

## Resolution No. 01 - 2019

RESOLUTION TO THE TOWN OF SELLERSBURG, INDIANA  
COMMON COUNCIL  
REFERENCE AMDENDMENT TO THE  
TOWN OF SELLERSBURG ZONING ORDINANCE

**Whereas**, pursuant to IC 36-7-4-605 the Sellersburg Plan Commission (Commission) shall certify a favorable recommendation, an unfavorable recommendation, or no recommendation to the legislative body on proposed changes to the Town of Sellersburg's Zoning Ordinance, Resolution No. 01-2019; and

**Whereas**, the Town of Sellersburg's Plan Commission in accordance with IC 36-7-4-604 held a public hearing on July 15, 2019, on the proposed amendment to Section One, General Provision, Section 1.9 Definitions and Delete Section Four, Board of Zoning Appeals of the Town of Sellersburg's Zoning Ordinance, as follows:

- I. Section One, General Provision, Section 1.9 the Town of Sellersburg's Zoning Ordinance by deleting the following definitions:

"ABUTTING PROPERTY OWNER." Official owner of record (based on the tax records of the Clark County Clerk's office) of property adjoining at any point the subject property (property of the applicant for change in zoning, contingent use, special exception, variance or off street parking requirement waiver); of property directly across any public right-of-way, railroad, stream or creek, easement, alley, and the like from subject property; of property which adjoins at any point the adjoining property or the property directly across the public right-of-way, railroad, stream or creek, easement, alley, and the like, provided such abutting property is not more than five hundred (500) feet from the subject property.

"INTERESTED PARTIES." Those parties who are owners of properties adjoining or adjacent to the property for which a zoning map change, "contingent use" or "special exception" is being sought.

- II. Section Four, Board of Zoning Appeals of the Town of Sellersburg's Zoning Ordinance by deleting the following:

### SECTION FOUR BOARD OF ZONING APPEALS

#### Section 4.1 - Establishment: Membership: Term

- (1) The Board of Zoning Appeals is hereby established as a part of the Sellersburg Plan Commission, under the provision of IC 36-7-4-902 (a)
- (2) The Board of Zoning Appeals consist of five (5) members, as follows:
  - (a) Three (3) citizen members appointed by the Town Council President of

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Sellersburg, of whom one (1) must be a member of the Plan Commission and two (2) must not be members of the Plan Commission.

(b) One (1) appointed by the Town Council of Sellersburg, who must not be a member of the Plan Commission.

(c) One (1) citizen member appointed by the Plan Commission, who must be a member of the Plan Commission other than the member appointed under the subsection (a).

(3) The terms of the office shall be as follows:

(a) One (1) member for a term of one (1) year. One (1) member for a term of two (2) years. One (1) member for a term of three (3) years. Two (2) members for a term of four (4) years.

(b) Each term expires on the first Monday of January of the first, second, third, or fourth year, respectively, after the year of the member's appointment.

(c) Thereafter, as a term expires, each new member shall be appointed for a term of four (4) years. Each member is eligible for reappointment.

(4) If a vacancy occurs among the membership, the original appointing authority shall appoint a new member for the unexpired term

(5) The Board of Zoning Appeals shall elect a chairman and a vice-chairman from its membership at the first meeting of the year. The vice-chairman shall have the authority to act as chairman during the absence of or disability of the chairman.

(6) The majority of the entire membership of the BZA shall constitute a quorum.

No action is official, however, unless authorized by a majority of the members of the Board.

### Section 4.2 - Powers of the Board of Zoning Appeals

The Board of Zoning Appeals shall have all the powers and duties as provided under the provision of IC (36-7-4-900 series) as amended.

#### 4.2.1 - Appeals

The Board of Zoning Appeals shall hear and determine appeals from and review [IC 36-74-918.1]:

(1) any order, requirement, decision, or determination made by an administrative official, hearing officer, or staff member under the zoning ordinance,

(2) any order, requirement, decision, or determination made by an administrative board or other body except the Plan Commission in relation to the enforcement of the zoning ordinance; or

(3) any order, requirement, decision, or determination made by an administrative board or other body except the Plan Commission in relation to the enforcement of an ordinance adopted under this chapter requiring the procurement of an improvement location or occupancy permit.

#### 4.2.2 - Special Exceptions and Contingent Uses

The Board of Zoning Appeals shall approve or deny all:

(1) special exceptions; and

(2) contingent uses;

from the terms of the zoning ordinance, but only in the classes of cases or in the particular situations specified in the zoning ordinance. The Board may impose reasonable conditions as a part of its approval.

#### 4.2.3 - Variances of Use

The Board of Zoning Appeals shall approve or deny variances of use from the terms

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of the Zoning Ordinance.

### 4.2.4 - Variances from Development Standards of Zoning Ordinance

The Board of Zoning Appeals shall approve or deny variances from the development standards of the Zoning Ordinance.

### Section 4.3 - Grant of Variances

As a matter of public policy, the standards by which variances are approved by the Board of Zoning Appeals shall be strictly adhered.

#### 4.3.1 - Written Findings

A use variance may be approved under subsection 4.2.3 and a variance from the development standards of the Zoning Ordinance may be approved under subsection 4.2.4 only upon a determination in writing that:

- (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and
- (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner, and
- (3) The need for the variance arises from some condition peculiar to the property involved, such condition not being found in common with other properties in the vicinity that are in the same zoning district and such condition not having been created by the applicant for the variance; and such condition will result in practical difficulties;

In addition to the three determinations above, a use variance may be approved under subsection 4.2.3 and a variance from development standards of the Zoning Ordinance other than dimensional variances may be approved under subsection 4.2.4 only upon a determination in writing that the following additional requirements have been met:

- (1) The strict application of the terms of the Zoning Ordinance will constitute an unnecessary economic hardship if applied to the property for which the variance is sought; and
- (2) The variance shall be the minimum necessary to permit the proposed development such that the substantial intent and purpose of the ordinance shall be preserved.

The Board of Zoning Appeals may add reasonable conditions to the granting of a variance so as to accomplish the ends stated in this subsection.

#### 4.3.2 - Status of Variance

The granting of a variance shall not be an ordinance amending the Zoning Ordinance, and no action by the board shall be taken or decision made except after a public hearing.

### Section 4.4 - Time Limit

- (1) Any variance approved by the Board shall expire six (6) months from the date of such action, unless an Improvement Location Permit incorporating a variance has been obtained within said six (6) months or the provisions of the variance have been adhered to within said six (6) months.
- (2) Whenever the Board has taken action to approve or deny a variance application, the Board shall not consider any further variance application on any part of the same property for a period of one (1) year from the date of such action.

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### Section 4.5 - Application for Variance

Application for Variance shall be subject to Section 3.4.2 of this Ordinance.

### Section 4.6 - Notice Posting

(1) Upon the filing of an application for a variance, contingent use, special exception, rezoning, or parking requirement waiver, the applicant or his attorney shall post a sign upon the real estate affected by the action in a conspicuous place which is visible at all times to all persons passing said premises. The applicant shall protect the sign from destruction on the site until the action is approved or denied by the Board. The sign shall be at least 18" x 24" with 1-1/2" lettering. The content shall state the purpose, date, time, and location of the public hearing.

(2) The sign shall be placed thereon not less than ten (10) days prior to the public hearing of the Board, and said sign shall remain posted until approved or denied by the Board.

**NOW THEREFORE BE IT RESOLVED** by the Plan Commission of the Town of Sellersburg that the proposed amendment will not be injurious to the health, safety, and welfare of the community;

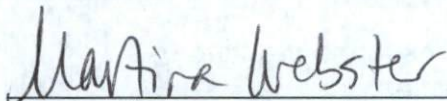
**BE IT FURTHER RESOLVED** that the proposed amendment will not have any substantial, adverse effect on the Town of Sellersburg's Comprehensive Plan; and

**BE IT FURTHER RESOLVED**, that the Plan Commission of the Town of Sellersburg give a:

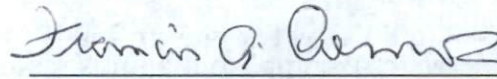
- Favorable recommendation;
- Unfavorable recommendation;
- No Recommendation;

to the Town of Sellersburg Common Council of the Resolution as presented.

**BE IT HEREBY RESOLVED THIS 15<sup>th</sup> DAY OF JULY, 2019 BY THE PLAN COMMISSION OF THE TOWN OF SELLERSBURG, INDIANA.**



Martina Webster, President



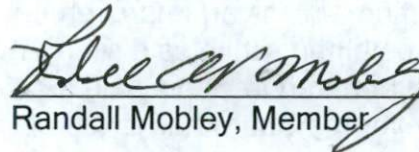
Francis A Conroy, Vice President

\_\_\_\_\_  
Brad Amos, Member



Nancy Hughes, Member

\_\_\_\_\_  
Thomas McEwen, Member



Randall Mobley, Member

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ATTEST:

Darla Stahl  
Darla Stahl Secretary

## Sellersburg Board of Zoning Appeals

The minutes as written are not verbatim from the meeting.

### Call to Order:

Chairman Vincent C. Thacker, Jr. called the meeting of the Sellersburg Board of Zoning Appeals to order at 6:00pm at Sellersburg Town Hall, 316 East Utica St on March 18, 2019 at 6:00PM.

### Roll Call:

Members present: Chairman Vincent C. Thacker, Jr., Members Charles Popp, Randall Mobley, and Dennis Amos. Vice-Chairman Francis Conroy was absent. BZA attorney Jake Elder in attendance. Building Commissioner Mike Beard, consultant, Shelly Wakefield and Secretary Darla Stahl were also present.

### Approval of Minutes:

Motion for approval of the February 18, 2019 minutes was made by Charlie Popp and seconded by Dennis Amos. Motion carried. 4-aye 0-nay.

### Unfinished Business:

- a. Motion was made by Charlie Popp to approve BAZ rules of Procedure and seconded by Randall Mobley. Motion carried 4-aye 0-nay
- b. Identification, documentation and approval of Findings of Fact for Petition 2019-02-UV-02. Discussion held. Motion by Randall Mobley to approve Findings of Fact for Petition 2019-02-UV-02 and seconded by Charles Popp. Motion carried. 4-aye 0-nay
- c. Identification, documentation and approval of Findings of Facts for Petition 2019-02-DV-03. Discussion held. Motion by Randall Mobley to approve Findings of Fact for Petition 2019-02-DV-03 and seconded by Dennis Amos. Motion carried. 4-aye 0-nay.

### New Business:

None

### Communications:

Shelly Wakefield addressed the board and explained Zoning Variance and Developmental Standards Variances.

### Planning and Zoning:

Mike Beard gave a brief report.

### Board Attorney:

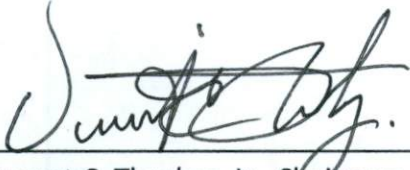
Nothing at this time.

### Board Members comments:

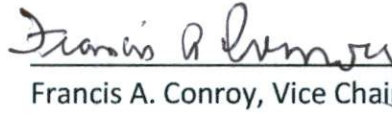
None

**Adjourn:**

Motion to adjourn by Charles Popp and seconded by Dennis Amos. Francis Conroy seconded. Motion approved 4-aye, 0-nay. Meeting adjourned by Chairman Vincent C Thacker, Jr at 6:52pm.




Vincent C. Thacker, Jr. Chairman



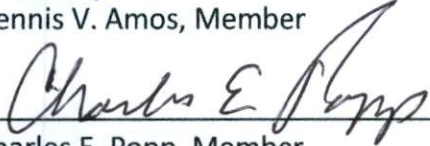
Francis A. Conroy, Vice Chairman



Dennis V. Amos, Member



Randall W. Mobley, Member



Charles E. Popp, Member



Attest:

## Sellersburg Board of Zoning Appeals

The minutes as written are not verbatim from the meeting.

### **Call to Order:**

Chairman Vincent C. Thacker, Jr. called the meeting of the Sellersburg Board of Zoning Appeals to order at 6:00pm at Sellersburg Town Hall, 316 East Utica St on April 15, 2019 at 6:00PM.

### **Roll Call:**

Members present: Chairman Vincent C. Thacker, Jr., Members Dennis Amos, Francis Conroy, Randall Mobley, Charles Popp, all present. BZA attorney Jake Elder in attendance. Building Commissioner Mike Beard, consultant, Shelly Wakefield and Secretary Darla Stahl were also present.

### **Approval of Minutes:**

Motion for approval of the March 18, 2019 minutes was made by Randall Mobley and seconded by Charles Popp. Motion carried. 4-aye 0-nay 1 abstain.

### **Unfinished Business:**

None

### **New Business:**

- a. Petition 2019-04-DV-04 Scott Parks and Amanda Duvall sworn to tell the truth. Shelly explained to the Board; Mr. Scott Parks is requesting a variance on properties of 215 Miller Ave. and 214 Broadway St. Mr. Parks addresses the board and explains he wants to divide the property to sell as 2 individual parcels. Ms. Duvall addresses the Board, about concerns. Hearing closed at 6:31 pm. Discussion held, Shelly explains Mr. Parks is trying to bring the property more into compliance. Motion was made by Randall Mobley to determine this will not affect anyone in a harmful way and seconded by Francis Conroy. Motion carried. 5-aye 0- nay Motion made by Randall Mobley to determine will not be adversely affect the surrounding properties and seconded by Charles Popp. 5 aye 0- ney. Motion made by Dennis Amos and seconded by Francis Conroy to determine that the need for the variance arises on the condition particular to the property involved. 5-aye 0-nay. Special conditions: 1) Approval from the Planning Commission to split into two (2) pieces of property.
  - 2) Location improvement permit with-in one yearMotion made by Charles Popp and seconded by Francis Conroy to accept special conditions. 5-aye 0-nay.

### **Communications:**

Nothing at this time.

### **Planning and Zoning:**

Mike Beard: Nothing at this time

### **Board Attorney:**



Jake Elder: Nothing at this time.

**Board Members comments:**

None

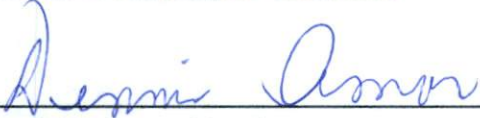
**Adjourn:**

Motion to adjourn by Randall Mobley and seconded by Dennis Amos. Motion approved 5-aye, 0-nay.  
Meeting adjourned by Chairman Vincent C Thacker, Jr at 6:45pm.

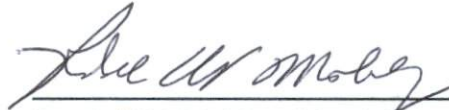


Vincent C. Thacker, Jr. Chairman

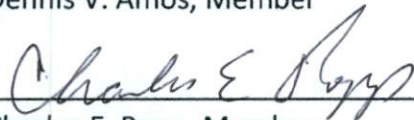
Francis A. Conroy, Vice Chairman



Dennis V. Amos, Member



Randall W. Mobley, Member



Charles E. Popp, Member



Attest:

Sellersburg Board Of Zoning Appeals  
316 East Utica Street  
Sellersburg, Indiana 47172

Petition #: 2019-04-DV-04

Hearing Date: April 15, 2019

By Petitioner(s): Scott Tanner Parks

Concerning DEVELOPMENT STANDARDS Variance at the address of: 214 Broadway & 215 Miller St.

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion Randall Mobley Second Francis Conway

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No Yes

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion Randall Mobley Second Charlier Popp

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No Yes

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion Francis Conway Second Dennis Amos

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No Yes

4. Motion to approve any special conditions.

Motion Charlier Popp Second Francis Conway

Yea  5 Nay  0 Abstain  0 Pass/Fail-Yes/No Yes

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # \_\_\_\_\_

Approved  Denied

Special Conditions:

Must get Plan Commission approval to split lot in two.  
Location improvement. Permit must be obtained within 1 year

Sellersburg Board Of Zoning Appeals  
316 East Utica Street  
Sellersburg, Indiana 47172

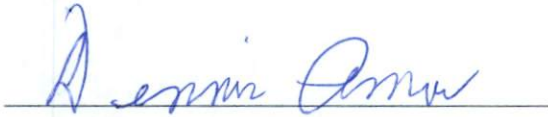
Signature Page – Petition # 2019-04-DV-04

Signed this 15<sup>th</sup> day of April, 2019



Vincent C. Thacker, Jr., Chairman

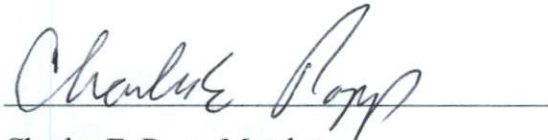
\_\_\_\_\_  
Francis A. Conroy, Vice-Chairman



Dennis V. Amos, Member



Randall W. Mobley, Member



Charles E. Popp, Member

\_\_\_\_\_  
Attest:



Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

Docket Number: 2019-04-DV-04

Date: April 15, 2019

**Finding of Fact for Developmental Standards Variance  
from the Town of Sellersburg Zoning Ordinance**

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

The reduction in the rear yard setback is a result of proposed replatting to create two (2) lots in attempt to bring an existing non-conforming lot and structures toward conformance/

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

The reduction of rear setback upon creation of two (2) lots will not negatively impact property values.

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3.) The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property:

Replatting one (1) lot into two (2) lots and due to location of proposed line, the reduction of rear yard setback to existing structures.



# SELLERSBURG BOARD OF ZONING APPEALS

## STAFF REPORT

DATE	4/10/19
DOCKET NUMBER:	2019-04-DV-04
APPLICANT:	Scott Tanner Parks
OWNER:	PRG Solutions LLC
LOCATION:	214 Broadway & 215 Miller St
LEGAL DESCRIPTION (summary)	Part of Lots 3 & 4 Bottorff's Addition
REQUEST:	Subdivide one (1) lot into two (2) lots.
ZONING:	R-1 – Single Family
COUNCIL DISTRICT	James LaMaster – District 2

Applicant is requesting a Developmental Standards Variance from the required side and rear yard setbacks.

The property in question was placed into non-compliance when Building Commissioner Jay Tanner on March 1, 2007 issues permit 2007-0988 for a foundation for a modular home, as stated on permit "Lot behind 214 Broadway. Hand written on the site plan attached to permit 2007-0988 is a notation "need variance". No action on a variance was discovered in a search of the Board of Zoning Appeals minutes.

Applicant has a pending request before the Sellersburg Plan Commission to subdivide (by legal description) "Part of lots 3 and 4 in Bottorff's Addition to the Town of Sellersburg) one (1) lot into (2) lots. The existing lot has two (2) single family dwellings each with associated accessory structures.

If the subdivision is approved the proposed rear property line places the existing accessories buildings on both properties into non-compliance as the required 20-foot

rear setback will not be provided.

Sellersburg Zoning Ordinance Section 1.26 Lots states: Every building hereafter erected shall be located on a lot.

Sellersburg Zoning Ordinance Requirements – R-1 Single Family Residential	Applicant Proposes
<p>Section 2.2.3 Area: Every lot for a structure shall front onto dedicated street or public right-of-way and comply with minimum lot area and width.</p> <p>Section 2.2.3 (a) Minimum lot size: 7,200 square feet</p>	<p>Proposed lots comply with Lot Area.</p> <p>Proposed Lot fronting Broadway St.: 67.14 feet x 114.55 feet or 7,690 square feet (approximately)</p> <p>Proposed Lot fronting Alley: 68.94 feet x 108.38 feet or 7,471 square feet (approximately)</p>
<p>Section 1.23 Street Frontage Required: Lot required to abut street or dedicated right-of-way for minimum sixty (60) percent of lot width in the zoned district. Dedicated right-of-way is not defined in the Sellersburg Zoning Ordinance.</p> <p>Street is defined as: A public way established or dedicated by duly recorded plat, deed, grant, governmental authority or by operation of laws.</p>	<p>Proposed Lot fronting Broadway St: Complies with Section 1.23</p> <p>Proposed Lot fronting Alley: Bottorff's Addition plat per attached Minor Plan indicates Alley with 14-foot right-of-way.</p>
<p>Section 2.2.4 (1) (a) Yards: Front setback 30-feet</p>	<p>Single-Family Dwellings are existing and are non-conforming</p> <p>Proposed Lot fronting Broadway St: 24.2 feet (approximately)</p> <p>Proposed Lot fronting Alley: 28.1 feet (approximately)</p>

X

*Noted  
concrete*

<p>Section 2.2.4 (2) (a) Yards: ✓ Side yard setback: 5-feet</p>	<p>Single Family Dwellings and Accessory Building are existing non-conforming as not all buildings have required 5-foot setback from side property lines</p> <p>Proposed Lot fronting Broadway St: Single Family Dwelling: Northeast side 7.8 feet (approximately) Southwest side 3.6 feet (approximately)</p> <p>Accessory Building(s) Garage 21' x 21': 8.2 feet from side property line Shed 16' x 10' 2.2 feet from side property line.</p> <p>Proposed Lot fronting Alley: Principal Structure: Northeast side 5.7 feet (approximately) Southwest side no dimension given on plat.</p> <p>Accessory Building Garage 35' x 35': 5.1 feet from side property line</p>
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<p>Rear yard setback: 20-feet ✓</p>	<p>Proposed Lot fronting Broadway St: Single Family Dwelling: not given</p> <p>Accessory Buildings: Garage 21' x 21: 2.9 feet to rear property line Shed 16' x 10': 7.8-feet to rear property line</p> <p>Proposed Lot fronting Alley: Single Family: not given</p> <p>Accessory Building: Garage 35' x 35': 2.8-feet from rear property line</p>
<p>Section 2.2.7 Minimum Lot Coverage: Based on building footprint 35% Lot coverage includes principal and accessory buildings.</p>	<p>Proposed Lot fronting Broadway St Total square footage of all structures 2,902 square feet Total Lot Area 7,638 Total Lot coverage approximately 27%</p> <p>Proposed Lot fronting Alley: Total square footage of all structures 2,320 square feet Total Lot Area 7,236 Total Lot coverage Approximately 32%</p>

IC 36-4-7-918.5. (a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community. *Applicant states: It will not affect anyone in a harmful way.*

*ALREADY BEING USED -*

*Applicant has not provided enough information to determine if*



*the required 20-foot rear setback will be injurious to the public health, safety, morals and general welfare. Required setback provide safety, privacy and environmental protection, help to prevent overcrowding of others property.*

(2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;

**Applicant states: This will not affect them in any way.**

*The Applicant has not provided evidence to support that surrounding property values will or will not be adversely affect by not providing the required 20-foot rear yard setback for the accessory buildings.*

(3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. **Applicant states: The terms in the zoning ordinance do make it difficult to move forward with the two existing structures.**

*Applicant has not explained how the required 30-foot rear setback result in a practical difficulty in the use of the property. Applicant states, "it will make it difficult to move forward" but fails to explain how the 30-foot required rear setback "makes is difficult". The applicant will need to address the required Finding of Fact at the public hearing.*

**Town of Sellersburg, Indiana  
Board of Zoning Appeals  
Application for a Variance of Development Standards**

**Applicant Information**

Name: Scott Tanner Parkes / PRG Solutions LLC  
 Mailing Address: 1994 Charlestown New Albany Rd, Suite 200,  
Street Number/P.O. Box Number Street  
Jeffersonville IN 47130  
 City State Zip  
 Email address: prgestates1@gmail.com Phone Number: 5029960201

**Owner Information ("owner is not a tenant or contract buyer")**

Name: PRG Solutions LLC  
 Mailing Address: 1994 Charlestown New Albany Rd, Suite 200  
Street Number/P.O. Box Number Street  
Jeffersonville IN 47130  
 City State Zip  
 Email address: prgestates1@gmail.com Phone Number: 5029960201

**Property Information:**

Address or location of the property subject to this application:  
214 Broadway Street & 215 Miller Avenue

Street Numbers Closest Cross Street  
 Lot Size: P1- 7381 sq ft, P2 -7582 sq ft P1 = 215 Miller Ave  
P2 = 214 BROADWAY  
 Current Use of Property: Residential  
 Describe the variance requested: Rear setback on each lot is less than 5 feet  
1.24 Accessory uses

**Check Developmental Standards Variance Requested:**

- |                                                      |                                           |                                         |                                            |
|------------------------------------------------------|-------------------------------------------|-----------------------------------------|--------------------------------------------|
| <input checked="" type="checkbox"/> Building Setback | <input type="checkbox"/> Building Height  | <input type="checkbox"/> Lot Coverage   | <input type="checkbox"/> Lot Width         |
| <input type="checkbox"/> Lot Area                    | <input type="checkbox"/> Sight Visibility | <input type="checkbox"/> Entrance/Drive | <input type="checkbox"/> Landscaping       |
| <input type="checkbox"/> Parking                     | <input type="checkbox"/> Loading Area     | <input type="checkbox"/> Sign           | <input type="checkbox"/> Exterior Lighting |
- Other: \_\_\_\_\_

**DEVELOPMENT STANDARDS VARIANCE CRITERIA  
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: It will not affect anyone in a harmful way.

