

**AREA BOARD OF ZONING APPEALS
ST. JOSEPH COUNTY, INDIANA**

MINUTES

Wednesday, March 14, 2018
1:30 p.m.

4th Floor, Council Chambers
County-City Building, South Bend, IN

MEMBERS PRESENT:

Robert Hawley
Randy Matthys
Kathy Schuth
John Leszczyński
Jack Young
Brendan Crumlish

MEMBERS ABSENT:

Michael Urbanski

ALSO PRESENT:

Lawrence P. Magliozzi
Angela Smith
Jennifer Henthorn

PUBLIC HEARINGS:

- 1 The petition of MADISON STREET DEVELOPMENT LLC seeking the following variance(s): 1) from the required 15' minimum parking setback to 6' along Madison Street, property located at 402 MADISON ST, Portage Township. Zoned CBD Central Business District.**

PETITIONER

TODD MILLER: Good afternoon. My name is Todd Miller, 10440 Lindwood Court, Osceola, Indiana. I am the architect of the Madison Street Development, LLC. The property address we will be discussing today is 402 Madison Street, South Bend, Indiana. The gross acreage of the site is .94 acres and the zoning is CBD. This parking lot is essential to provide additional off-street parking for the Commerce Center Development during the construction project, which will be a parking structure near the corner of LaSalle and Sycamore. This proposed plan was designed based on similar parking lots in nearby areas including the St. Joseph Parish and Beacon Health on Niles with respect to the parking setbacks that were on both of those projects. 320 total spaces will be needed for the Commerce Center building and 71 spaces will be lost due to us building in that lot. Madison Street parking lot will provide an additional 91 spaces as it is currently designed. That leaves us with a total of 263 spaces which will be provided during construction of the parking garage. Even with the new parking lot, this shows that we will have an anticipated shortage of 57 spaces. On street parking will have to make up the difference during peak times. Every parking space will be crucial to provide the normal demands of the Commerce Center development during construction of the parking structure. As a result, we are seeking a variance from the front yard parking setback along Madison Street to be reduced from 15 feet down to 6 feet. The requested variance should have no impact on public health, safety or general well fare of the community. The use and value of the surrounding properties will not be negatively affected. The proposed setbacks are consistent with the development of the area. The proposed and adjacent properties are all zoned CBD. The strict application of the ordinance would result in hardship and practical difficulties in the use of property. The north property line along Madison Street is irregular and angled due to the on-street parking along Madison Street. Without approval of the variance the proposed parking lot would lose an additional ten valuable parking spaces. This is in addition to nine spaces that were recently eliminated to enlarge the storm water retention basin. Based on the information presented, we are requesting the parking setback variance be sent to the South Bend Common Council with a favorable recommendation.

BRENDAN CRUMLISH: Board or staff, do you have any initial questions at this time?

ANGELA SMITH: I have a comment. Just to clarify for the petitioner that the variances will be heard and decided by the Area Board of Zoning Appeals. There will be no recommendations to the City Council on this. This is a variance not a special use. Just to point out to the Board, this is a reduction in the number of variances from the petition that was filed and advertised last month. They were able to resolve and meet the landscaping requirements. The only issue remaining is the setback.

KATHY SCHUTH: Thank you for that clarification.

BRENDAN CRUMLISH: We're not considering any variance for a reduction on parking.

ANGELA SMITH: There is no minimum requirement for parking in Central Business District. It's just that if you provide it, you have to meet the standards.

BRENDAN CRUMLISH: Okay, but that's not.

ANGELA SMITH: There is no reduction request.

BRENDAN CRUMLISH: But that's not what is being requested right now.

ANGELA SMITH: No. The request before you this afternoon is simply a setback variance along Madison Street.

KATHY SCHUTH: Could you describe why it would be a hardship to reduce the parking by five or ten spaces?

TODD MILLER: Well, we are anticipating on having 57 spaces where we already have a shortage. We don't really want to lose any more parking spaces if we don't have to. It doesn't negatively impact any other projects or other properties.

KATHY SCHUTH: I guess the reason why I ask is that, I mean, if you are asking for a variance you are asking for us to go beyond what the setbacks are. It seems like then you would need the parking but you are demonstrating that you're providing a total of 334 spaces for what you need but only 320 are actually needed. I don't understand the need for additional parking.

TODD MILLER: We could eliminate 14 and still comply with the calculations. Is that correct, Angela?

ANGELA SMITH: They have no minimum parking requirement. That's their demand that they have determined.

BRENDAN CRUMLISH: But you said if they provide it, they must meet it.

ANGELA SMITH: Not the requirements. They must meet the setbacks and the landscaping.

BRENDAN CRUMLISH: Oh.

ANGELA SMITH: So if you build a parking lot you have to meet the setback standards and the landscaping standards. There is no minimum number.

BRENDAN CRUMLISH: They don't have to meet a number?

ANGELA SMITH: No. In the Central Business District, your market demands your parking needs.

BRENDAN CRUMLISH: So, they are providing some. Whatever they have determined.

ANGELA SMITH: Correct.

BRENDAN CRUMLISH: This is simply a variance for a setback.

ANGELA SMITH: Right. Correct.

BRENDAN CRUMLISH: Does that make sense, Kathy?

KATHY SCHUTH: It makes sense. I guess I am just seeking additional clarification from the petitioner what's driving the need for the additional parking spaces.

TODD MILLER: We are building the parking structure, currently trying to get built. It is still in the planning stages obviously. By building that we lose 71 spaces right off the bat. We would need this other parking lot to take over for those 71. If you look at the numbers where we are anticipating the number of cars even with this lot, with the extra ten spaces, we are still under 57 spaces. We really don't want to lose anymore spaces if we don't have to. Basically, the only area that is encroaching is on the north side. You can see how the property line has an irregular shape to it. At the first parking space, the one labeled 1, we are at the 15 feet. But because of the way the property was lined up at an angle, when we get to the middle of the proposed lot we are down to six. We're not asking for the whole yard, in fact we are, but we only really need that extra 6 feet or extra 9 feet on the east side of the property where the parking is up by Madison Street.

BRENDAN CRUMLISH: I have another question then. Are these public parking spaces or are these leased?

TODD MILLER: These would be public parking spaces.

BRENDAN CRUMLISH: So anybody that is in the East Race area can pull in and park there?

