

Hamilton County Board of Zoning Appeals - North District
September 22, 2021

Mrs. Johnson called the official meeting of the Hamilton County Board of Zoning Appeals - North District to order at 8:01 p.m.

Members Present: Frank Habig III, Gerald Kirby, Kristin Johnson, Ron Hall and Tim Clark.
Also present: C. J. Taylor, Director; Aaron Culp, Legal Counsel; and Linda Burdett, Secretary.

Declaration of Quorum: *Mrs. Johnson* declared a quorum with five out of five members present.

Guests: See sign-in sheet.

Communications or Reports: Everything was passed out.

Approval of minutes: *Mrs. Johnson* asked if everyone had received the July 28, 2021 minutes. Could I have a motion, please?

Mr. Hall made a motion to approve.

Mr. Kirby seconded.

With no comments or corrections... *Mrs. Johnson* called for the vote. ***5 yes votes... 0 no votes.***
The July 28, 2021 minutes are approved.

Mrs. Johnson then identified the minutes of the August 25, 2021 meeting. Could I have a motion?

Mr. Hall asked *Mr. Culp* for clarification. *Mr. Habig* is the only one here that was at that meeting. Can we approve those?

Mr. Culp answered, yes. If *Mr. Habig* says that they are accurate, and you are comfortable with that.

Mrs. Johnson asked *Mr. Habig* if it was correct.

Mr. Habig answered, it is correct.

Mr. Kirby moved to approve.

Mr. Habig seconded.

With no further comments... *Mrs. Johnson* called for the vote. ***5 yes votes... 0 no votes.***

Old Business: *Mrs. Johnson* began with ***NBZA-R.V.-0004-03-2021***. The petitioner has requested to table until the next meeting. Our next meeting will be October 27, 2021 at 8:00 p.m.

New Business: *Mrs. Johnson* identified ***NBZA-R.V.-0007-07-2021*** a requirement variance.

This is concerning reducing the front yard setback from the required 135 ft. down to 88 ft. or greater measured from the centerline of Strawtown Avenue. Also, to allow a gravel parking area with no concrete curbs. **Location: 13070 Strawtown Avenue, Noblesville, Indiana.** Would the petitioner or his representative please come forward, and state your name and address for the record, and tell us about your petition?

Andrew Leeman, of 13070 Strawtown Avenue, Noblesville, Indiana, stated his name and address for the record. I am the property owner. I just got married. This is my beautiful wife, Jewel.

Mrs. Johnson congratulated them.

Mr. Leeman indicated that he had someone who was going to speak for him and turned it over to Travis (TJ) Elbert.

Travis (TJ) Elbert stated his name for the record. I am in the process of buying the property from Mr. Leeman. I would like to be able to use the land to put a couple of storage buildings on for boat and RV storage. I was requesting to reduce the setback mostly because of the lot size. It isn't deep enough to be able to put the building on and have the amount of space to be able to turn a truck and boat trailer around to back in to the storage space.

Mr. Hall stated that on your site plan you have three buildings. Are those going to be built in stages or what is your goal there? (2) The smallest building to the left... would that replace the barn that is there now? (3) Where is the barn then?

Mr. Elbert stated that they would be built in stages. The building on the far left of the site plan is the one I would like to build first depending on the approval of the variance. There is an existing building there. I'm not sure if I will leave that there or tear it down and put up something different. (2) No. (3) It is where the middle building is.

Mrs. Johnson asked if when he builds the second building then that barn will be gone. (2) So when you build the middle building then the barn will be gone?

Mr. Elbert stated that he would probably tear that down last. (2) If I end up doing that size building, yes. Assuming that everything goes through.

Mr. Hall asked Mr. Elbert if he would use the existing barn for boat and RV storage or for other storage. (2) In looking at the plans, it looks like the first four or five pages are for the smaller building. And then the page at the end is for the larger buildings. Is that correct? (3) Do you plan on having a security fence? (4) I didn't see anything in here about lighting. Can you tell us about your lighting plan? (5) Do you have a landscape plan? (6) Would you be willing to give us a detailed landscape plan? (7) There is an existing violation for outside storage which we have delayed execution on. What is your plan for removing the outside storage on this property? My interpretation is that the moment you take title to that property that you will be in violation for outside storage. (8) You or Mr. Leeman would remove that?

Mr. Elbert stated that it would be for boat storage. (2) Yeah. (3) I did not. I planned on putting up some lights and security cameras. (4) I don't have one. I do want to make sure that the site is well lit. (5) I do not. It was my understanding that I would need to plant some shrubs or something like that between the parking lot and Strawtown Avenue. (6) Yeah. (7) Ok. In my purchase agreement of the property all of that will be removed within 30 days. (8) Mr. Leeman would. He has already started to remove a lot of that.

Mr. Leeman stated that everything on the exterior per the purchase agreement would be removed within 15 days of the last Friday.

Mr. Hall asked for clarification that all of the vehicles, the tractor parts, the signs, the ~~mat~~ [Mack truck] hanging on the building, all these things will be removed and there will be nothing left for us to look at except that building in 15 days.

Mr. Leeman stated that would be 15 days from last Friday. We have a crew working on it now.

Mr. Culp advised Mr. Hall that he was correct. By the terms of the conditions that were placed with the prior variance it expires automatically once that property is transferred from Mr. Leeman to someone else.

Mr. Hall asked Mr. Leeman if he did go through with the sale the objective is that all outside storage would be removed by October 2nd. That includes the semi-trailers? (2) That would include the RV?

