainly finds the massing as complementary to the streetscape, but certainly would encourage a bit more attention to the residential character of the structure as noted by the petitioner, but with those thoughts in mind, staff would be happy to answer any questions, and again, is supportive of the petition as it's been filed here this evening.

Wolff Thank you, Wayne.

- Mundy There is no requirement for any landscaping plan for an accessory structure? Is that correct?
- DeLong That is correct. In a residential, there would be no specific standards. Mr. Mundy might be getting to the commercial standards, which require foundation plantings and other types of features. While those are not required by the ordinance, they certainly are, could be germane and can be germane to your conversation this evening.
- Mundy Just a comment. I drove there today, and I don't know that I've ever seen your house before. During the summer, but it's very obvious now, and this will be very obvious, because it's 35 feet from the sidewalk, or the pathway there. So, I would encourage you to do some re-planting and landscaping, because I think it will look, it's not going to look like a house. It just doesn't have the character of a house, and especially with the total structure, and I think it will be very obvious when the leaves are off the trees.
- Wolff Thank you, Mr. Mundy. I would agree. And, that's why I'm more inclined to support this petition if we include the staff's recommendations to add some windows and to make it look more residential. I think that will certainly help the aesthetic of the particular project. Actually, Mr. Andreoli, can you step back up. I have one more question I should have asked earlier and I apologize.
- Andreoli Yes, sir.
- Wolff Is the intent, and it may be in our packet of information, but is the intent to use the similar building materials that the house is currently using?
- Andreoli Yes. Why don't you come up here, Roy, because I think that's a very important question?
- Myers The home has like Hardiplank siding on it and brick on the front. What we proposed was Hardiplank with cedar outlined on the outside. It's going to duplicate the home look. If you've been by there today, the house has Hardiplank on it, painted blue, with white trim, and that's exactly what I'm trying to do.
- Wolff So, you'll use the same paint structure, similar materials.
- Myers Same shingles, architectural shingles and all that.
- Wolff Okay.
- Myers With, I think, I don't remember the print, but a 9/12 pitch, whatever is on the house. Same pitch.
- Andreoli That's why we added dormers and some things like that that give it some architectural features as opposed to a more garage-like structure, and one other comment Mr. Ferree, his immediate neighbor, used to be a longstanding member of the Plan Commission, and is not generally shy about voicing his displeasure if he thinks things do not appropriately comply, or has a problem with it, and I

- know Roy met with Bill to show him the plans even before we filed to make sure he was okay with it. He is immediately adjacent to us, to the east.
- Myers East of the property.
- Andreoli East, yes.
- Wolff Thank you. I only laugh because I know Mr. Ferree. So, thank you. Any other comments amongst the group? Seeing none, I will entertain a motion. I would add that I would be amenable to, or I would encourage the motion to include the staff's recommendation for additional windows, or per the staff's recommendation.
- Jones I move that Docket # 2020-01-DSV, development standards variance, in order to provide for the construction of a 2,714-square foot detached garage, totality of the 2,714 square feet is permissible to be contained on more than one level within the detached garage, which exceeds the allowable accessory square footage providing for 2,844 square feet of additional roofed area accessory structure in association with a 3,441-square foot dwelling, all as illustrated on the site plan attached to this report and within the urban single-family residential zoning district for the property at 11690 Sycamore Street be approved, with the addition of the so noted additional windows and requested landscaping, as presented.
- Wolff Thank you. Is there a second?
- Mundy Second.
- DeLong I would note, just for clarification, what constitutes additional landscaping. That would be beneficial to define in your motion.
- Wolff Let's clarify.
- Jones Do we want to go down to requesting replanting of trees of a certain caliper, or should we scratch the landscaping statement?
- DeLong Well, if your goal is understory, because the planting of overstory can't be trees, may not accomplish what you might be striving for, planting of columnar arborvitae or Black Hill spruce might accomplish that space. I think the building is 45 feet dimension on the facing southerly, so 2 or 3 of those items. Three Black Hill spruce, for example, it's hard to judge the site. Certainly, the petitioner might want to provide that information as to what exactly plant footprint is available to provide for that type of screening.
- Jones A part of me would almost just prefer to scrap the landscape piece.
- Wolff I would be amenable to that, as well.
- Jones All right. My bad.
- Wolff No problem. So, with the revised motion to remove the landscaping requirement, Mr. Mundy, are you amenable to that?

Mundy I am. I think that it sounds as though they are willing to make an effort at making sure it looks - -

Andreoli --Is it okay if we do it anyway?

Wolff It's okay if you do it anyway.

Jones Right.

Wolff You made the second motion to that.

Mundy I will second the changed motion.

Wolff Thank you. All those in favor of the amended motion, please say aye.

All Aye.

Wolff Those opposed, please say nay.

[No response.]

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

Andreoli Thank you.

Wolff Next item on our agenda is Docket # 2020-03-DSV, will the petitioner's representative please come forward and state your name and address for the record?

Price Yes. Good evening, Mr. President. My name is Matt Price. I am with the Dentons law firm and I represent Harris, FLP, the petitioner for these two development standards variances. This was heard and discussed at the February meeting, and part of that discussion involved that we would be appearing before the Plan Commission shortly thereafter to get some feedback on an informal basis relative to our variance requests, and in particular the second variance request, which has to do with the elimination of the 6-foot perimeter planting area around the front of the parking lot that faces, or will face, US 421.

Going back just to refresh everybody, though, we have two development standards variances, both of which relate to the overlay zone. One is with regard to not having foundation plantings along the front of the building, in a location where they would be underneath the proposed awning, for some practical reasons there, as far as whether they would be viable, and that the awning itself is part of the architectural feature that helps soften the view of that façade. And then as part of that, we have agreed, or made a commitment to relocate those foundation plantings, or equivalent plant material, along the access road, which is behind our building and to the east. So, it would create some additional landscaping between the neighborhood to the east and the back of these proposed retail shops. With regard to the second variance regarding the perimeter planting area, there are two

members of the Plan Commission here this evening who are certainly able to speak for themselves that, I think, our perception was that variance, and not having that perimeter planting area, in addition to the buffer yard area, would be acceptable, and that was premised in part because of our discussion of the distance from the road right-of-way to the property line, and you may all recall that at our last meeting we spent a great deal of time kind of trying to decipher through the site plan that was presented, and it was a little bit hard to interpret, but what we have done is prepare a new site plan that actually labels the various lines along 421, and if I may, I can hand that out.

Wolff Absolutely. It would be very helpful, I think.

Price So, kind of to orient you, the north is up in the right-hand corner. Michigan Road is at the top of the drawing. The rear access road, I just spoke of, is the kind of at the bottom of the drawing. So, the building is oriented so that it faces 421, and then kind of reading left to right, I will show you what the various distances are. The first distance on your left is a measurement of the 50-foot half-right-of-way. So, that is the right-of-way that has been dedicated over time to 421 and its future expansion. And, then as you move to the right, the second distance between the perimeter of our parking lot and the next line, and the line as it extends further up, is the buffer yard. That's the 30-foot buffer yard or green-belt that is along 421. And, then the third line shows the distance between the shoulder for 421, as it's contemplated to be expanded, so that incorporates the second lane heading north on US 421. So that line is the shoulder of that thoroughfare to our parking lot, which is 52 feet. And, so our plan is to, we believe that this configuration provides more separation from the right-of-way and even the expanded construction of 421 than any other developed property within the overlay zone to date, and that the plantings, as far as planting value, we're not seeking to reduce the number or type of species, or anything like that. We're just seeking to include those plantings within the buffer area because of the historical branding of the right-of-way over time to provide such a significant separation between the travel lanes and the parking lot area itself, and so we felt as though the addition, or kind of, the additive effect of adding yet another 6-foot strip, in addition to the buffer area is the hardship in dealing with this property, in that over time we have just been required to dedicate further and further right-of-way, and that over time that has had an additive effect that creates the hardship present here. And, so again, our request is not to deviate from the plant value. We would still meet all the planting requirements for the perimeter parking area, or planting area. It's just, it would be within the buffer area, as opposed to being an additional buffer area beyond that 30-foot strip.

Wolff Thank you, Mr. Price. As I look at this, and I'm not an expert, is the sidewalk, we discussed a sidewalk last time. Is that shown on this drawing?

Price It is. So, the sidewalk is within the 30-foot buffer area.

Wolff Okay. So, is that that narrow strip? Those two parallel lines just inside on the far west of the buffer area?

Price Correct.

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- Jones Actually, John, if you look at the top set of numbers, the 12-foot path, is that what you're looking for?
- Wolff Yes. I'm looking for the 12-foot path that we discussed last time.
- Jones It is within the 30-foot buffer yard, but it - -
- Wolff --There it is. I see it.
- Jones See it up top? The notes for it are in the parking lot.
- Wolff Yes. There is an arrow pointing to it. It seems that your label, or got these upside-down, in my opinion. Wait, you're going to blame it on the spot? Wonderful.
- Price You can cross-examine my labeler.
- Snelling I'm Greg Snelling, civil engineer, 13295 Illinois Street, Carmel.
- Wolff Thank you, Greg.
- Snelling The first dimension on the left is the 12-foot path, and it's within, Matt did not mention. There is a 20-foot right-of-way also being dedicated to the Town, in addition to the INDOT right-of-way, and that is the sole purpose of that is to have the path within a public right-of-way, but it will be like a grant of right-of-way and not a fee simple deeded right-of-way. So more like an easement, and it's within the 30-foot buffer yard.
- Wolff Okay.
- Jones Just to kind of clarify as we move forward. The true property line for this parcel is at the back edge of the 50-foot right-of-way. Correct? Okay. And, then what we'll have is a 30-yard, or 30-foot buffer yard back to the edge of the parking. Of that 30-yard buffer, 20 feet is dedicated as right-of-way back to Zionsville, and then what's in that right-of-way is where the path will sit.
- Snelling Correct.
- Jones As well as, when it comes to utilities and stuff, do they sit in the highway right-of-way? Or will they sit in the 20-foot right-of-way?
- Snelling To our knowledge, there would be no additional utilities proposed in the 20-foot right of way, so all utilities within the INDOT right-of-way are in the right-of-way now, and whatever, for our site, it would be brought in perpendicular to the right-of-way and within an easement. So, there is nothing proposed to our knowledge within that 20-foot right-of-way.
- Papa What about sewer?
- Snelling Sanitary sewer is coming along the rear service drive from the south.

