



MEETING RESULTS ZIONSVILLE BOARD OF ZONING APPEALS

Wednesday, June 2, 2021

6:30 PM (Local Time)

THIS PUBLIC MEETING WILL BE CONDUCTED ONSITE AND ELECTRONICALLY AS ALLOWED BY VARIOUS EXECUTIVE ORDERS OF THE GOVERNOR OF INDIANA AND GOVERNOR HOLCOMB’S EXERCISE OF HIS POWERS UNDER INDIANA’S EMERGENCY MANAGEMENT AND DISASTER LAW, IND. CODE 10-14-3, *et seq.* ADDITIONAL INFORMATION REGARDING THE MEETING IS PROVIDED IN THE ANNEX PUBLISHED WITH THIS NOTICE.

The following items are scheduled for consideration:

- I. Attendance - **4 of 5 members attended.** (L. Jones-virtual, S. Mundy-in person, J. Wolff- in person, C. Lake-in person)
- II. Approval of the May 5, 2021 Meeting Minutes – **Approved 4-0**
- III. Continued Business

Docket Number	Name	Address of Project	Item to be considered
2020-11-UV	Pampered Pooch Resort & Spa (Formerly named Doggy Daycare)- Lot K	3301 S US 421	Approved as presented & filed w/exhibits & per staff report 4 in Favor, 0 Opposed Petition for a Use Variance to permit an animal day care facility, pet grooming, and overnight boarding, in the Rural Professional Business District (PB). The site is also within the Rural Michigan Road Overlay (MRO).
2020-12-DSV	Pampered Pooch Resort & Spa (Formerly named Doggy Daycare)- Lot K	3301 S US 421	Approved as presented & filed w/exhibits & per staff report 4 in Favor, 0 Opposed Petition for a Development Standards Variances: 1) to remove the requirement for an additional 6-foot wide planting strip along the US 421 frontage; 2) to remove the requirement of foundation plantings; and 3) for the proposed building to exceed the maximum building height in the Rural Professional Business District (PB). The site is also with the Rural Michigan Road Overlay (MRO).

IV. New Business

Docket Number	Name	Address of Project	Item to be considered
2021-13-SE	Brickyard Solar LLC	Refer to Site Plan (Union Township)	Continuance request by Interested Party to July 7, 2021 Meeting Approved by Board 4 in Favor, 0 Opposed Petition for a Special Exception to permit a Solar Power Generation Facility on multiple sites within Union Township; all parcels being zoned Agricultural (AG).
2021-14-SE	R. Sandhu	3200 E 750 S (Est.)	Approved as presented & filed w/exhibits & per staff report 4 in Favor, 0 Opposed Petition for a Special Exception to permit a Single-Family Dwelling and related accessories on a parcel in the Rural General Agricultural District (AG).
2021-15-SE	A. Dahlem	2998 Rue De Chateaux Ln	Approved as presented & filed w/exhibits & per staff report 4 in Favor, 0 Opposed Petition for a Special Exception to permit a Single-Family Dwelling and related accessories on a parcel in the Rural General Agricultural District (AG).
2021-16-DSV	S. Carr	85 E Poplar St	Approved as presented & filed w/exhibits & per staff report 4 in Favor, 0 Opposed Petition for Development Standards Variance in order to provide for an addition to a Single-Family Home which: 1) Deviates from the required rear yard setback 2) Increase in lot coverage for an addition in in the Urban Residential Village Zoning District (R-V).
2021-17-SE	Chandler-Hickory Hall Polo Club	7551 E 100 N	Continuance request by Interested Party to July 7, 2021 Meeting Approved by Board 4 in Favor, 0 Opposed Petition for a Special Exception to permit an outdoor recreation facility (polo field) in the Rural General Agricultural District (AG).
2021-18-DSV	Chandler-Hickory Hall Polo Club	7551 E 100 N	Continuance request by Interested Party to July 7, 2021 Meeting Approved by Board 4 in Favor, 0 Opposed Petition for a Development Standards Variance for a reduction of the rear bufferyard setback line in the Rural General Agricultural District (AG).

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

Zionsville Board of Zoning Appeals
June 2, 2021

In Attendance: John Wolff, Chris Lake, Steve Mundy, Larry Jones (via Zoom).

Staff attending: Wayne DeLong, Roger Kilmer, Suzanne Baker, Tyler Nichols,
attorney.
A quorum is present.

Wolff June 2, 2021 Board of Zoning Appeals Meeting. The first item on our agenda is
the Pledge of Allegiance.

All Pledge of Allegiance.

Wolff Thank you. The next item on our agenda is attendance. Roger or Wayne?

DeLong I'll take care of that.

Wolff Thank you.

DeLong Mr. Mundy?

Mundy Present.

DeLong Mr. Lake?

Lake Present.

DeLong Mr. Wolff?

Wolff Present.

DeLong Mr. Jones?

Jones Present.

DeLong Mrs. Campins?

[No response]

Wolff Thank you, Mr. DeLong. Four of us present. Next item on our agenda is the
approval of the May 5, 2021 meeting minutes. Any discussion amongst the
fellow Board members, otherwise I would entertain a motion to approve?

Lake So moved.

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

Mundy Second.

Wolff Thank you, Mr. Mundy. Wayne, do you think we need to do a roll call vote here?
We have three present, one—

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DeLong I think you just do your voice vote.

Wolff Okay. All those in favor, please say, “aye”.

All Aye.

Wolff Thank you. Those opposed? That motion passed, 4-0. Next item on our agenda is continuance or withdrawal requests. I would make a note that Docket #2021-13-SE the Brickyard Solar Project continuance request was filed in a timely manner according to our rules. That petition will be heard at the July 7, 2021 meeting. Once again, the Brickyard Solar Project will not be heard tonight. It will be heard on the July 7, 2021 meeting. In addition, are there any other petitioners on our agenda tonight who wish to request a continuance or a withdrawal? Please come forward and state your name.

