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**BOARD OF ZONING APPEALS
Virtual Meeting via ZOOM - Minutes
January 6, 2021 - 5:30 p.m.**

CALL TO ORDER

ROLL CALL

INTRODUCTION OF EVIDENCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES – October 20, 2020

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

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

ABSENT: None

STAFF PRESENT: Larry Wilson, Director, Jackie Nester Jelen, Assistant Director, Tammy Behrman, Senior Planner, Anne Crecelius, Planner/GIS Specialist, Drew Myers, Planner/GIS Specialist

OTHERS PRESENT: David Schilling, Legal, Tech Services

INTRODUCTION OF EVIDENCE:

Jackie Nester Jelen 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, carried unanimously

APPROVAL OF MINUTES:

Motion to approve the minutes from October 20, 2020 meeting, carried unanimously.

DRAFT

OLD BUSINESS:

- 1. 2009-VAR-61** **Neal Residential Storage Structure Variance from Chapter 802**
One (1) 2.7 +/- acre parcel in Bean Blossom Township, Section 22 at 8458 N Jenner DR. **Zoned AG/RR.** Contact: tbehrman@co.monroe.in.us
*****CONTINUED BY PETITIONER*****

NEW BUSINESS:

- 1. 2011-VAR-90** **Deckard Hardin Ridge Minimum Lot Size Variance to Chapter 804**
2. 2011-VAR-91 **Deckard Hardin Ridge Residential Storage Structure Variance to Chapter 802**
One (1) 1.38 +/- acre parcel in Clear Creek Township, Section 24 on E Hardin Ridge. Parcel # 53-11-24-400-001.000-006.
Zoned FR/ECO1. Contact dmyers@co.monroe.in.us
- 3. 2011-VAR-92** **Dickerson 125' Lake Setback Variance to Chapter 825**
4. 2011-VAR-93 **Dickerson ECO Area 1 Variance to Chapter 825**
5. 2011-VAR-94 **Dickerson Buildable Area Variance to Chapter 804**
One (1) 1.38 +/- acre parcel in Clear Creek Township, Section 24 at 8041 E Hardin Ridge RD. **Zoned FR/ECO1.**
Contact tbehrman@co.monroe.in.us
*****CONTINUED BY PETITIONER*****
- 6. 2011-VAR-95** **Bancel Front Yard Setback Variance to Chapter 804**
One (1) 0.90 +/- acre parcel in Benton North Township, Section 35 at 9308 N Gray Ave. **Zoned SR.** Contact acrecelius@co.monroe.in.us
- 7. 2012-CDU-06** **Monroe Fire Protection District Conditional Use to Chapter 813**
One (1) 0.914 acre parcel in Perry Township, Section 16 at 285 E Rhorer RD. **Zoned RM15.** Contact tbehrman@co.monroe.in.us
- 8. 2012-CDU-07** **Rumpke Conditional Use for Central Garbage/Rubbish Collection Facility to Chapter 813**
One (1) 16.77 acre parcel in Perry Township, Section 29 at 5220 S Production DR. **Zoned HI.** Contact dmyers@co.monroe.in.us

DRAFT

OLD BUSINESS:

1. 2009-VAR-61 **Neal Residential Storage Structure Variance from Chapter 802**
One (1) 2.7 +/- acre parcel in Bean Blossom Township, Section 22 at
8458 N Jenner DR. **Zoned AG/RR.** Contact: tbehrman@co.monroe.in.us

BOARD ACTION: Kaczmarczyk introduced the petition.

STAFF ACTION: Petition has been continued by the petitioner.

DRAFT

NEW BUSINESS

- 1. 2011-VAR-90 Deckard Hardin Ridge Minimum Lot Size Variance to Chapter 804**
- 2. 2011-VAR-91 Deckard Hardin Ridge Residential Storage Structure Variance to Chapter 802**

One (1) 1.38 +/- acre parcel in Clear Creek Township, Section 24 on E Hardin Ridge. Parcel # 53-11-24-400-001.000-006.

Zoned FR/ECO1. Contact dmyers@co.monroe.in.us

BOARD ACTION: Kaczmarczyk introduced the petition.

STAFF ACTION:

Myers: Thank you. Let me go ahead and this slide show set up for you guys. Ok, can everyone see these pages?

Nester Jelen: Yes.

Myers: Alright, so this is the Deckard Hardin Ridge Minimum Lot Size Variance to Chapter 804 and the Deckard Hardin Ridge Residential Storage Structure Variance to Chapter 802. It is located in East Hardin Ridge. It does not have an official address quite yet but it is in Clear Creek Township, it has a parcel number here and it is in Section 24. It is zoned Forest Reserve and ECO1. Overall, the petitioner is requesting 2 design standards variances from Chapter 804 and Chapter 802 in order to construct 50' by 80' residential storage structure. I did get a message from the petitioner's representative this afternoon stating that it is actually 3,000 square feet. We will have to make changes to that site plan as it does indicate 50' by 80', so we will have to make that adjustment. The petition site is zoned Forest Reserve, which requires a minimum 5 acre lot size and if you will note on the previous page, it is only 1.38 acres. Additionally, any development on this property would require a minimum lot size variance due to that acreage difference and the residential accessory structure are limited to 1,750 square feet per the ordinance when a property does not have an existing primary use. Since the property is vacant and they want to construct a residential accessory structure before constructing a residence on the property they are petitioning for this variance. Here we have a location map. As I stated, it is in Clear Creek Township. It is right along Lake Monroe. The current zoning is Forest Reserve. It is also in ECO1. The Comprehensive Plan has it designated as Managed Lands. The site conditions; it is fairly flat on the property as you will note on the slope map. There are a few sloped areas that are above that 12 percent, which is protected by Chapter 825 in the ECO1 Area, so be sure to take note of those areas. Otherwise, there is no FEMA Floodplain on the property. There is no none karst and it receives access from East Hard Ridge, which is this gated community that you have to go through the park actually to get to. Here I included a parcel sized map that shows all of the properties in the area that are under the 5 acre minimum for the Forest Reserve zone. As you will note everything in the green in under the 5 acres that is required for minimum lot size in the Forest Reserve zone. Here we have some aerial images. Of the petition site. I just want to kind of pan through these. More aerial images. You can see the proximity to Lake Monroe and other properties in the area. Here we have some on the ground site photos. This gravel road here in the bottom right photograph is the primary access off of East Hardin Ridge and then there is their driveway here that comes up onto the property. More photographs of the property here and their gravel drive. This home here in the bottom right photograph is on a different site. They are neighbors. I will go through some

DRAFT

neighbor support letters later in this presentation as well. More photographs showing where the proximity to the lake and turning around looking back at the property, kind of getting an idea of some of those sloped areas that are on the property. Here we have the petitioner's letter as well as the consent letter for Borgman to represent them from Smith Design Group. As you will note in this letter it states 3,000 square foot residential structure so again, we will just have to make sure that their submitted site plan reflects that change. Here is the site plan. On the next page I have one that is a little more zoomed in. You will note that this is the residential accessory structure that they are proposing to be constructed on the property, driveway space here and then this is a proposed future home site for the property as well. So, there intent is to have a residence on the property at some point but tonight they are petitioning for number 1; the Minimum Lot Size because it is too small for its zoning district and number 2; that they want to the Residential Accessory Structure before starting in on the residence. Here is another one zoomed in a little bit more and you can see a little more of the 12 percent slope lines delineated here as well as proposed deck in the future for the home, proposed driveway and that proposed residential storage structure. As you will note they are intending to meet all of the design standards including setbacks, buildable area and other standards. Overall, planning staff recommends approval of the Minimum Lot size Variance to Chapter 804 of the Monroe County Zoning Ordinance based on the findings of fact and planning staff also recommends denial of the Residential Storage Structure Variance to Chapter 802 of the Monroe County Zoning Ordinance based on the findings of fact, specifically Finding C, in that the petitioner could simply wait to construct their primary residence which would effectively make the need for a variance for a residential storage structure not needed. If they did everything at once they would not need this variance and so therefore there are no practical difficulties from planning staff's perspective. There were 2 submitted letters of support from neighbors. Those came in after the packet went out and I can go over those if you would like. I am not sure if any of those individuals are on the call tonight to express their support as well. We will probably hear from the petitioner if they are. But as for now I will take any questions.

RECOMMENDED MOTION:

Approve the Minimum Lot Size Variance to Chapter 804 of the Monroe County Zoning Ordinance based on the findings of fact.

Deny the Residential Storage Structure Variance to Chapter 802 of the Monroe County Zoning Ordinance based on the findings of fact specifically Finding C.

FINDINGS OF FACT: Minimum Lot Size Standard

812-6 Standards for Design Standards Variance Approval: In order to approve an application for a design standards variance, the Board must find that:

(A) The approval, including any conditions or commitments deemed appropriate, will not be injurious to the public health, safety, and general welfare of the community, because:

(1) It would not impair the stability of a natural or scenic area;

Findings:

- Approval of the variance would allow the petitioner to further develop a 1.38 +/- acre

DRAFT

parcel to construct a residential accessory structure, and potentially a residence in the future;

- The 1.38-acre lot is currently vacant;
- The petition site is not in a platted subdivision; The petition site is adjacent to Lake Monroe;
- There are no designated scenic areas adjacent to the petition site;
- The petition site is located in Area 1 of the Environmental Constraints Overlay;
- There are no known karst features on the petition site;
- There is no FEMA Floodplain on the petition site;
- There is no evidence that the proposed residential accessory structure would obstruct a natural or scenic view;
- Conclusion: It would not impair the stability of a natural or scenic area.

(2) It would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities;

Findings:

- See findings under A (1);
- The property has access from E Hardin Ridge RD, a designated local road, via a private driveway;
- The proposed development will not interfere with water lines or package plant system;
- Conclusion: It would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities.

(3) The character of the property included in the variance would not be altered in a manner that substantially departs from the characteristics sought to be achieved and maintained within the relevant zoning district. That is, the approval, singularly or in concert with other approvals - sought or granted, would not result in a development profile (height, bulk, density, and area) associated with a more intense zoning district and, thus, effectively re-zone the property; and,

Findings:

- See findings under A(1) and A(2);
- The proposal would meet all other design standards;
- Conclusion: The character of the property included in the variance would not be altered in a manner that substantially departs from the characteristics sought to be achieved and maintained within the relevant zoning district.