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- Wolff Mr. Price, I think I heard the comment that the hardship that you're facing is the fact that, when did this project start? It's been many years ago.
- Price Yes. Depending on how you measure that, the initial rezoning was back in 2008.
- Wolff Okay. So, we're at 12 years now'ish?
- Price Right.
- Wolff And the problem is, or a challenge is, the fact that these right-of-ways have, both from the state and etc., have taken what you thought was a project and shrunk that.
- Price Right.
- Wolff Okay. Thank you.
- Price That's why they are able to add the additional travel lane and still be within the existing right-of-way because that right-of-way has been granted in prior years.
- Wolff Right. Okay. I would also remind my fellow Board members that we do have the other variance in front of us is the awnings, and removing the, and the plantings. So, that's also to be discussed. Any questions for the petitioner?
- Papa Mr. Price, maybe I confused myself, but the 6-foot-wide parking lot perimeter plantings, they will still exist, they're just in the 30-foot?
- Price Correct. We're still including. We're not skimping on any of the landscaping.
- Papa No, and that was my understanding too, and I think the Plan Commission is fine with that in the end after discussion, Mr. Jones can comment on that too.
- Jones Correct.
- Papa I think in the staff report, just in a couple places in here where it says that the 6-foot-wide parking lot perimeter planting is to be re-allocated to the eastern portion of the subject side along the interior access drive. I don't think that's what we're talking about.
- DeLong I think we're speaking to the actual plantings will be moved easterly.
- Snelling The total number of plantings on the site is not going to be deviated from the ordinance. I don't know that we can physically fit the number of trees and shrubs, I think that's been confused.
- Papa No, what I'm asking is, you know, maybe I'm getting confused, but we thought theoretically maybe before, there was 30 feet, and then there was the 6 feet of plantings, and my understanding was you were just moving those 6 feet of plantings into the 30 feet.

- Snelling I don't know that we can, I don't think that's being stated correctly, so I would say that we're taking the total number of trees, and I believe the staff report is correct, and some of those trees and shrubs are going to be placed on the site in other areas because we can't physically fit with spacing that we want. I mean, with 6-foot, you can't really put a tree in a 6-foot-wide space. Typically, the Town, I think, requires a 9-foot-wide strip for trees, as it is. So, some of these –
- Papa -- How can that be if the requirement is the 6-foot strip? How can it not - -
- Snelling --That's part of our confusion about the ordinance in the first place.
- Wolff Wayne, we haven't heard the staff report. Do you have any, prior to that, do you have any color to add to this?
- DeLong Certainly, from last month I provided that staff was supportive of the petition as it's been presented, and certainly amended and a lot of additional new information coming in tonight. I think what you have here is a case, so we've got a project where it was approved. The zoning entitlements were put in place a number of years ago. In the meantime, the State has approved various right-of-way acquisitions. The Town has adopted an ordinance that requires a 30-foot buffer yard, as well as a 6-foot buffer yard, and sometimes you have cases where there are not standards that match what you're, another part of the ordinance might say. If you're saying we need a buffer yard and it is supposed to have this type of tree in it, then the ordinance might be saying, well the minimum is 6 feet, while in actuality it would need to be 9 to support that particular species, and so what you have here is petitioner who is striving to meet the intent of the ordinance, while not reducing the number of plantings and given the 4-sided architectural stylings of this particular building, staff was supportive of the reduction in the width of the buffer yard simply because of the totality of the actual separation from the right-of-way to the building, but not supportive of a reduction in the number of plantings, and that's where the compromise comes forward to say, well, there will not be a reduction in the number of plantings. Those plantings that do not fit out front, will be relocated to the rear of the building, which is also a type of building that faces the public way.
- Papa But, I thought we talked about the reason for the 6-foot strip was partially to block headlights from the parking lot spilling into the street. So, if you don't have the plantings that were contemplated there, are you saying that the extra 24 feet adjusts for that sufficiently?
- DeLong Well, what will be installed in the buffer yard itself will be a combination of low and high plantings, which will serve to reduce those headlights. So, there will be a double, and if not triple row of different plantings that will be, that will serve that purpose. Certainly Mr. Snelling can provide the data as to exactly what those plants are.
- Price It also helps us deal with the practical problems of, for a property that does have a 6-foot strip, the ability to meet the terms of the ordinance and still have viable plantings that you can actually fit within that strip. So, what we're trying to do is achieve that balance by having the robust landscaping package that we show, along that perimeter along 421, but then also providing the foundation plantings

and additional plantings that won't fit within that strip on other areas on the property, screen the properties to the east.

Wolff Mr. Papa, have we answered your question? I'm not sure we have.

Papa I think the question is being answered, but I think this is a different understanding of what we discussed here and at the Plan Commission, and that maybe I didn't ask enough questions last time. I mean, if Wayne is saying that the additional landscaping covers the intent of the original 6 feet, that's fine. I think it's important because we talked here and we talked at Plan Commission about if we do this here, it becomes, we're not guaranteeing it, but it probably becomes likely that runs all the way down.

Price Certainly.

DeLong So, what you have along 421 is a double row of ornamental shrubs being planted 24 inches on center with a spread of 3 to 5 feet at maturity, so that buffer is being provided for. I mean, we would offer that as an adequate buffer meeting the minimum standards of the ordinance to screen for headlights.

Evinger My concern from the last meeting, which, I think, was addressed hopefully at the Plan Commission, was just the continuity, as Jeff was just alluding to, as far as the entire length of that development if this is how, this particular parcel is being addressed, is now going to be the standard then for the rest of the development, in regards to the 6-foot buffer.

Wolff As you know, we don't work in the world of precedent, but I think we all want to have a consistent and quality look and feel to it.

Evinger Correct.

Wolff So, I think your comment really is a reflection of if we think this is appropriate here, more than likely will be appropriate for the other parcels.

Evinger Correct. So, do we have some continuity?

Wolff Yes.

DeLong And, just to echo to provide a bit more text and content related to the plantings, I mean, the evergreen shrubs are just that. Evergreen. This is not a planting that will lose its size and masking and screening ability in certain parts of the year. Staff would definitely encourage placement of this style of planting in the totality of the development, as this moves forward.

Wolff Any other questions we need to open up for remonstrations? Any other questions for the petitioner at this point? Seeing none, are there any remonstrators here tonight to speak for or against this particular petition? Seeing none, may we have the staff report? I know we've got into it a little bit.

DeLong Certainly, again, the staff is supportive of the petition as it's been filed and amended this evening, as well as previous discussions. The variance request for

the speaking to the reduced property buffer yard, certainly staff, again, is supportive of the request to reduce the buffer yard. Simply the buffer yard, in totality, is being provided for, in the opinion of staff, especially with the plantings not being reduced on the subject site, but still leading and exceeding ordinance specific to the foundation plantings. Staff would note the impossibilities of installing foundation plantings underneath the awnings as proposed by the petitioner, but certainly staff would encourage that the awnings then be required in perpetuity. Certainly, those would be will get weathered over time. Certainly, facing westerly, be full sun. And, certainly if those awnings do go away at some point in time that challenge the validity of the variance for the lack of foundation plantings, but certainly would believe that the awnings will remain as a part of the totality of the development.

Jones I've got a question about that, if I can back up a second. And, Matt, or Mr. Harris. Someone. It appears from the way the renderings are drawn, that the awnings are actually more covered structure than they are a fabric awning. Is that correct?

Price That's correct.

Jones More of a constructed canopy detail.

Price Yes.

Jones Okay, so I don't think, hopefully we shouldn't have to be concerned with a structural canopy degrading over time and failing like, you know, fabric awnings do tend to over a decade. And, one point I also want to make is one of the reasons I think we move generally in support or talk in support of the change in the landscaping along the front side of the building, was the addition of the, there is one, two, three, four, five, six, kind of, seven landscape planting beds that also take up a large portion of the parking on the front façade. So, part of what a recommendation I hope comes along with the commitment to make it as per the landscape plan, C501, that's been provided to us.

Wolff Thank you, Mr. Jones. Wayne, I do have one comment for you, or a question. As I look at the packet of information we have, we really have two different variances, and we have treated those with two different recommended motions. And, the second recommended motion, when it refers to the 6-foot-wide setback, there is a Docket # 2019, is that the correct, references near the very end of that recommended motion?

DeLong Do you have any of the reference setback to - -

Wolff 202, the one where curve is, okay. So, I would turn to my fellow Board members. If you look at the recommended motion, if you're interested in doing that, that is the incorrect Docket number. It should be # 2020-03-DSV, referencing Exhibit #5. Any other discussion amongst the group?

Papa Mr. DeLong, is the, are all of the plantings from the 6-foot parking strip being moved to the eastern part? Of just some of them?

- DeLong Just some.
- Papa Because when I read the recommended motion, it says, that to me says that all of them.
- DeLong Certainly petitioner can provide that clarity tonight, what is being moved.
- Price We would, I think the best way to handle that is to tie it back to the provided landscape plan. Certainly not our intention to move all the plantings, just the excess plantings.
- Chadd And, Mr. Price, just to be clear. Are you looking at what we show as C501? Exhibit #5.
- Price Yes.
- Chadd Okay.
- Price Yes. That's correct.
- Wolff Any other discussion amongst the Board members? Hearing none, I would entertain a motion. We do have, per the staff's recommendation, we do have two different motions for this particular variance to treat these as individual, so I would recommend that we do them one at a time.
- Evinger Just to clarify, even though it's two different variance requests, we're just going to identify them as variance request #1 and variance request #2, and they still have the same Docket number?
- Wolff Yes.
- Evinger Okay.
- DeLong Yes. This ties into your front page that focuses also breaks them into variance request #1 and variance request #2, page 1 of the staff report.
- Jones All right. I move that Docket # 2020-03-DSV, variance request #1 being a development standards variance for the removal of the required foundation plantings along the front of the building with the building to be constructed substantially in the manner of the building renderings, and we will call it Exhibit #5, landscape plan provided by Snelling Engineering, substantially in the manner of the building renderings presented with the landscape to be allocated to the. Let's back up. I skipped up a paragraph on myself. So, let me start again. I'm sorry. I move that Docket # 2020-03-DSV, variance request #1 being a development standards variance for the removal of the required foundation plantings along the front of the building with the building to be constructed substantially in the manner of the building renderings, and landscape plan provided as Exhibit #5, as part of the Snelling Engineering package, and with the landscaping to be allocated to the eastern portion of the subject site, along the interior access drive as depicted on the landscape plan filed in Docket, and this is where we go to # 2019-35-DSV?