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(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner: This will not affect them in any way.


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(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: The terms in the zoning ordinance do make it difficult to move forward with the two existing structures.

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**Applicant's Signature**

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

  
Applicant Signature

3-25-19 TP  
~~3-24-19~~  
Date

Scott Parkes. PRG Solutions LLC  
Printed Applicant Name



Aerial - Google Earth



## Sellersburg Board of Zoning Appeals

The minutes as written are not verbatim from the meeting.

### Call to Order:

Chairman Vincent C. Thacker, Jr. called the meeting of the Sellersburg Board of Zoning Appeals to order at 6:00pm at Sellersburg Town Hall, 316 East Utica St.

### Roll Call:

Members present: Chairman Vincent C. Thacker, Jr., Members Dennis Amos, Randall Mobley, Charles Popp. Not present, Vice-Chairman Francis Conroy. BZA attorney Jake Elder, not present. Building Commissioner Mike Beard, Consultant, Shelly Wakefield and Secretary Darla Stahl were also present.

### Approval of Minutes:

Motion for approval of the April 15, 2019 minutes was made by Charles Popp and seconded by Randall Mobley. Motion carried. 4-aye 0-nay

### Unfinished Business:

- a. Identification, documentation and approval of Finding of Facts for Petition 2019-04-DV-04. Motion was made by Randall Mobley and seconded by Charles Popp 1) the variance will not be injurious to the public health, safety, morals and general welfare of the community. 2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. 3) The strict application of the terms if the zoning ordinance will result in practical difficulties in the use of the property. Motion carried. 4 aye 0 nay.

### New Business:

- a. Petition 2019-05-DV-05 Jared and Judith Fromme 9804 Hwy.60  
Public hearing opened by V. Thacker. Mr. Fromme said he will request from the proper board to allow him to split property and extend driveway for the purpose of building a home on the back portion of the property. He is requesting that the BZA approve a variance from the building standards to require a 60 foot road frontage for the new plat in the back of the property. Mr. Fromme was sworn in. Discussion held. Hearing closed to the public. Discussion of the Board held.  
1) Motion made by Randall Mobley and seconded by Dennis Amos to determine if the variance request will not be injurious to the public health, safety, morals, and general welfare of the community. Motion carried. 4 aye 0 nay. 2) Motion made by Randall Mobley and seconded by Charles Popp that the variance will not have substantially adverse effect to the use the property and to the neighbors. 4 aye 0 nay. 3) Motion made by Charles Popp and seconded by Dennis Amos, to determine the need for the variance arises from some condition of the property involved. Motion carried. 4 aye 0 nay. Special conditions required: Property must be re-plated within one year from day of approval. Location Improvement permit must be obtained within one year day of approval. Payment of petition fees within 2 weeks of today's date. Motion was made by Randall Mobley and seconded by Charles Popp to approve Special Conditions. 4 aye 0 nay.

**Communications:**

Nothing at this time.

**Planning and Zoning:**

Mike Beard: Nothing at this time

**Board Attorney:**

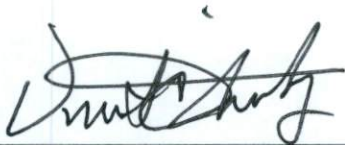
None

**Consultant comments:**

None

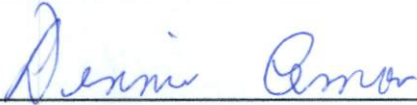
**Adjourn:**

Motion to adjourn by Charles Popp and seconded by Dennis Amos. Motion approved 4-aye, 0-nay. Meeting adjourned by Chairman Vincent C Thacker, Jr at 6:32pm.

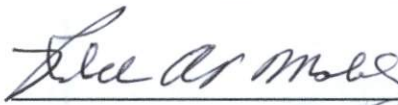


\_\_\_\_\_  
Vincent C. Thacker, Jr. Chairman

\_\_\_\_\_  
Francis A. Conroy, Vice Chairman



\_\_\_\_\_  
Dennis V. Amos, Member



\_\_\_\_\_  
Randall W. Mobley, Member

\_\_\_\_\_  
Charles E. Popp, Member

  
Attest:



Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

Docket Number: 2019-05-DV-05

Date: May 13, 2019

### **Finding of Fact for Developmental Standards Variance from the Town of Sellersburg Zoning Ordinance**

Variance request: Proposed lot will not be provided with 60% of width abutting a street or right-of-way and proposed lot will not be provided with 60-feet of street frontage.

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

Using existing driveway as access easement reduces number of driveways.

---

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

Proposed improvement (new single family dwelling) will not substantially effect property values.  
The access easement would be a perpetual easement outlined in legal description.

---

3.) The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property:

Strict application of the zoning ordinance would create an increase in the number of driveways in close proximity.





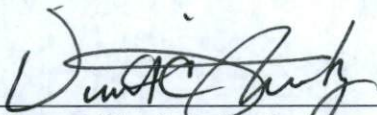
Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

### DECISION

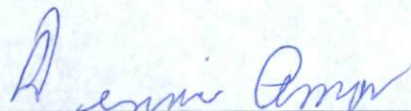
IT IS THEREFORE the decision of the Sellersburg Board of Zoning Appeals that this Use Variance Docket Number 2019-05-DV-05 is APPROVED; subject to the following conditions:

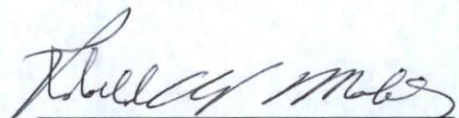
- (1.) Issuance of an Improvement Location Permit within one (1) year of the date approving these Finding of Facts; and,
- (2.) A copy "property layout" as described in the recorded deed, including legal description of perpetual access easement be submitted to the Sellersburg Building Commissioner prior to the issuance of the Improvement Location Permit.
- (3.) Developmental Standards Variance application fees are to be paid within two (2) week of the May 13, 2019. [Note: fees were paid within the prescribed two (2) weeks.]

Adopted this 17<sup>th</sup> day of June, 2019

  
\_\_\_\_\_  
Vincent Thacker, Chairman

\_\_\_\_\_  
Francis Conroy, Vice Chairman

  
\_\_\_\_\_  
Dennis Amos, Member

  
\_\_\_\_\_  
Randall Mobley, Member

\_\_\_\_\_  
Charles Popp, Member

Sellersburg Board Of Zoning Appeals  
316 East Utica Street  
Sellersburg, Indiana 47172

Petition #: 2019-05-DV-05

Hearing Date: May 20, 2019

By Petitioner(s): Jared and Judith Fromme

Concerning DEVELOPMENT STANDARDS Variance at the address of: 9804 Hwy. 60

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion Randy Motley Second Dennis Amos

Yea  Nay  Abstain  Pass/Fail-Yes/No Yes

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion Randy Motley Second Charles Papp - Property owner and the land.

Yea  Nay  Abstain  Pass/Fail-Yes/No Yes

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

OFFSET  
Motion Charles Papp Second Dennis Amos

Yea  Nay  Abstain  Pass/Fail-Yes/No Yes

4. Motion to approve any special conditions.

Motion Randy Motley Second Charles Papp

Yea  Nay  Abstain  Pass/Fail-Yes/No Yes

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # 2019-05-DV-05

Approved  Denied

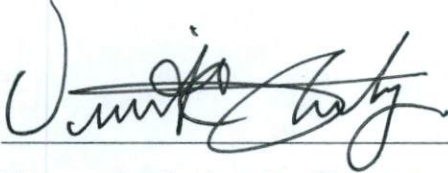
Special Conditions:

1. Fee payable within 2 weeks.
2. The approval of variance 2019-05-DV-05 is conditional on the approval of the Sellersburg Plan Commission approval of the replat from one (1) lot into two (2) lots and said replat is recorded in the Clark County Recorder's Office prior to the issuance of the required improvement Location Permit. One year limit.
3. One (1) year from the date of these findings of fact and improvement Location Permit shall be issued.

Sellersburg Board Of Zoning Appeals  
316 East Utica Street  
Sellersburg, Indiana 47172


Signature Page – Petition # 2019-05-DV-05

Signed this 20<sup>th</sup> day of May, 2019



Vincent C. Thacker, Jr., Chairman

\_\_\_\_\_  
Francis A. Conroy, Vice-Chairman



Dennis V. Amos, Member



Randall W. Mobley, Member

\_\_\_\_\_  
Charles E. Popp, Member



Attest:



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

DATE:	May 15 2019
DOCKET NUMBER:	2019-05-DV-5
APPLICANT:	Jared Lynn Fromme
OWNER:	Judith and John Fromme
ADDRESS OF VARIANCE:	9804 Hwy 60
CLOSEST CROSS STREET	Hwy 60 and St. Joe Road East
REQUEST:	Permit less than 60-feet of road frontage and to permit less than 60-percent of the lot width to abut a street or right-of-way.
CURRENT ZONING:	Property has two (2) zoning classifications Front half is zoned R-1 Back half is zoned AG
COUNCIL DISTRICT:	District 3 – Brad Amos

Applicant is proposing to subdivide the 6.5 acre parcel by metes and bounds into two (2) lots. Per the Subdivision Control Ordinance, a “minor” plat is 3 or more lots. It has been determined the proposed subdivision is less than three (3) lots, therefore a subdivision by metes and bounds is permitted, if the proposed subdivision complies will all requirements of zoning district.

The proposed rear lot is located in the Agriculture (A) Zoning District and the proposed lot will not comply with all requirements for the “A” Zoning District of the Sellersburg Zoning Ordinance.

The proposed front lot is located in the Single Family Residence (R-1) District and will comply with the requirements for the R-1 Zoning District of the Sellersburg Zoning Ordinance.

The applicant proposes to construct a single family dwelling on the rear lot; however, the construction of the dwelling is not a factor in the variance request. The variance request is a result of proposing to subdivide 6.5 acres into two (2) lots. One (1) of the lots will not comply with all requirements of the Sellersburg



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

Zoning Ordinance Development Standards. The proposed rear lot will not comply with the requirements of:

(1) Sellersburg Zoning Ordinance Section 1.23 – Street Frontage Required states:

No lot shall contain any building or structure unless such lot abuts on a street or dedicated right-of-way for at least sixty (60) percent of the lot width prescribed for the district in which the lot is located.

(2) Sellersburg Zoning Ordinance Agriculture (A) Zoning District Section 2.1.3 Minimum Lot Area states:

(1) Every lot (whether for an agricultural, residential, or nonresidential use) on which a structure is hereinafter erected, shall front on a dedicated road, street, or public right-of-way and shall have a minimum area of three (3) acres per dwelling unit (or per structure or per farm or business), a minimum lot width of one hundred (150) feet, and a minimum street frontage of sixty (60) feet. The maximum lot coverage for nonresidential uses shall not exceed twenty-five (25) percent and the maximum floor area ratio (i.e., ratio of gross floor area in structure to lot area) shall not exceed 0.5.



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

Agriculture (A) Zoning District	Applicant Proposes
Permitted uses: Single – Family Dwelling	Single-Family Dwelling
Minimum Lot Area: Three (3) Acres/dwelling unit	Applicant states less than three (3) acres; however, no lot area has been indicated on the application and no “sketch” of proposed subdivision has been submitted.
front on a dedicated road, street, or public right-of-way	Applicant states an easement to be provided. Application does not state width of proposed easement and no “sketch” was submitted indicating proposed location of easement or width.
Minimum lot width of one hundred-fifty (150) feet	Applicant did not submit “sketch” of proposed new lot to determine if minimum lot width of 150-feet will be provided.
Minimum street frontage of sixty (60) feet.	Proposed lot will not be provided with street frontage.

Applicant will need to provide a proposed “sketch” of the proposed subdivision that provides:

- Minimum lot area in acreage
- Width of proposed easement
- Proposed width of lot to be created

In accordance with the requirements set out in the Indiana Code the Board of Zoning Appeals will need to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5. (a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area)



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

### Applicant's Finding of Facts:

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

Applicant states: Will give easement to the back property without having to add an additional driveway on Indiana State Road 60 between house numbers 9804 & 9720.

*Staff:*

*Criteria (1) ask if the granting the variance to not provide the required sixty (60) percent of lot width abutting a dedicated right-of-way or not providing the required street frontage of 60-feet will or will not be injurious to the public health, safety, morals and general welfare. The Board of Zoning Appeals will need to determine during the public hearing if the applicant has met the above criteria.*

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

Applicant states: There is an entrance at house number 9804.

*Staff:*

*Criteria (2) ask if the granting of the variance to not provide the required sixty (60) percent of lot width abutting a dedicated right-of-way or not providing the required street frontage of 60-feet will or will not affect adjacent property values. The Applicant has not*



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

*address if adjacent property values will be adversely affect by the variance requested. The Board of Zoning Appeals will need to determine during the public hearing if the applicant has met the above criteria.*

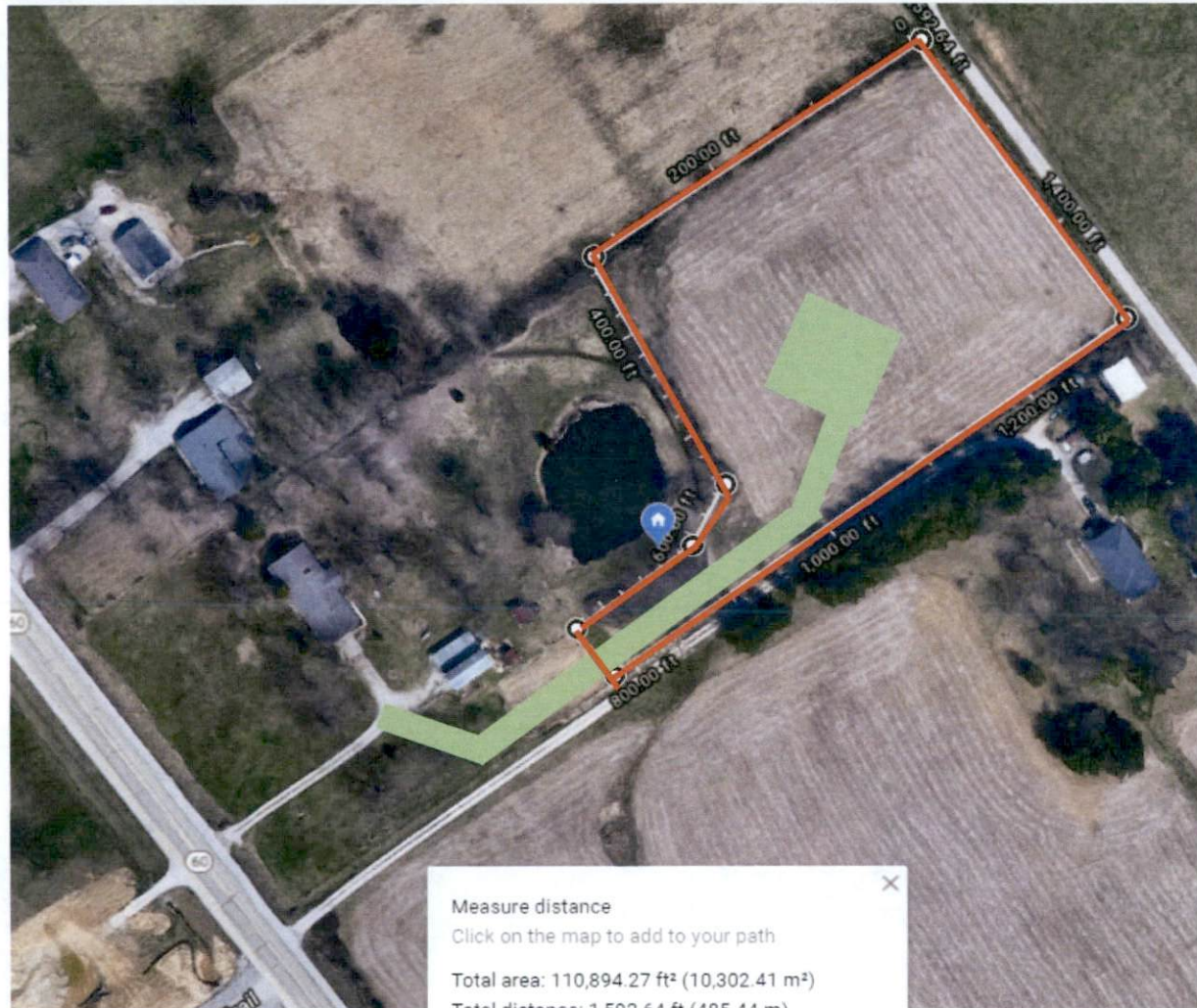
- (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.**

Applicant states: Building a new dwelling behind house number 9804

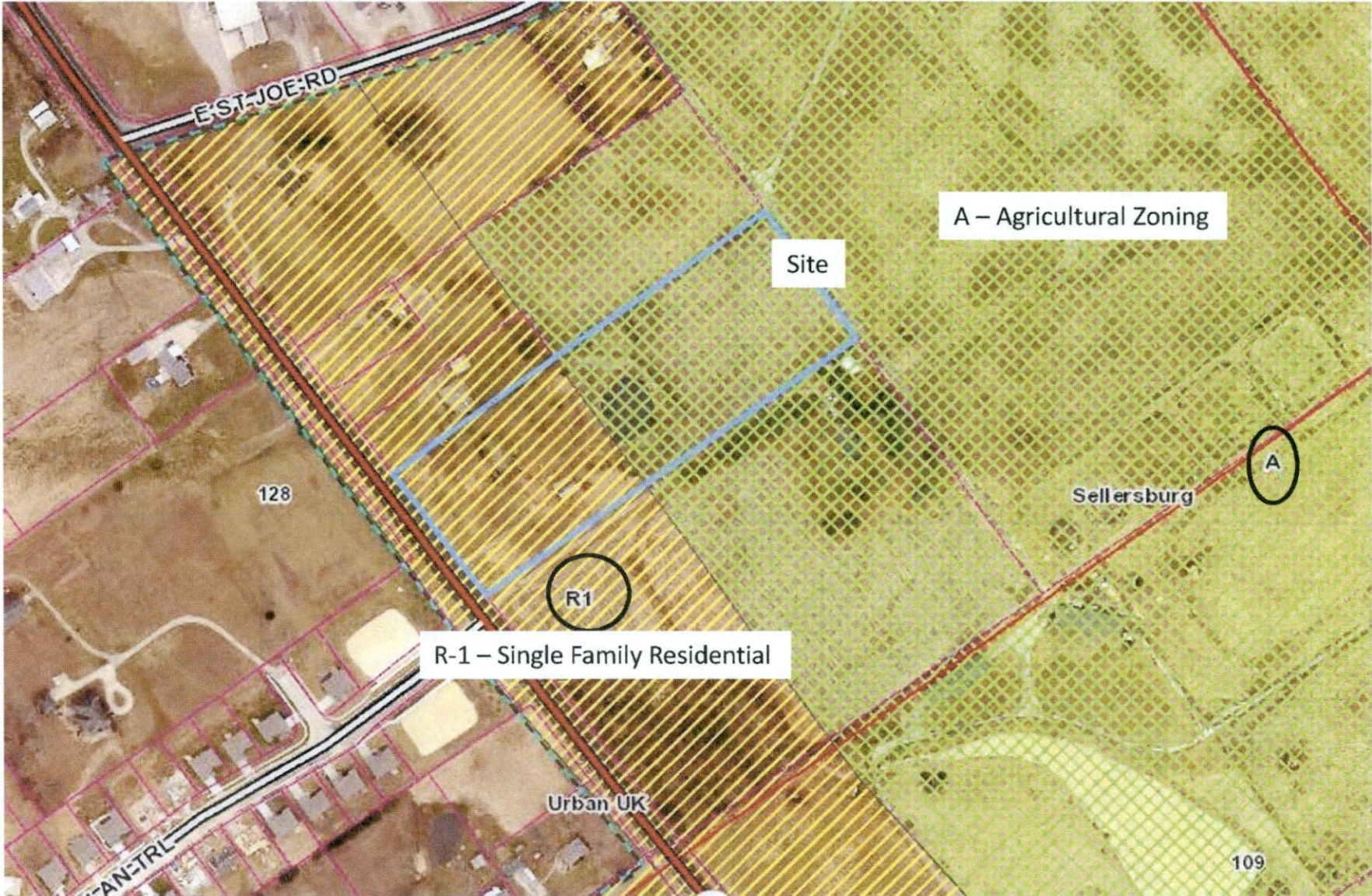
*Staff*

*Criteria (3) asks if the strict application of the terms of the zoning ordinance which requires sixty (60) percent of lot width abutting a dedicated right-of-way and requires street frontage of 60-feet will or will not result in practical difficulties in the use of the property. The Board of Zoning Appeals will need to determine during the public hearing if the applicant has met the above criteria as to if the zoning ordinance requirement effect how the property is used.*









**Town of Sellersburg, Indiana**  
**Board of Zoning Appeals**  
**Application for a Variance of Development Standards**

**Applicant Information**

Name: Jared Lynn Fromme

Mailing Address: 9804 Hwy 60

Street Number/P.O. Box Number

Street

Sellersburg

Indiana

47172

City

State

Zip

Email address: jlfomme@gmail.com

Phone Number: (765)730-9462

**Owner Information ("owner is not a tenant or contract buyer")**

Name: Judith Fromme & John Fromme

Mailing Address: 9850 Hwy 60

Street Number/P.O. Box Number

Street

Sellersburg

Indiana

47172

City

State

Zip

Email address: judyfromme@twc.com

Phone Number: (502)593-2738

**Property Information:**

Address or location of the property subject to this application:

9804 Hwy 60

Hwy 60 & St. Joe Rd East

Street Numbers

Closest Cross Street

Lot Size: 6.5 acres

Current Use of Property: Residential

Describe the variance requested: 60% of of the lot width does not abut to a street or right-of-way & less than 60 feet street frontage with less than 3 acres.

**Check Developmental Standards Variance Requested:**

- |                                              |                                           |                                         |                                            |
|----------------------------------------------|-------------------------------------------|-----------------------------------------|--------------------------------------------|
| <input type="checkbox"/> Building Setback    | <input type="checkbox"/> Building Height  | <input type="checkbox"/> Lot Coverage   | <input type="checkbox"/> Lot Width         |
| <input checked="" type="checkbox"/> Lot Area | <input type="checkbox"/> Sight Visibility | <input type="checkbox"/> Entrance/Drive | <input type="checkbox"/> Landscaping       |
| <input type="checkbox"/> Parking             | <input type="checkbox"/> Loading Area     | <input type="checkbox"/> Sign           | <input type="checkbox"/> Exterior Lighting |

Other: Street Frontage

**DEVELOPMENT STANDARDS VARIANCE CRITERIA  
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

- (1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: Will give easement to the back property without having to add an additional driveway on Indiana State Road 60 between house numbers 9804 & 9720.
  
- (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner: There is an entrance at house number 9804 currently that this, if granted, will use.
  
- (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: Building a new dwelling behind house number 9804.

**Applicant's Signature**

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

Jared Lynn Fromme  
Applicant Signature

APRIL 11, 2019  
Date

Jared Lynn Fromme  
Printed Applicant Name

State of Indiana )  
 )SS  
County of Clark )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Jared Fromme, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 11<sup>th</sup> day of April, 2019

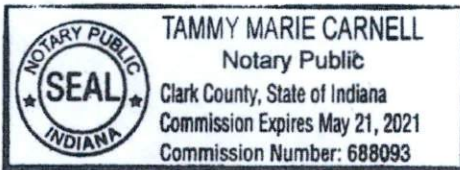
My Commission Expires:

5/21/2021

Tammy M. Carnell  
Notary Public

Resident Clark County, Indiana

Tammy M Carnell  
Printed Name



**Office Use:**

Date Completed Application Received: 4 / 22 / 2019

Petition Application Fee of \$ 200.00 Received:      /      /     

Docket Number: 2019-05-DV-05

Current Zoning Classification: A and R-1 Property is split between zoning districts

Zoning Ordinance Section applicable to variance application: Section 1.23 Street Frontage, & 2.1.3 Minimum Lot Area

BZA Public Hearing Date: 5 / 13 chg 70 / 2019

Adjacent Property Owners Notified via Certificate of Mailing: 4 / 24 / 19

Legal Ad Published: 4 / 23 / 19

Verified Posting of Hearing Sign:      /      /     

Public Notice Posted at Town Hall      /      /

**AFFIDAVIT AND CONSENT OF PROPERTY OWNER**  
**Application to the Sellersburg Board of Zoning Appeals**

I, John Fromme, AFTER BEING DULY SWORN, DEPOSE  
AND STATE THE FOLLOWING:

1. That I am the owner of real estate located at: \_\_\_\_\_  
9804 Hwy 60, Sellersburg, Indiana 47172
  
2. That I have no objection to, and consent to the request(s) described in the application  
made to the Sellersburg Board of Zoning Appeals.

