



MEETING RESULTS ZIONSVILLE BOARD OF ZONING APPEALS
Wednesday, September 1, 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. Pledge of Allegiance
- II. Attendance **5 of 5 members attended. (All in-person J. Wolf, S. Mundy, C. Lake, L. Campins, L. Jones)**
- III. Approval of the July 7, 2021 Meeting Minutes **Approved 5-0**
- IV. Continuance or Withdrawal Requests
- V. Continued Business

Docket Number	Name	Address of Project	Item to be considered
2021-13-SE	Brickyard Solar LLC	Refer to Site Plan (Union Township)	Executed Adoption of Negative Findings of Fact confirming the Board of Zoning Appeals denial from the August 4, 2021 Hearing.

VI. New Business

Docket Number	Name	Address of Project	Item to be considered
2021-30-DSV	J. Cummings	355 W. Walnut St.	Continuance requested by Petitioner at the September 1, 2021 Meeting to the October 6, 2021 Meeting Petition for Development Standards Variance in order to provide for an addition to a detached structure and an outdoor paver patio which: 1) Exceeds the allowable lot coverage for an addition 2) Deviates from the required side, aggregate side and front yard setback. 3) Deviates from the maximum accessory square footage in in the Urban Residential Village Zoning District (R-V).
2021-31-DSV	The Towns at Appaloosa	10901 E 300 S	Continuance requested by Petitioner from the September 1, 2021 Meeting to the October 6, 2021 Meeting Petition for Variance of Development Standards to: 1) Establish the front yard setback for the residential units at 20' 2) Address the required internal and perimeter bufferyards; the subject property is zoned Rural General Business (GB) and Rural Professional Business (PB) and is within the Rural Michigan Road Overlay.
2021-32-DSV	Northwest Radiology Network	5901 Technology Center Dr.	Approved as presented & filed w/exhibits & per staff report; subject to conditions. 4 in Favor, 1 Recused Petition for a Development Standards Variance to increase the total of signs permitted per lot and exceed the allowed square footage maximum in Local Business (LB).

VII. Other Matters to be considered:

Docket Number	Name	Address of Project	Item to be considered
			Adopted, 5 in Favor (Resolution No. 2021-01) Conducting and Electronic Meeting Policy
			Week of September 20, 2021 Zoning Charrette

Please note that a quorum of the Zionsville Town Council may be in attendance at the meeting.

Respectfully Submitted:

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

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

Staff attending: Suzanne Baker, Janice Stevanovich, Wayne DeLong, and Darren Chadd, attorney (all attending in person).
A quorum is present.

[Inaudible until 1:05]

Wolff --any discussion or comments regarding the July meeting minutes. If not, I would entertain a motion.

Lake So moved.

Wolff Is there a second to the approval of the July meeting minutes?

Mundy Second.

Wolff All those in favor please say aye?

All Aye.

Wolff All those opposed please say nay?

[No response.]

Wolff Motion carries. Next item on our agenda is continuance or withdrawal requests. Are there any of our, we have two petitions on our agenda tonight. Anyone seeking a continuance or withdrawal? Looking around the room, seeing none. I would note that as our agenda was published, Docket #2021-31-DSV, they did file a continuance in a timely manner so there will be nothing executed on that petition tonight. Next item on our agenda is continued business which brings us to Docket #2021-13-SE for the adoption of the negative findings of fact. Are we going to pass those down? Oh, board members, you should have received the email with the negative findings.

Lake Yes.

Wolff Thank you, board members. The next item on our agenda is new business which brings us to Docket #2021-30-DSV for the property located at 355 W. Walnut Street. Will the petitioner please come forward and state your name and address? I'm sorry. I should have been more clear. I pointed to the mike, up on the podium. I apologize. I was not very clear. I've done this several times. You probably haven't.

Cummings Never done it. Never done it.

Wolff So your name and address, please?

Cummings Jill A. Cummings 355 W. Walnut Street, Zionsville 46077.

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- Wolff Thank you. Would you please describe what is front of us, what is the petition you're asking for tonight?
- Cummings I'm asking for a variance around lot coverage. Actually, the right, Suzanne, it's more than just that but I need their—I have too much lot coverage and I'm seeking an addition to my garage.
- Wolff Okay. And, how much lot coverage are you, are you proposing and what are you doing to your garage?
- Cummings I assume, my contractor's on it and he's got all the variances.
- Wolff Okay. Well, why don't you, why don't you walk us through the highlights and then we'll see if your contractor can present for us?
- Cummings You know, this is visual. I don't know if we can—is there any way to show you rather than, I mean, numbers are sort of dry.
- Wolff Will your exhibits, were they submitted with the packet?
- Cummings Yes.
- Wolff All right. So if you want just call them Exhibit 2 or Exhibit whatever, feel free.
- Cummings All right. Do you have the proposed site plan from Case? I mean, we'll just start with page 2 of 7.
- Wolff Yep.
- Cummings Okay. That's an overhead view of, well, you can see existing and proposed. The building further down on the page is my detached garage. The dark is the existing size of it. And, the lighter gray towards the alley, see that?
- Wolff Yes.
- Cummings ...is the proposed edition. So, I'm proposing to lengthen the garage in the direction of the alley, not, not, no width at all. Of course, this wouldn't be visible from the street. This is an alley view sort of thing. So, that's the proposed site plan. Next page here 3 of 7, again is an existing view. There's a short gravel driveway extending towards the alley. And, I'm proposing shortening the driveway in essence. So building on the driveway. Okay, next page 4 of 7, proposed first floor plan. You see a stairway in the corner that would lead upstairs. I have a small attic up there now. I want to enlarge that. My property has little storage space so this would be—it's a bonus room or storage space that would be finished and that stairway, of course, would go up to it. So, it would still be a two-car garage. I'm just proposing lengthening it and then finishing the attic. Okay, everybody good?
- Wolff So, you need the additional length to put the staircase in the garage?
- Cummings Yes, I do, to maintain a two-car garage and also just for storage reasons.