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- Wolff No. That one is correct.
- Jones That one's correct. I'm sorry. Docket # 2020-03-DSV, Exhibit #5, be approved as filed based upon the findings of fact and subject to the proposed commitments as presented.
- Wolff Mr. Jones, would you be amenable to taking the eastern portion of your motion and replacing it with Exhibit #5? I believe there was concern that all the plantings are not going to move to the eastern portion. They are just going to follow Exhibit #5.
- Jones Yes.
- Wolff Thank you. Is there a second to that motion?
- Evinger Second.
- Wolff Thank you. All those in favor, please say aye.
- All Aye.
- Wolff Those opposed, please say nay.
- [No response.]
- Wolff Motion carries. We have the second variance request. Is there a motion for that?
- Evinger Jeff, I look to you.
- Papa I move that Docket # 2020-03-DSV, variance request #2, being a development standards variance for the removal of the requirement of 6-foot wide parking lot perimeter planting area with the landscaping to be allocated as in Exhibit #5 of the subject site be approved as filed, based on the finding of fact and subject to proposed commitments. Did I capture everything?
- Wolff I believe you did. I don't believe there is any proposed commitments. All those, I'm sorry. Is there a second to that motion?
- Evinger Second.
- Wolff Thank you. All those in favor, please say aye.
- All Aye.
- Wolff Those opposed, please say nay.
- [No response.]
- Wolff Motion carries. Mr. Price, Mr. Harris, good luck with your project.

- Jones They gotta get through Plan Commission.
- Wolff Work to be done. The next item on our agenda is Docket #2020-02-DSV. Will the petitioner please come forward and state your name and address for the record?
- Donaldson Thank you. My name is Bob Donaldson. I am at 925 Bloor Lane here in Zionsville. I am here as the project manager for a residential remodel located at 4554 Summersong Road. It's Lot #10, in the subdivision of Ravinia, located north of Downtown Zionsville off Willow Road. I'm representing the petitioner, the owner of the property, Mrs. Jeannie Musey. The primary home remodel and sun porch construction, which is an addition off to the back of the property, are underway with permits in place. My client has hired David Gordan, and architect with Mark Holeman Landscape Company to design and construct a deck to be attached to the sun porch addition with stairs from the deck to a ground level patio. The proposed deck does not require a variance per BZA-approved petition #2000-V-04, which allows decks to encroach up to 20 feet into a rear setback in this subdivision. The closest the deck will be to the rear property line is 7 feet, or is allowing essentially 18 feet, and it's inside the 20-foot setback. I've sent a letter, my client is requesting approval of this variance petition for the proposed on-grade pervious paver deck, or a patio, which would have a rear setback of 5 feet. And, by the way, would be allowed if this were a deck, but it is an on-surface patio, and that's why we're here, asking for a variance for that particular patio. I have sent a letter to all the homeowners required on the site exhibit plan, and Mrs. Musey and I have met with representatives of the homeowner's association, as well as I have met with both neighbors on either side. As of to date, I have heard of no concerns about the project and I welcome any remonstrators that would like to ask questions about that. I've brought along a larger site plan with me if there is anything that needs to be addressed in it.
- Wolff Thank you, Mr. Donaldson.
- Donaldson This site plan is in the packet, so it's the one done by Holeman based off of a survey by Haas, who did our onsite survey for the project.
- Evinger Can you just clarify, what is the black circular object?
- Donaldson This is an existing large oak tree.
- Evinger Okay. Thank you. I couldn't read it on the thing here.
- Donaldson We don't want to touch it.
- Evinger Thank you.
- Donaldson Again, sun porch was the addition. It's already under construction. The house is being remodeled, fully remodeled, and this is the deck addition that Holeman has designed with the patio, and we just need to have a way to come down and get to grade here with this patio in the back side. It's a pretty good drop from here to this side of the property, so this is why it's the logical place where it could be, and it's also tucked in. There is a large common area with a pond right behind

here. This property is right on a point, and there is really no one near this property on either side (53:11) understand that this is the deck coming off the main sun, this is the main sun porch, and the deck coming off to the back with the stairs coming down and then this patio.

Jones From a grading standpoint, from this house going west, it just continues to slope down towards the pond?

Wolff Mr. Donaldson, would you go back to the microphone for me? Thank you.

Donaldson Up is north on this. So, you can see that it goes from north to south. What I was showing you was a western elevation.

Wolff So, Mr. Donaldson, do you have our packet of information in front of you?

Donaldson I believe so.

Wolff Okay. Can you look at Exhibit #4, or Exhibit #5?

Donaldson Four and five?

Wolff Yes. So, it looks to me that the staircase in those particular exhibits is jutting out. That's not correct.

Donaldson Let me say that the first, the survey that was originally done that shows the sun porch on it.

Wolff Yes.

Donaldson We added just a stairway that went straight down before the deck was designed.

Wolff Okay.

Donaldson And, so we got our permits based on that, because we had to show some way off of it.

Wolff Yes.

Donaldson The deck will not connect to that sun porch, and there will not be a stairway going down.

Wolff Okay. So, the stairway is actually, kind of, as I'm looking at this page, it's actually to the left of that. It's kind of off to the side, as rendered in Exhibit, actually also labeled 5, but the one with the oak tree represented as a black circle.

Donaldson Correct. Yes.

Wolff Okay.

Jones So, to clarify, the sun porch area is actually an enclosed structure?

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- Donaldson It is a three-season structure. It has windows and is prepared to be another structure. It could be heated or cooled, but at this point, it's got skylights, lots of windows. It's more of a three-season sun porch room with a roof on it and skylights, and deck. But the deck will essentially match the outside deck as they go outside.
- Wolff Mr. Donaldson, I would remind you as we continue our discussion tonight, we represent the Board of Zoning Appeals, and it sounds like you talked to the homeowner's association, and that's good, but whatever decision we make, you still need to work through them, as well.
- Donaldson Correct.
- Wolff Okay.
- Donaldson Absolutely.
- Wolff Any other questions for the petitioner at this point? Seeing none, are there any remonstrators here tonight to speak for or against this particular petition? Please come forward and state your name and address for the record.
- Wright My name is Randy Wright, and I am a homeowner of Ravinia and the chairman of the Architectural Review Board and have worked with this young man regarding the design we just spoke about, and I have a little sub-committee that reviews all of this, and we find no issues with it. The back yard is very large and sloped nicely, and we think this is a fine addition to the back of the house.
- Wolff Thank you, Mr. Wright. And, thank you for coming tonight and participating in our conversation.
- Wright Sure.
- Wolff Anyone else who would like to speak for or against this particular petition? Seeing none, Wayne, may be have the staff report?
- DeLong Certainly, staff is supportive of the petition as it's been filed, and discussed this evening. The staff's, the crux of staff's support is two-fold. First, is the previous action of the Board of Zoning Appeals in 2000, which granted a variance supporting elevated decks to the dimension of up to 5 feet from the property line. Staff recognizes that this particular lot is very unique to Ravinia. Most of the parcels are rectangular in shape and have a relationship of the rear lot line being parallel to the rear of the home. So, this is a very unique lot given its configuration and certainly it make it challenging and plus with the grade, it makes it very challenging to meet the standards of the granted variance, but at the same time, while also meeting egress requirements from the deck and the applicant's interest of getting to grade from the rear of the home. With all of those thoughts, certainly staff is supportive of the petition as it's been filed, and I'm happy to answer any questions.

Wolff Thank you, Wayne. I do have one. The petitioner spoke earlier tonight that had this been a deck that it would have been allowed. Is that a result of the previous variance granted to this property?

DeLong That's correct.

Wolff Okay. And, I would also note, it is an unusual-shaped lot, which creates some hardship. Any other discussion amongst the group?

Evinger Quick question regarding the recommended motion. When we talk about the reduced rear yard and building line setback, in parentheses we have "patio only" and yet the window well kind of jets in there too. It's in, kind of, the little easement area. Does that need to be noted, or no?

DeLong The practice of the Town has not included window wells, air conditioner unit, those types of pretences as something that's been regulated to meet setbacks.

Evinger Okay.

DeLong That could be something that changes in the future, but as of now that's not something the ordinance encompasses.

Evinger Thank you.

Wolff Without any other discussion, seeing no other discussion, I would entertain a motion.

Evinger I move that Docket # 2020-02-DSV, development standards variance in order to provide for the construction of a deck and patio to the existing dwelling, which has a reduced rear yard and building line setback, patio only, in the urban single-family residential RSF2 zoning district for the property located at 4554 Summersong Road be approved as filed, and with substantial compliance with the submitted plan.

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

Mundy Second.

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

All Aye.

Wolff Those opposed, please say nay.

[No response.]

Wolff Motion carries. Good luck with your project. The next item on our agenda is Docket # 2020-05-UV. Will the petitioner please come forward and state your name and address for the record?

N. Adams Nadia Adams.

M. Adams Mark Adams.

N. Adams 6670 Regents Park Drive, Zionsville.

Wolff Thank you. Mr. And Mrs. Adams, would you please describe your project in front of us?

N. Adams Yes. So, I'll start with kind of sharing with you guys the vision, why we're even here, why we decided to pursue this project. We are parents that live in Zionsville, so we live within the Community. We have two young children, one that just turned five on Friday and one that just turned three on February 1, and another child on the way, due in July, and as many young families or families that even have older children know, finding appropriate childcare and daycare is a tough decision in most cases, but especially in our area, many of the centers that are available are at capacity or are full. So, our children currently attend a Montessori-style childcare center and preschool. That school is currently located in Carmel. The school that our children currently attend today is the only Montessori-style childcare center, and private school. So, it goes up to Kindergarten, that is north of I-465 and west of 421 Michigan Road, so we have been commuting there and have met a lot of other families in the Zionsville/Whitestown, and even Brownsburg community that choose to drive to Carmel so that their children can experience the Montessori-style approach to schooling. So, we really came upon this journey and path because with kind of our children being the ages that they are, and with another one on the way, it's really important for us to make sure that we selfishly ourselves and our kids can benefit from this style, approach in education. And then there was, you know, to be transparent, some changes in the current school that we go to, where some of the core teachers decided to leave the school. And, after kind of they announced that they were leaving, we were searching for another place to send our kids. This was around June of 2019, and what we found were the other options in the area were either at capacity, or just didn't really meet the needs of what we're used to and wanted, knowing that Montessori is just a different approach and style to learning. And so we had a, there was a going-away party for the teachers, and we kind of were 10% serious at the time, saying, hey, maybe we should start our own school, and that conversation really spiraled quickly with a bunch of parent and community support, as well as the teachers leaving, committing to if we actually did this they would love the opportunity to work at the school and continue to serve kind of this community here, specifically have an offering here in Zionsville if possible. And, so my husband and I, as motivated parents, we began to search for, first, an existing property that we could actually turn into a school. What we found was in our particular area of Zionsville, and even Whitestown, that's actually harder said than done, because what we're really looking for is an area where you can actually put in a playground and any existing commercial building that we found today doesn't really offer that flexibility, so we landed upon this piece of property. What we really liked about it, and the reason why we chose it to pursue this and come to present this evening, is because it's about 4.74 acres. The Montessori approach, if you're not very familiar with it, it's really about incorporating nature, and really incorporating gardening and farming and things like that. So, the property is currently zoned in a way where elementary or secondary school is allowed. It's

also zoned in a way where a farm is allowed. And, so really, we're seeking kind of a variance of use, because we want to have children that are below elementary age, starting at 3 months to 6 years of age, and really kind of provide this unique style of education that currently some people would say is a Carmel option to our community in Zionsville.

