

HIGHLAND BOARD OF ZONING APPEALS
Minutes of the Meeting of
June 23, 2021

The Highland Board of Zoning Appeals met on the Zoom Platform, Meeting ID: 949 5564 9738, Passcode: 965343 on June 23, 2021 at 6:30 p.m. Central Time (US and Canada). Mrs. Murovic called the meeting to order at 6:30 p.m. The meeting opened with the Pledge of Allegiance led by Mrs. Murovic.

ROLL CALL: Present were Board Members Mr. Martini, Mr. Grzynski, Mr. Thomas and Mrs. Murovic. Absent was Mr. Helms. Also present was Building Commissioner/Zoning Administrator, Mr. Ken Mika and Town Attorney, Mr. John Reed.

MINUTES: The minutes of the May 26th, 2021 meeting were approved as posted.

ANNOUNCEMENTS: The next meeting of the Board of Zoning Appeals to be July 28th, 2021.

COMMUNICATIONS: Mrs. Murovic stated that there were two letters and a petition that had been received from Scott Yahne that would be presented with the new business for the F & E Ventures petition.

Old Business: Approval of Findings of Fact for Price Point Builders, LLC, PO Box 1343, Crown Point, IN 46308, requesting a Use Variance to allow for the construction of two Single Family Homes on the two lots located at 8535 Henry Street, Highland, IN 46322. {HMC 18.40.020} (A) Limitations of use. Dwelling units are not permitted below the second floor on lots which contain a business use. The property is zoned B-2 (Central Business District). The existing residential use is legal non-conforming.

Mr. Grzynski motioned to approve the Findings of Fact for Price Point Builders. Mr. Thomas seconded and the motion was approved with a roll call vote of 4 – 0.

Old Business: Approval of Findings of Fact for RPS Highland, LLC, 8301 Indianapolis Blvd., Highland, IN 46322, C/O Jared Tauber, 1415 Eagle Ridge Drive, Schererville, IN 46375, requesting a Use Variance to use the property at 8301 Indianapolis Blvd., Highland, IN 46322 for a Logistics Hub and Storage Facility for car parts. {HMC 18.45.030} (C) (h) Permitted uses restricted in Overlay District.

Mr. Martini motioned to approve the Findings of Fact for RPS Highland, LLC. Mr. Thomas seconded and the motion was approved with a roll call vote of 4 – 0.

Old Business: Approval of Findings of Fact for ASA ABOVE THEREST, LLC, 702 E. Washington Street, Shelbyville, IN 46176, requesting a variance to install a sign measuring 446.2 square feet at the location of 10251 Indianapolis Blvd., Highland, IN

46322, which exceeds the standard allowed square footage in the Zoning Ordinance. {18.83.030} (B) (3) (b) For multi-use and mixed-use buildings, the maximum gross area for permanent business signs shall be either one square foot for each linear foot of frontage that the building occupies, or 150 square feet, whichever is less.

Mr. Martini motioned to approve the Findings of Fact for RPS Highland, LLC. Mr. Grzymiski seconded and the motion was approved with a roll call vote of 4 – 0.

New Business: Public Hearing for F & E Ventures, LLC, 473 N. Oak Street, Elmhurst, IL 60126, C/O Scott Yahne, 9301 Calumet Avenue, Munster, IN 46321, requesting a Use Variance to construct a Car Wash in an Overlay District on the property located at 8955 Indianapolis Blvd., Highland, IN. {HMC 18.45.030} (C) (h) Permitted uses restricted in Overlay District. {HMC 18.115.050} Use Variance to permit Car Wash, which is not a permitted use.

Mr. Scott Yahne introduced himself and stated his address in Munster, adding Suite 2F.

Mrs. Murovic asked Mr. Reed if the Proof of Publication was in order. Mr. Reed confirmed that it was in order and that it was from the previous meeting in May, which had been deferred to June's meeting. He continued that the proof was published more than 10 and less than 30 days prior to the meeting, then stated he believed that Mr. Mika had confirmed the sign was properly posted on the property, also. Mr. Mika confirmed that was correct.