John Fromme

Owner's Name (Printed)

John Fromme

Owner's Signature

State of Indiana        )  
                                  )SS  
County of Clark        )

Before me, the undersigned, a Notary Public in and for said County and State, personally  
appeared John Fromme, and acknowledge the execution of the  
foregoing *Affidavit and Consent* as their free and voluntary act and deed for the uses and  
purposes set forth therein.

Witness my hand and Notarial Seal, this this 12 day of April, 2019

My Commission Expires:

2/26/22

Brett Lory Duncan  
Notary Public

Resident Clark County, Indiana

Brett Lory Duncan  
Printed Name

NP #0651407

**AFFIDAVIT AND CONSENT OF PROPERTY OWNER**  
**Application to the Sellersburg Board of Zoning Appeals**

I, Judith Fromme, AFTER BEING DULY SWORN, DEPOSE  
AND STATE THE FOLLOWING:

1. That I am the owner of real estate located at: \_\_\_\_\_  
9804 Hwy 60, Sellersburg, Indiana 47172
  
2. That I have no objection to, and consent to the request(s) described in the application  
made to the Sellersburg Board of Zoning Appeals.

**Judith Fromme**

Owner's Name (Printed)

Judith Fromme  
Owner's Signature

State of Indiana        )  
                                  )SS  
County of Clark        )

Before me, the undersigned, a Notary Public in and for said County and State, personally  
appeared Judith Fromme, and acknowledge the execution of the  
foregoing *Affidavit and Consent* as their free and voluntary act and deed for the uses and  
purposes set forth therein.

Witness my hand and Notarial Seal, this this 12 day of April, 20 19

My Commission Expires:

2/20/22

Brett Cory Duncan  
Notary Public

Resident Clark County, Indiana

Brett Cory Duncan  
Printed Name

NP #0651407





Send tax bill to:  
John O. and Judith C. Fromme  
9850 Highway 60  
Sellersburg, IN 47172

Duly Entered For Taxation  
Subject To Final Acceptance  
For Transfer

Jan 31 2018 - ARR

Parcel No. 10-17-12-800-068.000.031  
Alt. Parcel No. 17-00059-002-1

*A. Morty Sney*  
Auditor of Clark County

**QUITCLAIM DEED**

**THIS INDENTURE WITNESSETH** that **Judith C. Fromme**, of Clark County, Indiana, for no consideration,

**CONVEYS and QUITCLAIMS**

unto **John O. Fromme and Judith C. Fromme**, husband and wife, of Clark County, Indiana, as tenants by the entireties, all of the grantor's right, title and interest in and to the real estate in Clark County, Indiana, described as follows:

Part of Survey No. 128 of the Illinois Grant, more particularly described as follows:

Commencing at a limestone Monument at the East corner of said Grant No. 128; thence South 49° 33' West on the Southeast line of said Grant, 907.5 feet to a 3/4" iron pin, thence North 40° 49' West 604.0 feet to a 3/4" iron pin, at the true place of beginning; thence South 49° 33' West 862.9 feet to a 3/4" iron pin; thence following the East right-of-way line of State

*Cynthia Dalgarn*  
CLARK CO, IN ASSESSOR

Road No. 60 and 40 feet from the center line of the said State Road No. 60, North 43° 27' West, 178.7 feet to a concrete right-of-way marker; thence on a curve to the right whose radius is 24,519.1 feet, the chord of which bears North 43° 03' West, 122.8 feet to a stake, thence leaving said right-of-way line North 49° 33' East approximately 875 feet to a stake in the Northeast line of Grantors land; thence South 40° 49' East approximately 301 feet to the true point of beginning, containing 6 acres more or less.

IN WITNESS WHEREOF, the grantor has executed this deed this 30 day of January, 2018.

Judith C. Fromme  
Judith C. Fromme

STATE OF INDIANA     |  
                                  |     SS.  
COUNTY OF FLOYD     |

Before me, a Notary Public in and for the State and County aforesaid, personally appeared **Judith C. Fromme**, grantor herein, and acknowledged the execution of the foregoing deed.

WITNESS my hand and Notarial Seal this 30<sup>th</sup> day of January, 2018.

Cindi L. Smithson  
Cindi L. Smithson, Notary Public  
County of Residence: Floyd



My Commission Expires:  
October 4, 2019

Prepared by:  
J. David Agnew  
*LORCH NAVILLE WARD LLC*  
506 State Street – P.O. Box 1343  
New Albany, IN 47151-1343  
Telephone: 812.949.1000  
Email: [dagnew@lnwlegal.com](mailto:dagnew@lnwlegal.com)

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. J. David Agnew

## Sellersburg Board of Zoning Appeals

The minutes as written are not verbatim from the meeting.

### Call to Order:

Chairman Vincent C. Thacker, Jr. called the meeting of the Sellersburg Board of Zoning Appeals to order at 6:02pm at Sellersburg Town Hall, 316 East Utica St.

### Roll Call:

Members present: Chairman Vincent C. Thacker, Jr., Members Dennis Amos, Randall Mobley. Not present, Vice-Chairman Francis Conroy and Charles Popp. BZA attorney Jake Elder and Consultant Shelly Wakefield were present. Secretary Darla Stahl and Building Commissioner Mike Beard were not present.

### Approval of Minutes:

Motion for approval of the May 20, 2019 minutes was made by Randall Mobley and seconded by Dennis Amos. Motion carried. 3-aye 0-nay

### Unfinished Business:

- a. Identification, documentation and approval of Finding of Facts for Petition 2019-05-DV-05.  
Motion was made by Dennis Amos and seconded by Randall Mobley to approve the Findings of Facts. Chairman Thacker noted the Findings of Facts were:
  - 1) The approval **will not** be injurious to the public health, safety, morals, and general welfare of the community because: Using existing driveway as access easement reduces number of driveways.
  - 2) The use and value of the area adjacent to the property included in the variance **will not** be affected in a substantially adverse manner because:  
Proposed improvement (new single family dwelling) will not substantially effect property values.
  - 3) The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property because:  
Strict application of the zoning ordinance would create an increase in the number of driveways in

Motion carried 3-0.

### New Business:

None

### Communications:

Nothing at this time.

### Planning and Zoning:

Nothing at this time

**Board Attorney:**

None

**Consultant comments:**

None

There was a question by Member Dennis Amos about if the BZA has the opportunity to review building plans. He noted that he had some questions about the work going on with the apartments on Broadway. He questioned if the foundation was high enough to meet the requirements for frost line protection. There was general discussion about who should review and approve building plans to meet building requirements. It was noted that the frost line was changed from 14" to 24". Final recommendation was for Mr. Amos to contact Building Commissioner Mike Beard and make him aware of the concerns. Mr. Beard has the duty to make sure the builder is following the approved plans and he also has the final say when he approves the building for occupancy.

**Adjourn:**

*Randall W. Mobley*

Motion to adjourn by ~~Charles Popp~~ and seconded by Dennis Amos. Motion approved 4-aye, 0-nay. Meeting adjourned by Chairman Vincent C Thacker, Jr at 6:32pm.

*Vincent C. Thacker, Jr.*

Vincent C. Thacker, Jr. Chairman

*Francis A. Conroy*

Francis A. Conroy, Vice Chairman

*Dennis V. Amos*

Dennis V. Amos, Member

*Randall W. Mobley*

Randall W. Mobley, Member

Charles E. Popp, Member

*James L. ...*

Attest:

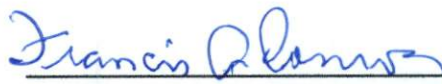
### Sellersburg Board of Zoning Appeals

The minutes as written are not verbatim from the meeting.

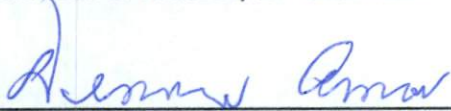
July meeting not held.



Vincent C. Thacker, Jr. Chairman



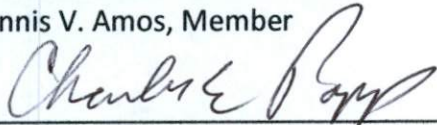
Francis A. Conroy, Vice Chairman



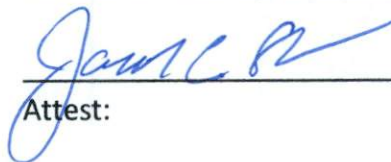
Dennis V. Amos, Member



Randall W. Mobley, Member



Charles E. Popp, Member



Attest:

## Sellersburg Board of Zoning Appeals

The minutes as written are not verbatim from the meeting.

### **Call to Order:**

Chairman Vincent C. Thacker, Jr. called the meeting of the Sellersburg Board of Zoning Appeals to order at 6:00pm at Sellersburg Town Hall, 316 East Utica St.

### **Roll Call:**

Members present: Chairman Vincent C. Thacker, Jr., Members Dennis Amos, Randall Mobley, Charles Popp, and Francis Conroy. BZA attorney Jake Elder, Building Commissioner Mike Beard, Consultant, Shelly Wakefield and Secretary Darla Stahl were also present.

### **Approval of Minutes:**

Motion for approval of the June 17, 2019 minutes with changes was made by Randall Mobley and seconded by Dennis Amos. Motion carried. 5 -0 Approval of July 15, 2019 minutes was made by Randall Mobley and seconded by Dennis Amos.

### **Unfinished Business:**

- a. None

### **New Business:**

- a. Petitions 2019-08-DV-7, 2019-08-DV-8, 2019-08-DV-9, 2019-08-DV-10, 2019-08-DV-11, 2019-08-DV-12, 2019-08-DV-13: Chad Sprigler 9001 Hardy Way. There were issues with filing. Public hearing opened at 6:07 pm. Discussion held with Mr. Sprigler, the Board, Mike Beard and Shelly Wakefield. Petitioner did not follow the published procedures and therefore the Board could not hear the requests. Petitioners were instructed by the Chairman to get with Mr. Beard and Ms. Wakefield to resubmit the petitions in the correct manner and timeframe. Member of public Mr. Brad Amos requested that the Board try to meet earlier than the next scheduled meeting. It was explained that if the proper procedures are not followed, then any decision of the Board could be invalidated by the courts. The public hearing was closed at 6:15PM.
- b. Discussion was held on the Budget and review invoices. Motion to allow the Chairman and/or Vice Chairman to review invoices submitted against the approved budget and submit to the Town Treasurer for payment was made by Charlie Popp and seconded by Dennis Amos. Motion carried. 5-0

### **Communications:**

Nothing at this time.

### **Planning and Zoning:**

Mike Beard: nothing at this time

**Board Attorney:**

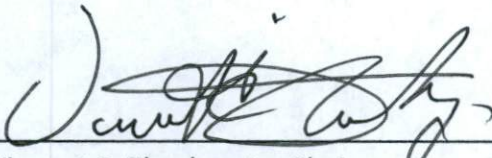
Nothing at this time

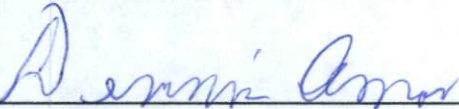
**Board Members comments:**

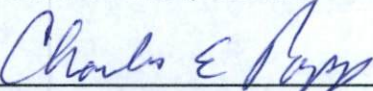
None

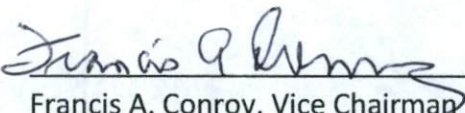
**Adjourn:**

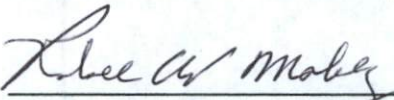
Motion to adjourn by Francis Conroy and seconded by Charlie Popp. Motion approved 5 -0. Meeting adjourned by Chairman Vincent C Thacker, Jr. at 6:20pm.

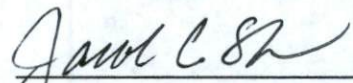
  
\_\_\_\_\_  
Vincent C. Thacker, Jr. Chairman

  
\_\_\_\_\_  
Dennis V. Amos, Member

  
\_\_\_\_\_  
Charles E. Popp, Member

  
\_\_\_\_\_  
Francis A. Conroy, Vice Chairman

  
\_\_\_\_\_  
Randall W. Mobley, Member

  
\_\_\_\_\_  
Attest:





# Sellersburg Board of Zoning Appeals Minutes

**DATE September 16, 2019**

The minutes as written are not verbatim, but a summary of the meeting.

## **Call to Order:**

Chairman Vincent C. Thacker, Jr. called to order the meeting of the Sellersburg Board of Zoning Appeals at 6:00pm at Sellersburg Town Hall, 316 East Utica St.

## **Roll Call:**

Members present: Chairman Vincent C. Thacker, Jr., Vice-Chairman Francis Conroy and Members Dennis Amos, Randall Mobley and Charles Popp. BZA attorney Jake Elder and Consultant Shelly Wakefield and Mike Beard were present. Secretary Darla Stahl was not present.

## **Approval of Minutes:**

Motion for approval of the August 19, 2019 minutes was made by Randall Mobley and seconded by Charles Popp. Motion carried. 5-aye 0-nay

## **Unfinished Business:**

None

## **New Business:**

Chairman Thacker called Petitions 2019-09-DV-14 and 2019-09-DV-15 submitted by Robert Westley. The Public Hearing was opened at 6:03PM.

2019-09-DV 14 is requesting a Variance for lot area from 7,200 square feet to 6,000 square feet and 2019-09-DV-15 is requesting a variance for rear setback from 20 feet to 14 feet. Mr. Westley was present and sworn in by the Chairman. Mr. Wesley presented his request for the variances and why he needed them. He presented a layout of the manufactured home he planned on setting up on the property and where it would sit on the property. There were several questions from the members of the Board to Mr. Wesley as well as Commissioner Beard and Consultant Wakefield. The Chairman then asked if there was anyone else who would like to address the Board regarding these Petitions. There were none. There was some general discussion and questions among the Board, Consultant Wakefield and Commissioner Beard.

The Public Hearing was closed at 6:20PM. The Board began discussion about the petitions and took the following votes.

The Board agreed to have one set of votes for both Petitions together.

- 1) Motion made by Randal Mobley and seconded by Francis Conroy to determine that the variance request will not be injurious to the public health, safety, morals, and general welfare of the community. Motion carried. 5 aye 0 nay.



# Sellersburg Board of Zoning Appeals Minutes

**DATE September 16, 2019**

2) Motion made by Francis Conroy and seconded by Charles Popp that the variance will not have substantial adverse effect on the use and value any neighboring or adjacent property owners to the property included in the variance. 5 aye 0 nay.

3) Motion made by Charles Popp and seconded by Francis Conroy to determine that the need for the variance arises from some condition peculiar to the property involved. Motion carried. 5 aye 0 nay.

4) Special conditions required: Petitioner must obtain a Location Improvement Permit within 1 year and provide 2 car solid surface parking on the property. Motion was made by Randall Mobley and seconded by Francis Conroy to approve Special Conditions requirement. 5 aye 0 nay.

The Petitions were approved with stated restrictions.

Next, Chairman Thacker called Petitions 2019-09-DV-16, 2019-09-DV-17, 2019-09-DV-18, 2019-09-DV-19, 2019-09-DV-20 and 2019-09-DV-21 submitted by J. Chad Sprigler. The Public Hearing was opened at 6:22PM.

Mr. Michael Gillenwater, an attorney, 411 Watts St. was present to represent the Petitioner. The Petitioner Mr. Sprigler was also present. Mr. Gillenwater requested to be allowed to make a general statement then address each of the Petitions. During the presentations, there were various questions and discussions between the Board, Mr. Gillenwater, Mr. Sprigler, Consultant Wakefield, Commissioner Beard and Board Attorney Elder.

Chairman Thacker read into the record a letter from Mr. Ken Hecker.

Public Hearing was closed at 7:26PM.

Chairman Thacker asked if there were others in the meeting who would like to speak about these petitions.

Mr. Rod Hecker, 3009 Hwy 311 was recognized and addressed several concerns he has including foot traffic across his property and 3<sup>rd</sup> floor access for fire departments as well as other questions and issues about the project.

Ms. Jenna Jackson, 339 Haas Lane was recognized and expressed concerns about drainage problems that happened when Mr. Sprigler was building the adjacent apartments several years ago. There was some discussion and she was assured that any drainage problems with this project would be addressed the Town Building Commissioner. She was also concerned about parking in general and the cars parking on Camp Run Parkway. Mr. Sprigler stated that he would review the concerns about parking and try and come up with a plan. Chairman Thacker stated that the parking on Camp



# Sellersburg Board of Zoning Appeals Minutes

**DATE September 16, 2019**

Run Parkway issue should be addressed by the Town Council and the Police. He said he would bring the problem to the council at their next meeting next Monday.

Mr. Brad Amos, 1812 Penbrook Drive and Sellersburg Town Councilman was recognized and he addressed his desires to have this project approved to hopefully help stimulate additional development in the TIF/PUD area. He also expressed his desire to help address the issues raised by the previous speakers.

There was a question and some general discussion about the future of Hwy 311 among several people. After general discussion by the Board, the Board then voted on each Petition individually.

Petition 2019-09-DV-16

- 1) Motion made by Charles Popp and seconded by Dennis Amos to determine that the variance request will not be injurious to the public health, safety, morals, and general welfare of the community. Motion carried. 5 aye 0 nay.
- 2) Motion made by Randall Mobley and seconded by Francis Conroy that the variance will not have substantial adverse effect on the use and value any neighboring or adjacent property owners to the property included in the variance. 5 aye 0 nay.
- 3) Motion made by Charles Popp and seconded by Francis Conroy to determine that the need for the variance arises from some condition peculiar to the property involved. Motion carried. 5 aye 0 nay.
- 4) Special conditions required: Petitioner must obtain a Location Improvement Permit within 1 year and provide an approved drainage plan to the Building Commissioner. Motion was made by Randall Mobley and seconded by Dennis Amos to approve Special Conditions requirement. 5 aye 0 nay.

The Petitions were approved with stated restrictions.

Petition 2019-09-DV-17

- 1) Motion made by Francis Conroy and seconded by Dennis Amos to determine that the variance request will not be injurious to the public health, safety, morals, and general welfare of the community. Motion carried. 5 aye 0 nay.
- 2) Motion made by Randall Mobley and seconded by Francis Conroy that the variance will not have substantial adverse effect on the use and value any neighboring or adjacent property owners to the property included in the variance. 5 aye 0 nay.



# Sellersburg Board of Zoning Appeals Minutes

**DATE September 16, 2019**

3) Motion made by Charles Popp and seconded by Francis Conroy to determine that the need for the variance arises from some condition peculiar to the property involved. Motion carried. 5 aye 0 nay.

4) Special conditions required: Petitioner must obtain a Location Improvement Permit within 1 year. Motion was made by Francis Conroy and seconded by Randall Mobley to approve Special Conditions requirement. 5 aye 0 nay.

The Petition was approved with stated restrictions.

Petition 2019-09-DV-18

1) Motion made by Randall Mobley and seconded by Francis Conroy to determine that the variance request will not be injurious to the public health, safety, morals, and general welfare of the community. Motion carried. 5 aye 0 nay.

2) Motion made by Charles Popp and seconded by Dennis Amos Conroy that the variance will not have substantial adverse effect on the use and value any neighboring or adjacent property owners to the property included in the variance. 5 aye 0 nay.

3) Motion made by Randall Mobley and seconded by Francis Conroy to determine that the need for the variance arises from some condition peculiar to the property involved. Motion carried. 5 aye 0 nay.

4) Special conditions required: Petitioner must obtain a Location Improvement Permit within 1 year and provide an approved landscaping plan to the Building Commissioner. Motion was made by Francis Conroy and seconded by Charles Popp to approve Special Conditions requirement. 5 aye 0 nay.

The Petition was approved with stated restrictions.

Petition 2019-09-DV-19

1) Motion made by Charles Popp and seconded by Dennis Amos to determine that the variance request will not be injurious to the public health, safety, morals, and general welfare of the community. Motion carried. 3 aye 2 nay.

2) Motion made by Charles Popp and seconded by Dennis Amos that the variance will not have substantial adverse effect on the use and value any neighboring or adjacent property owners to the property included in the variance. 3 aye 2 nay.



# Sellersburg Board of Zoning Appeals Minutes

**DATE September 16, 2019**

3) Motion made by Randall Mobley and seconded by Dennis Amos to determine that the need for the variance arises from some condition peculiar to the property involved. Motion carried. 5 aye 0 nay.

4) Special conditions required: Petitioner must obtain a Location Improvement Permit within 1 year. Motion was made by Randall Mobley and seconded by Francis Conroy to approve Special Conditions requirement. 5 aye 0 nay.

The Petition was approved with stated restrictions.

Petition 2019-09-DV-20

1) Motion made by Charles Popp and seconded by Randall Mobley Amos to determine that the variance request will not be injurious to the public health, safety, morals, and general welfare of the community. Motion carried. 5 aye 0 nay.

2) Motion made by Randall Mobley and seconded by Francis Conroy that the variance will not have substantial adverse effect on the use and value any neighboring or adjacent property owners to the property included in the variance. 5 aye 0 nay.

3) Motion made by Randall Mobley and seconded by Dennis Amos to determine that the need for the variance arises from some condition peculiar to the property involved. Motion carried. 5 aye 0 nay.

4) Special conditions required: Petitioner must obtain a Location Improvement Permit within 1 year. Motion was made by Randall Mobley and seconded by Francis Conroy to approve Special Conditions requirement. 5 aye 0 nay.

The Petition was approved with stated restrictions.

Petition 2019-09-DV-21

1) Motion made by Randall Mobley and seconded by Francis Conroy to determine that the variance request will not be injurious to the public health, safety, morals, and general welfare of the community. Motion carried. 5 aye 0 nay.

2) Motion made by Charles Popp and seconded by Randall Mobley that the variance will not have substantial adverse effect on the use and value any neighboring or adjacent property owners to the property included in the variance. 5 aye 0 nay.



# Sellersburg Board of Zoning Appeals Minutes

**DATE September 16, 2019**

3) Motion made by Randall Mobley and seconded by Dennis Amos to determine that the need for the variance arises from some condition peculiar to the property involved. Motion carried. 5 aye 0 nay.

4) Special conditions required: Petitioner must obtain a Location Improvement Permit within 1 year. Motion was made by Francis Conroy and seconded by Dennis Amos to approve Special Conditions requirement. 5 aye 0 nay.

The Petition was approved with stated restrictions.

All Petitions were approved for the project.

The Chairman will document all the special conditions and provide to Commissioner Beard who will forward to Mr. Sprigler.

**Communications:**

Nothing at this time.

**Reports:**

Planning and Zoning:

Nothing at this time

Board Attorney:

Nothing at this time

Consultant comments:

Nothing at this time

**Adjourn:**

Motion to adjourn by Charles Popp and seconded by Dennis Amos. Motion approved 4-aye, 0-nay.

Meeting adjourned by Chairman Vincent C Thacker, Jr at 8:27pm.

Vincent C. Thacker, Jr. Chairman

Francis A. Conroy, Vice Chairman

Randall W. Mobley, Member

Charles E. Popp, Member

Attest:

Sellersburg Board Of Zoning Appeals  
316 East Utica Street  
Sellersburg, Indiana 47172

Petition #: 2019-08-DV-14 Thru 15

Hearing Date: September 16, 2019

By Petitioner(s): Robert Westley DBA Westley Investment Properties

Concerning DEVELOPMENT STANDARDS Variance at the address of: East Side Hanger St.

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion Randall Mobby Second Francis Conroy

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No Yes

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion Francis Conroy Second Charles Popp

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No Yes

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion Charles Popp Second Francis Conroy

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No Yes

4. Motion to approve any special conditions.

Motion Randy Mobby Second Francis Conroy

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No Yes

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # \_\_\_\_\_

Approved  Denied

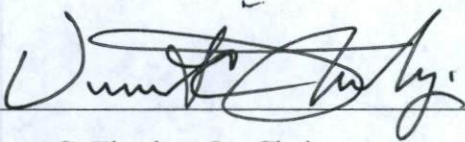
Special Conditions:

- 1. Location improvement Permit within 1 year
- 2. Solid surface parking.