Tousley My name is John Tousley. I’m an attorney with offices at 410 West Oak Street, Suite 8, Zionsville, Indiana 46077, telephone number area code 317-636-2900. I’m here today on behalf of Corinne Hart, Gianna Hart, and Colleen Parks. They’re owners since about 1930 of approximately 240 acres that are next to the Hickory Hall Polo Club. I’m here tonight to ask for a continuance of both petitions to the Board’s next meeting on July 7, 2021. This is our first continuance request. It was filed on May 27, 2021. That was 6 days before this meeting so it doesn’t fall within the automatic continuance provisions. The purpose of the request, several—I just found out about this case last Wednesday evening. So, it takes you a little bit of time to get your head into a case, to talk to people, to look at the impact, to look at the ordinances. In addition, it also takes time to try to resolve something, hopefully without a disputed hearing. I met with my clients this afternoon. We have an outline of a proposal that we would like to make to the petitioners. I intend to reduce that to writing to provide that to my client to make sure that I understand them. I think it was Mark Twain that once said the problem with communication is language. I’ve run into that a few times so it’s always nice to put it down in writing. They then intend to speak with their neighbors to see if they concur with the proposal and then make that proposal to Mr. Andreoli. We’ll need time to pull that together but that is something that we intend to do.

In addition, I think the Board tonight is lacking certain information it needs to proceed. I would point out that one of the petitions on the setback lines is based upon a GIS map. I have probably prepared hundreds of deeds and other covenants regarding property over my 43 years as an attorney but I have never once prepared any document that relied upon a GIS map to determine where boundary lines are. Looking into that, I found an article that was authored in 2010 that explained the GIS data is pulled together from a variety of sources with varying degrees of accuracy and precision. Overlaid together, the error found within each data set is amplified. Therefore overlaying a parcel database that may have an accuracy of +/- ten feet onto an aerial imagery with an accuracy of +/- 30 feet could lead to features ending up 80 feet away from their true point. That is what you’re being asked tonight to rely upon in determining whether or not there should be a setback variation.

Secondly, it was pointed out by one of my clients, because frankly I missed it, there may be a problem with the petitioner's affidavit of mailing. One in your packet—at least in the packet that I downloaded from the website of this town—was not signed or notarized nor did it include the complete petition number. The other was signed but there was no date of notarization indicated. For these reasons, I believe that a continuance at this point will hopefully avoid further conflict resulting in another hearing disputed. I also believe that the petition should not proceed tonight because of the technical problems I've pointed out. Thank you.

Wolff Thank you, Mr. Tousley. If we could get clarity on a couple points. You referred to petition #2021-17-SE and #2021-18-DSV for the property located at 7551 East 100 North?

Tousley That's correct.

Wolff You are requesting these two petitions be continued to the July 7, 2021 meeting?

Tousley That's correct.

Wolff Any discussion amongst fellow Board members?

Andreoli Mr. President, may I have an opportunity to respond?

Wolff You may. Mr. Andreoli, give me one minute but I will bring you up. Any discussion amongst the Board members? Any questions? I guess, Mr. Tousley, my ask would be that if you are going to come back to—if we grant the continuance request and you're going to provide additional information to the petitioners and/or their representative, you do that in a timely manner. I'd hate for them to get something in the eleventh hour July 4, 2021. Please do your best to get that to them in a timely manner.

Tousley I can assure you because, like you, I suspect I'll have the same experience with trying to negotiate a last minute—I, frankly, am getting too old for this stuff. So, the sooner we can get it done the better.

Wolff Okay. Before we bring Mr. Andreoli up, any thoughts on this continuance request at this point? Okay. Mr. Andreoli, do you have some thoughts? Would you please state your name and address and your relation to this case?

Andreoli Yes, sir. For the record, my name is Mike Andreoli, 1393 West Oak Street here in Zionsville. I represent Greg Chandler in this application for special exception as well as a setback variance. We take exception with what Mr. Tousley told you that it was based upon a GIS map. It's based on a 100-year fence line that's been there in that particular area for many, many years. That is what we have taken the property line to be over the years. There's been no dispute with regard to that particular property line. We've never gotten a full survey other than mortgage surveys. We've never gotten a full survey of the ground nor has the petitioner, but that fence line has been there for a long period of time. I told Mr. Tousley that we would not agree to a continuance since it was outside that time period but of course this is within your good offices to make a decision on whether you

want to move it forward tonight. We're happy to go ahead and present our limited argument tonight and to have you hear that part of it if you'd want to get that out of the way. We'll leave it up to your good offices to determine whether or not you want to bump this to the July meeting.

Wolff Thank you, Mr. Andreoli. We have a neighbor who is requesting a continuance request or further details, more information, and hopefully I believe I heard proposed solution that would make everyone agreeable. Generally, as a group, we've been amenable to those requests. It's certainly, as Mr. Andreoli points out, our prerogative to choose to accept this continuance request or not. So, I'll open it up for discussion.

Mundy I guess, my preference would be to grant the continuance given that it's a month, and unless there is some dire need that it be reviewed this evening that we grant the request to continue.

Wolff Mr. Jones, will you say hi just so that we know we can hear you?

Jones Hi. Can you hear me?

Wolff Any other thoughts on this, otherwise I would entertain a motion?

Mundy I move that petition #2021-17-SE and petition #2021-18-DSV be continued to the July 7 Board of Zoning Appeals Meeting.

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

Lake Second.

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

All Aye.

Wolff Opposed? Please say, "nay". Motion passes, 4-0. That petition will be heard on—those petitions will be heard on July 7.

Andreoli [inaudible]

Wolff You didn't. I'm amenable to these things. Was there a question on the notice as well?

DeLong The question that was articulated is related to the execution and notarization and just the completeness in terms of the form.

Wolff So, staff will help facilitate that?

DeLong We can certainly double check. Often times, you find a notice form that is uploaded on the website is what the petitioner turns in the day they file. It's not the same as what's contained in the file and executed.

Wolff Okay.