Mr. Yahne stated he would be representing F & E Ventures, LLC, the potential purchaser of 8945 – 8955 Indianapolis Blvd. and thanked the Board for allowing them to view and listen in to the Study Session for this meeting and he continued that the points brought up in the session would be addressed this evening. He then introduced the other people present that would be contributing in tonight's meeting, namely Erol Stapleton and Frank Caruso, principals of F & E Ventures, Real Estate Agent Bill Loy and Architect Les Dreischerf. He stated he would like to refer to them for their expertise and comments throughout his presentation. Mrs. Murovic asked that they state their name & address as they commented. Mr. Yahne replied that they would adhere to that.

Mr. Yahne stated they were seeking a Use Variance this evening, due to the Indianapolis Boulevard Overlay District, which did not permit a Car Wash. He added the underlying zone of the property was a B-3 zone, which did permit a Car Wash. He continued that Mr. Thomas had asked a question in the Study Session he wanted to address. The question was are there other uses that would be prohibited in an Overlay District that might not otherwise be prohibited in a B-3 district. Mr. Yahne continued that there are, in fact, 40 other uses that would be prohibited in an Overlay district, but permitted in the underlying B-3 zoned district. He mentioned a few as automobile service repair shops, filling stations, laundromats, dry cleaners, auto sales and strip shopping centers, to name a few. He continued a number of Towns around us have similar guidelines in these districts, which have all kinds of reasons as to why this is enforced. There may be property challenges and although they are not PUD's, they are often considered in that

light because they are often looking for an over-arching appeal for a district. Sometimes it is to rescue a district that has fallen into dis-use, but overall is to give Boards and Commissions a guiding hand to determine the uses of these areas of special interest more than the customary zoning language would do.

Mr. Yahne continued that this particular property had two large, narrow lots adjacent to Indianapolis Boulevard and had been vacant for at least 12 years. It had housed a number of bars and restaurants in the past that were very successful, two being Players Restaurant and Lounge and Buggy's in the 1980's. After they wound down, it was vacant for a number of years before another business occupied the space that was not able to sustain a lucrative business, attracted undesirable clientele and eventually shut its doors approximately 12 years ago. Mr. Yahne went on to say that there has been vandalism on the property in the years it has been vacant, along with many ordinance violations. It also contains a large expanse of asphalt that was useful for parking in the past, but when it sits empty for many years, starts to deteriorate and collect trash, which is what is occurring today. He continued that it is not being maintained on a daily basis and has become an eyesore. He added that he does not know if there is Real Estate firm in NWI that has not tried to market this property at some point in the last 12 years. In all the numerous attempts to sell the property, it fell into the same issues with the depth of the lot. It was just not deep enough to satisfy the needs of most businesses that attempted to fill the space. They could not fit a building and parking in this lot that would permit a sustainable operation. He mentioned some of the business that were interested in the past and some even under contract, were Dunkin' Donuts, Hooters, McDonalds and BP Gas Station, among others, that all failed because they just couldn't figure out a way to orient their buildings, parking and flow of traffic. Mr. Yahne continued that the people who were really dealing with this vacant property all these years were the neighboring businesses and the neighboring home owners behind the lot. There were issues of light pollution and noise from traffic, which there was no buffer to help reduce at the moment. The home owners at the moment were literally exposed to Indianapolis Blvd. as there front yard, which was not allowed, because the use is residential.

Mr. Yahne stated that what F & E Ventures was proposing was classified as a Car Wash, but what they referred to it was an Auto Spa. He continued that they did not get into this lightly or quickly and extensive market studies had shown there is a high demand for this business usage. He stated that it would be an elevated, first-rate commercial property. The construction would be masonry built. Their dryers would be industry leading for noise restraint with dampers and other equipment to keep it minimal. Their hours of operation would be limited, being mindful of their neighbors. He added that there would be stacking on this property, allowing for queuing of 30 vehicles on-site and that they did not anticipate congestion on Indianapolis Blvd. He stated that they had very safe ingress and egress from Indianapolis Blvd. and that there were two points of entry and exit, along with an emergency exit to the alley if access was restricted from Indianapolis Blvd.

Mr. Yahne continued that the State statute describes specifically what the standards to consider are in regards to a Use Variance and that the petitioner would have to demonstrate these standards in order to convince the Board to grant this Use Variance.

He then stated these standards as: 1) The approval will not be injurious to the public health safety morals and general welfare of the community. 2) The use and value of the area adjacent to the property will not be affected in a substantially adverse manner. 3) The need for the Use Variance arises from some condition peculiar to the property. 4) Strict application of the terms of the zoning ordinance will constitute an unnecessary hardship. 5) The approval would not substantially interfere with the comprehensive plan adopted by the Town of Highland.