VELVET CANADA: Sorry. Velvet Canada. 401 E. Colfax. The parking spaces are for the Commerce Center Development Area. We have a new project that is going on. When we start building there our parking that is provided at the Commerce Center, we are utilizing this lot.

BRENDAN CRUMLISH: That is the 71?

VELVET CANADA: Right. This parking is specifically for the Commerce Center Development Area.

BRENDAN CRUMLISH: Is it leased to people who use the Commerce Center?

VELVET CANADA: We don't lease it. We provide it as a parking lot if you are...

BRENDAN CRUMLISH: It's an amenity to the rent that is charged.

VELVET CANADA: Yes, that is correct.

BRENDAN CRUMLISH: I see a financial incentive here to keep those parking spaces, Kathy. I don't feel that this qualifies for a variance. I will say that right now. If it is simply to provide a parking ratio per a lease agreement, why should the public now have to give up a setback for their benefit?

VELVET CANADA: We are still providing a setback. This is just during construction we would need to put the people somewhere.

BRENDAN CRUMLISH: After construction will you take those parking spaces back? Will you put the landscaping back to 15 feet?

VELVET CANADA: Eventually what we would like to do is build on this lot. But right now because of the lack of parking, once we start adding a parking structure and a parking garage then we need a place to put the people that are currently in the building.

BRENDAN CRUMLISH: Okay. Well, any other questions at this time?

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Kathy Schuth, being seconded by Jack Young and carried, a petition by MADISON STREET DEVELOPMENT LLC seeking the following variances: 1) from the required 15' minimum parking setback to 6' along Madison Street was DENIED as presented, and will issue written Findings of Fact.

- Brendan Crumlish - Yes
- Robert Hawley - Yes
- John Leszczynski - No
- Randy Matthys - Yes
- Kathy Schuth - Yes
- Michael Urbanski - Absent
- Jack Young - Yes

- 2 The petition of MILLERS HOME CAFÉ INC seeking the following variance(s): 1) from the required 30' minimum lot width and frontage to 23.50' of frontage for proposed Lot 1; and 2) from the required 30' minimum lot width and frontage to 26.50' of frontage for proposed Lot 2, property located at 110 E MICHIGAN ST, Olive Township. Zoned TC Town Center.**

PETITIONER

CHRIS MARBACH: Chris Marbach, Marbach Palm, P.O. Box 960, New Carlisle, Indiana. I am here this afternoon representing Millers Home Cafe and Historic New Carlisle, Inc. Hopefully over the years some of you guys have had a chance to visit Millers Home Café in downtown New Carlisle. Mr. Miller purchased the two-story building, which is the building on the far right of that picture. I have another picture here that is a little closer up if you would like to see it. It is up to you guys. In 1965 Mr. Miller purchased the two-story section of this building and two years later, in 1967, he purchased the one-story building right next to it to expand the restaurant into the two structures. Unfortunately, in 2017 the Home Café was closed and it's no longer in business and the buildings have been empty ever since. As I said, as you look at that picture, the right side of the picture is the two-story building and the left side is the one-story building with the burgundy ovals in it that is what we call the one-story section of that. There is a common single wall between the two-story building and the one-story building. What we would like to do and what we have done in our application is restore that property line along that common wall that was there back in the early 60's when these buildings were two separate entities at that point in time. As a result of that, the total building is 50 feet wide making any division of it between the first one-story building and the two-story building means it is going to be less than the 30' requirement. That is why we are here today. I don't believe this is going to be injurious to the public health, safety or welfare. The building already exists. What you are going to see change is maybe a new front door and a façade change and that would be about it. The property line will be moved to this common wall. The use and value of the area adjacent to this property again, it won't change anything you can see visibly from then until now. Lastly, a strict interpretation of the ordinance means we would never be able to use this as two buildings.

The marketability of it as one big building is apparently not happening since we got a buyer for the one-story section. Historic New Carlisle, Inc. would like to have a downtown presence and they feel this would be a good opportunity for that location. So again, we are just trying to put this back to the way it was in the early 60's and I would be happy to answer any questions you may have.

ROBERT HAWLEY: So you have a buyer presently for the one-story building?

CHRIS MARBACH: That is correct.

ROBERT HAWLEY: Can you disclose, what is the potential use for the two-story building?

CHRIS MARBACH: As far as I know they don't have a buyer yet for the two-story building. It has been on the market since September.

ROBERT HAWLEY: But that's for sale.

CHRIS MARBACH: That's for sale.

ROBERT HAWLEY: Thank you.

BRENDAN CRUMLISH: Do you have any records whether the property was ever divided along that parting wall?

CHRIS MARBACH: Yes.

BRENDAN CRUMLISH: You do.

CHRIS MARBACH: Because there are two separate deeds.

BRENDAN CRUMLISH: Aha.

CHRIS MARBACH: Mr. Miller bought the two-story building in 1965. I don't have the deed record and page but there was a separate deed. Then in 1967, two years later, he bought the one-story building.

BRENDAN CRUMLISH: So he was just tenant in both sides.

CHRIS MARBACH: Yes.

BRENDAN CRUMLISH: Gotcha. Any other questions?

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by John Leszczynski, being seconded by Robert Hawley and unanimously carried, a petition by MILLERS HOME CAFÉ INC seeking the following variances: 1) from the required 30' minimum lot width and frontage to 23.50' of frontage for proposed Lot 1; and 2) from the required 30' minimum lot width and frontage to 26.50' of frontage for proposed Lot 2 was APPROVED as presented, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Yes
Kathy Schuth - Yes
Michael Urbanski - Absent
Jack Young – Yes

- 3 The petition of PJAX INC (a.k.a. VITRAN PROPERTIES USA, LLC) seeking the following variance(s): 1) from the required landscaping of required perimeter yards and residential bufferyards to none; 2) from the required foundation landscaping to none; 3) from the required interior off-street parking area landscaping to none and 4) from the required off-street parking lot screening to none, property located at 2903 FOUNDATION DR, German Township. Zoned LI Light Industrial District.**

