

INDIANA FIRE PREVENTION AND BUILDING SAFETY COMMISSION

COMMISSION MEETING MINUTES

Indiana Fire Prevention and Building Safety Commission
Online Cisco Webex Format

Tuesday, October 6, 2020

1. Pursuant to IC 22-12-2-6, the Indiana Fire Prevention and Building Safety Commission's (the Commission) regular monthly meeting was called to order by Chairman Robin Nicoson at 9:02 a.m. EDT on Tuesday, October 6, 2020. The meeting was conducted electronically by videoconference call through Webex.

(a) Commissioners present at the meeting:

Jameson Berry, representing the Commissioner, Indiana Department of Labor
Michael Corey
Gregory Furnish
James Greeson
Joseph Heinsman
David Henson
Todd Hite, representing the Commissioner, Indiana State Department of Health
James Jordan
Robin Nicoson, Chairman
Scott Pannicke
Michael Popich, Vice-Chairman

(b) The following department (IDHS) staff were present during the meeting:

Douglas Boyle, Director of the Fire Prevention and Building Safety Commission
Bryston Sprecher, Administrative Assistant to the Fire Prevention and Building Safety Commission
Craig Burgess, Indiana State Building Commissioner
Alan Blunk, IDHS Plan Review Section Chief
Denise Fitzpatrick, IDHS Code and Variance Specialist
Kim Hyten, IDHS Code and Variance Specialist
Marcus Ballenger, IDHS Code and Variance Specialist
Philip Gordon, Deputy Attorney General & Legal Counsel to Fire Prevention and Building Safety Commission
Justin Guedel, IDHS Deputy General Counsel
Kevin Troy, IDHS Code Enforcement Assistant Section Chief (State Fire Marshal's Office)
Karla Vanblaricum, IDHS Variance Coordinator

2. Roll Call – Douglas Boyle, Director of the Fire Prevention and Building Safety Commission

Director Boyle conducted roll call and noted that quorum was present with ten (10) members in attendance. Commissioner Hite joined the meeting during the discussion over new variances – bringing the total to eleven (11) members present.

	Present	Absent
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	
Jim Greeson	X	
Joe Heinsman	X	
David Henson	X	
Todd Hite	X	
Wes Jordan	X	
Robin Nicoson	X	
Scott Pannicke	X	
Michael Popich	X	

3. Commission Review and Action on Meeting Minutes

a. Tuesday, September 1, 2020

Director Boyle asked the Commission’s members if any corrections needed to be made to the Tuesday, September 1, 2020 meeting minutes. Commissioner Popich stated that he had two corrections. Commissioner Popich advised that the expiration dates of the current emergency rules for the Indiana Boiler and Pressure Vessel Rules [LSA Document No. 19-334(E) & LSA Document No. 19-426(E)] were incorrectly noted as expiring on July 30, 2021, even though they will actually expire on July 1, 2021. Commissioner Popich also advised that the expiration date imposed on Variance No. 20-07-25 should be corrected to October 31, 2021 (10/31/2021). With no additional comments or corrections provided from the other members, Commissioner Popich motioned to approve the Tuesday, September 1, 2020 meeting minutes as amended with the two noted corrections. Commissioner Pannicke made the second. It was voted on and carried with Commissioner Jordan abstained from the vote, as he was not present at the Commission’s Tuesday, September 1, 2020 meeting.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	

Jim Greeson	X	
Joe Heinsman	X	
David Henson	X	
Robin Nicoson	X	
Scott Pannicke	X	
Michael Popich	X	

The Tuesday, September 1, 2020 meeting minutes were **approved as amended with two noted corrections**, by a vote of 9-0.

4. IDHS/Commission Staff Reports and Updates

- a. Status Update on Indiana Open Door Law and Public Meeting Requirements during the State of Indiana’s COVID-19 Public Health Emergency – Douglas Boyle, Director of the Fire Prevention and Building Safety Commission & Justin Guedel, IDHS Deputy General Counsel

Director Boyle advised the Commission that Governor Holcomb’s Executive Order 20-44 has extended the State of Indiana’s public health emergency declaration through November 1, 2020. Due to this, Director Boyle stated that he does not foresee resuming in-person meetings for the remainder of this year. Philip Gordon, Deputy Attorney General and Legal Counsel the Commission, echoed this sentiment. As such, Director Boyle advised that the Commission should again plan to conduct its November meeting electronically via Webex.