Addressing the first standard, Mr. Yahne stated they felt that the layout of this business would not be deleterious to public health & safety. He continued that there would be well-defined safety regulations that govern the operation of this facility. He pointed out that on the site-plan that was provided, there are two ingress and egress locations that were quite wide and would definitely accommodate at least two vehicles, with ample room beyond that in those areas. The lanes and the flow of traffic will be well marked. There will be ample room for maneuvering vehicles on the site, as well as to and from the site. Additionally, there was the emergency exit to the alley, not to gain access, but for emergency vehicle access. He continued that possibly the most important factor was queueing on Indianapolis Blvd. He stated again that this facility allowed the queuing of 30 vehicles, which wasn't theoretical, but actual. He pointed out that this was one of the benefits of the property for this usage, being long and narrow to permit this stacking, which was shown on the architectural drawing of the property provided for the presentation. In addition, this stacking did not restrict access to the 18 parking spaces available for vacuuming. He then pointed out that even on particularly busy days, with their past experience and history, they did not anticipate to have more than 30 cars in the queue on any day because most people do not want to wait that long. He continued that the building will be safe and will comply with any state or local building codes and the work will be done with only licensed contractors under the supervision of Mr. Mika. He added that if they are granted this Use Variance, they will also have to sit down with the Plan Commission and go through detailed analysis of the proposed plans. He then stated that because of the items stated, this proves that this project will not compromise the public's health, safety or welfare.

Addressing the second standard about affecting the adjacent properties adversely, Mr. Yahne stated that he felt that those properties would be affected to the contrary. He continued that right now, the property was a vacant, decrepit lot that was accumulating trash and allowed noise and light pollution to visit the neighbors, there was nobody there on a daily, weekly, or even monthly basis and the boarded up windows and billboard occupying the space certainly did not portray the Town of Highland well. He said that Erol and Frank are looking to put in a very high quality Auto Spa. It will be aesthetically pleasing and there is a market need for this type of business. He continued that they will be investing significant capital to achieve this standard of Auto Spa, but had determined it was what was needed based on their studies. Mr. Yahne stated that considering all the unsuccessful attempts to market this property, continuing on did not seem like a good alternative for anyone. He continued that considering it's been 12 years vacant, it would be difficult to find another use that could utilize this space as well as the proposed use of the Auto Spa would, due to the characteristics of the lot. He added that he felt the

presentation would show that what his clients proposed to do with the Auto Spa would be very conscientious and devoted to the neighbors. He then asked Erol Stapleton to continue because he had actually gone to visit his neighbors.

Mr. Erol Stapleton introduced himself and stated his address as 473 North Oak Street, Elmhurst, IL 60126. He stated he was excited to have this opportunity and found Highland to be a good Town. He continued that he and his partner Frank had spoken to many of the neighboring properties, but most importantly the residents on Schneider Avenue immediately behind the property to the East. He stated that after face to face conversations, they had not spoken to anybody that had reservations about their proposed use for the property, other than the possible noise from the vacuum system. He continued that their Car Wash would be a completely express model. It would be 3 minute process from the start of the kiosk through the entire wash, then the process would continue to the vacuuming stations. The components for this system would be housed inside the building, and although he could not say it was sound-proof, there would be minimal sound. He continued that it would be much quieter than the facilities that had their vacuuming units outside. He explained theirs would just be hoses coming to each station from a large central unit housed inside the building. He continued that the neighboring businesses had major concerns about the property the way it exists currently and the fact that it has been vacant as long as it has. He stated their feedback was basically that anything would be better than what they were currently looking at. He added for an operational and analysis standpoint, that he and his partner were associated with Sonny's Car Wash Manufacturing based in Florida and one of the great things they do besides state of the art equipment that is quiet, efficient, safe and most importantly, washes your car correctly, is that they also do a lot of analysis in the area. He continued that what they have found is that because of the issues that are occurring further down on Indianapolis Blvd., their business, which would be successful, would alleviate the traffic issues. He continued that the older model car washes that are full service models in the area are slower and less efficient and are creating the congestion in the street because of their processes, which caused safety issues. He concluded by saying he had not had one individual or neighboring resident tell him they were opposed to their proposal, even with circling around the entire property.