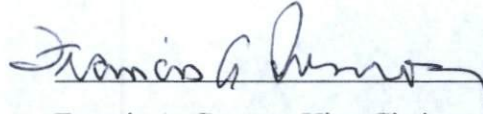
Sellersburg Board Of Zoning Appeals  
316 East Utica Street  
Sellersburg, Indiana 47172

Signature Page – Petition # 2019-08-DV-14 Thru 15

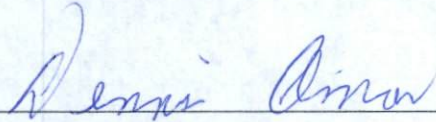
Signed this 16<sup>th</sup> day of September, 2019



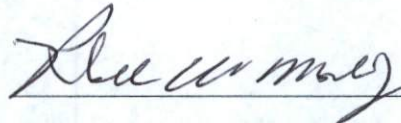
Vincent C. Thacker, Jr., Chairman



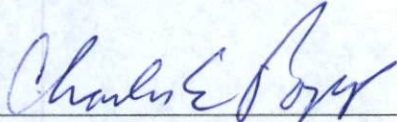
Francis A. Conroy, Vice-Chairman



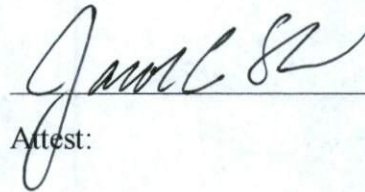
Dennis V. Amos, Member



Randall W. Mobley, Member



Charles E. Popp, Member



Attest:





Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

Docket Number: 2019-09-DV-14

Date: September 16, 2019

### **Finding of Fact for Developmental Standards Variance from the Town of Sellersburg Zoning Ordinance**

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

The lot is an existing lot of 6,000 square feet.

---

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

It is an existing lot.

---

3.) The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property:

This is an existing lot of approximately 6,000 square feet.



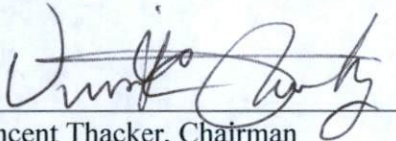
Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

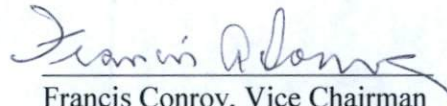
### DECISION

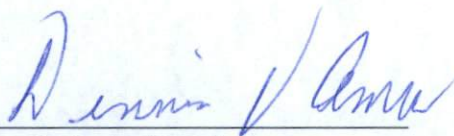
IT IS THEREFORE the decision of the Sellersburg Board of Zoning Appeals that this Use Variance Docket Number 2019-09-DV-14 is APPROVED; subject to the following conditions:

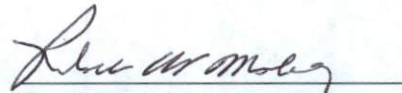
- (1.) One (1) year from the date approving these Finding of Facts an Improvement Location Permit shall be issued.
- (2.) A solid surface parking area be provided to accommodate two (2) vehicles.

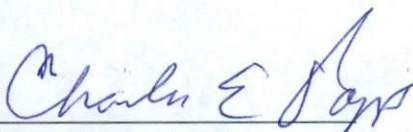
Adopted this 21<sup>st</sup> day of October, 2019

  
\_\_\_\_\_  
Vincent Thacker, Chairman

  
\_\_\_\_\_  
Francis Conroy, Vice Chairman

  
\_\_\_\_\_  
Dennis Amos, Member

  
\_\_\_\_\_  
Randall Mobley, Member

  
\_\_\_\_\_  
Charles Popp, Member



Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

Docket Number: 2019-09-DV-15

Date: September 16, 2019

### **Finding of Fact for Developmental Standards Variance from the Town of Sellersburg Zoning Ordinance**

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

The reduction in the rear yard setback to 14-feet will permit the compliance with the front yard setback and provide for the required off-street parking as well as the depth of a proposed manufactured home.

---

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

The proposed reduction in rear yard setback will permit the property to be improved, therefore increasing subject property value as well as surrounding property's value.

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3.) The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property:

After all required setbacks have been applied, remaining lot area depth will not accommodate improvements to the unimproved lot.



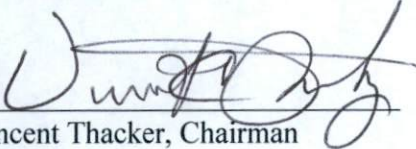
Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

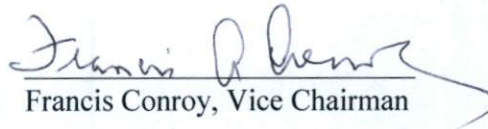
### DECISION

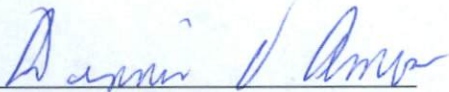
IT IS THEREFORE the decision of the Sellersburg Board of Zoning Appeals that this Use Variance Docket Number 2019-09-DV-15 is APPROVED; subject to the following conditions:

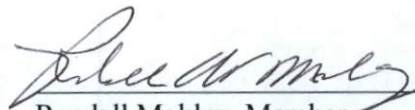
- (1.) One (1) year from the date approving these Finding of Facts an Improvement Location Permit shall be issued.
- (2.) A solid surface parking area be provided to accommodate two (2) vehicles.

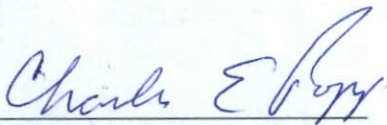
Adopted this 21<sup>st</sup> day of October, 2019

  
Vincent Thacker, Chairman

  
Francis Conroy, Vice Chairman

  
Dennis Amos, Member

  
Randall Mobley, Member

  
Charles Popp, Member



# Sellersburg Board of Zoning Appeals

## STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DATE:	September 12, 2019
DOCKET NUMBER:	2019-09-DV-14
APPLICANT:	Robert Wesley, DBA Wesley Investment Properties LLC
OWNER:	Same
ADDRESS OF VARIANCE:	East side of Hanger Street
CLOSEST CROSS STREET	Between Utica St. & Miller Ave.
REQUEST:	Existing lot of 6,000 square feet, Ordinance requires lot area of 7,200 square feet
CURRENT ZONING:	R-1 – Single Family Residences
COUNCIL DISTRICT:	James LaMasters – District 2

The subject property is zoned R-1 Single Family Residences, which requires lot area of 7,200 square feet. The lot is a legally existing non-conforming lot containing approximately 6,000 square feet. The property card available from the Clark County GIS provides a legal description of Miller Addition – Part 12-13-14-15 BLK E.

No information is available as to when the lot in question was created as part of lots 12, 13, 14 and 15 in Miller Addition Block E.

In accordance with the requirements set out in the Indiana Code the Board of Zoning Appeals will need to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5. (a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and



# Sellersburg Board of Zoning Appeals

## STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

(3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

### Applicant's Finding of Facts:

**(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community:**

Applicant states: The lot size will cause no harm to the community as it has been this way for the life of the land.

*Staff:*

*The Sellersburg Zoning Ordinance defines a Nonconforming Lot as follows: "A single lot of record prior to the effect date this ordinance that fails to meet the area or dimensional area or dimensional requirements for lots within the zoning district in which it lies."*

*The Applicant above statement indicates the subject lot has been a nonconforming lot for "life of the land."*

*The intent of the Zoning Ordinance, is to move nonconforming elements to conformity. In this situation of an existing lot it is difficult to move towards conformity. To achieve conformity the Applicant would need to purchase additional property, requiring the property to be replatted to eliminate the nonconforming lot.*

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

Applicant states: The use and value will only improve as this will improve the lot value as well as put use to a vacant lot.

*Staff:*

*Staff does not disagree with the Applicant's statement; however, the Applicant's response addresses an improvement increasing the value of the property. The variance requested is for lot area of 6,000 square feet and not the required 7,200 square feet for the zoning district. The Board will need to determine if a nonconforming lot area has an impact on the value of subject property as well as*



# Sellersburg Board of Zoning Appeals

## STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

*adjacent properties.*

**(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.**

Applicant states: Increasing the allowance of lot size will allow me to put housing on the lot in which it is zoned for.

*Staff*

*The Applicant's states "increasing the allowance of lot size..."*

*The Board of Zoning Appeals is not permitting an increase in lot area.*

*The Applicant's statement does not address the result of the Zoning Ordinance practical difficulties in the use of the lot at 6,000 square feet, instead of the required 7,200 square feet.*

*It has been determined the subject lot is a legally existing nonconforming lot.*

**Town of Sellersburg, Indiana**  
**Board of Zoning Appeals**  
**Application for a Variance of Development Standards**

**Applicant Information**

Name: Robert Wesley DBA Wesley Investment Properties, LLC

Mailing Address: PO Box 508  
Street Number/P.O. Box Number Street

Sellersburg IN 47172  
City State Zip

Email address: Robert.Wesley@samtec.com Phone Number: (812) 786-1323

**Owner Information ("owner is not a tenant or contract buyer")**

Name: Same as above

Mailing Address: \_\_\_\_\_  
Street Number/P.O. Box Number Street

\_\_\_\_\_  
City State Zip

Email address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

**Property Information:**

Address or location of the property subject to this application:

Hanger (10-17-11-000-522.000-031)  
Street Numbers Closest Cross Street

Lot Size: 60x100

Current Use of Property: Vacant Lot

Describe the variance requested: Allow lot area of 6,000 sq. feet instead of 7,200

**Check Developmental Standards Variance Requested:**

- |                                              |                                           |                                         |                                            |
|----------------------------------------------|-------------------------------------------|-----------------------------------------|--------------------------------------------|
| <input type="checkbox"/> Building Setback    | <input type="checkbox"/> Building Height  | <input type="checkbox"/> Lot Coverage   | <input type="checkbox"/> Lot Width         |
| <input checked="" type="checkbox"/> Lot Area | <input type="checkbox"/> Sight Visibility | <input type="checkbox"/> Entrance/Drive | <input type="checkbox"/> Landscaping       |
| <input type="checkbox"/> Parking             | <input type="checkbox"/> Loading Area     | <input type="checkbox"/> Sign           | <input type="checkbox"/> Exterior Lighting |

Other: \_\_\_\_\_




**DEVELOPMENT STANDARDS VARIANCE CRITERIA  
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

- (1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: The lot size will cause no harm to the community as it has been this way for the life of the land.
- (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner: The use and value will only improve as this will improve the lot value as well as put use to a vacant lot.
- (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: Increasing the allowance of lot size will allow me to put housing on the lot in which it is zoned for.

**Applicant's Signature**

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

  
Applicant Signature

8-20-19  
Date

Robert Wesley  
Printed Applicant Name

State of Indiana )  
 )SS  
County of Floyd )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Robert Wesley, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 20<sup>th</sup> day of August, 20 19

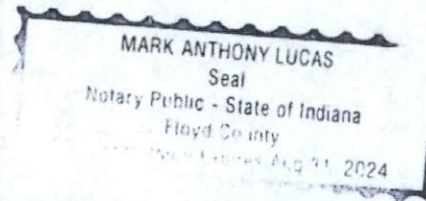
My Commission Expires:

August 31<sup>st</sup>, 2024

Mark Anthony Lucas  
Notary Public

Resident Floyd County, Indiana

Mark Anthony Lucas  
Printed Name



**Office Use:**

Date Completed Application Received: 8 / 22 / 19

Petition Application Fee of \$ \_\_\_\_\_ Received: 08 / 22 / 19

Docket Number: 2019-09-DV-14

Current Zoning Classification: \_\_\_\_\_

Zoning Ordinance Section applicable to variance application: \_\_\_\_\_

BZA Public Hearing Date: 9 / 16 / 19

Adjacent Property Owners Notified via Certificate of Mailing: \_\_\_/\_\_\_/\_\_\_

Legal Ad Published: \_\_\_/\_\_\_/\_\_\_

Verified Posting of Hearing Sign: \_\_\_/\_\_\_/\_\_\_

Public Notice Posted at Town Hall \_\_\_/\_\_\_/\_\_\_

**AFFIDAVIT AND CONSENT OF PROPERTY OWNER**  
**Application to the Sellersburg Board of Zoning Appeals**

I, Robert Wesley, AFTER BEING DULY SWORN, DEPOSE AND STATE THE FOLLOWING:

1. That I am the owner of real estate located at: Hanger Ave (vacant lot)  
(10-17-11-000-522.000-031)
2. That I have no objection to, and consent to the request(s) described in the application made to the Sellersburg Board of Zoning Appeals.

Robert Wesley DBA Wesley Investment Properties, LLC  
Owner's Name (Printed)

[Signature]  
Owner's Signature

State of Indiana        )  
                                  )SS  
County of Floyd        )

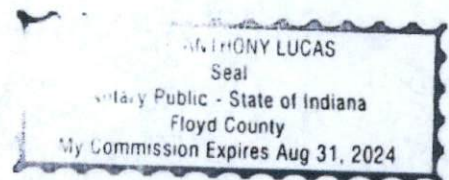
Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Robert Wesley, and acknowledge the execution of the foregoing *Affidavit and Consent* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 20<sup>th</sup> day of August, 20 19

My Commission Expires:  
August 31<sup>st</sup>, 2024

[Signature]  
Notary Public

Resident Floyd County, Indiana        Mark Anthony Lucas  
Printed Name





# Sellersburg Board of Zoning Appeals

## STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

DATE:	September 12, 2019
DOCKET NUMBER:	2019-09-DV-15
APPLICANT:	Robert Wesley, DBA Wesley Investment Properties LLC
OWNER:	Same
ADDRESS OF VARIANCE:	East side of Hanger Street
CLOSEST CROSS STREET	Between Utica St. & Miller Ave.
REQUEST:	Reduction of required rear yard setback
CURRENT ZONING:	R-1 – Single Family Residences
COUNCIL DISTRICT:	James LaMasters – District 2

The subject property is zoned R-1 Single Family Residences and requires a rear yard setback from property line of 20-feet. Applicant is requesting a rear yard setback from property line of 14-feet.

Property card available from the Clark County GIS provides a legal description of Miller Addition – Part 12-13-14-15 BLK E.

In accordance with the requirements set out in the Indiana Code the Board of Zoning Appeals will need to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5. (a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.



# Sellersburg Board of Zoning Appeals

## STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

Applicant's Finding of Facts:

**(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community:**

Applicant states: The rear property line is vacant land and has no fire or safety concerns with the requested variance.

*Staff:*

*The property is located in an R-1, Single Family Residences zoned area, which requires a rear yard setback from property line of 20-feet. The applicant is request a setback of 14-feet from the rear property line.*

*Zoning Ordinance setback are developed to provide for safety, privacy, and overcrowding. Safety concern are those generally associated with fire migration or fire leaping from one structure to another due to close proximity.*

*Control of overcrowding, where structures are too large for lots and structures are not literally stacked next to each other which addresses another reason setbacks are established and therefore affording adjacent occupant a sense of privacy.*

*Applicant states property located to the rear is unimproved (vacant) land. Staff agrees the adjacent rear property is unimproved; however, it is not known if the adjacent rear property will remain unimproved.*

*The Board of Zoning Appeals will need to determine if a 14-foot setback from rear property line is sufficient to not be injurious to public health, safety, morals, and general welfare of the community.*



# Sellersburg Board of Zoning Appeals

## STAFF REPORT DEVELOPMENTAL STANDARDS VARIANCE

**(2) The use and value of the area adjacent to the property included in the variance will no be affected in a substantially adverse manner**

Applicant states: The rear property connecting to the requested setback is vacant and will have not affect. This will increase land value.

*Staff:*

*The variance request is to reduce the required rear yard setback.*

*The response to the above criteria is to provide finding of fact if the request to reduce the required rear yard setback to 14-feet will or will not affect in a substantially adverse manner the use and value of the area adjacent to the property as well as the subject property.*

*Staff does not disagree an improvement will create property value; but the variance requested is not for the improvement. The variance requested is to permit the proposed improvement to be less than the required 20-feet from the rear setback.*

**(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.**

Applicant states: By approving I will increase land value and provide housing per the residential zoning of the vacant lot.

*Staff*

*The above criteria states if the required rear yard setback of 20-feet is enforced, what is the practical difficulties with the use of the property.*

*Applicant has not stated why compliance with the 20-foot required rear yard setback cannot be met.*

*Applicant will need to demonstrate how the zoning ordinance requirement of a required rear yard setback prevents Applicant from improvement of the lot with a single family dwelling.*

**Town of Sellersburg, Indiana  
Board of Zoning Appeals  
Application for a Variance of Development Standards**

**Applicant Information**

Name: Robert Wesley DBA Wesley Investment Properties, LLC

Mailing Address: PO Box 508  
Street Number/P.O. Box Number Street

Sellersburg IN 47172  
City State Zip

Email address: Robert.wesley@samtec.com Phone Number: (812) 786-1323

**Owner Information ("owner is not a tenant or contract buyer")**

Name: Same as above

Mailing Address: \_\_\_\_\_  
Street Number/P.O. Box Number Street

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

**Property Information:**

Address or location of the property subject to this application:

Hanger (10-17-11-000-522-000-031) E Utica Street  
Street Numbers Closest Cross Street

Lot Size: 60x100

Current Use of Property: Vacant Lot

Describe the variance requested: Allow Rear Setback of 14 ft instead of 20ft.

**Check Developmental Standards Variance Requested:**

- |                                                      |                                           |                                         |                                            |
|------------------------------------------------------|-------------------------------------------|-----------------------------------------|--------------------------------------------|
| <input checked="" type="checkbox"/> Building Setback | <input type="checkbox"/> Building Height  | <input type="checkbox"/> Lot Coverage   | <input type="checkbox"/> Lot Width         |
| <input type="checkbox"/> Lot Area                    | <input type="checkbox"/> Sight Visibility | <input type="checkbox"/> Entrance/Drive | <input type="checkbox"/> Landscaping       |
| <input type="checkbox"/> Parking                     | <input type="checkbox"/> Loading Area     | <input type="checkbox"/> Sign           | <input type="checkbox"/> Exterior Lighting |

Other: \_\_\_\_\_

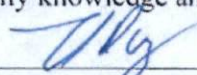
**DEVELOPMENT STANDARDS VARIANCE CRITERIA  
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

- (1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: The rear property line is vacant land and has no fire or safety concerns with the requested variance.
- (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner: The rear property connecting to the requested setback is vacant and will have no affect. This will increase land value.
- (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: By approving I will increase land value and provide housing per the residential zoning of the vacant lot.

**Applicant's Signature**

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

  
Applicant Signature

8-20-19  
Date

Robert Wesley  
Printed Applicant Name



State of Indiana )  
 )SS  
County of Floyd )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Robert Wesley, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

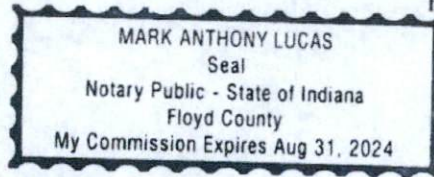
Witness my hand and Notarial Seal, this this 20<sup>th</sup> day of August, 2019.

My Commission Expires:

August 31<sup>st</sup>, 2024

Mark Anthony Lucas  
Notary Public

Resident Floyd County, Indiana Mark Anthony Lucas  
Printed Name



**Office Use:**

Date Completed Application Received: 8 / 22 / 19

Petition Application Fee of \$ \_\_\_\_\_ Received: 8 / 22 / 19

Docket Number: 2019-09-DV-15

Current Zoning Classification: \_\_\_\_\_

Zoning Ordinance Section applicable to variance application: \_\_\_\_\_

BZA Public Hearing Date: 9 / 16 / 19

Adjacent Property Owners Notified via Certificate of Mailing:    /   /   

Legal Ad Published:    /   /   

Verified Posting of Hearing Sign:    /   /   

Public Notice Posted at Town Hall    /   /

**AFFIDAVIT AND CONSENT OF PROPERTY OWNER**  
**Application to the Sellersburg Board of Zoning Appeals**

I, Robert Wesley, AFTER BEING DULY SWORN, DEPOSE AND STATE THE FOLLOWING:

1. That I am the owner of real estate located at: Hanger Ave (vacant lot)  
10-17-11-000-522.000-031
2. That I have no objection to, and consent to the request(s) described in the application made to the Sellersburg Board of Zoning Appeals.

Robert Wesley DBA Wesley Investment Properties, LLC  
Owner's Name (Printed)

[Signature]  
Owner's Signature

State of Indiana        )  
                                  )SS  
County of Floyd        )

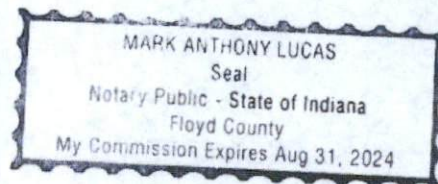
Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Robert Wesley, and acknowledge the execution of the foregoing *Affidavit and Consent* as their free and voluntary act and deed for the uses and purposes set forth therein.

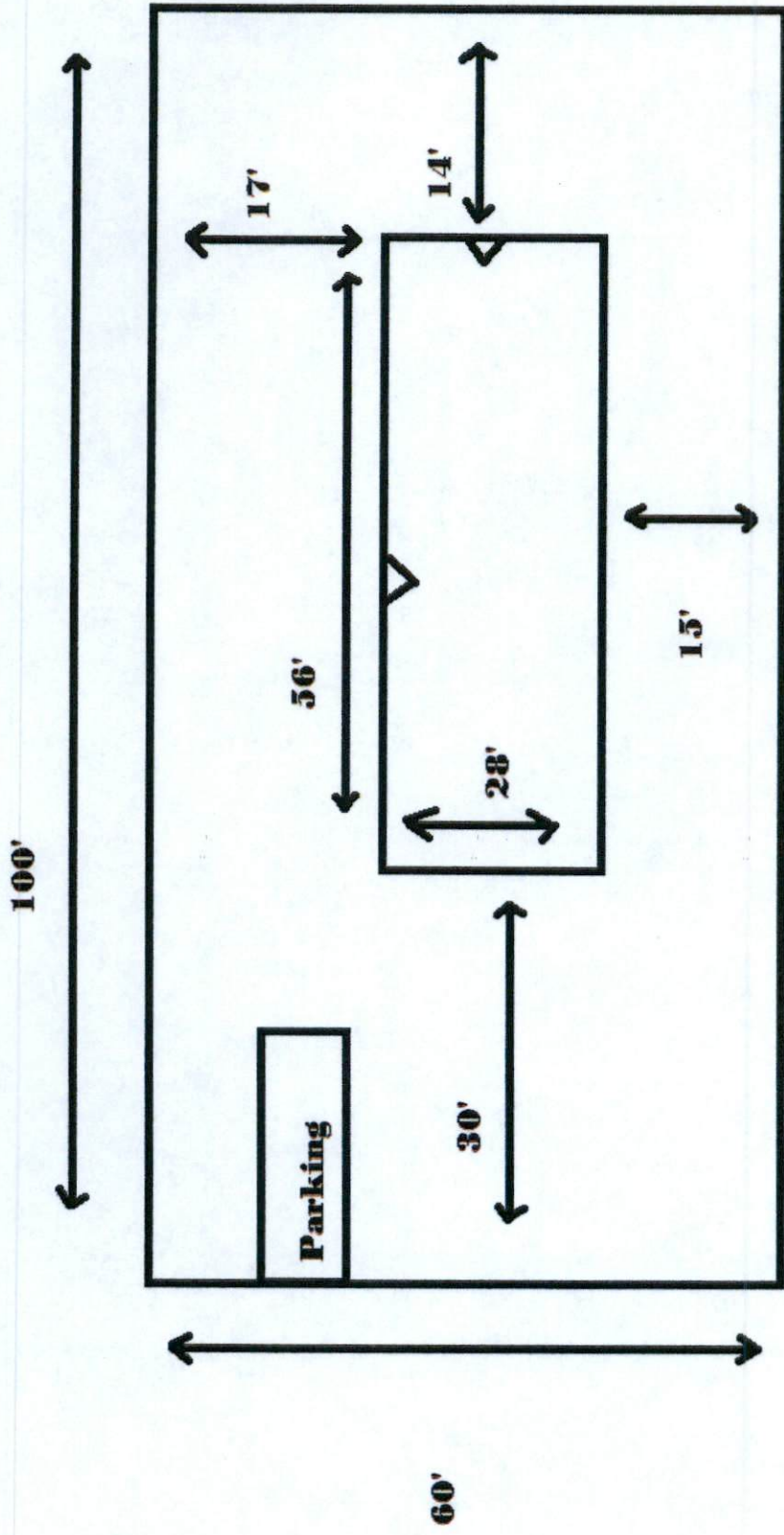
Witness my hand and Notarial Seal, this this 20<sup>th</sup> day of August, 2019

My Commission Expires:  
August 31<sup>st</sup>, 2024

Mark Anthony Lucas  
Notary Public

Resident Floyd County, Indiana        Mark Anthony Lucas  
Printed Name





Sellersburg Board Of Zoning Appeals  
316 East Utica Street  
Sellersburg, Indiana 47172

Petition #: 2019-09-DV-16

Hearing Date: September 16, 2019

By Petitioner(s): J Chad Sprigler for Z S Developer, LLC

Concerning DEVELOPMENT STANDARDS Variance at the address of: 9001 Hardy Way

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion Charles Popp Second Dennis Amos

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No yes

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion Randall Mobley Second Francis Conroy

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No yes

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion Charles Popp Second Francis Conroy

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No yes

4. Motion to approve any special conditions.

Motion Randall Mobley Second Dennis Amos

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No yes

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # \_\_\_\_\_

Approved  Denied

Special Conditions:

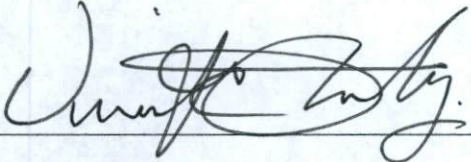
1. Must obtain Location Improvement Permit within 1 year

2. Must provide Approved Drainage Plan to Building Commissioner

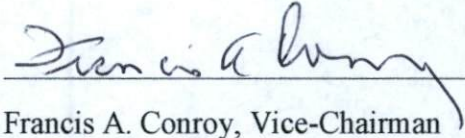
Sellersburg Board Of Zoning Appeals  
316 East Utica Street  
Sellersburg, Indiana 47172

Signature Page – Petition # 2019-<sup>09</sup>~~08~~-DV-16

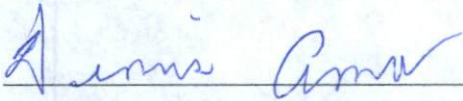
Signed this 16<sup>th</sup> day of September, 2019



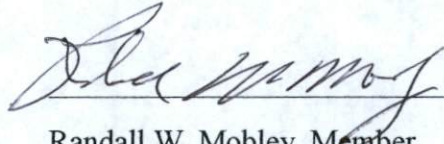
Vincent C. Thacker, Jr., Chairman



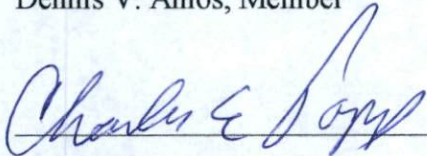
Francis A. Conroy, Vice-Chairman



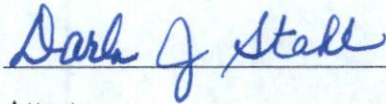
Dennis V. Amos, Member



Randall W. Mobley, Member



Charles E. Popp, Member



Attest:



Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

Docket Number: 2019-09-DV-16

Date: November 18, 2019

**Finding of Fact for Developmental Standards Variance  
from the Town of Sellersburg Zoning Ordinance**

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

Reducing setback from Natural Sensitive Areas from 75-feet to 25-feet.