- b. State Building Commissioner’s Report – Craig Burgess, State Building Commissioner
 - i. Written Interpretation No. CEB-2020-30-2020 IRC-R311.3
 - ii. Written Interpretation No. CEB-2020-31-2014 IBC-504.2
 - iii. Written Interpretation No. CEB-2020-32-2014 IMC-306.1

State Building Commissioner Craig Burgess briefly explained each written interpretation. Regarding the third interpretation, Commissioner Popich inquired if a furnace suspended twenty-five (25) feet above the floor would be acceptable. Mr. Burgess stated that the code does not make a clear delineation as to the allowable height of furnaces; therefore, the code inspector would need to rely on specific performance indicators to arrive at an informed judgement.

5. Rulemaking Updates

- a. Indiana Elevator Code Committee Meeting
 - i. Next Meeting

The Indiana Elevator Code Committee will conduct its next meeting via Webex on Tuesday, October 20, 2020 beginning at 9 a.m. EST. The meeting will primarily consist of a review of ASME A-17.3-2017. Additional information may be found on the Committee’s main webpage (<https://www.in.gov/dhs/4200.htm>).

- ii. Commission Appointment of Brian Stanley (IDHS Elevator and Amusement Ride Inspector) to the Indiana Elevator Code Committee

Director Boyle informed the Commission that, if approved by the Commission, Brian Stanley will serve as the newest member of the Indiana Elevator Code Committee. He will replace Gary Herrington, who retired from IDHS in May. Regarding additional appointments, Director Boyle stated that Indiana University’s elevator shop is in the process of considering a member who can represent its department. Commissioner Popich asked for a summary of Mr. Stanley’s qualifications. Matt Cronley, IDHS Elevators, Amusement Rides, Boilers, and Pressure Vessels Section Chief, stated that Mr. Stanley has worked in the division for three and a half years, is a QEI-licensed elevator inspector, and has in-depth code knowledge of the elevator safety codes. With that, Commissioner Pannicke motioned to approve Mr. Stanley’s appointment. Commissioner Heinsman made the second. It was voted on and carried. Per Justin Guedel’s recommendation, the motion was revised to also formally remove Gary Herrington as a voting member of the Indiana Elevator Code Committee.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	
Jim Greeson	X	
Joe Heinsman	X	
David Henson	X	
Wes Jordan		
Robin Nicoson	X	
Scott Pannicke	X	
Michael Popich	X	

The recommendation was **approved**, by a vote of 9-0.

- b. Indiana Boiler and Pressure Vessel Rules Rewrite Committee
 - i. Update on Submission of Request for Exception to the Regulatory Moratorium

Mr. Guedel advised that he has not yet completed the request but assured the Commission that it will be completed and forwarded to the appropriate individuals within the coming week.

- c. Variances Proposed Rule [to Replace Current Emergency Rule (LSA Document #19-333(E)) and Become New Final Rule under 675 IAC 12-5]

Ed Rensink briefly informed the Committee that he had submitted a proposal for code change to the proposed rule before Director Boyle opened the floor for additional concerns regarding its current structure and the overall variance process.

Christina Collester spoke on the need for a more transparent variance process explaining that a variance hearing, in which consultants and business owners could be present to adequately discuss their rationale for various exemptions, would be useful and also allow for staff's ultimate denial or imposing of certain conditions to be carefully outlined, so as to not leave the party without an explanation.

Commissioner Popich stated that a monthly report including code titles, sections discussed, and a list of individuals along with their job titles – much like how the Commission's meeting minutes are structured – would be helpful. Essentially, this would allow for members of the public, stakeholders, or the Commission to have access to documentation that would give a summary of the actions taken and the substance of the discussion that was had. He added that he was disappointed that a proposal for code change on this issue was not submitted. Commissioner Pannicke agreed stating that a published agenda detailing the variance meeting would be helpful. Mr. Guedel stated that all orders regarding variances come from the Department – a separate entity from the Commission – and therefore are not governed by open-door law requirements. Commissioner Popich acknowledged this but said that since these decisions are directly affecting the life and safety of the citizens of Indiana, it is only fair that the public understands the individuals responsible for these decisions. Director Boyle stated that himself, the legal team, variance staff, and plan review get together on a weekly basis to go over each variance. Although not compelled to do so, Mr. Guedel said that it would be doable for a spreadsheet summarizing the actions taken at each of these variance meetings to be made available to the public.