PETITIONER

DAN ONIFER: I am Dan Onifer representing the applicant Crown Enterprises. I am from our corporate offices at 12225 Stevens in Warren, Michigan. We have a number of entities that we've identified and I just want to take a minute to identify who the players are. Stated simply it's all under common ownership and this property was purchased by one of the parent companies from Vitran and it was purchased pretty much in its existing condition. Crown Enterprises is the real estate company that services the family of properties. In this case, another related company, Central Transport is the current occupant. We are seeking consideration for four variances. I would like to point out that we are not necessarily looking for variance on the interior parking and parking screening along the south property line which is where we are proposing the automobile parking. Our interpretation of the ordinance is that the parking requirements apply to what would be in this case trailer parking. It is not a practical application for the interior parking or the screening parking in a trailer parking location. The interior islands would be lost among the trailer parking. If you have a 13 ft, 6 ft. high trailer parking and it's not possible to screen it with the automobile parking screening or the islands would be ineffective in this application. We don't believe it would be injurious to the surrounding properties and what we are proposing is consistent with, as you can see on these aerials, the use and development of the adjacent properties. And again, what we are showing on the south property line which does about the right of way for Boland, unimproved Boland Drive. We are showing the parking lot screening and the interior automobile parking. What is also shown on the application and what has become apparent to us since the time of this application, is that there is also a 25 ft. setback that applies to the south property line. I believe the plan that we are showing, yes, it does not comply with this. Although it is not on your agenda for consideration but we will defer that for another session because it is also a concern to us how that would apply to the use of this property. With that, I am open for questions but we feel that what we are asking for is both consistent with the adjacent use and development of properties and it would result in a practical problem with the use of a parking application for trailer parking.

KATHY SCHUTH: Thank you. I have a question about your fourth request, to delete off-street parking screening on Foundation Drive. I think you have already given a comment as to why you wanted to do that. I don't have a lot of concern about the rest. I can see the practical difficulty with the foundation planting and on the north, east and west sides. Can you talk more about along Foundation Drive on the south side?

DAN ONIFER: Foundation Drive is on the east side.

BRENDAN CRUMLISH: The north arrow is incorrect on that document.

KATHY SCHUTH: Oh. The north arrow is incorrect on this. So what direction am I looking?

DAN ONIFER: I am sorry about that.

ANGELA SMITH: Foundation Drive is on the east.

KATHY SCHUTH: I'll try that. I guess I would be talking about the east side then but I am still talking about Foundation Drive.

DAN ONIFER: Okay, Foundation Drive you can see that it's developed for, developed to that point, and there is a small portion that is currently within the Foundation right of way, but not developed. North of that the right of way terminates at where we see that step. This property is made of two parcels. The tree line represents the south property line of the northern parcel. I believe this requirement would only apply to what is north of our existing pavement and south of the north end of Foundation Drive right of way. I think it's like a 60 ft. or 80 ft. strip which would be just south of this tree line. Everything, most of what is abutting Foundation Drive now, is paved.

KATHY SCHUTH: Would the retention pond area be paved?

DAN ONIFER: No.

KATHY SCHUTH: So it's currently paved but it will be planted with grass?

DAN ONIFER: Well, it would be developed as a retention pond.

KATHY SCHUTH: Yes, so that would be grass?

DAN ONIFER: It depends on how the ground water level. I don't want to say it's going to be grass because it may hold water that wouldn't support grass.

BRENDAN CRUMLISH: It does not exist now.

DAN ONIFER: It currently does not exist.

BRENDAN CRUMLISH: Gotcha.

KATHY SCHUTH: You'll have a chain link fence, it looks like around that along the perimeter.

DAN ONIFER: Yes.

BRENDAN CRUMLISH: Any other questions or comments at this time?

ANGELA SMITH: Just a point of clarification. The existing area is legal non-conforming so Mr. Onifer explained it is only when they add the building addition to the north that it triggers in that particular landscaping and what he is pointing out is that there is nothing in our Ordinance that really addresses a distribution center similar to this, what you call the trailers when there is outdoor storage or parking. No matter which way you go it doesn't really fit. The interpretation in the past and going forward has been that we're calling it parking which, is what is triggering all these additional landscape islands and everything. Hopefully in the future we can find a better way to address that but for now we are calling it parking. Their only customer parking or real true vehicular parking is along the south property line, the future Boland Drive.

BRENDAN CRUMLISH: I am rereading the first variance and it refers to residential bufferyards. Are these surrounding properties Residential?

DAN ONIFER: No, they are not.

ANGELA SMITH: I don't believe they are. I think that is the term that is used in the ordinance. It is called setback and residential bufferyard. It is a combined term.

BRENDAN CRUMLISH: The neighbors to the north and the west are not residential. It doesn't look like it but...

ANGELA SMITH: No, that's the title of the section of the ordinance.

DAN ONIFER: If I may add, in developing our properties, and as I said, we purchased this property from Vitran. It doesn't meet our standards for development. One of those being the geometry of the distance from the dock wall to the edge of pavement and then a buffer to the fence. In order to properly meet that standard and provide some other development to support this property we're currently in discussions with the County on the acquisition of the property to the west of this current property.

BRENDAN CRUMLISH: That is owned by the County?

DAN ONIFER: Yes, sir.

BRENDAN CRUMLISH: I want to make the comment I agree with most of these. I am a little concerned about these future roads. If they are making an effort to screen things along the extension of Boland but, you know, there is a livelihood that the foundation someday could be extended all the way up to Nimitz or something like that. I guess I am concerned that we are just sort of ignoring the future there.

After careful consideration, the following action was taken:

Upon a motion by Randy Matthys, being seconded by Robert Hawley and unanimously carried, a petition by PJAX INC (a.k.a. VITRAN PROPERTIES USA, LLC) seeking the following variances: 1) from the required landscaping of required perimeter yards and residential bufferyards to none; 2) from the required foundation landscaping to none; 3) from the required interior off-street parking area landscaping to none and 4) from the required off-street parking lot screening to none was APPROVED as presented, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Yes
Kathy Schuth - Yes
Michael Urbanski - Absent
Jack Young - Yes

- 4 The petition of SCOTT WROBLESKI seeking the following variance(s): 1) from the maximum allowed 1400 sq. ft. for attached accessory use to 1515 sq. ft., property located at 56251 ARIZONA AV, Penn Township. Zoned R: Single Family District.**

PETITIONER

SCOTT WROBLESKI: My name is Scott Wrobleski. My address is 56251 Arizona Avenue, Osceola, Indiana 46561. I am requesting a variance to add on to the existing garage to allow more space to keep my personal property under roof and safe and keep the neighborhood good.

BRENDAN CRUMLISH: Thank you. Board or Staff, do you have any questions at this time?

KATHY SCHUTH: Scott, I have very minimal concerns about this. It is only about an additional about 100 sq. ft. that you are asking for. Is that white building in the background, is that one of yours?