- Jones I've got a quick question. The rear yard setback, is that for the existing building there or—
- Wolff Mr. Jones, you can't hear a case we're not going to hear tonight.
- Jones Well, I was just—I'm trying to—ah, okay. Well, the question along the line is trying to lend a little support to Mr. Tousley's statement about, should we ask to request a survey.
- Wolff I think that, um, I think that Mr. Andreoli is aware of the concerns the remonstrators has and I'm hoping they'll address those in the next 30 days.
- Jones Okay.
- Wolff I guess we have a notice question and I will defer.
- Andreoli Well, we filed our affidavit—
- Wolff In a timely manner.
- Andreoli That's all been properly filed and submitted, so.
- Wolff This is a public hearing. If they were wanting to participate in a public hearing and hear how it goes, they just heard that it was continued?
- Nichols That's correct.
- DeLong Correct. Again, I don't believe the question was completeness in terms of who received notice and who didn't. It's completeness in the form in terms of the verbiage and the numerical items being listed out.
- Wolff Mr. Andreoli, you do not need to refile notice.
- Andreoli Thank you.
- Wolff You're welcome. Are there any other petitioners on our agenda tonight who wish to seek a continuance or withdrawal request? Okay. At this time, I'm going to deviate from our agenda slightly. We have waived or we have waived the rules to allow for certified mail to use regular mail. So is there a motion to suspend our rules for tonight's meeting to allow the use of regular mail?
- Mundy So moved.
- Wolff Thank you, Mr. Mundy. Is there a second to that motion?
- Jones Second.
- Wolff Thank you, Mr. Jones. All those in favor, please say, "aye".
- All Aye.

Wolff Those opposed? Motion passes, 4-0. Next item on our agenda is continued business which brings us to Docket #2020-11-UV as well as Docket #2020-12-DSV. Will the petitioner's representative please come forward?

Price Yes. Good evening, Mr. Chairman. For the record, my name is Matt Price with an address of 10 West Market Street, Indianapolis, Indiana. We're the law firm of Dentons. I'm here tonight on behalf of The Pampered Pooch Daycare, or excuse me, Pampered Pooch Resort and Spa, which I think we had initially described the business as the doggy daycare. I think that was more of just a shorthand expression for the resort and spa business. This is filed on behalf of Harris FLP and its tenant which is The Pampered Pooch. Thank you, Joe Russ for loading up my PowerPoint.

Let me just acquaint you a little bit with the property in question. If you can go to the first slide. Okay, so north is pointing toward Michigan Road. This is part of The Appaloosa Crossing development. The project is located on the southernmost outlot what we refer to as Outlot K. It's a 1.25-acre outlot with an approximately 7,800 square foot multi-tenant building. The Pampered Pooch would occupy just under 5,000 square feet, the southern larger section of the building. The northern section of the building is for a veterinarian's office which is a companion user. We think a complimentary use to this proposal. You'll also see toward the rear of the building on the east side is an approximately 3,000 square foot yard area that will be enclosed by a six-foot privacy fence. That's for outdoor exercise of the guests and other business that they may have outdoors from time to time. The nature of the use is to provide a high-end daycare for dogs. So it provides both daytime lodging and care for the animals as well as grooming services all done by reservation only. It does also provide overnight accommodations as well and again by overnight, excuse me, by reservation. If I can go to the next slide.

Just to give you a little idea of what the building will look like. This is the viewpoint from Michigan Road. It's following what we call the Appaloosa theme which is to build on some of the equestrian and agricultural heritage of the property. It's been in the Harris family as we've talked about over the last couple of years for over 50+ years. The barn-like structure is the area where the doggy daycare will be located. That is to imitate and replicate the same architectural feature in the retail shops further north along Michigan Road. So it carries that theme all the way through the development both for the building further north and then this one at the southernmost end. You can go to the next slide, Joe. Thank you. One other thing you'll note in the staff report, is that we are seeking three development standards variances in addition to the use variance. Two of those have become somewhat common to the Appaloosa Crossing family of proposals in that we are seeking to eliminate the requirement for the six-foot parking strip, green strip, which we've done on each one of the outlots further north along Michigan Road. Secondly, we're seeking in this case too a variance from the requirement for foundation plantings. We do have plantings on the west side of the building away from the building but they're just not up against the foundation. That's because the building itself is really not designed to have plantings up against it and underneath the awning. The staff report notes support for those variances provided that we relocate the plantings that would otherwise

be in the six-foot parking lot strip and put them towards the south and east of the building to provide additional screening. That's what we show on this landscape plan which is also part of our development plan approval which was approved conditionally by the Plan Commission two weeks ago.

We believe this provides a very unique combination of uses. This parcel is unique in the Appaloosa Crossing development in that the area immediately south of it is an over one-acre open space that provides additional buffering between Bridlewood to the south and this lot. The use itself is kind of a quasi-service type use that we think is suitable for this area. The personal services that are provided to the dogs are grooming and personal care type services that are done by appointment only much the same way that other professional services are done by appointment only. This is a high-end offering done by professionally trained staff and we think will provide a much-needed service in the community that loves its pets, loves its dogs. So we think it will be very welcome in the community as well. So for all those reasons, we'd respectfully request your approval of our use variance and our development standards variances. I should mention that the owners are here with me this evening as well to answer any questions that you may have about the operation specifically. We'd welcome any questions that you have. Thank you.

Wolff Thank you, Mr. Price. Let's start with the findings of fact. I think I—I think you've articulated them well. On the use variance, there are six burdens you must meet. I think several of them are clear and concise and as I mentioned, articulated well. I think it's always important for us to cover number three and number four. If you would walk with us through those.

Price Sure, sure. Three has to do with whether there's a condition peculiar to the property that makes this variance appropriate. We think that there is. This parcel is the only parcel within the Appaloosa Crossing, a development, that adjoins an open common area to the south that was added to the project because it helped facilitate its drainage among other things. So it's kind of a parcel that was created because of the natural features of the property. It lends itself to that additional screening that we think is appropriate between this use and the adjoining residential use to the south. So that's, that's the peculiar condition. The next one is whether there's a hardship relating to it. Again, you have to kind of take a look at the project as a whole here. This is a development that's been laid out to provide services to both folks coming to the development potentially to work and to shop but also to folks who are traveling by on their way to and from work. So, it's situated along Michigan Road where many folks in Zionsville travel back and forth in their daily lives in particular on their way to and from work. So the daycare aspect of this along the highway is particularly makes this parcel unique to this particular use. In addition, again, I go back to the physical features of the property lending itself to providing the screening and being a service-oriented use along this corridor.