Ms. Collester recommended that the variance process be revised to include three options in lieu of compliance: modifications, alternative methods/materials, and a board of appeals functioning separately from the Commission. She stated that the more straightforward cases would be handled by an independent board during the plan review process while only the complex cases would be placed in front of the Commission at its monthly meeting. This would significantly lighten the Commission's workload, as well as mirror the structure that most other states

possess. At a minimum, the consensus was that correspondence and decision letters need to be improved.

To conclude, there was some discussion between Commissioner Popich and Shelly Wakefield regarding the usage of “must” versus “shall” in the proposed rule. Mr. Guedel stated that he had no objections to revising the document to only include the word “shall” for consistency purposes but advised that action be taken today to avoid further delays in beginning the process request an exception from the regulatory moratorium. However, after further discussion, Commissioner Pannicke motioned to table the proposed rule. Commissioner Popich made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	
Jim Greeson	X	
Joe Heinsman	X	
David Henson	X	
Wes Jordan		
Robin Nicoson	X	
Scott Pannicke	X	
Michael Popich	X	

The proposed rule was **tabled**, by a vote of 9-0.

Breaking & Reconvening: The Commission recessed for a 10-minute break beginning at 10:50 a.m. The meeting was called back to order at 11:02 a.m.

- d. Commission Discussion and Consideration of State’s Need/Industry’s Desire to Update the Indiana Electrical Code (675 IAC 17)

Director Boyle encouraged the public to utilize the Fire Prevention and Building Safety Commission’s webform (<https://www.in.gov/dhs/boards-and-commissions/code-comments,-proposals-and-advice/>) to submit proposals for code change, as the building, fire, plumbing, and mechanical codes are all in need of public comments in preparation for discussion at next month’s meeting.

Public comments from a multitude of individuals concerning the need for updates to the Indiana Electrical Code can be found by going to the following timestamp of the recording – [1:53-2:26](#). Oral comments in support of having the Commission move forward with updating the Indiana Electrical Code were provided by the following individuals:

1. Tim McClintock – National Electrical Manufacturers Association (NEMA)
2. Colleen Torres – American Council of Engineering Companies (ACEC) Indiana
3. Jason Shelley – American Institute of Architects (AIA) Indiana
4. Charlie Eldridge – Indianapolis Power and Light (IPL) – Mr. Eldridge also reminded the Commission that the electrical provisions of the 2020 Indiana Residential Code (675 IAC 14-4.4) incorporate the requirements of the 2017 National Electrical Code (NEC).
5. Meredith Hawes – National Fire Protection Association (NFPA)
6. Ron Ritchey – National Fire Sprinkler Association (NFSA)
7. David Kish – Purdue University
8. Christina Collester – RTM Consultants, Inc. – Ms. Collester reiterated her previous sentiment that the Indiana Building Code, the Indiana Fire Code and the NFPA standards adopted within them are in dire need of updates.

Carlie Hopper, on behalf of the Indiana Builders Association, asked the Commission to closely evaluate the fiscal impact that updating the Indiana Electrical Code will have on the State, and requested that the Commission ensure any code update(s) will only address Indiana's specific needs. Commissioner Furnish echoed this sentiment, advising that serious consideration will need to be given to the costs of both commercial and residential construction.

6. COVID-19 Public Health Emergency Rule Modification Notifications
 - a. University of Notre Dame Rockne Stadium COVID-19 Testing Site Phase 2 (extension of Phase 1 from July 2020) – 2010 Moose Krause Drive, Notre Dame, IN 46556
 - b. Daviess Community Hospital Health Pavilion COVID-19 Testing Temporary Structure – 1805 S State Road 57, Washington, IN 47501
 - c. University of Notre Dame Joyce Athletic and Convocation Center COVID-19 Testing Site Phase 1 – 18801 Moose Krause South, Notre Dame, IN, 46556

Director Boyle stated that the University of Notre Dame will be using the locations listed above as COVID-19 testing sites through the end of the current academic year. The university intends to terminate these modifications once the State's public health emergency declaration is ended. No formal action is necessary, and these notifications have been placed on the Commission's agenda solely for the Commission's awareness.