(4) It would adequately address any other significant public health, safety, and welfare concerns raised during the hearing on the requested variance;

Findings:

- The Board of Zoning Appeals may request the petitioner to address any other significant public health, safety, and welfare concerns raised during the hearing;

(B) The approval, including any conditions or commitments deemed appropriate, would not affect the use and value of the area adjacent to the property included in the

variance in a substantially adverse manner, because:

(1) The specific purposes of the design standard sought to be varied would be satisfied;

Findings:

- See findings under A (1);
- The petition site and adjacent properties are zoned Forest Reserve (FR) with a minimum lot size requirement of 5.0 acres;
- The petition site and adjacent properties are a mix of residential or federally managed land;
- There are approximately 16 parcels within a half-mile radius that do not meet the FR minimum lot size requirement;
- Conclusion: The specific purposes of the design standard sought to be varied would be satisfied.

(2) It would not promote conditions (on-site or off-site) detrimental to the use and enjoyment of other properties in the area (e.g., the ponding of water, the interference with a sewage disposal system, easement, storm water facility, or natural watercourse, etc.); and,

Findings:

- See findings under A (1);
- The petition site is located in Area 1 of the Environmental Constraints Overlay;
- There are no known karst features on the petition site;
- There is no FEMA Floodplain on the petition site;
- Drainage on the petition site runs west towards Lake Monroe;
- Conclusion: It would not promote conditions (on-site or off-site) detrimental to the use and enjoyment of other properties in the area.

(3) It would adequately address any other significant property use and value concerns raised during the hearing on the requested variance; and,

Findings:

- The Board of Zoning Appeals may request the petitioner to address any other significant property use and value concerns raised during the hearing on the requested variance;

(C) The approval, including any conditions or commitments deemed appropriate, is the minimum variance necessary to eliminate practical difficulties in the use of the property, which would otherwise result from a strict application of the terms of the Zoning Ordinance.

Findings:

- The strict application of the ordinance would not allow any further development on the parcel without a minimum lot size variance;
- If the variance is not granted, no new structures could be added;
- The minimum lot size variance is the minimum necessary to add any structure to the property;

DRAFT

- Conclusion: There **are practical difficulties** in the use of the property as defined in Chapter 801;

FINDINGS OF FACT: Residential Storage Structure Exceeding 1750 square feet

812-6 Standards for Design Standards Variance Approval: In order to approve an application for a design standards variance, the Board must find that:

- (A) The approval, including any conditions or commitments deemed appropriate, will not be injurious to the public health, safety, and general welfare of the community, because:**

(1) It would not impair the stability of a natural or scenic area;

Findings:

- Approval of the variance would allow the petitioner to apply for a building permit to construct a 4,000 sf residential storage structure;
- The 1.38-acre lot is currently vacant;
- The petition site is not in a platted subdivision;
- The petition site is adjacent to Lake Monroe;
- The petition site is located in Area 1 of the Environmental Constraints Overlay;
- There are no known karst features on the petition site;
- There is no FEMA Floodplain on the petition site;
- There is no evidence that the proposed residential accessory structure would obstruct a natural or scenic view;
- Conclusion: It would not impair the stability of a natural or scenic area.

(2) It would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities;

Findings:

- See findings under A (1);
- The property has access from E Hardin Ridge RD, a designated local road, via a private driveway;
- The proposed development will not interfere with water lines or package plant system;
- Conclusion: It would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities.

(3) The character of the property included in the variance would not be altered in a manner that substantially departs from the characteristics sought to be achieved and maintained within the relevant zoning district. That is, the approval, singularly or in concert with other approvals - sought or granted, would not result in a development profile (height, bulk, density, and area) associated with a more intense zoning district

Findings:

- See findings under A(1) and A(2);
- The maximum allowable square footage of the pole barn is 1750 sf since there is not an

DRAFT

existing primary structure on the property. The petitioner would be over the maximum amount by 2,250 sf;

- Once a primary structure is established on the property, the owner would be permitted up to 15,000 sf of maximum building coverage;
- The petitioner has identified an intention to construct a residence on the petition site sometime in the future (Exhibit 2);
- The proposal would meet all other design standards;
- Conclusion: The character of the property included in the variance would not be altered in a manner that substantially departs from the characteristics sought to be achieved and maintained within the relevant zoning district.

(4) It would adequately address any other significant public health, safety, and welfare concerns raised during the hearing on the requested variance;

Findings:

- The Board of Zoning Appeals may request the petitioner to address any other significant public health, safety, and welfare concerns raised during the hearing;

(B) The approval, including any conditions or commitments deemed appropriate, would not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner, because:

(1) The specific purposes of the design standard sought to be varied would be satisfied;

Findings:

- See findings under A (1), A(2), A(3);
- Conclusion: The specific purposes of the design standard sought to be varied would be satisfied.

(2) It would not promote conditions (on-site or off-site) detrimental to the use and enjoyment of other properties in the area (e.g., the ponding of water, the interference with a sewage disposal system, easement, storm water facility, or natural watercourse, etc.); and,

Findings:

- See findings under A (1);
- The petition site is located in Area 1 of the Environmental Constraints Overlay;
- There are no known karst features on the petition site;
- There is no FEMA Floodplain on the petition site;
- Drainage on the petition site runs west towards Lake Monroe;

Conclusion: It would not promote conditions (on-site or off-site) detrimental to the use ***and, thus, effectively re-zone the property; and,***

- and enjoyment of other properties in the area.

(3) It would adequately address any other significant property use and value concerns

DRAFT

raised during the hearing on the requested variance; and,

Findings:

- The Board of Zoning Appeals may request the petitioner to address any other significant property use and value concerns raised during the hearing on the requested variance;

(C) The approval, including any conditions or commitments deemed appropriate, is the minimum variance necessary to eliminate practical difficulties in the use of the property, which would otherwise result from a strict application of the terms of the Zoning Ordinance.

Findings:

- The practical difficulty was self-created as the petitioner intends to construct a residence in the future, which would permit a residential accessory structure of the proposed size without the need for a variance because a primary use would now be established on the property;
- Conclusion: There are **no** practical difficulties in the use of the property;

All variance approvals shall be considered to be conditional approvals. The Board shall have the authority to impose specific conditions as part of its approval in order to protect the public health, and for reasons of safety, comfort and convenience (e.g., to insure compatibility with surroundings). Variance approval applies to the subject property and may be transferred with ownership of the subject property subject to the provisions and conditions prescribed by or made pursuant to the Zoning Ordinance. **NOTE:** The Board must establish favorable findings for ALL THREE criteria in order to legally approve a design standards variance.

QUESTIONS FOR STAFF – 2011-VAR-90 & 2011-VAR-91 – Deckard

Kaczmarczyk: Does anyone have any questions for Drew?

Sorensen: I have a question Drew. On a couple of the pictures it looks like a structure is already on the property. Is that true?

Myers: That is a good point. So, on the overhead map, these are older aerials for earlier this year, this structure here that was an old dilapidated structure that no longer exists on the property.

Sorensen: Thank you.

Kaczmarczyk: Any further questions for Drew? Seeing none. Is the petitioner here or his representative?

**PETITIONER/PETITIONER'S REPRESENTATIVE –
2011-VAR-90 & 2011-VAR-91 – Deckard**

Borgman: Yes, I believe we are both on the zoom.

DRAFT

Kaczmarczyk: Ok, are you going to speak, Todd?

Borgman: Yes, I believe I will speak and I think Jim may as well.

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

Borgman: Yes.

Kaczmarczyk: Ok and state your name and then you can testify for us.

Borgman: Todd Borgman.

Kaczmarczyk: Ok, go ahead.

Borgman: I just wanted to thank planning staff and the BZA for taking into consideration these variances. My only 2 comments are I just wanted to reinstate the fact that it is only a 3,000 square foot building and not a 4,000 square foot building. That was just a typo on the site plan and that yes, we do have support letters from both the north adjoiner and the south adjoiner in support of both variances.

Kaczmarczyk: Does anybody have any questions for Todd?

Nester Jelen: I am not seeing anyone Mary Beth.

Guerrettaz: I have got a quick question if I can ask it Todd. Is the reason and Drew may have gone through this, is the reason the petitioner wants to build these structures in section just because of the financing and the cost it takes to do them both at the same time?

Borgman: No, it is not. The owner of the property lives on this road as well and he is building this as storage right now for storage for his boat and his rv and then in the future he intends to build on the property or have his children build on the property.

Kaczmarczyk: Any further questions for Todd? Thank you Mr. Borgman.

Guerrettaz: Have there been any house plans or anything of that sort submitted or starting or maybe we can just wait till the petitioner has something to say?

Borgman: That is probably a better question for him but to my knowledge, no I don't think that they have started any type of design.

Guerrettaz: Ok, thanks Todd.

Kaczmarczyk: Ok, Mr. Deckard are you here?

Deckard: Yes I am.

DRAFT

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

Deckard: I do.

Kaczmarczyk: Thank you sir.

Deckard: Thank you.

Kaczmarczyk: Continue.

Deckard: I guess, first of all I would like to thank you for the variance that Todd submitted to you and hope that we can get it. The reason that we bought this property was that we have been a Hardin Monroe for 35 years, my wife and I and this property had an old dilapidated building on it for years. We bought the property. We took the building down, not realizing that we had to have a demolish permit. We got that. That was all taken care of. Our mistake. We did it because we wanted to improve the area that the old building sat on but we wanted to also be able to put boats, rv and other vehicles that we had so that they are not out in the area as well as ladders and things like that. So, we did it basically to improve the area. We do not have any intention of building a home right away. We have a home on the other side of this property that we have been there for 35 years. Now, down the road we have one daughter, Sarah Elizabeth, if she would decide to build on it, it would be her discretion but I want to make it clear, we do not have any plans at this time nor any plans to support to build anything.

Kaczmarczyk: Thank you Sir.

Deckard: The other reason we bought it was in the next 5 years or so if we wanted to downsize from the home that we currently at 8037 Hardin Ridge Road, then that would give us an option to go across the road and build a smaller home.

Kaczmarczyk: Ok. Does anybody have any questions for Mr. Deckard?

Deckard: If I might say, our plans for this building even though it is 3,000 square feet will have limestone all over it, it will have windows all around it, it will be a nice, nice building. It is not just a pole barn that will look like a barn.

Kaczmarczyk: Ok. Does anybody have any questions for Mr. Deckard? Did you have a question Bernie?

