

Minutes
WARRICK COUNTY AREA BOARD OF ZONING APPEALS
Regular meeting to be held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
June 27, 2022 at 6:00 P.M.

PLEDGE OF ALLEGIANCE:

MEMBERS PRESENT: Terry Dayvolt, Chairman, Mike Moesner, Jeff Willis, Paul Keller, Doris Horn, Mike Winge and Jeff Valiant.

MEMBERS ABSENT: None

Also present was Morrie Doll, Attorney, Molly Barnhill, Executive Director, Kim Kaiser staff.

MINUTES: Upon a motion made by Doris Horn and seconded by Mike Winge the Minutes of the last regular meeting held May 23, 2022 were approved as circulated.

Chairman Dayvolt explained the Rules of Procedure.

SPECIAL USES:

SPECIAL USE: BZA-SU-22-19

APPLICANT: Custom Sign & Engineering, Inc., by Scott B. Elpers, President

OWNER: Donut Bank Inc., by Chris Kempf, President

PREMISES AFFECTED: Property located on the E side of SR 261 approximately 0 feet NE of the intersection formed by SR 66 and SR 261, Part Lot 1 in Warrick Place II Subdivision. Ohio, TWP. 3988 SR 261

NATURE OF THE CASE: Applicant requests a Special Use, SU 8, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow: an improvement location permit to be issued for a 3’x7’ electronic message board in a “C-3” Highway Commercial Zoning District. *Advertised in The Standard on June 16, 2022*

Scott Elpers with Custom Sign & Engineering, Inc. was present.

Chairman Dayvolt asked for a staff report.

Mrs. Barnhill stated we have all of the green cards except one for Warren Newburgh Property LLC we do have the white pay receipt showing it was mailed correctly. She said the existing land use is a Donut shop. She stated the surrounding zoning and land use to the north and east are zoned “C-3” Highway Commercial Zoning District with commercial businesses. She said to the south is zoned “C-3” Highway Commercial and “C-4” General Commercial Zoning Districts with commercial businesses and to the west is zoned “C-4” General Commercial and “M-2” General Industrial Zoning Districts with commercial businesses.

She stated there is no floodplain. She said they have an existing driveway on Apple Way. She stated the applicant's statement says *An improvement location permit to be issued for a 3'x7' electronic message board in a "C-3" highway commercial zoning district.*

Attorney Doll asked is the owner present.

Mrs. Barnhill asked is the owner not here.

Scott Elpers stated no, but we filed a power-of-attorney.

Attorney Doll asked is it recorded.

Scott Elpers replied yes.

Attorney Doll responded thank you. He asked and that is to you.

Scott Elpers replied yes, would you like a copy.

Attorney Doll and Mrs. Barnhill responded yes.

Attorney Doll asked if you will hand it to Mike because we have had people fall.

Scott Elpers stated I thought it was to keep us away.

Attorney Doll stated no, we are trying to protect people.

Scott Elpers stated I thought maybe there was a hostile environment since I was here last.

Attorney Doll replied no, that step just disappears.

Scott Elpers stated basically what we are looking to do here is to remove the manual reader board sign and increase the height of the sign by about 4-5 feet. He said when they added the highway construction there they raised the road up so that the sign is a little low now so we are going to add the electronic message center into that location. He said it is pretty straight forward.

Terry Dayvolt asked how tall will the sign be.

Mrs. Barnhill stated there is a good picture in your packet. She said the Donut Bank sign is still on the top and it is underneath that.

Scott Elpers responded it is, yes. He stated the entire height of the sign is going to increase but I don't know if that information was included in this because this is just a Special Use but I think it is in our application for the sign permit itself.

Mrs. Barnhill stated I don't have that in front of me.

Scott Elpers stated I think it is but if not we can include that but I think we were increasing by about seven feet is what we are looking at over the entire height. He said I don't know the exact height but I am estimating it about 30' tall to the top. He stated I can get that information.

Jeff Valiant stated that is within our guidelines.

Mrs. Barnhill stated yes that will be part of the normal sign permit. She said they are just here about the message board section of it.

Scott Elpers stated yes, we can go a lot higher according to ordinance. He said I think we are allowed, correct me if I am wrong, I think we are allowed 70'.

Attorney Doll said I don't know what it is.

Chairman Dayvolt asked any questions by the Board. He asked anybody here for....

Attorney Doll stated just what we all need is an electronic picture of a donut.

Scott Elpers stated they are hoping it works too.

Attorney Doll stated it is going to.

Chairman Dayvolt asked anybody here for or against this application. He said seeing none I will ask are there any other questions by the Board. He stated seeing none I call for a motion.

I, Mike Winge, make a motion finding of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to any required State or Federal Permits.
2. Subject to an Improvement Location Permit being obtained.
3. Subject to any required Building Permits being obtained.
4. Subject to the Special Use not being altered to become any other use nor expanded than that which was approved by the Board of Zoning Appeals.
5. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
6. Subject to all public utility easements and facilities in place.
7. Subject to no use of the words, “stop”, “danger”, “look”, or any other word which would confuse traffic.
8. Subject to no revolving beams of light or strobe lights.

The motion was seconded by Paul Keller and carried unanimously.

Mrs. Barnhill stated Scott, we can have your approval ready on Wednesday.

Scott Elpers responded okay, thank you.

Mrs. Barnhill replied you're welcome.

VARIANCES:

VARIANCE: BZA-V-22-16

APPLICANT: Castle Country Academics by Carolyn Peter, Owner/Administrator

OWNER: Century Real Properties by Brent Holweger, Partner

PREMISES AFFECTED: Property located on the N side of Haley Dr. approximately 440 feet NE of the intersection formed by Haley Drive and Peachwood Drive. Ohio Twp. Lot 12A Warrick Place VI Corrected Plat 3711 Haley Drive

NATURE OF CASE: Applicant requests a variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for: two electronic message boards (SU-8); 1 free-standing 8'x21' sign being only 4' from the existing building and 1- 4'x6' sign on the building. All in a “C-3” highway Commercial Zoning District. *Advertised in The Standard May 12, 2022; Continued from May 23, 2022*

Chairman Dayvolt said state your names and sign in please.

Carolyn & Bernard Peter and Kip Husk with Husk Signs were present.

Chairman Dayvolt asked for a staff report.

Mrs. Barnhill stated we have all the green cards except for two. She said one was for Century Real Property LLC was returned to sender and the notice to Haley Properties we have the white pay receipt, both notices were sent correctly. She said the existing land use is a preschool. She stated the surrounding zoning and land use is to the north, south, and east are zoned "C-3" Highway Commercial and to the west is zoned "C-4" all with commercial businesses. She said there is no floodplain and they have an existing drive on Haley Drive. She said the applicant's statement is *wanting to update existing signage to digital technology to promote services and needs*. She stated we do have a recorded power-of-attorney from Brent Holweger giving Bernard Peter the authority to act on his behalf tonight.

Chairman Dayvolt asked so we do have that.

Mrs. Barnhill replied yes.

Chairman Dayvolt asked would you like to add anything to the staff report.

Kip Husk stated we have one clarification it is not an 8'x21' sign it is actually 21' overall height as we had discussed on the last meeting. He said it is only 8' wide and it is 4' x 8' digital sign with a 2' x 8' main head on top of it. He stated just for clarification the other sign is a 3' x 6' digital sign with 1' x 6' main head above it.

Attorney Doll stated and the reason, the conditions that make this sign advantageous for you is you are sort of located off of the beaten path you are not right on SR 66.

Kip Husk & Carolyn Peter responded correct.

Attorney Doll stated you are on the driveway on what used to be the grocery store I think. He said so that is a peculiar condition that would justify the need for a, I'm going to call it, illuminated sign. He asked would that be a good way to describe it.

Kip Husk replied yes, and these are two single-faced signs. He said one is facing east and one is facing west. He stated technically the double faced signs would be considered a single sign but this is a special circumstance really the requirement would be to make it visible from both sides it really has to be two separate signs, two single-faced signs.

Mrs. Barnhill stated and the variance is because the pole sign, the message board one on the pole sign, is only four feet from the building and that is because they have a 50' Marathon easement along the front so they couldn't go any further away.

Several Board members responded oh, okay.

Kip Husk stated that is quite a large pipe there.

Terry Dayvolt said I remember when they put that in. He asked are there any questions by the Board. He stated seeing none are remonstrators for or against this project. He said seeing none he called for a motion.