7. Commission Action on Third Party Inspection Agency Annual Renewals
 - a. Hillborn, Werner, Carter & Associates, Inc.

Kevin Troy, IDHS Code Enforcement Assistant Section Chief (State Fire Marshal's Office), recommended approval of the annual renewal. Commissioner

Popich motioned to approve. Commissioner Corey made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	
Jim Greeson	X	
Joe Heinsman	X	
David Henson	X	
Wes Jordan		
Robin Nicoson	X	
Scott Pannicke	X	
Michael Popich	X	

The renewal was **approved**, by a vote of 9-0.

8. Commission Action on Locally Approved Variance(s) Pursuant to Indiana Code § 22-13-2-7(b)
 - a. Wheeler Mission Center for Women and Children, 3208 East Michigan Street, Indianapolis, IN 46201

Director Boyle stated that this variance was locally approved by the Indianapolis Fire Department and recommended the Commission’s approval of the variance in accordance with the requirements of Indiana Code § 22-13-2-7(b).

Commissioner Popich motioned to approve. Commissioner Furnish made the second. Commissioner Heinsman recused himself from the vote.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	
Jim Greeson	X	
Joe Heinsman		
David Henson	X	
Todd Hite		
Wes Jordan		
Robin Nicoson	X	
Scott Pannicke	X	
Michael Popich	X	

The variance was **approved**, by a vote of 10-0.

Breaking & Reconvening: The Commission recessed for a lunch break beginning at 11:55 a.m. The meeting was called back to order at 12:30 p.m.

9. Variances

a. Tabled

20-07-24 Knapp Supply Company, Muncie

Christina Collester spoke as the proponent. She requested that the variance application be moved back into “in process” status in the department’s online filing system to add another variance request to the application. Commissioner Henson motioned to table. Commissioner Corey made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	
Jim Greeson	X	
Joe Heinsman	X	
David Henson	X	
Todd Hite		
Wes Jordan	X	
Robin Nicoson	X	
Scott Pannicke	X	
Michael Popich	X	

The variance was **tabled**, by a vote of 10-0.

20-07-28 Scroggs Barn Event Center, Warsaw

Jeff Kumfer spoke as the proponent. He stated that a structural analysis was submitted, per the Commission’s request. Based on a review of the analysis, both Commissioner Jordan and Commissioner Heinsman agreed that the specifications of the structural analysis were acceptable. As such, Commissioner Heinsman motioned to approve. Commissioner Jordan made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	

Jim Greeson	X	
Joe Heinsman	X	
David Henson	X	
Todd Hite		
Wes Jordan	X	
Robin Nicoson	X	
Scott Pannicke	X	
Michael Popich	X	

The variance was **approved as submitted**, by a vote of 10-0.

b. New

20-09-38 185 Madison Ave, Peru

No proponent was present. Commissioner Pannicke motioned to table. Commissioner Corey made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	
Jim Greeson	X	
Joe Heinsman	X	
David Henson	X	
Todd Hite	X	
Wes Jordan	X	
Robin Nicoson	X	
Scott Pannicke	X	
Michael Popich	X	

The variance was **tabled**, by a vote of 11-0.

20-09-39 Walmart Distribution Center IND3, McCordsville

Ralph Gerdes spoke as the proponent. The issue deals with exit travel distance. The request is to allow the new three level warehouse/distribution center to have an exit travel distance of up to four hundred and eighty (480) feet for occupied areas and seven hundred (700) feet for non-occupied storage areas. The total egress time has been calculated at approximately eleven (11) minutes from the occupied space and thirteen (13) minutes from the unoccupied area with fire exits every one hundred (100) feet. ESFR quick response alarms will be installed throughout the facility. The second level will possess K-25 sprinklers and the mezzanine level will possess K-11 sprinklers. The roof height is calculated at

seventy-two (72) feet creating a large enough volume to fill with smoke before egress is significantly affected. No recommendation from the local fire department has been given. There was some concern on the uncertainty that all patrons would exit the store, but Commissioner Heinsman motioned to approve. Commissioner Greeson made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	
Jim Greeson	X	
Joe Heinsman	X	
David Henson	X	
Todd Hite	X	
Wes Jordan	X	
Robin Nicoson	X	
Scott Pannicke	X	
Michael Popich	X	

The variance was **approved as submitted**, by a vote of 11-0.

