

STATE OF INDIANA
BEFORE THE FIRE PREVENTION AND BUILDING
SAFETY COMMISSION

IN RE:) CAUSE NO.
)
VARIANCE NO. 19-08-56) DHS-1914-FPBSC-014
PATEL BROTHERS)
)

NON-FINAL ORDER OF DISMISSAL


On October 08, 2019, the parties filed an Agreed Order and Joint Motion to Dismiss, attached hereto as Exhibit A, thereby jointly requesting that the above-captioned administrative appeal be dismissed.

The Administrative Law Judge therefore enters this Non-Final Order of Dismissal. The ultimate authority in this matter is the Fire Prevention and Building Safety Commission. Indiana Code § 4-21.5-3-29(d) requires any party seeking to preserve an objection to this order for judicial review to file a written objection that:

1. Identifies the basis of the objection with reasonable particularity; and
2. Is filed with the Commission within fifteen days (or any longer period set by statute) after this order is served.

In the absence of an objection from a party or notice from the Commission of its intent to review any issue related to this order, the Commission shall affirm this order in accordance with Indiana Code § 4-21.5-3-29(c). This order will be considered by the Commission on November 7, 2019, at 9:00 a.m., in Conference Center Room B, Indiana Government Center South, 302 West Washington Street, Indianapolis, IN 46204.

Date: October 8, 2019



Travis Lovett
Administrative Law Judge



A copy of the foregoing was served by U.S. Postal Service upon the following parties and attorneys of record:

Christopher Harris
City of Indianapolis – Department of Business and Neighborhood Services
1200 Madison Avenue, Suite 100
Indianapolis, IN 46225
Christopher.harris@indy.gov

and personally served on the following attorney of record:

Justin K. Guedel
Deputy General Counsel
Indiana Department of Homeland Security
302 W. Washington Street
Indiana Government Center South, Room E208
Indianapolis, IN 46204

CC: James Elliott, jelliott@partnersinarch.com

Exhibit A

STATE OF INDIANA
BEFORE THE FIRE PREVENTION AND
BUILDING SAFETY COMMISSION

IN RE:

VARIANCE NO. 19-08-56
PATEL BROTHERS

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Cause No. DHS-1914-FPBSC-014

AGREED ORDER
JOINT MOTION TO DISMISS

The parties respectfully request the above captioned matter be dismissed. In support of this request, the parties state the following:

1. On August 23, 2019, Respondent issued a variance action letter for variance # 19-08-56 that no variance was required.

2. On August 30, 2019, Petitioner (the local building official) filed their petition for review of the action taken on variance # 19-08-56. Petitioner claimed that a variance would be required under the current circumstances.

3. During the pendency of these proceedings, the parties were able to informally resolve this dispute and came to the following agreements and understandings:

- a. Respondent will modify the action on variance # 19-08-56 from "No Variance Required" to "Approved as submitted with the condition that no smoke or grease laden vapors are produced from the appliance as a result of any cooking process that occurs on the appliance."
- b. Respondent does not waive any arguments concerning Petitioner's standing to initiate this review.

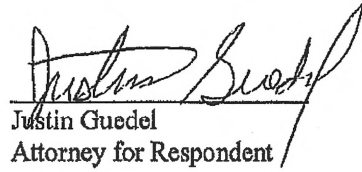
WHEREFORE, the parties respectfully request this matter be dismissed with prejudice.

Respectfully submitted,



Christopher Harris
Petitioner

Date: 10-8-19



Justin Guedel
Attorney for Respondent

Date: 10-8-19