Mr. Yahne mentioned the oppositional flyers that had been posted and that they wanted to make a real effort to approach those individuals and address their concerns, engage them to possibly reach a middle-ground. He thought that was interesting because they had a petition signed by neighbors. He asked if Mr. Bill Loy would address this issue.

Mr. Bill Loy, a Realtor with McColly Realtors in Schererville introduced himself and stated his address as 850 Deer Creek Drive, Schererville, IN 46375. He continued to say that he also found this second posting of signs very curious since they had actually deferred their BZA petition in May because of the first batch of signs that had been posted and they wanted to make sure the people that had posted those signs had their concerns addressed. He continued that when they looked at the signs, everything that was listed on the signs addressed the current condition of the property without the car wash. The issues listed were light, noise, honking horns, loud music and vehicles at all

hours of the day and night. He continued the placement of the new Car Wash would alleviate all the concerns listed, due to the placement of the structure itself and the driveways towards Indianapolis Blvd., along with the extensive landscaping. He went on to say that Erol, Frank and he worked together to come up with a survey and started to visit all the neighboring residents to address their concerns. He continued to say that what they found out during this process was that nobody in those residences behind the property were responsible for the placement of those signs. Mr. Loy continued to say that he had spoken to one of the residents earlier today who had taken the signs down in the past because he did not agree with them and had not posted them. Mr. Loy asked if he had since change his opinion about the Car Wash. He answered that he had not changed his mind and that a young kid came down the alley and had posted the signs everywhere on the property without speaking to anyone. Mr. Loy asked if the kid had asked permission to post the sign, or been consulted in any way. The resident replied he had not and stated he thought it was ridiculous, before taking down another sign. Mr. Loy asked the resident about the property next door to him and that he had not been able to contact anyone there. He asked him if anyone lived there. The resident said that there had not been anyone living there for some time, even though there was a sign posted on that property, also. Mr. Loy asked the resident if it was vacant, why was there a sign there and he replied it was the same kid who had posted all of them, without asking anyone's permission. Mr. Loy then stated that what they have found is that there is somebody at work to head this off; however, it is not coming from the residents. The residents have all signed the petition to show that they approve the project. He continued that the owner of Miner Dunn stated to him how detrimental the vacant lot in its current condition is to him and his business. He continued to say that the owner of Guaranteed Auto at the corner of Lincoln and Indianapolis Blvd. stated that the current lot is such a plight and a scar on the neighborhood. He added that he first spoke to the owner of the property about 4 years ago, which is the time he has been working on selling this lot, and the owner stated that there had been many interested buyers through the years as previously mentioned, but none had been able to come up with a workable plan. He added that Erol, Frank and the team are eager to work with the Town of Highland and look forward to working with them to create a safe, workable plan that will enhance Highland and this area of the Boulevard that needs attention. He continued that the team is dedicated to the project and funded well enough to make this happen for Highland.

Mr. Yahne then addressed the third criteria standard that the need for the Use Variance arises from some condition peculiar to the property involved. He stated that was the depth and the length of the property and that it was no accident that we have not found the suitor that Mr. Loy has been looking for. The advantage of this use was that the Auto Spa required very little structure area. The building that houses the car wash had a very narrow footprint, whereas other structures required much more for the structures and the parking needed, such as strip shopping centers or medical offices. He added that in working in the past with other interested parties, they still didn't have enough space even if they were to vacate the alley, which was a difficult thing to do. The proposed Auto Spa did not need to vacate the alley and was still going work with the proposed plan. He stated he felt this was the peculiar condition to this property that existed.

Mr. Yahne continued to address the fourth standard and said that strict application of the zoning ordinance would constitute an unnecessary hardship, as had been manifested over the past 12 years. The hardship is that the property cannot be put to productive commercial use. He continued that the property gets much attention and has countless inquiries, but is stymied by the condition of the property almost every time.

Addressing the fifth standard that the approval would not interfere with the comprehensive plan of the Town, Mr. Yahne suggested that it would not interfere and would be compliant. He said that Mr. Dreischerf's plan had an abundant landscaping plan that would greatly beautify and enhance the property that is otherwise being neglected right now. He added that these were the five state requirements, but Highland had its own requirements through the zoning ordinance that would be further addressed at the Plan Commission level. One of these requirements is the development standards of the district in which the Use Variance is proposed to be located will be met. He added that Les Dreischerf had completed a site plan that illustrated much detail, but they were not finalized engineering plans just yet. He then asked Mr. Dreischerf to expand on his plan and describe his thought processes and whether this can work in this area.