20-09-40 Marian Hills Farm Toilet, Fort Wayne

Dennis Bradshaw and Jeff Holcombe spoke as the proponents. This project involves a one (1) year variance granted in 2018 for the use of portable restrooms at an events venue. Mr. Bradshaw stated that permanent restrooms were set to be installed in the spring of 2019, but, due to a delay on behalf of the Fort Wayne Sewer Department to run sewer lines across the property, this could not be accomplished. The pandemic further delayed the process, so the owners are requesting that the variance be extended another two (2) years since weddings are typically booked a year in advance. Thus, construction of permanent restrooms would likely occur in 2022. Mr. Holcombe stated that both the temporary restrooms and planned permanent structure include handicap accessible restrooms. With no objections, Commissioner Hite motioned to approve with the condition that the variance shall be effective until October 31, 2022 (10/31/2022). Commissioner Corey made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	
Jim Greeson	X	

Joe Heinsman	X	
David Henson	X	
Todd Hite	X	
Wes Jordan	X	
Robin Nicoson	X	
Scott Pannicke	X	
Michael Popich	X	

The variance was **approved with the condition that it shall be effective until October 31, 2022 (10/31/2022)**, by a vote of 11-0.

20-09-41 Pitt Ohio Terminal, Indianapolis

David Clark, Joel Papcunik, Jon Powers, and Jim Maug spoke as the proponents. Each property within the complex is supplied with water from three (3) private wells. To have a water main and private hydrant extended to the site, over 1,700 feet of water main would have to be installed. The owner would have to either bore under or open cut a trench across Harding Street. Both options would be very costly to the owner and would significantly disrupt traffic along Harding Street, as well as disturb the neighboring properties. Proponents state the solution for this is to add fire hydrants on each of the three (3) canopy levels along with an in-sump automatic fire extinguisher system. Only two (2) trucks will be allowed at the fueling station at one time, and the drivers are instructed on a variety of safety protocols. There are no plans to expand the UL rated facility in the future, per the owner's comments. Commissioner Greeson motioned to approve. Commissioner Pannicke made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	
Jim Greeson	X	
Joe Heinsman	X	
David Henson	X	
Todd Hite	X	
Wes Jordan	X	
Robin Nicoson		
Scott Pannicke	X	
Michael Popich	X	

The variance was **approved with the condition that no new construction or additions are permitted on this site without the installation of a fire hydrant, in accordance with the requirements of the code**, by a vote of 10-0.

20-09-42 (a)(b)(c)(d)(e)(f) Vermont Street Hotel, Indianapolis

Ralph Gerdes spoke as the proponent, on behalf of the submitter. A new hotel of Type I-B construction, approximately 78 ft in height, has fire retardant treated plywood/materials (FRT) installed as sheathing on the exterior walls. Code allows FRT materials in exterior wall coverings, but the use is limited to sixty (60) feet in most construction types. The request is to allow the sheathing to extend eighteen (18) feet above the limit. Commissioner Heinsman motioned to **approve variance (a) as submitted**. Commissioner Greeson made the second. It was voted on and carried, by a vote of 10-0. Commissioner Popich recused himself from the vote.

Variance **(b)** involves an oriented strand board (OSB) installed as sheathing on the exterior fins and projecting soffits over 40 ft in height from grade plane. Code allows combustible materials in exterior wall coverings and projections, but the use is limited to 40 ft in most construction types. The request is to allow the OSB to extend above the limit. After voicing some safety concerns, Commissioner Heinsman motioned to **approve with the condition that fire retardant treated (FRT) plywood/materials is required to be installed as sheathing on the exterior fins and projecting soffits over forty feet (40 ft.) in height from the grade plane**. Commissioner Jordan made the second. It was voted on and carried, by a vote of 10-0. Commissioner Popich recused himself from the vote.