Wolff Thank you. And, according to the information we have, you're planning a 9,000-square foot building, approximately.

M. Adams Yes.

Wolff And, what are the hours of operation?

N. Adams 7 a.m. to 6 p.m. Monday through Friday.

Wolff And, as I look at the information in front of us, there is a parking lot, and usually with parking lots there are lights. So, will the parking lot be lit 24/7, or from dusk 'til dawn?

M. Adams It will be lit to accommodate early arrivers at 7 a.m. based on the season. And, also, those sort of details, we thought, would be flushed out maybe more in the Planning Commission-type meetings.

Wolff And, there is no intent to have someone here full-time, living there? It's not a residence?

M. Adams It's not a residence.

Wolff And, as you noted, this particular area, and Wayne can correct me because he's really our expert, but you could certainly have an elementary school in this area. In fact, there is a school and there is churches very nearby, but you're asking for a use variance because it is more of a daycare or childcare center?

M. Adams Yes. It would be a licensed childcare center.

Wolff Is it a non-for-profit?

M. Adams No. Because we are private owners and we are seeking small business loans, and aren't able to get funding as a non-for-profit.

N. Adams So, it'd be a childcare center in a private school. Because we are going to offer Kindergarten, as well. So, the way that the Montessori approach works is it's a mixed-age group. So you have your infants, which is 3 months to a year and a half, and then you have 18 months to 3 years, and then you have 3 to 6, because it's really about fostering social skills amongst varying ages, and then especially in the 3 to 6 class, where the 5 and 6 year olds really develop leadership skills to really, they kind of become mini-teachers of the classroom, per se.

Wolff And, the intent is to have up to 85 children?

M. Adams Yes.

- Wolff And, that, according to these notes, does not include 12 staff members?
- M. Adams That's correct. Staff members are not included in the 85.
- Wolff Yes. So, there could be up to 97 people, plus or minus people, dropping, parents coming and going and things like that.
- M. Adams That's right. We did provide an exhibit about traffic.
- Wolff And, what are the typical drop-off, pick-up times? Averages?
- N. Adams Average, most people drop off around, between 8 to 8:30 a.m. and pick up - -
- M. Adams --Just to be clear, there is no like a hard bell, like a school, bell rings and children have to be there.
- Wolff Right.
- N. Adams And, then usually people typically pick up, I'd say, like currently what we've observed and we've talked to other owners of Montessori schools in the Indianapolis area, is people will pick up between maybe 3:30 p.m. for the ones that are leaving kind of like after the school day. And, then around 4:30 to 5:30 p.m. for others that are doing like an after-school program, or extended care program.
- Wolff Okay. Is your intent to have an outside, I see there's playgrounds and maybe a little garden plot and things like that, but you mentioned a bell. Is there intent to have any sort of outdoor loud-speaker announcement.
- M. Adams I just said bell just to say - -
- Wolff --Yes, I know. It made me think if a question.
- N. Adams No.
- Wolff No. Okay. So, as I think about this from the neighbor's perspective, what they may be thinking about is the additional traffic coming and going at those times you mentioned, and maybe also be thinking about the lighting, which is not there now. It's currently a field. And those things may not be that unique to a Montessori school. That would be consistent with a school, which is a permissible use. Okay. What other questions do we have for the petitioner?
- Evinger Is the staff number actually a little understated? Because, especially if you have infants and small children, wouldn't your staff be a little bit more, maybe one to one, or one to three, or one to four, rather than like a one to seven ratio?
- N. Adams Yes. So, the infant ratio is one to four.
- Evinger Okay.

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- N. Adams So, we plan on only having two infant classes with 8 per class, 8 kids per class. So, the way that we have it set up now is potentially 2 infant classes, 2 toddler classes, and then 2 early childhood classes. And the bulk of those children with the way the ratios are, would be kind of in the early childhood classes, which would be the 3 to 6 age ranges. The parents decided to have them attend Kindergarten at the school.
- Evinger Okay. I just wanted to make sure, when we're looking at head counts, kind of where we are. So, thank you.
- Mundy The Montessori school in Carmel that closed, was that in the Village of West Clay?
- N. Adams No. So that one is further than, a little further than the one that we currently go to now, but we have talked to those owners and been there too. They actually opened their own building. They are on 146th and--
- M. Adams --Near Shelbourne.
- N. Adams Near Shelbourne, but not exactly there. So, they actually just moved into a brand-new building March of last year, and by August they were pretty much at capacity. I mean, they did have, the previous business from the Village of West Clay going over to their new school, but yes. But that would be the second or third closest to anything that's even remotely close to Zionsville.
- M. Adams And, they don't, at this time, accept infants or toddlers. They do accept toddlers, but not to the extent that we would.
- Mundy And, since you're engaged in this already, what, the makeup of the children, are they children of working parents generally, or are these ones that some just come for the school day, if you will, and that's typically not an 8-hour work day. What's next? And, I ask that question because I go to the gym across from the one in Carmel when it was in West Clay, and I would see moms and dads at all different hours dropping off, picking up. Which for a typical daycare was a little surprising, but that seemed to be the nature.
- M. Adams That may or may not be uncommon in any daycare. Just some people work schedules that are different, or they work, maybe a nurse works three days a week, or something, and would do a different time for pickup or drop-off.
- N. Adams Based on our own experiences, being around the parents that are kids currently at the school, that our kids currently go to, and some of the other owners that we've talked to, typically the infant classroom, those are full-time working parents. When you get to toddlers, it might be, you know, one stay-at-home mom, or just a nurse. You know, a parent that works part-time, and then largely a lot in the 3 to 6 age-range, there might be parents that are full-time stay-at-home parents, but they really want their kids to start to get the education and social interaction before there kids actually enter elementary school. So, that's kind of just been our past experiences.
- Evinger Have you purchased the ground already?

- N. Adams So, it's under contract contingent to being able to, you know, get the variance of use.
- M. Adams Usability.
- N. Adams Yes. Usability and all of that.
- Evinger Have you looked into any other locations? Do you have any other, like an alternative site selected?
- N. Adams So, we did. But I don't think that that site is going to work anymore. We did go door to door before, you know, when we first found the property, to just try to catch as many neighbors as possible, which we see a lot of the neighbors around the property today, to try to just share our idea of vision and things of that nature.
- Jones I guess some of my comments are going to be along the lines of just looking at the package, or being presented, and the ask. You know, we've had this come up before, that regardless of the use, whether it's a Montessori school, or some sort of medical care or assisted living, or whatever, the end result is they end up operating like a commercial business. They'll have deliveries. They'll have trash pickup. They'll have traffic. And, we get into these situation whereas, you know, we all support, I think, the intent, the concept, the Montessori school always seems good, but it's still just going to function like any other kind of commercial structure, and when you start putting it in the back yards of other, you know, residential properties, it's kind of conflicting. As I look through the kind of supplied drawings, I'm kind of hesitant to approve anything because, looking at the drawings and the parking and the layout that were provided, I'm feeling pretty confident the final structure and development would look not much at all like what we're being presented. And, I guess where I'm grinding away at is, because I'm assuming there is fair amount of people here in the audience and from the few pieces of paper we've got, I don't know how many of them are actually going to be in support, and how many are going to be opposed. Be interesting to hear. But what I'm finding lacking is just enough clarity to decide, determine if all the what might be considered negative impacts of this at this site have really been flushed out enough that either side would be comfortable with an approval or denial of whatever they're asking. Does that make any sense at all?
- Wolff Yes. I think what you're driving to is, and often times we've heard this in the past, just a more thorough ask to better understand what we're getting into.
- Jones Correct.
- Wolff Do we have any other questions for the petitioners at this time? I see some collective head shakes of no. If you have something to add you certainly can.
- M. Adams Well, I would just, to clarify our ask and what we are asking for, maybe the site plan will detail some of the ask, and the challenges with the property being it's a low surface, so we'll have to put in a bio-retention sort of facility, and not do a traditional detention pond, because of the challenges of drainage. Also, we have

addressed some of the concerns with traffic, and having turn lanes in and out, and deceleration and acceleration lanes. But, the packet's in the form it is in because we are just us and we don't have the funds to invest in - -

N. Adams --We're not backed by private equity or anything.

Wolff Right.

M. Adams So, this is as much detail as we could provide.

Wolff Do you, and to be clear, what you're asking for is a use variance.

N. Adams Yes.

Wolff And, so you know, this is permissible. This isn't, can we do that? Right? So, but what I think we're going to get in a few minutes is some feedback from some neighbors, positive, some negative. I'm not sure. We'll find out, but do you have a sense of, I don't have a drawing of the building, or what you're proposing.

M. Adams Right. So, we don't have a drawing of the building.

Wolff Is this one-story or two stories?

N. Adams One story.

Wolff It's a one-story, and about 9,000 square feet.

M. Adams Yes.

Wolff Okay. And a couple of outdoor play areas.

M. Adams Yes. And the design of the building would be based on Plan Commission and, it's to be determined. It would have to meet ordinances and recommendation.

Wolff Okay.

N. Adams We have worked with a contractor to really kind of, I mean, because it's just us, and we are funding this ourselves, because we believe in the importance of early childhood education, selfishly for our own children, but also for the community, we made sure to really do as much due diligence as possible to see if we could even, as a couple, go into this venture. So, we have been working with a construction, architectural, kind of, all-in-one firm, design build firm, where we did some very detailed analysis, kind of telling them what, you know, going to Planning Commission, we know that this building needs to look nice, have a design. Mark's actually an engineer, not a civil engineer, but geothermal, so obviously he's very big into green, sustainability, those type of structures, and so these were some of the conversations that we did have with our contractor that we're working with And just kind of keeping in mind that, you know, I mean, part of Montessori is the beauty of the nature of making, I mean, technically, a Montessori-style school is supposed to look like a house, because it's supposed to be as home-feel as possible, and not like a daycare center, and I think that's

going to be part of the unique feel that we want to bring to those communities. It's locally owned and operated. It's not a franchise. We're going to make sure that we take care of it and be nice neighbors to our community.

Wolff As you guys were going through that with the design build process, and I know we don't have that information in front of us right now, but you did state 9,000 square feet, and I'm, just rough math says you have, I think it was 85 students, or 86 students. Eighty-five students, 12 staff, so, like my math is not very good, but I'm going to call that 100. So, then you have 9,000 square feet with 100 people in it, math is still not very good, but I think that's about 90 square feet per person. So, that's a 10 x 10 cube, right? I know there's hallways in there. There's classrooms in there. Where did 9,000 square feet come from?