Guerrettaz: No, I don't think so. I see that they have owned the property for 35 years and they live right across from it is my struggle with it. It is almost an appendage of an existing parcel that they have got and a lot of the zoning and lot size and buildable area has changed since they have actually purchased the property. It seems like, I know the property, it seems like they have done a nice job cleaning it up. Being right across from the property it seems like a unique situation where they can keep an eye on it and make sure that nobody is breaking into it, nobody is vandalizing it and they can keep track of their property closely instead of buying another piece of property in another location to do the same thing on.

DRAFT

Deckard: If I might say something, this property, we bought just a year ago. Our primary residence we have had 35 years. Most properties here in Hardin Monroe don't turn over and we were fortunate to buy it a little over a year ago from one of the families here.

Guerrettaz: Thank you for that clarification Mr. Deckard.

Deckard: Sure.

Kaczmarczyk: Are there any further questions for Mr. Deckard?

Hosea: No, but I have one for Drew.

Kaczmarczyk: Ok.

Hosea: Could you put up those aerial images again or at least one of them?

Myers: Sure, one second. These ones?

Hosea: Yes. I wanted to see about what Bernie mentioned about his other property being close to this one. Can you point out where that one is?

Myers: I think maybe one of these photographs is better and the petitioner can correct me if I am wrong but I believe it is one of these over here. I think it is down the road here. To the left is north. Hardin Ridge Road comes down this way. Maybe I can get it better from this picture. I believe it is one of these up here.

Hosea: Ok, so there is, looks like maybe one or two lots in between. Is that correct?

Myers: They are not adjacent.

Deckard: That is correct. There are two lots in between us. That is correct.

Hosea: Ok. That is all that I needed. Thank you.

Kaczmarczyk: Any further questions for staff or Mr. Deckard?

Nester Jelen: Larry, you have your hand raised.

Wilson: I just wanted to comment on just the basis for staff's recommendation for denial of the second variance. We have been repeatedly been getting what I would call sequential variances, where somebody comes in and gets a variance for an accessory structure. Then comes back and says, well, because I have the accessory structure here I need a variance from steep slopes or front setback and I think one of the reasons we would like to see it combined with an actual building permit for the house or a commitment that any future home would be constructed in the buildable area and not seek a variance to intrude into the setback for the lake or the restricted areas on steep slopes so that we avoid the situation where the only way we can build the house we want now is

DRAFT

to go back and tread into the steep slopes. I think if we have a commitment that basically that it is not going to be used as a basis for a future variance, I think that would be fine. But again, that is the situation we get into that a large accessory building is built on a lot with limited buildable area and then when the house is ready to be built they come back and want a variance for the house and the goal is make sure that site plan address all of proposed structures anticipated for the site.

Guerrettaz: To me that is very helpful. Todd and Mr. Deckard, Todd, you might be able to help with this too. Do you see this site as being restricted from having a future dwelling built upon it without being constructed on the ordinance restricted slopes, meeting setbacks, etcetera to where Mr. Deckard can make a commitment that would maybe run with the deed?

Borgman: The commitment would be up to Mr. Deckard, the owner of the property but as far as buildable area, the lot is almost 1.4 acres and just eyeballing the area you are looking at about probably 1.8 acre of buildable area and if you are looking at the site plan that is roughly about a 5,000 square foot home. With that in mind, yes, there is plenty of room to build a nice sized home or a smaller sized home within the buildable area and enjoy the great view of Lake Monroe.

Guerrettaz: Larry, and I am not talking through Mr. Deckard here, so if Mr. Deckard excuse, I am just trying to make sure I have got the facts to think this through properly before we get to you. So, Larry do you think if, not to put you on the spot, but if opposed to having a full blown site plan at this time but a written commitment that would run with the property that variances based on what they know now wouldn't be requested?

Wilson: I think if we had a commitment that future developments would comply with the zoning restrictions in place at the time of the application of the permit that would be fine. Basically, people are creating hardships and then coming back and we just want to avoid that situation as much as possible in the future.

Guerrettaz: Ok, Mr. Deckard, are you understanding what M. Wilson has introduced as maybe an option here?

Deckard: Yes. In knowing the property in the way in the projection that the residents would be because of slopes and setbacks I would have no problem with that.

Guerrettaz: Ok, I don't have anything else Mary Beth.

Hosea: I have a question for Larry. Correct me if I am wrong but am I understanding you to say that in the past people have used situations like to leverage a request for a variance in the future or was that a little bit harsh?

Wilson: No, I think it actually is the case and we have no other way to build the house on the site because built other structures in other locations or we need a variance for what we want to add on to that house because of the way that we have constructed the house initially. As long as there is a commitment that this is it, I am not concerned about it, as long as the future plans comply with the ordinance in place at that time, that's fine. I just want to make sure that we are not creating hardship that would be a basis for a future variance by allowing construction of the accessory structure in

DRAFT

advance of the home. The reason we don't have a restriction on the accessory structure side with the home is that we know exactly what is going to be built on the site and when you build the accessory structure first you are automatically limiting the amount of space that is available for construction of the home. Again, I think a commitment that they will comply with the ordinance in place for the home is fine. That takes care of my concern.

Hosea: Ok, Mr. Deckard has no problem with that. Is that correct?

Deckard: Yes, that is correct, as of today's requirements that is correct.

Hosea: Ok.

Sorensen: Ok. I have a question to Larry. Can we legally have him commit to that?

Wilson: Absolutely we can require written commitments and we do often.

Sorensen: Ok.

Schilling: This is Dave Schilling. That is a commitment that he is willing to make you can certainly accept that and you would want that put in writing and recorded possibly before you release the permit for the construction of the building, just to make sure that it gets done and that is if he is willing to make that commitment.

Kaczmarczyk: Thank you Dave. Is there anyone here that wishes to speak on behalf of this petition? Seeing none.

Nester Jelen: I am not seeing anyone.

Kaczmarczyk: Is there anyone here who would like to speak against this petition?

Nester Jelen: I don't see anyone.

Kaczmarczyk: Somebody have a motion for us?

Guerrettaz: I can do this. Jackie, would you mind putting the first page of this petition up on the screen for me, please so I can see the case number and appropriate information and I might be able to hack something out here? I will do 2 motions if that is ok Mary Beth.

Kaczmarczyk: That's fine.

SUPPORTERS – 2011-VAR-90 & 2011-VAR-91 – Deckard: None

FURTHER SUPPORTERS – 2011-VAR-90 & 2011-VAR-91 – Deckard: None

REMONSTRATORS - 2011-VAR-90 & 2011-VAR-91 – Deckard: None

DRAFT

ADDITIONAL QUESTIONS FOR STAFF – 2011-VAR-90 & 2011-VAR-91–Deckard: None

FURTHER QUESTIONS FOR STAFF – 2011-VAR-90 & 2011-VAR-91 – Deckard

Guerrettaz: **In regard to case number 2011-VAR-90, Deckard Hardin Ridge Minimum Lot Size Variance to Chapter 804, I move that we approve the variance, subject to the staff report, findings of fact and conditions of the Highway Department, Planning Staff, and the MS4 Operator.**

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

Wilson: I will call the roll petition number 2011-VAR-90, Deckard Hard Ridge Minimum Lot Size Variance from Chapter 804. A vote in favor is vote to approve the variance based upon the findings, subject to the conditions in the staff report and any conditions in regard to the Highway and the MS4 Operator. Again, a vote in favor is a vote to approve the variance. Margaret Clements?

Clements: Yes.

Wilson: Bernie Guerrettaz?

Guerrettaz: Yes.

Wilson: William Hosea?

Hosea: Yes.

Wilson: Mary Beth Kaczmarczyk?

Kaczmarczyk: Yes.

Wilson: Vicky Sorensen?

Sorensen: Yes.

Wilson: Variance 2011-VAR-90 is granted by 5 to 0 vote.

The motion in case 2011-VAR-90, Deckard Hardin Ridge Minimum Lot Size Variance to Chapter 804, in favor of approving the variance, with conditions as set forth in the motion, carried unanimously (5-0).

Guerrettaz: **Ok, in the matter of 2011-VAR-91, Deckard Hardin Ridge Residential Storage Structure Variance to Chapter 802, I move that we approve the variance for the Residential Storage Structure, based on practical difficulty, is that correct term Larry?**

DRAFT

Wilson: Yes.

Guerrettaz: Based on practical difficulty and subject to the findings of fact found in the staff report, conditions made therein Planning Staff, Highway Department MS4 Operator and I would add the condition that;

- 1) The petitioner must make a written commitment that in order to construct a residence on the property in the future on variance from any ordinances shall be sought. This written commitment must be recorded prior to the issuance of an ILP for the accessory structure proposed and shall run with the property and subsequent owners.**

Hosea: I will **second** that.

Kaczmarczyk: Call the roll, Larry.

Wilson: Ok, the vote is on petition 2011-VAR-91, Deckard Hardin Ridge Variance from the maximum square footage restriction on an accessory structure in the absence of a primary dwelling under Chapter 802. The motion is to approve the variance base upon an amended finding of practical difficulty being found by the BZA, with the development review conditions in the staff report, subject to the Highway Department MS4 Operator conditions and with the requirement that the petitioner enter into a written commitment that no variance for developments will be sought for future developments and that the written commitment be recorded prior to the ILP and run with the land giving notice to subsequent land owners. Does that capture it, Bernie?

Guerrettaz: Yes, I think so. Thank you.

Wilson: Again, a vote in favor is a vote to approve the variance with the added condition of a written commitment be required. Bernie Guerrettaz?

Guerrettaz: Yes.

Wilson: William Hosea?

Hosea: Yes.

Wilson: Mary Beth Kaczmarczyk?

Kaczmarczyk: Yes.

Wilson: Vicky Sorensen?

Sorensen: Yes.

Wilson: Margaret Clements?

Clements: Yes.

DRAFT

Wilson: The variance is approved by a 5 to 0 vote with the condition set forth.

The motion in case 2011-VAR-91, Deckard Hardin Ridge Residential Storage Structure Variance to Chapter 802, in favor of approving the variance, with amended findings and condition as set forth in the motion, carried unanimously (5-0).