The code prohibits exterior wall openings of a building from exceeding its permitted percentage of openings based upon fire separation distance to the adjoining property lines. The request of variance **(c)** is to allow various windows/vent openings along the north and east walls to be non-rated. The proponent states all non-compliant windows along these walls will have laminated or tempered glass with close spaced sprinklers, and the building will be protected throughout by an automatic fire suppression system, per NFPA 13. Commissioner Pannicke motioned to **approve variance (c) as submitted**. Commissioner Heinsman made the second. It was voted on and carried, by a vote of 10-0. Commissioner Popich recused himself from the vote.

The code does not permit combustible projections within five (5) feet of the line used to determine the fire separation distance. The request of variance **(d)** is to allow the varying distances along the different sections of the walls to exceed the minimum allowed. The proponent states that if the north side road easement is included and measured from its center line of the road, it would comply with code. Commissioner Heinsman motioned to **approve variance (d) with the condition that fire retardant treated (FRT) plywood or non-combustible construction is required everywhere in which the structure and its projections are located within five feet (5 ft.) of the property line(s)**. Commissioner Berry made the second. It was voted on and carried, by a vote of 10-0. Commissioner Popich recused himself from the vote.

The code allows fire retardant treated (FRT) plywood/materials to be installed in exterior wall assemblies, except when the wall is not required to be rated. The

request of variance **(e)** is to utilize fire retardant treated (FRT) plywood/materials as part of the one-hour exterior wall assemblies on the north and east wall. Commissioner Pannicke motioned to **approve variance (e) as submitted**. Commissioner Heinsman made the second. It was voted on and carried, by a vote of 10-0. Commissioner Popich recused himself from the vote.

Due to the short distance of the exterior wall to the property line being less than thirty (30) feet, the "greenhouse wall system" is non-rated. Code requires all exterior walls of Type I-B construction, less than thirty (30) feet to be one-hour rated. The request of variance **(f)** is to allow this wall to be non-rated. Commissioner Pannicke motioned to **approve variance (f) as submitted**. Commissioner Heinsman made the second. It was voted on and carried, by a vote of 10-0. Commissioner Popich recused himself from the vote.

	(a)		(b)		(c)		(d)		(e)		(f)	
	Y	N	Y	N	Y	N	Y	N	Y	N	Y	N
Jameson Berry	X		X		X		X		X		X	
Michael Corey	X		X		X		X		X		X	
Greg Furnish	X		X		X		X		X		X	
Jim Greeson	X		X		X		X		X		X	
Joe Heinsman	X		X		X		X		X		X	
David Henson	X		X		X		X		X		X	
Todd Hite	X		X		X		X		X		X	
Wes Jordan	X		X		X		X		X		X	
Robin Nicoson	X		X		X		X		X		X	
Scott Pannicke	X		X		X		X		X		X	
Michael Popich												

20-09-43 American Welding & Gas Addition and Renovation, Indianapolis

Carrie Ballinger spoke as the proponent. This variance is to replace previously approved variance 20-02-36. The project has been redesigned and the scope has been significantly reduced. The flammable fill building will now be detached with a 4-hour exterior wall and five (5) feet of separation. The unseparated addition previously proposed has been significantly reduced to only enclose part of the existing covered dock area. The compressed gas cylinder fill building and newly detached flammable fill building will not have automatic sprinklers, as required by code in all H occupancies. Commissioner Popich motioned to approve. Commissioner Jordan made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	

Jim Greeson	X	
Joe Heinsman	X	
David Henson	X	
Todd Hite	X	
Wes Jordan	X	
Robin Nicoson		
Scott Pannicke	X	
Michael Popich	X	

The variance was **approved as submitted**, by a vote of 10-0.