N. Adams So, the reason, ours, well, it's probably going to be bigger than what you would typically, like if you look at a KinderCare, I think is what, it was Rainbow, and I think it changed to KinderCare, or a Primrose, or a Goddard.

M. Adams Yes, that's in the 11,000 square feet range, but with much more children.

N. Adams More kids. Right?

Wolff Okay.

N. Adams So, what we've actually done is, we're not just a franchise that's trying to squeeze as many kids in a building as possible. We listened to the former teachers that have been kind of giving us the advisement from their teaching perspective, and one of the things that they really told us that isn't really offered today, we think maybe there is one church daycare that does have something like this, is a gym, or a multi-purpose room. Living in the state of Indiana, it's still very important for kids to have the play time, and when you live in the state of Indiana where there is only so many months that you can actually go outside and play, they said on rainy days, snowy days, cold days it would be really nice if you guys had a gym there where the kids could actually still have like a recess or play time. So, when we were kind of incorporating this 9,000 square feet, it's actually bigger for the number of children that we are seeking for max capacity that we would ever accept than what you would typically see in some of the other childcare ventures.

Wolff So, is the gym two stories?

N. Adams It's going to be on the same floor. I mean, it's - -

Wolff It's an open- -

M. Adams --It's a multi-purpose.

N. Adams Multi-purpose room.

M. Adams It's not like a gymnasium with basketball hoops or something like that.

Wolff Okay.

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- N. Adams But a place for them to go for indoor recess.
- Wolff Okay. And, any intention to operate on the weekends?
- N. Adams No.
- Wolff Okay. Any other questions at this time?
- Evinger Just a quick question about this entrance design concept. Did you work with the Town, or who did you work with as far as?
- M. Adams We worked with the Town to get the figure for main arterial road entrance, and that's to scale what it would look like.
- N. Adams We worked with the Town. We met, Mark knows all the different departments, that are in there that we met with, but we met with the facilities and sewer and waste and Wayne was there, and his staff and the fire department.
- M. Adams Basically the technical committee.
- N. Adams Yes. I think the whole technical committee. Because this was just part of our personal due diligence that we wanted to take.
- M. Adams To see if this site would actually work for what we wanted to do.
- N. Adams And, then when we did the door-to-door to talk to as many neighbors as we could catch before we even moved forward with any of this. We heard some of their concerns about the land, which is the drainage, and being on septic, and so we have kind of brought some of those concerns up to this technical committee, where, you know, there is possibilities of ways that we can work to improve the area for all, like the water drainage issue and other things.
- Wolff Thank you. Are there any remonstrators here tonight to speak for or against this particular petition? Please come forward. It looks like there is a few of you, so let's just do one at a time. Come forward and we ask that you speak into the microphone, state your name and address for the record.
- Kendall Good evening. My name is Noel Kendall. Kathy and I live at 5440 South 950 East, which if you look at the diagram, which is prepared, we are the next to the last lot that you would see on the east edge of that property that is contiguous. I will start by perhaps questioning if the panel, or the members, had received the email that I sent to Mr. Kilmer yesterday. Reading, it should have been sent to the secretary of the Board, but I wasn't aware of that. I called Mr. Kilmer a couple of days ago. I had been out of town until my plane landed at 5 o'clock today. So, I sent an email with some information, and I don't know if you have that.
- Wolff We do. We do have a copy of it.

- Kendall Okay. Very good. I'll try not to repeat everything that I've stated in those comments. To begin, I would like to say that I'm somewhat confused about the zoning itself. The zoning, as I understand it, is currently a rural R2, and I did some research, and you'll have to forgive my inability to do research as an older person on the internet, but I find that rural R2 is for single and two-family dwellings. And, I found the information on the website as part of 194.054. There was reference to some tables, and I was unable to bring up those tables, so I couldn't further research that information, so I apologize if I am confused, but I don't see the permitting of a daycare facility/Montessori/school under the rural R2 zoning. So, could you clarify that for me please?
- Wolff It is not permitted.
- Kendall It is not permitted.
- Wolff A daycare is not permitted.
- Kendall Okay. So, what is being - -
- DeLong --Just to expand on that. Per Table #2, 194.082, schools are a permissible use. So, schools, libraries, there is a number of farms, as referenced this evening, police station, municipal government facility, publicly owned park recreational facility. So, there is a number of uses that are permitted subject to regulations, as well as the development plan process.
- Wolff But, specifically a daycare is not permitted, which is why we're here.
- DeLong Correct.
- Kendall And, I heard during the presentation the word daycare mentioned on more than one occasion. I am not unfamiliar with the theory and practice of a Montessori school. In my profession, before I retired, I was not associated with, but involved with the opening of two Montessori schools in the area, and with the planning and with the ownership, my prior history as an individual was in finance, and I was involved in the start-up and financing of those schools for two individuals that they explained the entire process to me. I have visited Montessori schools, and so I think I understand the concept.
- Wolff Okay.
- Kendall So, with that being said, the questions that I have result from as much of the traffic patterns, which is going to be increased. The quiet use of our existing properties. There was mention that the hours may be between 7 a.m. and 6 p.m., but yet there was a statement that the drop-off may be between 8 and 8:30 a.m. and pick up between 3:30 and perhaps 5 o'clock. If it is a daycare, I would perhaps refute that assertion, as daycares, to my understanding, start much earlier and last much later in the day. If it's going to be a Montessori school, perhaps they will be able to adhere to that regimen of drop-off and pick-up, but if it's a daycare center, I find that a little bit hard to grasp. The property will have a driveway from what I see of the drawing, coming down the south and east sides with the parking in the rear. And, so that will result during darkness hours,

especially in the winter time, the illumination of mine and my neighbor's back yards during that time, without some type of cover that we would be able to establish, which we don't wish to do. Further, it demonstrates that the parking lot is in the back of the building.

Forgive me for this next point, because I understand having talked with Mr. Kilmer, who was very helpful, explained much of the information to me, that tonight is not the time necessarily to discuss the Plan Commission issues, including architectural style, elevations, erosion, water run-off and so on. However, this property is more than wet almost all of the year. And, right now, there is water standing on approximately the back one-half of the property. Many years ago, if I'm correct, if Mr. Kennedy still owns the property. I'm not sure of that, but at the time he did, and there were about 100 tri-axle dumptruck loads of dirt brought in to raise the elevation of that property. When it was graded, it was graded to flow to the south and to the east. And, that's the only way the drainage now currently flows, or could flow, unless it's changed dramatically. So, if you add a 9,000-square foot parking lot, or a 9,000-square foot building, and a hard surface parking lot, there is no absorption under that area, and it's going to cause even more rainwater to continue to flow towards the residential property, which abuts to the east. From the standpoint of the school itself, I have quite frankly no objections except it's going to create more traffic. I don't think it's consistent with the surrounding area, which is all residential. As I mentioned in my email, the only thing which is not residential that I am aware of, is the church, which does have a daycare center, and then there is the Maple Lawn Farms facility, which is part of the park. I know there are also, however, Goddard schools in the area and, speaking of the Montessori concept, Goddard schools don't carry exactly to that level of interaction, even literally on the international community, but the Goddard schools are more than a daycare center. They have a curriculum and a method by which children can be engaged and they are very beneficial for parents who want their young children to get a head-start on education. The Montessori school is one way of doing that, it's just a different methodology, but it's not singular in its nature from what the public has available. One of the, and forgive me if I'm wrong here, I did look up something that said that since this is a use variance, that zoning boards should consider a variance very rarely, is within the article that I read, and then I further noticed, or read, that there was a description that said variances for property should be granted to owners if that property cannot be used under its current zoning and that current zoning is onerous. And, I don't think it is an onerous zoning to be considered a one or two-family dwelling. So, with that, I would welcome questions if you have them of me.

Wolff So, Mr. Kendall, I just want to kind of clarify a couple things. I believe you voiced that you have concerns about traffic.

Kendall Yes.

Wolff I believe you voiced, you have concerns about light pollution, cars come in and shine, and I believe you also voiced concerns about drainage issues.

Kendall That's correct.

- Wolff Everything is going to kind of go over to the south and to the east, which is essentially where the residential ones. And, then for a point of clarification, I would add that the petitioner has the burden for a use variance. There is five criteria that they must meet. And, they're outlined in the packet, and we can certainly get this information to you, for us to grant that variance. So, that's how that process works. So, they have the obligation, or the requirement to do that. So, that's what we're going to deal with. And, then, you also mentioned, again for clarification, we don't have a building in front of me. I don't know what it's going to look like.
- Kendall I understand.
- Wolff There is a couple, we often times overlap. We have two members of our committee that are also on the Planning Commission, and we work very closely together, but there is a delineation there. So, okay, thank you, Mr. Kendall. Any questions for Mr. Kendall?
- Kendall The only additional either question or statement I might have is, it's my understanding that the intersection of Whitestown Road, and 950 is slated at some point for a roundabout, and the Town of Zionsville actually owns the southwest corner of that intersection. There was a home there, which has been razed, and it's my understanding that at some point there will be a roundabout that is going to be built there. Should a roundabout be built, I don't know whether the acceleration lane, which is somewhat roughly defined, would conflict, not conflict, or how that would be addressed in the overall Town planning, as well. So, I only mention that as in a side of something that I had been made aware of quite a while ago.
- Wolff Okay. Thank you.
- Kendall Yes. Thank you.
- Wolff Would anyone else like to come forward? Please state your name and address for the record. Come on down.
- Moreland Good evening. Becky Moreland. I live at 5454 Heritage Lane in Zionsville, Indiana. And, I just have a few questions that I know you will consider, but I live adjacent to adjacent to this property, and the character of this particular parcel, it's been in my family forever. In fact, my grandfather sold off most of it, but this particular piece is largely, there is a large 40-acre lot to the south of us that belongs to Dr. Fiscus. Then there are these houses between the park and the proposed site that would be isolated residentially because of this commercial use, and then there is a few houses to the north of that, as well. So, and then we are across, it's a field and a field, and my house. So, this piece of property would be out of character to turn it to commercial use, in my estimation. So, my question is to there's also the challenge of the sewer in that area. It's been a continuous challenge. Our property has a sewer that runs down through it because of that challenge. It's a 40-foot deep sewer. We wouldn't look forward again to that kind of disruption of our lives. Pardon me. Water, I don't believe that there is Town water available there either. And, the question is where do we drain this thing? Having a bio-retention raingarden. I know this is not fully developed, but it really

looks, I mean, the idea looks undeveloped, and it's not that I oppose a Montessori school, or daycare, but I really would like to see it located somewhere else, because I think this use is a mis-use. Lights, I'm concerned about the lights, and what if this fails? What if they cannot support this financially, or physically, or put people in to work it? I don't know what the history of these things, but once we get it, get this kind of zoning, what happens? Does it permanently stay zoned where this use, it's a variance, and so this commercial property will be there, 9000-square foot building, that will have to be used in some way. So, if we grant the variance here, what does that look like? So, I think that's really all I have, other than my aunt submitted a letter. She is an adjacent neighbor. She submitted his to Wayne DeLong. It's dated February 27, and I was wondering if you had that in your possession.