---

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

The reduction in setback will not adversely affect adjacent property as the owner of the proposed development is the adjacent owner.

---

3.) The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property:

The PUD Ordinance does not adequately define Naturally Sensitive Areas.

---



Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

### DECISION

IT IS THEREFORE the decision of the Sellersburg Board of Zoning Appeals that this Use Variance Docket Number 2019-09-DV-16 is Approved; subject to the following conditions:

(1.) Issuance of Improvement Location Permit within one (1) year of the date the Finding of Facts is signed.

Adopted this 18th day of November, 2019

Vincent Thacker, Chairman

Francis Conroy, Vice Chairman

Dennis Amos, Member

Randall Mobley, Member

Charles Popp, Member



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

DATE:	September 12, 2019
DOCKET NUMBER:	<del>2019-08-DV-16</del> 2019-09-DV-16
APPLICANT & OWNER:	Z S Developer, LLC
APPLICANT & OWNER ADDRESS:	214 East Elm St New Albany, IN 47150
ADDRESS OF VARIANCE:	9001 Hardy Way
CLOSEST CROSS STREET	County Road 311 & Camp Run Parkway
REQUEST:	PUD/TIFF Ordinance of Sellersburg Zoning Ordinance Section 1.2 Table 1, Lot Standards reduce required setback of 75-feet from Naturally Sensitive Areas to 25-feet.
CURRENT ZONING:	PUD – Planned Unit Development – Village Living Subarea
COUNCIL DISTRICT:	

The subject property is zoned Planned Unit Development (PUD) zoning district. The PUD Zoning Ordinance indicates the subject property is zoned Village Living Subarea.

### PUD Zoning Ordinance 2011-015; General Development Standards & Guidelines;

#### 1. Building Form and Lot Standards

Intent: Building placement should reinforce exterior spaces and respond to the context of the existing built and natural environment. Buildings oriented towards the street and public spaces promote interaction and provide a pedestrian friendly environment. Lot Standards for each subarea dictate the minimum and/or maximum standards that apply to lots within certain zoning districts (Table 1: Lot Standards).

1.3 There shall be a setback for naturally sensitive areas, such as floodplains, woodlands and other areas as determined by the Plan Commission. This setback shall overlap (not be in addition to) front, side, and rear setbacks. The setback with the largest width shall apply.

Table 1 requires a setback of 75-feet from Naturally Sensitive areas.

In accordance with the requirements set out in the Indiana Code the Board of Zoning Appeals is required to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.





# Sellersburg Board of Zoning Appeals

## STAFF REPORT

IC 36-4-7-918.5. (a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant's Finding of Facts:

**(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community:**

Applicant states: From prior discussion with zoning board staff, it is unclear whether this detention basin area is a naturally sensitive area. Due to this uncertainty, we are requesting to reduce the minimum setback to 25 feet. The granting of his variance will have no injurious effect on any of the listed standards.

*Staff:*

*Staff's only direction as to what constitutes a Naturally Sensitive Area is that set out in the PUD Zoning Ordinance which states: "... such as floodplains, woodlands and other areas as determined by the Plan Commission." Applicant's comment above "... staff is unclear whether this detention basin area is a naturally sensitive area." is not accurate. As set out in the PUD Zoning Ordinance staff cannot make a determination as to Naturally Sensitive Areas; that determination lies with the City of Sellersburg Plan Commission, not staff.*



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

*Criteria (1) ask the Applicant to provide finding of facts as to if the reduction of the required setback from 75-feet to 25-feet from Naturally Sensitive Areas, such as floodplains, woodlands and other areas as determined by the Plan Commission will or will not be injurious public health, safety, morals and general welfare of the community.*

*Applicant has not provided the required finding of fact to support the reduction of the required setback to 25-feet as to if the reduction would or would not be injurious to the public health, safety, morals and general welfare of the community.*

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

Applicant states: This variance will have a neutral effect on use or value of any adjacent properties.

*Staff:*

*Criteria (2) asks the Applicant to provide finding of fact if a reduction of the required 75-feet to 25-feet will not have substantially adverse effect of the use and value of adjacent property as well as the submit property.*

*Applicant does not provide supporting finding of fact how it was determine that reducing the required setback has a neutral effect on use and value on the subject property as well as adjacent property.*

**(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.**

Applicant states: Due to 325 ft. length of the basin, this set back area of approximately 6/10 acres reduces significant useable land from the property and makes development of planned improvements impossible.

*Staff:*

*Applicant's provided finding of fact provides information that the strict application of the PUD Zoning Ordinance results in the practical difficulties of the use of the property; however, the Applicant states "... makes development of improvements*



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

*impossible”, but has not providing supporting finding of fact as to what total acreage the 6/10 of an acres is based.*

*Nor does the Applicant provide if the 6/10 acre affects one (1) lot, two (2) lots or all three (3) lot and if the 6/10 is deducted from the affected lot(s) what is the remaining acreage.*

2019-09-DV-16

Town of Sellersburg, Indiana  
Board of Zoning Appeals  
Application for a Variance of Development Standards

**Applicant Information**

Name: 7S DEVELOPED, LLC

Mailing Address: 214 EAST ELM ST  
Street Number/P.O. Box Number Street

NEW ALBANY IN 47150  
City State Zip

Email address: SPRIGLERCOMPANY@GMAIL.COM Phone Number: (502) 376-4112

**Owner Information ("owner is not a tenant or contract buyer")**

Name: SAME AS APPLICANT

Mailing Address: \_\_\_\_\_  
Street Number/P.O. Box Number Street

City State Zip

Email address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

**Property Information:**

Address or location of the property subject to this application:

9001 HARDY WAY, SELLERSBURG, IN  
Street Numbers Closest Cross Street

Lot Size: 3.35 ACRES

Current Use of Property: VACANT GROUND

Describe the variance requested: VARIANCE FROM SECTION 1.2, TABLE 1 OF SELLERSBURG TIF DISTRICT MASTER PLAN AND DUD ORDINANCE

**Check Developmental Standards Variance Requested:**

- Building Setback
  - Building Height
  - Lot Coverage
  - Lot Width
  - Lot Area
  - Sight Visibility
  - Entrance/Drive
  - Landscaping
  - Parking
  - Loading Area
  - Sign
  - Exterior Lighting
- Other: \_\_\_\_\_

→ TO ALLOW SET BACK OF 25 FEET INSTEAD OF THE STIPULATED MINIMUM OF 75 FEET FROM A NATURALLY SENSITIVE AREA.

**DEVELOPMENT STANDARDS VARIANCE CRITERIA  
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

- (1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: SEE ATTACHED RESPONSE

---

- (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner: SEE ATTACHED RESPONSE

---

- (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: SEE ATTACHED RESPONSE

---

**Applicant's Signature**

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

J. Chad Sprigler  
Applicant Signature

8/20/19  
Date

ZS DEVELOPER, LLC

BY: J. CHAD SPRIGLER, MEMBER  
Printed Applicant Name

- *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*
  - From prior discussions with zoning board staff, it is unclear whether this detention basin area is a naturally sensitive area. Due to this uncertainty, we are requesting to reduce the minimum setback to 25 feet. The granting of this variance will have no injurious effect on any of the listed standards.
  
- *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.*
  - This variance will have a neutral effect on use or value of any adjacent properties.
  
- *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.*
  - Due to 325 ft. length of the basin, this set back area of approximately 6/10 acres reduces significant useable land from the property and makes development of planned improvements impossible.

State of Indiana )  
 )SS  
County of CLARK )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared J. CHAD SPRIGLER, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 20 day of AUGUST, 2019

My Commission Expires:

8-29-2016

Monica L. Guthrie  
Notary Public

Resident SCOTT County, Indiana

MONICA L. GUTHRIE  
Printed Name



**Office Use:**

Date Completed Application Received: \_\_\_/\_\_\_/\_\_\_

Petition Application Fee of \$ \_\_\_\_\_ Received: \_\_\_/\_\_\_/\_\_\_

Docket Number: \_\_\_\_\_

Current Zoning Classification: \_\_\_\_\_

Zoning Ordinance Section applicable to variance application: \_\_\_\_\_

BZA Public Hearing Date: \_\_\_/\_\_\_/\_\_\_

Adjacent Property Owners Notified via Certificate of Mailing: \_\_\_/\_\_\_/\_\_\_

Legal Ad Published: \_\_\_/\_\_\_/\_\_\_

Verified Posting of Hearing Sign: \_\_\_/\_\_\_/\_\_\_

Public Notice Posted at Town Hall \_\_\_/\_\_\_/\_\_\_

**AFFIDAVIT AND CONSENT OF PROPERTY OWNER**  
**Application to the Sellersburg Board of Zoning Appeals**

I, J. CHAD SPRIGLER, AFTER BEING DULY SWORN, DEPOSE  
AND STATE THE FOLLOWING:

1. That I am the owner of real estate located at: 9001 HARDY WAY  
SELLERSBURG, IN
2. That I have no objection to, and consent to the request(s) described in the application  
made to the Sellersburg Board of Zoning Appeals.

ZS DEVELOPER, LLC

BY: J CHAD SPRIGLER, MEMBER  
Owner's Name (Printed)

J. Chad Sprigler  
Owner's Signature

State of Indiana        )  
                                  )SS  
County of CLARK)

Before me, the undersigned, a Notary Public in and for said County and State, personally  
appeared J. CHAD SPRIGLER, and acknowledge the execution of the  
foregoing *Affidavit and Consent* as their free and voluntary act and deed for the uses and  
purposes set forth therein.

Witness my hand and Notarial Seal, this this 20 day of AUGUST, 2019

My Commission Expires:

8-29-2016

Monica L. Guthrie  
Notary Public

Resident SCOTT County, Indiana

MONICA L. GUTHRIE  
Printed Name





Sellersburg Board Of Zoning Appeals  
316 East Utica Street  
Sellersburg, Indiana 47172

Petition #: 2019-09-DV-17

Hearing Date: September 16, 2019

By Petitioner(s): J Chad Sprigler for Z S Developer, LLC

Concerning DEVELOPMENT STANDARDS Variance at the address of: 9001 Hardy Way

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion Francis Conroy Second Charles Papp

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No Yes

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion Randall Mobley Second Francis Conroy

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No Yes

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion Charles Papp Second Francis Conroy

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No Yes

4. Motion to approve any special conditions.

Motion Francis Conroy Second Randall Mobley

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No Yes

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # \_\_\_\_\_

Approved  Denied

Special Conditions:

- 1. Must obtain Location Improvement Permit within 1 year
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
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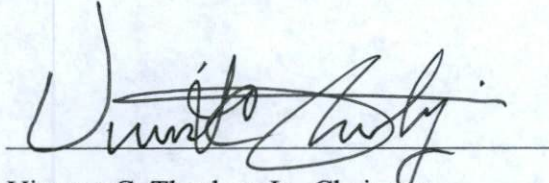
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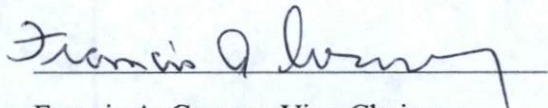
Sellersburg Board Of Zoning Appeals  
316 East Utica Street  
Sellersburg, Indiana 47172

Signature Page – Petition # <sup>09</sup>2019-~~08~~-DV-17

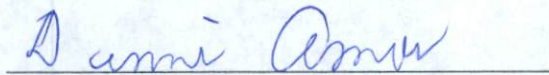
Signed this 16<sup>th</sup> day of September, 2019



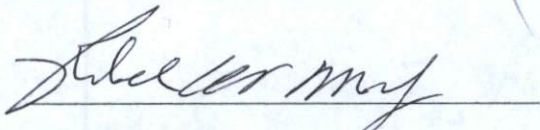
Vincent C. Thacker, Jr., Chairman



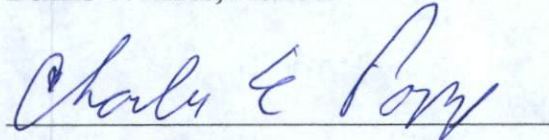
Francis A. Conroy, Vice-Chairman




Dennis V. Amos, Member



Randall W. Mobley, Member



Charles E. Popp, Member



Attest:



Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

Docket Number: 2019-09-DV-17

Date: November 18, 2019

**Finding of Fact for Developmental Standards Variance  
from the Town of Sellersburg Zoning Ordinance**

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

One (1) garage to be provided. The proposed development is an second phase to an existing development which does not provide garages or carports

---

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

The elimination of garages or detached carports will not adversely affect adjacent property as the owner of the proposed development is the adjacent owner.

---

3.) The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property:

One (1) garage to be provided. Limitation due to topography.

---



Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

### DECISION

IT IS THEREFORE the decision of the Sellersburg Board of Zoning Appeals that this Use Variance Docket Number 2019-09-DV-17 is Approved; subject to the following conditions:

(1.) Issuance of Improvement Location Permit within one (1) year of the date the Finding of Facts is signed.

Adopted this 18th day of November, 2019

Vincent Thacker, Chairman

Francis Conroy, Vice Chairman

Dennis Amos, Member

Randall Mobley, Member

Charles Popp, Member



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

DATE:	September 12, 2019
DOCKET NUMBER:	<del>2019-08-DV-17</del> 2019-09-DV-17
APPLICANT & OWNER:	Z S Developer, LLC
APPLICANT & OWNER ADDRESS:	214 East Elm St New Albany, IN 47150
ADDRESS OF VARIANCE:	9001 Hardy Way
CLOSEST CROSS STREET	County Road 311 & Camp Run Parkway
REQUEST:	PUD Zoning Ordinance Section 16.2 to eliminate required attached/detached garages and detached carports
CURRENT ZONING:	PUD – Planned Unit Development – Village Living Subarea
COUNCIL DISTRICT:	

The subject property is zoned Planned Unit Development (PUD) zoning district. The PUD Zoning Ordinance indicates the subject property is zoned Village Living Subarea.

### PUD Zoning Ordinance 2011-015; SPECIFIC SUBAREA DEVELOPMENT STANDARDS;

#### 16. Village Living Subarea

Primarily multi-family residential development (townhome, duplex, assisted living housing types) is intended for the Village Living Subarea. There may be small scale (less than 5,000 square feet) neighborhood-serving retail to provide daily conveniences for area residents. Refer to Table 2: Land Use, page 28.

#### Requirements:

16.1 Multi-family structures shall not have attached front facing garages.

Developments consisting of multiple units, garages shall be accessed from an internal drive accessible from the rear.

16.2 On-site parking shall be provided in attached garages, detached garages or detached carports.



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

In accordance with the requirements set out in the Indiana Code the Board of Zoning Appeals is required to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5. (a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant's Finding of Facts:

**(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community:**

Applicant states: Allowing uncovered surface parking for tenant occupied multi-family housing is considered the "norm" in most communities. The requirement to have covered parking would likely be injurious to the general welfare of the community due to inability to compete for viable tenant's occupied multi-family projects.

*Staff:*

*Applicant states "... would likely be injurious to the general welfare of the community due to inability to compete off viable tenants' ... " Applicant has not provided supporting finding of fact to substantiate the statement.*

*Applicant states "... uncovered surface parking for tenant occupied multi-family housing is considered the "norm" in most communities." The affected property is located in a Planned Unit*



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

*Development. Planned Unit Development Zoning Ordinance states the Purpose of the Development and Design Standards are intended to reflect the Town of Sellersburg's vision for a new development within the boundaries of the district. Based on the purpose statement the Town of Sellersburg purpose by this Planned Unit Development to break from the "norm". Based on the purpose statement the Town of Sellersburg has a vision forward for the way the Town would prefer new development*

*Criteria (1) ask the Applicant to provide supporting finding of facts that the elimination of the required attached/detached garages or detached carports will or will not be injurious to the public health, safety, morals and general welfare of the community.*

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

Applicant states: Uncovered surface parking is the expected and most utilized method of parking in the area. Most adjacent properties utilize uncovered parking, so this variance will not have an adverse effect on them.

*Staff:*

*Based on the purpose statement in the Planned Unit Development Zoning Ordinance the Town of Sellersburg has a vision forward for prefer new development and not based on "status quo".*

*Criteria (2) asks the Applicant to provide finding of fact supporting that the elimination of the required attached/detached garages or detached carports will not affect the use and value of the adjacent property as well as the subject property.*

*Applicant did not provide supporting finding of fact that the elimination of the required attached/detached garage or detached carport will not affect the use and value of in a substantially adverse manner to adjacent property as well as the subject property.*





# Sellersburg Board of Zoning Appeals

## STAFF REPORT

**(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.**

Applicant states: It would be practically impossible to construct either 100 parking structures or parking garage on this site, due to the amount of area required and construction cost of either methods. It would be infeasible to have any sort of affordable, multi-family housing in the PUD district with strict adherence of this zoning ordinances.

*Staff:*

*Staff respects the Applicants desire to develop affordable multi-family "housing"; however, for the purposes of either granting or denying Development Standards Variance, Statute is clear, the Applicant is required to demonstrate how the strict terms of the Planned Unit Development Zoning Ordinance will result in practical difficulties in the use of the property.*

*Strict terms of the Ordinance does not prevent the use of the property a multi-family; however that use, multi-family is required to comply with specific requirements. The Planned Unit Development Zoning Ordinance does provide options. Those options are attached or detached garages or detached carports. The Planned Unit Development Zoning Ordinance does not require individual attached/detached garages or individual detached carports.*

*Attached/detached garages or detached carports would be counted towards the number of required parking spaces.*

Town of Sellersburg, Indiana  
Board of Zoning Appeals  
Application for a Variance of Development Standards

**Applicant Information**

Name: ZS DEVELOPER, LLC

Mailing Address: 214 EAST ELM ST.  
Street Number/P.O. Box Number Street

NEW ALBANY IN 47150  
City State Zip

Email address: SPRIGLERCOMPANY@GMAIL.COM Phone Number: (502) 376-4112

**Owner Information ("owner is not a tenant or contract buyer")**

Name: SAME AS APPLICANT

Mailing Address: \_\_\_\_\_  
Street Number/P.O. Box Number Street

City State Zip

Email address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

**Property Information:**

Address or location of the property subject to this application:

9001 HARDY WAY, SELLERSBURG, IN  
Street Numbers Closest Cross Street

Lot Size: 3.35 ACRES

Current Use of Property: VACANT GROUND

Describe the variance requested: VARIANCE FROM SECTION 16.2 OF SELLERSBURG TIF DISTRICT MASTER PLAN AND PUD ORDINANCE TO ALLOW

**Check Developmental Standards Variance Requested:**

- Building Setback
- Building Height
- Lot Coverage
- Lot Width
- Lot Area
- Sight Visibility
- Entrance/Drive
- Landscaping
- Parking
- Loading Area
- Sign
- Exterior Lighting

Other: \_\_\_\_\_

→ UNCOVERED SURFACE PARKING INSTEAD OF REQUIRED PARKING IN ATTACHED GARAGES, DETACHED GARAGES OR DETACHED CARPORTS.

**DEVELOPMENT STANDARDS VARIANCE CRITERIA  
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

- (1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: SEE ATTACHED RESPONSE
- 
- (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner: SEE ATTACHED RESPONSE
- 
- (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: SEE ATTACHED RESPONSE
- 

**Applicant's Signature**

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

J. Chad Sprigler  
Applicant Signature

8/20/19  
Date

ZS DEVELOPER, LLC

BY: J. CHAD SPRIGLER, MEMBER  
Printed Applicant Name

- *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*
  - Allowing uncovered surface parking for tenant occupied multi-family housing is considered the “norm” in most communities. The requirement to have covered parking would likely be injurious to the general welfare of the community due to inability to compete for viable tenant occupied multi-family projects.
  
- *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.*
  - Uncovered surface parking is the expected and most utilized method of parking in the area. Most adjacent properties utilize uncovered parking, so this variance will not have an adverse effect on them.
  
- *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.*
  - It would be practically impossible to construct either 100 parking structures or a parking garage on this site, due to amount of area required and construction costs of either method. It would be infeasible to have any sort of affordable, multi-family housing in the PUD district with strict adherence to this zoning ordinance.

State of Indiana )  
 )SS  
County of CLARK )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared J. CHAD SPRIGLER, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 20 day of AUGUST, 2019

My Commission Expires:

8-29-2026

Monica L. Guthrie  
Notary Public

Resident SCOTT County, Indiana

MONICA L. GUTHRIE  
Printed Name



**Office Use:**

Date Completed Application Received: \_\_\_/\_\_\_/\_\_\_

Petition Application Fee of \$ \_\_\_\_\_ Received: \_\_\_/\_\_\_/\_\_\_

Docket Number: \_\_\_\_\_

Current Zoning Classification: \_\_\_\_\_

Zoning Ordinance Section applicable to variance application: \_\_\_\_\_

BZA Public Hearing Date: \_\_\_/\_\_\_/\_\_\_

Adjacent Property Owners Notified via Certificate of Mailing: \_\_\_/\_\_\_/\_\_\_

Legal Ad Published: \_\_\_/\_\_\_/\_\_\_

Verified Posting of Hearing Sign: \_\_\_/\_\_\_/\_\_\_

Public Notice Posted at Town Hall \_\_\_/\_\_\_/\_\_\_

**AFFIDAVIT AND CONSENT OF PROPERTY OWNER**  
**Application to the Sellersburg Board of Zoning Appeals**

I, J. CHAD SPRIGLER, AFTER BEING DULY SWORN, DEPOSE AND STATE THE FOLLOWING:

1. That I am the owner of real estate located at: 9001 HARDY WAY  
SELLERSBURG, IN
2. That I have no objection to, and consent to the request(s) described in the application made to the Sellersburg Board of Zoning Appeals.