Mr. Leeman answered, yes sir. The only thing that will be left is the fences. (2) Yes.

Mr. Hall stated that this being a very odd shaped property with most of it in the floodplain, Mr. Elbert, what will you be using the rest of the property for? (2) You have no plans to lease it out for dirt extraction or mineral extraction? (3) Mr. Leeman was in the process of doing wetland restoration in that bottom ground there. Has that been completed with respect to the property that you will be purchasing?

Mr. Elbert answered, the area in the floodplain - I can't really do much with it. I have four kids and sometimes we kayak on the river there. I thought we might camp down there every now and then. I thought it would be a good place for them to ride their bikes. (2) No.

(3) *Mr. Leeman* stated that the piece of property that we're talking about is not in the part where I would be doing the mineral extraction. That property was so low that the state of Indiana didn't want me doing any tree removal or mineral extraction at all.

Mr. Hall asked if the property that Mr. Elbert was going to be buying had never been disturbed. (2) If I'm reading the site plan correctly, it looks like there is a large bubble of land that's going to be almost paralleling where you do dirt extraction. Is that correct? (3) Could someone verify for me that this is the property you're buying here?

Mr. Leeman answered, it has never been disturbed. The only trees that have ever been cut down are the ones that died when they had that ash borer problem. (2) The dirt extraction is being done to the east.

(3) *Mr. Elbert* approached the podium and indicated the property.

Mr. Hall asked *Mr. Elbert* if there would be any office facilities. (2) So there would be no bathroom facilities?

Mr. Elbert answered, no. I wasn't planning on it. (2) No.

Mr. Kirby asked if there was running water on the property. (2) You have no intentions of putting restrooms?

Mr. Elbert answered, yeah. There is a well over by the RV with a faucet. (2) No.

Mr. Hall stated that the zoning that *Mr. Leeman* asked from the plan commission and the county commissioners was a C-1. The purpose of the C-1 is for a commercial use that has a residential character to it. That character is both in site development and the building architecture and the aesthetics around the property. What are you doing with the improvements to this property to make it compatible with a residential neighborhood? (2) There are a lot of differences in storage buildings and it looks like this is an FBI storage building, Morton Building or something like that?

Mr. Elbert answered, he didn't know what that would be. I guess, I could landscape it, but it was basically storage buildings. (2) Yes.

Mrs. Johnson asked *Mr. Elbert* if *Mr. Leeman* was going to continue to own parts of the property around him. (2) All of the trucks and everything that he's agreed to move - are they being moved completely away from the property or are they being moved onto other land that he owns?

Mr. Elbert answered, yes.

(2) *Mr. Leeman* stated that they would be moved temporarily to the other piece of property. But before January 1st they will all be moved to Alabama.

Mr. Habig asked if in the process of getting this re-zoned was there a condition put on that bottom piece of ground. I thought we put a limitation on it.

Mr. Elbert answered, not that I'm aware of.

Discussion followed on the limitation that may have been placed on the property.

Mr. Culp asked *Mr. Taylor*... for the record... "does that contain a condition or no condition?"

Mr. Hall asked *Mr. Elbert* if he planned on having any outside storage on this property. (2) And it will all be accessed by the person who leases the unit?

Mr. Elbert answered, no. (2) Right.

Mr. Taylor provided a point of clarification. Section 1 of the re-zone does say... “with a condition that prohibits all building in the floodplain area of the lot.” It also has on there the right-of-way that has to be dedicated to the highway department.

Mr. Kirby asked if there were already two entrances into this property. Why is one building down there and not connected with the other entrance?

Mr. Elbert stated that there were two entrances to the property and there’s a drainage ditch between the two areas.

Mr. Hall asked if all the buildings on his site plan would only be accessible from Strawtown Avenue. There is no access from behind?

Mr. Elbert answered, correct.

Mr. Hall stated that he was exceedingly troubled by the fact that items are being moved from one property to the next property even if it’s temporary. We gain nothing by doing this. I would like to see a plan that if we approve this that it’s conditioned upon all of that material being completely removed from both this property and the property owner’s adjacent property. And, anywhere in our jurisdiction.

Mr. Leeman stated that he had a five year plan to do that and he’s trying to do it in less than a year.

Discussion followed.

Mr. Leeman stated that the items would be in semi-trailers.

Mr. Hall asked if they would be sitting on the property adjacent to this property. (2) How many semi-trailers will you need for this? (3) All of this merchandise that’s sitting out around there now is going to fit into four semi-trailers?

Mr. Leeman answered, adjacent to this property. There will be nothing laying on the ground. There will be nothing exposed to daylight. (2) We’ve got four. (3) Yes. Two of them are full now and we’re half done. We should be done by Saturday night.

Mr. Hall commended *Mr. Leeman* for removing the asphalt tailings and the steel girders and things that were on the property.

Mr. Culp addressed *Mr. Habig*. In answer to your question, we could attach a condition. I am concerned that we would be attaching a condition to a part of the property that *Mr. Leeman* wouldn’t own. That owner would be subject to whether or not *Mr. Leeman*, who he has no control over, meets that condition. Secondly, we already have a condition where we agreed it was reasonable for him to clean it up according to a schedule. Whether he leaves it spread out or he concentrates it on one parcel, it’s still the same amount of items because he is not bringing new items from

another site. I don't know why he would have to expedite that schedule we've agreed to with him. Those would be my thoughts with attaching a condition.