Wolff Ok, understood.

Cummings Everybody good? Okay, page 5, second floor plan. This is that bonus room. It's just a room with two closets at the end. I wonder if we can get Dave, I wonder if Dave Null is on the—but, you know, and it, it, as you'll see here. It's a room with a nice eight-foot ceiling, a nice livable room up there. In other words it wouldn't have that sort of ceiling. It would have a nice eight-foot ceiling to the edges.

Wolff Are you intending to put HVAC in this?

Cummings Yes, HVAC, yes. No plumbing though. You can see what I'm talking about on the roof on page 6. I think that's a shed roof is what that's called. So, the roof would be altered. So, page 7 is the exterior and again you got a good look at that roofline. So, in essence, we're shortening the garage and building out the existing attic and calling it a bonus room.

Wolff Okay.

Cummings There's Dave. That's my case manager.

Wolff Mr. Null, can you hear us?

Null I can. Can you hear me?

Wolff We can, thank you. Would you please state your name and address for the record?

Null My name is David Null. My address is 9382 North 300 West Knightstown, Indiana.

Wolff Thank you, Mr. Null. Could you add some color to the project in front of us tonight?

Null Yeah, um, essentially is pretty much as she's described. We've designed a—lengthen her garage towards the alley in order to have a functioning garage that maintains two cars but yet allows her to have a stairway and some storage or bonus room above the garage. We need to build a stairwell which would need to be on the interior of the garage and, as it stands now, it is not possible to do that because of the depth of the garage. By the time you put a car or two in there, there's, there's really, if you get two cars in there, there's really no room for any other storage in the current garage. So, we're not trying to add width although the garage is kind of tight, you know, for two cars but, you know, with the nature of the property and we're already up against the lot coverage, so we're not trying to add width; we're just trying to add length so that she can have that stairwell, some additional closet storage under the stairwell and the stairwell would allow her to access a bonus space above the garage.

Wolff Thank you Mr. Null.

- Null Some things--I'm sorry. Some things we had talked about, um, you know, on the site since we are up against maximum lot coverage is doing the approach to the garage and the permeable paver, we do have some property on either side of the garage that we could do some drainage modifications with some infiltrators or something like that to capture all her storm water from downspouts and either try to, try to service all the water on her property so that it's not draining to the alley or other persons' properties.
- Wolff Okay, so as we look at this petition, um, we've got a couple things going on. One is lot coverage, two, we have some setback issues and three, the accessory square footage in the urban residential zoning district, [inaudible, (11:01)] zoning district, excuse me, hard to say. So, we're obligated to adhere to the standard of the findings of fact. And, there's three of them, as you submitted yours. There's the one that's the approval is in the interest of public, health, safety . . .and I don't think you're going to hurt anybody with this addition, so I think we're okay there. The use or value of the addition of property included in the variance will not be affected. I don't think we have a problem. I did note that you had some neighbors submit some letters of support.
- Cummings Um, yes.
- Wolff Potentially maybe if drainage wasn't addressed then it could negatively affect the property, the adjoining properties. But, the third one we must meet is the strict application of the terms of the zoning ordinance will result in an unnecessary hardship. So, as I look at the petition in front of us, you have approval, the lot does, has approval for 41.9% lot coverage which is excess of our current zoning ordinance. You are currently consuming 44.25% and you are asking for 49.2%. So, that's a lot. So, what is the hardship that we can use to help us understand this petition?
- Cummings I have a lack of storage. There's no attic over my house. We have two buildings, the house and the garage. There's no attic at all in the house portion and then the garage is little, very little and unstable. So, it's the lack of storage. And, I have no basement either.
- Wolff So, to help reduce the lot coverage, is there something you could do to the pavers or something else that would reduce what you currently have to get this more in line with what is consistent with the area?
- Cummings Well, I mean, I suppose we could remove pavers. They're permeable, of course. That's the thing. Both of these courtyards that have upped my coverage so much are permeable pavers. So, you know, there's coverage and there's coverage, right? We could, I could reduce the square footage of the permeable pavers, I suppose. I mean, you hate to tear up something that you've just put in but I—it's conceivable. And, I'm open to options. I mean, I want to make this work. I want to make the property more livable so whatever we can come to I'm willing to do.
- Lake So, in reviewing this, I didn't so much have an issue with the project at hand, what I, what struck me was that, you know, a variance was asked for or sought in 2013 to increase your lot coverage so you knew that a variance was required to

do that. But, then, after that, you increased it again knowingly without asking for a variance.

Cummings I didn't even, I didn't think of that, I didn't think of it as coverage and the contractor, I wish he had said something. You know, I, I didn't intend to be in viola-I didn't even think of it. It didn't even occur to me. I think of, I thought of lot coverage as, you know, house, that kind of thing.

Lake Yeah, but when it was submitted in 2013, the submission was for a permeable patio and that did affect your lot coverage at that time in 2013.

Cummings I wasn't, I wasn't part of that. My contractor took care of that. It was completely transparent to me. I sure wish I known. I mean, if we can go back and make that right, I'm willing to do so.

Lake I mean, this inherently if we approve this, makes it right because we're factoring in that unsanctioned, I guess, if you will, area into this total area. That was just the thing that kind of bugged me. It wasn't—I don't disagree with the need, I mean, she can't really dig a basement. It's probably a lot cheaper and easier to extend a garage and add attic space over it than to try to add an attic over her house. So, I don't—I mean, if she's trying to get storage, this is a pretty logical way to do it. So, from that standpoint, you know, I don't have an issue with it. I do feel like there is some need there. Um, I do think the lot coverage is an issue. I do know in our report, it mentioned that at the time of this writing, staff is unaware whether the petitioner has presented these recommendations for drainage changes. I'm assuming that's infiltrators that your contractor talked about? And, maybe those weren't presented at the time this was submitted?

Cummings I don't believe they were.