ZS DEVELOPER, LLC

BY: J CHAD SPRIGLER, MEMBER  
Owner's Name (Printed)

J. Chad Sprigler  
Owner's Signature

State of Indiana        )  
                                  )SS  
County of CLARK)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared J. CHAD SPRIGLER, and acknowledge the execution of the foregoing *Affidavit and Consent* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 20 day of AUGUST, 2019

My Commission Expires:

8-29-2016

Monica L Guthrie  
Notary Public

Resident SCOTT County, Indiana

MONICA L. GUTHRIE  
Printed Name



Sellersburg Board Of Zoning Appeals  
316 East Utica Street  
Sellersburg, Indiana 47172

Petition #: 2019-09-DV-18

Hearing Date: September 16, 2019

By Petitioner(s): J Chad Sprigler for Z S Developer, LLC

Concerning DEVELOPMENT STANDARDS Variance at the address of: 9001 Hardy Way

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion Randall Mobley Second Francis Conroy

Yea  Nay  Abstain  Pass/Fail-Yes/No yes

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion Charles Papp Second Dennis Ames

Yea  Nay  Abstain  Pass/Fail-Yes/No yes

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion Randall Mobley Second Francis Conroy

Yea  Nay  Abstain  Pass/Fail-Yes/No yes

4. Motion to approve any special conditions.

Motion Francis Conroy Second Charles Papp

Yea  Nay  Abstain  Pass/Fail-Yes/No yes

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # \_\_\_\_\_

Approved  Denied

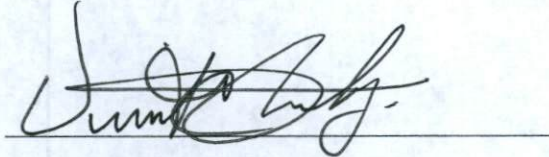
Special Conditions:

- 1. Must obtain Location Improvement permit within 1. year.
- 2. Approved Landscaping plan obtained

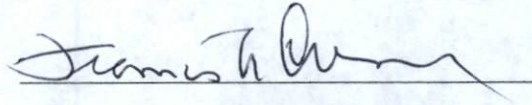
Sellersburg Board Of Zoning Appeals  
316 East Utica Street  
Sellersburg, Indiana 47172

Signature Page – Petition # <sup>09</sup>2019-~~08~~-DV-18

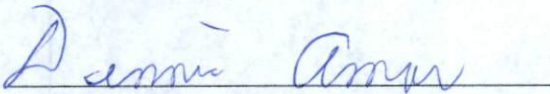
Signed this 16<sup>th</sup> day of September, 2019



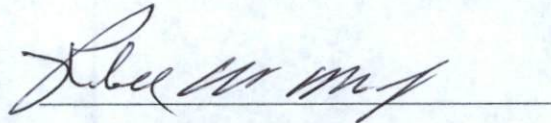
Vincent C. Thacker, Jr., Chairman



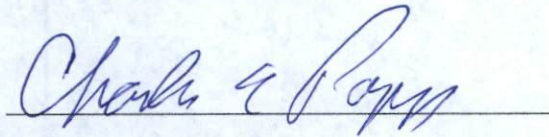
Francis A. Conroy, Vice-Chairman



Dennis V. Amos, Member



Randall W. Mobley, Member



Charles E. Popp, Member



Attest:





Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

Docket Number: 2019-09-DV-18

Date: November 18, 2019

**Finding of Fact for Developmental Standards Variance  
from the Town of Sellersburg Zoning Ordinance**

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

Proposed development is limited due to topography for parking island.

---

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

The reduction in the number of shade trees in parking island will not adversely affect adjacent property as the owner of the proposed development is the adjacent owner.

---

3.) The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property:

Additional landscaping around the facility will be provided.

---



Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

### DECISION

IT IS THEREFORE the decision of the Sellersburg Board of Zoning Appeals that this Use Variance Docket Number 2019-09-DV-18 is Approved; subject to the following conditions:

(1.) Issuance of Improvement Location Permit within one (1) year of the date the Finding of Facts is signed.

Adopted this 18th day of November, 2019

Vincent Thacker, Chairman

Francis Conroy, Vice Chairman

Dennis Amos, Member

Randall Mobley, Member

Charles Popp, Member



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

DATE:	September 12, 2019
DOCKET NUMBER:	<del>2019-08-DV-18</del> 2019-09-DV-18
APPLICANT & OWNER:	Z S Developer, LLC
APPLICANT & OWNER ADDRESS:	214 East Elm St New Albany, IN 47150
ADDRESS OF VARIANCE:	9001 Hardy Way
CLOSEST CROSS STREET	County Road 311 & Camp Run Parkway
REQUEST:	PUD Zoning Ordinance Section s
CURRENT ZONING:	PUD – Planned Unit Development – Village Living Subarea – Section 4.7. (b) 3 to reduce the number of required shade trees in parking islands and reduce the size of required parking islands.
COUNCIL DISTRICT:	

The subject property is zoned Planned Unit Development (PUD) zoning district.

The PUD Zoning Ordinance indicates the subject property is zoned Village Living Subarea.

Applicant's Development Standards Variance further wishes to modify the calculation method to determine shade trees and size of parking islands.

Applicant states: One shade tree per 25 spaces in island of a minimum of 108 SQ. FT. instead of the required shade tree per 20 spaces in island of a minimum 8 of 180 SQ. FT.

PUD Zoning Ordinance 2011-015; GENERAL DEVELOPMENT STANDARDS & GUIDELINES;

#### 4. Landscape Standards

Intent: Landscaping is not only visually appealing but also serves to screen and buffer structures and uses, delineate separations, conserve energy, and moderate the effects of sun and wind. Street trees are visually significant elements of the streetscape used to both reinforce the linear axis and enclose the pedestrian space.



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

### Requirements:

4.1 Landscaping shall be in conformance with Section 2.16 of the Sellersburg Zoning Ordinance, dated 1993.

4.7 All off-street parking shall have a perimeter landscaped area at least five feet (5') wide.

- b. Interior parking lot planting shall be required based on the percentage of the gross square footage of parking areas including driveways.
  - 1. Less than ten (10) spaces = no landscaping required
  - 2. Over ten (10) spaces = five percent (5%) landscaped area
  - 3. One (1) shade tree per twenty (20) spaces in an island a minimum of one hundred eighty (180) square feet

A landscape plan, as required by both the Planned Unit Development Zoning Ordinance and the Sellersburg Zoning Ordinance, has not been submitted. As no landscape plan has been submitted, Staff cannot determine the effect this proposed may or may not have upon other landscaping requirements.

Petition 2019-09-DV-19 is a request to reduce the required number of parking spaces, which effects the request of variance 2019-09-DV-18 to reduce shade trees & island, as both are in direct correlation to the required number of parking spaces.

In the Pre-Filing Meeting Staff recommended the order of requested variances for reduction in the number of required parking spaces be placed on the agenda before the variance requesting reduction in the number of shade trees in parking island and to reduce parking island requirement.

Applicant submitted Developmental Standards Variances application's identifying applications by numbers 1 through 6 for the order each Developmental Standards Variance applications was to be placed on the docket.

Staff placed submitted Developmental Standards Variances on the Docket based on order identified by the Applicant.



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

In accordance with the requirements set out in the Indiana Code the Board of Zoning Appeals is required to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5. (a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant's Finding of Facts:

**(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community:**

Applicant states: We are agreeable to providing additional shade trees along the outer boundaries of parking lot which will mitigate the loss of the one island and size of parking islands. By do so, the parking lot will remain aesthetically pleasing and not be injurious to the community standards.

*Staff:*

*Criteria 1 for the Board of Zoning Appeals to either grant or deny a Development Standards Variance an Applicant is to provide supporting finding of fact supporting statements made in the Developmental Standards Variance Application.*

*Applicant has not provided supporting finding of fact and no landscape plans of been submitted.*

*As stated previously, Applicant has an additional variance request to*



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

*reduce the required number of parking spaces which has a direct effect on this variance request.*

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

Applicant states: With our agreed upon additional landscaping this slight variance from standards will have no effect on adjacent properties.

*Staff:*

*Applicants states in Criteria 1, willingness to provide additional shade trees along outer boundaries of parking lot; however, it is not known if what the applicant offers will be in compliance with the requirements of Section 2.16 of the Sellersburg Zoning Ordinance as required by Section 4.1 of the Planned Unit Development Zoning Ordinance.*

*No landscape plans has been submitted to determine if the Applicant's offer of additional shade trees are in compliance.*

*Criteria (2) asks the Applicant to provide finding of fact supporting that the reduction of required shade trees in parking island and the reduction of parking island size will not affect the use and value of the adjacent property as well as the subject property.*

*Applicant did not provide supporting finding of fact the determination was made that the use and value of adjacent property will have no adverse effect. It is understood the Applicant owns adjacent property; however, there is adjacent property in which the Applicant is not the owner.*



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

**(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.**

Applicant states: Without this variance the length of slope and set back from the potential natural area (drainage basin) make it impractical to obtain adequate parking supply for development.

*Staff:*

*Applicant's statement makes reference to "adequate parking supply". Developmental Standards Variance 219-09-DV-18 is a request to reduce the number of required shade trees in parking islands and reduce the size of required parking islands.*

*Developmental Standards Variance 2019-09-DV-19 is in reference to reducing the required number of parking spaces.*

*The Applicant has submitted no information to support the finding of fact for Criteria 3, that the strict application of the Planned Unit Development Zoning Ordinance results in practical in difficulties in the use of the property to allow for the reduction in the number of required shade trees in required parking islands and request is to reduce the size of required parking islands.*

Town of Sellersburg, Indiana  
Board of Zoning Appeals  
Application for a Variance of Development Standards

**Applicant Information**

Name: 7S DEVELOPER, LLC

Mailing Address: 214 EAST ELM ST.  
Street Number/P.O. Box Number Street

NEW ALBANY IN 47150  
City State Zip

Email address: SPRIGLERCOMPANY@GMAIL.COM Phone Number: (502) 376-4112

**Owner Information ("owner is not a tenant or contract buyer")**

Name: SAME AS APPLICANT

Mailing Address: \_\_\_\_\_  
Street Number/P.O. Box Number Street

City State Zip

Email address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

**Property Information:**

Address or location of the property subject to this application:

9001 HARDY WAY, SELLERSBURG, IN  
Street Numbers Closest Cross Street

Lot Size: 3.35 ACRES

Current Use of Property: VACANT GROUND

Describe the variance requested: VARIANCE FROM SECTION 4.7(b)3 OF SELLERSBURG TIF DISTRICT MASTER PLAN AND PUD ORDINANCE TO ALLOW

**Check Developmental Standards Variance Requested:**

- Building Setback
- Building Height
- Lot Coverage
- Lot Width
- Lot Area
- Sight Visibility
- Entrance/Drive
- Landscaping
- Parking
- Loading Area
- Sign
- Exterior Lighting

Other: \_\_\_\_\_

→ ONE SHADE TREE PER 25 SPACES IN ISLAND OF A MINIMUM OF 108 SQ. FT. INSTEAD OF THE REQUIRED SHADE TREE PER 20 SPACES IN ISLAND OF A MINIMUM 8 OF 180 SQ. FT.



**DEVELOPMENT STANDARDS VARIANCE CRITERIA  
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: SEE ATTACHED RESPONSE

---

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner: SEE ATTACHED RESPONSE

---

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: SEE ATTACHED RESPONSE

---

**Applicant's Signature**

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

J. Chad Sprigler  
Applicant Signature

8/20/19  
Date

ZS DEVELOPER, LLC

BY: J. CHAD SPRIGLER, MEMBER  
Printed Applicant Name

- *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*
  - We are agreeable to providing additional shade trees along outer boundaries of parking lot which will mitigate the loss of the one island and size of parking islands. By doing so, the parking lot will remain aesthetically pleasing and not be injurious to community standards.
  
- *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.*
  - With our agreed upon additional landscaping this slight variance from standards will have no adverse effect on adjacent properties.
  
- *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.*
  - Without this variance the length of slope and set back from the potential natural area (drainage basin) makes it impractical to obtain adequate parking supply for development.

State of Indiana )  
 )SS  
County of CLARK )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared J. CHAD SPRIGLER, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 20 day of AUGUST, 2019

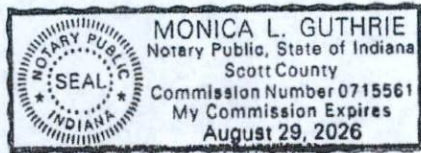
My Commission Expires:

8-29-2026

Monica L. Guthrie  
Notary Public

Resident SCOTT County, Indiana

MONICA L. GUTHRIE  
Printed Name



**Office Use:**

Date Completed Application Received: \_\_\_/\_\_\_/\_\_\_

Petition Application Fee of \$ \_\_\_\_\_ Received: \_\_\_/\_\_\_/\_\_\_

Docket Number: \_\_\_\_\_

Current Zoning Classification: \_\_\_\_\_

Zoning Ordinance Section applicable to variance application: \_\_\_\_\_

BZA Public Hearing Date: \_\_\_/\_\_\_/\_\_\_

Adjacent Property Owners Notified via Certificate of Mailing: \_\_\_/\_\_\_/\_\_\_

Legal Ad Published: \_\_\_/\_\_\_/\_\_\_

Verified Posting of Hearing Sign: \_\_\_/\_\_\_/\_\_\_

Public Notice Posted at Town Hall \_\_\_/\_\_\_/\_\_\_

**AFFIDAVIT AND CONSENT OF PROPERTY OWNER**  
**Application to the Sellersburg Board of Zoning Appeals**

I, J. CHAD SPRIGLER, AFTER BEING DULY SWORN, DEPOSE AND STATE THE FOLLOWING:

1. That I am the owner of real estate located at: 9001 HARDY WAY  
SELLERSBURG, IN
2. That I have no objection to, and consent to the request(s) described in the application made to the Sellersburg Board of Zoning Appeals.

ZS DEVELOPER, LLC

BY: J CHAD SPRIGLER, MEMBER  
Owner's Name (Printed)

J. Chad Sprigler  
Owner's Signature

State of Indiana        )  
                                  )SS  
County of CLARK)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared J. CHAD SPRIGLER, and acknowledge the execution of the foregoing *Affidavit and Consent* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 20 day of AUGUST, 2019

My Commission Expires:

8-29-2026

Monica L Guthrie  
Notary Public

Resident SCOTT County, Indiana

Monica L Guthrie  
Printed Name



Sellersburg Board Of Zoning Appeals  
316 East Utica Street  
Sellersburg, Indiana 47172

Petition #: 2019-09-DV-19

Hearing Date: September 16, 2019

By Petitioner(s): J Chad Sprigler for Z S Developer, LLC

Concerning DEVELOPMENT STANDARDS Variance at the address of: 9001 Hardy Way

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion Charles Popp Second Dennis Ames

Yea  3 Nay  2 Abstain  Pass/Fail-Yes/No yes

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion Charles Popp Second Dennis Ames

Yea  3 Nay  2 Abstain  Pass/Fail-Yes/No yes

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion Randall Mobley Second Dennis Ames

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No yes

4. Motion to approve any special conditions.

Motion Randall Mobley Second Francis Conway

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No yes

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # \_\_\_\_\_

Approved  Denied

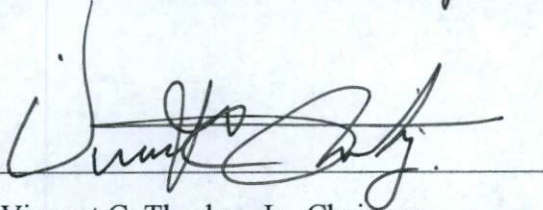
Special Conditions:

- 1. Must obtain Location Improvement Permit within 1 year.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
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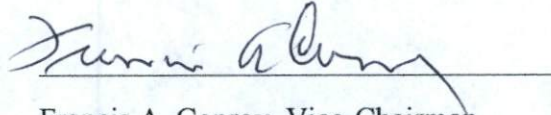
Sellersburg Board Of Zoning Appeals  
316 East Utica Street  
Sellersburg, Indiana 47172

Signature Page – Petition # 2019-~~68~~<sup>69</sup>-DV-19

Signed this 16<sup>th</sup> day of September, 2019



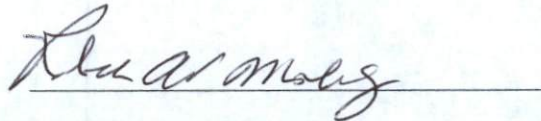
Vincent C. Thacker, Jr., Chairman



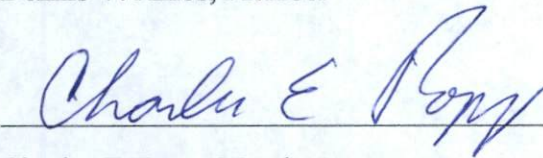
Francis A. Conroy, Vice-Chairman



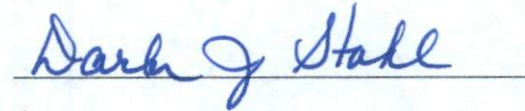
Dennis V. Amos, Member



Randall W. Mobley, Member



Charles E. Popp, Member



Attest:



Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

Docket Number: 2019-09-DV-19

Date: November 18, 2019

**Finding of Fact for Developmental Standards Variance  
from the Town of Sellersburg Zoning Ordinance**

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

Reduction in the number of required parking spaces based on average tenant occupancy.

---

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

Adjacent property under same ownership and adjacent property is multi-family residential.

---

3.) The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property:

Due to topography limitation and placement of buildings.

---



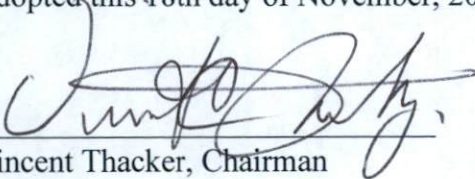
Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

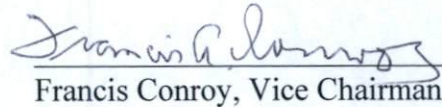
## DECISION

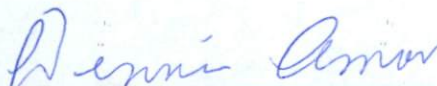
IT IS THEREFORE the decision of the Sellersburg Board of Zoning Appeals that this Use Variance Docket Number 2019-09-DV-19 is Approved; subject to the following conditions:

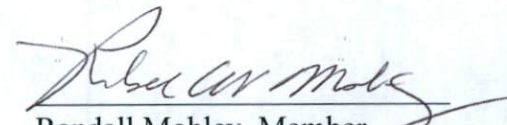
- (1.) Issuance of Improvement Location Permit within one (1) year of the date the Finding of Facts is signed.
- (2.) In accordance with the Sellersburg Zoning Ordinance, all parking spaces provided shall be on the same lot (tract) with the building, structure or use the parking spaces are intended to serve. Parking provided on Tract 2, shall be for Tract 2 only.

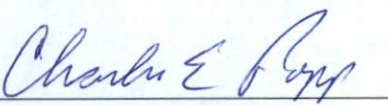
Adopted this 18th day of November, 2019

  
Vincent Thacker, Chairman

  
Francis Conroy, Vice Chairman

  
Dennis Amos, Member

  
Randall Mobley, Member

  
Charles Popp, Member





# Sellersburg Board of Zoning Appeals

## STAFF REPORT

DATE:	September 12, 2019
DOCKET NUMBER:	<del>2019-08-DV-19</del> 2019-09-DV-19
APPLICANT & OWNER:	Z S Developer, LLC
APPLICANT & OWNER ADDRESS:	214 East Elm St New Albany, IN 47150
ADDRESS OF VARIANCE:	9001 Hardy Way
CLOSEST CROSS STREET	County Road 311 & Camp Run Parkway
REQUEST:	PUD Zoning Ordinance Section s
CURRENT ZONING:	PUD – Planned Unit Development – Village Living Subarea – Section 5.3 Table 5 to reduce the number of required parking space
COUNCIL DISTRICT:	

The subject property is zoned Planned Unit Development (PUD) zoning district.

The PUD Zoning Ordinance indicates the subject property is zoned Village Living Subarea.

Applicant's Development Standards Variance further wishes to modify the calculation method to determine the number of required parking space from 1.6 parking space per dwelling unit to 1.38 parking spaces per dwelling unit.

PUD Zoning Ordinance 2011-015; GENERAL DEVELOPMENT STANDARDS & GUIDELINES;

### 5. Parking Standards

Intent: The parking regulations of this section are designed to establishing minimum requirements for off-street parking of motor vehicles, in accordance with the use on the property. This section updates and reflects current trends which considers alternative modes and also seeks to reduce stormwater runoff and urban heat islands.

### Requirements:

5.1 Parking spaces shall be located on the lot with the uses for which they are required.



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

5.3 Parking shall be required according to the minimum (unless otherwise stated) sum of spaces required for each applicable use as determined by Table 5: Minimum Parking Standards, beginning on page 38. If the use is not listed, the Administrator may make a determination of the requirement based on similar use with regard to number of employees, frequency of visitors/ clients, and necessary dedicated storage space

5.4 Parking that exceeds the minimum required by more than ten percent (10%) shall increase required interior parking lot landscaping for the entire site from five percent (5%) to ten percent (10%) to offset additional paving.

5.5 Off-street parking spaces shall be located at the rear or side(s) of structures unless otherwise specified.

5.6 Parking areas shall be hard surfaced and internally drained. Pervious pavement and individual pavers may be permitted

Table 5: Minimum Parking Standards.

Multi-Family (Apartment or Townhome)

Studio or 1 bedroom	1 space per unit
2 bedroom	1.6 spaces per unit
3 bedroom	1.8 spaces per unit
4 bedroom	2 spaces per unit
each bedroom after 4	add 0.5 spaces per additional bedroom

Petition 2019-09-DV-19 is a request to reduce the required number of parking spaces, which effects the request of variance 2019-09-DV-18 to reduce shade trees & island, as both are in direct correlation to the required number of parking spaces.

In the Pre-Filing Meeting Staff recommended the order of requested variances for reduction in the number of required parking spaces be placed on the agenda before the variance requesting reduction in the number of shade trees in parking island and to reduce parking island requirement.

Applicant submitted Developmental Standards Variances application's identifying applications by numbers 1 through 6 for the order each Developmental Standards Variance applications was to be placed on the docket.



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

Staff placed submitted Developmental Standards Variances on the Docket based on order identified by the Applicant.

In accordance with the requirements set out in the Indiana Code the Board of Zoning Appeals is required to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5. (a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant's Finding of Facts:

**(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community:**

Applicant states: Our experience with the adjacent apartment complex, which we own, has shown the maximum lot loading for our project has only reached 1.18 vehicles per unit. Which has let over 25 vacant spaces at maximum load experience. While page 39 of the PUD ordinance indicates that the creators of the ordinance thought that shared parking between adjacent properties should be "strongly encouraged," that is not our intention. With proper tenant lease agreements, enforcement procedures, and operator experience not injury to the community will result due to the fact that all parking will remain on site.

*Staff:*

*Applicant has misrepresented the state on page 39 of the Planned Unit Development Zoning Ordinance. Page 39 is copied and inserted*



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

as follows:

Guidelines:

»» *The use of pervious pavement and individual pavers is encouraged.*

»» *Shared parking is strongly encouraged between adjacent or vertically mixed uses whose peak demand is offset*

*The Planned Unit Development Zoning Ordinance Parking Section Guidelines states that Shared parking is strongly encouraged between adjacent or vertically mixed uses whose peak demand is offset.*

*Applicant's properties are not mixed use e.g. retail sale, dining establishment, office. Applicant's adjacent property is the same use - multi-family housing development.*

*The Planned Unit Development Zoning Ordinance states the parking regulations of this section are designed to establishing minimum requirements for off-street parking of motor vehicles, in accordance with the use on the property. This section updates and reflects current trends which considers alternative modes and also seeks to reduce stormwater runoff and urban heat islands.*

*Zoning Ordinance establish Minimum Standards for the development of real property. Management practices are not applicable to zoning law.*

*In accordance with Indiana Code (Statute) the Applicant is required to provide written finding of fact that the request to reduce the required parking space per dwelling unit from 1.6 to 1.38 will not be injurious to the public health, safety, morals and general welfare the community.*

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

Applicant states: As is required, all parking will remain on site which will assure that no adjacent property will be affected.



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

*Staff:*

*The Planned Unit Development Zoning Ordinance in Section 5.1 states: Parking spaces shall be located on the lot with the uses for which they are required*

*Indiana Code (Statute) for Criteria 2 requires the Applicant to provide finding of fact that the reduction of required parking spaces from 1.6 to 1.38 will not substantially affect the use and value of adjacent property in an adverse manner.*

*Criteria 2 is not only applicable to the Applicant's adjacent property, but is applicable to all adjacent properties use and value.*

*Applicant has not submitted supporting finding of fact to permit the reduction of the required parking.*

### **(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.**

Applicant states: Set back requirements from natural area (detention basin) and length of slope around said basin places limitation on parking space availability. Total lot coverage under our site plan is maximized at only 54.4% of lot area which is significantly less than the allowed 65%. Without this variance it would require one building to have only one-bedroom units instead of two-bedroom units which are more desirable within the community. Our single person household often chooses two-bedroom units for the extra space. Forcing us to alter the types of units offered would make it difficult to finance and use the property as intended.

