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**BOARD OF ZONING APPEALS
Virtual Meeting via ZOOM - Minutes
October 06, 2021 - 5:30 p.m.**

CALL TO ORDER

ROLL CALL

INTRODUCTION OF EVIDENCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES: May 5, 2021 and June 6, 2021

CALL TO ORDER: Mary Beth Kaczmarczyk called the meeting to order at 5:30 PM.

ROLL CALL: Mary Beth Kaczmarczyk, Vicky Sorensen, Margaret Clements, Bernie Guerrettaz

ABSENT: Skip Daley

STAFF PRESENT: Larry Wilson, Director, Tammy Behrman, Senior Planner, Drew Myers, Planner/GIS Specialist

OTHERS PRESENT: David Schilling, Legal, Tech Services

INTRODUCTION OF EVIDENCE:

Larry Wilson introduced the following items into evidence:

Monroe County Comprehensive Land Use Plan (as adopted and amended)
Monroe County Zoning Ordinance (as adopted and amended)
Monroe County Subdivision Control Ordinance (as adopted and amended)
Board of Zoning Appeals Rules of Procedure (as adopted and amended)
Cases advertised and scheduled for hearing on tonight's agenda

The motion to approve the introduction of evidence carried unanimously.

APPROVAL OF AGENDA:

Motion to approve the agenda, as amended, carried unanimously

APPROVAL OF MINUTES:

Motion to approve minutes from May 5, 2021, carried unanimously.

Motion to approve minutes from June 6, 2021, carried unanimously.

ADMINISTRATIVE BUSINESS: None.

OLD BUSINESS:

- 1. VAR-21-53a Perry Buildable Area (15% Slope) Variance to Chapter 804**
2. VAR-21-53b Perry ECO Area 3 (18% Slope) Variance to Chapter 825
One (1) 1.33 +/- acre parcel in Perry Township, Section 13 at parcel no. 53-08-13-100-008.000-008. Owner: Perry, Mark and Clara
Zoned RE2.5. Contact: dmyers@co.monroe.in.us
*****CONTINUED BY PETITIONER*****

NEW BUSINESS

- 1. VAR-21-43 Habig Buildable Area (15% Slope) Variance to Chapter 804**
One (1) 2.51 +/- acre parcel in Benton North Township, Section 28 at 7467 N John Young RD. Owner: Habig, Barbara J
Zoned AG/RR. Contact: tberhman@co.monroe.in.us
- 2. VAR-21-56 Campbell Tourist Home/Cabin Condition #48(b) Variance to Chapter**
One (1) 5.0 +/- acre parcel in Bloomington Township, Section 2 at 3361 E Boltinghouse RD. Owner: Campbell, Gabriel M & Bethany B.
Zoned AG/RR. Contact dmyers@co.monroe.in.us
- 3. VAR-21-57 Skirvin ECO Area 3 (18% Slope) Variance to Chapter 825**
One (1) 6.92 +/- acre parcel in Benton North Township, Section 11 at 8988 E State Road 45, parcel no. 53-06-11-200-010.000-003.
Owner: Skirvin, Tina
Zoned FR, ECO 3. Contact: acrecelius@co.monroe.in.us
*****CONTINUED BY PETITIONER*****
- 4. VAR-21-58a Ganatra Buildable Area 15% Slope to Chapter 804**
5. VAR-21-58b Ganatra ECO Area 3 18% Slope Restrictions to Chapter 825
One (1) 1.70 +/- acre parcel in Bloomington Township, Section 26 at 3731 E Exeter LN. Owner: Vamos, Brandon J & Simin B Ganatra
Zoned RE1. Contact dmyers@co.monroe.in.us

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OLD BUSINESS

1. VAR-21-53a

Perry Buildable Area (15% Slope) Variance to Chapter 804

2. VAR-21-53b

Perry ECO Area 3 (18% Slope) Variance to Chapter 825

One (1) 1.33 +/- acre parcel in Perry Township, Section 13 at parcel no.

53-08-13-100-008.000-008. Owner: Perry, Mark and Clara

Zoned RE2.5. Contact: dmyers@co.monroe.in.us

BOARD ACTION: Kaczmarczyk introduced the petition.

STAFF ACTION: Petition was continued by the petitioner.

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NEW BUSINESS

1. VAR-21-43

Habig Buildable Area (15% Slope) Variance to Chapter 804

One (1) 2.51 +/- acre parcel in Benton North Township, Section 28 at

7467 N John Young RD. Owner: Habig, Barbara J

Zoned AG/RR. Contact: tberhman@co.monroe.in.us

BOARD ACTION: Kaczmarczyk introduced the petition.

STAFF ACTION:

Behrman: Ok, so what we have here is the Variance VAR-21-43. It is the Habig Buildable Area for 15 percent Slope to Chapter 804. This is a 2.51 acre parcel in Benton North Township, Section 28, located at 7467 North John Young Road. It is zoned AG/RR. The request for this petition is one design standard from Chapter 804 for Steep Slopes. The petitioner would like to build a single family residence and that is a 1,763 square foot, footprint, which is a 2-story that totals 3,484 square feet. They do have a permit already in the docket so that if this is approved staff would be able to issue that tomorrow, if not they need to amend their site plan in order to seek approval for further approval of that site plan. As you know Buildable Area requires that you not put structures on slopes greater 15 percent. You will see in the upcoming slides that they are proposing to put a residence on slopes that are greater than 25 percent according to our lidar data and because staff felt that there was a location that maybe was not as impactful that we could not issue the waiver through the Chapter 804 process. The property actually does have 2 approved septic locations. The original septic location under Permit 22057 was for 3 bedrooms and staff figured out that the location of that is where they were then going to be proposing their home. So, we couldn't have the home on top of the septic location. We sent them back to the Health Department where they received a new septic permit for a 3 bedroom located in a different part of the lot so there was a delay from when this was originally filed as we were waiting for a septic permit to be granted. Again, this is located on John Young Road. You will see this is Lake Lemon real close to the dam and spillway area and it does overlook the lake to some degree. It is quite forested currently. Here is the site location. It comes in from a driveway, a shared easement I would say and it is a platted lot in a platted subdivision. There is some buildable area in the southern part of the lot and this map represents all slopes that are 15 percent or greater. So, buildable area really is to the south here. This is a different map. Bernie is just coming on now it looks like. This is a different map depicting the same parcel showing a different array of slopes here and you can see that there is a road cut that comes through the property here. It actually is a little bit of a weird, it kind of almost looks like a cul-de-sac that exists over here. It doesn't show it very well on this slope map but on the staff site visit it is very evident. You will also note that right here is another driveway that comes down to a residence and then the road that they use to access site continues on down to the lake and serves another property up there that you can't see. Please note that over here the red in color is actually slopes that are greater than 25 percent and again we are seeking, we are usually putting structures in locations that are blue or that light green color. These are a few of the aerial photos of the site. This is the area that is flatter and the petitioner is wanting to put the home here and this is just a little bit closer. They do have like an old shed and some trailers and things that are stored on the lot currently. These are the site photos from staff. This is that flat area looking west and this is the flat area just as it starts to go north, I am facing south, so this is me as it starts to slope down. This is that road that cuts through the whole property and they would be I believe using this road to access according to their site plan and then putting the home down here in this

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area. This is another view of me. On the bottom picture I am standing on that little access road and then the home would be down in here. This is the Lake Lemon Watershed. It is not currently protected. There are no restrictions from just cutting down the vegetation just all the way down to the lake. You might need a Grading Permit to do that but it is not like the Lake Monroe that has that ECO Overlay to it. This is the petitioner's letter. Hopefully you had a moment to review that in the staff packet and staff report. This is the petitioner's site plan. It is nice that they submitted one that is engineered so that we can kind of get a sense of what is going on here. We have existing homes shown here and here. This is the lot where this is one of the septic locations that has been approved by the Health Department. The other one again was located under their proposed home. I think staff would like to see a swap of this. We maybe would have been able to issue a waiver. They are depicting this cul-de-sac. We had discussions that this would possibly be an appropriate location as well since it already has been cleared and has been slightly graded on the site. Here you have that driveway access that I had a few pictures of and again that house is going to be downhill from that. Then there is another access road that comes along here and accesses some lake frontage for another residence back there. To the right I have just shown a blow up of that site where you can see the dimensions and the size of this just over 1,700 square foot footprint that does not include the 2 parking spaces for their parking. They do depict the construction limits of the site. With that for VAR-21-43, staff does recommend denial based upon the fact that there are no practical difficulties. The slope issues can be reasonably addressed through redesign and relocation of the development and the building and structure location. Does anyone have any questions?