Null Yeah, correct. We hadn't done a design for those yet. As we were dealing with it and these issues kind of came up, I was, you know, talking with her about scenarios where I felt like, you know, we could, we could mitigate that with some drainage solutions and so—

Lake I felt—I'm sorry, go ahead.

Null And, and she's got, she's got some on the other side of the garage, almost the full length from the patio all the way back to the alley where we could do some pretty substantial infiltrators to capture all her downspout drainage.

Lake Okay. I know in reading the staff section of the report which I'm sure we'll hear here in just a minute the concern relative to lot coverage was more about, it seemed like, drainage than it was purely lot coverage in and of itself. It was the fact that the lot coverage contributed to an area that already had insufficient drainage. And, so, I think if there is a way to address the drainage issue, I don't know how that would change staff's opinion. We'll hear from staff, I guess, in a minute, but.

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- Cummings Yeah, we have a number of options for drainage. We're, there's a photo in the packet of an existing storm drain in the alley right behind my house. My house is located at the low point of the block. So, I'm not sending water to anybody.
- Lake Yeah, when John mentioned that earlier I remember hearing or reading that in the report.
- Cummings Right. But, you know, nevertheless, we are prepared to handle drainage to the hilt. And, Dave is real good with these things. I mean, this is his forte. So, um, he's mentioned French drains, rain barrels, tying in downspouts, he mentioned infiltrators here on the call and making the garage apron out of permeable pavers. Anything we can do to keep drainage from being a problem.
- Null We can even do, you know, some absorbent landscaping, you know, that can handle some of the extra surface water with some plantings better designed to take up that water, storm water.
- Campins Is there any issue in the alley now with flooding or standing water?
- Cummings No, there's not and I credit that drain that's there. There is a little bit of an issue with standing water with my neighbor, my next door neighbor to the west. The grade on his lot to my eye doesn't look optimal so there's a little standing water there but that's not my lot. And, it looks like it could be remedied just if it had been graded a little differently. But, we are at the low point which, you know, is not a favorable thing ordinarily but, in this case, I'm sort of glad for it because it means the law of gravity is working for me. You know, because I can't send anything to anybody. It's all coming my way. So, it's amazing, I give that drain a lot of credit and I baby it. I'm out there, you know if any grass gets there, getting the leaves out and everything.
- Campins So, you don't have standing water now in your lot?
- Cummings None, none. But, see my house is only 20 years old so I think maybe it was built with the sensitivity to that. I don't know. But, I don't, I don't have any standing water.
- Mundy Is the garage used for storing cars presently?
- Cummings Oh, yes and the usual, you know, lawnmower type stuff, trash cans.
- Mundy And, I think you indicated or perhaps your contractor indicated that by extending it out as far as you wish, that turning in there would still be possible and we have an expert on turning radius among us. And, I drove through the alley today. It would seem to me that unless you're driving very small cars, it's going to be very tight to turn from the alley and get into the garage.
- Cummings You know, and I want, I'm aware of that because I am not a person who has the patience for a three-point turn. It's just not in my wheelhouse. So, we, we would have to create the structure, right Dave?—so that it's not so close to the alley that a normal-sized car, even an SUV can't swing in there in one fell swoop.

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- Campins It looks like a telephone pole is right there—
- Null Yeah, we're working with—
- Campins And, that's not going to be an issue with turning—
- Cummings Not that utility pole.
- Campins Okay.
- Cummings Not where it's positioned. But, I think it would be against my interest in terms of resale and even just for me, to not be able to easily, you know, the ingress and egress of your own garage. It's not that I would need to, you know, get on a neighbor's property to execute a three-point turn. I just don't want to. I just don't think that that's a good move. So, we would not design it—I think the setback is what, five feet on the alley, Dave?
- Null Yeah and there's actually garages that are closer to the alley than what we are proposing down two other directions. Yeah, we don't want to make it so close that you can't turn, then the garage becomes non-functional.
- Mundy I think it also mentioned in there that this is a vacated alley? Is that correct?
- Cummings Well, yeah. I mean, that's before my time but I think the lot was carved out of a short alley between 3rd and 4th or no, no, Walnut and Poplar.
- Mundy Okay, we can ask staff on that but I think I said it's a vacated alley. My question is, what if neighbors decide to plant a garden and you no longer have access?
- Lake But, this is the vacated alley. There used to be—
- Mundy Oh, I see.
- Lake Her property is on top of the vacated alley. They cut through there. So, they had plus sign-shaped set of alleys.
- Mundy Okay, got it.
- Lake Not the one behind her house.
- Mundy Disregard.
- Cummings Bring on the gardens.
- Wolff So, I don't want to gloss over that we also have setback issues. And, it looks like some of the paver patios are contributing to that. Ah, then, you are proposing to decrease the setbacks to the rear of the property as well. What is the total decrease, was that five feet that I heard?
- Cummings No, I think five feet is the—

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- Mundy Remaining.
- Cummings --is what the setback, the minimal setback is from the alley and we don't want to be that close to the alley. Is that what you're referring to?
- Wolff How far, how much of an extension is the garage receiving? The total length of the garage today versus the total length of what you're proposing.
- Null I believe it was 10, eight.
- Wolff So, you're proposing to add 10 additional feet of length to the garage?
- Cummings Actually, I think it shows 14.
- Mundy 14.
- Cummings Yeah, 14.
- Lake But, it looks like there's six foot remaining to the property line.
- Cummings Right. That's, yeah, that's—
- Lake And, there's a dash line that I'm guessing is the easement or setback line and it's short of the garage so it's probably a five-foot setback –
- Cummings That's correct. Yeah, and that's what I think Suzanne and I came to, a five-foot setback to the alley. And, we don't want to be that close. In fact, I'm, I'm, I don't even want to be this close to tell you the truth. It just feels a little snug and the car business, too, you know.
- Wolff Any other additional questions for the petitioner at this time?
- Mundy The staircase would be built in what is currently there as the garage?
- Cummings Yes, that's the current garage, up in that corner, interior of course. And, it would just be in the corner.
- Mundy And, you said, there's an attic now. How is that attic accessed now?
- Cummings It's one of those pull-down.
- Mundy A pull-down?
- Cummings Yeah, yeah, it scares me. I don't trust it. And, of course, it's not very functional because when there's a car under it, you can't get into the attic. It's about as baseline as you can get.
- Mundy Larry, radius expert, can they make that turn?
- Jones I was trying to figure out what the width of the alley is. Is it a 12 or 15 foot? Do we know?