Mr. Les Dreischerf introduced himself, stating he was an architect and owned a firm named Design Alliance Architects located at 6915 Hohman Avenue, Hammond, IN 46324. He added that he had the opportunity to work on two other Car Washes in the past, the most recent being one in Southbend. The project went all the way through the completion of the engineering drawings and then the pandemic hit, putting that project on hold. He continued that project had also utilized the Sonny's equipment and that they were really the premier manufacturer of car wash equipment and technology. He continued that they are really sophisticated facilities and added that his firm also did a lot of health care work, which also involve very sophisticated high-tech equipment, but the car wash equipment rivaled it in sophistication. He added that they were designed to work very quickly and efficiently and were extremely advanced technologically. He continued this car wash was a tunnel system that could accommodate approximately 5 cars at a time. He continued that the facility could stack 30 cars, which was phenomenal, considering the average at other facilities was approximately 12 – 15 cars. He went on to say that their objective was to push the building as far south as possible, keeping good exiting control flow. He continued with 30 cars in the queue, 5 in the building, 3 exiting, along with 15 vacuum spaces, 4 parking spaces for employees and 1 handicapped space, there was the potential to put 58 cars on the property, which was way more that you would ever see at any other site. He continued that, based on a survey done by Torrenga, the site itself is 36,013 square feet, which is .827 acres, or almost a full acre. He continued that it is served with 3 existing curb cuts. Their intent would be eliminate the far north curb cut, utilizing the other 2 curb cuts and widening the center curb cut slightly to make entrance and exit more convenient and not hindering traffic. He added that one might look at the curb line and observe that plan shows 7 more stacked cars directly opposite of the vacuum system. He continued that would be a very rare occurrence and on a very busy spring day, the management would close off one of the entrances and just use one in order to stack those 7 additional cars if the need arises. He continued that they

had also widened the driveway so that customers in the vacuum area would have ample room to back out and maneuver to one of the exits. Additionally, they had widened the spaces in the vacuum area to 12' in order to allow ample room for customers to open car doors and complete the process easily. He continued that there are central vacuum systems and individual vacuums, which is what their Car Wash would utilize. The central vacuum systems are the premier systems in that they are bigger, more powerful and more efficient. He added that the central systems could be placed either outside or inside the building, but Erol and Frank wanted to place the unit inside the building. This would cut way down on the noise, making it much quieter for the neighbors. It would also be much more convenient to be serviced for maintenance or repairs if it were inside due to weather conditions, also the equipment would last longer being housed inside. He added that this central system would definitely be more expensive, but these developers were willing to do this in order to have a premier facility. He continued that this property is unique in that it is very shallow in depth and added that the existing building sits right on the property line. He added that they were proposing to put the new car wash building close to the property line, just a few feet off, so they can get the foundations and other construction in. He went on to say that due to their experience with car washes in the past, they knew exactly how big this building had to be and that it depicts reality. Due to the uniqueness of the property, the initial plans had to be taken to the next level and be very detailed, as to show how successful this development could be. He added that he and his team were used to working in Overlay Districts and that they had gone through the ordinances and requirements and they had produced a solution that would meet the spirit and intent of the Overlay District. He continued that the original building that is on the property now is 5, 943 square feet. The proposed building would be 4, 697 square feet, which would be a reduction of 21%. He went on to say the site is 100% hard surface right now and there is not much room for green space as it exists. There is no storm water detention existing now and he continued that the next step if they are to be granted the Use Variance, would be to design a successful detention area to comply with the ordinance. He then brought up the layout for landscaping, sharing the screen for the Board members to view. He said they had reviewed all the ordinances for landscaping and signage and that they had done their best to interpolate the requirements. He added that they were proposing a ground-mounted monument sign, as pole signs were not permitted. The location for the sign will be right in the middle of the island in the front of the building, away from the entrance and exit drive cuts so that there would be good vision angles coming out into the drives for added safety and he added that they had also looked carefully at the landscaping to assure it didn't affect any vision angles as well. He continued that they could have actually had more stacking capacity on this property, but they held the curb line off the alley a little more in order to have additional green space allocation and to give additional screening to the neighbors. He stated that in all the residences to the east, there were no garages that opened on to the alley where the site is located. He added that the alley could even be removed and replaced with greenery, if it was determined to be a good overall solution. He added that the only negative there would be that the trash pickup would have to be serviced off the street at the front of the houses if this were done and the alley would remain for utilities in the easement, but be green instead of asphalt, which would eliminate the dead-end alley to the south. He then stated that they had also held the north queue up lanes off the adjacent building to the