Mr. Hall asked Mr. Elbert if he was willing to review the architectural plans to make them more residential compatible. (2) Your colors, your materials. I would like to see a landscaping plan. I would like to see some architectural drawings that make this look more residential – maybe gabled ends, maybe some brick fronts, garage doors that look like residential garage doors, colors that are subdued, the barn being painting to match and be compatible with the other buildings. (3) For, I'm presuming, 20 or 30 years the people that live out there are going to have to look at it and they, I presume, would like for it to look compatible with their residences as well instead of something that is extremely commercial like you have presented here. In my opinion, what you have drawn is something that you would find in a C-2 or C-3 Zone architecturally wise. This is a C-1 and you're supposed to make it compatible with residential so that it doesn't really stand out as being a commercial property. (4) I hate to make suggestions because I want this to be your design. I would like to see this look like something that you would like to have beside your house. (5) This isn't an ag transition property. This is a residential transition property. It shouldn't look like a barn. It should look as much like a house as possible. It's not going to look like a house because it is going to have 20 garage doors across the front but there should be something in the materials and design that make you think of a residential area. (6) That would be a nice improvement. Yeah.

Mr. Elbert answered, yeah. Could you be a little more specific on what you're looking for? (2) I had planned on all that. I was thinking light gray with charcoal gray trim and maybe white doors. (3) You're not a fan of the shed style roof on the smaller building? You prefer a gabled roof? (4) That's no problem at all - like farmers have barns right down the road? (5) Like red wainscot or something. (6) I understand what you're saying now.

Mr. Kirby stated that he felt they also needed a lighting plan. You have houses right across the road from you and they are not going to want lights shinning in their houses all the time.

Mr. Hall added... and note that our ordinance requires down-shielded lighting.

Mr. Elbert stated that that was what he had planned.

Mr. Taylor asked Mr. Elbert to reach out to our office. We do have those lighting standards as well as the landscape buffer that is required.

Mr. Hall added... Mr. Taylor could probably give you some residential ideas, too, maybe.

With no further questions from the board... *Mrs. Johnson* opened the hearing to the public at 8:35 p.m. and invited anyone who wished to speak for or against the petition to please step forward. And with no one stepping forward to address the board... *Mrs. Johnson* closed the public portion of the hearing at 8:36 p.m. Do I have a motion?

Mr. Hall moved to table this pending the petitioner's submission of a revised architectural design, of a lighting plan, and a landscape plan.

Mr. Kirby seconded.

Mr. Habig stated that if the board had that in hand, we would have a better idea of what was going on.

Mr. Hall stated that he would feel a whole lot better about the project.

Mrs. Johnson stated that she thought it was a great project they just needed to pull the details together.

After minimal comment... *Mrs. Johnson* called for the vote. **5 yes votes... 0 no votes.** It is tabled until 8:00 p.m. October 27, 2021.

Mrs. Johnson continued with ***NBZA-L.U.V.-0009-09-2021*** a Land Use Variance. This is concerning allowing the operation of a goat yoga business in an A-2 District. Whereas a goat yoga business is not a permitted use in an A-2 District. ***Location: 23820 Cornell Road, Noblesville, Indiana.*** Would the petitioner or the petitioner's representative please come forward and state your name and address for the record, and tell us about your petition?

Christine Stiles, of 23950 Cornell Road, Noblesville, Indiana, stated her name and address for the record. I am the daughter of Eleanor Stiles. My daughter is the owner of Happy Goat Lucky Yoga.

Mr. Hall asked *Mr. Culp* if we had a power of attorney.

I agree that she can speak for us. Thank you. ***Eleanor Kay Stiles*** stated her name for the record.

Ms. Christine Stiles continued. Happy Goat Lucky Yoga began in 2018 out of a dream of my daughter, Jordan Stevens, whose mission in life was not only to care for the animals but to care for people. She recently completed her psychology degree at IU. We started by having goat yoga sessions at Pathways to Healing located at 1212 Westfield Road here in Noblesville. Happy Goat Lucky Yoga has provided animal therapy to over 2,000 happy participants but due to the pandemic we were unable to continue having sessions at that establishment. This summer we did begin having classes outside at the farm where we all live in that area. We were notified that we were not working under the proper permits and zoning, and that we needed to file an application. My daughter did file the application and we were trying to do this in the appropriate manner.

Currently the property has two small sheds on it where 16 goats live. The goats are also able to graze in the woods at the 24085 property which also belongs to my mother. The property sits directly north and east; and is home to 10 additional goats. We have no intentions of adding to or altering these properties in any other way.

We conduct our classes outside. We only operate during the summer months. Classes are only on Friday evenings, Saturdays, and some Sundays. Weekends where all three days are booked are not frequent. The maximum number of participants allowed for each one hour long session is 20.

There are typically 10 cars that are able to park next to the residence or in the adjoining property's driveway.

Safety is a primary concern and exiting the property onto Cornell Road is always monitored and directed by someone in a reflective safety vest. Parking near or over the septic system was cited as a concern. The parking should not be on the septic system and we are more than willing to pay to have someone come and mark it off to ensure that is not the case. No parking along Cornell Road or State Road 37 is allowed – no exceptions, contrary to what's been stated in some of the concerns. They have never been allowed to park alongside the road.

Happy Goat Lucky Yoga has one employee - my daughter - and several volunteers including myself who help with classes. The yoga instructors that come and do the classes are independent contractors.

We also have a non-profit division called Goat Snuggles that conducts activities off the property and has done events at the state fair and various Indiana corporations.