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- Lake Probably 12.
- Mundy It's not wide.
- Lake It's not very wide.
- Jones Yeah, and it's not really actually a paved alley? It's gravel, correct?
- Cummings It's partially paved.
- Wolff At one point it may have been paved.
- Cummings It's a hybrid alley. It was paved not too many years ago. But, not all of it. The alley could use work, too.
- Jones So, the total number you need is 20 to 24 to get a vehicle to turn in anything. Typically, when you go through a regular parking lot, you know, the parking bays are 20 feet deep and the pathway between them is 24. But, that's a commercial lot, you know. You can tighten that up but when you start getting, like this is getting, under 20, it's just tight.
- Lake You can go to 16 if you're doing one-way traffic but it is tight.
- Jones The bigger issue is just the lot coverage ratio.
- Mundy I agree.
- Jones And, while this particular lot may not have any direct effects, it's just a cumulative issue for the Town of Zionsville. Whenever you try to develop any kind of—the Town of Zionsville or this area, doesn't really have an overall storm sewer system. I mean, there's spot drains that have been put in like this one in the alley behind her home, but the biggest benefit this property has is that the property to the west is lower. And, someday, somebody is probably is going to redo that house. The first thing I would do, since I'm the last guy in the block, is put my house up higher than everybody else. And, you know, I fight this with commercial development next to my other commercial properties. Something new comes along, they build it a little higher than me which means I went from being the high ground to being the low ground. And, that's the issue that we're getting into. It's the cumulative problem to the Town of Zionsville. The more we allow the expansion of the lot coverage ratio, whether it's hard structure or pervious pavers or anything else. Because what still doesn't get covered in this is the driveway portion. So, you have the lot coverage ratio based on, Wayne, am I going down this line again correctly? Okay.
- Wolff That was a thumbs-up from Wayne.
- Jones So, the lot coverage ratio, the lot coverage ratio includes the house structure, the porch, any kind of pervious patio. It doesn't include the driveway. The driveway area doesn't figure into that number. So, all across the board in the Town of Zionsville, you have various sized driveways behind houses so their true lot

coverage percentage is all over the board. Collectively, you get yourself into the bind that whenever you try to design any kind of improvements to your stormwater system, your engineers are going to use this 35% lot coverage, figuring that they're picking up 65% of, you know, some sort of site condition that is benefitting the Town by holding water for a period of time and, you know, the rains that we've been having, you know, it seems like we're getting more instead of the half inch, we're getting the one-, two- and three-inch. Currently, I think a lot of this water runs off her property and runs to the west and gets held there. Eventually, if it, eventually somebody's going to clean that up or put a garage out behind that house and that water eventually moves down the street and the problem ends up being somebody, you know, two blocks away that doesn't know why things keep getting worse for them. It's because everybody in their circumference—and that's just the issue and that's why we've got these parameters built into the code trying to keep a little bit of quality across the board. Continuity I guess would be the better.

Wolff Any other questions for the petitioner at this time? Thank you. Is there anyone here who would like to speak for or against this particular issue? I should ask, do we have anyone online? Okay, why don't we promote the two and see if they do and sometimes we make mistakes. Mrs. Zelonis, would you like to speak about this petition?

Zelonis I'm sorry. Could you hear me?

Wolff We can hear you now.

Zelonis All right. I just wanted to say that I totally agree with the staff report and what Mr. Jones had commented.

Wolff Thank you. Would you please state your name and address for the record?

Zelonis Sure, Sally Zelonis. 40 S. 3rd Street here in Zionsville.

Wolff Thank you. And, just to summarize, you are in agreement with the staff report as it's proposed right now as well as Mr. Jones' comments?

Zelonis Yes.

Wolff Thank you very much for participating in tonight's conversation. Any other members of our public who wish to speak for or against this particular petition? No. Okay. That probably leads us to the staff report.

Baker So, um, I will try to summarize just so everyone is aware what is actually being requested because there's a couple things here. Um, like was previously mentioned, staff recommended denial. First, the history of the property, there was previous petition in 2013 for an increase in lot coverage for an addition and pervious pavers in the backyard. Through this process a month or two ago, Ms. Cummings came to us wanting to do this addition to the garage. At that time, we noticed, there was pervious pavers installed on the front of the property that weren't permitted. So, trying to rectify the request for the addition to the garage and the pervious pavers that were installed in front. So, the lot coverage with the

addition to the garage would be 49.2%. Um, it was previously approved in 2013 for 41.9%. Then, the setback variance is just for the pavers in the front of the home. So, it would be a front yard setback variance and then also a side setback variance and an aggregate side setback variance. The detached garage meets all the setback requirements. Then, the last variance request is the reduction of the, no, wrong page, is going over the maximum accessory square footage goes over 50%.

Wolff All right.

Baker So, this would—

Wolff I have a question about that. On the maximum—does that include the second floor, because this now has a stairway access to it.

Baker Correct.

Wolff Okay, so essentially it's the footprint times two.

Baker Right because it would increase, yeah, it would increase the footprint because now you're finishing the upstairs.

Wolff Okay. So, the setback issue is for the front yard pavers. The property has been approved for 41.9% lot coverage. It currently has 44.25% lot coverage. The request is for 49.2.

Baker Yes.

Wolff Okay. Any questions for staff?