SCOTT WROBLESKI: It will go away.

KATHY SCHUTH: Great, I have no further questions.

After careful consideration, the following action was taken:

Upon a motion by Randy Matthys, being seconded by Robert Hawley and unanimously carried, a petition by SCOTT WROBLESKI seeking the following variances: 1) from the maximum allowed 1400 sq. ft. for attached accessory use to 1515 sq. ft. was APPROVED as presented, and will issue written Findings of Fact.

- Brendan Crumlish - Yes
- Robert Hawley - Yes
- John Leszczynski - Yes
- Randy Matthys - Yes
- Kathy Schuth - Yes
- Michael Urbanski - Absent
- Jack Young – Yes

5 The petition of TIMOTHY C & CHRISTY J HANLON seeking the following variance(s): 1) from the maximum allowable square footage for an accessory building of 1,236 sq.ft. to 3,000 sq.ft. property located at 420 N BEECH RD, Penn Township. Zoned R-1 Residential District.

PETITIONER

TERRY LANG: My name is Terry Lang from Lang, Feeney and Associates. Our address is 715 S. Michigan Street here in South Bend. I represent the petitioners, the Hanlon's. The Hanlon's have a petition for you to add that additional pole building onto their one-acre parcel. The Hanlon's have six driving age adults, all of them each having a vehicle, that live on site with just a two-stall garage. They proposed to put up an additional building behind the existing garage to accommodate the additional four vehicles that they have. They have two trailers, a boat and a riding mower to take care of the one acre in size that they have. The reason that they are here for this petition is over the last year or so the Hanlon's have experienced theft of one of their riding mowers on site. The concern with regards to their personal property, their vehicles and trailers, they would like to build the additional building to store their stuff inside. I know the staff usually has concerns about running businesses, but with six adults all driving and having trailers, boats and riding mowers, indoor storage to keep them from deteriorating is a big concern for the Hanlon's here and that is why the petition is before you. I have a petition that Mr. Hanlon took around to the neighbors. There is about 15 to 20 signatures. The petition that I am passing is the residents that are in the neighborhood right there. All of them are directly or indirectly affected by this and all of them have signed the petition in favor of this. The only one resident wasn't home at the time

for Mr. Hanlon to talk with him. The site itself, if you look at the aerial map part of it, is completely surrounded by trees. It is not visible from any direction with the existing garage in front of it on the Beech Road Side and trees line the rest of the perimeter of the property. I think that is why all the neighbors, when contacted, were saying we won't be able to see it, we can't see the existing garage so we're not concerned with that. The petition before you is to allow them to take their personal property and put it under lock and key, out of sight, and protect it from vandals and also the weather. If you have any questions we would be glad to answer them for you.

RANDY MATTHYS: How will the building be accessed? Through the lawn or....?

TERRY LANG: You see the existing drive right there that comes up and does a horseshoe?

RANDY MATTHYS: Yes.

TERRY LANG: It would be extended to the east to accommodate the doorway for the new building.

BRENDAN CRUMLISH: Staff, do you have some comments at this time?

ANGELA SMITH: The Staff this time recommends denial. The Osceola Zoning Ordinance is what we consider brand new. It is a couple of years old now but in 2015 they adopted their new Zoning Ordinances. We spent two years working with the town to come up with these standards. They had a lot of discussion about attached accessory structures, the size limits that should be placed on them and what is reasonable for the lots and their town. What they came up with is the size of the house or 1,200 sq. ft. difference less. There is nothing that we can determine that is unique in this property that would make it so that would not be something that should be applied to this property. Because the ordinance is so new we feel strongly that this should be adhered to.

ROBERT HAWLEY: What was it previously before this new ordinance?

ANGELA SMITH: I think it was a four-car stall limit previously. The new ordinance only has that apply to the attached portion of the accessory structure. I think it was smaller before. I'd have to go back and look but I think it was 960 sq. ft. and they raised it to 1,200 sq. ft.

ROBERT HAWLEY: Thank you.

TERRY LANG: I know as you go further north of here along Beech Road you will see that there are additional homes that do have extra buildings that allow for parking of boats and vehicles and things like that. It's not like we are proposing anything different to the neighborhood that is not already there. With the change in the ordinance that's why this is kind of kicked in and this would allow them to protect their goods. I mean with a riding mower that they had stolen last year was over \$3,000 dollars that they have to replace because they didn't have any place to park it.

IN FAVOR

ROD PETERSON: Good afternoon. My name is Rod Petersen, I live at 419 N. Beech which is directly across the street from the Hanlons. I have been living there about six years. Tim has gone over this with me. Given the orientation and the position of the lot you won't even see it from the road. I am in favor of it.

JON MAHNESMITH: I live at 426 N. Beech which is north of their property line and I see no problems with it.

BRENDAN CRUMLISH: Okay. Thank you. Anyone else wishing to speak in favor?

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

ROBERT HAWLEY: I'll make a motion. First of all, I would like to thank the gentlemen that took the time to come today to share their thoughts and also, Terry, the petition that you had signed by the number of residents that surround this property. I would like to make a motion in favor of this petition.

After careful consideration, the following action was taken:

Upon a motion by Robert Hawley, being seconded by Randy Matthys and unanimously carried, a petition by TIMOTHY C & CHRISTY J HANLON seeking the following variances: 1) from the maximum allowable square footage for an accessory building of 1,236 sq.ft. to 3,000 sq.ft. was APPROVED as presented, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Yes
Kathy Schuth - Yes
Michael Urbanski - Absent
Jack Young – Yes

6 The petition of PRAIRIE VIEW FARMS, LLC seeking the following variance(s):

1) from the required 40' minimum rear yard building setback to 30' for the building; 2) from the required 40' minimum rear yard setback to 10' for the parking lot and trash enclosure and 3) from the required 40' minimum front yard setback to 15' for parking and interior access drives, property located at proposed Lot 1 of Goddard School Subdivision, Harris Township. Zoned R: Single Family District.