20-09-44 RVH Trucking, Tippecanoe

Ben Franger and Scott Tonkin spoke as the proponents. He stated that Indiana is reliant on large refineries such as BP, Marathon, and Cisco to supply gas and other fuels. Due to a lack of available trucks, the state struggles to obtain necessary amounts of fuel during the winter months. In addition, wholesale costs increase substantially during these period – oftentimes from \$.70/gallon to upwards of \$2.00/gallon. To combat these issues, RVH proposes the use of a series of storage tanks, which would be filled once in the summertime to be used during the winter. Mr. Franger stated that, as opposed to following the spacing requirement of twenty-five (25) feet, the facility would like to group six (6) tanks seven (7) feet apart and place two (2) additional tanks seven (7) feet apart in a separate area fifty (50) feet away. Besides this discrepancy, the facility will comply with all other standards set forth within NFPA 58 and the 2014 Indiana Fire Code. The proponent states the facility will be completely nitrogen controlled to allow emergency shut down of all tanks and valving from multiple locations throughout the facility. Smart hoses will be installed on all out bound bulkheads with an eight (8) inch agricultural water well, which will be installed for fire department use. Night lights, motion activated cameras, and locked gates will also be installed. Per Commissioner Pannicke’s question regarding the status of the surrounding land, there are farm field to north and east while the building to the west serves as RVH Trucking’s main hub. No emergencies have occurred at any of the company’s facilities. Onsite fire training is provided, and the Tippecanoe County fire official supports the variance. Commissioner Greeson motioned to approve. Commissioner Heinsman made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	
Jim Greeson	X	
Joe Heinsman	X	
David Henson	X	

Todd Hite	X	
Wes Jordan	X	
Robin Nicoson	X	
Scott Pannicke	X	
Michael Popich	X	

The variance was **approved as submitted**, by a vote of 11-0.

Breaking & Reconvening: The Commission recessed for a 10-minute break beginning at 2:35 p.m. The meeting was called back to order at 2:45 p.m.

20-09-45 Huntington Union Building Renovations, Huntington

Ed Rensink spoke as the proponent. The two story 1960's era building is being renovated to update the interior and exterior, as well as reorganization of some of the interior spaces. The building functions include a student lounge/rec area, food service venue, a bookstore, and administrative offices. The building is classified as A-2, A-3, and B Occupancies and Type IIIB Construction. Existing roof soffits on the north and south sides of the building and the underside of the new two hundred and fifty (250) square foot entrance canopy will not be provided with automatic sprinkler protection because they do not exceed the width allotment. The rest of the building is being provided with automatic sprinkler protection, per NFPA 13. Commissioner Pannicke motioned to approve. Commissioner Henson made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish		
Jim Greeson		
Joe Heinsman	X	
David Henson	X	
Todd Hite	X	
Wes Jordan	X	
Robin Nicoson		
Scott Pannicke	X	
Michael Popich	X	

The variance was **approved as submitted**, by a vote of 8-0.

20-09-46 Sanders School MEP & Interior Improvements, Indianapolis

Ed Rensink spoke as the proponent. The project scope includes renovation of classrooms, gymnasium, corridors, and restrooms. Mechanical system upgrades and electrical work will be done as well. Sanders School is a day program

serving special needs students in kindergarten up to the age of 22 through West Central Joint Services, a five-school district cooperative consisting of: Wayne Township, Danville, Monroe-Gregg, Mooresville, and Speedway Schools. Code requires that glazing panels that permit viewing through the panels to have the bottom be forty-three (43) inches above the floor. The request is to allow bottom of the glass to be forty-eight (48) inches above the finished floor area to allow for staff to better monitor the students. Because staff must assist many of the students with physical disabilities with entering and exiting the classrooms, all doors will be constructed of robust materials to prevent damage. Commissioner Pannicke motioned to approve. Commissioner Heinsman made the second. It was voted on and carried. Commissioner Popich recused himself from the vote.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	
Jim Greeson	X	
Joe Heinsman	X	
David Henson	X	
Todd Hite	X	
Wes Jordan	X	
Robin Nicoson	X	
Scott Pannicke	X	
Michael Popich		

The variance was **approved as submitted**, by a vote of 10-0.