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NEW BUSINESS:

3. 2011-VAR-92 Dickerson 125' Lake Setback Variance to Chapter 825

4. 2011-VAR-93 Dickerson ECO Area 1 Variance to Chapter 825

5. 2011-VAR-94 Dickerson Buildable Area Variance to Chapter 804

One (1) 1.38 +/- acre parcel in Clear Creek Township, Section 24 at 8041 E Hardin Ridge RD. **Zoned FR/ECO1.**

Contact tbehrman@co.monroe.in.us

BOARD ACTION: Kaczmarczyk introduced the petition.

STAFF ACTION:

Behrman: Larry and Jackie I had let you know that this was continued and I missed the very first three minutes of the meeting so I didn't know if the agenda had been amended or not but this was continued by the petitioner yesterday. He is continuing until March.

Creceilius: Yes, it is listed up next will be 2011-VAR-95.

Nester Jelen: I think Anne if this was listed on the agenda we might just go ahead and have them move to continue it officially since it was before one week out.

Behrman: That seems fair.

Nester Jelen: So, Mary Beth do you want to put together a motion to continue the case?

Kaczmarczyk: Sure. **I move that we continue 2011-VAR-92, 2011-VAR-93, and 2011-VAR-94 to March.** Is that right?

Nester Jelen: Yes.

Behrman: Correct that is when they requested that be continued to.

Kaczmarczyk: Ok, so moved.

Sorensen: I will **second.**

Kaczmarczyk: Thank you.

Wilson: It has been moved and seconded to that petition 2011-VAR-92, 2011-VAR-93 and 2011-VAR-94, Dickerson Variance requests be continued to the March meeting. A vote in favor is vote to continue all 3 variance request to the March meeting. William Hosea?

Hosea: Yes.

Wilson: Mary Beth Kaczmarczyk?

Kaczmarczyk: Yes.

DRAFT

Wilson: Vicky Sorensen?

Sorensen: Yes.

Wilson: Margaret Clements?

Clements: Yes.

Wilson: Bernie Guerrettaz?

Guerrettaz: Yes.

Wilson: The petitions 2011-VAR-92, 2011-VAR-93 and 2011-VAR-94 are continued to the March meeting.

The motion in cases 2011-VAR-92, Dickerson 125' Lake Setback Variance to Chapter 825, 2011-VAR-93, Dickerson ECO Area 1 Variance to Chapter 825, and 2011-VAR-94, Dickerson Buildable Area Variance to Chapter 804, to continue the petitions to the March meeting of the BZA, carried unanimously (5-0).

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NEW BUSINESS

6. 2011-VAR-95

Bancel Front Yard Setback Variance to Chapter 804

One (1) 0.90 +/- acre parcel in Benton North Township, Section 35 at 9308 N Gray Ave. **Zoned SR.** Contact acrecelius@co.monroe.in.us

BOARD ACTION: Kaczmarczyk introduced the petition.

STAFF ACTION:

Crecelius: Thank you very much, just one second. Jackie is going to do me a favor and share the screen and run the slide show for me. I am working from home so I don't have any print outs so I am hoping to be able to keep my report on screen. This is the Bancel Front Yard Setback Variance from Chapter 804. The petition site is 0.90 acres and it is located in Benton North Township at 9308 North Gray Avenue. The petitioner is requesting a design standards variance from the front yard setback. It is currently zoned Suburban Residential and the Comprehensive Plan recognizes it as Rural Residential. The site is a south west faces Lake Lemon front. It borders on the north east side a small platted road called North Gray Avenue. The property was built out quite a while ago so it is currently grandfathered. There is a little bit of slope. The petitioner has been working with the Monroe County Zoning Inspector to apply for an after-the-fact permit for a new structure that was built for without any approved building permits, a small shed, which you can see the site plan in Exhibit 2 which you will see here in a moment. The property is platted and it is within a little subdivision called Wolff's First Addition Subdivision. It has a platted right of way of 30' feet, so 15' feet on both sides of pavement. The front setback for this property would be 40' feet from the centerline, so 15' feet of right of way then plus 25' feet of a front yard setback for a local road. The petitioner built a small shed without a building permit that is approximately 20' feet from the edge of pavement. So, it is an approximate encroachment of 20' feet. If the variance is approved it will allow the structure to remain in its current location. If denied, it will require that the structure either is removed or is somehow can comply with the 25' foot from the right of way, 25' foot setback from right of way. This is a pictometry photo. It kind of shows the approximate location. This is an April 2020 pictometry photo. The petitioner did build it after that, not too long, it was early summer. I kind of circled the approximate location of it. On the left is the petitioners submitted site plan of the location of the shed. North Gray Avenue is very small. It does have quite a bit of encroachment along the road but it is platted and it does have that 30' feet of right of way on both sides, well, 15' feet of right of way on both sides, so 30' feet total. The staff recommendation is to deny the design standard variance from the Front Yard Setback from Chapter 804, specifically based on the finding of fact (C) which is practical difficulty. Does anybody have any questions?

RECOMMENDED MOTION:

Deny the design standard variance from the Front Yard Setback requirement of Chapter 804 of the Monroe County Zoning Ordinance based on the findings of fact specifically findings (C).

FINDINGS OF FACT: Front Yard Setback

812-6 Standards for Design Standards Variance Approval: In order to approve an application for a design standards variance, the Board must find that:

(A) The approval, including any conditions or commitments deemed appropriate, will

DRAFT

not be injurious to the public health, safety, and general welfare of the community, because:

(1) It would not impair the stability of a natural or scenic area;

Findings:

- The site is 0.9 +/- acres and is Suburban Residential (SR);
- Lake Lemon borders the property;
- Lake Lemon is a scenic area;
- There are no visible karst features on the site;
- The petition contains FEMA floodplain because of proximity to Lake Lemon on the southwestern edge;
- The site contains a Single Family Residential structure constructed in 1950 and multiple pre-existing non-conforming Residential Accessory Structures;
- The new structure was built without an approved building permit;
- The SR zone requires a 25' front yard setback;
- The petition site is platted within the Wolff's First Addition Subdivision with a 15' dedicated Right of Way on each side of the road (30' total);
- The structure is located approximately 20' from the centerline of N Gray Ave;
- Approval of this variance would allow the structure to remain in its current location;
- **Conclusion:** The approval could impair the stability of a natural or scenic area.

(2) It would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities;

Findings:

- See findings under A(1);
- The site is accessed off of N Gray Ave, a Local road which is County-maintained;
- The site has access to water and a septic system;
- Encroachment into the front yard setback could impair the ability to maintain utilities or road maintenance;
- **Conclusion:** It could interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities.

(3) The character of the property included in the variance would not be altered in a manner that substantially departs from the characteristics sought to be achieved and maintained within the relevant zoning district. That is, the approval, singularly or in concert with other approvals - sought or granted, would not result in a development profile (height, bulk, density, and area) associated with a more intense zoning district and, thus, effectively re-zone the property; and,

Findings:

- See findings under A(1) and A(2);
- The use of the petition site and adjacent properties is residential;

DRAFT

- The Comprehensive Plan designates this area as Rural Residential;
- The character of the surrounding properties consists of single family residential development along the Lake Lemon waterfront;
- Other development in this area along N Gray Avenue is generally built close to the right-of-way due to the nature of the buildable/more level terrain being adjacent to the road and the proximity to the lake;
- Front yard encroachments, while present in the area, are not the intention of the district, which was platted with setback requirements;
- **Conclusion:** The character of the property included in the variance **would** be altered in a manner that substantially departs from the characteristics sought to be achieved and maintained with the relevant zoning district.

(4) It would adequately address any other significant public health, safety, and welfare concerns raised during the hearing on the requested variance;

Findings:

- The Board of Zoning Appeals may request the petitioner to address any other significant public health, safety, and welfare concerns raised during the hearing;

(B) The approval, including any conditions or commitments deemed appropriate, would not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner, because:

(1) The specific purposes of the design standard sought to be varied would be satisfied;

Findings:

- See findings under A(1), A(2), and A(3);
- The petitioner is applying for a front yard setback variance;
- **Conclusion:** Approval of the variance **would satisfy** the design standard sought to be varied.

(2) It would not promote conditions (on-site or off-site) detrimental to the use and enjoyment of other properties in the area (e.g., the ponding of water, the interference with a sewage disposal system, easement, storm water facility, or natural watercourse, etc.); and,

Findings:

- See findings under A(1) and A(2);
- The structure is located 2' from the property boundary, an encroachment of 33' into the 35' front yard setback;
- Approval of this variance would allow the structure to remain in its current location;
- **Conclusion:** It **would not** promote conditions (on-site or off-site) detrimental to the use and enjoyment of other properties in the area (e.g., the ponding of water, the interference with a sewage disposal system, easement, storm water facility, or natural watercourse,

DRAFT

etc.).

(3) It would adequately address any other significant property use and value concerns raised during the hearing on the requested variance; and,

Findings:

- The Board of Zoning Appeals may request the petitioner to address any other significant property use and value concerns raised during the hearing on the requested variance;

(C) The approval, including any conditions or commitments deemed appropriate, is the minimum variance necessary to eliminate practical difficulties in the use of the property, which would otherwise result from a strict application of the terms of the Zoning Ordinance.

Findings:

- See findings under A(1);
- The petitioner was aware of the requirement for a building permit having been in contact with the Monroe County Zoning Inspector before constructing the building;
- The petitioner constructed the building without approved building permits therefore practical difficulties do not exist;
- **Conclusion:** There are **not practical difficulties** in the use of the property as defined in Chapter 801;

All variance approvals shall be considered to be conditional approvals. The Board shall have the authority to impose specific conditions as part of its approval in order to protect the public health, and for reasons of safety, comfort and convenience (e.g., to insure compatibility with surroundings). Variance approval applies to the subject property and may be transferred with ownership of the subject property subject to the provisions and conditions prescribed by or made pursuant to the Zoning Ordinance. **NOTE:** The Board must establish favorable findings for ALL THREE criteria in order to legally approve a design standards variance.

QUESTIONS FOR STAFF – 2011-VAR-95 – Bancel

Hosea: Was this one sent separately from the board packet because I don't have it?

Creceilius: No, it is included. It was included late. There was a separate email that went out that said the link was updated. It was the same day, so last Wednesday.

Hosea: Ok, I missed that second one but thank you.

Kaczmarczyk: Anybody else have any questions for Anne?

Guerrettaz: Yes, Anne quick question. This is Bernie. How is the shed attached to the property? Do you know?

Creceilius: How do you mean attached to the property?

DRAFT

Guerrettaz: Is it sitting on the ground or did they set posts and frame up based on?