I, Mike Moesner, make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is the pipeline easement along the front of the property.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.

9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
 - a) Subject to an Improvement Location Permit being obtained.
 - b) Subject to a Building Permit being obtained.
 - c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
 - d) Subject to all utility easement and facilities in place.
 - e) Subject to no use of the words, “stop”, “danger”, “look”, or any other word which would confuse traffic.
 - f) Subject to no revolving beams of light or strobe lights.
 - g) Subject to any required State or Federal Permits.

The motion was seconded by Doris Horn and carried unanimously.

Mrs. Barnhill stated we will have your approval ready on Wednesday.

Kip Husk responded super, thank you.

Carolyn Peter said thank you.

Attorney Doll replied you're welcome.

VARIANCE: BZA-V-22-17

OWNER: William E. Jr. & Linda B. Pfingston

APPLICANT: Kyle Farmer

PREMISES AFFECTED: Property located on the SE side of Yankeetown Rd approximately ½ mile N of the intersection formed by Red Brush Rd. and Yankeetown Rd. Anderson TWP. 3-7-8 6166 S. Yankeetown Rd.

NATURE OF CASE: Applicant requests a variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement

Location Permit to be issued for: a single-family dwelling on a property with an existing single-family dwelling and having less than 50' of frontage all in a "CON" Recreation and Conservancy Zoning District. *Advertised in The Standard on June 16, 2022*

Christina & Kyle Farmer and William E. Jr. and Linda B. Pfingston were present.

Chairman Dayvolt asked for a staff report.

Mrs. Barnhill asked is William or Linda here.

Christina Farmer stated they are both here.

Mrs. Barnhill stated we have all of the white pay receipts showing they were mailed correctly for their notice to adjacent property owners. She said the existing land use is one single-family dwelling and the surrounding zoning and land use in all directions are zoned "Con" Recreation and Conservancy Zoning District with single-family dwellings or vacant. She stated there is no floodplain. She said they have an existing driveway onto Yankeetown Road. She said the applicant's statement says *Wanting to build a new home on existing property to be able to take care of wife's grandparents if or when they cannot take care of themselves. Would possible tear down existing house if needed.* She stated everything is in order.

Christina Farmer stated we do have the green cards except for one.

Mrs. Barnhill asked you got those back.

Christina Farmer replied yes, I'm sorry.

Mrs. Barnhill asked will you hand those to Kim there please. She said thank you.

Chairman Dayvolt asked do you have anything to add to the staff report.

Christina Farmer said the one question she did have was with the existing property would the land need a new appraisal if we were to keep it, the one that is currently there. She asked are you not sure.

Chairman Dayvolt stated that wouldn't be a question for us.

Kyle Farmer stated we were mainly just hoping to keep the existing property on the land now as her grandparents are still very active and still very autonomous. He said this new house is mainly for when the day comes that they find that they can't take care of themselves so we were hoping to be able to keep both dwellings on the existing property but we understand if that is possible and we have to demolish one. He stated we were hoping to keep both.

Chairman Dayvolt asked are there any questions by the Board.

Jeff Valiant asked how soon are you looking to move forward with this if approved.

Kyle Farmer stated there are still a lot of steps left but the next would be the financing and finding someone to build so it really would depend on their time frame and their lead time on how fast they could get started. He stated we would like to move as soon as possible.

Chairman Dayvolt asked so at one point you would be tearing down one house.

Christina Farmer responded if we could keep the house until my grandparents felt they needed to move into our home because they have over five acres so there is plenty of room. She stated because they were to move in with us if we could keep the old property we would prefer that if we cannot however we would tear it down if need be.

Chairman Dayvolt asked any more questions by the Board.

Attorney Doll asked so you really need two variances. He said you are asking to have two homes on a single parcel of land.

Christina Farmer replied yes.

Attorney Doll stated either permanently or for an extended period of time because you don't know when... He asked whose grandparents.

Christina Farmer stated they are mine.

Attorney Doll said okay, alright. He stated so you don't know when your grandparents are going to become unable to live alone.

Christina Farmer replied exactly.

Attorney Doll stated and secondly you need a variance because of the 25' right-of-way. He said so you are asking for two variances. He stated historically BZA gives a temporary right to construct a home on a parcel with an existing property on it, existing home on it, subject to that when the new home is done the old home goes away.

Christina Farmer stated yes, I understand.

Attorney Doll stated so this is a little different and you can't really tell us as we sit here today how long you need the old home or when it would be torn down....

Christina Farmer asked like what you are saying is if we didn't have...if it wasn't possible and we built the new home we would take down the old home right away. She said it was just a question on our part if we could.

Attorney Doll asked well then wouldn't you displace your grandparents.

Christina Farmer stated no, they are going to... when we build the new home it is already going to include their portion like a suite for them so even if we did it right away.

Attorney Doll asked are you telling the Board that you are going to build a new home as soon as you can and your grandparents are going to join you in living in the new home when it is finished.

Kyle Farmer stated if we have to take down the existing house yes.

Mrs. Barnhill asked but you would rather they stay in their existing home for as long as they can.

Attorney Doll said well they would rather...

Jeff Willis jokingly said we don't want to live with you.

Christina Farmer said yes, I think they would prefer to have, you know, they have lived there for a long time so if they could keep it as long as possible but if they can't we have discussed that and they understand. She stated they would be willing to take it down and just move in with us once the new home is built.

Attorney Doll stated is the older home...I don't want to be...I'm not insulting anybody....is it in good condition, poor condition, or what kind of condition is it in.

Christina Farmer asked what condition do you think your home is in.

Linda Pfingston stated no it isn't (unintelligible).

William Pfingston said fair.

Attorney Doll stated fair.

Christina Pfingston said yes, it is just a very old house it is like over 100 years old.

Kyle Farmer stated it is over 100 years old.

Christina Farmer stated it is a very old building.

Attorney Doll said you need a variance for the right-of-way because you don't have 50'.

Kyle Farmer stated we have like 25'.

Attorney Doll said you only have 25'. He stated so it would take two motions. He said there are two issues and the Board should separate them to vote. He stated one is an indefinite permission to allow a second structure.

Mike Winge asked couldn't that be as long as they are in it only.

Attorney Doll replied that is one way to word it Mike. He said it is not to be rented or occupied by third parties or anything like that but we have just never done that. He stated that would be the first for my tenure as Counsel for the Board that we have ever had an indefinite, Molly.

Mrs. Barnhill replied we have done where they have....

Attorney Doll stated two homes on one lot but they have torn one down when they finish the new one.

Mrs. Barnhill replied or nobody else besides that family member was to live in it until they were done with it....

Attorney Doll stated so the Board has that option, I guess Molly is saying, based on precedence and then you have to decide about a right-of-way. He said my only recommendation folks...right-of-ways are really important for emergency vehicles like fire trucks and ambulances and things like that so if a variance is given to you to have a narrow right-of-way, and that would be considered narrow about half the width of a public road, we would probably condition it on signing a hold harmless... He said you are not going to hold Warrick County liable in the future if a fire truck can't get in to put your house out and it burns to the ground and you say well you gave me permission to build it here so why in the world did you do that. He said a hold harmless would say if it is approved, and I am not putting the cart before the horse, but if the Board gave you that my recommendation would incorporate a hold harmless requirement in that motion.

Paul Keller asked so you are stating that we have to have a second motion.

Attorney Doll stated one motion is to have two on there subject to some descriptive term as to how long the older home could remain. He said the second motion is for the narrow right-of-way an exception from the right-of-way requirements. He stated we require 50' so this would be a variance.

Mike Winge stated I think we could have that in that motion as long as they occupy it, the grandparents occupy it.

Paul Keller asked could we put that as a condition clause.

Attorney Doll replied yeah.

Mrs. Barnhill stated when they are no longer occupants of the home.

Attorney Doll said the home must come down probably within a time period. He stated and then the question gets to be how long. He said if your grandparents aren't living in that home any longer, how long do you need to take it down.

Christina Farmer asked what do you think.

Kyle Farmer responded I don't know I have never taken a house down. He asked is there usually like a precedence that you normally give.

Attorney Doll replied yes, I remember, Molly we have listed 90 days is that correct to take it down.

Mrs. Barnhill responded yes.

Mike Winge stated yes, but we've had to renew some of them. He said we granted renewals for them I believe.