Nothing is sold on the property that is not made on the property and is therefore in the range of acceptable under the current A-2 zoning. I personally grow hay on my neighboring property to support these goats. This hay is stored in the barn at 24085 State Road 37 North property. Also known as Happy Goat Lucky Acres but I'm told it is not considered a farm.

The Boys and Girls Club camp is right across the street from us and we would love to be able to host camp activities for the Boys and Girls Club with the goats.

Our hope, along with our mission to provide therapy and joy to the masses, is to ensure that strip malls and housing additions which are creeping ever closer to White River Township do stay away. We're not asking for re-zoning, simply a zone variance for our goat yoga activities.

I would like to suggest that written complaints and/or objections should be made available to us prior to and not during a meeting. Had I have known I would have been better prepared last week.

I'm sure my daughter will still invite people out to play with her goats whether this is a business or not. The goats are not going anywhere. I'm sorry if some of the neighbors think that it trashes up the neighborhood.

My daughter started this business because she was struggling with depression. These goats and this yoga have saved my daughter's life and not just hers. Others have told us about what a positive effect it has had on them. Some of the letters that came in were people speaking positively about their experiences when they come out to the farm.

There are some great neighbors here tonight who believe in and support our family in this mission.

The property has been in our family since the late 1800s. Let me assure you that regardless of tonight's decision these goings on will continue to go on. We'll just have people out and not

charge them anything and let them come out and play with the goats, and I'll pay for it. My daughter knows more about caring for goats than anybody I've ever met.

I know it was said that we are bringing down the property values of the neighbors. I can tell you that's not the case. I just had all three of the properties appraised. I want to apologize to those who feel that our homes are not comparable to the beautiful homes that are adjacent to this property.

This will cause a financial hardship and affect the care of the land and animals many of which have had costly medical issues.

The sign at 24085 State Road 37 North is not a business sign. That sign says Happy Goat Lucky Acres. It says nothing about the yoga. The only reason it has a contact number on it is because we have had the occasional young goat jump over the fence and wonder off.

We do not let people park on the road. As soon as we see someone park on the road we tell them that they need to move.

Even without the business, I'm hard put with my schedule to be able to make those properties look any better than they do. I would welcome the help if anybody wants to come and do some more landscaping and make it look a little better. I have no problem with that.

There is no house that is in direct site and can see the class. It is not visible from any other property in that area.

As far as inconsistencies in the application, my daughter started the process and gave it her best shot in how to properly fill out the application. Together, all three of our properties are approximately 25 acres. We had originally planned to include the 24085 State Road 37 property but were told that we would need to do two separate applications and with the fees we thought to go with this one first since that is where the actual classes take place.

As far as the health and safety concerns, even before Covid-19, we stressed the use of hand sanitizer because goats are susceptible to germs from people. We now require it before entering a class and then also added portable hand washing stations next to the goat yoga area. We always have cleaning supplies on hand and aid in any kind of clean-up that would be needed. Occasionally, a goat does do "some business" on a yoga mat. We have never had any injuries and all participants sign liability waivers and are made aware of any risk that exists. The goats are vaccinated with the recommended vaccines that are required every year. We have never had a goat injury during an activity. Classes are always supervised. The pens are cleaned frequently.

Our goats are raised around humans and are very social animals.

The livestock on the property is registered. We have breeding schedules. We do provide goat milk. We have previously sold goat milk soap. We do collect cashmere wool in the spring. We buy and sell livestock.

We have several articles on the benefits of goat yoga and other places do consider that in the agricultural realm.

Ms. Stiles read the 2011 Indiana General Assembly definition of an agri-tourism activity.

We trust our elected officials to make decisions on every business that would petition to get a variance. We don't want to be zoned commercial. We just want a variance to be able to do our goat activities. We are not aware of any other goat yoga businesses that have wanted to pop up in the neighborhood. If they did they would have to go through this same process and then you would be limiting them saying... "No, no. We've already got one. We can't have another one of those."

Approving this variance in no way obligates the board to approve future applications. I think you have all the copies of the letters that were sent in – yays and nays.

I'd be happy to answer any of your questions.

Mr. Hall asked for clarification on the "farm visits" that may occur outside the classes. Can you briefly tell us what that is and would that be something you would be charging for and how often would that occur? (2) Do you have any experience or any basis to give us an estimate on how many people that would be or how frequently that would happen? (3) And that would be something that you would charge for? It would be part of the business?

Ms. Stiles stated that the farm visits would mostly be for people coming out and spending time with the goats but don't want to do the goat yoga. So they can set up those times to come out and we normally have them help us take care of the goats, clean the pens, milk the goats or just play with the goats depending on visitors and their ages. (3) Normally. Unless we're told that's not the way to do it. I'm not opposed to if she wants to invite people to come out and play with the goats and not charge for it. Those are by appointment only and we can limit them to a specific timeframe. That's usually when the younger kids come because our goat yoga classes - age 8 is the cut off for those.

(2) *Jordan Stevens* responded, two to five times every month. We only have requests from groups of two.

Mr. Habig stated that it also says something about camping. (2) Does this residence have a commercial bathroom? (3) In bad weather if you have a group of people out there where do they go?

Ms. Stiles stated that she said something about the Boys and Girls Club campground across the road. I think it would be nice to do some kind of partnering thing with them to have the campers spend time with the goats. (2) Our residence does not have a commercial bathroom. (3) Home.