Creceilius: There is a little bit of slope but it is slightly elevated on posts on the ground. The area closest to the road I think is possibly touching a bit of foundation and then it is kind of posts elevated.

Guerrettaz: Ok. Thanks.

Kaczmarczyk: Any further questions for staff? Is the petitioner here? Can we tell if the petitioner is here?

Creceilius: I don't see his name but there are a couple of numbers.

Nester Jelen: Let me pull up the case file real fast or Anne if you want and we can see if any of those numbers might be the petitioner.

Creceilius: Doug Bancel if you are listening this is your time. He did confirm that he would be here tonight earlier so my guess would be he might have just tuned out.

Nester Jelen: His number starts with 312 so it's not one of the 2 numbers that's on the call.

Kaczmarczyk: Ok, is there anyone here that would like to speak on behalf of the petition? Are you seeing anybody?

Nester Jelen: No.

Kaczmarczyk: Is there anyone here that would like to speak against the petition?

Nester Jelen: I don't see anyone.

Kaczmarczyk: Ok. Would somebody like to make a motion?

Sorensen: I guess I will say this Mary Beth, it seems like we need to ask some questions because in the findings apparently the petitioner went to inquire about a building permit knowing he needed one and then why did he go ahead and chose to build it so close to the road? Those are questions we can't answer without him giving us the answer. So, for me, I would say we should continue letting him come before us. That is just my opinion.

Kaczmarczyk: Ok.

Clements: I agree with Vicky on that, that perhaps we should continue to another meeting to give the requestor an opportunity to explain to us why we shouldn't deny it or we could just move to deny it.

Kaczmarczyk: It is possible that he is having technical issues.

DRAFT

Clements: Yes.

Guerrettaz: I can make a motion.

Kaczmarczyk: Please, Bernie.

PETITIONER/PETITIONER'S REPRESENTATIVE –2011-VAR-95 – Bancel: None

SUPPORTERS – 2011-VAR-95 – Bancel: None

FURTHER SUPPORTERS – 2011-VAR-95 – Bancel: None

REMONSTRATORS - 2011-VAR-95 – Bancel: None

ADDITIONAL QUESTIONS FOR STAFF – 2011-VAR-95 – Bancel:None

FURTHER QUESTIONS FOR STAFF – 2011-VAR-95 – Bancel

Guerrettaz: In the matter of case 2011-VAR-95, design standards variance to Chapter 804 Front Yard Setback at 9308 North Gray Avenue, I move that we continue this petition onto the next Board of Zoning Appeals Meeting in February.

Hosea: I will **second**.

Kaczmarczyk: Please call the roll.

Wilson: The vote is on motion it continue petition 2011-VAR-95, the Bancel Front Yard Setback Variance from Chapter 804 to the February meeting. A vote in favor is a vote to continue the petition to the next meeting. Mary Beth Kaczmarczyk?

Kaczmarczyk: Yes.

Wilson: Vicky Sorensen?

Sorensen: Yes.

Wilson: Margaret Clements?

Clements: Yes.

Wilson: Bernie Guerrettaz?

Guerrettaz: Yes.

Wilson: William Hosea?

DRAFT

Hosea: Yes.

Wilson: Motion to continue is approved by a 5 to 0 vote.

Nester Jelen: For clarities sake that meeting would be on February 3rd.

The motion in case 2011-VAR-95, Bancel Front Yard Setback Variance to Chapter 804, in favor of continuing the case until the February Board of Zoning Appeals Meeting, carried unanimously (5-0).

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NEW BUSINESS

7. 2012-CDU-06

Monroe Fire Protection District Conditional Use to Chapter 813

One (1) 0.914 acre parcel in Perry Township, Section 16 at 285 E Rhorer RD. **Zoned RM15.** Contact tbehrman@co.monroe.in.us

BOARD ACTION: Kaczmarczyk introduced the petition.

STAFF ACTION:

Sorensen: May I interrupt for a moment? I have to excuse myself from this in that I am on the Fire District Board. But I will listen to what you have to say.

Behrman: Good call. Thank you. This is the Monroe County Fire Protection District Conditional Use from Chapter 813. It is one parcel. It is 0.914 acres and located in Perry Township, Section 16 at 285 East Rhorer Road. It is zoned RM15. You can see the City jurisdiction just there to the north and really just to the south and west of this is the south side Kroger shopping area if that helps orientate you for this one. The upper left is the zoning map. It is zoned RM15 by a recent determination and we also have the Comprehensive Plan designates it as MCUA Mixed Residential. This is the site conditions. It is a corner lot so it is bordered by South Kennedy Drive on the west side, which is a local road and then the minor collector, East Rhorer Road to the south there. That road was recently improved. It had the utilities relocated. There is a large side path that you can see in the bottom right corner there that goes along the site and a safer driveway, I believe, according to the Highway Department. I did talk to them and they had no issues with the access to the site. Located just to the north is Station 22 and that is the Fire Station that is there currently. The Monroe Fire Protection District recently expanded its jurisdiction and so Van Buren Fire Department had owned this since 2010 and they rented it out as a home. Now they are going to be using this to house their battalion chief and have offices in this space. These are a couple of the site photos. They are not planning to do any exterior work to the structure, just some interior remodeling and the bottom picture shows Station 22 there in the background along South Kennedy Drive. The upper picture is facing west toward that Kroger shopping complex and then that bottom photo you can see both the proposed kind of what we are calling a new fire station use, which will house the battalion chief and then the Fire Station 22 there in the background down the hill. This is an aerial view of the site. This is from this past April so you do see the improvements along East Rhorer Road there. They had initially done the Conditional Use with the proposed letter. They also supplied a full set of findings demonstrating that they are in compliance with Chapter 813's Conditional Use, not only the general conditions but also the ones that are very specifically tied to the fire station use. Staff actually used a lot of the findings that were provided within the staff report findings because we did agree with much of what they were saying there. Because it is a change of use from residential to what we call kind of a more commercial type of use or a fire station use. They do have to do a change use site plan. This was kind of realized mid-way in December so everyone hustled really quickly. We got a site plan fully approved. It is basically pending approval of this petition. The only thing that they will be doing is adding landscaping. They have to do streetscape along South Kennedy Drive and East Rhorer Road and a bufferyard to the east next to I believe it is a childcare facility. We did review parking and there will be some extra parking that is going to be over at the fire station. They are going to utilize the place. The space is north as well but we can clearly show 2 indoor spaces and kind of 2 outdoor spaces but they really don't plan to have more than 2 vehicles on site at a time. The recommended motion for

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the Conditional Use 2012-CDU-06 is to approve the Conditional Use request for a Fire Station based on the findings of fact.

RECOMMENDED MOTIONS:

Approve the conditional use request for Fire Station based on the findings of fact.

FINDINGS OF FACT:

In order to approve a conditional use, the Board must have findings pursuant to Chapter 813-5 Standards for Approval. The Board must find that:

- (A) **the requested conditional use is one of the conditional uses listed in Chapter 813-8 (for the traditional County planning jurisdiction) or Table 33-3 (for the former Fringe) for the zoning district in which the subject property is located. In addition to the other relevant standards imposed by or pursuant to this chapter, the standards, uses and conditions set forth in Section 813-8 are hereby incorporated as standards, uses and conditions of this chapter;**

Findings:

- The proposed use is listed as “Fire Station” in the Use Table in Chapter 833-3 of the Monroe County Zoning Ordinance;
- Criteria for the Fire Station Conditional Use are listed in Chapter 813 are addressed separately in findings below;
- The petition property is zoned Multi-family Residential 15 (RM15) and the fire station use is conditional;

- (B) **all conditions, regulations and development standards required in the Zoning Ordinance shall be satisfied;**

Findings:

- The petitioner has requested the use of Fire Station within the 2300 sf building existing on site;
- Planning staff has preliminarily approved a Change of Use site plan barring any conditions at the BZA hearing that may be imposed;
- Any further development will require Building Department and Planning Review;

- (C) **granting the conditional use shall not conflict with the general purposes of the Zoning Ordinance or with the goals and objectives the Comprehensive Plan;**

Findings:

- The zoning ordinance allows for Fire Station as a conditional use in the RM15 zone;
- The Comprehensive Plan designates the site as MUA Mixed Residential;
- MUA Mixed Residential designation encourages residential uses;
- The Comprehensive Plan states: “Mixed residential neighborhoods accommodate a wide array of both single-family and attached housing types, integrated into a cohesive neighborhood. They may also include neighborhood commercial uses as a local amenity;”

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- RM15 zoning minimum lot size requirement is 0.115 acres;
- The petition site is 0.94 +/- acres;
- The petitioner’s finding states, “*granting the conditional use will not conflict with the general purposes of the Zoning Ordinance or with the goals and objectives of the comprehensive plan. The District is expanding January 1, 2021, to include the unincorporated areas of Van Buren and Bloomington Townships. At that time, the District will need more officers on duty. The Property will be used as an additional building for Fire Station 11, which is located directly to the north of the Property. Battalion Chiefs will spend their shifts at the Property and respond to emergency runs from the Property. One or two personnel will be at the Property at a time--either Battalion Chiefs or the Chief. The use of this Property as a fire station will “promote the public health, safety, morals, comfort, convenience and general welfare of the County.” (800-2(B)) The Property’s location next to existing Fire Station 11 makes it an ideal location, as it will allow the Battalion Chiefs to easily coordinate with the firefighters in Fire Station 11. The Property can be utilized for the District’s proposed purpose with minimal changes to the Property. If the District had to secure other property or add additions or improvements to its properties for this purpose, it would incur a significant cost to do so.*”

(D) the conditional use property can be served with adequate utilities, access streets, drainage and other necessary facilities;

Findings:

- See Findings (B);
- The conditional use property can be served with adequate facilities;
- The Drainage Engineer has approved the site plan;
- The Highway Engineer has approved the site plan;

(E) the conditional use shall not involve any element or cause any condition that may be dangerous, injurious or noxious to any other property or persons, and shall comply with performance standards delineated in this ordinance;

Findings:

- The petitioners will be required to comply with the Performance Standards set forth in Chapter 802-4 of the Monroe County Zoning Ordinance;
- There is a working fire station located in the adjacent northern property owned by the petitioner;
- The petitioner’s finding states, “*We do not believe the use involves any element or will cause any condition that may be dangerous, injurious or noxious to any other property or persons. The fire station use of the Property will promote the public health, safety, and general welfare of the County. Otherwise, the District shall comply with performance standards delineated in this ordinance;*”