Attorney Doll said we have.

Mrs. Barnhill responded yes.

Attorney Doll asked do you think that sounds....are you going to take it down.

Kyle Farmer asked me personally. He said I am going to try not to. He stated if it comes to that yeah. He said it is a really old house so I don't see it being too hard to take down but I have never taken one down before. He stated I am sure there is probably somebody out there that would like to have the beams out of that house, the copper out of the house, and the sheet metal on the roof so I am sure I could probably figure out something or somebody to get it down.

Attorney Doll stated so why don't you tell the Board how long you think you need to take that down when and if that...

Christina Farmer asked after the large home is finished.

Kyle Farmer stated after they don't occupy the house.

Attorney Doll stated they aren't occupying the house.

Christina Farmer said oh, okay.

Attorney Doll stated that triggers taking it down. He asked so how long do you need to take it down then.

Christina Farmer asked four months.

Kyle Farmer replied yes, four months.

Christina Farmer stated four months would be comfortable.

Kyle Farmer said 120 days.

Attorney Doll stated 120 days. He asked does that answer everybody's question then. He asked if anybody feels like making a motion.

Jeff Willis stated we still have the remonstrators to do.

Mike Winge stated and more discussion to do yet.

Chairman Dayvolt asked are there any remonstrators for or against this project.

Attorney Doll stated speak now or forever hold your peace.

Linda Pfingston asked would it make any difference since there is a little over five acres there... She asked don't you have to (unintelligible).

Attorney Doll responded it is one parcel. He said you are all on the same plot.

Linda Pfingston stated we talked about just dividing it.

Attorney Doll responded yeah, I wondered about that when I say that you had five acres. He said you can do that but you still have an access problem.

Kyle Farmer stated yes, because there is still no frontage on the east side of the property. He said there is technically a road there but there is no road because it doesn't exist.

Christina Farmer stated because we would use obviously the drive that they use.

Kyle Farmer stated we would have to use Yankeetown Road. He said we would have to drive all of the way back to the second half of the property and it is still wooded back there so we would have to clear out a spot for the house, which is a lot more work if we were to separate the property.

Attorney Doll stated but think how pretty it would be.

Christina Farmer stated it is a beautiful property. She said I think that is why we would had decided against doing the splitting of it. She stated it would be...

Paul Keller asked can you accomplish all of this in a year. He stated you have two six month periods.

Christina Farmer responded I think as far as whatever they tell us for building how long an expected building time....

Kyle Farmer said they said about 8-10 months I think. He stated so yeah a year sounds doable.

Mrs. Barnhill stated once this is approved you have six months to get a permit and once you get the permit you have two years to finish that project.

Christina Farmer replied yes that is plenty of time.

Kyle Farmer responded yes.

Chairman Dayvolt asked is there any more discussion by the Board. He said I will call one more time for any remonstrators for or against. He stated seeing none I will entertain a motion.

I, Paul Keller, make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is the age of the grandparents and once they are no longer living in the home it will be torn down within 120 days.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month

period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.

10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:

- a) Subject to Health Department Approval.
- b) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
- c) Subject to all utility easement and facilities in place.
- d) Subject to an Improvement Location Permit being obtained.
- e) Subject to a Building Permit being obtained.

Mike Winge seconded the motion.

Chairman Dayvolt stated I have a motion and a second. He asked any more discussion.

Jeff Willis stated I have one question. He said we talked about what happens to the old house. He asked if they would get transferred with work and move away from the area what would happen to the new house.

Attorney Doll asked before or after the old house...

Jeff Willis stated before the old house has been torn down. He said I just want to make sure they can't use that as a rental property or some other way to get around the ordinance.

Attorney Doll stated the condition is it was applicable to the grandparents.

Jeff Willis replied right.

Attorney Doll said if they...

Mike Winge stated they have to live in it.

Attorney Doll stated if their...yeah, some third party live in the new house that isn't their grandparents so technically it wouldn't be qualified.

Jeff Willis said so at that point in time it...

Attorney Doll stated it would be in violation of the ordinance.

Mike Winge stated they could tear the old one down and move into the new one.

Jeff Willis stated I just want make sure that was covered in discussion.

Attorney Doll stated by using the relationship grandparent to describe the parties I think we have it covered.

Jeff Willis replied okay.

Attorney Doll responded but it is a good question.

Chairman Dayvolt asked any more discussion. He stated I have a motion and a second all in favor.

The motion carried unanimously.

Attorney Doll stated so now you can build two for one but now you have to get to them so we need another motion following that format including (d) to give them a variance over the 25' width for the driveway.

Paul Keller asked so we make a motion to give them the grants to the 25' driveway.

Attorney Doll stated it appears to me that the application requires two variances. He said one is two for one and one is hey it is a narrow driveway.

Paul Keller responded okay.

Attorney Doll stated and that one has to have the hold harmless because as I said we have fire trucks...

Paul Keller asked can we just include that in this motion.

Attorney Doll replied no.

Mike Winge asked does he have to do it completely all over again.

Attorney Doll replied I think it is a completely different variance.

Paul Keller responded okay. He asked do they...

Attorney Doll stated they don't have to refile.

Paul Keller replied okay.

Attorney Doll stated it is here it is in the application. He stated they said they needed the 25'

Mrs. Barnhill stated we have always combined them when we could if there is more than one thing we just stick them together.

Mike Winge asked so he has to reread that whole motion.

Attorney Doll stated and I would rather it be two motions to acquire for two reasons.

Mike Winge asked he doesn't have to reread that whole motion.

Attorney Doll replied sorry Paul.

Paul Keller stated here we go again.

Mike Moesner asked would this be variance 22-17.5.

Attorney Doll said pardon me.

Mike Moesner asked would this be variance 22-17.5 instead of...because you have an 18 already.

Attorney Doll responded or an "a" or "b". He said it could be "B" Mike, 22-17B.

Mrs. Barnhill responded "B" okay. She asked so the first one is "A".

Attorney Doll replied yeah.

Mike Winge said right that down, Paul.

Mrs. Barnhill said okay.

Paul Keller asked so now we are going to go for "B".

Attorney Doll responded yeah, now the driveway, Paul.

Chairman Dayvolt stated this is now the BZA-V-22-17B a motion.

I, Paul Keller, make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of

the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.

3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood such condition is...

Attorney Doll stated that is all you have.

Jeff Valiant said the 25' roadway.

Attorney Doll stated the 25' is all we have.

4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
 - a) Subject to Health Department Approval.

- b) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
- c) Subject to all utility easement and facilities in place.
- d) Subject to a Hold Harmless Agreement being executed and recorded.
- e) Subject to an Improvement Location Permit being obtained.

Mrs. Barnhill stated I think you can stop there since this is just the...

Attorney Doll said easement.

Mrs. Barnhill stated easement portion of it. She said the Hold Harmless and we're good.

Jeff Valiant seconded the motion.

Chairman Dayvolt said I have a motion and a second is there any more discussion. He stated the Chairman will entertain a vote all in favor.

The motion carried unanimously.

Mrs. Barnhill stated we are going to have to go back and type these minutes so we will have your approval ready sometime next week. She said you have six months to get the permit for the home. She said we can send you an example of a Hold Harmless. She stated we will email that to you so you can go ahead and get that going and get it recorded.

Kyle Farmer asked where will we go to get it recorded for the Hold Harmless.

Attorney Doll replied the Recorder's office.

Kyle Farmer replied okay. He said thanks so much.

Christina Farmer said thank you so much.

Mrs. Barnhill replied thank you.

Attorney Doll said good luck.

Mike Winge stated Paul wore me out reading all of that.

VARIANCE: BZA-V-22-18

APPLICANT & OWNER: Derek Shawn Miller

PREMISES AFFECTED: Property located on the S side of Clutter Rd approximately 1/4 mile S of the intersection formed by Clutter Rd and Humphrey Rd. Hart TWP. 36-3-8 431 Clutter Rd.

NATURE OF CASE: Applicant requests a variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for: a single-family dwelling not meeting the minimum size requirement of 720 sq. ft. having a total of 690 sq. ft. and also having access by an unmaintained 30' wide right-of-way only. All in an "A" Agricultural Zoning District. *Advertised in The Standard on June 16, 2022*

Derek Miller is present.

Chairman Dayvolt asked for a staff report.