Lake Sure. So, Wayne is continually reminding us about form-based code changes that are potentially upcoming. As an architect, I fail to see how permeable pavers contribute a 1:1 ratio of stormwater impact like concrete would. So, is there a thought that in the form-based code, permeable paver systems—whether that's in a parking lot for a commercial, you know, building or at a residential building—would not be a 1:1 effect on the, on the lot coverage ratio, that they would be a 50% per se because they are allowing water through so you're not contributing all that water to the storm water system?

DeLong Mr. Lake, great question. Wayne DeLong, Director of Planning and Community Development here with the Town. And honestly, the conversation with the form-based code has not advanced enough to answer that, that, such technical of a question. We do appreciate the shoutout to the form-based code process which I will speak to later this evening.

Lake Okay. And, the reason that I say that is when, as an architect, you're trying to get sustainable features into your project, one of the sustainable features is to reduce your impact on stormwater and one of the changes you're allowed to make to your building is to switch to a permeable paver system because it rejects less water into the stormwater system and so all lot coverage is not equal if we're

talking about permeable paver increases versus full concrete or buildings with roofs on them. So, um, I'm just wondering how that's being considered by staff.

Baker I think another thing that I want to mention is the 2% percent increase; I don't know when that was. It was a couple years ago that the lot coverage was 35% and then there was an extra 2% for pervious pavers and that sort of thing to allow for you to have additional lot coverage.

Lake So that additional 2% was if it were pervious?

Baker Correct.

Lake And, that was not just for this property but across the board?

Baker For anything zoned RV in the Village.

Wolff I think your timing is about right. Two or three years ago is when that change was made. Any other questions for staff?

Mundy I don't know if we really know the answer to this question based on what Mr. Jones said earlier about driveways not counting and how much coverage we have but, in my experience on this Board, this is, I think, as high as I've seen in terms of requested coverage, almost 50%. Are there others that we know are greater than this?

Baker I did a brief, um, I pulled some previous petitions that have been, that have gone through the BZA the past two years and I couldn't find any that were approved, um, that were that high. This is the highest one we've seen since 2019.

Mundy That was my recollection. I don't remember ever seeing one this high.

Cummings --make that garage smaller.

Wolff We'll get, we'll bring you back up. So, any other questions for staff?

Campins Um, I have a question. For builders or whatever, is there an approval process that goes through the Department of Public Works that they give input? You know, like if this gets a permit and they have asked for their process to see if they're approved? I'm not sure of the building process—if they have to get approval as well.

Baker Yeah, it would have to get stormwater approval.

Campins It would?

Baker Uh-huh.

Campins So they could deny it at that point if it was not—

Wolff I think more likely it would be revised until Stormwater was happy with the plan.

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- Campins Okay.
- Stevanovic It is incumbent upon the developer to ensure that the water is mitigated on their site. And, that is reviewed prior to even going to building permit. That does go over to DPW, it goes to Stormwater, uh-huh.
- Campins Okay, thank you.
- Mundy Do you know if that's been requested at this point?
- Stevanovic Not to my knowledge.
- Wolff And, I don't think that's unusual. I think that's typical of the process. Any other questions for staff? Otherwise, I will open it up to the Board for discussion. I'm happy to lead that.
- Lake Would DPW be able to do a review on this prior to an official submission?
- Stevanovic I'm sure they would be happy to take a look at it. One other thing that we might want to mention to you is that front porch and how plays into the lot coverage as well and I think you had a percentage on that? If it was removed.
- Baker Yeah, so if all of, let's say, all the pervious pavers were removed on the property. That includes on the front and then the ones on the rear, the lot coverage would be 40.21%.
- Lake So it would still be over the –
- Baker Yeah, it would still be over the –
- Lake Okay.
- Wolff Okay, fellow board members, I think we can certainly ask Ms. Cummings to come back up in a few moments. But, I would be—this seems like a big ask to me. I have a couple thoughts specifically. Um, we have received a lot of feedback from our Village residents about lot coverage over the years, most of it very specific, and I would note that we never heard a petition for 145 N. Main Street but that lot coverage was 42% and we literally had dozens and dozens of letters regarding that particular lot coverage. There's other things that went on with that property. I'm not naïve to that. I'm struggling approving something that's 7% higher than that. I would also note that three—I also struggle with the Village in the sense that three of the letters of support for that particular, for this project, were also in remonstrance against the 145 N. Main which is at 42%. So, I'm having trouble remedying that. Um, and I would note that those letters were submitted for the public record. So, I'm having trouble remedying all of that. So, what I, I'm not supportive of this petition as it's been filed. I would certainly allow the petitioner to modify it but that's my particular position. But, I'm one person on this board.
- Lake Modify it via a continuance?

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- Wolff Correct.
- Lake That's where I was going with the stormwater review. I said, if a continuance were requested and they happen to meet with Stormwater and Stormwater said given this area, we don't have an issue with it, then, maybe, maybe or maybe not, we would look at that in a different light but it's another source of input from the department that is directly affected by it most.
- Campins I would agree with that.
- Mundy I agree as well. I, I drove twice today but while you believe you're the low point, that street continues to go downhill past your house. I don't know that you're at the low point; it does continue to go down. And, I think Mr. Jones is probably right. There'll be a point where we can kick this can so far down the road and eventually we're going to have to do something about drainage for some areas in the Village and I think it would be helpful to know if this is one that we are already on the fringe with.
- Jones Yeah, the issue is that eventually you end up having to put in a drainage system so large—you know, it's always interesting when you talk about the character of the Village, part of the character of the Village is that a lot of it has no curbs. There is no drain, there is no, I don't know if you would call that a Village street system—I don't know what the term for it is, but I understand what it looks like and the replacement when you actually have to go put in storm drainage starts to change the character of your Village and you lose a lot of the—I went and looked to see if we actually had limestone curbs floating around in the Village, I didn't really find any. It's a mixed bag of stuff. I mean, that's one of the issues historic neighborhoods have in downtown Indianapolis, you know, they get very concerned when you start cutting into the old limestone curb. They want to keep them. So it, it limits what they can do with the street sometimes. But, in general, yes, this is really pushing the limit when you start talking about a 49% lot coverage.
- Wolff Ms. Cummings, could you come back up? Okay. You've heard our comments. We can vote on this tonight but I would encourage you to ask for a continuance and with that, I would encourage two things. One is let's see what you can do with Mr. Null and to try to reduce the lot coverage as much as possible. Um, you have a challenging situation with what you have currently.
- Cummings Right.
- Wolff And, I think I also heard my fellow board members ask if you could have a review done by the Stormwater Department to make sure that we're not creating additional problems. So, um, let me be direct. Would you like to continue this so you can continue to revise this petition?
- Cummings Yes.
- Wolff Okay, very good. Our next meeting is October 6. Is that enough time? We can do it October 6 or I'm happy to go to November if you'd like. That's at your discretion.