(F) the conditional use shall be situated, oriented and landscaped (including buffering) to produce a harmonious relationship of buildings and grounds with adjacent structures, property and uses;

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Findings:

- Approval of the conditional use will not produce a discordant relationship between the petition site and its surrounding area;
- A site plan has been approved that meets landscaping requirements including street scape and buffering to the east;
- The petitioner will be using the existing structure with on exterior changes;
- The petitioner’s finding states, *“The Property will continue to produce a harmonious relationship of building and grounds with the adjacent structure. The District is making no changes to the exterior of the Property, other than the landscaping as indicated on the Site Plan, so the Property will retain its residential appearance, keeping it harmonious with the properties to the east and west. Moreover, Fire Station 11 is situated directly north of the Property, so the Property’s use as a fire station will be harmonious with the existing Fire Station to the north;”*

(G) the conditional use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood;

Findings:

- The surrounding uses in the area are fire station to the north and residential with commercial to the east and southwest;
- The petitioner’s findings state, *“As stated in above (F), we believe the Property will fit in with the adjacent structures and properties. Moreover, the District will implement the landscaping plan as indicated in the submitted Site Plan;”*

(H) the conditional use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and,

Findings:

- The petition site contains on driveway with two indoor parking spaces and two outdoor spaces and additional parking located north with the working fire station;
- Planning has approved the parking plan;
- The Highway Department requires the turnaround to not be used for parking so as to not have vehicles back out onto the street;
- There is a note on the plat for the turnaround to not be used for parking;
- The petitioner’s finding states, *“The Property has parking, as indicated on the Site Plan. The District only intends on typically using one or two spaces for the Battalion Chiefs at a time. It is anticipated that they will need to respond five times or less within a 24 hour period. There will otherwise be minimal traffic to the Property. This amount of traffic will likely be less than or equal to its current residential use. For example, the most-recent tenants of the Property had five vehicles parked at the Property that were used regularly. If additional parking is advisable or required, the Property can utilize the existing parking lot at Fire Station 11;”*

(I) All permits required by other Federal, State and local agencies have been obtained.

Findings:

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- Any further development will require Building Department and Planning Department review;
- The petitioner’s finding states, *“We do not believe any additional permits are required. The Monroe County Highway Department has been consulted and the Department does not believe a driveway permit is required. No construction, additions, or improvements are being done to the Property other than painting and improving the floor coverings. The District does not believe a building permit is required. If any additional permits are required, the District will make all necessary efforts to obtain those permits;”*

All conditional uses are subject to the criteria established in Section 813-10(B)(10). Additional criteria as specified in this section must be met by the following categories of conditional use.

Fire and Police Stations

- (a) Shall have adequate access to collector or arterial streets; and**

Findings:

- The petitioner has requested the use of Fire Station per submitted site plan, and if approval is granted the standards within this section apply to the requested conditional use;
- E Rhorer Road is a Minor Arterial in the Thoroughfare Plan and the site derives access from E Rhorer Rd;
- The Highway Department has approved the site plan and the driveway;
- The petitioner’s finding states, *“We believe the Property has adequate access to collector or arterial streets. The access to Rhorer Road will be sufficient for the District’s purpose. There will only be one or two Battalion Chiefs or the Chief responding from the Property at a time. The Battalion Chiefs will each have an SUV vehicle that they may use to respond to emergencies. All fire engines and all equipment will continue to respond from Fire Station 11 and not the Property;”*

- (b) Design of the structure and the site shall be compatible with the surrounding area.**

Findings:

- The proposed fire station will be an extension of the fire station located directly to the north;
- The petitioner’s finding states, *“We believe the design of the structure and the site will be compatible with the surrounding area. The District is making no changes to the exterior of the Property, other than the landscaping as indicated on the Site Plan, so the Property will retain its residential appearance, keeping it compatible with the properties to the east and west. Moreover, Fire Station 11 is situated directly north of the Property, so the Property’s use as a fire station will be compatible with the existing Fire Station to the north.”*

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QUESTIONS FOR STAFF – 2012-CDU-06 – Monroe Fire Protection

Kaczmarczyk: Any questions for Tammy? No questions for Tammy, ok. Is the petitioner here and would they like to speak?

**PETITIONER/PETITIONER'S REPRESENTATIVE –
2012-CDU-06 - Monroe Fire Protection**

Bartlett: This is Christine Bartlett. I represent the Fire District. I believe the Fire Chief is also on the call and Bill Riggert, who...

Kaczmarczyk: Are you a lawyer Christine?

Bartlett: Yes I am.

Kaczmarczyk: Ok, so I do not have to swear you in. Alright, proceed.

Bartlett: The only things that I would mention is Ms. Behrman thank you so much for you guidance through this. This is going to be a really light use. You know, you think fire station you think big engines but that's not going to be how this building will be used. As Ms. Behrman mentioned this is just going to be a place to house the battalion chief and chief from time to time when they are on shift, so when they are sitting around waiting to be on calls, maybe waiting to be on meetings or doing paperwork and waiting on emergency runs, they will respond from this property instead of the station, which is directly to the north. They won't be responding in big fire trucks or engines. Those will be housed at the station. They will just be using an SUV type vehicle. The only other thing that I would mention is that this is really an efficient use for the fire district to be able to utilize this building. They have owned it for a long period of time but with the recent expansion and with needing to have those extra chiefs on shift and have a place to house them while they are on shift, this really made a lot of sense. It required very minimal changes to the property, really just painting and updating to the flooring. So, that is all that I wanted to throw in there. I will let the chief if he wants to bring up anything that I missed.

Kaczmarczyk: Ok. Anyone else here who would like to speak on behalf of this petition?

Dillard: This is Dustin Dillard the Fire Chief with Monroe Fire District.

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

Dillard: I do.

Kaczmarczyk: Ok, thank you. Proceed.

Dillard: First off, I would like to thank Tammy. Christine has told me multiple times that Tammy was a major help. The tenant that was in this home when we contacted them to discuss what things looked like for their future and the timing of this just worked out right. A home that they had been interested in Monticello, Indiana had just become available and they were actually planning to give

DRAFT

us notice. So, things worked out. We weren't able to take possession of the home until October and when we got in there we realized that it really needed painting and the flooring needed replaced if we were going to use this for this. So we go with Christine we go with the Building Department and go the ball rolling and everyone really expedited this. The merger took affect January 1st, five days ago. Everything is going really well. But we would love to get this approved and fully implemented so thank you all for your time and consideration.

Kaczmarczyk: Anybody have any questions?

Guerrettaz: I would just like to add to Ms. Bartlett. I think what she said was exactly what I thought when I saw the use. It is a very efficient use of their resources in my opinion and people probably won't know that there is a change on that property. Nice job on utilizing your resources to use something that you have already got for something that you can fabricate into something that is going to be helpful.

Kaczmarczyk: Anyone else here that would like to speak on behalf of this petition? Seeing none? Anyone here wish to speak against this petition?

Nester Jelen: I am not seeing anyone.

Kaczmarczyk: Would someone like to make a motion?

Hosea: I can do that.

Kaczmarczyk: Ok.

SUPPORTERS – 2012-CDU-06 - Monroe Fire Protection: None

FURTHER SUPPORTERS – 2012-CDU-06 - Monroe Fire Protection: None

REMONSTRATORS - 2012-CDU-06 - Monroe Fire Protection: None

ADDITIONAL QUESTIONS FOR STAFF - 2012-CDU-06 - Monroe Fire Protection: None

FURTHER QUESTIONS FOR STAFF – 2012-CDU-06 - Monroe Fire Protection

Hosea: **In case number 2012-CDU-06, the Monroe Fire Protection District request for Conditional Use Chapter 813, I recommend that we approve the request based on findings of fact.**

Kaczmarczyk: I will **second** that. Call the roll, please.

Nester Jelen: You are on mute, Larry.

Kaczmarczyk: Popular words of the pandemic, you are on mute.

DRAFT

Wilson: Alright, I didn't want my dog to vote. Again the vote is on petition number 2012-CDU-06, Monroe Fire Protection District request for Conditional Use under Chapter 813 for a fire station. The motion is to approve the conditional use based upon the findings that the proposed structure meets the conditions set forth in Chapter 813. Again, a vote in favor is a vote to approve the conditional use. Vicky Sorensen?

Sorensen: Abstain.

Wilson: I note your abstention. Margaret Clements?

Clements: Yes.

Wilson: Bernie Guerrettaz?

Guerrettaz: Yes.

Wilson: William Hosea?

Hosea: Yes.

Wilson: Mary Beth Kaczmarczyk?

Kaczmarczyk: Yes.

Wilson: The petition is approved by 4 voting in favor and 1 abstention.

The motion in case 2012-CDU-06, Monroe Fire Protection District Conditional Use to Chapter 813, in favor of approving the Conditional Use, carried (4-1-abstention).

DRAFT

NEW BUSINESS

8. 2012-CDU-07 Rumpke Conditional Use for Central Garbage/Rubbish Collection Facility to Chapter 813

One (1) 16.77 acre parcel in Perry Township, Section 29 at 5220 S Production DR. **Zoned HI**. Contact dmyers@co.monroe.in.us

BOARD ACTION: Kaczmarczyk introduced the petition.

STAFF ACTION:

Myers: Jackie, do you mind running this one too?

Nester Jelen: Sure.

Myers: Thank you.

Nester Jelen: I also have the video at the end, Drew, for the petitioner and then just make a quick note about the parcels involved.