Mrs. Barnhill stated we do have all of the green cards from the notice to the adjacent properties. She said the existing land use is vacant. She stated to the north and west are zoned "A" Agricultural with single-family dwellings or being vacant wooded property. She stated to the south and east are zoned "A" Agricultural and "CON" Recreation and Conservancy and are vacant with wooded acreage. She said there is no floodplain. She stated the street access will be onto Clutter Rd and they will need a driveway permit for that. She said the applicant's statement says they want to *Build a 30'x23' hunting cabin on my property.* She stated they received a variance from the Building Commission to allow the 690 square foot cabin instead of being 720 square foot minimum for a home.

Attorney Doll stated but this isn't going to be your home.

Derek Miller replied it might be.

Attorney Doll asked maybe.

Derek Miller replied yeah.

Attorney Doll asked you are going to live in the hunting cabin.

Derek Miller replied possibly.

Attorney Doll asked you don't have any other home.

Derek Miller stated I am living in a fifth-wheel camper that is 250 square feet right now.

Attorney Doll responded yeah.

Derek Miller said so this will be three times that size.

Attorney Doll stated it will be a palace.

Derek Miller stated and I have lived in an 800 square foot cabin for ten years, which was pretty nice.

Mrs. Barnhill stated the permit if everything is approved will be for a single-family dwelling.

Attorney Doll asked so it could be occupied full time.

Mrs. Barnhill replied yes.

Mike Moesner asked so it will have its own septic system then.

Derek Miller stated yes, I have already got all of that in the works. He said I have already got my soil sample and I am working with the Health Department on that.

Mike Winge said so if he is working with the Health Department that will all be done.

Derek Miller stated yes, I have already started that process.

Attorney Doll said but you own 80 acres.

Derek Miller responded yes.

Attorney Doll asked so why is it that you only have a 30' wide right-of-way.

Derek Miller stated well it is an old road and the County doesn't maintain it anymore and I don't think that I want them to and I don't think you want them to either because it pretty well just goes to my property.

Attorney Doll stated and it is long.

Derek Miller said pardon me.

Attorney Doll stated and it is long.

Derek Miller replied yes, it is 3,000 feet to that cabin and I have had tri-axels out there. He said I had to get rock out there somehow. He stated I think...can you see the driveway on that.

Attorney Doll responded yeah, I think so.

Mrs. Barnhill replied yeah.

Mike Winge asked (unintelligible) back there in the back.

Mrs. Barnhill stated it is over 1,300 feet long from the road to where the property starts and it is old right-of-way that has never been vacated but it is still there. She said the County Engineer verified that for us.

Attorney Doll asked County road right-of-way.

Derek Miller replied yes.

Mrs. Barnhill responded yes. She said we have the map that the County Engineer found and sent to us from a 1910 postal service delivery map and he said it is still there.

Attorney Doll stated it is just 30 feet wide.

Derek Miller said you know what. He said the police were up there during this manhunt and I have had tri-axels back there so I mean... yeah it is very drivable.

Attorney Doll asked is there a structure where the cabin is going to be built now.

Derek Miller replied no, but there was in 1923 when my grandfather was born there.

Attorney Doll responded okay.

Derek Miller stated and they farmed that land too but then they moved down to Dickeyville and they farmed down there and then they moved out Tecumseh High School and they farmed out there.

Mike Winge stated tiny homes are on the move...

Attorney Doll said yeah...

Derek Miller stated yeah, I mean you know with \$6.00 a gallon of fuel this is going to be the norm because their prices...you know the cost of living are going to determine what people can afford to live in. He said I have lived this way off the grid in Montana for 10 years and it is a lot colder out there and my utility bills were about \$1,000 a year. He stated I lived with solar, wind, and propane and the propane was for the refrigerator.

Attorney Doll asked the Building Commissioner, Molly, has approved the building permit.

Mrs. Barnhill replied yes.

Derek Miller responded yes, sir.

Attorney Doll asked for 690 square feet.

Mrs. Barnhill replied yes.

Attorney Doll asked so does he need a variance from us.

Mrs. Barnhill responded yes.

Mike Winge asked why would he need that.

Mrs. Barnhill stated because it is in our ordinance that the minimum size (unintelligible)

Derek Miller said well I could knock it up to 720 square feet if you want me to.

Mrs. Barnhill said oh, 720 square feet I'm sorry it is 720.

Attorney Doll stated it is 30 square feet.

Derek Miller said yeah...

Attorney Doll stated think of what you could do with 30 square feet.

Derek Miller stated I can knock it up a foot you know I mean it is not...it was arbitrary when I applied for this. He said I didn't know the rules but I just know that I want a certain space probably a 24'x30' or 24'x32' somewhere in there.

Mike Winge stated it would be easier if you would just step that up a little bit.

Derek Miller replied right.

Paul Keller replied a lot easier.

Attorney Doll stated and then you don't need a variance for the size.

Mike Winge said yeah.

Derek Miller said okay.

Attorney Doll stated you will probably have to go downstairs and amend your building permit.

Derek Miller stated that's fine, I haven't even started the building permit.

Attorney Doll said all you would even need then is for us to approve...

Mike Winge said the 30 foot.

Attorney Doll stated the 30 foot.

Mike Moesner stated the driveway.

Mike Winge and Attorney Doll both replies yeah.

Derek Miller responded that's fine with me.

Attorney Doll asked you are good with that.

Derek Miller said I can do 32'x24' that's easy numbers I can do that.

Attorney Doll asked are you willing to state that that is your amended application.

Derek Miller replied yes sir I am.

Attorney Doll stated so we don't need a variance for the size discrepancy we just need a variance for the right-of-way.

Mike Winge stated that is a lot easier for you.

Derek Miller replied that's....

Attorney Doll stated and it would be like the last folks Mr. Miller...Mr. Miller it is not Miller.

Derek Miller replied yes.

Mike Winge replied yes.

Attorney Doll stated it would be the Hold Harmless. He said if we have to ever get a fire truck back here.

Derek Miller said sure.

Attorney Doll said she will be kindling, I mean it just will, it will go...

Derek Miller stated I know the people on the fire department in Lynnville.

Attorney Doll responded okay.

Derek Miller stated I understand that is understandable of course.

Attorney Doll replied okay. He said I think we just need a variance for the right-of-way with a Hold Harmless. He stated it is a Paul special.

Doris Horn asked do we still need to read the whole thing.

Chairman Dayvolt asked anybody for or against here for this project.

Doris Horn asked do we still need to read the whole thing, Morrie.

Attorney Doll replied yes.

Chairman Dayvolt said seeing none any more discussion by the Board.

Jeff Valiant stated you have that as 30'x23' and 30'x24' will get you right there so one more foot.

Derek Miller replied sure that is fine.

Jeff Valiant stated that will get your 720 square feet.

Derek Miller stated I didn't know what the rules were that there was a minimum on building on a home or anything like that. He said I just know I wanted to be small.

Jeff Willis said sure.

Derek Miller said because that is what I can afford to build mainly and maintain.

Chairman Dayvolt stated seeing no remonstrators is there any more discussion by the Board. He said the Chairman will entertain a motion.

I, Doris Horn, make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is a pre-existing County road right-of-way is only 30' wide.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.

7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
 - a) Subject to an Improvement Location Permit being obtained.
 - b) Subject to a Building Permit being obtained.
 - c) Subject to a Hold Harmless Agreement being executed and recorded.
 - d) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
 - e) Subject to all utility easement and facilities in place.

Mike Moesner seconded the motion.

Attorney Doll said there won't be utilities.

Derek Miller stated no, it is going to be off the grid.

Doris Horn asked it is just going to be...

Derek Miller responded it is going to be propane, solar,

Attorney Doll said so he can't comply with "e"

Derek Miller said and a generator.

Jeff Willis stated he could have easements that run across his land.

Mrs. Barnhill responded there you go. She said I mean you never know if there is going to be an odd easement that is running through somewhere.

Attorney Doll replied okay.

Derek Miller stated I don't have the money to run electricity 3,000 feet. He said that is going to be more than my house.

Mike Moesner responded yeah.

Derek Miller said that would be....

Chairman Dayvolt stated I have a motion and a second any more discussion by the Board. He said all in favor.

The motion carries unanimously.

Derek Miller stated thank you for your time.

Attorney Doll said good luck.

Derek Miller said I appreciate it.

Mrs. Barnhill stated we will email you that hold harmless in a word so you can finish it and get it signed, notarized, and recorded.