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-21-43	Buildable Area (15% slope) Chapter 804	Denial

812-6 Standards for Design Standards Variance Approval: In order to approve an application for a design standards variance, the Board must find favorable findings for all three (3) criteria, A, B, and C, listed after the agenda within the BZA packet.

Recommended Motion Conditions or Reasoning:

No practical difficulties. The slope issues can be reasonably addressed through the redesign or relocation of the development/building/structure.

QUESTIONS FOR STAFF – VAR-21-43 – Habig

Kaczmarczyk: Does the Board have any questions for Tammy?

Guerrettaz: Yeah, Tammy this is Bernie. Mary Beth this is Bernie. I just wanted to let you know that I did jump on and I do not have any questions at this point.

Kaczmarczyk: Great. Ok. Any questions from the Board for Tammy? Is the petitioner here and would they like to speak?

Behrman: Yes, the petitioner's representative is here.

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Kaczmarczyk: Ok. Would the petitioner's representative like to speak?

Behrman: Adam would have to unmute.

PETITIONER/PETITIONER'S REPRESENTATIVE – VAR-21-43 – Habig

Dick: I am sorry. Can you hear me?

Kaczmarczyk: Yes, we can hear you now, sir.

Dick: Alright. I thought you had control over the mute.

Kaczmarczyk: No. You had to. Could you please state your name?

Dick: My name is Adam Dick. I am the son of the land owner Barbara Habig.

Kaczmarczyk: Ok, do you swear to tell the truth and nothing but the truth?

Dick: I do.

Kaczmarczyk: Thank you. You may proceed, sir.

Dick: Do you want the camera on, or does it matter?

Kaczmarczyk: It doesn't matter, sir.

Dick: Ok, there you go. My name is Adam Dick. I am the son of the owner Barbara Habig and I will be building or proposing to be building the home for her. I do live right next door to this lot. I don't know, can you see my cursor, I don't know if it matters. Tammy know which house it is there. I live in the adjoining lot to this property we are talking about here. I think it is important to note that I have got no financial interest in this at all. I am just doing this to build a spot for my mom. I am not a builder from town looking to come out here looking to come out here to make a bunch of money or anything like that. My mom purchased this lot I can't remember the exact date, it was a few years after I had purchased my lot in 2005 in the hopes that if we ever had any grandchildren someday, she might want to build a house there to be closer the grandchildren and our daughter is now 2 years old so that time has now come. We have been working on this for about a year and half or so now. As Tammy mentioned where we would like to put the house is in an area of a grade more than 15 percent. We think it is the best place to put the house on this lot. It was purchased before there was a 15 percent grade code lot rule whatever it is called. There are 3 other houses built around that area when those lots were purchased around the same time as we purchased this lot and again they built before the 15 percent code came into effect but they were all allowed to build on grades that are similar if not greater than this one. One of the houses there they took out 250 to 300 trucks of material right of probably a 40 percent grade. It was probably the steepest part of the whole area right there. It is important to hear that I do live right next door here. I live there full-time. We boat on Lake Lemon. We love Lake Lemon. We fish. We swim. We boat. My daughter swims in the lake. We swim in the lake. I do not want to do anything to

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hurt Lake Lemon. I mean that is where I live. I love it. When we are out boating it here is a piece of trash floating in the lake we pick it up. So, when we construct this house we want to do everything we can to prevent any runoff, drainage, anything from getting into the lake so that is why we are of course are going to use silt fence. We are going to use every best management practice we can in order to prevent anything from getting to the lake. We think it is a short-term problem. Yes, we are going to disturb a grade more than 15 percent but it is not going to be left that way. We are to do it as fast as we can but we have also come up with a lot of retaining walls. We are going to put in adequate drainage around that house behind the retaining walls and when we are done we are going to sod, seed, straw and do landscaping, replant, everything to put it back to normal as quickly as possible. We are not going to over-dig the basement. We are not going to leave big piles of dirt off to the side that can drain into the lake or anything like that. We are going to do everything we can to keep down erosion and prevention anything from getting to the lake during this building process and we are going to do it as quickly as possible and get it all put back to the way it should be as quickly as possible. I guess you want to call it the issue with the first building location that Tammy and I talked about is that when we originally looked at, yeah, that one right there, when we originally looked at that, I think it is also important to note that is more of a grade than where we are talking about putting the house at now and that will require removing more material out of the side of the hill than where we are talking about putting it right now. But the issue we came up with when Tammy and I first looked at it the site plan that we were using they had the rear, I am going to call it the rear, the opposite from the lake lot line, they had that site back at half of whatever it was supposed to be. So, it appeared we could fit the house there. Also, that flat area she is talking, that flat area there, half of that is fill. If you see like on the south side where it is cut out from the hill when they built the other house at the end of that driveway they cut out that hillside and then just moved the dirt to the other side so really like half of that area is still probably not that best place to build a house and plus if we built it right there we would be blocking the neighbor's driveway. I am on good terms with them and I don't want to block their driveway. So, if we moved it into the hillside there really wasn't adequate room with how the setback is now. Again, when we first looked at it, it looked like a different story. So, that is why we ended up moving it to where it is now. The other buildable area that Tammy mentioned on that south side toward, if want to call the back of the lot there, is basically it is really you can't see the lake from there and to my mom it doesn't make sense to build a vacation lake house that you can't see the lake from. I thought about that area but the reason I don't want to put it there is because the area that we are proposing to put it literally I have got to cut down maybe 5 to 10 decent sized trees, I mean, I am not really counting like saplings or anything like that but in the spot we are proposing to put it I got to cut down maybe 5 to 10 decent sized trees to get the house in there and she can still see the lake. I don't really want to cut down a lot of trees. If I have to move it up to the second area, I guess or the other area that Tammy mentioned, the flatter area, the buildable spot, I am going to have to clear cut the side of that hill to give her a lake view. She wants to be able to see the lake. I am probably going to, I own a reclaimed lumber business. We tear down old barns and repurpose the lumber. Part of the reason I got into that business was to repurpose older lumber and help and take a little ease off of commercial logging. So, I really want to keep as many trees as possible around there. But if I have to move the house up to this other area which as Tammy mentioned it is pretty flat up there, it is a build able spot, I don't know, maybe I have to change the house around. I will move it up there but then I am going to have to clear cut almost that entire hillside from that location over to my house on down to the lake and we are probably talking in the neighborhood of 200 to 400 trees that are going to come out of there if I have to

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move it up there and I will do it if that is what you guys want. But I am really begging you please don't make me do that. I would rather, I don't want to cut down all of the trees but she wants to be able to see the lake. So, I can put it where we are proposing to put it which is probably going to take out like I said a hand full of trees, 5-10 probably there is not many big ones in that spot and we would like I said do everything we can from silt fences to drainage to all of the best management practices we can to prevent anything from getting into that lake. We are taking out minimum trees and we can put it right there where we are proposing or I can move it up to that other spot and cut out 20-40 trees off of that hillside. I am begging you not to make me do that. I don't want to do that but there is going to be a house going in there one spot or the other. I mean if we would have put it up in that other spot we could have been almost done by now I imagine. That's why I didn't want to put it up there because I don't want to clear cut that hillside. I have lived there since 2005 and there is still big trees on that hillside. As soon as my mom bought that lot I could have clear cut that lot to give my own self a view. But I didn't do it because I like how it looks the way that it is. She wants to see the lake. I will move it up there if you want me to but I would really rather not. I would really rather put it where we talked about putting. So, that's what I got.