PETITIONER

TERRY LANG: My name is Terry Lang from Lang, Feeney and Associates. Our address is 715 S. Michigan St. here in South Bend. I represent the petitioner Prairie View Farms. Prairie View Farms is the owner of the entire corner right there. They have a, as you can see highlighted in red there, the portion that is going to be a private preschool area known as Goddard School. I don't know if anybody is familiar with them or not. There are 500 schools located all across the country and they're a very prestigious school with accolades that go on and on. Their location at this area right here is greatly desired for the Granger area. The sight you are looking at is the first of three parcels there that are being developed. The parcel all the way around this sight is a residential subdivision called Northpoint and Northpoint is going to be a street connection between the subdivision to the west and loop through here. Our school location came in petition first for plat. There have been concerns with regards to the building location, well and septic and with the stipulated parcel size that they had allocated for this site. The school was positioned on there with the septic and the well and the requirements for that. There was some concern as to the flow thru of traffic to make it easy for coming in, dropping kids off, getting in the vehicles. We've looped the driveway if you looked at the site plan portion of it so that a vehicle can come in easily, drop a child off, pick them up and leave exiting thru the same access point. The access would be located at an existing State curb cut there. It will be widened just a bit at the southeast corner of the site. The petition also asks for the location of the storage shed as well as a dumpster location to be located in the very northeast corner of our site. Those are such that they will be able to maintain the facility with grounds keeping and things necessary for that as well as trash removal. The setback for the building itself along the north side is going from 40 ft. to 30 ft. to fit the dimensions of the parcel size that

is there. We found that in working with the developer on this, Prairie View Farms is the petitioner and the contingent purchaser is Mr. Vijay Patel, and Mr. Patel plans for this school would allow them to go with the footprint of the building instead of doing a customized building fit on site right there that would be even more intrusive to the residential neighborhood to the north than as we have it petitioned here before you. If you have any questions I would be glad to answer them.

ROBERT HAWLEY: Do you have any idea the size, the enrollment possibility for the school?

TERRY LANG: They figure that there will probably be a maximum of 100. With staff there you are probably looking right around 118 maybe 120 there at any one time. In some cases, the school will be morning classes or afternoon classes. It is not anticipated that they'll be there all at one time.

ROBERT HAWLEY: What grades?

TERRY LANG: This would be from age 2 through preschool, which would be 6. Then probably have after school type stuff also for kids that are getting out before parents would be there. There would be a drop off. The hours of operation would basically be from 7:00 am to 6:00 pm.

ROBERT HAWLEY: Do you know if there would be bus service for the kids?

TERRY LANG: I don't believe it's anticipated that there will bus service for it, no.

ROBERT HAWLEY: So the kids would have to be delivered by mom and dad or somebody.

TERRY LANG: Yes. They have a very secure system at the school for pick up and drop off. It has to be fingerprint or I.D. to pick the child up. Security is very high at the school and that is one of the things that the Goddard School has been known for is being able to not have just anybody come in and pick up a kid and leave with them. That is one of the concerns why they have kids of picked the area they have because they know people are concerned after the things that have happened at schools recently. Security has become a big concern.

KATHY SCHUTH: Terry, can you tell me more about the septic area and the well. I am trying to decide. You've got a blank side, why can't you rearrange it to meet the setbacks?

TERRY LANG: If they would switch back to the other thing I'll show you. (steps away from podium and microphone to point at screen projector picture) This westerly portion of the site from here to here is the septic area. Separation between well and septic on a school is required by state law to be 100 feet. So, the position of the well has to be 100 ft. from the highway, a 100 ft. from the septic and any side lines. Your limited to a very small area for where the well can be located in there.

BRENDAN CRUMLISH: That is the geometry. X marks the spot. That is virtually the only place you can put the well on the property and thus you have to keep the building itself away from the well.

TERRY LANG: That is correct. That is the uniqueness of the trapezoid shaped parcel with State Road 23 running through at a 45-degree angle thru there.

BRENDAN CRUMLISH: As I was going to second her opinion and we've got a blank site. Why can't we get 10 feet further from the back? Well, I guess that explains it.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by John Leszczynski, being seconded by Kathy Schuth and unanimously carried, a petition by PRAIRIE VIEW FARMS, LLC seeking the following variances: 1) from the required 40' minimum rear yard building setback to 30' for the building; 2) from the required 40' minimum rear yard setback to 10' for the parking lot and trash enclosure and 3) from the required 40' minimum front yard setback to 15' for parking and interior access drives was APPROVED as presented, and will issue written Findings of Fact.

ROBERT HAWLEY: Before I say yes or no, just for the record I want this to be noted that I wish and I hope that between Brick Road and Elm Road that they can slow the traffic down. Because coming out of that school and making a left hand turn that traffic, I know I live out that direction, is going 60 miles per hour and I am going to vote yes.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Yes
Kathy Schuth - Yes
Michael Urbanski - Absent
Jack Young - Yes

7 The petition of HERITAGE LAND OPERATIONS LLC seeking the following variance(s): 1) from the required 20 acres to 5.6 acres and 2) from the required 30' minimum side yard setback to 9' along the North line, property located at 52615 CURRANT RD, Harris Township. Zoned A: Agricultural District.

PETITIONER

TERRY LANG: My name is Terry Lang from Lang, Feeney and Associates. Our address is 715 S. Michigan Street here in South Bend. I represent the petitioners Heritage Farms Land Operations, LLC. This is an existing farm parcel with a home. The farmer wishes to separate the home from the tillable portion of that. If you look at the aerial map on the left, you will see that the parcel lines run somewhat through the middle of the house. It was also determined through title search when they got ready to sell the house that the house had been split off after the ordinance went into effect for the zoning portion of it. At this point I recommended that it would probably be in the best interest for the owners to reconfigure the property lines such as they didn't go through the house as well as to accommodate so that we will be getting variances for the size of the parcel that was originally intended as well as allowing them to take the balance of the property then and continue to farm it as they so desire.

BRENDAN CRUMLISH: Thank you. Any questions or comments at this time Board or Staff? I am going to ask the obvious one. Why do we only get 9 feet on the north side and 30 feet on the south.

TERRY LANG: The obvious question is the house is on the south side to give a little bit more room between the tractors making the radius of the house and the north side is where they are tilling to right now on the north side. Without any doorway on the north side it really wasn't necessary for any more than that.

BRENDAN CRUMLISH: Okay, that answers my question. The cows are happy.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Randy Matthys, being seconded by Robert Hawley and unanimously carried, a petition by HERITAGE LAND OPERATIONS LLC seeking the following variances: 1) from the required 20 acres to 5.6 acres and 2) from the required 30' minimum side yard setback to 9' along the North line was APPROVED as presented, and will issue written Findings of Fact.