Attorney Doll said wait a minute. He asked do you have an email address.

Derek Miller replied yes, sir.

Attorney Doll stated I just thought I would check.

Doris Horn stated he still lives in Lynnville.

Derek Miller stated thank you.

Mrs. Barnhill replied you're welcome.

VARIANCE: BZA-V-22-20

APPLICANT & OWNER: Ortez Ayala, LLC by Melvin Ortez, Member

PREMISES AFFECTED: Property located on the N side of High Pointe Dr. approximately 0 feet E of the intersection formed by Bell Rd and High Pointe Dr. Ohio TWP. Lot No. 40, 1, 1 High Pointe Centre Sec 2 Ph. 2 (Lot 40); High Pointe Centre North Sec 3 PUD (Lot 1); High Pointe Centre North Sec 4 PUD (Lot 1) Subdivisions *8480 High Pointe Dr.*

NATURE OF CASE: Applicant requests a variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for: the construction of a 4,000 square foot covered patio addition to the existing covered patio attached to the Fiesta Acapulco Mexican Restaurant and a new

emergency exit pedestrian bridge (required by the Building Code). The covered patio and the bridge will be in the Lake Maintenance and Storm Detention Easement, in a “C-4/PUD” Zoning District. *Advertised in The Standard on June 16, 2022*

Jim Morley Jr, project engineer was present.

Mrs. Barnhill said staff report is we have all the return receipts besides 1 and we have the white pay receipt saying it was mailed correctly, the existing use is a restaurant, the surrounding zoning and land use is to the south and west are zoned “C-4” General Commercial being High Pointe Centre North Sec 2 Ph 2 and Bellmore Landing Sec 2, to the east is zoned “C-4/PUD” being part of High Pointe Centre North Sec 2 Ph 2, to the north is zoned “C-4” and “C-4/PUD” being High Pointe Centre North Sec 4, Bell Martin Sub, and Bell Road Apartments East. She said partially in an A floodplain but not where the proposed addition is located. She said they have an existing drive on High Pointe Center Drive. She continued they did receive approval for a 3,800 square foot addition to the patio was approved in December of 2021 but never built, their statement says *The applicant is requesting a variance to construct 4,000 square foot covered patio addition to the existing covered patio attached to the Fiesta Acapulco Mexican Restaurant and a new emergency exit pedestrian bridge (required by the Building Code). The covered patio and the bridge will be in the Lake Maintenance and Storm Detention Easement, in a C-4 PUD Zoning District.* She said they did take this to a Drainage Board Meeting and received Drainage Board approval June 13, 2022 for this project. She said so it is all in order.

Chairman Dayvolt said is there anything to add Mr. Morley.

Jim Morley said only to say this is pretty much the same thing you approved last time, except on this pretty picture the squiggly line that comes out of the top left corner is the building code required a second means of egress and so we had to run a bridge across the creek over to that parking lot and that is also why it went back to Drainage Board to make sure that they were ok with it and they were.

Chairman Dayvolt said questions by the Board.

Attorney Doll said so it is a building code, the difference really about what was approved last time is this second exit per the building code.

Jim Morley said yes.

Attorney Doll said so that is the justification for this Variance.

Jim Morley said yes that building code required a secondary means of a egress for the safety so to speak, and so that was not included on the first Variance request and that’s why we had to go back to the Drainage Board and come back here.

Mrs. Barnhill asked did they have them add a bathroom or something like that too.

Jim Morley said there is an enclosed space, on the patio we talked about doing something like that last time we were here like a drink station, and so we didn't have the bridge going back out as a second means of egress and so...

Attorney Doll said so that is really why you are here.

Chairman Dayvolt asked questions by the Board. He asked any remonstrators before or against this. He said seeing none, are there questions by the Board.

Chairman Dayvolt said he will entertain a motion.

I, Jeff Valiant, make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is the building code requires second egress for safety reasons.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.

8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
 - a) Subject to an Improvement Location Permit being obtained.
 - b) Subject to a Building Permit being obtained.
 - c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
 - d) Subject to all utility easement and facilities in place.
 - e) Subject to all conditions of BZA-V-08-21, BZA-V-08-30, BZA-V-11-26, BZA-V-12-25, BZA-V-17-11, BZA-V-20-16, and BZA-V-21-33.
 - f) Subject to the new Hold Harmless.
 - g) Subject to approval with the Drainage Board.

Motion was seconded by Mike Winge, and carried unanimously.

VARIANCE: BZA-V-22-21

APPLICANT & OWNER: SWH Property Group LLC by Sabino Humbane, Owner

PREMISES AFFECTED: Property located on the S side of Oak St. approximately 817 feet SE of the intersection formed by Oak St and Clover Cir. Ohio TWP. 15-6-9 8311 Oak St.

NATURE OF CASE: Applicant requests a variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued on: property not having road frontage on a dedicated County maintained roadway with access by a 30' ingress/egress easement, all in an "A" Agricultural Zoning District for an unattached accessory building (60'x80') and a single-family dwelling (30'x40'). *Advertised in The Standard on June 16, 2022*

Scott Castle was present.

Mrs. Barnhill asked Scott do we have the owner here.

Scott replied no, I got the affidavit recorded and I never got it back in the mail, so I don't...

Mrs. Barnhill replied do you have a power of attorney.

Scott said yea I have the limited power of attorney.

Mrs. Barnhill said yea I went over that so we don't have a copy of that at all.

Scott Castle replied they never sent it back to me, that day that I got it notarized though and everything and took it over and recorded it that day she even said that it was recorded because they had to record it the next morning because they stopped at some certain time...

Mrs. Barnhill replied yes they do.

Scott Castle continued I can get him on the phone though right now, FaceTime.

Mrs. Barnhill said no we can't do that. She asked Morrie what should we do.

Attorney Doll responded we are supposed to have a copy of the recorded, it says in our rules that you do. He asked what day did you record this.

Scott Castle responded uhhh...

Mrs. Barnhill said it was last week.

Scott Castle said yes it was last Friday I think.

Attorney Doll said so today is Monday, are you talking about 3 days ago.

Scott Castle said yea, or no it was the Friday before that wasn't it....let me see. He said it was Tuesday of last week.

Attorney Doll asked do you have a receipt.

Scott Castle said umm...

Attorney Doll said you paid a fee.

Scott Castle responded yes I do, I should have that out in my truck now that you said that, would you like me to go out and get it.

Mrs. Barnhill said well if he is able to present it after the fact it will have the date of recording on there and we could use the date.

Attorney Doll said yea.

Scott Castle said thank you, again I apologize I don't know why I haven't received it yet.

Attorney Doll said so Molly you want him to bring that to you tomorrow or do you want him to go get it now, it is in your truck.

Scott Castle said it should be, the receipt should be.

Mrs. Barnhill said I would like the recorded power of attorney for it tomorrow.

Scott Castle said I can go over to the recorder's office first thing in the morning and get that to you.

Mrs. Barnhill said yes you probably will have to go pick that up.

Attorney Doll said so we could consider it subject to the delivery of the copy of the P.O.A.

Mrs. Barnhill said yes.

Attorney Doll responded ok.

Mrs. Barnhill said we want it to be dated.

Attorney Doll said predates.

Mrs. Barnhill said predates the meeting.

Mrs. Barnhill continued ok, we have all of the green cards except for two. She said the first is for Mary E. Miller and second is Linda Sue & James Allen Jr but we do have the white pay receipts showing they were mailed correctly. She said surrounding areas to the north, east, and west are all zoned "A" Agricultural with single-family dwellings, to the south is zoned "R-1A" One-family dwelling with single-family dwellings being High Ridge Pt. 3 Sections A & B. She continued there is no flood plain and they will need to file a driveway permit for access onto Oak Street. She said they want to take the existing unattached accessory and turn it into a garage and add the residence on top of it and then build a different unattached accessory, a detached one. She said we have received two emails against this proposal and there are copies included in your packets. She said the applicant's statement says *because we are required to have this done in order to build on this property*. She said 2 complaints were emailed to us, one we received on June 7th from Steve Robards that said *I oppose the zoning variance requested by Scott Castle at 8311 Oak St. Newburgh, Indiana*. She read *I oppose the unattached accessory building and a single family dwelling as the property does not have frontage to a dedicated county maintained roadway*, he left his contact number and thanks you for the consideration. She said we have another one from a Doug and Lisa Sprague that says *as we will be out of town when the hearing is held, we are emailing our opinion regarding this matter, we are 100% opposed to this change and we also have concerns that some type of trucking company is operating from this location, this is a residential area with single family homes and we have chosen to live in this neighborhood for 30 years and*

we feel this business is not compatible with the area and the type of activities that we fear would occur from a trucking company which would disrupt and harm the character of the neighborhood.