north by 5' and explained that was very intentional so they could add additional green space and shrubbery there to cushion the view of the foundation along that existing north building. He added that they added more landscaping along the parkway in the front along Indianapolis Blvd., in addition to internal islands with more greenery. In addition, at the far south end of the property, they added more greenery in order to conceal the dumpster and transformer, still leaving access for the truck to come and service the site. He continued that this site plan, other than potentially the far north escape lane, would have no impact on the alley or the adjacent neighbors. He concluded that observing the adjacent businesses, nothing comes close to what they are presenting here, as far as the intent of the new Overlay ordinance requirements. He added it would be an oasis for the area and would help set the stage for other businesses that plan to redevelop or renovate. They feel it would make a very good statement, be a great use and asset for the community and fit very well on a unique site. Their lighting would be well-controlled by photo metrics and the hours of operation would be limited to 8 a.m. to 7 p.m.

Mr. Yahne stated there was one more criteria to mention, which was that granting the Use Variance will not subvert the general purposes served by this title and will not, because of traffic generation, placement of outdoor lighting, noise production, or hours of operation, materially or permanently, injure other property or uses in the same zoning district and vicinity. He continued that the decisions made concerning this proposal have been made very intentionally and with all those items in mind. He added that, as Les had captured extraordinarily well, this is going to be an area that will look much different than the surrounding businesses and they would be adding greenery and landscaping to what right now is essentially, an asphalt expanse. It will encourage other uses that will want to integrate this type of model on their properties. He continued that he felt they had shown that the State statutory requirements of the Indiana Code and zoning ordinance of Highland had been established and met. He added that Erol and Frank had proven that they care what the people in the Town and the neighbors think, and have acted accordingly. They have also indicated they want to invest significant capital in restoring a vacant property into a vibrant use. He finished by saying that with all this in mind, they respectfully request that the Board grant a favorable recommendation to the Town Council for this Use Variance petition request.

Mrs. Murovic opened the meeting to the public. Hearing no remonstrance, she closed the public meeting and opened the meeting to the Board.

Mr. Grzynski asked if the petitioners had a decibal reading of the dryer that will be used on the facility. Mr. Stapleton said he did not, but believed he could get it for the Board at a later date if needed. Mr. Grzynski then asked what the hours of operation would be. Mr. Stapleton answered they would be 8 a.m. to 7 p.m.

Mr. Thomas asked how many Car Washes the petitioners had in use now. Mr. Stapleton replied that they had two. Mr. Thomas then asked if they had a traffic count of how many cars they serviced a day. Mr. Stapleton answered that they had both vertical and horizontal facilities, then continued that he would never again build a vertical one. He continued that one of the Car Washes did 150,000 per year and the other one did 165,000.