(3) *Ms. Stevens* added... there is the Mercantile 37 two minutes north of us. People ask about a good place to eat and that's where we send them. There is also Koteewi Park that is less than 5 minutes south of us. They have restrooms there.

Ms. Stiles stated that it is made perfectly clear on the website that we do not have public restroom facilities. And, they're only there for an hour.

Ms. Stevens stated that only about 10 % of the participants are children. We have told people for the past three years now that we don't have bathrooms and we have not had issues with it.

Mr. Habig asked if they were selling goat products out of the facility right now. (2) So what are you doing with the milk? (3) So you're not making any soap or any cheese? (4) Do you have any kind of manure management plan?

Ms. Stiles answered, no. (4) It goes in a trash can and it gets thrown away. They don't have a whole lot of waste.

(2) *Ms. Stevens* stated that the birthing season was over now, so they were just letting them wean. We really don't have any in milk right now and won't have until spring. (3) We've made soaps in the past but aren't currently because we don't find that healthy for the goats to milk them year round.

Mrs. Johnson asked if they had a detailed business plan.

Mr. Hall asked if it was the two page letter with their letterhead on the top.

Ms. Stevens stated that she had never put a business plan together. I tried to address all your concerns.

Mr. Culp asked for a point of clarification for the public. We are not looking at whether or not you can have goats on your property. That's not a question this board is considering. The only thing in front of this board is whether or not the specific use of having members of the public come on there for classes or activities is permissible.

I think there has also been a lot of focus on whether or not it's commercial, whether you're getting paid or not. That's not necessarily a factor. We have uses that are non-profits which are considered commercial. The way our ordinance looks at things is based upon the intensity of the use. What sort of traffic it puts on the road? What number of people come to the site? That's why you may see a greenhouse permitted because you're not having the public come as opposed to a garden shop where the public was coming and there was a lot more people.

That is what is before the board tonight. Whatever the decision is tonight, it doesn't matter if its for-profit or not-for-profit. We're only looking at whether or not the specific use can be.

Secondly, there are not allowed to be personal attacks. If personal attacks are made during the public hearing they will be stopped. But at the same time, all members of the public have a right to speak. Some of their comments may seem critical but they are permitted to do that so long as they're not a personal attack or something of that nature.

It is also important to remember when we look at this, we are required to go according to six factors that are set forward. What they are looking at is not whether they think this is a good idea or whether or not they think this is helpful to people. It is simply: (1) Whether or not the approval

will 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 need of the variance arises from some condition peculiar to the property involved. (4) The strict application of the terms of the zoning ordinance would constitute an unnecessary hardship if applied to the property for which the variance is sought. (5) The approval does not interfere substantially with the county's comprehensive plan.

The board will look at each of those five. If they find all five are met, then you are entitled to your variance. If they find that one or more of them are not met, then they have no option but to deny the variance.

I understand you just got your packet tonight. But, this board functions like a court and that means that they cannot have what is called an ex parte communication. They can't talk with you outside of this meeting nor can they talk with any other member of the public. They can't even talk with each other about this outside this meeting. That way you are ensured that everyone here hears everything that the board has. Everything we have by a certain date each month gets sent out in the packet and you have a copy of what was in that packet. They don't get anything else until, like you, they walk in tonight. Any letters we got came down here and they're given a copy at the same time you're given a copy.

With no further comments from the board... *Mrs. Johnson* opened the hearing to the public at 9:16 p.m. and invited anyone who wished to speak for or against the petition to please step forward and state their name and address.

Leslie Cox, of 14645 East 246th Street, stated her name and address for the record. That is at the intersection of Cornell Road. I know we have given you a lot of information tonight. This business and this variance application have raised a lot of questions and concerns from our neighborhood community. All the questions that we have given to you have been complied by the neighborhood group. The facts that we presented are actual facts from information provided to you by the petitioner, from statements made by the petitioner and the business owner, and what we have personally observed as we look at the property.

I would like to reiterate that business in this area is not part of the White River Township or the Hamilton County Comprehensive Plan. With overwhelming input from residents of White River Township, the governing body of Hamilton County chose to preserve the agricultural nature of the area - one of the few left in the county. The plan commission has determined that the business does not meet the requirements to be classified as agri-tourism or agri-business and, in fact, recommended that this variance not be granted.

We are concerned about the planned future expansion of the business. The business owner has stated "They will have events in the future that won't be a yoga class." The also stated that "They plan to do charity events, kid-friendly events, other community events." This further adds to the argument why this business should not be allowed in this area.

The petitioner has not met the required standards and the variance application should be denied. There is no need for this business in this area. It would be injurious to the general welfare of the

community and it would negatively impact the value of properties in the area particularly the home adjacent to this property.

Any undue hardship is certainly not caused by the strict application of the zoning ordinances. This property has been residential for many years and should stay that way. It is a small piece of property with a house on it. Yoga, in no way, can be considered agricultural. It is simply a business with no agricultural purpose, use or benefit.

Allowing this business in no way solves a problem where none exists. It merely creates new ones. We urge you to stay within the agricultural designations of the comprehensive plan as you have done in the past and hope that you will continue to do in the future. Thank you.

Mrs. Johnson announced that we were going to take a five minute recess. No conversations will take place.

Mrs. Johnson called the meeting back to order at 9:24 p.m. We will continue with opening the floor for public comments so if anyone would like to come forward and speak for or against the petition they may do so at this time. Please state your name and address for the record.