Mrs. Barnhill asked did everyone find the emails in there, besides the 2 complaints everything is in order for this application.

Chairman Dayvolt asked do you have anything to add.

Scott Castle replied well as for a business running out of there I apologize that I didn't realize, I had just started a business and didn't know I needed a physical address and since I had the property I just used that as a mailing address, but I have since because apparently everybody is against the business being there, and again it's not a business it was just a mailing address, I also found out just recently that you are supposed to have a special permit to use that as a mailing address, I didn't know that. He continued so , I have a place at 1250 South Green River Road that is going to be the actual business address and it takes about 35 days for everything to get changed over with the FMCSA and DOT, so once that is done I mean, again it was only a mailing address and I never had any intentions of running a trucking company out of there, I mean this is the trucking company and I don't have semi's or big equipment trucks or anything like that you know, the only thing that is going to be in there is the equipment doing that work if I am allowed to build the house.

Chairman Dayvolt asked you don't own the property, am I right.

Scott Castle said I am contracting the property, I needed a lender because of the fact that me starting a new business I do not have 2 years of taxes to be able to go to a bank and get the financing, so I contracted through Sabino Humbane, he is my lender so...I am buying it on contract, correct. He said as soon as it is built and the appraisal comes through then I will be able to get it in my own name at that point, after everything is done and I have my taxes.

Chairman Dayvolt said so you are going to use this property as your personal residence, is that what you are talking about.

Scott Castle responded yes, yes these are the plans of the house right here, this is the plan of the house....

Chairman Dayvolt asked questions by the Board.

Mike Winge said so you are going to build the house on the ground you are buying on contract.

Scott Castle replied yea believe it or not I actually had already purchased it on contract the first time and because I couldn't get the financing due to not having the taxes, I have known Sabino for a long time and spoke with him, he then purchased it for me and then sold it back to me on contract again. He continued I know it seems a little complicated but you know with todays, everything that's going on with covid over the last 2 and a half years and everything whatever it takes to get my house built.

Attorney Doll asked what are you going to do with this unattached accessory building.

Scott Castle replied it is literally going to be my toy and fun barn, that's it. He said I am going to put an apartment in there for one of my sons, it is not being rented or anything like that, it is just in case but I don't even think we are doing that.

Chairman Dayvolt questions by the Board

Mrs. Barnhill said well you couldn't put an apartment in there.

Scott Castle replied well not an apartment, it wasn't going to be an apartment it's not like going to be anything huge, like a spare room.

Jeff Willis said a spare room for him to stay if he needs to.

Scott Castle said yes exactly, it wasn't going to be a kitchen or anything like that.

Mrs. Barnhill said no full kitchen.

Scott Castle said no nothing like that, but it's literally....I'm not going to be storing hazardous materials, I'm not going to have trucks, it's going to be a garage, my toy barn. He said there is one right across the street and one right behind it.

Jeff Valiant said so currently all that's on the property is a garage and you are building a residence on top of that garage and then building a detached.

Scott Castle said yes.

Jeff Valiant replied gotcha, ok.

Jeff Willis asked was there a house there before.

Scott Castle said yes there was it burnt down 2 years ago and that is when I brought the property, and I demoed the property and got rid of all that.

Jeff Valiant asked was that in the area kind of at the front of it here.

Scott Castle said yep.

Mike Moesner asked the outline of the garage, it that going to change

Scott Castle said so the footprint of the garage will change by 12 feet to the back and that is right here, this section is the only thing that is going to change, it is just an addition on the back section.

Chairman Dayvolt asked you have a 30 foot easement to get back to the property, is that right then.

Scott Castle replied yes, sir.

Chairman Dayvolt said has that been for a long time or how do you actually get to that property otherwise.

Scott Castle said so this is Oak Street and there is debate on whether this is Oak Street as well we didn't know and so finally I think that the county engineer said that this is not Oak Street but it is easement to this property and this property.

Chairman Dayvolt said and that's been here a long time then.

Scott Castle said yea forever.

Chairman Dayvolt said we need to recess for 5 minutes @ 7:18pm.

Doris Horn asked are those your semis parked along the side here.

Scott Castle said no that's not a semi it is just a trailer.

Doris Horn replied oh ok.

Mrs. Barnhill said should we wait for....

Reconvened at 7:20pm.

Scott Castle said I am sorry for misspeaking earlier too, about the apartment I am just nervous.

Chairman Dayvolt said the one thing that is on my mind is this 30 foot ingress and egress easement.

Mrs. Barnhill said so I think Highpoint Subdivision is kinda around it, High Ridge I mean and I think that it was done when that subdivision, I don't know when that was recorded but that's an older subdivision but it was never dedicated to the county so it looks like old right of way but it is in his deed as ingress egress easements.

Scott Castle said yea that's what I said there used to be a house there, that was there for 30 something years.

Mrs. Barnhill said looking at the aerial, it looks like a road.

Scott Castle said because the neighbor across the street paid to have it.

Mrs. Barnhill said it plots really well.

Chairman Dayvolt asked are there any more questions by the Board, he continued are there any remonstrators for or against, please sign in at the podium and state your name please.

Steven P. Robards approached the podium and stated his name. He said our property adjoins the property in question to the north and there has been a lot going on there in the past 2 years since the home that was on their burnt up. He said Scott cleaned up the property and then he excavated the concrete footer, all that was there leaving a hole. He said he filled all that in with dirt and now he proposes to dig that back out and have a pond, now there is just a small hole there with water in it that is kind of being used as a duck pond so now there is a white truck, a shipping container, and on the photo you can see a goose neck trailer that he used in his trucking business and that has been there for probably a year or longer. He said that truck has just been sitting there in various places on his property and the shipping container he is using for storage and that has been on the property for a year or longer so then to come back to the property he wants to add the house onto the garage, it's about 10-12 foot from my property line to the back of this garage which would be the back of the house. He continued, so he wants to put the front of the house facing the south which would be toward the other neighbors back yards and then moving on down he wants to put the accessory building on the back end of the other property so we oppose all that. He said the main reason that we oppose the home single family home, is the privacy issue is because the back of the home is right above a patio that we use for my wife and I just sitting enjoying the retirement and maybe some of the other neighbors have something else to add, but that is the reason we oppose. He asked the Board do you have any questions.

Jeff Valiant said so basically because his residence is going to be on top of the garage, that what it is.

Mr. Robards said and then the front of the home that he proposes will face the rear of the neighbors' homes, it doesn't face the easement or the street, it faces the back of the other residences homes.

Chairman Dayvolt asked did you have anything else or is there anyone else who would like to talk.

Jim Allen approached the podium and stated his name. He said we live directly south of the property, and I think the last I heard today is the property is going to face east towards the easement ok, but that being said we have had a trailer with a side by side and a golf cart sit on the property and hauled off to wherever numerous times and different equipment coming in and out of there and I just, my wife and I feel that it's going to be a business. He said why you would need a 60x80 garage and all of these trailers if you weren't going to run a business, right now there are 3 or 4 trailers parked on the property. He said one of the trailers is listed as rentable on Facebook and listed that address and it is stored at that address and that's one of the main reasons....I mean we built our house 34 years ago and our house is over 300,000 and I don't see that it is a benefit, that it enhances the property or value of the property. He said Bell Road, going around it is a residential neighborhood which he does to and from with these goosenecks with all this equipment on it, I don't see how that's really very safe in a residential are. He said you have Bellevue down the road with these million dollar homes quarter mile down the road, I just wanted to put my two cents in.

Chairman Dayvolt said the equipment, is it tractors, excavators....

Jim Allen said there is excavators like he said there is a little duck pond currently, he built a little structure for the ducks but equipment to and from, I told my wife because we can see out our back door, we actually put up a privacy fence just recently but we had another one there before but had

a taller one put up. He said one day he said look there's a Lexus SUV sitting there and a side by side and gold cart and it sit there all that day and the next morning and its gone, but I feel and the property isn't even his yet and he is doing, storing all this and coming in and out and wants he gets the green light it is just going to be open season and there is no telling what you are going to see, but that is just my opinion. He said we are all great neighbors, they have been there longer than us 34 years and there is several people that had to work and couldn't be here. He said Jim and Linda I mean, I can answer any questions.