The other thing I would add too that it's just kind of a practical thing that's happening around the country is that there is a point in our nation's history when a lot of dogs in the country generally lived in a more rural environment. Today, I've read studies that show that the majority of dogs live in more urban environments and are actually receiving this kind of personalized care by their

owners as their owners go about, either go on vacation or otherwise are going to and from work. So what you've seen across the country is a rise in the popularity of these kind of specialized care resort and spa businesses for dogs. You see it in Carmel, along Meridian Street, in downtown Carmel. So the precise land use that we're describing here doesn't necessarily fit into ordinances that were written 20-25 years ago that I think were more concerned about Boarding and kenneling and that kind of a business operation as opposed to more of a personal service type business. So in some ways the use itself doesn't really fit squarely within the zoning ordinance as it's currently written. That contributes to the hardship.

Wolff Perhaps one way of thinking about it, and you correct me where I go wrong, I don't want to put words in your mouth that is. The zoning may have been written with the understanding that kennels are outdoor activities with dogs barking and those types of things in kind of rural countrysides. This, what's in front of us, is an indoor activity. There's an outdoor area.

Price That's right. It's predominantly indoors. There is an area where dogs are taken for organized activity like organized exercise and play with each other but it's an intermittent activity. It's not something that's done for sustained periods of time and then brought back indoors and go through, in some cases, programs for education, training, and their general wellness and feeding, etc.

Wolff Then, I have an additional question on the design side. We've seen the first two requests before and those are consistent with what we've discussed in the past. So we're not reducing any plants, we're just moving the plantings. The one I was more interested in was the height variance. Is there any—why do we need the height variance?

Price Yeah. It's a function of a couple of things, one of which we're trying to achieve that same architectural gabled roof for the barn-like feature on this building as we have on the northern building. The northern building didn't require a variance because it's in the General Business zoning classification and we're within the height limitation there. This building is the same height but there's a lower standard in this zoning district. So to achieve that overall architectural theme, we need that slight difference in height. I should also add that during the Plan Commission hearing, it was also noted that one thing that's being looked at in our zoning ordinance going forward as we look at potentially recodifying some things is that we measure height in a unique way in Zionsville where we measure it from the adjoining grade to the highest point as opposed to the midpoint on the roofline. So, if the height were measured perhaps in a more traditional way as was being discussed at the Plan Commission hearing, we wouldn't need the height variance at all. So, it's kind of—it's a combination of those two things. The departure from the height standard is relatively small. I think we're looking at less than two feet.

Lake It's two feet.

Price So, it's not a big trade off for the architectural consistency that we hope to achieve.

Wolff So, the height is not a function? It's really an aesthetic and if we—

- Price It's aesthetic.
- Wolff Yeah, and so if we didn't approve it then the building would have a skewed look versus its neighbors, etc...
- Price It would. I don't want to put words in Mr. Lake's mouth but he—in the Plan Commission meeting, he—
- Wolff He is the architect. He's the architect.
- Price He can speak better to that issue than I.
- Lake I will state during the meeting, we did talk about this. A lot of the municipalities adjacent to us and that I work in across the country, they measure the height of the building that has a pitched roof from the crest of the roof to the eaves that average height not to the actual top of the roof. If it's a flat roof with a parapet, they measure it to the top of the parapet. So, we're saying it's the top of the roof and that's not a typical measurement that I experience. It's typically the midline. To look at it, you know, if you look at this development we want it to be homogeneous across the development. All the roofs have the same pitch and you get to the one at the end and it's flatter, it will look noticeable. The two foot that it's above the standard, to me, doesn't justify the need to drop it down. That's my personal opinion.
- Wolff If it's good for Mr. Lake's aesthetic, it's good for mine. What other questions do we have for the petitioner?
- Mundy The outdoor activity, will that—that's supervised? I mean, if there are—I guess, I'm imagining here any objection by neighbors or even other shoppers might be noise because this is a fenced area. If there is a particularly noisy dog, is there someone supervising that would say, "Okay, it's time for you to go in"?
- Price Absolutely. One of the things that is offered by The Pampered Pooch is there's continual supervision. It's not that you're just let out and go run wild. It's—they also group, as I understand, group the dogs based on their characteristics so that they can isolate if they've got a dog or dogs that may otherwise be docile but when together might not be as docile. So, they watch all of that if there is an issue. There are back doors specifically constructed that we've discussed with the owners to make sure there's easy access for people and dogs in and out so that that can be done very quickly.
- Lake Also, those outdoor activities aren't really going to be occurring at night, overnight.
- Price Correct, yeah.
- Lake So the noise will be during the day which really it would not be the problem. It would be at night.
- Wolff It's on Michigan Road. There's going to be noise.

Lake Yeah, I mean, the cars are going to drown out the dogs.

Wolff Yeah. Hopefully it's a good fence. Any other questions for the petitioner's representative at this time? Thank you, Mr. Price.

Price Thank you, Mr. Chairman.

Wolff Are there any members of our public who wish to speak for or against this particular petition? If so, please come forward. Do we have anyone online who—

Kilmer We do not.

Wolff There's not a single person online?

Kilmer No.

Wolff We're that boring.

Kilmer I guess, we should clarify if there's anyone online that would like to speak regarding this petition either for or against, if you could raise your hand. You can do that by at the bottom of the screen there's an icon that says "raise hand". Please click on that and we will give you the opportunity to speak at this time.

Wolff I'm going to pause for a moment to let that happen.

Kilmer There are no hands raised.

Wolff Thank you, sir, which would bring us to the staff report. Where's the staff report going?

DeLong I'll take that.

Wolff Mr. DeLong, I think we could probably do—if you'll do one at a time but we'll probably have both at the same time. Does that make sense?

DeLong Certainly, yes. Certainly, with the use variance as articulated this use does not squarely fit within your zoning ordinance. There is a caveat within the zoning ordinance which allows the administrator to make a determination and go through a separate process but that is not what's happened here. This is a variance of use. Certainly, staff finds a more appropriate process. Staff is supportive of the petition as it's been filed specific to the use variance. Noting the petitioner themselves are involved facilitating residential development in proximity to this site. Certainly emphasizing the anticipated compatibility of the development with the neighboring residential uses.