Nester Jelen: You are on mute, Mary Beth.

Kaczmarczyk: Sorry about that. Does any of the Board have questions for Mr. Dick?

Guerrettaz: Mary Beth, I think I have a couple of questions. So, explain to me, is it Mr. Dick, is that correct?

Dick: Yes.

Guerrettaz: Sorry. First off I am just curious, the basement floor elevation, are you putting in a walkout basement?

Dick: Yes sir.

Guerrettaz: Does it come off of the lake side I am assuming?

Dick: Yes, it would face the lake side, yes. Yes, right there. The first floor elevation would be similar to the driveway coming in I guess behind the house. If that is what you are asking.

Guerrettaz: Yeah, well, no I was just making sure that it well the elevation I assumed but I wasn't sure, so I didn't want to assume that. Tell me about the tree removal. You did a very nice job explaining that. I may have missed it on the first part of Tammy's presentation, so Tammy I am sorry if I did, I am sorry you covered it but this will be on a septic system. Is that correct?

Dick: Yes. It will.

Guerrettaz: Ok. So, tell me about the amount of trees that you are talking about removing on the 2 different locations does that include the septic field permit?

Dick: There will probably be a little more there for to get the septic field in there. I wasn't taking

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that into consideration. But it will be minimal up there. I haven't exactly counted that area to see how many trees we need to take out for that septic system. If I had to throw a number out that I would say less than 10 decent sized trees.

Guerrettaz: So kind of tree removal for the house and septic is still similar, I mean, the number to trees that you are preserving is a little bit of a factor to me by moving it down closer to the lake especially if you have got a walkout basement.

Dick: Yes, it is not even a comparison. 5-15 decent sized trees. I wouldn't say more than 20 for that house and the septic field versus moving it up to that area to where the tree removal is going to be in the hundreds. I guestimate 200-400 trees.

Guerrettaz: My experience is that a lot times that the trees can play a factor in the reliability of the septic system. The County Health Department will manage that but I am just saying.

Dick: (Inaudible)

Guerrettaz: You answered my question. The other question I have got is have you selected and I don't necessarily need to know I guess who it is but have you selected a builder, an excavator for the work or are you waiting to get the approval to plan who is going to be doing the work for you?

Dick: Are you talking about for the septic system or the whole project?

Guerrettaz: The home construction mainly.

Dick: No, I have not yet. I will be doing some of it myself and it just kind of depends on how busy I am right now I might end up having somebody take that over because I have been pretty busy with my business here lately.

Guerrettaz: Has Smith Design Group, are they, I don't see plan at least I don't think I do, have you developed an erosion control plan for the MS4 Operator to approve and to look at?

Dick: What we have done is what you see on the site plan with the silt fence and the retaining walls and the drainage. If there is something else that I need to do I am not aware of it.

Guerrettaz: I just wanted to make sure that you understood that the MS4 Operator would be somebody that would need to be involved in those approvals and I am sure that staff has already zeroed in on that. Just as a comment I am appreciative of that fact that you contracted a design professional to map this out and make the placement of your home and improvements in a very calculated manner. So, that is all that I have got for now, sorry to be so long there, Mary Beth.

Kaczmarczyk: No worries Bernie. Do any of the other Board members have questions for Mr. Dick? Seeing none. Ok. Is there anyone else here that would like to speak on behalf of this petition? I am not seeing anybody. Are you Tammy? Ok. Is there anyone here that wishes to speak against this petition? Ok, don't see anybody. Is one of the Board members ready to make a motion?

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Guerrettaz: I think I can make a motion, Mary Beth.

Kaczmarczyk: Ok Bernie.

SUPPORTERS – VAR-21-43 – Habig: None

FURTHER SUPPORTERS- VAR-21-43 – Habig: None

REMONSTRATORS – VAR-21-43 – Habig: None

ADDITIONAL QUESTIONS FOR STAFF - VAR-21-43 – Habig: None

FURTHER QUESTIONS FOR STAFF – VAR-21-43 – Habig

Guerrettaz: Tammy, would you mind putting the agenda up on the screen for me so that I can, there you go, thank you. (Inaudible)

Kaczmarczyk: Can anybody else hear Bernie?

Behrman: No.

Kaczmarczyk: Ok, so it is not me breaking up. Bernie, we are having trouble hearing you.

Clements: I, myself have some reservations about this because of the slope area but I am going to go ahead and make what I to believe to be Bernie's motion and that is for Item 1 under New Business, **VAR-21-43, Habig Buildable Area 15 Percent Slope Variance to Chapter 804 concerning one 2.51 plus or minus acre parcel in Benton Township North, Section 28 at 7467 North John Young Road and this is a motion to approve based on practical difficulties, constraints, environmental constraints of the land and also the mitigation techniques that Mr. Dick expressed about the tree removal and also it is subject to the MS4 Coordinators approval of an erosion control plan.** So, that is my motion. Is that right, Bernie?

Guerrettaz: Yes, I am back and Margaret that is exactly almost to the letter where I was headed. Thank you very much.

Clements: Ok, thank you.

Sorensen: I will **second**.

Wilson: Ok, I will call the roll on VAR-21-43, Habig Buildable Area Variance from Chapter 804 a vote in favor is a vote to approve the variance based upon the finding of practical difficulties, subject to the MS4 Coordinators approval. Does that capture everything Margaret?

Clements: Also the environmental constraints that this is the least harmful approach for the land in question.

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Wilson: Ok, based on practical difficulty lessening the environmental constraints on the project. Again, a vote in favor is a vote to approve the variance. Margaret Clements?

Clements: I am going to vote yes.

Wilson: Bernie Guerrettaz?

Guerrettaz: Yes.

Wilson: Mary Beth Kaczmarczyk?

Kaczmarczyk: With reservations yes.

Wilson: Vicky Sorensen?

Sorensen: Yes.

Wilson: The variance is approved 4 to 0.

The motion in case VAR-21-43, Habig Buildable Area (15% Slope) Variance to Chapter 804, in favor of approving the variance, with amended findings and conditions as set forth in the motion, carried unanimously (4-0).

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NEW BUSINESS

2. VAR-21-56

Campbell Tourist Home/Cabin Condition #48(b) Variance to Chapter One (1) 5.0 +/- acre parcel in Bloomington Township, Section 2 at 3361 E Boltinghouse RD. Owner: Campbell, Gabriel M & Bethany B.
Zoned AG/RR. Contact dmyers@co.monroe.in.us

BOARD ACTION: Kaczmarczyk introduced the petition.

STAFF ACTION:

Myers: Can you hear me?

Kaczmarczyk: Yes.