Chairman Dayvolt said any questions by the Board, he then asked any other remonstrators.

Doug Sprague approached the podium and stated his name. He said I was able to make it back from vacation, I had emailed my opposition to this mine and my wife's opposition, I think this whole situation is going to be detrimental to the neighborhood as you can tell a lot of the people have been here for several decades and this is the first time there has been a situation like this, it's been controversial. He said right now I look out my back window and there is 2 trailers just sitting there behind my back window just beyond my property, there has been a gooseneck there and it's not there now but who is to say it won't be there tomorrow or next year or next month. He said I heard that it's not going to be this, it's going to be this and it seems like there are a lot of loose end associated with this and my concern is that who is to say that there won't be trucks coming and going, there is nothing that says trucks can't come and go from this property. He said we have seen trailers come and go and he said my concern is obviously it's going to create a lot of noise and a lot of dust and there will be a lot of issues having a trucking company. He continued I don't understand how you can operate a trucking company out of a residential area, this is where we live and this is our homes I have been in my house over 30 years and like I say we have never had any kind of situation like this but there appears to be more information that is available that we are previewed to. He said well this is the back of the property, well that didn't tell me where it's going to be, is it going to be directly behind my house or behind the neighbors or what. He said I know there would probably be other neighbors here but one of the rental properties and one is an elderly person, another neighbor voiced opposition to us so I have a lot of concern because I don't know what is going on right behind my house. He said there has been innuendos made that the property lines are off even though the property locating pins are located and we know where the property lines are there have been insinuations made that they are off so there is a lot of sore associated with this project, if you want to call it a project. He said like I said there are a lot of things that are unknown and I don't get a lot of comfortable feeling unless I have more specifics and more information and I don't have this on this. He said I have been an engineer for 40 years and there just doesn't seem to be a lot of true definition as to what on earth is going on, seems like every day there is a different comment or something else going, there was even a comment made there was going to miniature cows or something like that was mentioned to a neighbor and we certainly don't want cows because miniature cows don't have miniature flies associated with them. He said they don't have miniature smells associated with them either, I grew up on a farm so I am familiar with how that works and there is a lot of work with it so that is my comment, like I said my wife and I are both in opposition of this. He asked does anyone have any questions.

Chairman Dayvolt asked are there any questions from the Board. He said thank you my Sprague. He asked if there were any more remonstrators, come forward.

Julie Robards approached the podium and stated her name. She said Steve here is my husband and we live right next to the property in question and I am getting very disgusted with looking at freight trailers, someone up here mentioned they were semis, they are not semis but freight trailers like you rent at Bryant on....

Attorney Doll said shipping containers....

Julie Robards said yes shipping containers, like they have there is 2 of them. She said there is a red one when I look out my dining room window that is my view, when I look out my kitchen window there is a blue one right in front of me and the red one has been there for over a year. She continued I don't know of when that might be moved but I am ready for it to be moved today and there just seems to be a lot of changes with the property coming in with bobcats or help me Terry... The little equipment you can smooth out your ground with and first there is a white one that comes and another one....

Mike Moesner asked you are talking about equipment that you need to prepare to build and usually that equipment is there for the duration of that.

Julie Robards said this has been going on for a long time and that property has been dirt since the burned up house has been buried there, it's been excavated several times over and over, then it grows up in some grass then it is excavated again, the backyard doesn't get mowed but every 3 weeks or so and the dogs come on our property..... I don't want to be growled at, that is my property where I live... I don't have pets because I don't like pets, I don't want dogs growling at me when I am walking or sitting on my patio during my retirement I don't want dogs around me. She said I was told the dog has no teeth well I have teeth and I don't have an appreciation for that. She continued and then it was said while we were at this meeting that the business address is going to be 1250 South Green River Road and when I google that it comes up to a merchants mall.

Scott Castle (from the audience) said it actually comes up to Washington Square Mall.

Jeff Valiant said we aren't going to banter back and forth in the audience, you can address your questions to the Board and you will have a chance to respond I just don't want to get into this.

Julie Robards said I just quickly googled it because I wondered if there was some kind of business property that he could park the gooseneck and trailers, freight trailers to be parked, equipment and it comes up it is the merchants mall, Washington Square Mall. She said I am concerned about how that might happen, I mean how do you run a business out of Washington square mall without renting the mall store. She repeated so I am concerned about that, our neighborhood has been very calm, quiet long-term residents there, and to have all of this going on right in the middle of Oak Street and Paulie is in the middle of the residential area, is not appropriate for our neighborhood it is detrimental to our neighborhood.

Chairman Dayvolt asked are you saying the house was buried on the property.

Mrs. Robards responded some of it was hauled off, some of it was put in a hole. She said there was a swimming pool on the property behind the house and that swimming pool was taken out and

put in a hole and when this variance, when we got notified of this variance by the letters, Scott was running, well appeared to run this business and hauling other vehicles with golf carts and that sort of thing that had been mentioned, he had stickers all over his pickup truck for the aggregator which is doing driveways, all of the stickers were on his truck until we were notified of this variance and now suddenly all the stickers are off so to me that is a bit sketchy. She continued I am taking all the stickers off my truck make it look good for this meeting and if this variance get approved, I would fully anticipate the stickers coming back and business dealings being run out of it.

Chairman Dayvolt asked is there any more questions by the Board, are there any more remonstrators.

Jeff Valiant said could you ask for non-repetitive please for the sake of time.

Jon Devillez approached the podium and state his name. He said I am not going to repeat much, I agree with what was said and I live just southeast of the property, my property adjoins his by 10 feet and my major concern is he is buying this on contract and gets all of this built, residence put up and all this and then defaults on that contract, then Sabino gets it back what will he do with it. He asked will he rent this house out, rent the building out that is just my major concern.

Jeff Valiant said the same thing that would happen if the bank took it back over, there is no way to predict that but it is no different than defaulting on a bank loan.

Jon responded ok that is all I have.

Scott Castle said as you can see at the very front of the property in the center, it is also where the garage doors are, they face east. He said this house was never going to be built facing north or south, it has one window that could possible look into Robards back yard, and the only reason for this window is by law you have to have a second one that is the only reason. He said these windows are above 10 feet so it wouldn't be looking in because there are no windows that face that way, he said there are no windows that face the other way other than the door and a window right here but they face south and again I am 70 feet from the south property line. He continued as for removing the stickers from my F250, yes I did remove them and the reason why is because a condo that I own, I'm not allowed to have them so I had to have signs made that get stuck to the side of my bed, it had nothing to do with this meeting or anything else, you can call the condo and ask them. He said the President of the Board asked him to remove them, no longer allowed to have commercial lettering on vehicles so that is why it came down, not for this meeting and not for this house. He said as for the property, yes there are 2 Conexus on there and they are for storage I can show them both to you...

Jeff Valiant asked will those go away...

Scott Castle said yes they will, they are there because literally one is storing materials and one is storing furniture and my personal belongings. He said here is a picture of both of them he said this one I had delivered not 15 days ago and I am storing materials in it right now to the side, I just had \$16,000 worth of fencing materials delivered for the fence that is going up, as for property lines and easements and stuff like that, Morley I have contracted and they will be out to do a certified

survey of the property and set pins, it is going to cost me \$3200 which none of the other neighbors are paying for because they believe that it is where the pins are. He said if that's where they are then that's where they are and if it's not, it's not, it is what it is. He said at the end of the day I am not trying to run a business out of here, I didn't realize I wasn't allowed to have it as a mailing address and that has changed, as for 1250 South Green River Road you know what, you are right 10 years ago it used to be the merchants mall, 3 and a half years ago it was purchased by Chad Hudson and myself and Chris Fulcher. He said there is a company running in it right now, it is called Composites Unlimited, it is a fiberglass repackaging plant, and it's the very south end of Washington Square Mall. He said it used to be Merchants Mall, used to be Elder Biermann,

Jeff Willis said Elder Biermann that was the one I couldn't think of.

Scott Castle continued in fact if you would have seen, today, we literally just had the new air conditioning units sat on top of the building today...

Jeff Valiant said so your office for your business is in there.