Kathy Wilson, of 24070 State Road 37, Noblesville, stated her name and address for the record. My family has also been in the area since the 1800s. My great grandpa, Sailor Newton, he used to have a barn when I was growing up and we had goats; we had horses; we had chickens. I remember having birthday parties with well over 20 people with adults and kids to play with the goats and horses. At the time, that wasn't an issue. I know you stated that whether or not they charge it is having the public over. I don't see why that's any different than having a birthday party on your family's farm.

What they do is a farm. They raise goats. They are 4-H certified. They breed them. They take care of them. And they house them there. I'm not sure whatever definition of a farm that wouldn't fall into.

I live directly across the street. I have never seen any harm take place there. No cars have ever had an accident. No cars have ever blocked the road. No cars have ever parked along the road – Cornell or State Road 37.

I have a daughter and she has shown interest in joining Future Farmers of America and going to the 4-H fair. We have only lived on my grandparents' property for a year and that never would have happened had she not seen those goats. It's bringing it to a new age of young people. The kids don't want to just breed goats but if you throw yoga in there with them "oh, that's new and exciting." It gets the community engaged.

I honestly don't know why this would be denied. It is an agri-business. It's a farm that they're bringing people to. The farm is still going to exist even if they don't do yoga. So, I really don't understand what the issue is. It's pretty cut and dried. It is a farm where they bring people in. Thank you.

Amanda Egler, of 5228 East 225th Street, Noblesville, stated her name and address for the record. You might wonder why I would come to a meeting about an issue in another township. I am a fifth generation Hamilton County farmer here in Indiana. This is not the first time I have stood before this board and advocated for protection of agriculture.

I was really proud of our county last year. We managed to update a comprehensive plan during Covid, have meetings, take public input and get things done. I was thrilled to see that agri-tourism was specifically called out in that plan to be supported.

As a farmer we face a lot of challenges. Coming up with something that is new and exciting, new and different is a way to bring a revenue stream to the farm. It's a way to bring people to the farm to enjoy it and become advocates for agriculture in our communities in times where we're getting squeezed from every direction.

I support preservation of agricultural resources and agri-business in our county. I do that everyday when I go to work. I do that on the county boards that I sit on. I do that on the county committee's that I sit on directly related to agriculture; and protect U.S. resources for our future, for my grandkids.

We farm 2,000 acres of grain. I don't have any goats. Somehow this year I ended up with 38 chickens.

What I see from this business is agri-tourism. What I see is adding a value to the farm and bringing people out to see it. The goats aren't on trial here. The issue is the activity that's taking place. I think this meets the textbook definition of agri-tourism and is something that I wouldn't mind having next door to me.

It is important to me even as a non-resident of the township because I farm ground that is governed by this board to allow these types of uses and to allow agri-tourism and allow people to visit the ag industry and see what's going on, get to love animals and see the other side of it. So they don't just look at it and say "It's a stinky hog farm" "Oh, it's a goat farm." "I don't like that." But they might have a real personal experience with it.

I hope the board will keep that in mind. I recognize that the variance is required because our county zoning standards for A-2 uses haven't been updated since 2009. I think in 2009 if we had looked around and said "What's agri-tourism?" we might not have had an answer for that. I think it's, maybe, time we looked at updating those so it's not such a stretch. It doesn't matter that it's "goat yoga." Yeah, it sounds kind of fancy but it's about coming out and being on the farm and being able to see livestock. I hope you will approve this variance.

John Fox, of 24188 State Road 37 North, stated his name and the address of property he owns. After hearing the case before us I would have to tell you that my wife and I have looked at the property that we planned to build a very nice home on just several hundred yards away from these folks. We were pretty anxious when we found out what this was all about and what these people have. I have nine grandkids. They love farm animals. They go to the fair every year. We were

excited and my wife said she was going to drop by to see what goes on down there so maybe we can get our family up here to take a look at things. I would have to say that my house probably won't be completed for about a year, but I guarantee you that we will probably be up numerous times to see these nice people and what they do for our community. I think a lot of young kids are going to love the programs that they have going on. Thank you for your time.

Jordan Stevens returned to the podium. ***I live at 23820 Cornell Road.*** I would like to give you some actual facts. If you look at the Hamilton County website that states property values. Mercantile 37, yes I realize that's been grandfathered in as commercial, those properties around them have not decreased since Mercantile 37 opened. Properties around the Strawtown Sale Barn have not decreased.

Unfortunately, it is because the city is growing. I want to preserve this land for the agricultural purpose that we are using it for. I think you can look at properties that surround businesses in White River Township and see that their values have not gone down. They've only gone up.

Some of the things that were said that I said... I don't really recall saying them and I have never talked to those people. So I don't know how they would know what my business plans are for further expanding the business. Yes, I do have those, but it would not really be anything on the property. We have done charity events in the community. We have gone to the Sunshine Club. We've been to the Westfield High School. We have numerous times gone to Nickel Plates with the goats. Any aspirations and any expansions that are talked about are solely based on expanding outward services that we would travel. Nothing on the farm and obviously if for some reason something every did come up it would have to go through you guys anyways. You have the control and can add any stipulations you feel are necessary.

I know there has been talk about a barn down the road which I have no control over and your approval or denial of this has no impact on that. I don't own that property and whatever I feel I would like done with it has nothing to do with goat yoga. Yes, I would like to see it fixed up and restored and doing something that brings joy to the community. But, again, that has nothing to do with the goat yoga. And, my aspirations and views have nothing to do with what would even happen on that property.