- Brendan Crumlish – Yes
- Robert Hawley - Yes
- John Leszczynski - Yes
- Randy Matthys - Yes
- Kathy Schuth - Yes
- Michael Urbanski - Absent
- Jack Young – Yes

8 The petition of NANCY J KISTLER, KAREN S TAYLOR, AND SHARON L ARMALY LIFE ESTATES FOR HAROLD J AND PATTY A GEYER seeking the following variance(s): 1) from the required 20 acres to 1.8 acres; 2) from the required 30' minimum rear yard setback to 12' and 3) from the required 35' minimum front yard setback to 0', property located at 21522 SHIVELY RD, Union Township. Zoned A: Agricultural District.

PETITIONER

TERRY LANG: My name is Terry Lang from Lang, Feeney and Associates. Our address is 715 S. Michigan St. here in South Bend. I represent the petitioner here the Estate of the Geyers. The parcel that you are looking at is configured such to encompass the house, barn and a couple of silos basically the yard area of that farm yard area. Then this would allow the home and the tillable portion of it to be separated at a point in the future here. We had prepared a plat, we're awaiting the Board of Zoning Appeals portion of this. You can see that it is the area that has always been the yard area around the buildings and portion of this would allow them to separate those two.

BRENDAN CRUMLISH: So the proposed right of way is right on the house it looks like.

TERRY LANG: The house was built back when 40 ft. seemed like it was quite a ways away from the center of the road. It's a little deceiving, that dimension, because the pavement with itself is actually 12 feet and it goes up a bank up to the house right there so it's not like it's extremely close if a vehicle would go off the road, you are not going to go up the hill there very easily.

BRENDAN CRUMLISH: That's interesting.

JOHN LESZCZYNSKI: That's a county requirement? That it goes to 40 because I see on either side of it it's not that right now. The right-of-way is what, 20 ft.?

TERRY LANG: When platting takes place the requirement is to dedicate an additional 20 feet so it makes it a total of 40 feet.

BRENDAN CRUMLISH: Any other questions or comments? Staff?

ANGELA SMITH: It's a standard practice of the County Engineer to request a 40ft. half right-a-way. Or 40 ft. right-of-way. It is a 40 ft. half right-a-way. That's to accommodate swales and ditches along the side of the road not necessarily for pavement.

JOHN LESZCZYNSKI: Well, I think that puts a hardship on the house when you have your right-of-way line going up to the front porch of the house.

ANGELA SMITH: Occasionally we will have some that encroach into the right-of-way.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

BRENDAN CRUMLISH: That's the County Engineer's requirement?

ANGELA SMITH: Correct. If she requested less, the variance would then cover them. It just that they anticipate the traditional.

BRENDAN CRUMLISH: Right. That wouldn't come into play were they not doing this.

ANGELA SMITH: If they don't subdivide they do not need the setback.

BRENDAN CRUMLISH: I think we have a governmental agency that made the rule.

ANGELA SMITH: Our ordinance does not count the governmental taking against them in this instance. Even if that variance wasn't granted, they would become legal nonconforming. I believe the petitioner usually likes to ask for that variance just so that there is no question on the title work going forward.

BRENDAN CRUMLISH: Sure, I understand.

After careful consideration, the following action was taken:

Upon a motion by Robert Hawley, being seconded by Jack Young and unanimously carried, a petition by NANCY J KISTLER, KAREN S TAYLOR, AND SHARON L ARMALY LIFE ESTATES FOR HAROLD J AND PATTY A GEYER seeking the following variances: 1) from the required 20 acres to 1.8 acres; 2) from the required 30' minimum rear yard setback to 12' and 3) from the required 35' minimum front yard setback to 0' was APPROVED as presented, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Yes
Kathy Schuth - Yes
Michael Urbanski - Absent
Jack Young - Yes

9 The petition of CHINODIN CORP (Pokagon Band of Potawatomi) seeking the following variance(s): 1) from the maximum 4' height for a monument sign to 10' and 2) from the maximum allowed 16 sq. ft. of sign area to 40.8 sq. ft., property located at 2906 W PRAIRIE AV, Portage Township. Zoned SF1 Single Family & Two-Family District.

PETITIONER

JEFF TRENER: Jeff Trener. US Signcrafters, 216 Lincolnway East, Osceola, Indiana.

BOB TORZINSKI: I am the Tribal Planner for the Pokagon. Their organization is 58620 Sink Road Dowagiac, Michigan.

JEFF TRENER: We are here today seeking variances for the overall height and square footage of this location since it is Zoned SF1. The Pokagon Band Tribe has gone through the proper procedures to be able to build the police station there first of all and know we are just trying to do our best to provide it with proper signage that can be seen. Not only for their sake but more importantly the public.

BRENDAN CRUMLISH: Questions or comments at this time? I am going to ask why can't you build it smaller?

JEFF TRENER: Well, we can but we don't think that is going to be.....

BRENDAN CRUMLISH: Huh? You can? Then I don't see why we need a variance. You have to show us some compelling reason that you can't follow the regulations.

JEFF TRENER: Because going down Prairie Avenue right there 16 sq. ft. is not going to be visible.

BRENDAN CRUMLISH: But it's Zoned SF1, which is a Residential designation. Right?

ANGELA SMITH: It is. Police Stations are a special exception use in a single family residential district. If they were a school, they would be allowed 32 sq. ft. in half the area. If they were a church, they would be allowed 32 sq. ft. in half the area. All other special exception uses are limited to 16 sq. ft.

BRENDAN CRUMLISH: And a police station....

ANGELA SMITH: Including the police station, yes.

BRENDAN CRUMLISH: I'm not picking on you guys. If you were the South Bend Police Department I'd be asking the same thing. I understand they want you to be seen but we have to look at it as you have to prove to us you can't comply with our regulations. I guess the argument here is all those other uses could be much larger.

ANGELA SMITH: I think the problem with the ordinance that we find in situations like this is they anticipate it being in a residential neighborhood. You could have a church, police or fire station in the middle of a residential neighborhood in the city. One of the things we are discussing in the South Bend sign ordinance is whether or not a corridor should be treated differently than opposed to making one blanket that applies to its zoning district. At this time, the requirement is 16 sq. ft.

BRENDAN CRUMLISH: What was it for a church?

ANGELA SMITH: 32 sq. ft.

BOB TORZINSKI: Can I comment?

BRENDAN CRUMLISH: Yes, please.