Specific to the development standards variances, as noted, the two requests that you've mentioned already that have been routinely supported by this Board certainly the zoning ordinances generally speaking are written in a manner of that not all uses and development standards hit squarely within more modern type of development. Certainly, we really look to leverage this exact conversation as we

work toward the form-based ordinance over the next 14 months or so addressing these types of situations. Specific to the height, same issue, you have a zoning ordinance that squarely defines how height is measured. However, as we've discussed, at least the Plan Commission, historically and by the zoning ordinance, height is measured differently. This is a rural area. Neighborhoods like Austin Oaks and others enjoy that definition of height and certainly that is something we look to facilitate here. Mr. Lake's review of the project as well noted some aesthetic issues that could be created by a lower roof line and certainly staff is encouraging of the development pattern that you're seeing facilitated by the developer. With that, I'll pause and answer any questions you may have.

Wolff Thank you, Mr. DeLong. Any questions for staff? Any discussion amongst the group? Otherwise, I will entertain a motion. For my fellow Board members, let's treat these individually so let's do them numerically. So, let's start with 11.

Mundy Can I ask a question? I think it was touched upon. With the use variance, we often put a sunset on that. I guess I don't see any reason why we wouldn't although I think in this case, we might want to get a little more information. Perhaps a sunset if we wish to impose that would be consistent with the likely length of the first lease might be or something like that. Wayne, from your perspective, is a sunset on the use variance, something that should be there?

DeLong I think you can discuss how this use, its anticipated compatibility, the developer leveraging their very own assets to build residential uses in proximity. You know, I think in a nutshell, it could be that the developer themselves will determine that there is a compatibility issue within their development. Certainly, at the same breath, you know, I could see the town actually working through this form-based ordinance to facilitate this more modern amenity that simply was not you know, thought about 30 years ago when you're putting together a zoning ordinance. So long answer of answering the question, the short answer, no.

Mundy I personally don't see a problem with just not imposing a sunset period given all that. So, I was not advocating for one thing or the other but just a question.

Wolff Mr. Mundy, as I think about when we've used the sunset, it's oftentimes when we have open questions on intensity of use and how it will affect the neighbors. What I can think of in particular is just where we have these remote facilities where we have weddings and things like that. We just didn't know. We thought we were making the right choice but wanted to give ourselves an out or at least the town to go back and revisit that with additional information. In this particular case, if someone were to drive by—in my opinion, if someone were to drive by this facility, I don't think they would say that's out of character, it doesn't fit the rest of this particular development. I think they wouldn't realize that they had to come get a variance. I mean, consequently, I think it's probably not necessary. That's my opinion and I'm amenable.

Mundy No, I don't disagree.

Wolff Any other discussion amongst the group? If not, I will entertain a motion on Docket #2021-11-UV.

Lake So, I move that Docket #2021-11-UV the use variance to permit an animal care facility including the services of dog grooming, daycare, and overnight accommodations on Outlot K of Appaloosa Crossing being within the Rural Professional Business District PB be approved as filed based upon the findings of fact as presented and subject to the approval of #2021-12-DSV which would require the relocation of required landscaping materials to the area identified on Exhibit 6 of the staff report.

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

Jones Second.

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

All Aye.

Wolff Those opposed? Motion carries, 4-0. You know, Wayne, it just occurred to me that we've traditionally done those votes via roll call. I got turned around when we were half hybrid, half in and out. Perhaps, we should treat this next back to a roll call vote, just to make sure we're clear.

DeLong Yes, sounds fine.

Wolff Thank you. Someday our world will be back to normal. With that, I would entertain a motion on Docket #2020-12-DSV.

Lake I would move that Docket #2021-12-DSV the development standards variance request to remove the requirement for an additional six-foot wide planting strip along the US 421 frontage, to remove the requirement of foundation plantings along the west facing façade, and for the proposed building to exceed the maximum building height in the Rural Professional Business District PB on Outlot K of Appaloosa Crossing, with the landscaping materials from the six-foot wide strip to be relocated to the southeastern portion of the subject's site as depicted on the attached landscape plan Exhibit 5, being within the Rural Professional Business District PB be approved as filed based upon the findings of fact as presented.

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

Jones Second.

Wolff Thank you, Mr. Jones. Mr. DeLong, I'll turn it to you for a roll call vote.

DeLong Certainly. Mr. Mundy?

Mundy Aye.

DeLong Mr. Lake?

Lake Aye.

DeLong Mr. Wolff?

Wolff Aye.

DeLong Mr. Jones?

Jones Aye.

Wolff Thank you. Motion passes. Thank you, Mr. Price. Mr. Price is still here. Thank you, Mr. Price. Assumed he didn't leave. Next item on our agenda is new business which would have brought us to Docket #2021-13-SE but as previously noted, that petition as is the Brickyard Solar Project has been continued to the July 7, 2021 meeting, which moves us to Docket #2021-14-SE for the property located at 3200 East 750 South. Would the petitioner please come forward?

Carroll Mr. Chairman, my name is Paul Carroll. The offices at 13 North State Street, Greenfield, Indiana 46163 with Wooten Hoy. I represent the petitioners, Amy and Raj Sandhu. I have Ms. Amy Sandhu with me if there are any questions for her. They own a tract of land, the 11.36-acre tract of land located at approximately 3200 East County Road 750 South, Lebanon, Indiana. They also own the 4.85-acre tract of agriculturally-zoned ground immediately to the north adjacent to this subject parcel. Only the 11.36-acre parcel is part of this petition here today. This tract is and will continue to be zoned as agricultural property. What is being sought today is a special exception under your ordinance to permit the construction of a single-family residential structure on the existing ground taking up by my math about 3% of that 11-acre tract to place their home. Ms. Sandhu operates a horse barn, actually that's more of a technical term of it, on the property currently. It's a Boarding and training for horses. The horses graze on the grassy area in this 11-acre tract. So it is anticipated it will continue to be used for agricultural purposes.