Myers: Ok. Great. This is the Campbell Tourist Home/Cabin. Condition #48 (B) Variance to Chapter 802. It is located at 3361 East Boltinghouse Road in Bloomington Township, Section 2. Here we have a design standards variance to Chapter 802 with the purpose to convert a 3,400 square foot single family residence into a Tourist Home/Cabin. According to Chapter 802 of the Monroe County Zoning Ordinance Tourist Home/Cabin Land Use is permitted in the AG/RR zone, which this property is zoned, but it must meet Condition #48 in order to receive approval. The petitioner intends to meet all of the requirements outlined in this condition except for letter B, which is listed here, that the Tourist Home/Cabin shall not be located closer than 200 feet from any adjoining principal use structure not currently being used as a Tourist Home/Cabin or from the adjoining property setback line if no adjoin principal use structure exists. Overall, if the variance is approved, the petitioner must file for a commercial site plan with the Planning Department as the property process to getting final approval for a Tourist Home/Cabin Use on the property. Here I have laid out Condition #48 as well as the definition of Tourist Home/Cabin. As you note each of these letters with the green text are to be reviewed during the site plan and as proposed the petitioner appears to meet these minimum requirements for each of them. You will note that Letter C does not apply because they will not have any outdoor pool or spa facilities at this location and then of course you will note Letter B, which is the one that they are applying for a variance here tonight, specifically no closer than 200' from the adjoining property setback line if no adjoin principal use structure exists. So, this property is part of a platted subdivision. It is called the Campbell Minor Subdivision. We will look at that Subdivision Plat later on in this presentation. It is listed at Lot 2. It is right next to Lot 3 which is the same size, which is 5 acres. 2 of the lots are 5 acres and the third lot is the large parcel that encompasses the both Lot 2 and 3. So, we will get to that when we get to that plat document. But first we have site photographs. Here is the home on the site. It is 5 acres. This is the 3,400 square foot single family residence. There is also this detached barn structure on the same property. This structure we will see when we get to the site plan is apparently encroaching on to the property line. We cannot confirm that without a certified site plan as the elevate parcel line, Elevate GIS, are not always completely accurate. They are not indicative of an official survey but it does look very close. Here is another picture of that barn structure, some open space to the left of this barn structure, turning around from that open space area we see the house again and just more open space to the right of the house and then from behind and then another view of the detached barn structure. Ok, here we have the variance request letter to the Board of Zoning Appeals from the petitioner stating that they are requesting a variance to convert to a Tourist Home/Cabin. Here is the site plan that was provided by the petitioner. You

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can see here the barn structure does appear to be encroaching but again we cannot confirm without a certified site plan or a survey. Here is the home structure and this long driveway comes south and goes west through Lot 1 of the property until you reach Boltinghouse Road. Here is the plat document. You will note Lot 1, the larger parcel. Boltinghouse Road is down here in the lower left corner and then this long easement comes through and up the hillside to reach Lot 2 and Lot 3. Lot 2 is owned by Mr. Campbell, Gabriel Campbell. Lot 1 and Lot 3 are owned by his parents currently. So, there is some common ownership with all of these lots. But again the Tourist Home is being proposed for Lot 2. If you go back to the site plan you will note that only 70' from the shared property line between Lot 3 and Lot 2 and that should be 200' because there are no principal use structures on Lot 3 at this time. The buildable area Lot 3 as well is pretty limited. I forgot to add a slope map to this presentation but it is in your packet. It is only about this little area back through here and then on Lot 2 the buildable area is kind of goes through here so it is kind of like a wedge look. So, there is limited buildable area. If someone were to build on Lot 3 they would likely have to push it close to this property line. But again, this lot is owned within the family. I can let the petitioner express the details of their future plans whether or not they intend to sell or if they intend to keep it in the family I am not sure. Alright, so overall staff recommendation for this petition is denial, specifically criteria C in that there are no practical difficulties as the use of this property can continue as single family residence without the need for a variance. I will now take any questions.

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-21-56	Tourist Home/Cabin, Condition #48(b)	Denial

812-6 Standards for Design Standards Variance Approval: In order to approve an application for a design standards variance, the Board must find favorable findings for all three (3) criteria, A, B, and C, listed after the agenda within the BZA packet.

Recommended Motion Conditions or Reasoning:

Denial; specifically criteria C. There are no practical difficulties as the use of the property can continue as single family residential without the need for a variance.

QUESTIONS FOR STAFF – VAR-21-56 - Campbell

Kaczmarczyk: Does the Board have any questions for Drew?

Sorensen: I have a question for you Drew. This is Vicky. You brought up about the barn a couple of times. Does that have any bearing on a decision to say yes or no to this variance?

Myers: It does not because it is not related to the Tourist Home/Cabin, particularly this variance. If they were to expand on it or do any other alterations to it that would affect the footprint then it would need to get a side yard setback variance most likely.

Sorensen: Ok, thank you.

Myers: As it stands currently it is likely pre-existing nonconforming.

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Guerrettaz: I have got a very, oh, sorry.

Kaczmarczyk: Go ahead.

Guerrettaz: Quick question. Because the proposed structure is within 200' of the existing home Drew is that the issue with Condition #46?

Myers: Yes. It is Condition #48 and it states, a Tourist Home/Cabin cannot be within 200' of another principal use structure or a property line of an adjacent property that does not have any principal use structures. So, if there was a building on Lot 3 somewhere off in the distance that exceeded 200' then this variance would not be necessary. But since there is no principal use structure and the buildable area is limited to an area that would likely not meet the 200', we need the variance for this petition, this situation and staff is recommending denial.

Guerrettaz: Ok, that is very helpful and I am sorry. Condition #48, excuse me. I am done, Mary Beth until we go a little bit further. I may be able to have my questions answered by the petitioner.

Kaczmarczyk: Any further questions for Drew from the Board?

Clements: No.

Kaczmarczyk: Is the petitioner here and would they like to speak?

Myers: I believe that they are. Let's see, either Bethany Campbell.

PETITIONER/PETITIONER'S REPRESENTATIVE – VAR-21-56 - Campbell

Campbell: Hello, can you hear me?

Myers: Yes.

Campbell: This is Gabe Campbell with Bethany's computer but I am here to speak. Thank you.

Kaczmarczyk: Ok, Gabe, you stated your name already. Do you swear to tell the truth and nothing but the truth?

Campbell: Yes I do.

Kaczmarczyk: Ok, thank you. You may proceed.

Campbell: Ok, thank you. I just want to take a moment to thank you for the opportunity to speak tonight and consider our variance report. 3 and half years ago my wife and I moved to Florida with our 3 kids. Up until this time Monroe County was the only place we had ever called home. In fact, it has been home to our parents, our grandparents and even our great grandparents. It was a difficult decision to move and we made the choice to keep our house at 3361 East Boltinghouse Road and stay connected to our family and our community. For 2 and half years that plan worked great