Hamilton County has defined agriculture as keeping and raising of livestock. Unless there are some hidden stipulations, we are by your definition agricultural.

I would like to discuss why goat yoga could be considered agri-tourism. It is an activity associated with the raising of livestock. Just because goat yoga is a new concept to farming does not dismiss that it is indeed a farming activity focused on bringing people to a farm to interact and learn more about the farm animals in a fun and inner active way.

Exposing goat yoga participants to the goat industry generates interest in goat products whether that be meat, milk or cashmere. We have been asked about the functions they can be used with, controlling weeds, and care of the animals. It could increase interest in raising goats and 4-H livestock projects.

I would like to reiterate that you look at facts with statistical information and not just speculation. I think a lot of the information in front of you that's in opposition is just pure speculation and fear. We would be more than happy to do whatever you deem necessary to make sure that this follows what this county wants. Thank you.

Jason Wells, of 116 West Oak Street, Orestes, Indiana, stated his name and address for the record. I want to know if the letter I submitted, is that on record pertinent to this meeting? (2) I'll stand by what I submitted.

Mr. Taylor answered, yes, sir. We have it and so do they. (being the petitioners)

Mr. Hall asked Mr. Wells to summarize his letter.

Mr. Wells stated that there were some statements made that there has never been parking on the road. That was an issue I had. The parking area is very small. Ten cars doesn't sound like a lot but get them in there and so forth. They didn't contain them when they started.

I'm sorry if my language is direct and hurtful to people; that's not where I come from. I have observed this since the inception. I thought you cannot just start a business and invite the public and charge them onto your property because it best serves you. You have to consider the other people. I know you like your goats and I understand that stuff, but your neighbors get a say in how it affects them. I want to stand by what I submitted, and I hold that to be accurate. Thank you much.

Ms. Stevens added... we have no control over the people that park on the street to look at the goats.

For the purposes of discussion... Mr. Clark moved to accept as presented.

Mr. Kirby seconded.

Mr. Clark asked how many goats were on the property.

Mrs. Johnson answered, 16 and 10.

Mr. Clark stated that we had a regulation where you had to have three acres for agricultural rights. Does that interfere with all of this that has already been presented? (2) So, at this point it would be in violation?

Mr. Taylor answered, not if this land use variance approves it. (2) Yes. The two properties are owned by the same person, so they moved them to the other property.

Mrs. Johnson asked how many goats they could have on that size parcel.

Mr. Taylor stated that on the 1.8 acres outside this variance they're not allowed to have any. You have to have three acres to have any animals.

With no one else stepping forward to address the board... *Mrs. Johnson* closed the public portion

of the hearing at 9:44 p.m.

Mr. Culp advised the board that the plan commission made a negative recommendation.

Mr. Clark stated that it was hard to make decisions a lot of times. A lot of times we make decisions against what we would like to vote.

Mr. Hall stated that he didn't have any problem at all with the idea that this is compatible with the comprehensive plan because the comprehensive plan endorsed agri-tourism and I see this as a very good example of that. If we talked about corn mazes and aqua-culture and these things I think this falls right into this category. I also have no problem at all that there's no public health issue here. Being an agricultural area, I don't see it having an impact on property values. I'm having trouble with getting over the issues of whether or not there is a hardship in using the property as it's zoned. In fact, the petitioner told us if they don't approve this, they are going to keep doing what they're doing. What is the hardship in using the property as it's zoned?

Mr. Habig and *Mrs. Johnson* agreed there is none.

Mr. Habig stated that he looked at the comprehensive plan and read through the agri-tourism and I love the fact that it's in the comprehensive plan but... we haven't gotten to the next step on how are we going to do this agri-tourism.

Mrs. Johnson added... what's it look like?

Mr. Habig stated that they need to have a design behind it which they don't. I love the fact that people go out there and associate with the goats, but the mere fact is... it is a business.

Mr. Hall stated that he could find three positives for this but the other two he was having real difficulty with. The other being... the need for the variance occurs because of something peculiar to this particular piece of property.

Mrs. Johnson stated that she loved the idea and I commend you for doing that because I read it and thought... "isn't that cool. Yoga with goats." But I think the size of this particular property even if parking isn't generally a problem it probably will be a problem. I have some difficulty with more of the fringe things. We want agri-tourism in Hamilton County, but I don't feel like we have the framework to put this together.

Mr. Hall stated that he didn't feel a 1.8 acre parcel can be set up for 50 cars a week.

Mr. Clark stated he felt that was quite a concentration of goats for a 1.8 acres.

Mr. Hall stated that ultimately to me it gets down to the hardship. There's no hardship in using the property the way it's zoned. The ordinance is built to make a use variance the most difficult thing we do and the hardest thing for anybody to get over. I don't believe that anything I have seen here this evening and listened to in the petitioner's testimony that gets me past the fact that the property is now being used in compliance with the rule and there is no hardship to continue to do that.

Mr. Clark asked if we could explain the hardship rule.

Mrs. Johnson asked *Mr. Culp* to help with that.

Mr. Culp advised the audience... what they are looking at – if this is zoned A-2 can it be put to use as an A-2. Is there a hardship with using it according to those rules? It's not... "I can't use it for I want to use it for." Or... "I've decided to set this up and it's going to cost me more money to do that." It's... "this is the zoning category. Is there a hardship with doing something that is allowed or meeting those requirements?"

This comes from state law. That's not just – Hamilton County decided that was the standard. The hardship is under state law for use variances.