In determining whether or not a special exception to allow this construction is appropriate, this Board considers three specific factors. First off the proposed use will not be injurious to the public health, safety, comfort, community, moral standards, convenience, or general welfare. The anticipated construction here is located over 625 feet from the existing structure to the north which again, the petitioner owns. Over 800 feet from the existing structure to the southeast, this anticipated construction and the ability to use the remainder of the land for agricultural purposes is consistent with the development pattern on the east and west sides of County Road 750 West. Given all of that, I don't believe it can be said that this use and this project would be injurious to the public health, safety, comfort, or moral standards of the area. Instead, the construction of this home for these owners in combination with the Right to Farm commitment that staff has proposed and we are certainly agreeable to as in your ordinance and the anticipated agricultural use of the property, we believe that satisfies all the concerns of the first requirement.

The second requirement is the proposed use will not injure or adversely affect the adjacent area or property values therein. It is doubtful that the construction of a single-family home consistent with the existing development patterns in the area,

substantial distance from existing structures, a development pattern consistent with the area, and a significant price point for the home could possibly be adverse to any of the surrounding property values.

The third component and factor, the proposed use will be consistent with the character of the district land use, is authorized there, and in the Town of Zionsville's comprehensive plan. The Comprehensive Plan provides the purpose for the Ag District. The Agricultural District is to encourage agricultural operation allowing for a limited residential use. That's specifically what we're requesting here. We will continue to use the property in an agricultural manner, continue to be zone agriculturally. The owner and operator of that operation seeks to construct a single-family residence on the property. We believe that's consistent with the Comprehensive Plan. I've had a handful of neighbors who have reached out. I believe largely with concerns that this, you know, they saw the notice, the signs. They wanted to make sure this wasn't going to be a dense residential development. We've certainly assured them that that's not the case. I've received no objection. I don't believe an objection's been filed with the staff to this petition. We've received a favorable recommendation from the staff report. Given all of that and it's proposed use, we would request that this Board approve the special exception application as it's been filed. Again, if you have any questions, I'd be glad to answer them and we do have the owner if there are any specific questions.

Wolff Thank you, Mr. Carroll. Also, thank you for walking us through the findings of fact. Any questions for the petitioner's representative? Give it another minute. I won't wait that long. Okay, thank you.

Carroll Thank you.

Wolff Are there any members of our public who would like to speak for or against this particular petition, or just want to discuss it for the record? Roger, can I ask you that you also look online?

Kilmer Mr. Wolff, there are no hands raised online.

Wolff Thank you very much. I'll give it another minute. Wayne, will you be providing us the staff report?

DeLong Certainly, staff is supportive of the petition as it's been filed. Certainly, it's unique to discuss that openly this party owns additional ground. That is not necessarily a subject of this conversation in terms of actually being a part of the petition but certainly represents homesteading if you will of this larger farmstead. Certainly, that's an activity that you find in this area. Certainly, as referenced, the staff's recommendation of approval is subject to the Right to Farm. Certainly, that is actually required by your zoning ordinance and finds its origins from your reorganizational documents something that's actually a process that was mandated to be included in your zoning ordinance. Again, staff is supportive of the petition as it's been filed except for the Right to Farm. I'll be happy to answer any questions.

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- Wolff Thank you, Mr. DeLong. Any questions for staff? I should reach out to the petitioner's representative. They are aware of the Right to Farm Act, you did not—they are aware of that. Also, it's close to an airport. They're aware of that as well?
- Carroll [Inaudible]
- Wolff Okay, perfect. Thank you. For the record, petitioner's representative nodded that they are aware of the Right to Farm. Any discussion amongst the group? Seeing none, I would entertain a motion for Docket #2021-14.
- Mundy I move that Docket #2021-14-SE a special exception petition in the Agriculture District for the property located at 3200 East County Road 750 South in Lebanon, and I assume that's a mailing address, be approved based on the staff report and the proposed findings as presented and require that the petitioner execute the Right to Farm acknowledgement documentation.
- Wolff Thank you, Mr. Mundy. Is there a second to that motion?
- Lake Second.
- Wolff Thank you, Mr. Lake. Mr. DeLong, I'll turn it to you for a roll call vote.
- DeLong Mr. Lake?
- Lake Aye.
- DeLong Mr. Wolff?
- Wolff Aye.
- DeLong Mr. Jones?
- Jones Aye.
- DeLong Mr. Mundy?
- Mundy Aye.
- Wolff Thank you. Motion carries. Good luck with your project. Next item on our agenda is Docket #2021—
- Mundy Petitioner has got a question there.
- Carroll I was just asking out of curiosity, the Right to Farm requires [inaudible].
- Wolff It's a long story.
- DeLong Boone County is a very strong agriculture community. So that's, oftentimes it's a document executed not by somebody who's farming. So it might seem a little awkward but it's still a requirement nonetheless.

- Lake I've got it right here if you need it.
- Wolff I think there's a right to industrial.
- DeLong We created that as well.
- Wolff Yeah, so. Oh, I've been around too long. The next item on our agenda is Docket #2021-15-SE for the property located at 2998 Rue—oh, my goodness.
- Museck Rue de Chateaux.
- Wolff Thank you very much. Will the petitioner please come forward and state your name and address for the record?
- Museck Yes. My name is David J. Museck 2970 Belle Maison Drive, Zionsville, Indiana. I'm here from Old World Development Company which I own. I'm here to represent Andrew and Laura Dahlem to obtain a special exception to allow for the building of a single-family residence on their Rue de Chateaux. It was 42 acres that we purchased back in 2006. We just built three homes on the property and we had this two-acre lot that had an original residential house on it. It was always our intention to sell that lot and build a new home on that lot. So in the meantime, when zoning went through and everything and got annexed to Zionsville, I think it kind of got lost and we were kind of unaware that we had to file for a special exception for the property. So based on this, we—our intentions were to replace the existing home with a new home that would fit right in with our vision of the surrounding homes of Rue de Chateaux. I don't know if we have the pictures, but—I don't know if it's in your staff report.
- Wolff It is.
- Museck Okay. All right. I don't have all the fancy computer stuff. Based on the staff report and based on the situation with the surrounding residential homes, the fact that there was an existing home on the lot, we feel that the location lends itself to a residential home and is consistent with the surrounding area. There will not be any injurious or have any adverse effects on the area whatsoever. Actually, it'll enhance the area that it's in. It actually is within the walls of Rue de Chateaux but it is a separate lot. So, it is within the walls of it if you look at the—if you're familiar with the subdivision on that. So what we're asking for is again, the staff report came out and was consistent that this house would lend itself to residential because it is surrounded in a residential community. I just wanted to thank you for your time and I hope you will grant the Dahlems their special request to build their dream home. With that, did anybody have any questions?
- Wolff Thank you, sir. You may have mentioned it up front, when did you develop this, the whole property?
- Museck Well the whole property, we bought it in 2006.
- Wolff Okay.