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because we had a long-term renter and property management and everything was going well and then the pandemic hit last year. Of course it was tough on everybody. We continued to pay our mortgage. We paid our insurance. We paid our property taxes and we weren't collecting any rent. Essentially our hands were tied and we couldn't do anything about it so with what we are requesting to go with option B essentially in our plan and that is to change from a long-term rental to a short-term rental and utilizing a professional rental company as well with that. By doing so it will allow us to collect rent up from so we ensure we get paid. With higher frequency turnovers that means we will have eyes on the property more frequently as far as cleaners and maintenance and when there is damage we can catch that quicker and get it repaired and have the responsible people held accountable. In addition I think Monroe County essentially even the Bloomington are could use other places for families to stay that aren't high priced hotels downtown. Obviously you can see from the property there is a lot of open space for families to enjoy nature and they can get out and enjoy just the open space. So, without the approval our options become very limited with that. I don't want to forget my father as long as he is still on the line with me would like to speak unless he has left for church this evening but he available to comment or should be. But a couple of things that Drew brought up as far as the property, the reason that it is the Campbell Minor Subdivision is one plat. It was originally, the house was originally built by a gentleman by the name of Art Lear. The house is constructed entirely of what is called rostra. It is a styrofoam and concrete mixture that is made of recycled material that has a very high "r" facture. It is geothermal system. The roof is concrete. The second floor is concrete. There are steel I-beams running through my house. It is a unique structure that I want to maintain and keep in our family. So, it has a very small footprint. But in order for my wife and I to finish that house we had to create for the County Planning Department, we have to create this minor subdivision and we plotted off a Lot 3, a Lot 2 and a Lot 1 that remains. All of those remains in my family ownership, my parents. So, that is why those lots are like they are. As far as buildable area, Drew is right it is on the top of a ridge. But that ridge in Lot 3 actually extends all the way to the property line and it is uses, it is flat enough area for the power companies to come there and work their properties lines, land helicopters back there and do whatever they need and from what I just heard from Mr. Dick buildable area can be, is not a black and white situation. There are alternatives to that. We could if ever our house could be up there it could be 200' away. Again, I am not going to speak for my father but at this point in time he can correct me if I am wrong, there are no plans for a home to be built up there and the closest structure is nearly a half a mile away from all 4 sides. With that said, thank you again for your time and consideration. Happy to answer any questions and again if my father is still on the line he is open, he might not be open to a lot of questions but he is open to questions, so thank you.

Campbell's Father: I am still here.

Campbell: Thank you.

Kaczmarczyk: Does the Board have any questions for Mr. Campbell? No questions Bernie, Vicky? Ok. Alright, is there anyone else here that wishes to speak on behalf of this petition?

SUPPORTERS – VAR-21-56 - Campbell

S. Campbell: My name is Steve Campbell and I am the owner of all of the land around Gabriel's. Can you hear me?

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Kaczmarczyk: Ok, Steve do you swear to tell the truth and nothing but the truth?

S. Campbell: Yes I do.

Kaczmarczyk: Ok, thank you sir go ahead.

S. Campbell: The whole point of me buying this property, Art built this house it was hurricane, tornado proof, and earthquake proof and fireproof but it wasn't cancer proof and cancer killed Art. Before he died he came to me and wanted me to buy this property and it was adjacent to mine and I ended up buying it off of him and I was planning on bulldozing this building down. I hadn't even seen it. When I went up there it was a monster building and it was built to stand anything that came, anything that Mother Nature could throw at it. But that being said Gabriel was the only one of my kids that was even remotely interested in it and he studied up there when he went to IU. So, when it was time to do something with it I gave him the house and I deeded him the property that it sat on and Leah was the surveyor and low and behold when he surveyed it he got the house, he did that one 5 acres, I think you are calling it Lot 3 maybe, the house wasn't even on that lot. So, I have to get him back and survey again and that was I think whatever it was called, Lot 2 where the house is at. So that is why those 2 lots are there. I had to get a lot for Gabriel where the house set. So, anyway that is why those 2 lots are there next to each other and I just planned to give that 5 acre lot next to the little storage barn to Gabriel's son, Griffin, my grandson when he needed a place to build or wanted some property. That is the only reason it was divided like it was. But I don't know, that house sits in 80 acres. It is half a mile off of Boltinghouse Road. There is nobody can see it or throw a road and hit that place. It is isolated. It is a wonderful place for people to come out that live in the city and be by themselves. I don't see, if you are worried about that barn being on the property line, I will give him that property. That is no big deal to me. You know you guys make such a big deal out of it being too close to the property line. I got the property. I will give it to him if that is your big hang up. I don't understand what your problem is. You know, it is all my acreage. He is my son. I have give him the rest of that property is that is what it took to get this variance through. So, that is all that I have got to say and I am through talking.

Campbell: Thank you dad, love you.

S. Campbell: I love you. Do you have any questions for me?

Myers: Mary Beth you are muted.

Kaczmarczyk: Any questions from the Board for Steven Campbell?

Guerrettaz: Mr. Campbell, I have got, I am sorry Mary Beth I have got a question.

Kaczmarczyk: Go ahead Bernie.

Guerrettaz: Mr. I will just call you Steve to keep it straight, so Lot 3 is vacant. Is that correct?

S. Campbell: That is correct.

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Guerrettaz: Drew, would you put that sketch or the aerial that shows the distances that we are talking about? Bingo. So, what is the line with the circle? Is that, what does that indicate on that drawing?

Myers: It is the septic, go ahead Gabe.

Campbell: That is correct. It is septic field.

Guerrettaz: So, those lots are how wide are those lots east/west?

Campbell: I am going to say approximately, Drew do you have that exact information?

Myers: It looks like on the survey they are each 416' approximately wide.

Guerrettaz: Ok, so 416'. So, it is 260 and 80 is 340. What is the representation, the distance between those 2 black lines?

Myers: The distance here?

Guerrettaz: Yes sir.

Myers: I am not sure but I can see what I can find on Elevate.

Guerrettaz: So, it would be 340 minus 416. Is that what we are looking?

Myers: Yes.

Guerrettaz: Ok, so, 70, so that, ok so that area is 76'. So my question is after that draw out, I just want to make sure I am right here, so what is the terrain and topography on the east half of Lot 3? Mr. Campbell? What's that Drew, I'm sorry?

Myers: Can you see this screen? Elevate.

Guerrettaz: Yes.

Myers: Ok. This is Lot 3 here and the colors that you see are the buildable area.

Guerrettaz: Ok, so the blue is the buildable area is that what I am assuming to be correct?

Myers: Yes, let me pull up the legend here real quick. Blue is 0 to 12 and then the darker green is 12 to 15. So anything between 0 to 15 is classified as buildable area per Chapter 804.

Guerrettaz: Ok so I am trying to find a solution here and the proximity of the proposed vacation home to the existing home is that a factor or is that not a factor?

Myers: The existing home is going to be converted into a vacation home. There is no other structure

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other than the barn.

Guerrettaz: Ok that was going to be my next question. My question is if the petitioner would put a no build, it is an as-built environment, we are not doing any extra disturbance, if there was a 200' arc away from the existing home that would be a no build zone on Lot 3, if the petitioner would be willing to make a commitment for that, would that be a solution?

Kaczmarczyk: I don't know that the petitioner can do that. It is not his property technically.

Campbell: Yes, this Gabe. It is not my property but if that is even doable can it be undone in the future if I am no longer a short-term rental and just a single family home? Will that allow anything to be built up there within that 200 foot variance based on county rules and regulations?

Myers: Yes. If you do convert from a Tourist Home/Cabin back to a single family residential use the 200' rule would no longer apply. However, after a new structure was built say within 200', if you wanted to go back to either of them being a Tourist Home/Cabin you would have to go through the variance process again. If that makes sense.

Campbell: Alright, thank you Drew. It does. We are learning everyday so I guess we will be cognitive of that for any future plans so thank you.

Guerrettaz: So, I guess my question would be if the petitioner's father, who owns Lot 3 and excuse me I heard that he would probably potentially convey that over but if they would put a no build area on Lot 3 then a variance wouldn't be necessary or would it? I guess it would because it is still based on a property line and the ordinance so and Mr. Campbell you have to understand, what staff does is, staff looks at these, reads the ordinance, understands what the ordinance is saying and then makes a determination based on that. So, the written document is what staff is referring to on the need for the variance. But if the petitioner would agree to put a no build zone on Lot 3 that would be 200' from any part of the existing home and that would include, or pardon me what would be a vacation home and that would include any additions, anything that would go on afterward then we could probably craft that into a motion if the family would agree to do that. But that would be the solution that I would see and that is all that I have got. Mary Beth thanks for the indulgence as always.