He added that they anticipate this new proposed Car Wash to reach 185,000, based on the traffic flow. He then mentioned that the projected amount is 1% - 2% of the entire traffic flow for the area, based on the competition and that this property had approximately 48,000 vehicles per day. Mr. Thomas then asked if the other facilities were a similar size as far as square footage of the property. Mr. Stapleton replied that they were, then added that they were also squeezed into much tighter areas and he felt that due to the layout and the plan they were proposing, traffic would never be an issue at all. Mr. Thomas then asked if the vacuums stations would be available to anyone, or just customers that were paying for a wash. Mr. Stapleton replied they would be for customers only. Mr. Thomas explained the question was to address a possible problem with traffic build up if some customers just came for the free vacuum. Mr. Stapleton elaborated that in the beginning, if this were to happen, he would treat it as a marketing opportunity and tell them they were welcome to use the vacuum today, but in the future, to have a look at the packages and try a wash, also. Mr. Thomas then asked if the lot was full, would he have traffic control out there to direct the cars. Mr. Stapleton said yes, they would, absolutely, if the facility got full. He added that they over hire in the hopes that they will be that busy and for good customer service and said that efficiency is the main catalyst for their success. He then stated that as much as the Town does not want traffic problems, they did not want them, either. They wanted their customers in and out. Mr. Thomas then asked how many cars would fit in the curve into the building. Mr. Dreischerf explained that there would be 23 cars that fit in the approach, additionally, there could be up to 7 along the island on the Boulevard, to make a total of 30. Mr. Thomas said he felt the space was kind of tight by the vacuum area. Mr. Dreischerf explained that the dimensions actually show there would be ample maneuvering space, as there was an area of 32'-6" from the end of the parking space to the island on Indianapolis Blvd. and the vacuum parking spaces were 12' wide, for ample turning space. Mr. Thomas then asked if there would be an outdoor booth to take money or if that would be done in the building. Mr. Dreischerf said that would be done by the building. He continued this was beneficial for people that may be unfamiliar with the process, or it was their first time being there. Mr. Stapleton added that this approach gave them the opportunity to get to know their customers and to expand on various packages they may have or specials available. He added that their facility would be far from a gas station car wash or the old school and self-serve car washes of the past, it would be a 4 million dollar project. Mr. Thomas then asked if the residents to the east had any concerns about the project. Mr. Stapleton replied that they initially had some concerns about the signs that were posted, but once they were spoken to and it was explained clearly, the only feedback from them was ultra-positive. He said they were looking forward to having this nice, elegant facility in their Town and he added that noise would not be an issue. Mr. Thomas then asked if the other locations had the same hours of 8 a.m. to 7 p.m. Mr. Stapleton answered that they were actually longer, from 8 a.m. to 9 p.m., which would be ideal, but he added that they were trying to please the Town by making them more limited. He added that could be discussed and changed if need be. He added that they were flexible with hours.

Mrs. Murovic asked Mr. Mika how the hours of operation could be enforced if they decided to change them in the future. Mr. Mika replied that he had spoken to the Town's legal counsel and was told that there could be a covenant established and recorded that

could be contingent upon the Board's decision, that limits potentially, whatever hours that are agreed to. He continued that once the hours are beyond 6 p.m. or 7 p.m., we could start getting into issues as far as evening hours. Mr. Mika asked Mr. Reed to comment if there was anything to add. Mr. Reed agreed with what Mr. Mika had proposed and added that he would encourage the Board to ask the petitioner's if they were willing to agree to this covenant in favor of the Town and be included as a contingency. Mr. Yanne added that he was familiar with covenants and it could be done, but asked that it be subject to this body or another, to be reviewed at some point if needed at some point. He continued that a covenant is drawn in favor of the Town, but situations change. Mr. Reed added that they are not immovable objects and that circumstances change and if attitudes and opinions change, things can be modified. Mr. Yahne asked if Erol Stapleton and Frank Caruso understood what was being discussed. Mr. Stapleton replied yes and that from his standpoint the competition in the neighborhood, the neighboring car washes were open until 8 p.m. and he felt that would be more ideal than 7 p.m. and would obviously make them on equal playing fields, so they could compete. He added that they had confidence in the site and he would leave that decision up to the Board, but he felt if they would allow the hours to extend to 8 p.m., it would be better for them. He stated it could be addressed at a later date and they would accept that. He concluded by saying they really just wanted the opportunity to work. Mrs. Murovic asked if the hours started at 8 a.m. to 7 p.m., then changed to 8 a.m. to 8 p.m., but the Town wanted them back to 8 a.m. to 7 p.m. at a later date, how that could be done. Mr. Reed stated that the Town would not be able to force that issue and that it would have to be a negotiation, which he would not anticipate going particularly well, because the Town would be asking for a cut in hours at that point. He stated that covenants were written in favor of one party or another and they are a burden upon the land as opposed to the individuals and it would be appurtenant to the property. He gave the example if the property was sold, the covenant would remain with the land and would be recorded in the Lake County Recorder's Office and would be enforceable. He added that the problem arises when time passes and these findings will have to be found possibly 20 years from now, they could possibly fall by the wayside. He said the Town would not be able to unilaterally make the decision of cutting the hours in the future. Mr. Yahne suggested one way to alleviate that could be to state in the covenant that the hours would be either 7 p.m. or 8 p.m., subject to the determination of the Town. He continued that if they could convince the Town that 8 p.m. was workable, then the hours could be kept there, so they don't get stuck without any options and they could be kept within a range. Mr. Reed stated that could be made a condition of the Use Variance, then the Town Council could review this as well. Mrs. Murovic asked Mr. Mika if, in regards to a business being built, if a fence would be required for the back side when it is up against residential areas. Mr. Mika said yes, a 6' fence or solid screening would be required, but in the past, the Boards have considered other alternatives such as plantings of arborvitaes or other trees. Mrs. Murovic then mentioned the fact that if that were agreed upon, could the maintenance be an enforced due to fact that sometimes they do die. Mr. Mika replied that yes, the zoning ordinance is specific in regards to property maintenance and could be enforced. Mrs. Murovic then mentioned the lighting and brought up another property located on the Boulevard in which the Board was assured that the residents would be shielded from the