Wolff What's your aunt's name?

Moreland Anita Graham. Charles and Anita Graham.

Wolff We do have it.

Moreland Okay. All right.

Wolff Repeat a couple things back to you. Just to make sure I've got everything clear.

Moreland Okay. Sure.

Wolff You had some water and sewer concerns.

Moreland Yes.

Wolff You had some drainage concerns. You also, I think, initially voiced that you thought it would be out of character for this particular area, because it's surrounded by residential.

Moreland Yes.

Wolff Light pollution was another one. And, then you also mentioned, and I think it's something we've addressed creatively as a group in the past, but what happens if something fails in this particular venture, and are we stuck with this 9,000-square foot vacant building, or whatever the case may be.

Moreland That is zoned commercial.

Wolff Yes. Am I correct?

Moreland Yes.

Wolff Great. Thank you very much.

Moreland Yes.

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- Wolff Come on down. Please state your name and address for the record. Over there please. Chris, I like your enthusiasm toward the project, though.
- Simmons Chris Simmons, 5350 South 950 East. First off, I want to say that my feelings have went back and forth on this, because I do like their mission, but this is no reflection on how I feel about the buyers. They seem friendly, but what I want to say is when we purchased our house outside of city limits, we had the vision of it staying rural and residential. We are not interested in a “commercial building” as I define it in my mind. The increased traffic is a concern obviously, as stated. Most importantly, our peacefulness will be disrupted. If this is to somehow go through anyway, I do propose that there is a large pine tree line between our properties so we do not have to see the building.
- Wolff Thank you, Mr. Simmons. Can you orientate me on your address compared to the site?
- Simmons We are the first house south of the intersection of Whitestown Road and 950.
- Wolff Okay. So, we just heard about a roundabout that’s going to be, that a vacant lot, so that’s one to your north.
- Simmons Yes.
- Wolff Okay. Great. And, you have concerns regarding traffic, and you propose landscaping buffer between, if the project were to move forward, a landscaping buffer between you and the property, and then you also stated what I would kind of lump into a quality of life. You weren’t expecting, when you purchased this home, you weren’t expecting a, sort of, commercial use property to your rear.
- Simmons Yes. This was when we purchased the property. It was definitely a compromise between my wife and I, because she grew up in the city and I grew up in the country and this was kind of in the middle.
- Wolff I’d say you did pretty good. I’ve never bought a compromise from my wife. Mr. Simmons, I lost my train of thought. I apologize. Thank you. Any other comments?
- Simmons No. My last note would be we’re also concerned, and this may or may not affect that, but we’re also concerned about how this may or may not affect our property value.
- Wolff You would be concerned that this type of structure behind you may - -
- Simmons --may or may not affect our property value.
- Wolff Thank you for saying that. I do have a question. How long have you been in this particular property?
- Simmons Three and a half years.
- Wolff Okay.

- Simmons That's all I have.
- Wolff Thank you, very much. Please come forward and state your name and address for the record.
- Baker Hello. My name is Craig Baker and I live at 5370 South 950 East. I am Mr. Simmons's neighbor, the third lot from the north of the intersection of Whitestown Road and 950.
- Wolff Thank you, Mr. Baker. What are your thoughts on this tonight?
- Baker Well, I've lived there for 20 years. And, I have seen a lot of changes. I've seen the Maple Lawn Park developed. I've seen the United Methodist Church developed. I've seen the housing addition to our north there, the big place. What's the name, Cobblestone? Thank you very much. Cobblestone. I have watched the town of Zionsville run utilities right in front of my house, and I have been unable to connect to them. Okay. So, then I look at this. My kids grew up there in my house. They played in that field back there. It's a swamp. As it's been said by others, it's a swamp, you know, 11 out of 12 months. And there is drainage issues with all of those homes down through there. All those homes are on well and septic. This is a very serious issue. It has to be addressed for anything to go into there. I know Mr. Kennedy had those 20 truckloads, or 100 truckloads of dirt put on that soil, and it hurt us then. I know Dr. Fiscus built a wall across there, an earth wall, that also altered the drainage. And, these things have been able to, somehow, they've gone through. You know, I don't think it was probably the same Board when those things came about, and I know we weren't even annexed to Zionsville rural at that point in time. But my concerns are not so much different from everybody else's. The drainage is number one. And, it is a big issue. The eyesore of looking at a building, or at 30 parking spaces. No. We don't want to do that. I don't want a row of pine trees. I want a grove between me and a building if somebody is approved to put a commercial structure back there. And, then the last thing is, if they were to put utilities onto that property, and work out the process of having utilities brought to that property, I wouldn't want to see the Town of Zionsville run utilities in front of my house that I am unable to connect to. I wouldn't want that to happen again. So, those are my concerns. The eyesore, the drainage, and the utilities. Okay.
- Wolff And, Mr. Baker, you've been there for 20 years.
- Baker Twenty years.
- Wolff Thank you, very much.
- Baker Thank you. Thank you for hearing me out.
- Wolff Thanks for participating in our conversation.
- Baker Hello, Mr. Jones.

- Wolff Anyone else tonight to speak for or against this particular petition? Going once. Going twice. Seeing none, Wayne, can we have the staff report?
- DeLong Certainly. The petition that's in front of you this evening is a variance of use request as noted. The zoning, as it sits today, supports a variety of uses beyond just single-family residential. Often times you find institutional uses are supported by the zoning ordinance in a residential area, and we mentioned some of those institutional uses earlier, such as, this includes religious uses, school uses, and the like. And, that would encompass what's in front of you, in part, the educational component as a permissible use, subject to, of course, rules and regulations and the development plan process. So, the variance in use that's in front of you is for the childcare center. The difference is in impact on this property from the school use to a school with a daycare use, is unknown. We do not have that information quantified, according to this evening. I think a conversation point, certainly that seems to be something to further explore. Certainly, the staff recognizes parcels such as this that are zoned for uses beyond just single-family, or something that is permissible by right, and often times you find parcels that are less than 20 acres are sought out for religious institutions, schools, other types of groups, including non-profits, that look for sites that are in proximity and the concept of exoneration with other-like uses such as the church to the north, Maple Lawn, to the east, yet another school facilities to the south. So, from a land use point of view, you do see these types of actions and request happening throughout the nation. Certainly, this is not something that is very unique. And, so staff's support of the variance request revolves around the difference between the daycare operation, the concept of the use daycare center, versus the school, given the impact, that already would occur through the Plan Commission process with the creation of a school at this time. So, it sounds like there is some opportunity to explore additional information to be collected this evening, specific to the petitioner's, or remonstrator's, comments that you folks, or Mr. President and certainly the petitioner, can speak to those tonight, but I would suspect that some additional information is going to be requested that the petitioner may not be prepared this evening to cover.
- Wolff Yes. I'll bring you back up. Absolutely. Before we bring up Mr. and Mrs. Adams, do we have any questions for Wayne?
- Mundy Wayne, currently the utilities, sewer, water, not available to this property. Is that correct?
- DeLong The petitioner has met with the Town sewer department. Water would be provided by Citizen's. The only utility that the Town is responsible beside stormwater utility would be the sanitary sewer and I knew that they have met with Barry Cook and do have a concept of how sanitary sewer would be executed related to this property and provided for.
- Evinger There was a question with the roundabout being installed, if that ingress/egress, the way it was presented tonight, would still be able to exist as presented, or at least conceptually. Do you see anything changing with how they have like the charting blister of things? You know, has that been vetted out?

DeLong That has not been vetted out. The Town many, many years ago purchased that corner in anticipation of a roundabout. There are other roundabouts that are being discussed currently all across town. This would not be a site that I have heard any conversations about, so I'm not sure where on the radar that the traffic modeling would show that as a necessary installation. Certainly, the traffic engineer that the petitioner has spoken with, A&F Engineering, is also the same as traffic engineer that we use. A&F Engineering's comments specific to this type of use is replicated in Exhibit #4 with the contemplated improvements are what they would see as the initial effort. How that relates to a roundabout, I simply don't know. That's something we could explore. The footprint of a roundabout would impact the tapers that you see on the drawing on Exhibit #4.

Evinger And, then one more question, as follow-up to the drainage, has the Town ever had any action or a request for action for drainage or support of drainage on that parcel that's behind, knowing that it's going to affect some of the houses that are there that have been there historically. I'm just wondering if there has been any action like they were talking about, Mr. Kennedy had dumped extra dirt on that site, and it's caused an issue for some time. Is the Town aware of that, and have they taken any action?

DeLong I'd have to check with the stormwater department. Certainly, that action sounds like it took place before even consolidation.

Evinger Correct.

DeLong And, certainly even before the Town had a stormwater department. Certainly, if there's things to explore, the Town would be happy to look into that. But, that's not an answer I have much more than what I've offered here this evening.

Evinger Okay. Thank you.

Wolff Thank you, Wayne. Would you please come back to the microphone, Mr. and Mrs. Adams? So, part of this process is we get to hear from neighbors, and I think they have some concerns. And, I was wondering if you had any comments or thoughts on how we can address some of those concerns?

N. Adams So, as Wayne started to mention, we did meet with, I think it's called the technical committee.

Wolff Yes.

N. Adams But, it was Barry, and sewer, utilities, fire department, various people, and basically because we did do the door-to-door, and try to catch as many neighbors as possible, we heard a lot of the same concerns about the drainage, and the sewer, because they're on septic, and what we did was we brought some of those concerns to the technical committee meeting that we had because for us, we wanted to see if there was anything that could even be done, because some of the neighbors shared the history of the property with us. During that conversation, as Wayne has already started to mention, I think Barry, and I might not be getting all the names correctly, we were able to kind of brainstorm some options that would actually be able to put in drainage. Mark with his geothermal engineering

background can talk more about the bio-retention and how that's supposed to really help with the drainage of all the surrounding properties, plus the property that we're talking about in terms of the septic and the sewer connection. I think there was mention how there could be something done where if we were to build something on this property, there could be something that could be ran, and the neighbors could be given an option on whether or not they want to connect into it. So, I know that there was a lot of, kind of concerns around the drainage, and the sewer and at least we had started to have conversations and there were already ideas presented on how that could not only be resolved for our property, but we made sure to bring up the neighbor's concern too, because we heard a lot of concerns around that when we did our door-to-door.