Kaczmarczyk: No problem Bernie. Anyone else have any questions for the petitioner? Ok. Mr. I am sorry, that was actually questions for Steve Campbell. Is there anyone else here that would like to speak on behalf of this petition? Seeing none. Is there anyone here that would like to speak against this petition? Seeing none. Does one of my colleagues on the Board have a motion for me? Sorry about that.

Guerrettaz: I can make a motion Mary Beth but I need to know if, I don't want to go through the gyrations of making this motion if the petitioner's father who owns the property to the east doesn't see that as a solution. So, I guess I would ask Gabriel Campbell to confirm that with his father, maybe Steve can answer that question now because that would be the solution.

Campbell: Dad, are you still on the line? Dad, can you hear me? Your phone is muted if you are

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not on the line. As I said earlier, I think they may have left for church.

Guerrettaz: Well, we can make the, go ahead Mary Beth, Larry has his hand up.

Kaczmarczyk: Larry?

Wilson: I am not sure that the deed restrictions satisfies the terms of the ordinance, Bernie. Because it still will be within 200' of the boundary line. Now it serve the purpose of the ordinance. I am just not certain that it meets the terms of the ordinance. The terms of the ordinance says there is no Tourist Home within 200' of another structure. Dave do you have any thoughts on that?

Guerrettaz: I understand what you are saying.

Schilling: Yes, I guess I am a little nervous about requiring a different property owner to sort of pitch in. I mean, if the variance is justified it's justified but I think you have to make the decision based on the petition and I just I have never encountered anything like this before so it makes me kind of nervous. I guess that is about the best that I can say.

Guerrettaz: Ok, well, I can make a motion if there is no further discussion on that. Thanks. That is why I was hoping to get a little further input guys. I appreciate that.

Myers: I do want to offer a quick clarification as I feel like there has been some back and forth. Letter B of Condition #48, it states there are 2 things going on. It is no structure can be closer than 200' to the Tourist Home/Cabin and if there is no other structure then it has been 200' from the setback, err from the property line. So, since there is nothing there it has to be 200' from the property line. But if there were to be something then it would only have to be 200' from the Tourist Home/Cabin.

Guerrettaz: Ok, I understand. Yes, I understood that. Thanks Drew. That was a great explanation. Larry, is your hand still up?

Wilson: Sorry, it is not supposed to be. I will try to lower it. There we go.

FURTHER SUPPORTERS- VAR-21-56 – Campbell: None

REMONSTRATORS – VAR-21-56 – Campbell: None

ADDITIONAL QUESTIONS FOR STAFF - VAR-21-56 – Campbell: None

FURTHER QUESTIONS FOR STAFF – VAR-21-56 - Campbell

Guerrettaz: Alright, Mary Beth could you put the agenda sheet up again please?

Kaczmarczyk: I cannot do that.

Guerrettaz: There we go. Ok, I think because we have got an existing structure and my goal with

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my comment was just to find a way to kind of clean it up a little bit but I do think that this is a practical difficulty that has to do with the economics of what we deal with last year. I think the younger Mr. Campbell explained to my satisfaction that this was a situation that was somewhat beyond their control and I think that it is a good sound structure so doing any modifications on that structure changing it, again it is a practical difficulty because that was not the plan at the time. **In the matter of VAR-21-56, Tourist Home/Cabin, Specifically Condition #48 (B), I move that we approve the variance as I do believe practical difficulties have been met and subject to staff report and findings of fact.**

Kaczmarczyk: I will **second** the motion.

Wilson: I will call the roll on VAR-21-56, Campbell Tourist Home/Cabin, variance from Chapter 802 design standards in regard to the distance requirement from the property line for a Tourist Home/Cabin. A vote in favor is a vote to approve the design standards variance subject to the conditions in the report, based on findings of practical difficulties. Again, a vote in favor is a vote to approve the design standards variance. Bernie Guerrettaz?

Guerrettaz: Yes.

Wilson: Mary Beth Kaczmarczyk?

Kaczmarczyk: Yes.

Wilson: Vicky Sorensen?

Sorensen: Yes.

Wilson: Margaret Clements?

Clements: Yes.

Wilson: The variance is approved by a 4 to 0 vote.

The motion in case VAR-21-56, Campbell Tourist Home/Cabin Condition #48(b) Variance to Chapter, in favor of approving the variance, with amended findings, carried unanimously (4-0).

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NEW BUSINESS

3. VAR-21-57

Skirvin ECO Area 3 (18% Slope) Variance to Chapter 825

One (1) 6.92 +/- acre parcel in Benton North Township, Section 11 at
8988 E State Road 45, parcel no. 53-06-11-200-010.000-003.

Owner: Skirvin, Tina

Zoned FR, ECO 3. Contact: acrecelius@co.monroe.in.us

BOARD ACTION: Kaczmarczyk introduced the petition.

STAFF ACTION: Petition was continued by the petitioner.

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NEW BUSINESS

4. VAR-21-58a

Ganatra Buildable Area 15% Slope to Chapter 804

5. VAR-21-58b

Ganatra ECO Area 3 18% Slope Restrictions to Chapter 825

One (1) 1.70 +/- acre parcel in Bloomington Township, Section 26 at

3731 E Exeter LN. Owner: Vamos, Brandon J & Simin B Ganatra

Zoned RE1. Contact dmyers@co.monroe.in.us

BOARD ACTION: Kaczmarczyk introduced the petition.

STAFF ACTION:

Myers: Thank you. Alright, this is the Ganatra Buildable Area 15 Percent Slope to Chapter 804 and the ECO Area 3, 18 Percent Slope to Chapter 825. This property is located at 3731 East Exeter Lane. It is in Bloomington Township, Section 26. Here the request is for 2 design standards variances, one from Chapter 804 and one from Chapter 825. The purpose is to construct a new 420 square foot in-ground pool with an additional 400 square foot of patio space to surround the in-ground pool as well as a 35' retaining wall. The petition site for the proposed location I should say for the new in-ground pool and patio space is located with Area 3 of the Environmental Constraints Overlay, which protects against any land disturbance or vegetation removal in slopes greater than 18 percent. The proposed location of the in-ground pool area and patio area is located with slopes greater than 25 percent, as we will note in the slope map to come. Aerial imagery also reveals some vegetation was removed from slope greater than 18 percent sometime between 2010 and 2014. Here is a location map. It is also a part of a platted subdivision. It is the Devonshire Section One. This is Lot 17 and I have also included the subdivision plat as an exhibit we can look at in a minute. Here we have the slope map. As you will note a lot of this area is greater than 25 percent in slope. The proposed location for the in-ground pool is to be 15' from the edge of pavement approximately from where the driveway ends, so directly into this area here, along with the surrounding patio area and retaining wall. We do have a site plan that I was able to work with the petitioner to provide a little bit more detail than the original one that was provided in the staff packet and we will get to that here in a minute as well. Here we have some site photographs. This is the home site at 3731 East Exeter Lane, I believe, yes. Then on the right side here we have the driveway and you can kind of start to see you have the slope that grades downward at the end here. Here is the corner off the driveway, end of the driveway, the slope down to the vegetation area here and then another good picture of all of that here as well. More images of the sloped area, just kind of looking around to see how it grades downward. Some more area here as well. You can kind of see the general slope of the area in the right most photograph here as well coming down to the tree line. More photographs here of the proposed area where the pool will go and then a few more photographs here so this one is just looking at approximately where the pool might end. This is the back of the house here and on the right is turning to your left from this photograph and the house is on the right side of you and this is the septic tank and there is all of this area here that is part of the property as well. Just kind of walking back from back here through the property to get a better view of the area that is to the east of the house. Just a few more photographs here as well of that area. Alright, so here is the aerial imagery from 2010, some vegetation as you note that was in from 15 or 18 percent sloped area and then cut back a little bit here you can see from the changes. Here we have the letter to the Board of Zoning Appeals stating that they are requesting the Buildable Area Variance as well as the ECO Area 3 Variance for the purposes of constructing an in-ground pool. You will note that this letter doesn't include any of the square footages. I had a