- Cummings I'll have to huddle with Dave, I don't know how long it takes, you know, to gather the data.
- Null We can accommodate the 6th.
- Cummings There it is.
- Wolff Okay, very good. Okay, thank you very much.
- Cummings All right, thank you guys.
- Wolff Is there a motion to continue Docket #2021-30-DSV to the October 6 2021 BZA meeting.
- Jones So moved.
- Wolff Thank you, Mr. Jones. Is there a second to that motion?
- Lake Second.
- Wolff Thank you, Mr. Lake. All those in favor, please say aye?
- All Aye.
- Wolff Those opposed, please say nay?
- [No response.]
- Wolff The petition is continued. Next item on our agenda is Docket #2021-32-DSV for the property located at 5901 Technology Center Drive. Will the petitioner please come forward? Can you state your name and address for the record?
- Cade Is it the address I'm representing or where I currently live?
- Wolff Where you currently live.
- Cade Renee Cade, 6846 Fall Time Place in Indianapolis.
- Wolff And, what is that Kate?
- Cade C-a-d-e.
- Wolff Cade. C-a-d-e, very good, thank you. And, what is in front of us tonight?
- Cade Um, so I work at Northwest Radiology and, um, like when our building was built we had two signs put on the building, one on the north end and one on the east end, and we recently rented out half of our building to CPROMS and we removed the north end sign of Northwest Radiology on the north end and we'd like to put a CPROMS medical imaging sign in that spot.

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- Wolff Okay. And, so currently our zoning ordinances do not allow for that additional signage?
- Cade Correct.
- Wolff And, how big is the sign?
- Cade Um, it is Exhibit—
- Hoffman This is Andrea Hoffman by the way, 1163 Manteo Court, Fishers, Indiana.
- Wolff Thank you very much.
- Hoffman This is Exhibit 3. There's a picture of our signage we would like to put up where Northwest Radiology had theirs. The building has a unique architectural arch on that side, the north side of the building where a sign would be perfect which is where Northwest Radiology had theirs. We were looking at something similar in size and scope as what they had to replace what was there.
- Wolff Thank you and just so I get my bearings correct, what northwest, southeast, what side of the building is that? That you're proposing the new sign?
- Hoffman North.
- Wolff So, it's on the north side, okay.
- Hoffman Facing 465. There was a reason for that.
- Wolff Understood. There you go.
- Hoffman We are new neighbors into the Town of Zionsville. CPROMS recently relocated from the Pyramids. We are happy to be in the community and as tenants of Northwest Radiology.
- Wolff Do we have any questions for the petitioner at this time?
- Mundy The square footage required by ordinance is 10 square feet and I am looking at—I know I've read this once before, but I think the new sign exceeds that, is that correct?
- Lake It's like 105 square feet? Yeah, the sign is 281 inches long and 54 inches high.
- Mundy And, if I recall, the Northwest Radiology sign was also in excess of 10 square feet, is that—
- Lake Yeah.
- Jones It's a tiny sign.
- Campins 10 square feet.

Jones Yeah.

Lake Well, if you, one think I thought was interesting was that this is zoned, what was it? LB? Yeah, LB. And, everything around it is zoned rural industrial and so everything else around it can have big signs and this property, unfortunately, given its zoning classification has much smaller sign requirements than everybody around it which, honestly, it wouldn't even be visible from 465 if you were sitting at a dead stop. So, I understand the intent of the code. You know, local business can potentially be intermingled around other things like residences and having a big obnoxious sign would not be great but in that area, I mean, the sign, scale-wise on the building looks very appropriate and the image. Yes, it's 10x of what's allowed by, um, it's in line with its neighbors so I don't, I don't see an issue with it but that's my thoughts.

Wolff As I look at the findings of fact, um, it's difficult to imagine a scenario where a sign would be injurious to public health. I certainly can't imagine a scenario where it would negatively affect the adjoining properties as they all tend to be similar in nature. And, I would say, that when it comes to the hardship, would it be difficult for your customers to find you or deliveries to find you without the signage?

Hoffman [nodding]

Wolff Okay.

Jones Is there any kind of ground-mounted sign out there with the building at the entrances or is it all your signage is on the buildings?

Wolff I think there's one for the industrial park.

Cade Yeah, there's a sign that says Northwest Technology Drive of the street name but not either of our companies.

Jones And, Wayne, do you have any idea, did this building somewhat predate the rest of the development of the park? Is that why the zoning is different? Just how it was. Okay.

Wolff Any questions for the petitioners at this time? Seeing none, are there any members of our public who wish to speak for or against this particular petition? I'm sure we have no one online. We have lost our audience. May we have the staff report?

Baker Staff is supportive of request. There are two, there are two variances here. Um, one is the size. The existing Northwest Radiology sign and the proposed sign will be over the 10 square feet. And, then, in this local business zone, also, they are only allowed one sign. Um, so they are requesting two signs both above the 10 square feet and I also noted that when this property was developed, I believe it was in Boone County, so from what, we don't know how the signs were approved previously, um, I'm assuming they were—so, we're just trying to rectify the issue going forward.