*Staff:*

*Applicant is seeking variance to reduce required parking space from 1.6 to 1.38 per dwelling unit, based on the Planned Unit Development Zoning Ordinance, which states the ordinance has taken into account "updates and reflects current trends which considers alternative modes". If the property in question were not located within the PUD, the Sellersburg Zoning Ordinance requires 2 parking spaces per dwelling unit plus ½ space per bedroom in*



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

*excess of two bedrooms.*

*Indiana Code (Statute) for Criteria 3 requires the Applicant to provide finding of fact the strict terms of the Planned Unit Development Zoning Ordinance as well the Sellersburg Zoning Ordinance will result in practical difficulties in the use of the property.*

*Applicant has demonstrated above that the strict application of the required parking space calculation of Planned Unit Development Zoning Ordinance has not resulted in practical difficulties in the use of the property.*

Town of Sellersburg, Indiana  
Board of Zoning Appeals  
Application for a Variance of Development Standards

**Applicant Information**

Name: ZS DEVELOPER, LLC

Mailing Address: 214 EAST ELM ST.  
Street Number/P.O. Box Number Street

NEW ALBANY IN 47150  
City State Zip

Email address: SPRIGLERCOMPANY@GMAIL.COM Phone Number: (502) 376-4112

**Owner Information ("owner is not a tenant or contract buyer")**

Name: SAME AS APPLICANT

Mailing Address: \_\_\_\_\_  
Street Number/P.O. Box Number Street

City State Zip

Email address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

**Property Information:**

Address or location of the property subject to this application:

9001 HARDY WAY, SELLERSBURG, IN  
Street Numbers Closest Cross Street

Lot Size: 3.35 ACRES

Current Use of Property: VACANT GROUND

Describe the variance requested: VARIANCE FROM SECTION 5.3 TABLE 5 OF SELLERSBURG TIF DISTRICT MASTER PLAN AND PUD ORDINANCE

**Check Developmental Standards Variance Requested:**

- Building Setback
- Building Height
- Lot Coverage
- Lot Width
- Lot Area
- Sight Visibility
- Entrance/Drive
- Landscaping
- Parking
- Loading Area
- Sign
- Exterior Lighting

Other: \_\_\_\_\_

TO ALLOW MINIMUM OF 1.38 PARKING SPACES PER UNIT INSTEAD OF REQUIRED 1.6 PARKING SPACES PER UNIT.

**DEVELOPMENT STANDARDS VARIANCE CRITERIA  
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

- (1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: SEE ATTACHED RESPONSE

---

- (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner: SEE ATTACHED RESPONSE

---

- (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: SEE ATTACHED RESPONSE

---

**Applicant's Signature**

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

J. Chad Sprigler  
Applicant Signature

8/20/19  
Date

ZS DEVELOPER, LLC

BY: J. CHAD SPRIGLER, MEMBER  
Printed Applicant Name



- *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*
  - Our experience with the adjacent apartment complex, which we own, has shown the maximum lot loading for our project has only reached 1.18 vehicles per unit, which has left over 25 vacant spaces at maximum load experience. While page 39 of the PUD ordinance indicates that the creators of the ordinance thought that shared parking between adjacent properties should be “strongly encouraged,” that is not our intention. With proper tenant lease agreements, enforcement procedures, and operator experience no injury to the community will result due to fact that all parking will remain on site.
- *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.*
  - As is required, all parking will remain on site which will assure that no adjacent property will be adversely affected.
- *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.*
  - Set back requirements from natural area (detention basin) and length of slope around said basin places limitations on parking space availability. Total lot coverage under our site plan is maximized at only 54.4% of lot area which is significantly less than the allowed 65%. Without this variance, it would require one building to have only one-bedroom units instead of two-bedroom units which are more desirable within the community. Our single person households often choose two-bedroom units for the extra living space. Forcing us to alter the types of units offered would make it difficult to finance and use the property as intended.

State of Indiana )  
 )SS  
County of CLARK )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared J. CHAD SPRIGLER, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 20 day of AUGUST, 2019

My Commission Expires:

8-29-2026

Monica L. Guthrie  
Notary Public

Resident SCOTT County, Indiana

MONICA L. GUTHRIE  
Printed Name



**Office Use:**

Date Completed Application Received: \_\_\_/\_\_\_/\_\_\_

Petition Application Fee of \$ \_\_\_\_\_ Received: \_\_\_/\_\_\_/\_\_\_

Docket Number: \_\_\_\_\_

Current Zoning Classification: \_\_\_\_\_

Zoning Ordinance Section applicable to variance application: \_\_\_\_\_

BZA Public Hearing Date: \_\_\_/\_\_\_/\_\_\_

Adjacent Property Owners Notified via Certificate of Mailing: \_\_\_/\_\_\_/\_\_\_

Legal Ad Published: \_\_\_/\_\_\_/\_\_\_

Verified Posting of Hearing Sign: \_\_\_/\_\_\_/\_\_\_

Public Notice Posted at Town Hall \_\_\_/\_\_\_/\_\_\_

**AFFIDAVIT AND CONSENT OF PROPERTY OWNER**  
**Application to the Sellersburg Board of Zoning Appeals**

I, J. CHAD SPRIGLER, AFTER BEING DULY SWORN, DEPOSE AND STATE THE FOLLOWING:

1. That I am the owner of real estate located at: 9001 HARDY WAY  
SELLERSBURG, IN
2. That I have no objection to, and consent to the request(s) described in the application made to the Sellersburg Board of Zoning Appeals.

ZS DEVELOPER, LLC

BY: J CHAD SPRIGLER, MEMBER  
Owner's Name (Printed)

J. Chad Sprigler  
Owner's Signature

State of Indiana        )  
                                  )SS  
County of CLARK)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared J. CHAD SPRIGLER, and acknowledge the execution of the foregoing *Affidavit and Consent* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 20 day of AUGUST, 2019

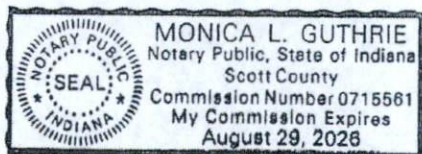
My Commission Expires:

8-29-2026

Monica L. Guthrie  
Notary Public

Resident SCOTT County, Indiana

MONICA L. GUTHRIE  
Printed Name



Sellersburg Board Of Zoning Appeals  
316 East Utica Street  
Sellersburg, Indiana 47172

Petition #: 2019-09-DV-20

Hearing Date: September 16, 2019

By Petitioner(s): J Chad Sprigler for Z S Developer, LLC

Concerning DEVELOPMENT STANDARDS Variance at the address of: 9001 Hardy Way

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion Charles Pepp Second Randall Mobley

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No yes

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion Randall Mobley Second Francis Conway

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No yes

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion Randall Mobley Second Wrennis Amos

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No yes

4. Motion to approve any special conditions.

Motion Randall Mobley Second Francis Conway

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No yes

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # \_\_\_\_\_

Approved  Denied

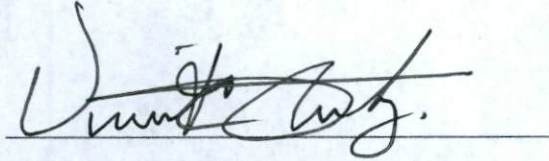
Special Conditions:

- 1. Must obtain Location Improvement Permit within 1 year
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
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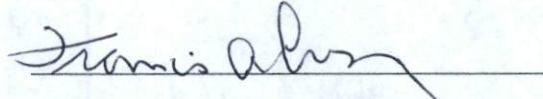
Sellersburg Board Of Zoning Appeals  
316 East Utica Street  
Sellersburg, Indiana 47172

Signature Page – Petition # <sup>09</sup>2019-~~08~~-DV-20

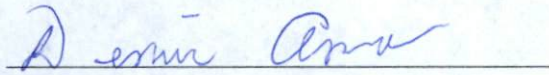
Signed this <sup>8<sup>th</sup></sup>16 day of September, 2019



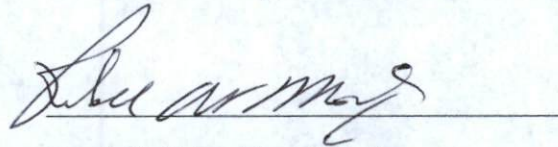
Vincent C. Thacker, Jr., Chairman



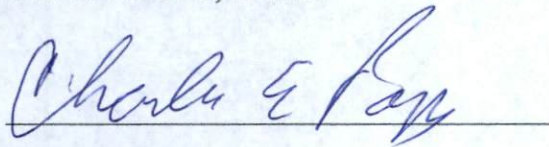
Francis A. Conroy, Vice-Chairman



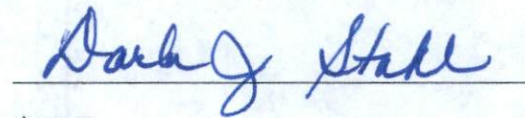
Dennis V. Amos, Member



Randall W. Mobley, Member



Charles E. Popp, Member



Attest:



Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

Docket Number: 2019-09-DV-20

Date: November 18, 2019

**Finding of Fact for Developmental Standards Variance  
from the Town of Sellersburg Zoning Ordinance**

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

The proposed height increase from 35-feet to 40-feet will be in keeping with the existing development on adjacent property.

---

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

The proposed height increase from 35-feet to 40-feet will maintain existing values established by the development on adjunct property.

---

3.) The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property:

The developer would be required to redesign building which are currently designed to replicate the development on adjacent property.

---



Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

## DECISION

IT IS THEREFORE the decision of the Sellersburg Board of Zoning Appeals that this Use Variance Docket Number 2019-09-DV-20 is Approved; subject to the following conditions:

(1.) Issuance of Improvement Location Permit within one (1) year of the date the Finding of Facts is signed.

Adopted this 18th day of November, 2019

Vincent Thacker, Chairman

Francis Conroy, Vice Chairman

Dennis Amos, Member

Randall Mobley, Member

Charles Popp, Member



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

DATE:	September 12, 2019
DOCKET NUMBER:	<del>2019-08-DV-20</del> 2019-09-DV-20
APPLICANT & OWNER:	Z S Developer, LLC
APPLICANT & OWNER ADDRESS:	214 East Elm St New Albany, IN 47150
ADDRESS OF VARIANCE:	9001 Hardy Way
CLOSEST CROSS STREET	County Road 311 & Camp Run Parkway
REQUEST:	PUD Zoning Ordinance Section s
CURRENT ZONING:	PUD – Planned Unit Development – Village Living Subarea – Section 1.2 Table 1 and Section 16.4 – building height
COUNCIL DISTRICT:	

The subject property is zoned Planned Unit Development (PUD) zoning district.

The PUD Zoning Ordinance indicates the subject property is zoned Village Living Subarea.

Applicant's Development Standards Variance is requesting an increase in the height of building from 35-feet to 40-feet.

PUD Zoning Ordinance 2011-015; GENERAL DEVELOPMENT STANDARDS & GUIDELINES;

### 1. Building Form and Lot Standards

Intent: Building placement should reinforce exterior spaces and respond to the context of the existing built and natural environment. Buildings oriented towards the street and public spaces promote interaction and provide a pedestrian friendly environment. Lot Standards for each subarea dictate the minimum and/or maximum standards that apply to lots within certain zoning districts (Table 1: Lot Standards).

### Requirements:

1.2 Building height shall be defined as the vertical distance as measured from the average elevation of the proposed finished grade at the front of the building to the





# Sellersburg Board of Zoning Appeals

## STAFF REPORT

highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip and gambrel roofs.

Table 1: Lot Standards

Type	Minimum Height	Maximum Height	Minimum Lot Width	Front Setback	Side Setback	Minimum Building Separation	Minimum Rear Setback	Minimum Naturally Sensitive Area Setback	Minimum FAR	Maximum Lot Coverage
Village Square Subarea	20 ft	45 ft	25 ft	min: 0 max: 10 ft	min: 0 max: 10 ft	NA	5 ft	100 ft	1.5	NA

### 16. Village Living Subarea

Primarily multi-family residential development (townhome, duplex, assisted living housing types) is intended for the Village Living Subarea. There may be small scale (less than 5,000 square feet) neighborhood-serving retail to provide daily conveniences for area residents. Refer to Table 2: Land Use, page 28.

#### Requirements:

16.4 Building height shall not exceed a height of thirty-five feet (35'). Minimum building height shall be twenty feet (20').

In accordance with the requirements set out in the Indiana Code the Board of Zoning Appeals is required to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5. (a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use and value of the area adjacent to the property



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

included in the variance will not be affected in a substantially adverse manner; and  
(3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant's Finding of Facts:

**(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community:**

Applicant states: A portion of the roof/attic structure will exceed the 35 foot minimum, all living areas will be below 35-feet. With a sprinkled well designed/built building along with modern fire fighting equipment, the approval of the variance to moderately extend the height of the roof/attic structure will not be injurious to public health, safety, morals, or general welfare of the community.

*Staff:*

*Applicant's variance application contains contradictory information. Applicant states they are requesting the variance to increase the height of the building to 40-feet which exceeds the maximum height permitted.*

*Applicant's above statement states: "... will exceed the 35 foot minimum..." If the proposed structure roofs are less than the maximum 35-feet as required in Section 1.2, Table 1 and Section 16.4, no variance would be required.*

*Section 1.2 states building height shall be defined as the vertical distance as measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansards roofs, and the means height between eaves and ridge for gable, hip and gambrel roofs.*

*Applicant submitted a proposed elevation of a proposed building which indicate hip roof with dormers with a maximum height of 39-feet, 8-inches and eave height of 27-feet, 4-inches.*

*Based on Section 1.2 building height of proposed elevation of a*



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

*proposed building, the mean height between the eaves and ridge would not exceed 35-feet. It is not known the proposed elevation submitted is for all proposed buildings and final construction plans have not been submitted.*

*Once final construction plans are submitted, the requested variance may or may not be needed.*

*Applicants reference to "construction" e.g. sprinkler, are misleading and outside the prevue of the Board of Zoning Appeals.*

*If it is determined a variance is required from both Section 1.2, Table 1 and Section 16.4, the Board will need to determine if the above finding of fact are sufficient to support increasing the height of said buildings to 40-feet will not be injurious to the public health, safety, morals, and general welfare of the community.*

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

Applicant states: This variance will result in a proportionated and aesthetically pleasing building. This variance will have no adverse effect on adjacent

Staff:

*Applicant states "...no adverse effect on adjacent property..."; however, Applicant provided no finding of fact supporting the statement the increase of the maximum building height from 35-feet to 40-feet has no adverse effect on adjacent propriety.*

*Applicant has made reference to adjacent property's multi-family development. The adjacent property multi-family development two-story structures with a maximum roof height of approximately 29-feet.*

*Applicant states the "... variance will result in a proportionated and aesthetically pleasing building." It is not known if the proposed buildings comply with the Architectural requirements set out in the Planned Unit Development Zoning Ordinance as no final plans have been submitted for Technical Review to determine compliance.*



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

**(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.**

Applicant states: Strict application of the zoning ordinance would require changing to a low pitch or flat roof building which would create long-term maintenance problems. As a result long term use of the building as residential apartments would require extra maintenance for the benefit of its residents and the community.

*Staff:*

*The Planned Unit Development Zoning Ordinance Purpose states the Town of Sellersburg in the PUD is to reflect vision for new development within the boundaries of the PUD.*

*If the proposed development were not located within the PUD the Sellersburg Zoning Ordinance establishes a maximum building height of 35-feet.*

*Indiana Code (Statute) for Criteria 3 requires the Applicant to provide finding of fact the strict terms of the Planned Unit Development Zoning Ordinance will result in practical difficulties in the use of the property.*

*Applicant has not provided finding of fact as to the difficulty in the use of the property with a building maximum building height of 35-feet. Applicant has provided maintenance concerns with the structures.*

Town of Sellersburg, Indiana  
Board of Zoning Appeals  
Application for a Variance of Development Standards

**Applicant Information**

Name: 75 DEVELOPER, LLC

Mailing Address: 214 EAST ELM ST.  
Street Number/P.O. Box Number Street

NEW ALBANY IN 47150  
City State Zip

Email address: SPRIGLERCOMPANY@GMAIL.COM Phone Number: (502) 376-4112

**Owner Information ("owner is not a tenant or contract buyer")**

Name: SAME AS APPLICANT

Mailing Address: \_\_\_\_\_  
Street Number/P.O. Box Number Street

City State Zip

Email address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

**Property Information:**

Address or location of the property subject to this application:

9001 HARDY WAY, SELLERSBURG, IN  
Street Numbers Closest Cross Street

Lot Size: 3.35 ACRES

Current Use of Property: VACANT GROUND

Describe the variance requested: VARIANCE FROM SECTION 12 TABLE 1 AND SECTION 16.4 OF SELLERSBURG TIF DISTRICT MASTER PLAN AND PUD

**Check Developmental Standards Variance Requested:**

- Building Setback
- Building Height
- Lot Coverage
- Lot Width
- Lot Area
- Sight Visibility
- Entrance/Drive
- Landscaping
- Parking
- Loading Area
- Sign
- Exterior Lighting

Other: \_\_\_\_\_

→ ORDINANCE TO ALLOW BUILDING HEIGHTS TO BE A MAXIMUM OF 40 FT. HIGH INSTEAD OF THE 35 FT. HIGH MAXIMUM.

**DEVELOPMENT STANDARDS VARIANCE CRITERIA  
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

- (1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: SEE ATTACHED RESPONSE

---

- (2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner: SEE ATTACHED RESPONSE

---

- (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: SEE ATTACHED RESPONSE

---

**Applicant's Signature**

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

J. Chad Sprigler  
Applicant Signature

8/20/19  
Date

ZS DEVELOPER, LLC

BY: J. CHAD SPRIGLER, MEMBER  
Printed Applicant Name

- *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*
  - A portion of the roof/attic structure will exceed the 35 foot minimum, all living areas will be below 35 feet. With a sprinkled well designed/built building along with modern fire fighting equipment, the approval of the variance to moderately extend the height of the roof/attic structure will not be injurious to public health, safety, morals, or general welfare of the community.
  
- *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.*
  - This variance will result in a proportionate and aesthetically pleasing building. This variance will have no adverse effect on adjacent property.
  
- *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.*
  - Strict application of the zoning ordinance would require changing to a low pitch or flat roof building which would create long-term maintenance problems. As a result long term use of the building as a residential apartment building would require extra maintenance for the benefit of its residents and the community.

State of Indiana )  
 )SS  
County of CLARK )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared J. CHAD SPRIGLER, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 20 day of AUGUST, 2019

My Commission Expires:

8-29-2026

Monica L. Guthrie  
Notary Public

Resident SCOTT County, Indiana

MONICA L. GUTHRIE  
Printed Name



**Office Use:**

Date Completed Application Received: \_\_\_/\_\_\_/\_\_\_

Petition Application Fee of \$ \_\_\_\_\_ Received: \_\_\_/\_\_\_/\_\_\_

Docket Number: \_\_\_\_\_

Current Zoning Classification: \_\_\_\_\_

Zoning Ordinance Section applicable to variance application: \_\_\_\_\_

BZA Public Hearing Date: \_\_\_/\_\_\_/\_\_\_

Adjacent Property Owners Notified via Certificate of Mailing: \_\_\_/\_\_\_/\_\_\_

Legal Ad Published: \_\_\_/\_\_\_/\_\_\_

Verified Posting of Hearing Sign: \_\_\_/\_\_\_/\_\_\_

Public Notice Posted at Town Hall \_\_\_/\_\_\_/\_\_\_



**AFFIDAVIT AND CONSENT OF PROPERTY OWNER**  
**Application to the Sellersburg Board of Zoning Appeals**

I, J. CHAD SPRIGLER, AFTER BEING DULY SWORN, DEPOSE AND STATE THE FOLLOWING:

1. That I am the owner of real estate located at: 9001 HARDY WAY  
SELLERSBURG, IN
2. That I have no objection to, and consent to the request(s) described in the application made to the Sellersburg Board of Zoning Appeals.

ZS DEVELOPER, LLC

BY: J CHAD SPRIGLER, MEMBER  
Owner's Name (Printed)

J. Chad Sprigler  
Owner's Signature

State of Indiana        )  
                                  )SS  
County of CLARK)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared J. CHAD SPRIGLER, and acknowledge the execution of the foregoing *Affidavit and Consent* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 20 day of AUGUST, 2019

My Commission Expires:  
8 - 29 - 2016

Monica L. Guthrie  
Notary Public

Resident SCOTT County, Indiana

MONICA L. GUTHRIE  
Printed Name



Sellersburg Board Of Zoning Appeals  
316 East Utica Street  
Sellersburg, Indiana 47172

Petition #: 2019-09-DV-21

Hearing Date: September 16, 2019

By Petitioner(s): J Chad Sprigler for Z S Developer, LLC

Concerning DEVELOPMENT STANDARDS Variance at the address of: 9001 Hardy Way

1. Motion to determine that the variance will not be injurious to the health, safety, morals and the general welfare of the community.

Motion Randall Morley Second Francis Conway

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No yes

2. Motion to determine that the variance will not have substantial adverse effect on the use and value of the any neighboring or adjacent property owners to the property included in the variance.

Motion Charles Papp Second Randall Morley

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No yes

3. Motion to determine that the need for the variance arises from some condition peculiar to the property involved.

Motion Randall Morley Second Dennis Armos

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No yes

4. Motion to approve any special conditions.

Motion Francis Conway Second Dennis Armos

Yea  5 Nay  0 Abstain  Pass/Fail-Yes/No yes

The decision of the Sellersburg Board of Zoning Appeals concerning Petition # \_\_\_\_\_

Approved  Denied

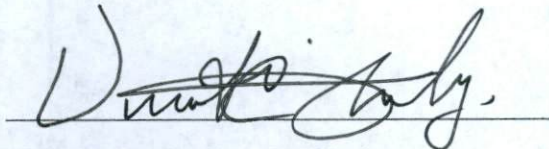
Special Conditions:

1. Must obtain Location Improvement Permit within 1 year.

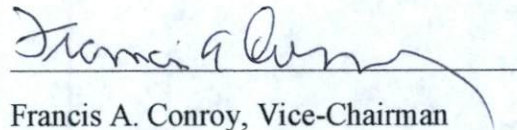
Sellersburg Board Of Zoning Appeals  
316 East Utica Street  
Sellersburg, Indiana 47172

Signature Page – Petition # 2019-~~08~~<sup>09</sup>-DV-21

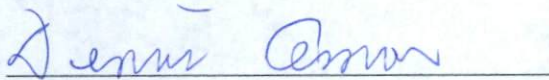
Signed this 16<sup>th</sup> day of September, 2019



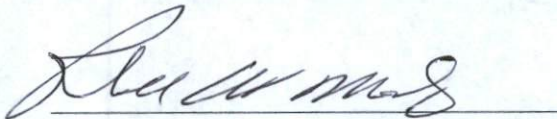
Vincent C. Thacker, Jr., Chairman



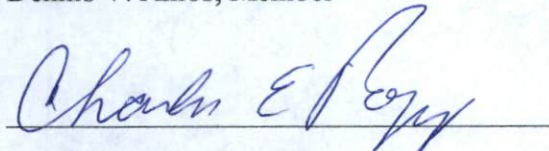
Francis A. Conroy, Vice-Chairman



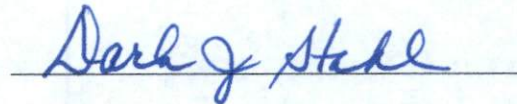
Dennis V. Amos, Member



Randall W. Mobley, Member



Charles E. Popp, Member



Attest:



Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

Docket Number: 2019-09-DV-21

Date: November 18, 2019

**Finding of Fact for Developmental Standards Variance  
from the Town of Sellersburg Zoning Ordinance**

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

The reduction of an accessory building from 35-feet to 20-feet provides for building in keeping with proportioned height of typical accessory buildings.

---

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

The reduction of the height of accessory building from 35-feet to 20-feet would not effect value on adjacent property as proposed accessory building height is in keeping with the development on adjacent properties.

---

3.) The strict application of the terms of the zoning ordinance **will** result in practical difficulties in the use of the property:

The proposed accessory building would be proportional in size to the primary structure, therefore, not appearing to be an accessory structure. Sellersburg Zoning Ordinance requires accessory structures to be subordinate-in height, where the PUD ordinance requires accessory structures not to appear as subordinate.

---



Town of Sellersburg  
Board of Zoning Appeals  
316 E Utica Street  
Sellersburg, IN 47172

### DECISION

IT IS THEREFORE the decision of the Sellersburg Board of Zoning Appeals that this Use Variance Docket Number 2019-09-DV-21 is Approved; subject to the following conditions:

(1.) Issuance of Improvement Location Permit within one (1) year of the date the Finding of Facts is signed.

Adopted this 18th day of November, 2019

Vincent Thacker, Chairman

Francis Conroy, Vice Chairman

Dennis Amos, Member

Randall Mobley, Member

Charles Popp, Member



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

DATE:	September 12, 2019
DOCKET NUMBER:	<del>2019-09-DV-21</del> 2019-09-DV-21
APPLICANT & OWNER:	Z S Developer, LLC
APPLICANT & OWNER ADDRESS:	214 East Elm St New Albany, IN 47150
ADDRESS OF VARIANCE:	9001 Hardy Way
CLOSEST CROSS STREET	County Road 311 & Camp Run Parkway
REQUEST:	PUD Zoning Ordinance Section s
CURRENT ZONING:	PUD – Planned Unit Development – Village Living Subarea – Section 16.4–minimum building height
COUNCIL DISTRICT:	

The subject property is zoned Planned Unit Development (PUD) zoning district.