- Museck So, it was at a county level that we subdivided it.
- Wolff Okay.
- Museck So, we just built three homes right now and those homes were built within the last seven years. Okay? One of them was just built recently. So those homes are finished. This is the last lot to be developed. As I look at the—as I drove through the area, they look to be very nice homes. You would say the proposed dwelling is consistent with those?
- Museck Very consistent. There actually is a picture in the staff report of the home that will be constructed.
- Wolff I saw that. What other questions do we have for the petitioner? Maybe I have one more. Sorry.
- Museck I don't mind.
- Wolff As I look at Exhibit 2 which is just the aerial, you have the road going through Rue de Chateaux?
- Museck Yes.
- Wolff It looks as if the parcel, the road bisects the parcel. Is that true?
- Museck Correct. If you look through your packet, there will be an easement.
- Wolff Okay.
- Museck So all those lots are fed with one road.
- Wolff Okay.
- Museck That is made—
- Wolff You addressed that with an easement?
- Museck Yeah, there's a grant of easement included in the packet.
- Lake Yeah, from back in 2006?
- Museck Yes, correct.
- Wolff What other questions do we have for the petitioner? Are there any members of our public who wish to speak for or against this particular petition? If you are online, please raise your hand.
- Kilmer Mr. Wolff, there are no hands raised online.
- Wolff Thank you, sir. Mr. DeLong, will you provide us the staff report?

DeLong Certainly. Staff is supportive of the petition as it's been filed. This is a unique set of circumstances due to your own zoning ordinance. You have a zoning ordinance that requires a special exception for the platting of agriculturally-zoned ground. Then in the same breath, it also requires an additional special exception be granted, considered and granted, for each home that's to be built. Certainly, this property would certainly have the privilege of leveraging the prior history with the 2009 home that was there through demolition. Certainly, not looking to lose that history in terms of exemptions from road impact fee, park impact fees. Because of that, legacy still carries forward but specifically to rebuild a home, there is no language in the zoning ordinance that creates the opportunity to rebuild a home when it's past six months. I mean, if you had a non-conformity, you can rebuild that non-conformity. You don't lose that right based on our non-conforming chapter but this is well beyond that moment hence the filing. Certainly, staff is supportive of the petition as it's been filed and I'm happy to answer any questions.

Wolff Thank you, Mr. DeLong. Any questions for staff?

Museck I just want to—we will have our Right to Farm. I've got it notarized already. I can run it down tomorrow.

Wolff Thank you for acknowledging the Right to Farm. If there's no further discussion, I would entertain a motion for Docket #2021-15-SE.

Lake I move that Docket #2021-15-SE a special exception petition in the agricultural district for the property located at 2998 Rue de Chateaux Lane, Zionsville, be approved based upon the staff report and proposed finding of facts as presented and if approved, it shall be required that the petitioner execute the Right to Farm acknowledgment documentation.

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

Mundy Second.

Wolff Thank you, Mr. Mundy. Mr. DeLong, will you hold a roll call vote, please?

DeLong Certainly. Mr. Wolff?

Wolff Aye.

DeLong Mr. Jones?

Jones Aye.

DeLong Mr. Mundy?

Mundy Aye.

DeLong Mr. Lake?

Lake Aye.

- Wolff Thank you. Motion passes. Good luck with your project.
- Museck Thank you so much. Have a great day. Next item on our agenda is Docket #2021-16-DSV for the property located at 85 East Poplar Street. Will the petitioner please come forward and state your name and address?
- Carr Yes, I'm Susan Carr. I'm the resident at 85 East Poplar Street. I just noticed on the agenda that it is listed as Popular Street. It is a popular street.
- Wolff It is a lovely street.
- Carr Anyway, I'm—as you probably know from looking at all that I had submitted, it's a family home. It's over 100 years old listed in the first census in 1894. It was my great aunt and uncle's, Aunt Mod and Uncle Lee, and they worked on the railroad. They loved that home, and also had the lot next door where it had just been sold and a big house is there now. My mom and dad then inherited the house and then when they passed on, my brothers and I did. My brothers live out west and so they were happy for me to be able to buy them out. So I plan on living there, you know, aging in place but I need a little bit more room. So, I'm in the process of opening up my kitchen and this didn't need a variance because it's already, you know, within my living area. I guess that's in my allotted space and adding an area with another bedroom and bathroom, full bathroom, a living area, and a little utility room, and then an attached garage. The garage is what I need the variance for because we have already taken down the garage that was there because a—I don't know if you've ever seen it when you've driven by but it was old, old, old, and very difficult to maneuver in. My car really filled it up. So, I'd like to have a two-car garage and have it attached so that I don't have to walk out as I'm aging in place, you know, and take chances on falling coming in with my groceries and what not. So, I wouldn't mind having it attached. That's the plan, so I would like to have a two-car garage. We've already taken the garage down and then also learned that the setback is 20 feet. I hope I'm saying this properly, 20 feet instead of 12. The current garage was just 12 feet or the formerly current garage is just 12 feet back. So, we would just like the variance to be able to have just a little bit more room with my garage. It will only just—it won't take any more space than it had other than a little bit more width on each side of my neighbors. One of my neighbors is here that's at one of those sides. My other neighbors are from across the street. I have businesses on the other side of the alley from me. I don't—I think they've been supportive as well. So, that's my request. Any questions?
- Wolff Yeah, thank you. It's a lovely home. Do you have any intention of changing the exterior, we're looking at the back of the house, at the front of the house?
- Carr No, I want—we're going to make everything very consistent. I think the drawings are in there as far as the way it looks.
- Wolff Yep.
- Carr With the look of the home, you know, I don't plan to change anything as far as how it fits into downtown Zionsville, that's for sure.