M. Adams Yes. Just to clarify. We wouldn't have brought this forward without a clear path of drainage and sewer and water. There are one or two unknowns about moving electrical, utilities and those things, but we thought they were lesser concerns than those, than the ones we raised and just walking the property ourselves with the water and some comments about it being a swamp. So, we're exploring what we have to because of the type of building it is, being a like-commercial building, we have to, for the Clean Water Act, we can't displace any water at a greater rate than a vacant land, so we have to take into account all drainage and it would have to go into what we will have, like a bio-retention or a rain garden-type system, and that would be engineered and approved by the DNR and the County, and also go through Plan Commission. So, the idea is the water that's there from the hard surfaces would have to drain and leave the site at the same rate as if it were not developed. And, I guess, should we talk about the - -

N. Adams --Well, we also just the last point on the drainage piece, after the meeting that we had with the technical committee, our contractor was there as well, and he had some follow-up meetings with individuals that did a - -

M. Adams --consultant to do bio-retention. So, it's feasible for the site.

N. Adams Yes. And, then as far as kind of traffic - -

M. Adams --Yes, just the traffic. We reached out to A&F Engineering as was mentioned.

N. Adams It's in your packet. I'm not sure the page number.

M. Adams Yes. That's fine. But, it's in the packet. It was exhibits and basically, it's 85% of the cars, it's already on the way to their employment or wherever they're going, so it would constitute about 15% of new traffic. That's the results of the new trips, 15% new trips.

N. Adams And, that's the traffic engineer.

Wolff Thank you. And, what about, have you thought about, I've heard about it, and I agree with them, that weren't probably expecting a building back then, but a landscaping buffer and/or some sort of way to mitigate the light pollution from the property to the adjoining properties.

M. Adams Right. And, that's mentioned in the staff report about buffer, and that's just not in the details of the site plan because I guess my understanding was that would get flushed out in Plan Commission where we would absolutely have to have some type of buffer, and the bio-retention would provide some buffer also, but it won't be, you know, just to be clear, it's not a grove of pine trees, as one remonstrator mentioned, but there will have to be something.

N. Adams Well, will have to be a buffer because of the concept anyway. I mean, we're going to have children, so there will have to be a buffer, but our understanding was that we would work through those details with the Planning Commission committee or during that meeting.

M. Adams Bring forth something to Plan Commission and get the details of what the buffer has to be at that time.

Wolff And, do you have any data or measure how putting a commercial property, or a Montessori school on this property will positively or negatively affect the adjoining properties?

N. Adams We don't have like raw, like we don't have like scientific data or anything, but just speaking from I guess experience, we currently live in Stonegate. There is an elementary school in the neighborhood. With the new developments and homes that are coming in, just down the street from the property, like I think it's called Ashford, and Pemberton, and those neighborhoods, just conversations that we've had, and our own property value in our own neighborhood of having a school nearby has increased at least our experience, our property value, but we haven't done a lot of research or asked anybody to research a bunch of data around that. It's really just all - -

Wolff --I'm troubled by that a little bit, or challenged by that a little bit, because that's kind of a public school that was established with a neighborhood, and it's also one of the highest-rated schools in the state, so it's going to add value. I can see that line there.

M. Adams So, that would be the level of, I guess, what I would say to that is we would be a high-quality childcare center.

N. Adams Oh, and I wanted to address the point why it's childcare center and school. Currently, the Montessori-type approach, they only serve, it's only a private school, age 3 to 6. The school that our kids go to is the only Montessori that we know of in the Indianapolis and surrounding area, maybe even the state, I don't know, we haven't done that research, to actually offer infant and toddler program. The reason why that is occurring is because that school is actually "a ministry", and with ministries, there are more flexibility. So with actual state laws around childcare centers, if you're going to have 3-month-old or toddlers, then you actually have to be certified as a childcare center, so we'll be kind of the first Montessori owners that will go through the process. There are a few schools that offer the toddler program today, but not the infants, because they found some loophole through the state system where if you only open less than 10 consecutive business days, then you don't have to follow the childcare center rules, so what we have found a couple of the schools doing, including the one,

the new one on 146th and Shelbourne, that was in the Village of West Clay, is they end up closing every other Friday. So, really, because we're going through the actual legal course of what's required to have these children, and have this approach, that's why we have to do the designation of childcare center. It's more of a state legal formality to get these types of children, able to have, I mean, 5 days a week care instead of closing every other Friday, which is not convenient for our target audience.

Wolff Thank you. Fellow Board members, we've had, I don't know, four or five remonstrators come forward voicing concerns. The petitioners have, you know, my definition, they probably pretty lightly address some of those concerns. I don't know what your thoughts are on how we move forward and what we can do to move forward. Mr. Jones, I'll ask you. Drainage?

Jones I'll just be kind of blunt. It's just not a particularly suitable property for what you're wanting to do. Physically or location-wise with the adjoining neighbors. While I respect what you're trying to do, my development background says off-times it's best to guide you guys towards actually a developed commercial property, because a lot of the issues you're trying to face here just on the front end of drainage and utilities and parking and traffic, and all that kind of stuff, go away. Now, yes, there will be a higher price for the piece of property you're looking at, but in terms of what you guys have in front of you, what you're trying to create and trying to do, it clears off a lot of all this. The variance process, you know, trying to get approvals and that kind of stuff, and allows you guys to focus on what your core mission is, is to create a school that will function. Once again, probably has nothing to do with anything we're up here talking about, but it kind of relates to when you get into a situation where you're asking for variances, a lot of times what you're asking us to do is help push through something that's just not a good natural fit.

Wolff Thank you, Mr. Jones. Any other thoughts amongst the group?

Mundy One of the things that we didn't bring up, and that is with a use variance we typically put a sunset period in there, which in case it doesn't go as planned, and you know, you're talking about a big investment of a land structure, infrastructure, etc. I think Mr. Jones's suggestion was good advice. That probably finding where you don't have the issues in front of you at this particular property, and also, if it were approved, it would have some sort of a sunset period in which it would have to be re-evaluated, and I don't think you'd be in a position where you'd want to see a sunset 5 years later being one to pull the plug. So, I concur with what Larry, Mr. Jones said about selecting a different site.

Wolff I want to clarify that point. The sunset period we've used in the past, you probably haven't seen one of our previous Board meetings, but what it does is if we grant a variance, and some of this is we've put a stipulation on it that says after three years, we'll see that variance again. The variance expires after three years. They need to come back for it, to us, to get the variance again, and then what it allows us to do is evaluate the neighbors like, I think it's okay, but I'm not really sure what they're asking for. I'm not sure if it affects the traffic. It gives us 36 months later for the neighbors to come back and say, that's great. They are great neighbors, or voice concerns. So, when we speak of a sunset

period, that's kind of what we're talking about. Mr. Mundy, I think articulated it well. It's a challenge in this particular case. Because you're going to get loans, and you're starting a business, and so if we were to put a 36-month sunset period on it, banks are probably not going to be too happy about it. We've got creative ways of working around through that, but I think we would need to address that issue, as well. We've done sunset periods that were longer periods of time, but I still think that would probably need to be addressed.

Evinger We've also done a condition of sale, too, so that it wasn't necessarily sunsetted, but if the property would transfer hands, it would have to come before us then, too.

Wolff Yes.

Evinger I think that's one of the concerns of the neighbors too, that if something were to develop what would happen down the road with this property should the school move out, or they sell the property. I think that's something that should be addressed.

Wolff My reaction to this is, I certainly support the concept. I think you guys bring up interesting points about the particular location, and they're valid. I'm also concerned that we have neighbors who have remonstrated against very specific things, and I'm not sure if I have the level of detail in the answers to address those specific concerns. And, traditionally we have given heavy weight to what the neighbor's concerns are. And, so what I would propose, or what I would be interested in yours thoughts are on, is if we tried to articulate what concerns we hope to address, so that we can move forward, and try to get a little more time and give them more time to adequately address those concerns, and see if it's a fit. That's my thought. Anybody else have any thoughts on that?

Evinger You know, one thing that I don't think that we articulated, although you referenced it is what the challenges are to be able to grant a variance. You might want to read that into the record just so that they understand, too, besides the things that we're voicing here today.

Wolff Sure. Valid point. I'm going to do this quickly. So, we're working with the use variance, and I'm going to actually read this verbatim. It's probably to the benefit of all those who are participating in tonight's conversation. 'The Board of Zoning Appeals shall hear, and approve or deny, all requests for use variance requests as provided for by the Zionsville zoning ordinance. A use variance may be approved only upon written determination that:

- a. The approval will not be injurious to public health, safety, morals and general welfare of the community.
- b. The use and the value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
- c. The need for the variance arises from some condition peculiar to the property involved, and strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of that property.
- d. The strict application of the terms of the zoning ordinance would result in an unnecessary hardship in the use of the properties.
- e. The approval does not interfere substantially with the comprehensive plan.'

Wayne, are c and d?

DeLong Yes. It looks like some language got replicated.

Wolff Yes. It did. It got copy and pasted. Thank you.

Evinger I think it was adversely affect the property value is missing.

Wolff Yes. Perfect. But I think they're all there. So, the petitioner has a burden to answer those to meet an approval. Ms. Evinger, are you of the impression that, or do you have concerns with any of those particular?

Evinger I'm just listening to what has been voiced tonight from the remonstrators, and I think that they've touched on everything except for really the injurious to public health, safety and morals, although with the traffic pattern adjustments, that might actually fall into one of their concerns. I think we just need a little bit more information. I appreciate, my son went to Montessori school. I really like Montessori, but as far as answering and talking about site location and then just some of the questions that the homeowners have, I really do think that we need a little bit more addressed here.

Wolff Okay. If we were to have a motion for a continuance, what information would we like? Can we give them as many specifics as we can? I think we need to address, I need a more specific drainage plan. I need a more specific answer on how we're going to address light pollution and the aesthetics for the adjoining neighbors to the east. I would like to see some data on whether this will or will not adversely affect the neighboring property values. I am not sure it is. And then we've had some questions about the sewer and septic system. I'm not sure that it's their obligation to, that's the Town's responsibility, unfortunately, and I know the neighbors have concerns, and I agree with them. I think we probably hear more about what the Town may have planned, and they could provide that information, as well. Like, what their meetings have said and what the Town is proposing.

DeLong Yes. And, just to back up a step, certainly the petitioner can provide information to you about what easements would need to be acquired by third parties to facilitate the extension of sanitary sewer. The extension of sanitary sewer may or may not be something the Town would take on on its own. Certainly, if the Town does install a utility line, there are future hook-on fees, there are future access fees that are then charged to parties. Certainly, it was mentioned tonight that an individual, maybe more, that would be interested in having access to that. Certainly, that's certainly possible, but I certainly think that's additional conversations. Maybe just a sketch plan of what that utility would look like, where those easements would be located, and certainly then that identifies the complexity, potentially, of how those acquisitions would go about being executed.