light, and it now appears that the arborvitaes planted are shorter than expected, so the neighboring residents have more light than they want. Mr. Mika clarified that the light spillover had nothing to do with the trees and that it was related to the lighting plan and the fixture emittance of the specified light was a dark sky in that section of our zoning ordinance. He continued that in the case she was referring to, the plantings were not provided for the screening of the light. He added that there would have to be a photometric plan for the proposed car wash and they would not be allowed to have any light spillover beyond their property and if there was, it would be very negligible. Mrs. Murovic stated she appreciated the petitioners concern for the neighbors and the fact that they spoke to them at length to hear their thoughts and concerns and also that they provided the petition that proved so many of the neighbors supported the project. She added that she didn't want any extension of the hours in the future to become a nuisance, so this should be put in writing with the granting of the favorable recommendation, then stated she appreciated the many concerns that had been addressed.

Mr. Mika asked if there was a light door that came up when a car entered or exited the car wash, or would the doors kept open for the vehicles to enter and exit. Mr. Stapleton said it depended on volume and weather conditions. He said if it was very cold, they would keep them rotating up and down. If the weather is good or it is very busy, they would keep them up during that time. Mr. Mika mentioned that blowers in the car wash he frequents sound like jet engines and could be heard from 25 to 50' away when he is in the vacuum area. He asked if the petitioner's earlier comments about the noise being suppressed in this new facility were accurate. Mr. Stapleton replied that those comments were very accurate and their new, state of the art equipment had dryers that looked like flame, but were very safe and were much quieter than standard blowers on older equipment. He added that they were very excited about the length they could go with this new facility. Their other car washes were approximately 110' to 120' and with this property, they could go to 140' and this would be beneficial in allowing them to condense everything in the building, with enough space for the vehicles to exit safely.

Mrs. Murovic stated that the Board had received two letters, one from the Managing Member of Guaranteed Auto across the street at 8844 Indianapolis and one from the owner of the Miner Dunn Restaurant across the street at 8940 Indianapolis Blvd., both in favor of the proposed car wash, along with a Residents Petition for Improvement as a Car Wash, with the signatures of 8 neighboring residents directly to the east of the property, also in favor of the use.

Mr. Thomas motioned to grant a favorable recommendation for the Use Variance to F & E Ventures for an Auto Spa at 8945-55 Indianapolis Blvd. to the Town Council, contingent upon the hours of operation being 8:00 a.m. to 7:00 p.m. Mr. Martini seconded the motion. A roll call vote was taken with 2 in favor and 1 opposed. Mrs. Murovic abstained from the vote and the motion died.

Mr. Reed stated the vote was tied and there was no action taken.

Mrs. Murovic requested a second motion be made and amended to include the landscaping plan being adhered to, as presented, and nothing less than what has been shown.

Mr. Thomas motioned to grant a favorable recommendation for the Use Variance to F & E Ventures for an Auto Spa at 8945-55 Indianapolis Blvd. to the Town Council, contingent upon the hours of operation being 8:00 a.m. to 7:00 p.m. and the landscaping plan presented being adhered to and followed as presented, at a minimum.

Mr. Martini seconded and the motion passed with a roll call vote of 3 – 1.

BUSINESS FROM THE FLOOR: None

ADJOURNMENT: Motion: Mr. Grzymski Second: Mr. Martini Time: 8:24 p.m.