The PUD Zoning Ordinance indicates the subject property is zoned Village Living Subarea.

Applicant’s Development Standards Variance is requesting an allow garages and accessory building to be lower than the stipulated 20 FT. minimum.

PUD Zoning Ordinance 2011-015;

16. Village Living Subarea

Primarily multi-family residential development (townhome, duplex, assisted living housing types) is intended for the Village Living Subarea. There may be small scale (less than 5,000 square feet) neighborhood-serving retail to provide daily conveniences for area residents. Refer to Table 2: Land Use, page 28.

Requirements:

16.4 Building height shall not exceed a height of thirty-five feet (35’). Minimum building height shall be twenty feet (20’).



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

In accordance with the requirements set out in the Indiana Code the Board of Zoning Appeals is required to determine if the applicant has satisfied the requirements in IC 36-4-7-918.5.

IC 36-4-7-918.5. (a) A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. The board may impose reasonable conditions as a part of the board's approval. A variance may be approved under this section only upon a determination in writing that:

- (1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

Applicant's Finding of Facts:

**(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community:**

Applicant states: We believe no health, safety or moral issues are a concern of this standard. The general welfare of the community will remain intact as this slight variance from standard will allow proportionate and aesthetically pleasing building. .

*Staff:*

*The submitted application provide no information as to a dimensioned height reduction for proposed garage and accessory building.*

*Applicants' above finding of fact is a general statement with no information as how the reduced height for garages and accessory buildings lowered to some unknown dimension will not be injurious to the public health, safety, morals and general welfare of the community.*



# Sellersburg Board of Zoning Appeals

## STAFF REPORT

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

Applicant states: The allowance of better proportioned buildings will not have any adverse effect.

*Staff:*

*Applicant states "...better proportioned building will not have any adverse effect."*

*Applicant provided no finding of fact supporting the statement reducing the height of proposed garage and accessory building to an unknown reduction in height will not have adverse effect on use and value of adjacent property.*

**(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.**

Applicant states: Addition of cupolas or other ornamental structures to roof tops will add unnecessary long-term maintenance issues and require additional construction costs and take away from styling of project.

*Staff:*

*The Planned Unit Development Zoning Ordinance Purpose states the Town of Sellersburg in the PUD is to reflect vision for new development within the boundaries of the PUD.*

*Indiana Code (Statute) for Criteria 3 requires the Applicant to provide finding of fact the strict terms of the Planned Unit Development Zoning Ordinance will result in practical difficulties in the use of the property.*

*Applicant has not provided finding of fact as to the difficulty in the use of the property with a building minimum height of 20-feet.  
Applicant has provided maintenance concerns with the structures.*



Town of Sellersburg, Indiana  
Board of Zoning Appeals  
Application for a Variance of Development Standards

**Applicant Information**

Name: 7S DEVELOPER, LLC

Mailing Address: 214 EAST ELM ST.  
Street Number/P.O. Box Number Street

NEW ALBANY IN 47150  
City State Zip

Email address: SPRIGLERCOMPANY@GMAIL.COM Phone Number: (502) 376-4112

**Owner Information ("owner is not a tenant or contract buyer")**

Name: SAME AS APPLICANT

Mailing Address: \_\_\_\_\_  
Street Number/P.O. Box Number Street

City State Zip

Email address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

**Property Information:**

Address or location of the property subject to this application:

9001 HARDY WAY, SELLERSBURG, IN  
Street Numbers Closest Cross Street

Lot Size: 3.35 ACRES

Current Use of Property: VACANT GROUND 10.2C (SCS)

Describe the variance requested: VARIANCE FROM SECTION 16.4 OF SELLERSBURG TIF DISTRICT MASTER PLAN AND PD0 ORDINANCE TO ALLOW

**Check Developmental Standards Variance Requested:**

- Building Setback
- Building Height
- Lot Coverage
- Lot Width
- Lot Area
- Sight Visibility
- Entrance/Drive
- Landscaping
- Parking
- Loading Area
- Sign
- Exterior Lighting

Other: \_\_\_\_\_

→ GARAGES AND ACCESSORY BUILDINGS TO BE LOWER THAN THE STIPULATED 20 FT. MINIMUM.

**DEVELOPMENT STANDARDS VARIANCE CRITERIA  
FINDING OF FACTS**

The following criteria must be met for the BZA to approve any variance request. The BZA may place reasonable conditions on any variance it may approve. Respond to each item listed below, providing information as to how the requested variance affects each item. Responses are to be clear and legible.

(1) The approval of a variance will not be injurious to the public health, safety, morals, and general welfare of the community: SEE ATTACHED RESPONSE

---

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner: SEE ATTACHED RESPONSE

---

(3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property: SEE ATTACHED RESPONSE

---

**Applicant's Signature**

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

J. Chad Sprigler  
Applicant Signature

8/20/19  
Date

ZS DEVELOPER, LLC

BY: J. CHAD SPRIGLER, MEMBER  
Printed Applicant Name

- *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*
  - We believe no health, safety, or moral issues are a concern of this standard. The general welfare of the community will remain intact as this slight variance from standard will allow proportionate and aesthetically pleasing building.
  
- *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.*
  - The allowance of better proportioned buildings will not have any adverse effect.
  
- *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.*
  - Addition of cupolas or other ornamental structures to roof tops will add unnecessary long-term maintenance issues and require additional construction costs and take away from styling of project.

State of Indiana )  
 )SS  
County of CLARK )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared J. CHAD SPRIGLER, and acknowledge the execution of the foregoing *Application before the Board of Zoning Appeals for the Town of Sellersburg, Indiana* as their free and voluntary act and deed for the uses and purposes set forth therein.

Witness my hand and Notarial Seal, this this 20 day of August, 2019

My Commission Expires:

8-29-2026

Monica L. Guthrie  
Notary Public

Resident SCOTT County, Indiana

MONICA L. GUTHRIE  
Printed Name



**Office Use:**

Date Completed Application Received: \_\_\_/\_\_\_/\_\_\_

Petition Application Fee of \$ \_\_\_\_\_ Received: \_\_\_/\_\_\_/\_\_\_

Docket Number: \_\_\_\_\_

Current Zoning Classification: \_\_\_\_\_

Zoning Ordinance Section applicable to variance application: \_\_\_\_\_

BZA Public Hearing Date: \_\_\_/\_\_\_/\_\_\_

Adjacent Property Owners Notified via Certificate of Mailing: \_\_\_/\_\_\_/\_\_\_

Legal Ad Published: \_\_\_/\_\_\_/\_\_\_

Verified Posting of Hearing Sign: \_\_\_/\_\_\_/\_\_\_

Public Notice Posted at Town Hall \_\_\_/\_\_\_/\_\_\_

**AFFIDAVIT AND CONSENT OF PROPERTY OWNER**  
**Application to the Sellersburg Board of Zoning Appeals**

I, J. CHAD SPRIGLER, AFTER BEING DULY SWORN, DEPOSE  
AND STATE THE FOLLOWING:

1. That I am the owner of real estate located at: 9001 HARDY WAY  
SELLERSBURG, IN
2. That I have no objection to, and consent to the request(s) described in the application  
made to the Sellersburg Board of Zoning Appeals.

ZS DEVELOPER, LLC

BY: J CHAD SPRIGLER, MEMBER  
Owner's Name (Printed)

J Chad Sprigler  
Owner's Signature

State of Indiana        )  
                                  )SS  
County of CLARK)

Before me, the undersigned, a Notary Public in and for said County and State, personally  
appeared J. CHAD SPRIGLER, and acknowledge the execution of the  
foregoing *Affidavit and Consent* as their free and voluntary act and deed for the uses and  
purposes set forth therein.

Witness my hand and Notarial Seal, this this 20 day of AUGUST, 2019

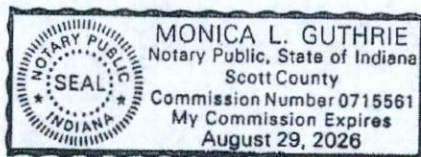
My Commission Expires:

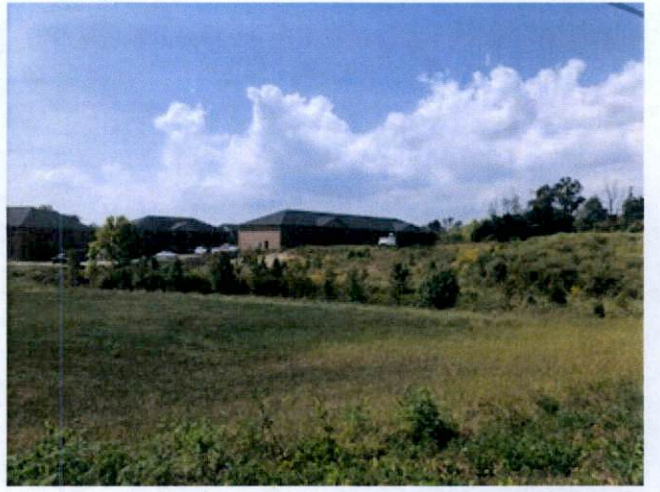
8-29-2026

Monica L. Guthrie  
Notary Public

Resident SCOTT County, Indiana

MONICA L. GUTHRIE  
Printed Name







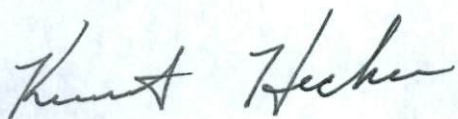
To the Board of Zoning Appeals and Mike Beard Building Commissioner

I was at the meeting on 19<sup>th</sup> of August, you were not able to act on ZS Developer LLC. I will not be able to attend the meeting 16<sup>th</sup> Sept 2019 6:00 pm. Please review my concerns.

1. Variance to reduce the number and size of landscaping parking lot islands. I have no issue.
2. Variance to allow a setback of 25' from a naturally sensitive area. I believe the PUD restriction is 75'. A 50' or 60' set back would be more reasonable.
3. Variance to increase maximum building height by 5'. The existing buildings are 2 story, proposed buildings are 3 story. They will be constructed on the highest sight of the development, thus towering over the project. New buildings should be the same as existing.
4. Variance to allow uncovered vehicle parking. I have no issue.
5. Variance to allow accessory buildings to be lower than 20 foot high. I have no issue.
6. Variance to reduce the number of vehicle parking spaces Required. Having served on this board for 10 years it is my experience that the requirements on parking are there for a reason. When parking requirements are reduced it causes problems for tenants and neighbors. These problems always surface on busy times weekends and holidays. The neighbors at Coffee Crossing are parking in the street now. This is not a problem now but it will be with farther development. Parking is a safety issue.

Thanks for your time and consideration of my concerns.

Ken Hecker



9/6/19





# Sellersburg Board of Zoning Appeals Minutes

October 21, 2019

The minutes as written are not verbatim, but a summary of the meeting.

## **Call to Order:**

Chairman Vincent C. Thacker, Jr. called the meeting of the Sellersburg Board of Zoning Appeals to order at 6:01pm at Sellersburg Town Hall, 316 East Utica St.

## **Roll Call:**

Members present: Chairman Vincent Thacker, Jr., Vice-Chairman Francis Conroy, Members Randall Mobley and Charles Popp. Absent was Member Dennis Amos. Also present was Consultant, Shelly Wakefield and Secretary Darla Stahl.

## **Approval of Minutes:**

Motion to make spelling corrections to the September minutes was made by Randall Mobley and seconded by Francis Conroy. Motion carried 4-0. Motion to approve the September 16, 2019 minutes with corrections was made by Randall Mobley and seconded by Charles Popp. Motion carried 4-0.

## **Unfinished Business:**

Review finding of facts on Petition 2019-09-DV-14 and Petition 2019-09DV-15 read into the record and to be signed at the November meeting. After discussion a motion was made to approve the Finding of Facts on 2019-09-DV-14 was made by Francis Conroy and seconded by Charles Popp. Motion carried 4-0. A Motion was made to approve the Finding of Facts on 2019-09-DV-15 by Charles Popp and seconded by Francis Conroy. Motion carried 4-0. Motion to table the signing of 2019-09-DV-14 and 2019-09-DV-15 until the November meeting was made by Randall Mobley and seconded by Charles Popp. Motion carried 4-0. After discussion a Motion to table Findings of Facts for petitions 2019-09-DV-16 thru 2019-09-DV-21 until the November meeting was made by Randall Mobley and seconded by Francis Conroy. Motion carried 4-0.

## **New Business:**

Nothing at this time

## **Communications:**

Chairman, Vincent Thacker, Jr. shared a conversation with BZA Attorney Jake Elder regarding the terms of his current contract. Jake is to provide the Board with a proposed new contract at the November meeting.

Shelly Wakefield was requested by the Board to provide information regarding details of consulting service hours and how the billing will be handled in 2020. Board wants to be billed for



# Sellersburg Board of Zoning Appeals Minutes

October 21, 2019

only those hours directly related to the Board and the Plan Commission. All other hours are to be billed to the Building Commissioner's office.

## Reports:

### Planning and Zoning:

Nothing at this time

### Board Attorney:

Nothing at this time

### Consultant comments:

Shelly Wakefield confirmed December meeting date for BZA. 12/9/2019 at 6:00 pm.

**Adjourn:** Motion to adjourn the meeting was made by Francis Conroy and seconded by Charles Popp. Motion carried 4-0. Meeting was adjourned at 6:38PM.

Vincent C. Thacker, Jr. Chairman

Francis A. Conroy, Vice Chairman

Dennis V. Amos, Member

Randall W. Mobley, Member

Charles E. Popp, Member

Attest:



# Sellersburg Board of Zoning Appeals Minutes

November 18, 2019

The minutes as written are not verbatim, but a summary of the meeting.

## **Call to Order:**

Chairman Vincent C. Thacker, Jr. called the meeting of the Sellersburg Board of Zoning Appeals to order at 6:02pm at Sellersburg Town Hall, 316 East Utica St.

## **Roll Call:**

Members present: Chairman Vincent Thacker, Jr., Vice-Chairman Francis Conroy, members Randall Mobley, Charles Popp and Dennis Amos. Also present Board Attorney Jake Elder, Consultant Shelly Wakefield, Secretary Darla Stahl and Building Commissioner Mike Beard.

## **Approval of Minutes:**

Motion to approve the October 21, 2019 minutes was made by Francis Conroy and seconded by Dennis Amos. Motion carried 5-0.

## **Unfinished Business:**

- a) Finding of Facts documents for Petition 2019-09-DV-14 and 2019-09-DV-15 were signed by Board members.
- b) Finding of Fact documents were reviewed and approved at the September meeting for the following.
  - i. Motion to approve 2019-09-DV-16 was made by Randall Mobley and seconded by Charles Popp. Motion carried 5-0.
  - ii. Motion to approve 2019-09-DV-17 was made by Dennis Amos and seconded by Francis Conroy. Motion carried 5-0.
  - iii. Motion to approve 2019-09-DV-18 was made by Randall Mobley and seconded by Charles Popp. Motion carried 5-0.
  - iv. Motion to approve 2019-09-DV-19 was made by Francis Conroy and seconded by Dennis Amos. Motion carried 5-0.
  - v. Motion to approve 2019-09-DV-20 was made by Randall Mobley and seconded by Charles Popp. Motion carried 5-0.
  - vi. Motion to approve 2019-09-DV-16 was made by Dennis Amos and seconded by Francis Conroy. Motion carried 5-0.



# Sellersburg Board of Zoning Appeals Minutes

November 18, 2019

## New Business:

Nothing at this time

## Communications:

- a) There will not be a December meeting.
- b) Discussion was held on moving the start time of the meeting to 5:30 pm from 6:00 pm. TUA until next meeting.

## Reports:

### Planning and Zoning:

Nothing at this time

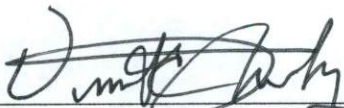
### Board Attorney:

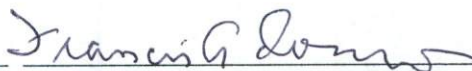
A review and discussion of Jake Elder's 2020 contract was held. Motion to approve the 2020 Board Attorney Contract was made by Francis Conroy and seconded by Randall Mobley. Motion carried 5-0 Contract signed by Board Members.

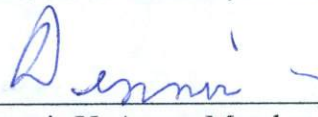
### Consultant comments:

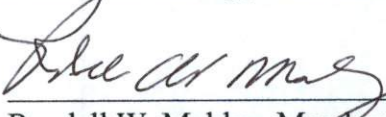
Discussion was held on JTL billing specifications.

**Adjourn:** Motion to adjourn made by Francis Conroy and seconded by Dennis Amos. Motion carried 5-0. Meeting adjourned at 6:38PM.

  
\_\_\_\_\_  
Vincent C. Thacker, Jr. Chairman

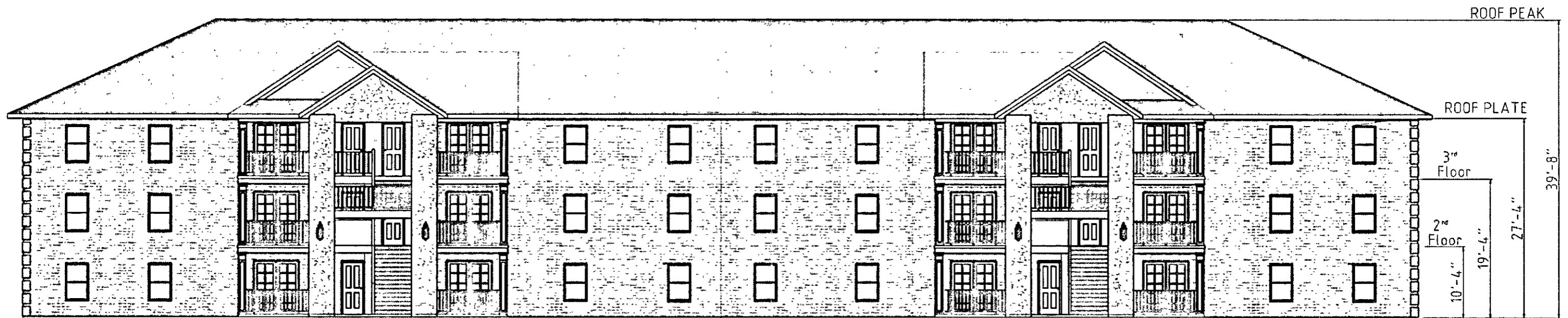
  
\_\_\_\_\_  
Francis A. Conroy, Vice Chairman

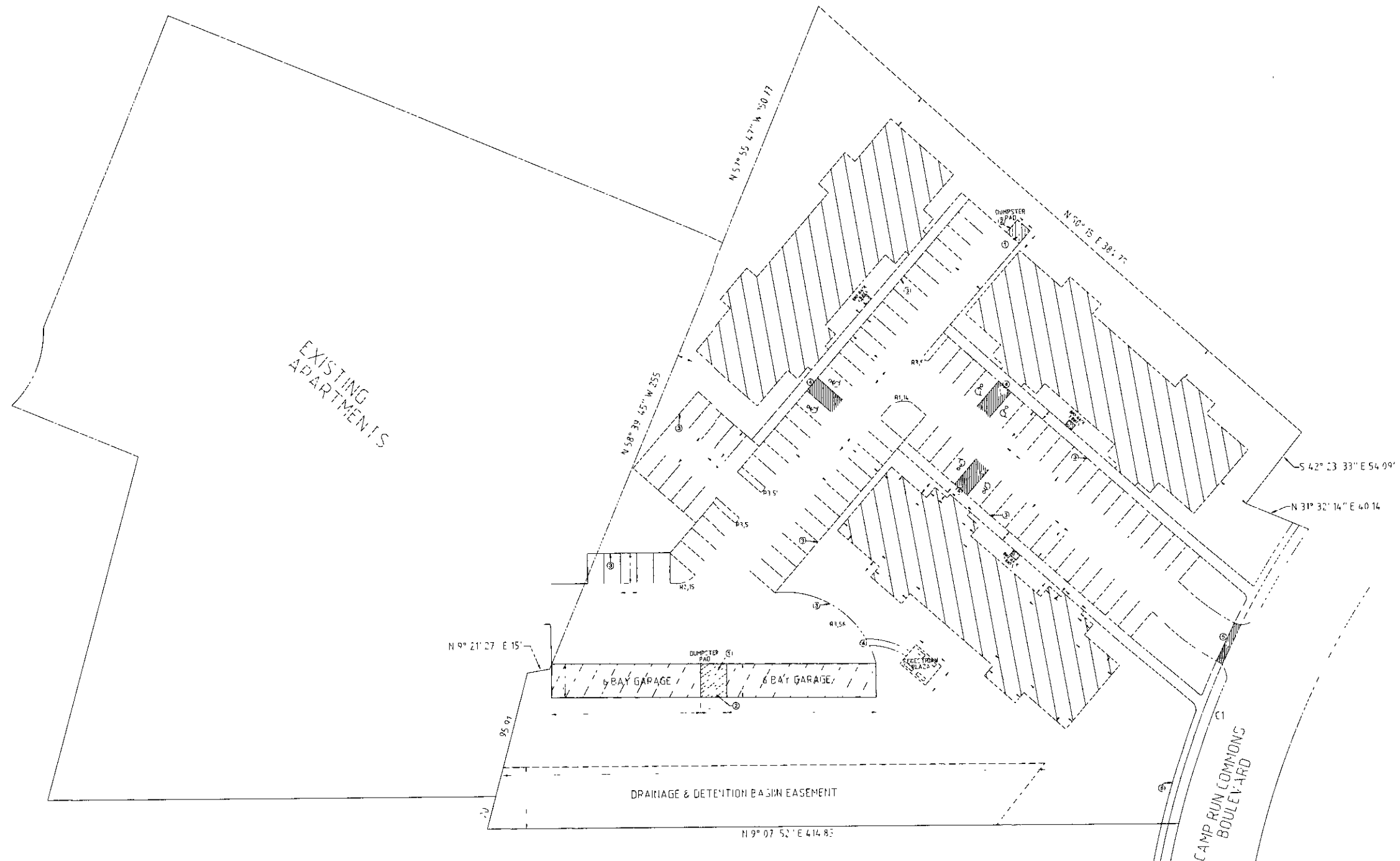
  
\_\_\_\_\_  
Dennis V. Amos, Member

  
\_\_\_\_\_  
Randall W. Mobley, Member

\_\_\_\_\_  
Charles E. Popp, Member

\_\_\_\_\_  
Attest:





Site Notes

- 1 Dimensions are to face of foundation wall, face of curb, or edge of pavement unless otherwise noted
- 2 All sidewalks, ramps, landings, crosswalks, and pavement areas shall conform to the Americans with Disability Act (ADA)
- 3 Contractor shall refer to the Plans and associated details for material dimensions, specifications, and finishes
- 4 Accessible parking stalls shall be configured in conformance with ADA. All stalls shall have appropriate signage and striping per ADA rules

Key Notes

- 1 Concrete dumpster apron. Use rigid paving
- 2 Dumpster enclosure made of wood board siding w/ chainlink gate. See details
- 3 4-in Concrete Curb
- 4 Accessible Ramp - Type k
- 5 Pedestrian Crosswalk
- 6 Existing 4 City Sidewalk




CURVE TABLE				
CURVE	RADIUS	ARC LENGTH	CHORD	BEARING
C1	532.5'	144.11'	193.06'	S 56° 33' 02" E

General Notes

- 1 All apartment buildings have same footprint and floor plan dimensions

PROJECT DATA	
EXISTING ZONING	CAMP RUN COMMONS PUD
ZONING SUBAREA	VILLAGE LIVING
TOTAL LAND AREA	3.35 ACRES
PROPOSED UNITS	72
PROPOSED LOT COVERAGE =	54.4% (65% MAX)
PARKING PROPOSED=	100 (88 Stalls, 12 Bays)
PARKING REQUIRED=	115

LEGEND

-  Proposed Building
-  Conc. Sidewalk
-  Asphalt Pavement

**Greenbrier Apartment Expansion**  
 9001 Hardy Way  
 Sellersburg, IN 47172

**Owner & Developer:**  
 Z S Developer LLC  
 214 East Elm Street  
 New Albany, IN 47150

M/G Development LLC  
 2019 Cedar Creek Dr  
 Henryville, IN 47126



PROJECT NO:	130
DATE:	07.26.19
DRAWN BY:	MJG
CHECKED BY:	MAG
REVISION:	30
SCALE	1/16" = 2'-0"

TITLE:  
 SITE PLAN

SHEET NO:  
 SP1