Discussion followed on future agri-tourism procedure, possible conditions, and the need for a septic system / port-a-lets.

Mr. Habig stated that as far as using the property... they are raising goats, what little milk and the wool that they're pulling off of them and being able to sell breeding stock – that's ok.

Mr. Hall added, they can continue to make soap because that was a home industry.

With nothing further from the board... *Mrs. Johnson* called for the vote. ***1 yes vote... 4 no votes.*** I'm sorry. *Mr. Kirby* voting no.

Mr. Culp advised the board that *Mrs. Stiles* did request to withdraw their second petition.

Mrs. Johnson continued with ***NBZA-R.V.-0011-09-2021*** a requirement variance. This is concerning allowing the construction of an accessory building on a lot prior to construction of the principal structure. (2) Reducing the minimum required setback of a principal structure from 25 ft. down to 10 ft. ***Location: 24188 State Road 37 North, Noblesville, Indiana.*** Would the petitioner please come forward, state your name and address for the record, and tell us about your petition?

Susan Veverka, of 6864 Carters Grove Drive, Noblesville, stated her name and address for the record. For the contractor to start building our house he asked that we have a pole barn to store the supplies so he didn't have to keep taking equipment off the property every day. That's why we're asking to build the pole barn. We hope to have it done by the end of October and then within 60 to 90 days the house will be started.

Mrs. Johnson stated that our ordinance has a set number of days of 20 for the sign being posted and your sign was posted for 14 days. All legal notices were mailed in that 13 day time period instead of 20 days. And the article appeared in the paper at 16 days. I need to have a motion to suspend the rules of procedure.

Mr. Habig made a motion to suspend.

Mr. Hall seconded.

With no further comments... *Mrs. Johnson* called for the vote. **5 yes votes... 0 no votes.** We also had a note from one of your future neighbors – the Garrisons. They were aware of your petition and they didn't have any objections.

Mr. Fox stated that they had a meeting with both of the neighbors to the north and the south. I have been a general contractor for 45 years. I've never gone through this because we don't ever get to this part. I am a fire restoration contractor and there is always something there and we just rebuild it. We don't have to worry about setbacks and pole barns and what comes first or second.

We have no place to put materials and things like that. This outbuilding would be 80 ft. by 30 ft.

Mr. Habig asked how soon construction would start on the house.

Mr. Fox answered, we have been told that he could have a structure with a roof on it within 4 to 6 weeks. There are things we would be doing immediately with signing contracts for septic, well. I have met with Duke on running power back. We're actually starting on the house at about the same time but not see a hole dug for the basement for a month and a half to two months.

Ms. Veverka stated that once the contractor gets their house under roof and watertight he will go back to finish the commercial job and then we won't be able to move in until late June, early July.

Mr. Clark asked when they purchased the property.

Mr. Fox stated it was last month.

Mr. Hall asked *Mr. Taylor* if he checked the record for when the 3 acre property was created. (2) But it is before the zoning required the 10 acres?

Mr. Taylor stated that he did. But I can't tell you off the top of my head was that is. (2) Yes.

Mrs. Johnson asked about the erosion hazard on part of the property. Have you addressed that yet?

Mr. Fox stated that they haven't done anything. At the time we get done reshaping the lot and getting things level that low part that is low by about 2 feet will be back almost dead level. At one point in time they had a moto-cross business there with large mounds. They were bulldozing those down and leveling those out and bringing the back corner of the lot probably up about 2 ft. We might, because we have disturbed topsoil, at the time we pour the basement foundation put a little bit of a retaining wall there to fortify that a little bit.

Mrs. Johnson asked for clarification. The pole building will not be insulated? It won't have any rooms? It won't have any living space?

Mr. Fox stated that it will be insulated. Probably a small heater to warm a small section of it. Everything else would be unheated. It will have electric service, lighting.

Mr. Kirby asked for clarification on the tank on the property. Is that a fuel tank? (2) Where is

the well going to be located?

Ms. Veverka answered, a propane tank.

(2) *Mr. Fox* stated that he wasn't sure. I received a quote on the installation but were waiting on the final footprint of the house.

With no further questions from the board... *Mrs. Johnson* opened the hearing to the public at 10:19 p.m. and invited anyone who wished to speak for or against the petition to please come forward. And with no one stepping forward to address the board... *Mrs. Johnson* closed the public portion of the hearing at 10:20 p.m.

Mr. Hall moved to approve the petition as presented conditioned upon the fact that the house construction be begun within 12 months.

Mr. Habig seconded.

Mr. Hall stated that there is no question that they have a hardship in building in this weather without having the barn on it and the lay of the land unquestionably gives them a hardship for their setback. They are obviously choosing the best spot on the property to build a house.

With no further comments... *Mrs. Johnson* called for the vote with one condition. **5 yes votes... 0 no votes.** Welcome to White River Township.

Director's Report: No report.

Legal Counsel Report: No report.

The next BZA meeting will be held Wednesday, October 27, 2021.

With nothing further... *Mrs. Johnson* asked for a motion to adjourn.

Mr. Habig moved to adjourn.

Mr. Hall seconded.

With no further comments... *Mrs. Johnson* called for the vote. **5 yes votes... 0 votes.** Meeting adjourned at 10:26 p.m.

Minutes approved as corrected October 27, 2021 by a vote of 5 yes... 0 no.

Frank Habig, III
Gerald Kirby
Kristin Johnson

Ron Hall
Tim Clark

Linda Burdett, Secretary