Scott Castle responded yes, I am not going to run a business off this property

Mike Moesner said I have a question for you, you were talking about property lines and disputes, you are going to have to get a building permit to build your house, have you had a building inspector come out on this for any reason yet.

Scott Castle said so they came out for the demo, they came out for the utilities because I had a utilities permit and so we had all the new utilities put in, all the new plumbing you know all of that was done, but yes whomever the gentleman was I talked to him about this and they said he didn't see any issues.

Chairman Dayvolt said now as far as any disputes with lines and stuff when he comes to Area Plan Commission in order to get an improvement location permit it all has to be in line with the County.

Mrs. Barnhill said yes and the deed plats perfectly and that is what we went off of to do the plot plan for the building and it shows that this house is 7 feet off the line in dispute, the minimum setback for a home is 6 feet so he is 1 foot over the requirement.

Chairman Dayvolt said so that is a non-issue than, that is one of the things I was concerned about.

Scott Castle said and as for my dog I apologize she is like this big, she is a Frenchie and one day she did come over there, she really doesn't have teeth she cannot bite...

Jeff Willis said but you are putting up a fence... that wouldn't be an issue and you have a right to have a dog.

Jeff Valiant said it seems like all of the brought up the trailers, not the containers but the trailers...

Scott Castle responded so as for the trailers here I will pull the other camera up and show you, I do have a couple trailers that are sitting in the back. He said one is a dump trailer it is a 6x10 dump trailer...

Jeff Valiant asked are these going to stay there or are they going to go in the barn...

Scott Castle said they would go in the barn but that's another question, if I'm not allowed to have trailers am I allowed to have my camper sitting on my property.

Jeff Valiant said well I have a trailer...

Scott Castle said that was part of it, I want to put my camper in my barn but as for the trailers in the back, um yes I do have my enclosed trailer sitting back there and my dump trailer and again I moved them so they weren't in the way of the people bringing in the fencing materials because they couldn't bring them in all at once because they didn't have them all at once. He said so they were coming in on a couple different trucks so I moved everything out of the way because in fact where one of the trailers had been sitting that is where they are going to set all of the fence materials.

Mike Moesner said yea you have to be flexible in construction.

Jeff Willis said so the trailers, are they work trailers that you use for you work or are they your personal trailers.

Scott Castle replied they are my personal trailers, not one of these trailers are registered to anything but Scott Castle. He said even my truck and it is just an F250, my other truck and that was the other thing, the one who said the aggregator it was sold 7 months ago, that's why those stickers came off, so I didn't have any plans of having semis or trucks or running an actual trucking company.... If you look at a trucking company that is O'Brian, that is a trucking company. He said if you want to talk about businesses' there is an excavating company down at the end of the subdivision...

Chairman Dayvolt said even if he did start one they would be back up here because he would be operating it illegally.

Mrs. Barnhill said the variance is for a single family dwelling with access by easement, if it turns out he is running a business out of there later on after the fact then they can file a complaint and he would go back to Area Plan Commission for a zoning violation.

Mike Moesner said so that won't be an issue, you just can't run a business out of it.

Scott Castle said I had no intention, I literally didn't know, I just needed a physical address to send my mail that was it.

Jeff Valiant said well I'm sure you understand with all the trailers and stuff....

Scott Castle said I understand the concern and there is no semi-trailer there is a 30 foot gooseneck but yes I did pick up some stuff, would come home late and park my trailer, get in my jeep and run over to my condo and sleep and come back and leave the next day but it's not like trucks were coming in and out.

Chairman Dayvolt said so what about this side by side and Lexus....

Scott Castle said I don't think it was a Lexus I think it was a Mazda....but anyway yea it was literally 3 little pins.

Chairman Dayvolt said as part of the gaiter trucking...

Scott Castle said I could pull up my cameras at the building right now. He said am I allowed to have my empty trailer at my property.

Chairman Dayvolt asked commercial trailer or personal trailer.

Scott Castle said personal trailer.

Attorney Doll asked do you use it for your business.

Scott Castle said sometimes yes, see that is the problem because I also use it to go pick up equipment to work on the property.

Attorney Doll asked equipment to work on this property.

Scott Castle said yes.

Attorney Doll said this is an agricultural zone piece of property, this is a neighborhood, there are 10 permitted uses of agricultural property and unfortunately one of the gentleman said at one point in time there was an indication that there would be livestock on this property and among those 10 permitted uses, that is one of the permitted uses.... You can breed cattle on this property but you cannot run a business.

Scott Castle said yea.

Chairman Dayvolt said Morrie during the course of his building, he can have equipment....

Attorney Doll said he can have equipment, he can have a backhoe out there he can have something he is using in the construction or improvement of the property but he cannot operate a commercial business for hire to others.

Mike Moesner said he is saying he is hauling this equipment with his trailer but it is for the construction part of it.

Attorney Doll said if you are hauling it there and using it there and then hauling it away to somewhere else that is permitted during construction. He said if you are storing it there and waiting for the next job somewhere else than that is operating a business.

Mike Moesner said if I understand him right he's using the equipment there and working on the property.

Scott Castle said it doesn't sit there and I don't store it there, it may sit there for a couple days because I am working there but I don't it's not for hire, I don't take it somewhere else, I don't store it on the property.... Like I said once I found out that even having that as a mailing address once I found out which I literally found out a week ago

Chairman Dayvolt said well what they are telling you if that is in your business once you are done with your construction you have to leave it at your business, you won't be allowed to have it there.

Scott Castle said no I understand unless we are doing yard work, right.

Attorney Doll said this accessory building is huge, it's already 220 sq. ft., I mean it's a lot bigger than the house, the house is 30x20....

Scott Castle said no it should be...

Attorney Doll said a single family dwelling 30x40, so isn't that 1200 sq. ft.

Scott Castle said yes but the downstairs section the whole addition is a room too.

Mike Moesner said there are garages all over up where I live that is way bigger than the houses.

Mrs. Barnhill said yea.

Scott Castle said well look at the one right across the street.

Mike Moesner said with everything in them, RV's and tractors.

Scott Castle said it is 50X120.

Chairman Dayvolt said ok, any more questions for Mr. Castle.

Scott Castle said sorry I took up so much of your time.

Chairman Dayvolt said I will entertain a motion

.
I, Jeff Valiant will make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is...

Attorney Doll said the Variance is only necessary for the easement right.

Mrs. Barnhill said yes.

Attorney Doll said and it's used by other guys in the neighborhood.

Jeff Valiant said the guy across the other side of the easement.

Attorney Doll said on the east.

4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon

advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.

10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:

- a) Subject to an Improvement Location Permit being obtained.
- b) Subject to a Building Permit being obtained.
- c) Subject to a Hold Harmless Agreement being executed and recorded.
- d) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
- e) Subject to all utility easement and facilities in place.
- f) Subject to receiving the power of attorney recorded prior to this meeting.

Attorney Doll asked you will get that tomorrow.

Scott Castle said yes, first thing.

Jeff Valiant said I would make sure that you follow being compliant with the zoning ordinance and have no business on the property.

Mrs. Barnhill said and if not the complaint is on our website, if anyone would like to file a zoning complaint.

Mike Winge seconded the motion.

Attorney Doll said roll call.

Mrs. Barnhill did roll call.

Terry Dayvolt, neigh

Jeff Willis, yes

Doris Horn, no

Paul Keller, no

Mike Moesner, yes

Jeff Valiant, yep

Mike Winge, yes

Mrs. Barnhill said 4 yes' and 3 opposed so the motion would carry.

Scott Castle said thanks guys', I understand that there are some concerns but I promise you, it will be a nice place when it's done.

Chairman Dayvolt said I just hope you do what you are saying, as far as no business being run out of there.

Scott Castle said I promise you there will not be any business there, I will not run a business out of there. He said you can look it up in about 30 days and you will see that the address changed.

Mrs. Barnhill said ok well we will see you tomorrow.

Scott Castle said because in fact every bill that is there is in my name.

Chairman Dayvolt said don't forget to get that paperwork.

Scott Castle said yes I will get it.

ATTORNEY BUSINESS:

Attorney Doll said none.

EXECUTIVE DIRECTOR BUSINESS:

Mrs. Barnhill said nothing.

Mike Winge made the motion to dismiss at 8:02p.m. Jeff Valiant seconded the motion and it carried unanimously.

Terry Dayvolt, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of the said Board at their monthly meeting held June 27, 2022.

Molly Barnhill, Executive Director