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communication with the petitioner to confirm those square footages through the Open Gov system and email so I included it on the site plan. So, here through my conversations as I stated they said approximately 15' from the edge of the driveway. They may push it back farther so that it cannot be viewed from the street. But it is going to be 30' by 14' or approximately 420' square feet as well as an approximate length of 35' for a retaining wall and this location of the retaining wall is just an approximate as well. I am not sure exactly where they would like to put it. But the petitioner did look at this and said that it looks fine for the purposes of the variance from their perspective. Here we have the Devonshire Section One Subdivision Plat. They are Lot 17 which is right up here and it is kind of hard to see but I zoomed in for us and there is a drainage easement that goes through the back of the property or the north section of the property. But this area will likely not be disturbed at all because a lot of the stuff that is going on with the property is closer to Exeter. The home site is well outside of the drainage easement as well as the proposed location for the in-ground pool. Alright, so overall staff recommendation is denial for both the Buildable Area 15 Percent Slope as well as the Eco Area 3 Slope, specifically citing criteria C, stating that there are no practical difficulties. The use of the property can continue as single family residence without the need for a variance and the slope issues can be more effectively addressed through a relocation of the proposed development, building or structure, citing that there is other space on property for a pool site that would not need the variance. I will now take any questions.

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-21-58a	Buildable Area 15% Slope from Chapter 804	Denial
VAR-21-58b	ECO Area 3 Slope from Chapter 825	Denial

812-6 Standards for Design Standards Variance Approval: In order to approve an application for a design standards variance, the Board must find favorable findings for all three (3) criteria, A, B, and C, listed after the agenda within the BZA packet.

Recommended Motion Conditions or Reasoning:

Denial; specifically criteria C. There are no practical difficulties. The use of the property can continue as single family residential without the need for a variance. The slope issues can be more effectively addressed through a relocation of the proposed development/building/structure.

QUESTIONS FOR STAFF – VAR-21-58a & VAR-21-58b – Ganatra

Kaczmarczyk: Does the Board have any questions for Drew?

Clements: Drew, could you show us other areas on the property that where the pool could go?

Myers: So, theoretically there is area over here to the east of the property that is away from the septic field. You can kind of see the circles here that is where the septic field is located and there is some buildable area that is not as intense disturbance that is located in this section of the property.

Clements: Could you show us where an alternative septic field if this one fails would be located or sited?

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Myers: Um, I don't believe that I could. I know that for Septic Permits it needs to be within an area that is less than 15 percent slope but a soil test is required to make sure that the soil in that area is suitable for a septic tank.

Clements: So, would it be safe to say that the area in blue might be an alternative septic field without having done the soil test?

Myers: Yes, I think so.

Clements: Ok, thank you.

Kaczmarczyk: Ok, you guys still here?

Myers: Yes.

Guerrettaz: Go back to the, if you could Drew, go your diagram that the petitioner approved of that illustrates the location of the proposed pool. The yellow rectangle. Ok, so when the petitioner speaks if he or she excuse me can go ahead and answer or incorporate into what they are going to say, help us understand coming off of the driveway what the proposed terrain will look like coming up to the pool and obviously the pool is going to be flat for a distance and then kind of what they expect the drop to be from the pool to wherever the ground line is going to be on the retaining wall. So, kind of a profile of what you think from the driveway to the retaining wall, how those elevations and I don't need to know exact, I just kind need to know what these elevations are relative to the existing slope and the existing driveway. Thanks Drew.

Kaczmarczyk: Ok, any further questions for Drew? Seeing none. Is the petitioner here and would they like to speak?

**PETITIONER/PETITIONER'S REPRESENTATIVE –
VAR-21-58a & VAR-21-58b – Ganatra**

Ganatra: Yes, we are here. Thank you so much for taking this on and so we bought...

Kaczmarczyk: Please state your name and let me swear you in please.

Ganatra: Ok, my name is Simin Ganatra.

Vamos: I am Brandon Vamos.

Kaczmarczyk: Ok. Do you swear to tell the truth and nothing but the truth?

Vamos: Yes.

Ganatra: Yes.

Kaczmarczyk: Ok, thank you. You can proceed.

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Ganatra: We bought our house in 2012 and always had the idea of putting a pool in. We have a large family and now we have grandparents living with us too. We had a plan and we didn't know about this rule, of course it came later and so we have been talking with different pool builders about where this could happen and I think I talked to Drew originally almost maybe a year ago or close to that. We wouldn't want to disrupt the land in any way. The reason why we can't build it on the other side the area that is buildable is because Devonshire has pretty strict covenants about where structures can be and we can't have anything facing the street and particularly we can't even have a fence out there. So, we feel like that would be not only a more difficult, it would be difficult to do that and not possible with the covenants as they are but it would also kind of disrupt the way the neighborhood looks at the moment and the way that it is designed. So, this spot was given to us by our pool builders that we were talking to as the best location that we could put a pool where we could still not visible from the street and there are many pools in our neighborhood and they are built like this. So, they explained to us so it would be an in-ground pool but kind of half in-ground, half out of the ground and so the pool there is a wall, which I guess is the retaining wall on the side. I hope that might answer the question that you had and let's see what else?

Vamos: There is also the fact that in our neighborhood there are no regulation fire hydrants and so in talking to some of my neighbors if there was a fire a special truck would have to go to University School, which you know, is a big delay and I know a lot of our neighbors are in favor of having potential water usage through a pool in case of an emergency. So, that was another reason we thought that would be beneficial.

Kaczmarczyk: Ok, thank you so much. I am having troubles with my computer so I am coming in on the phone as well. Hopefully it is coming through ok for you guys. Does the Board have any questions for the petitioners?

Guerrettaz: I do Mary Beth.

Kaczmarczyk: Go ahead Bernie.

Guerrettaz: Ok, and pardon me with a name like Guerrettaz I can understand you will bear with me but Simin Ganatra?

Ganatra: Simin, yes.

Guerrettaz: Ok, thank you. So, you answered my question I think relative to the position of the pool to the ground line. So, from the driveway that 15' was going to happen is the existing ground line is going to slope down to the pool and then the lower end of the pool where the 30' number is, that is going to be closer to ground line or are you going to be filling up the side of the pool that is opposite the street and having it slope down to the retaining wall?

Ganatra: So, the way I understand this from the pool builder is that, I hope I can explain this well but the pool will sit you know, half in and half out of the ground so where the slope is bigger than that is where the wall will be. Does that make sense?

Guerrettaz: Yes, the one thing that I am looking at is if I am assuming, I assume that you are going

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to be accessing the pool from the house via some sort of sidewalk something coming out of the back of the house where it looks like there is a deck or a patio.

Ganatra: Yes. We will probably just have a little bit of a pathway over to the pool. Nothing extensive. We don't plan on building a big deck or anything just some just so we have chairs around the pool.

Clements: I am sorry Bernie.