BOB TORZINSKI: I really think there is a compelling need to have a large sign in this circumstance. This is a Tribal Police station for serving the land that the Band owns, that's in trust in South Bend, as well as the area around and for people to be able to find it, it's a real hazard if they are trying to find it and are distracted driving. This is a situation where it is not really interfering and it's consistent with the signage for the rest of the Bands police stations which are located in similar type of, they have one out on M51 in Dowagiac. It's really a situation where it would be a hardship for the Band because to go down to a smaller sign and take a change that somebody doesn't see it and ends up getting rear ended or causing a crash while they are trying to turn around would really be a disadvantaged to the Band.

BRENDAN CRUMLISH: I don't disagree. I think this is not a commercial fast food establishment or something like that.

RANDY MATTHYS: I have a question. Is this parcel part of the tribal land? I thought they were their own nation and not subject to this.

ANGELA SMITH: Not at this time.

RANDY MATTHYS: This is not part of their tribal land.

BOB TROZINSKI: Just an answer, this is not in trust right now. I can't speak for the Band but I think the expectation is that it will be in trust as some point in time. It's one of only three parcels in South Bend that are still held in fee so it is subject to the land use requirements.

KATHY SCHUTH: I appreciate all the background. I think in this case it can be argued that there are practical difficulties in the use of this site without a signage of this size. The copy area at 30 sq. ft. is roughly in align with what you have for other institutions such as churches. The rest of it is pretty much decorative and in align with signage that you currently have in Dowagiac, I think you showed a picture of that. That is a pretty handsome sign. I can see from the length of the site facing the street you got a length of 242 ft. We're not going to have that large of an impact with this sign. I think it should be found in your favor.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Kathy Schuth, being seconded by Robert Hawley and unanimously carried, a petition by CHINODIN CORP (Pokagon Band of Potawatomi) seeking the following variances: 1) from the maximum 4' height for a monument sign to 10' and 2) from the maximum allowed 16 sq. ft. of sign area to 40.8 sq. ft. was APPROVED as presented, and will issue written Findings of Fact.

Brendan Crumlish - Yes
Robert Hawley - Yes
John Leszczynski - Yes
Randy Matthys - Yes
Kathy Schuth - Yes
Michael Urbanski - Absent
Jack Young – Yes

10 The petition of TYLER J RESLER seeking the following variance(s): 1) from the required 30' minimum side yard setback to 5' for a solar array, property located at 62196 DOGWOOD RD, Penn Township. Zoned A: Agricultural District.

PETITIONER

JEREMY LIPINSKI: Hello, my name is Jeremy Lipinski. I am with Emergent Solar Energy at 397 N. Union Street, Russiaville, Indiana. We are representing the petitioner, Tyler Resler, of Resler Feeder Hogs. We are requesting a variance of the required setback of 5 ft. from the boundary line for the construction of a 155-kilowatt ground mount solar array.

BRENDAN CRUMLISH: Wow, that's interesting.

ROBERT HAWLEY: Can you describe what that is?

JEREMY LIPINSKI: Yes. The solar array is going to be a ground mounted solar array. As you may be aware there are different kinds of arrays. Solar panels can go on roofs of commercial buildings and homes. They can also be mounted on the ground. Resler Feeder Hogs is a hog confinement operation and the only available land that he has is directly behind the south barn. You can see where the blue arrow points to where the array would be constructed, proposed to be constructed. The hog confinement buildings are built not to withstand any additional load on the roof so the only way this solar array can be constructed is on a ground mounted system. The only available land on his farm is the land that is directly behind the south hog building where the blue arrow is pointing. As you can see, further to the West there is another hog confinement building that is much closer to the boundary line that is already constructed. There is a rectangular space back there that is essentially just wasted ground that will be cleared and that is where the solar array can be constructed on this property.

BRENDAN CRUMLISH: Do we have any questions or comments at this time?

KATHY SCHUTH: Just looking at space. You said the rest of the space is covered?

JEREMY LIPINSKI: That is correct.

KATHY SCHUTH: It looks like there is, is that all agricultural tilled land?

JEREMY LIPINSKI: No, actually it is a hog confinement operation. As you can see there are something like five hog confinement barns. There is an office and a house located near two pole buildings that are used for storage and feed.

KATHY SCHUTH: So the large grassy area on the East side.

JEREMY LIPINSKI: Yes.

KATHY SCHUTH: I am not sure if that's grass or crops or what, but why can't you build there?

JEREMY LIPINSKI: The large grassy area on the far east side? In construction of a solar array, you have to have as much open space east to west as possible due to shading. The array could not be

constructed on the grassy area to the east because the hog building directly to the west of that would essentially eliminate 50% of the daylight, the sun shine that hits that array. The east and west space has to be as open as possible in order for the maximum amount of protection for the array. It is a shading factor.

BRENDAN CRUMLISH: I see other places it can be put on this property. The big black rectangle on the upper corner there.

JOHN LESZCZYNSKI: That's a pond.

BRENDAN CRUMLISH: I get it. But can't we put them up there next to the pond?

JOHN LESZCZYNSKI: Electricity on a pond?

BRANDON CRUMLISH: It's wired, it's grounded.

JOHN LESZCZYNSKI: Not the best way.

KATHY SCHUTH: I haven't seen your shadow studies or anything like that. It looks like it would be the same distance away from the buildings that are going to be directly west where you are proposing this.

JEREMY LIPINSKI: The height of the building that the array is being proposed to be constructed in front of is significantly higher than the building to the west. This is a solar engineer, he designed the system.

CHRISTOPHER HOLLY: I'm Christopher Holly, 700 E. Firman St., Kokomo, Indiana, the solar designer. I believe that the parcel you are looking at is in the southeast corner to the east of the service road there. That is, the section that Jeremy talked about that is going to be affected by shading is between the barn and that service road. To the east of the service road is tilled and is in row crops and he would like to keep that in production for his feed business.

KATHY SCHUTH: Okay.

BRENDAN CRUMLISH: Okay, any other questions?

KATHY SCHUTH: Is that a residential property directly south?

BRENDAN CRUMLISH: We can put a solar array facing a residential property?