Myers: Yes, I will make that note right now in fact. I got a message from the petitioner's representative that there is another lot involved with this petition that we did not notice before hand. I was going to look at the submitted site plan draft to see where that lot is located. But I will make note that this is for 2 lots, not just the 1 lot that is listed throughout this packet report. We will get that straightened out more in our discussion section and when we get to the decision. Ok, this is the Rumpke Waste and Recycling Conditional Use Variance. It is for a Central Garbage/Rubbish Collection Facility. It is located at 5220 South Production Drive. It is in Perry Township, Section 29 and it is zoned Heavy Industrial. The petitioner is seeking Conditional Use approval for the Central Garbage/Rubbish Collection Facility. Chapter 802 and 813 of the zoning ordinance state that a Central Garbage/Rubbish Collection Facility is not permitted in the Heavy Industrial zone unless it is approved as a Conditional Use. The petition site is 16.77 acres that is with my understanding the primary lot. I am not sure how much acreage the secondary lot will add on. We will get to that. It is currently vacant. The petitioner is proposing to conduct the Central Garbage/Rubbish Collection Facility use and develop a recycling/waste transfer campus to enhance recycling capabilities in Monroe County. Chapter 802 has a definition for Central Garbage/Rubbish Collection Facility and that is public or private establishment contracted to remove solid waste from residential or commercial uses and transport such wastes to a locally operated public or private landfill or other waste collection facility, designated for consolidation of garage and recycled matter. In addition to Conditional Use approval from the Board of Zoning Appeals, Special Condition #33 applies to this use. I have included that condition on the next page. It is pretty wordy but the gist of is that the petitioner will have to submit a commercial site plan and will be reviewed by planning staff for a lot of those conditions that are noted in Special Condition #33. Here is that Special Condition. It is also included in your packet. Again, the major gist is that it will require a lot of these during the commercial site plan stage. If you will note letter F, you can see Exhibit 4 in the packet for this petition and that talks about having full compliance with the provisions of the Monroe County Zoning Ordinance 2007-18. There are some special conditions for this site associated with that ordinance. Here we have the location map. As I stated before, it is in Perry Township. It is on South Production Drive. You can see West Vernal Pike is

DRAFT

to the north there. Here we have the current zoning map and the Comprehensive Plan. Again, it is zoning Heavy Industrial and the Comprehensive Plan has it designated as MCUA Employment. Here we have the site conditions and the slope map. The site conditions for this property are as follows; it is a vacant former fill site, it intersects with South Victor Pike, getting access from South Production Drive. Sidewalks were installed in the area as part of the Roberson Industrial Park Major Subdivision, which this is a lot included in that subdivision. There are no known karst features or floodplain areas on this petition site and there is also a dry-stack limestone wall along the southern property boundary on this property. Interest in the dry-stack limestone wall did go before the Historic Preservation Board and they did have a recommendation for a condition of approval for this petition. I will cover that when we get to the approval stage or the recommendation stage, I should say. But as of right now their draft site plan simply has the dry-stack limestone wall designated and it says 2 remain undisturbed. The Historic Preservation Board had a little bit more to say about that and I will get to that later. Here we have some aerial photographs of the petition site. I am just going to go ahead and go through these. The structure, the triangular structure at the bottom right corner, that's part of the Dillman Wastewater Treatment Facility, to give you a better idea of where in the county this location is. More photographs of the site. It is too farm high up to see where the dry-stack limestone wall is but when we look at the draft site plan you will see where they have it designated. Here we have a conceptual site plan model provided by the petitioner to give you an idea of what kind of facilities are going to be on site. There will be 2 structures and then this area with the red is a container storage roll-off area. Those containers will be empty and that area is proposed to be gravel. The rest of it is intended to be paved with parking for trucks and enough space for trucks to move around as well as parking for employees. The top right structure is an office and then the left structure is a larger facility I believe for processing some of the materials and trucks as well. Here we have the petitioner's submitted letter to the Board of Zoning Appeals stating their intent to establish a recycling waste transfer facility on the property through the use of Central Garage/Rubbish Collection Facility as well as they are noting that they have these special conditions, Special Condition #33, that they are aware of and that they will be following those in the site plan review stage. Here we have the draft site plan. You will notice the 2 structures on the northern portion of the lot as well as the container roll-off storage area that is proposed to be gravel. Where Jackie just had a cursor is the parking area where they will have recycling receptacles. There are 2 proposed bioretention areas. There is one to the southwest and one to the southeast. The southeast one is a backup if the southwest one does not work out. Again, a lot of this on here will be reviewed by staff during the commercial site plan stage. I think there is that northern lot where Jackie has the cursor that is the additional lot that they were talking about before the meeting this evening that we want to make sure that we incorporate with this variance proposal or petition, I should say, excuse me. Just some more pages of the draft site plan, a grading page as well as a landscaping page. Again, a lot of this will be covered by staff review. Here I included the Roberson Industrial Park Major Subdivision Plat. You will notice that Lot 16, which is in the top left hand corner, that is the additional lot that they are including and Lot 25 is the primary lot for this petition and proposed project. Here I included the resolution from the Board of Commissioners that has more information about the use of this property through Monroe County Solid Waste Management District. You can review that language on your own. If we have any questions about it we can go through it. Here is the recommended motion. Planning staff recommends approval to the Conditional Use Variance Central Garbage/Rubbish Collection Facility of Chapter 802 and 813, based on the findings of

DRAFT

fact, subject to the Monroe County Highway and Drainage Engineer reports with the following conditions, and this came from the Historic Preservative Board Meeting;

- 1) The petitioner work with a historic preservation professional to produce a preservation plan for the dry-stack limestone wall located on the petition site. The preservation plan must include a field and condition survey as well as a long-term maintenance commitment.
- 2) MS4 Coordinator must approve the run-off collection system in the Roll-off Container Storage Area, including any required collection and treatment system.

That is just to make sure that we do not influence any ground water in a negative way or other drainage characteristics based on that gravel area that will be paved. I will now take any questions.

RECOMMENDED MOTION

Approve the conditional use for Central Garbage/Rubbish Collection Facility of Chapter 802 and 813, based on the findings of fact, subject to the Monroe County Highway and Drainage engineer reports with the following conditions:

1. The petitioner work with a historic preservation professional to produce a preservation plan for the dry-stack limestone wall located on the petition site. The preservation plan must include a field and condition survey as well as a long-term maintenance commitment.
2. MS4 Coordinator must approve the run-off collection system in the Roll-off Container Storage Area, including any required collection and treatment system.

FINDINGS OF FACT FOR CONDITIONAL USE: Central Garbage/Rubbish Collection Facility

In order to approve a conditional use, the Board must have findings pursuant to Chapter 813-5 Standards for Approval. The Board must find that:

A. the requested conditional use is one of the conditional uses listed in Chapter 813-8 (for the traditional County planning jurisdiction) or Table 33-3 (for the former Fringe) for the zoning district in which the subject property is located. In addition to the other relevant standards imposed by or pursuant to this chapter, the standards, uses and conditions set forth in Section 813-8 are hereby incorporated as standards, uses and conditions of this chapter;

Findings:

- The proposed use, Central Garbage/Rubbish Collection Facility, is permitted only through the approval of a Conditional Use Permit, per Chapter 802 and Chapter 813;

B. all conditions, regulations and development standards required in the Zoning Ordinance shall be satisfied;

Findings:

- Chapter 802-4 of the Monroe County Zoning Ordinance as a condition of Site Plan approval;
- The petitioner will be required to submit a site plan meeting all applicable standards for parking, landscaping, signage, etc. prior to receipt of a Land Use Certificate;
- The petitioner will be required to comply with Condition no. 33 set forth in the Chapter 802 Use Table.

C. granting the conditional use shall not conflict with the general purposes of the Zoning Ordinance or with the goals and objectives the Comprehensive Plan;

Findings:

- Central Garbage/Rubbish Collection Facility is a permitted conditional use within the Heavy Industrial (HI) designation and does not appear to conflict with the general purposes of the Zoning Ordinance;
- The Monroe County Urbanizing Area is designated as Employment, which encourages employment-generating uses;

D. the conditional use property can be served with adequate utilities, access streets, drainage and other necessary facilities;

Findings:

- Production Drive, a local road;
- The site is served by the City of Bloomington Utilities;
- The site not only proposes to modify an existing detention pond as required to provide adequate detention and water quality, but also proposes a separate location to serve as a detention pond if needed;
- The petitioner submitted a traffic impact study at the request of the Monroe County Highway Department;

E. the conditional use shall not involve any element or cause any condition that may be dangerous, injurious or noxious to any other property or persons, and shall comply with performance standards delineated in this ordinance;

Findings:

- The petitioner will be required to comply with the Performance Standards set forth in Chapter 802-4 of the Monroe County Zoning Ordinance as a condition of Site Plan approval.

F. the conditional use shall be situated, oriented and landscaped (including buffering) to produce a harmonious relationship of buildings and grounds with adjacent structures, property and uses;

Findings:

- The petitioner shall comply with the performance standards delineated in the ordinance, specifically, but not limited to Chapters 802, 804, 813, 815, and 830;
- The draft site plan outlines the following: a 23,677 sq. ft. waste and recycling building, an 11,243 sq. ft. office and maintenance building, a proposed paved parking area for collection trucks and employees, and a gravel area designated for the storage of empty roll-off containers;
- The proposed site plan may require improvements which could positively impact the visual impression and existing environment;

G. the conditional use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood;

Findings:

- The petitioner shall comply with the performance standards delineated in the ordinance, specifically, but not limited to Chapters 802, 804, 813, 815, and 830;
- The proposed site plan may require improvements which should positively impact the visual impression and existing environment;
- The petition site is within an industrial park;

H. the conditional use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and,

Findings:

- The petitioner must comply with the standards set forth in Chapter 806 (Parking);
- The overall petition site has one point of access at the end of the cul-de-sac on S Production DR (a local road);

I. All permits required by other Federal, State and local agencies have been obtained.

Findings:

- Driveway Permits will be required for the ingress/egress as part of the site plan review;
- Building permits will be required for new proposed structures.

DRAFT

33. Central garbage and rubbish collection facilities, including recycling centers, shall be permitted subject to the following conditions:

A. Unloading areas for materials must be not less than fifty (50) feet from any adjoining property, unless unloading is conducted entirely within a building.

Findings:

- This requirement will be met at the site plan review stage. The preliminary site plan complies with this requirement.

B. Portions of a site used for truck maneuvering or the storage, bailing, processing, or other handling of materials must be enclosed by an opaque fence or wall with a non-glare finish not less than eight (8) feet in height.

Findings

- This requirement will be met at the site plan review stage;

C. Loading and unloading areas must be paved.

Findings

- This requirement will be met at the site plan review stage. The preliminary site plan complies with this requirement.

D. The site must be kept clear of litter, scrap paper, or other refuse matter.

Findings

- This requirement will be met at the site plan review stage. The preliminary site plan complies with this requirement.

E. Chemical or heating processes shall not be used on materials.

Findings

- This requirement will be met at the site plan review stage. The preliminary site plan complies with this requirement.

F. Prior to application for Conditional Use permit, facility must be shown to have fully complied with the provisions of Monroe County Ordinance 2007-18 and Chapter 360 of the Monroe County Code.