- Wolff Very good. Do you have an idea or specification of how much wider the garage will be than it was?
- Carr Susie, how much wider would it be?
- Susie It's going to be 20, currently it's 12.
- Wolff Okay. So, we're going four feet on each side, is that correct?
- Susie We're going to line up with the side yard setback that's already there. Then, we will still be within the allowed setback. The only thing that's really a non-conformity is the existing garage if you took out that 12 foot back from the alley. We're retaining that line. It just isn't—
- Wolff Yeah. So the setback, you're not gaining—you're not adding for an additional setback, you're just trying to put a non-conformity into legal standing because that's the way it always was.
- Carr Yeah, right. That's the way it was. That's the way the garage was. Then, we're not—we're—with the lining of the garage, the 20 x 20 two-car garage, it will not be wider than the width of the house.
- Wolff Okay. One of the things we also talk about is the findings of fact. I think you addressed it pretty well. I just want to make sure we have it as we continue our discussion tonight. I'm going to go back there, lots of papers. Specifically, regarding the garage and the increased size of the garage and the fact that it's going to be attached, those are kind of what I would call modern amenities for nice homes. So, would you say that it is—it would be difficult for you to age in this home, age in place in this home, if you had to walk across a slippery sidewalk from your garage into your home.
- Carr I have fallen before and I'm not as old as I hope to get.
- Wolff In addition, a narrow garage is difficult to open up car doors, wide enough to get in and out, and those types of things.
- Carr It's been a real nightmare to tell you the truth.
- Wolff Okay.
- Carr Even my little granddaughter can't really get out on one side, you know, we have to—
- Wolff At least not without dinging a door.
- Carr Yeah. Thank you.
- Wolff What questions do we have for the petitioner tonight? I would also note we did receive several letters of support from your neighbors. So those have been filed and they are a part of our record.

- Carr Oh, good.
- Wolff So, thank you.
- Carr Thank you, neighbors.
- Wolff Any questions for the petitioner at this time? Are there any members of our—you can have a seat. Thank you. Any members of our public who wish to speak on this particular petition? You're welcome to speak for or against. I will also, those of our members who are online, who are public or online, if you wish to speak on this particular petition, please raise your hand. We will get to you momentarily. Please state your name and address for the record.
- Wright Glenn Wright, 95 East Poplar, so just adjacent to her house. It's a beautiful home. I know Zionsville really wants to keep that look. You know, there's so many homes in Zionsville that have been torn down and, you know, then they get the modern amenities. So, I think this idea of actually allowing some homes to be modernized with respect to the traditional structure, we're all for it. We really think it's a great thing to do.
- Wolff Thank you. You're an immediate neighbor, correct?
- Wright Immediate neighbors.
- Wolff Very good. Thank you for participating tonight. Any comments from our online community?
- Kilmer Mr. Wolff, there are no hands raised.
- Wolff Any other comments from those who are present? Seeing none, may we have the staff report?
- DeLong Certainly. Staff is supportive of the petition as it's been filed. Certainly, this is, I would say, a very common petition for this Board to consider both a reduction in setback and a modest lot coverage petition. Certainly as noted, the requested setback is the setback that has been enjoyed previously on the property however it would be in a different form attached versus detached for the ordinance and talks about that differently. However, the ordinance also supports a 24 x 36 garage under certain circumstances. So you have a couple different things happening here. In the same breath, you have a project that looks to keep the form and certainly stick with the theme that you find in the area. Certainly, this works well in current conversations in terms of your form-based ordinance and other efforts as we understand it from the historical group at preservezionsville.com specifically references form on that website certainly it seems like other folks are focusing on that besides the town staff. Be that all said, again, staff is supportive of the petition as it's been filed. I'm happy to answer any questions.
- Wolff Thank you, Mr. DeLong. I think this is always an opportunity. We've had some sensitive petitions in this particular area but this is always a good time to discuss

the fact that not all lot coverage is created equal. Specifically, driveways are not lot coverage, correct?

DeLong Correct.

Wolff Yeah. So as I look at this particular petition, it seems modest in nature and consistent with the neighborhood but that's my—I'll turn it over to the rest of my Board members for any conversation or discussion.

Lake I would state as well that it doesn't—the scale of this doesn't outweigh the scale of the rest of the house. You know, they're not asking to take a small house and put a garage with an addition over top of it and you know, put a two-story kind of bridge between the two. I mean, you've got something that continues and respects the scale of what is on the street all the way back to the alley. I don't see that there's an issue with doing that.

Wolff Yeah, and I think maybe another thing that we potentially glossed over is the fact that some of the adjoining properties are commercial in nature which does change the look and feel of that particular area. It's probably a hardship for that, or a uniqueness to that particular location, so.

Lake Yeah.

Wolff Any other discussion amongst the group? Hearing none, I will entertain a motion.

Mundy I move that docket #2021-16-DSV a development standard variance in order to provide for an addition to a single-family home which deviates from the required rear yard setback and lot coverage in the Urban Residential Village Zone District be approved as filed based on the finding of facts and be substantially compliant with the submitted site plans.

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

Jones Second.

Wolff Thank you, Mr. Jones. Mr. DeLong, will you conduct a roll call vote?

DeLong Certainly. Mr. Jones?

Jones Aye.

DeLong Mr. Mundy?

Mundy Aye.

DeLong Mr. Lake?

Lake Aye.

DeLong Mr. Wolff?

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Wolff Aye. Motion carries. Good luck with your project.

Carr Thank you so much. I appreciate it.

Wolff You're very welcome. Thank you for reaching out to your neighbors. It makes our job a little easier. Mr. Kilmer, do we have any members of our public online who are still there that we should acknowledge for participating in our conversation?

Kilmer That's an excellent question. Those that are still online, if you would like to be acknowledged as attending the meeting tonight, please raise your hand at this time. We do have Sally Zelonis who has raised her hand.

Wolff Thank you, Mrs. Zelonis, always nice to see you.

Kilmer That is the only hand raised.

Wolff Thank you, Roger. Any other matters we need to discuss tonight? Seeing none, this meeting is adjourned.