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- Wolff But, to a previous comment, this particular parcel is zoned a little differently than its adjoining—
- Baker Right, everything else around it is zoned industrial and looking at the other zones and what that sign ordinance allows, it would have allowed this type of sign in those surrounding zoning.
- Wolff So, this will be consistent with the neighboring properties?
- Baker Yes.
- Lake I literally have a project right down Technology Center Drive that just got a new sign on it. It's about 100 square foot and it faces 465.
- Wolff As I drove it, I thought, I was surprised that this was an issue. But, sometimes they are. Any other questions for staff?
- Jones I've got a bit of a question with the way the motion is written. So, we're approving a total of two signs on a piece of property?
- Wolff I think there's two issues. One is the size of the sign and the fact that there's two of them, correct.
- Jones Correct. But, we don't really set any kind of parameters as to what the size of the two additional signs can be, so.
- Mundy Do we even know what the size of the Northwest Radiology sign is?
- Jones Yeah, well, that's—
- Wolff I will turn to our legal counsel. Um, should we get this more specific or are you okay with as presented?
- Chadd As Mr. Jones was speaking I looked at that language and circled as "presented." I think that covers it. If you want to specify the square footage requested, that's certainly fine, too. And, I think the staff report refers to 106 point something square feet.
- Lake Maybe for this sign but not for the existing Northwest Radiology—
- Jones Yeah, it doesn't cover the existing one, correct?
- Lake I mean, you could state that the existing sign, whether it stays or is changed, doesn't exceed its current square foot and this new sign doesn't exceed the square foot as presented?
- Wolff That works, sure.
- Lake I'm not going to be able to say that again.
- Jones I would challenge you to say that, but all right, you can't.

- Wolff If there's no further discussion, I would entertain a motion.
- Lake All right. I move that Docket #2021-32-DSV Development Standards Variance for the property located at 5901 Technology Center Drive to allow for signage of an existing commercial business which increases the number of signs to two and exceeds the allowable square foot maximums as presented for the new sign and no larger than the existing Northwest Radiology square footage for their sign within the rural local business zoning district be approved.
- Wolff Thank you. Is there a second to that motion?
- Mundy Second.
- Wolff Thank you. As this is a motion to approve, why don't we do a roll call vote?
- Jones Real quick. We've referenced the Northwest Radiology, which means if they ever sell the property, they can't really change the name from Northwest Radiology.
- Lake I said the size of the Northwest Radiology sign.
- Jones All right.
- Mundy That would be stuck with that size.
- Wolff Which I think is what we discussed.
- Lake Yeah, yeah, we don't want them to be able to increase the size.
- Jones Okay.
- Lake Whoever gets it next, can't increase the size. They can change the sign; they just can't increase the size of it larger than what that existing sign is today.
- Jones Okay, I'm good.
- Wolff So, with that, let's do a roll call vote.
- Stevanovic Mr. Jones?
- Jones Aye.
- Stevanovic Ms. Campins?
- Campins I'm going to recuse myself.
- Stevanovic Mr. Lake?
- Lake Aye.

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Jones You don't like signs?

Stevanovic Mr. Mundy?

Mundy Aye.

Stevanovic Mr. Wolff?

Wolff Aye. Motion passes.

Cade Thank you for your time.

Wolff The next item on our agenda is we need to have a motion to approve the use of regular mail per our kind of COVID policies.

Lake So moved.

Wolff Thank you, Mr. Lake. Is there a second? Is that Ms. Campins?

Campins I second, yes.

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

All Aye.

Wolff Those opposed, please say nay.

[No response.]

Wolff Motion carries. Which leads us on to other matters to be considered. Oh, we also would like to pass the findings of fact for that particular—

Baker Thank you for reminding me.

Wolff So, we're going to start signing findings of fact when they're approved on the record. And, then we will automatically continue the findings if they are negative to the next month so they can be reviewed and amended. So with that, we have conducting an electronic meeting policy.

Chadd Sure, I'll address that really quickly. During the pandemic, the governor has suspended rules that would preclude us from attending meetings electronically, remotely. While that has all been happening, kind of as expected, they have changed the law to say once the public health emergency is over, we can continue to have some remote attendance. What you have in front of you tonight basically tracks the new statute and the state has presented essentially a model resolution and this tracks the state's suggested policy. You could be more restrictive than this if you want to. You couldn't allow any more remote attendance but, if you desire to have any remote attendance capability once the public healthy emergency is lifted, you need to do that by adopting a resolution describing what that policy is. I don't know if you all have had a chance or desire

to read through this proposed resolution. If you have any questions about it, I would be happy to at least try to walk through the terms.

Wolff Um, Wayne, has there been any direction from the Town on this? I would generally support more conversation in public meetings. And, if this facilitates that, I am amendable to it. I agree to it. But, is there, has there been any direct or --

DeLong Certainly, public bodies such as the Town Council and others have begun to adopt this policy or a policy that's incredibly similar to the one that's in front of you. It's, ah, as Mr. Chadd indicated, this is a standard, it's a great pivot to have this tool that we've learned from the pandemic to have these laws to facilitate remote access to public meetings and provide flexibility for attendees for the boards and commission.

Wolff I'm assuming the consequences are, there is an increased financial burden to our Town because we have IT here and we have to pay for Zoom licensing and things like that.

DeLong Most certainly and this is an expense that we have been incurring since March 2020. Month after month, you're exactly right. We have extra Zoom licenses, IT staffing, um certainly, you can only anticipate that we will adjust our permitting schedule, our permitting fees and Plan Commission and BZA filing fees to reflect the additional overhead and certainly present that to the Town Council for consideration, I'm assuming, I believe we would be looking to do that probably early in 2022, um, to put that all together.

Lake So, we have this same thing in front of us for the Plan Commission—

Wolff Right.