Findings

- Exhibit 4 – Resolution 2020-52 – shows proof that the petitioner complied with Ordinance 2007-18.

G. If the Conditional Use is approved, all required permits from the Indiana Department of Environmental Management (IDEM) must be issued prior to filing an application for an Improvement Location Permit.

Findings

- This requirement will be met at the site plan review stage.

The MS4 Assistant will also be looking for Rule 5 information as this will disturb over 1 acre of soil.

DRAFT

QUESTIONS FOR STAFF – 2012-CDU-07 – Rumpke

Kaczmarczyk: Anyone have any questions for Drew? Is the petitioner or the representative here? Mr. Butler?

PETITIONER/PETITIONER'S REPRESENTATIVE – 2012-CDU-07 – Rumpke

Butler: This is Daniel Butler with Bynum Fayno and Associates, with me is a whole team and I will let them introduce everybody and kind of do a little presentation here.

Jefferson: Hi. This is Amanda Jefferson, Site Engineer with Rumpke. First off, just want to thank you guys for the opportunity to discuss Rumpke's proposed resource...

Kaczmarczyk: Ok, Mr. Butler, is an attorney. Correct?

Butler: I am a Civil Engineer.

Kaczmarczyk: Oh, ok. I need to swear you guys in. Do you swear to tell the truth and nothing but the truth?

Butler: I do.

Kaczmarczyk: Alright, thank you. I am sorry, the other lady that was speaking do you swear to tell the truth?

Jefferson: Amanda Jefferson.

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

Jefferson: Yes, ma'am.

Kaczmarczyk: Thank you ma'am, go ahead.

Jefferson: I do need to warn you guys, I have got a feisty little 2 year old running around, so you might hear some Mickey Mouse Club in the background. She thinks she runs the show and she is absolutely right but I am going to run through this and bear with me. Chairman and Board we want to thank you for your time. We also do want to point out the Planning Commission for their efforts and thoroughness of the presentation. So far we really appreciate the feedback we have received in the community and we will continue to adjust our approach based on any more input from the public and local stakeholders and the Board as well. We have a whole crew of Rumpke team members present here today as well as a few of our project partners to discuss any questions you may have. The team present from Rumpke includes Director of Development Ted Nera, Director of Recycling Steve Sargent, Daniel Butler from Bynum Fanyo and Associates, Matt Brown of ANF Engineering, we also have present Area Present Jeff Rumpke, Region Vice President Eric Curtis, as well as general counsel Jim Fastin and Dustin Plumber from Miller Groaner. In essence of time we do want to keep our remarks brief and if it is ok with the Board, our team would like to

DRAFT

share a quick animation on what the site will look like and daily operations. We think it speaks more than we probably could. So, at that point, I will hand it over to Ted Nera after the video.

Nera: My name is Ted Nera.

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

Nera: I do.

Kaczmarczyk: Ok, thank you. Please proceed.

Nera: Thank you. I don't know if you guys can see my face or not.

Kaczmarczyk: I cannot.

Nera: I might be having trouble with my and that is probably a great thing, I am having trouble with my video for some odd reason. But Board and Chairman I would like to thank you tonight for your time. We had some pretty groovy music with that video and for whatever reason and I think it was a little bit of a 70's kind of 80's remix and it didn't come through.

Kaczmarczyk: No didn't hear the music.

Nera: No. Sorry about that. We want to thank you for the opportunity and appreciate Amanda and the team on the phone with us today. As you know, Rumpke has made multiple local presentations on this project both to the solid waste district and to the Board of Commissioners. We are always excited to talk about the project, how it will improve both environmental sustainability and economic value for the community through jobs and overall lower costs. We thought the video would just give you an idea of how the operations would look. I think a lot of people that aren't familiar with these types of operations can imagine a lot of different things. We did have the opportunity as you pointed out, to talk to the Historic Preservation Board. Here have been some conversations about the stone sack wall. The location of that wall and we have the site plan pulled up is on the southern boundary and it runs pretty much all along the southern boundary. I don't think it is regulated but Rumpke has made and has consistently made a commitment to the community throughout this process that will look to preserve and protect that, that stock stack wall. We do need to find an expert to help us with that journey as we move through the permitting steps both locally there on the commercial site plan, try to develop that, not only do that survey and assessment of the wall itself but also put together kind of a long-term maintenance strategy for the wall itself. So, again there is no intentions to disturb it. I think it is more about removing some of the vegetation around that wall so the vegetation itself does not disturb the wall long-term. So, as Drew pointed out and I think Jackie point there was Lot 16 in the upper left hand corner, we really don't intend to be beyond that parcel. It does have access to another drive in the commercial industrial subdivision. We just want to make sure there is a little bit of a bleed over of the turning area. We just wanted to make sure that you were aware of that and as appropriate it is included in this process. I think again, we appreciate the opportunity. We love the project. We hope the community loves the project. We made a great commitment and tried to reach out and calibrate with various neighbors, stakeholders in the community. We have managed a social media cite to

DRAFT

solicit input and reach out to folks individually as they contacted us. The current pandemic environment has made it a little difficult for us to do some door knocking and shaking hands as we would like to do but again we appreciate the opportunity. So, I just want to make the team and us available for any questions that you may have about the project.

Kaczmarczyk: Ok. Does the Board have any questions?

Guerrettaz: I have got a quick question Mary Beth. Staff can probably help with this. In the petitioner's letter they list Commitments A-F that will run with the property and title, those are taken directly from the Conditional Use Ordinance. So those would not be necessary to be restated in any motion would they?

Myers: No, I don't believe that they would need to be restated in a motion because those are conditions that are automatically ...

Guerrettaz: Ok, I thought so. Thank you, I just wanted to make sure.

Kaczmarczyk: Any further questions for the petitioner or staff?

Hosea: Some of the neatest trash that I have ever seen.

Kaczmarczyk: Yes, the video did have very neat looking trash. Is there anyone else here who wishes to speak on behalf of this petition? Seeing none. Is there anyone here who would like to speak against this petition?

Nester Jelen: I am not seeing anyone Mary Beth. I am going to just note that if you would like to speak go ahead and press the unmute. I believe if you are on the phone and you wish to speak on zoom it is star 6. I am not seeing anyone Mary Beth.

Kaczmarczyk: Alright then, are we ready for a motion?

Guerrettaz: I can do this.

Kaczmarczyk: Thank you Bernie.

SUPPORTERS – 2012-CDU-07 – Rumpke: None

FURTHER SUPPORTERS – 2012-CDU-07 – Rumpke: None

REMONSTRATORS - 2012-CDU-07 – Rumpke: None

ADDITIONAL QUESTIONS FOR STAFF – 2012-CDU-07 – Rumpke: None

DRAFT

FURTHER QUESTIONS FOR STAFF –2012-CDU-07 – Rumpke

Guerrettaz: **In the matter of case number 2012-CDU-07, Rumpke Waste and Recycling Conditional Use for a Central Garbage/Rubbish Collection Facility at 5220 South Production Drive, I move that we approve the Conditional Use for the Central Garbage/Rubbish Collection Facility of Chapter 802 and 813 based on the findings of fact, subject to the Monroe Highway and Drainage Engineer reports with the following conditions;**

- 1) The petitioner work with a historic preservation professional to produce a preservation plan for the dry-stack limestone wall located on the petition site. The preservation plan must include a field and condition survey as well as a long-term maintenance commitment.**
- 2) MS4 Coordinator must approve the run-off collection system in the Roll-off Container Storage Area, including any required collection and treatment system.**

Sorensen: I **second**.

Kaczmarczyk: Call the vote Larry, please

Wilson: The vote is on petition number 2012-CDU-07, the Rumpke petition for a Conditional Use for a Central Garbage/Rubbish Collection Facility under Chapter 813. A vote in favor is a vote to approve the conditional use, subject to the conditions of the ordinance and based upon the findings of fact, subject to Monroe County Highway Drainage Engineer reports and with the following explicit conditions;

- 1) The petitioner work with a historic preservation professional to produce a preservation plan for the dry-stack limestone wall located on the petition site. The preservation plan must include a field and condition survey as well as a long-term maintenance commitment.
- 2) MS4 Coordinator must approve the run-off collection system in the Roll-off Container Storage Area, including any required collection and treatment system.

Again, a vote in favor is a vote to approve the conditional use with conditions set forth in the ordinance and in the motion. Margaret Clements?

Clements: Yes.

Wilson: Bernie Guerrettaz: Yes.

Wilson: William Hosea?

Hosea: Yes.

Wilson: Mary Beth Kaczmarczyk?

Kaczmarczyk: Yes.

Wilson: Vicky Sorensen?

DRAFT

Sorensen: Yes.

Wilson: The conditional use is approved by a 5 to 0 vote.

Nester Jelen: **We will note for the record also that that included sites 5220 Production Drive as well as 5147 South Commercial Street. Those were the 2 parcels involved.**

Guerrettaz: Do I need to amend that, the first part of my location, Jackie, to make sure that is clear?

Nester Jelen: Larry, do you think we should amend it?

Wilson: I think the petition is for the conditional use so I don't think there is any need as long as the petition, as long as the real estate is subject to the petition of the conditional use I don't think you to explicitly set forth the description in the ordinance or in the motion.

Schilling: I think it is clear enough.

Butler: Thank you very much.

The motion in case 2012-CDU-07, Rumpke Conditional Use for Central Garbage/Rubbish Collection Facility to Chapter 813, in favor of approving the variance with conditions as per sent in the motion, carried unanimously (5-0).

DRAFT

REPORTS:

Planning/Wilson: I have no reports.

Legal/Schilling: No report.

Guerrettaz: Mary Beth, I have a quick comment. Larry, your explanation on that first petition was very helpful, thank you for that.

Wilson: Ok, thanks.

Kaczmarczyk: Thank you. Anybody else?

Clements: Thank everybody and I think I would like to make a **motion that we adjourn.**

Kaczmarczyk: I will **second** that motion, Margaret and we can all go back to watching the news.

Clements: A lady died.

Kaczmarczyk: I saw that.

Clements: Terrible. Take care everyone. Be safe.

Kaczmarczyk: Be good to yourselves.

The meeting adjourned at 6:53 P.M.

Sign:

Attest:

Mary Beth Kaczmarczyk, Chairman

Larry J. Wilson, Secretary

DRAFT