ANGELA SMITH: There are no real regulations in our ordinance regarding solar. They are treated similar to an air conditioning unit or some other kind of accessory use. In the Agricultural District there's no limit on the amount of square footage for accessory use that you can have. In this case the only question is the setback.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

AMY LANGNER: Amy Langner, 62298 Dogwood Road, Mishawaka, Indiana. Obviously, I live to the south of this property. The solar panels that are being questioned would be in my direct line of sight. I do not believe they own the property to the east. The only section that they do own for the solar panels is that section. I have proposed for them to buy my property to put their solar panels on. I am very passionate about not having solar panels that close to my property line. I also have livestock that can reach over a 5ft. area and could also be damaged or cause damage to said solar panels. I would like for them to not have the solar panels within 5 ft. of my fence line. The other barn that is to the north has been

there since the 1940's and was an original chicken barn so that barn was there prior to us purchasing the property over 25 years ago. Does the Board have any questions for me?

ROBERT HAWLEY: What is the size of your property that you own?

AMY LANGNER: We own 5 acres. Ours is the entire green shaded area here.

ROBERT HAWLEY: Thank you.

BRENDAN CRUMLISH: May I ask do you have a fence along that property line?

AMY LANGNER: Yes, we do. Our entire acreage, except for around the house, is fenced in.

JOHN LESZCZYNSKI: Why don't you want the array there?

AMY LANGNER: Right next to there, along that fence line, I can see it out the window of my home. Also, I have livestock in that fenced in area that could reach that solar panel. If they would kick out and hit that solar panel they could be injured.

ROBERT HAWLEY: What type of livestock did you mention?

AMY LANGNER: I have show horses.

ROBERT HAWLEY: How many horses do you have?

AMY LANGNER: I have two brood mares.

ROBERT HAWLEY: Thank you.

BRENDAN CRUMLISH: Thank you very much. We will take this into consideration.

REBUTTAL

JEREMY LIPINSKI: The only thing I can say in rebuttal is that the solar array being 5 ft. from the fence would be out of reach of any type animal that would reach over that fence. It's a barbed wire fence. I don't think a horse can reach over and touch it. The array itself, the panel themselves, are not electrified. The glass, there is no glare from these panels. They are coated with anti-glare coating and the tilt is high enough to where it is pointing almost straight to the sky. It is 20 degrees. So, there is no glare, and there would seemingly be no sound. There is no sound or any type of distraction coming from these devices unlike wind. They are just going to be sitting there in the sun all day. I don't think they would be of any danger to livestock because in certain parts of the country they're on pasture land mixed in with cows and goats. Farmers utilize these mixed in with their livestock to make their use of the pasture. I don't think that argument carries much weight.

BRENDAN CRUMLISH: I'd like to ask about this drawing, the one that we have been provided. If it is drawn accurately to scale it looks perhaps like there are three ribbons of the solar collectors. One close to the building, one in the middle and one close to the parking lot.

JEREMY LIPINSKI: That's right. There are three roads.

BRENDAN CRUMLISH: How far is the middle one from the property line. I'm not talking about the one that is 5 ft. Set No. 2, how far back is that?

CHRISTOPHER HOLLY: Set No. 2 would be between 20, almost 25 ft. Just under.

BRENDAN CRUMLISH: Okay. That would be pretty darn close to the 30-ft. requirement. It seems to me you could eliminate the one that is closest to the property line and extend that second one further to the east. I don't see what's impairing us from building a longer one and staying close to 30 ft. away. Then a variance would not be required. I guess I am going to go back to say I don't think this merits our consideration because it does appear that there is a solution that could be done. The hardship is just that you want to put it there.

CHRISTOPHER HOLLY: At present, Mr. Resler is using that space. As designer I would prefer if I had three rows that they be of equal length. We stopped the two rows closest to the building because he uses all of that soil to compost the output of the hog barns, the bedding and other organic matter. Not the waste that goes into the aforementioned pond. That's currently what that land is.

BRENDAN CRUMLISH: I see a land swap. We could compost in the 25 ft. to the property line. Then there would be no variance required for composting.

JOHN LESZCZYNSKI: If I was a resident I'd be upset about the compost too.

BRENDAN CRUMLISH: I think this woman has a concern and I don't see a valid reason that it has to be 5 ft. or anything less than 30 ft. I'm not in favor of this. Questions, comments?

RANDY MATTHYS: It looks like there could be, like you said, those two rows extended. I mean if they want the solar panels there are other ways of doing it.

BRENDAN CRUMLISH: I don't see a compelling reason why they cannot comply. They just want to do it this way.

JOHN LESZCZYNSKI: I disagree. I think it's an ideal location for the solar array and the solar arrays are going to block the composting from her house and stuff. I think it is a good location for the solar arrays. They are not going to be damaged, the potential is not there. They're not obtrusive. I've seen a lot of solar arrays and been involved in a lot of solar projects. I think they can be quite attractive and stuff like that.

RANDY MATTHYS: If they could extend those two rows and get their square footage or whatever they need without having that third row quite so close to the property line.

After careful consideration, the following action was taken:

Upon a motion by Randy Matthys, being seconded by Kathy Schuth and carried, a petition by TYLER J RESLER seeking the following variances: 1) from the required 30' minimum side yard setback to 5' for a solar array was DENIED as presented, and will issue written Findings of Fact.

KATHY SCHUTH: I agree with the denial. I think there is other places to put the solar array. I think having solar is fantastic. I understand that there might be structural limitations to the roof even though

the roof is an ideal location for that. This site is packed up with buildings and I think adding additional structures so close to the property line is the wrong move.

Brendan Crumlish - Yes
Robert Hawley - No
John Leszczynski - No
Randy Matthys - Yes
Kathy Schuth - Yes
Michael Urbanski - Absent
Jack Young - Yes

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Findings of Fact

A. Findings of Fact for February 14, 2018

ANGELA SMITH: I will make note that we do not have Findings of Fact for February at this point. I have been frantically working with our database manager to get us into a system which has been the majority of the time. Carolyn was very generous to handle all those things. I will have February and March available for you at the April meeting. However, we do have minutes.

2. Minutes


Approval of the minutes from the February 14, 2018 meeting of the Area Board of Zoning Appeals.

After careful consideration, the following action was taken:


Upon a motion by Robert Hawley, being seconded by John Leszczynski and carried, the minutes from the February 14, 2018 meeting of the Area Board of Zoning Appeals were APPROVED.

The meeting was adjourned at 2:57 p.m.

ATTESTED:


Lawrence P. Magliozzi,
Secretary to the Board

RESPECTFULLY SUBMITTED:


Brendan Crumlish, Chairman