Guerrettaz: That's ok. I am going back to where Margaret started with the septic and I think a pool can be part of the use on a house. I mean I just do. We don't need asphalt driveways or paved driveways or other things to enjoy living in a house and I understand exactly why staff has reviewed your petition this way and they are spot on. But I think that at the position of this pool, my opinion is the least intrusive and I think there are practical difficulties because I think having a pool with a house is ok and I think leaving it despite the covenants and restrictions of Devonshire, I think that area up on the site of the house that Margaret was talking about earlier it appears to me that would be a better place to explore a future septic site than where this pool would be or anywhere back on the other side. So, I think leaving that area open for such things is probably a very useful idea. I think the other thing that I am looking at the way that this situated, it looks to me like it is the least intrusive path coming from the house up to pool from back where the family would access in and out and the fact that they are already looking at putting in a retaining wall to stop and truncate that slope and reduce that further disturbance back too far back on the other side I think is also a bonus. You know, I think that care needs to be taken with an erosion control plan, the MS4 Operator needs to be involved in this to make sure that there are no issues with getting further down and getting erosion back in that drainage easement. So, that is all that I have got. Thank you, Mary Beth.

Clements: It seems to me as though the pool the way that Simin described it the part they are not going to be disturbing the slope as much as the pool will be actually above that slope and then reinforced by the retaining wall. So, you can see where this plan is that at least the beginning part of the pool is where this slope is not so steep. So, I think that it might be the best place for this pool and especially with the retaining wall and the reason we are taking so much about this is because we don't want you guys to have any further problems on your property with erosion or for you to maybe cause disturbance in the other ecological area but it looks like the pool builder did a pretty good siting of the pool and I think that the plan actually might mitigate other problems. But they do have to probably engineer solution of drainage off of the driveway but just be forewarned that that erosion on your land is something to pay attention to and to really study it before setting shovel into that.

Ganatra: Yes. We have been discussing that for sure.

Kaczmarczyk: Does the Board have any further questions for the petitioners?

Clements: I have none.

Kaczmarczyk: Is there anyone else here that would like to speak on behalf of this petition? Is there

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anyone here that would like to speak against this petition? Seeing none. Drew could you do me a favor and throw back up that slope map that shows where the pool would be located?

Myers: This one?

Kaczmarczyk: No, the one that actually shows the slopes.

Myers: Ok.

Kaczmarczyk: Ok and point out to us again where that pool will be located.

Myers: So, using the scale bar down here, which is about I would almost if I were to move my curser lengthwise about that length from the edge of pavement it would be about the tip maybe a little bit farther north of the curser line is where the pool would start.

Kaczmarczyk: So, it would be in the 25 percent slope area then.

Myers: In this area yes. It would be within this area.

Kaczmarczyk: Ok, because from the actual pictures it kind of made it look like it was flat there but it is not indeed flat there, that is 25 percent slope. Ok. I just wanted to confirm that.

Myers: Right. Based on how the slope is calculated, yes.

Clements: It seems like the pool to me as though the pool is taking advantage of the slope, that it becomes a features rather than a problem. You know as far as disturbing the land rather than digging a deep pool in a relatively flat area it is taking advantage of the slope and putting it to use for the pool and disturbing less land. I may be wrong Bernie. You are the expert on these things. But it seems to be that it is taking advantage and turning a problem almost into a feature.

Guerrettaz: I think what impresses me, again, Mary Beth indulge me. But I think what impresses me is that they have already considered putting in a retaining wall which is typically something that is not forethought. The one thing that I want the petitioner to understand is there is going to be some disturbance outside of that yellow box in that red lines so it has got to be put at a minimum, so for instance, I think the area between the driveway and the pool is probably going to have a little bit of disturbance too and I think that we need to understand that as we look at this. The other point is a great illustration. Drew if you put up the picture of the slope from looking at the house from the driveway side as we see it in profile. Yes, right there. No, back one more. One more. There you go right there. Ok, so that is basically where we are see the rectangular box for the, polygon for the pool. That slope to me looks like a nature slope that was put in as a part of construction of the house. I have no way of knowing that. So, I am not making a statement to that effect but that is a 25 percent slope and look have vegetated, well maintained, green the grass is growing and that is a 25 percent slope. So, I think that with proper soil erosion controls, stabilization and mitigation that the MS4 Operator will oversee with an engineered plan from a licensed land surveyor or civil engineer that that erosion control can be mitigated just behind the retaining wall, the red line that is in the back. I just wanted to point that out and make sure that the

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petitioner understands that the minimal disturbance is necessary and if I make the motion it is going to go along the lines of having someone prepare erosion control plan to be reviewed and approved by the MS4 Operator, which is going to be an investment that you will need to make in a professional to do that.

Kaczmarczyk: Bernie, are you ready to make a motion for us then?

SUPPORTERS – VAR-21-58a & VAR-21-58b – Ganatra: None

FURTHER SUPPORTERS – VAR-21-58a & VAR-21-58b – Ganatra: None

REMONSTRATORS - VAR-21-58a & VAR-21-58b – Ganatra: None

ADDITIONAL QUESTIONS FOR STAFF – VAR-21-58a & VAR-21-58b – Ganatra: None

FURTHER QUESTIONS FOR STAFF – VAR-21-58a & VAR-21-58b – Ganatra

Guerrettaz: I can do that. **In regard to case number VAR-21-58a, Buildable Area 15 Percent Slope from Chapter 804 and VAR-21-58b, ECO Area 3 from Chapter 825, I move that we approve the variance based on practical difficulties and the placement of the pool to be the least intrusive for future planning of the home and where it sits today, practical difficulties have been met based on the findings fact, practical difficulties in the staff report with the condition that;**

- 1) The petitioner have prepared by a licensed land surveyor or civil engineer an erosion control plan to be reviewed and accepted and approved by the MS4 Operator.**

That's it.

Clements: I **second** that.

Kaczmarczyk: Ok, you want to call roll Larry.

Wilson: Yes, and Bernie just to clarify this is for both variances the same condition, right?

Guerrettaz: Yes, sir.

Wilson: The vote is on VAR-21-58a and VAR-21-58b, the Ganatra Buildable Area 15 Percent Slope Variance from development standards in Chapter 804 and the Ganatra ECO Area 3, 18 Percent Slope restricts to Chapter 825. The motion was made to approve the variances based upon the finding of practical difficulties and subject to the condition of having a certified site plan filed by a surveyor or a an engineer submitted to the MS4 Coordinator for approval for an erosion control plan for the project prior to the issuance of an ILP. Again, a vote in favor is a vote to approve the conditions. Mary Beth Kaczmarczyk?

Kaczmarczyk: No.

Wilson: Vicky Sorensen?

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Sorensen: Yes.

Wilson: Margaret Clements?

Clements: Yes.

Wilson: Bernie Guerrettaz?

Guerrettaz: Yes.

Wilson: Both variances are approved by 3 to 1 vote.

The motion in cases VAR-21-58a, Ganatra Buildable Area 15% Slope to Chapter 804 and VAR-21-58b, Ganatra ECO Area 3 18% Slope Restrictions to Chapter 825, in favor of approving the variances, with conditions and amended findings as set forth in the motion, carried (3-1).

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REPORTS:

Planning/Wilson: No report.

Legal/Schilling: No report.

Guerrettaz: I have a question for Larry real quick Mary Beth.

Kaczmarczyk: Ok.

Guerrettaz: Hey, Larry, when you read the sentence for the first line on the variance on this last petition, how did you read that? Did you say natural buildable area or just buildable area?

Wilson: Ganatra Buildable Area.

Guerrettaz: Oh, I am sorry. Ok. I struggled with that all evening, so thank you very much. I wondered that when I heard that. I thought that can't be right. Thank you, sir.

Kaczmarczyk: Ok, and **I will make a motion that we adjourn this meeting.**

Clements: **Second.**

Guerrettaz: Great work staff.

Kaczmarczyk: All in favor say aye. Good evening.

Sorensen: Aye.

The meeting adjourned at 7:06 P.M.

Sign:

Attest:

Mary Beth Kaczmarczyk, Chairman

Larry J. Wilson, Secretary

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