Evinger Is there any way to address that should the school relocate, what would happen with the property after they left? You know, I don't know, we don't have a crystal ball to look into the future, but just obviously, to one of the remonstrator's points, you'll have a 9,000-square foot, basically commercial building behind those homes forever. Do we need to address the comprehensive plan, or just

maybe ease the fears of what might happen, or what might go in there as a backfill if the school should relocate?

Wolff So, I think that I would encourage Mr. and Mrs. Adams to work with the Town, and look at our previous sunset clauses, or amendments we've added. I think we may be able to find something in there. There was probably we did not too long ago that would probably be similar. I'm hoping. If not, we'll have to - -

DeLong Trader's Point.

Wolff Yes. We'll have to get creative. So, as I review my notes, we've discussed traffic, light pollution, drainage issue. There was a concern about how it would or would not affect property values. A sunset period, or what happens if these particular owners go in a different direction, get transferred, move on.

Papa There was a question about the roundabout idea, too.

Wolff So, inside the traffic, I think there was a question about the roundabout at 950 East. If we can get more clarification on that. Yes. But, it's your obligation to chase those down, right.

DeLong I would offer that A&F Engineering would be the entity that would have those drawings, but has a drawing even been put together to model the footprint, and I don't believe the Town, that drawing does not exist. I don't believe the Town is going to incur costs to generate that drawing before this meeting.

Wolff And, I wouldn't suggest they would. I think what that would tell us is that that roundabout is not planned in the immediate future and they should address the traffic issues as they are today.

Jones Or, there's another option. We just vote to deny it. I was looking at number 4: The strict application of the terms of the zoning ordinance does not constitute an unusual and unnecessary hardship, it will apply to the property for which a variance is sought. It's a perfectly fine R2 piece of property, if somebody chose to go about developing it R2. And, even then, they'll still have the drainage issues and utilities and everything else that these folks are, but they'll be in compliance with the existing zoning, and so they won't really come back in front of us for any, they might want setbacks or something, variance. I appreciate everything they're trying to do. I hate to say it, but I think, in this instance, they might be best served with just a quick no.

Wolff Well, why don't we, Mr. and Mrs. Adams, would you step forward please? You have, I think we have some concerns. And, you have the option to ask for a continuance. We have the option to vote on a continuance, or we have the option to recommend a motion and vote on that. Would you like to ask for a continuance to address some of these concerns?

M. Adams Can we discuss one second?

Wolff I'll give you all the time you need, as long as it's less than 2 minutes. I'll be reasonable.

- Jones Wayne, do we have another piece of land for them?
- DeLong There are 67 square miles of this community.
- Papa I thought there were 70.
- DeLong We actually mapped it. It's 67.22.
- Evinger 67.22? There you go.
- Papa Did everyone's pay get decreased by a percentage?
- Wolff I didn't mean to rush you. If you need more time to discuss this.
- M. Adams I wasn't sure if you were serious.
- Wolff No, I was not. We have people here tonight, but.
- N. Adams So, basically where we stand is, we want to be good neighbors. We want to start a business that people are supportive of, and if there are people here that aren't supportive of what we're trying to do, I mean, that's fine.
- M. Adams I guess I would just add, we could give a lot of this information that I think is going to be requested of us, but I feel like continuance then we'll just get another goal post, and this is going to get moved, and because the amount of neighbors that aren't on board. You know, we're afraid that the goal post will keep getting moved.
- Wolff Yes. And, I certainly don't want to have you invest time and effort towards a project that doesn't have a strong chance of likelihood. I do have a question. I'm going to ask our legal counsel.
- Jones Maybe just to clarify. Even with the remonstrators, don't ever take it personally. It is people just kind of looking out for their own situation. And, we have had these kind of projects come before us in the past, and had the same concerns by adjoining neighbors. It's not really what your individually desiring to do, it's just that there will be some net, probably detrimental, and it really is trucks, it's traffic, it's trash, it's the utility service. It's all of a sudden you have folks with something in their back yard that they never really assumed. And, so, you know, this is what this process is, is so everybody can stand up and speak their peace. But, it's not personal. It's just everybody is trying to actually.
- M. Adams We're not taking it personal. You know, we've provided the information to our ability and to our funds that we can do at this time, and with traffic, I mean, we've provided answers to that. Drainage, we've addressed it with bio-retention. Without an engineered print approved from the DNR, I mean, there is not much more we can do. So, I'm just not sure what more we can provide without spending \$100,000 on engineering fees.

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N. Adams And, you know, we've selected the property because if somebody were to say I want to put an elementary school there, they would be allowed to. This meeting wouldn't even occur, you know, per kind of working within the stipulations because it's zoned as, I mean approved, from what we can see from the table, or a farm. Right? So, that's why we selected the property at this place.

Wolff In that particular case, it would still have to go to the Planning Commission.

N. Adams But, not the Zoning.

Wolff Correct.

N. Adams Yes.

Wolff Okay. So, I think we have a couple options. You certainly have the right to ask for a continuance, and try to gather support, of we can have a motion here amongst my Board members and vote on this particular petition as we have it right in front of us now. Would you like to ask for a continuance?

M. Adams Again, I think that we can get a continuance, but the goal post will just get moved.

Wolff So, and I want to be transparent. I asked our legal counsel if we had the option, if you had the option of withdrawing, but because we've heard testimony, I don't think that's an option to us right now, so really, it's either let's vote on the motion, or let's continue the motion, or let's vote on this petition or continue this petition. So, we don't have an option to withdrawal at this point.

Papa If it's voted down, are they prohibited from coming back?

Wolff So, let's discuss that. If a petition is voted negatively, it's 12 months, but that would be tied to this particular parcel, correct?

Chadd They couldn't file another petition relating to this parcel for one year, and I'm trying to check real quickly, usually the prohibition is a substantially similar request for one year.

Wolff Wayne, if they were to file a similar petition for another parcel, no problem, that's tied to this particular parcel.

Chadd Absolutely.

DeLong Correct. And, if some other party came in in four months and proposed the exact same project, they would first approach this body and ask for a waiver of your rules if they were so inclined to pursue the project that was substantially similar. Yes.

Wolff Does that make any sense? Sometimes the lawyers get lawyery.

Papa I was trying to help.

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- N. Adams Just to clarify, just to make sure that we understand.
- Wolff So, I don't speak lawyer.
- N. Adams Okay.
- Wolff So, if we make a motion to deny this particular request, then we could not, you could not file another petition for this parcel that is substantially similar. If you want to open up a Montessori school at another, and have similar content, but it's at another parcel. It's somewhere down the road, it's somewhere in another, you're fine. But, on this particular lot, you could not do that for 12 months.
- N. Adams Okay. Yes, we're fine with that.
- Wolff So, you are not asking for a continuance?
- N. Adams No.
- M. Adams No.
- Wolff Okay. Thank you.
- N. Adams Yes.
- Evinger One more point.
- Wolff Absolutely.
- Evinger I don't know what the neighbors, if there is anything that you can do short of having full engineered drawings to be able to work something out with them. You do want to have any other discussion in 30 days, and just have a conversation with the neighbors and see what they might, what might make them comfortable to move forward with this site, or do you want to just?
- N. Adams I mean, we're happy to have conversations with them, but I think we're reading the - -
- Evinger Okay. I just wanted to get a gauge just in case.
- M. Adams We hear what you're saying. Their concerns, our concerns, we have concerns with drainage.
- N. Adams Yes. Because we just thought that actually us coming in would help them, because that's why we had the meeting with the technical committee.
- Evinger Sure.
- N. Adams So, it would really help with the drainage and the septic and sewer issues.
- Evinger Okay.

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- Wolff With no further discussion, I would entertain a motion.
- Jones I move that Docket # 2020-05-UV, use variance to permit a daycare center/childcare center, as a primary use at 9475 Whitestown Road be denied as presented.
- Wolff Thank you. Is there a second?
- Papa Second.
- Wolff Thank you. All those in favor of the denial, please say aye.
- All Aye.
- Wolff Those opposed, please say nay.
- [No response.]
- Wolff Motion carries. Mr. and Mrs. Adams, good luck. I hope you find an appropriate parcel for this project. I think it would be worthwhile to our community. Next item on our agenda is other items to be considered. Mr. DeLong, do you have any updates for us?
- DeLong Yes, on the right to farm, for Mr. Ball's petition, that's # 2019-38-SE, Mr. Ball is working through some engineering items specific to the design and hopes to work the rest of that due diligence and will be executing their right to farm subsequent to that action. Wildwood Designs I do not have any specific update for you this evening, however, I am extremely excited to provide an update on # 2017-11-DSV.
- Wolff I'm on the edge of my seat.
- DeLong Fischer Homes is moving forward. The developer is moving forward. The developer is an entity out of Cincinnati, Ohio. They are moving forward with the recordation of the plat as it was approved by the variance board where the plat will preserve in perpetuity the specific area of the lots that is east of, I think it's Boone Creek, and then also the common areas A and B, which would mimic your language in your open space ordinance, which then, for those who worked on the BZA in 2017, that variance was granted allowing homes up to 40 feet in height, in trade for some development standards that mimic the standards in your open space ordinance. So, in essence, the petitioner is moving forward three years later to wrap up the conversation.
- Wolff Very good news, hopefully.
- DeLong And, just another really quick update. We don't envision amending your notice requirements. We're proposing these sort of amendments to your notice requirements. Something we've been working with the new administration on is some enhanced ways to communicate to the public about petitions and petitions that have been filed, and what we have developed are small signs for properties that have filed a petition, and the staff would look to be the ones that are

responsible for these. Other jurisdictions have this responsibility and sometimes assign that to the petitioner. Our concern is the petitioner puts the sign up. The sign goes away. All of a sudden, the petitioner might be in jeopardy for not have their sign up, and staff would be happy to take on that responsibility. But, what the interesting things with these particular signs that we're going to be making up, there will be different sizes depending on what size of property you have, but more importantly, they are designed for the walkable environment. They will have a QR code embedded in the sign, where you're actually able to scan that QR code with your phone. We don't recommend doing this while you're driving. But certainly, state law will prohibit it as well, but your QR code will then launch you to our website, which will then launch you to exactly where you're standing, which is next to that sign, and a data dump will appear telling you a bit about the petition. This is designed to answer the public's questions about maybe a petition that they were not entitled to receive notice, but it's something on their commute, something on their walking pattern, something that they walk by that they wouldn't have even known that the potential change might be happening. So, this is a great way to enhance the public outreach. And, certainly, this is something actually the Mayor announced at the State of the Town, and got some applause for that new effort.

Wolff

Wayne, it sounds like very good news to help keep all of our community members informed of all the projects and exciting things going on. With no further matters, the next meeting will be April 1. I know we have a couple people who are traveling. Without any further matters, this meeting is adjourned.