Lake And being on both of them, you know, that's a large commitment every month, especially with all the materials, and I appreciate this option because I do travel for work and/or even when I travel for pleasure, to my knowledge, I don't think I've missed a meeting yet but I've had to do three of them virtually. One, because I thought I had COVID. I think two because I was traveling and I enjoy the ability to participate when I took that time to read all that material and be a part of the conversation to be able to contribute and that wouldn't have happened had we not had this option. And so, I am in support of this because I do think it allows us to have all of our members present in some form or another to have the type of robust debate that we are intended to have and, especially in uncertain times with, you know, how long COVID is going to go, whether or not the emergency order continues that entire time but I think this is a good thing. And, I think it is structured in such a way that it is meant to limit abuses by someone who just says, who's going to just dial it in, phone it in if you will, you know, from home every single meeting, that's, you know, it doesn't allow for that. So.

Chadd When I say it allows remote participation to some degree, that's what I'm referring to. At least a majority has to be here in person. Any member can't attend more than half of the meetings during the year remotely, and can't attend more than two in a row remotely. So, there are, it's obviously limited.

Wolff Is there, has there been any discussion, I'm going to put it to a very selfish issue that these meetings as they are recorded, that that become the minutes of the meeting or the, you know, public record as opposed to having to read 85 pages of a Word document every month?

DeLong Well, certainly, we are working on finding different vendors to prepare the minutes based upon the new technology that we're leveraging. It's, it's my understanding that we still have laws that mandate that the offices of these Boards and Commissions still maintain a paper record of the minutes. And, those can still be viewed. And, Mr. Chadd if that law has changed, please, please—

Chadd There's been no change in that. And a couple of issues. We have to keep some form of minutes. That doesn't necessarily mean a verbatim transcript. However, if there is ever an appeal of a decision, then we have to have a written transcript. So, there's always going to be some requirement for some written minutes, if you will.

Wolff I will continue to read them every month diligently.

Lake I can put them on microfiche for you.

Jones Do you want to do a podcast? I was reading through this and what's interesting in Section 6, they mention the public, Section 6 is about what happens if you're out trying to participate and you have technological problem, can't get Wi-Fi, whatever, computer goes down, blah, blah, blah and you can't, your birthday is on September 2 and they disconnect your internet, you know, whatever it is. But, in that Section 6, it mentions the public, but nowhere in this it mentions how the public participates in it. Is there—I guess my concern is that, you know, there isn't some funny trick bag out there that we conduct a meeting and a certain amount of people are calling in and the people are not able to. Thus, they are not able to voice their support or displeasure and we make a decision, is there something out there that's going to be problematic for us?

Lake I mean, this says it does not affect the validity of the action.

Jones Correct.

Lake So it's in and of itself solving that problem.

Chadd And, that is straight from the statute to address that very problem, that one of you is participating remotely and you have a technological problem and you're gone or the public can't temporarily. The statute accommodates that by saying if that happens, then, what you do is still what you do.

Jones Toughy lucky. Should have shown up.

Wolff I'm—I would probably agree with that. I think this is probably the right direction to move forward. Any other thoughts from the group? And, how do enact an electronic meeting policy?

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- Chadd You could entertain a motion to adopt this policy and the Board can vote on it. If a majority approves the policy, it is your policy.
- Wolff Okay, before I entertain a motion, any other discussion? I think, any other concerns? Okay. I would entertain a motion to approve conducting an electronic meeting policy.
- Jones I would second that. Do we need to actually give it some sort of resolution number or something?
- Chadd Probably should. As far as I am aware this is the first one. I don't know how you normally number these, 2021-1?
- Wolff 01?
- Jones You want to modify your motion to--?
- Wolff So, I'm going to change this a little bit. I was asking for a motion. So, Mr. Jones, you are going to make a motion to--?
- Jones I will make a motion that we approve Resolution #2021? What to use again?
- Baker #2021.
- Lake dash zero.
- Jones -01 which is a resolution establishing the policy by which members of the Board of Zoning Appeals may participate by electronic means of communication.
- Wolff Thank you. Is there a second to that motion?
- Lake Second.
- Wolff Thank you, Mr. Lake. All those in favor, please say aye?
- All Aye.
- Wolff Those opposed, please say nay?
- [No response.]
- Wolff Motion carries. Which brings us to our last matter of other matters to be considered which is the week of September 20.
- DeLong Yes, thank you. I can just briefly speak to that. We've been referring to the zoning charrettes that will be coming in September. Our team, McKenna, will be providing that service. I have a couple things happening throughout that week. Every evening, Monday through Thursday, there will be a different location throughout the community where residents, interested parties, business owners, parties that would like to see or would like to participate or to have a voice in the zoning process can visit. On Monday night, 7 p.m., we will be at the Volunteer

Fire Department House in Fayette. Tuesday night, we will be at the airport off of U. S. or State Road 32. I'm meeting in a hangar. Wednesday night, we will be here in this building, Town Hall, 2nd Floor. And, Thursday night, we will be back in Town Hall again but on the 1st Floor on Thursday evening. Starting on Thursday evening will be the output session of what has been learned Monday, Tuesday and Wednesday evening. Each Monday, Tuesday and Wednesday session will be the exact same session. There will be no unique session specific to a locale. This is merely going out to the public making it convenient to participate, just going out again to the public instead of trying to bring everybody to one location. But, again, each night, three different locations. Fourth night, output session. These are all at 7 p.m., 7 to 8 p.m. is the anticipated time frame. In concert with that, McKenna will be hosting their studio. Their studio will be in town and this will be something that is livestreamed through their hosting platform on their company's website and that is another way for the public to also participate in this, in this activity. So, the zoning charrette process is a process where our consultant and certainly the town staff will be working to talk direct and collect information from the public, from interested parties as well as gathering information, provide information as related to our form-based code status. This is, we're in about month three of this 14-month long process.

Wolff And, does the Town have a communication plan to get this out to the public?

DeLong Correct. We are working on mailers and certainly social media will be a big push but with the, with the outreach if this feels best, intended to be a mailer, just to get that information in multiple different ways.

Wolff Very good. Very good. Anything else? Any other matters to be considered? With that, thank you staff, thank you IT. You're part of staff but we appreciate you. This meeting is adjourned.