20-09-47 Winco Fireworks Distribution Center, Anderson

Ed Rensink spoke as the proponent. This project involves the conversion of a 1970s manufacturing building to a fireworks distribution warehouse. The facility will largely remain unchanged besides the demolition of partition walls and renovation of office space. A two-hour fire barrier will be erected to separate the offices from the employee workspace. The variance is for allowable area of a mixed space occupancy. Mr. Rensink stated that three (3) additional exits will be installed – totaling six (6) all together. Per Commissioner Henson’s inquiry, Mr. Rensink stated that the fireworks are stored in boxes stacked up to a height of nine (9) feet. After filing the variance, Mr. Rensink stated that the local fire official contacted him to give his verbal approval. There were some concerns about the adjacent single-story building on the corner of the property. After speaking to the owners, Mr. Rensink advised that they agreed to sprinkler that building to makeup for exceeding allowable area. Commissioner Pannicke motioned to approve with the condition that the one-story office building located at the southwest (SW) corner of the subject property is required to be sprinkled with an

NFPA 13 sprinkler system in accordance with the requirements of the code. Commissioner Popich made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	
Jim Greeson		
Joe Heinsman	X	
David Henson	X	
Todd Hite	X	
Wes Jordan	X	
Robin Nicoson		
Scott Pannicke	X	
Michael Popich	X	

The variance was **approved with the condition that the one-story office building located at the southwest (SW) corner of the subject property is required to be sprinkled with an NFPA 13 sprinkler system in accordance with the requirements of the code**, by a vote of 9-0.

20-09-48 (a)(b) The Barn at Sioux-Monti, Idaville

Carrie Ballinger spoke as the proponent. The project involves conversion of an existing agricultural building to a Class 1 Structure classified as A-2 Occupancy. The barn will be used for event space, weddings, banquets, and other similar gatherings. Restrooms will be located in a separate structure. Upon completing the structural analysis, Ms. Ballinger stated the engineers identified ten (10) repairs that needed to be completed before the facility could be code approved. Per Commissioner Pannicke’s inquiry, she stated that no additional events would be hosted until all repairs are made if the Commission approves the variance. Nevertheless, the Commissioners still had concerns and, ultimately, the proponent requested to table until further design plans could be developed. Ms. Ballinger also informed Commissioner Hite that an inspector will verify the state of the septic system in time for next month’s meeting. Commissioner Hite advised that an outlet for perimeter grain or the transition to a mound would likely be necessary. With that, Commissioner Popich motioned to table both variances (a) and (b). Commissioner Pannicke made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey		
Greg Furnish	X	

Jim Greeson		
Joe Heinsman	X	
David Henson	X	
Todd Hite	X	
Wes Jordan	X	
Robin Nicoson		
Scott Pannicke	X	
Michael Popich	X	

Variations (a) and (b) were **tabled**, by a vote of 8-0.

20-09-49 Purdue University Tent Project, West Lafayette
 20-09-50 Armstrong Hall, West Lafayette
 20-09-51 Bailey Hall North, West Lafayette
 20-09-52 Bailey Hall South, West Lafayette
 20-09-53 Ford Dining Tent, West Lafayette

Fire Chief Kevin Ply, of the Purdue University Fire Department, spoke as the proponent for the above variations. The project involves a series of tents that have been erected across the Purdue campus as an alternative means of distributing food to the student population. Because of social distancing guidelines, the dining halls have prohibited in-person dining. As such, these tents serve as a quick and effective way of serving prepackaged meals while also limiting contact between individuals. The fire chief stated that the tents would not be occupied in the case of snowfall or heavy winds and can be quickly disassembled when needed. Additionally, he advised that the tents would be immediately removed following the end of the semester. Commissioner Popich motioned to approve Variations 20-09-49, 20-09-50, 20-09-51, 20-09-52, and 20-09-53 with following additional conditions: (1) the variations are effective until November 30, 2020 (11/30/2020), and (2) the tents shall not be occupied in the event of any forecasted high wind events or accumulating snow. Commissioner Berry made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey		
Greg Furnish	X	
Jim Greeson		
Joe Heinsman	X	
David Henson	X	
Todd Hite	X	
Wes Jordan	X	
Robin Nicoson		
Scott Pannicke	X	

Michael Popich	X	
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Variances 20-09-49 through 20-09-53 were **approved with the conditions: (1) the variances are effective until November 30, 2020 (11/30/2020), and (2) the tents shall not be occupied in the event of any forecasted high wind events or accumulating snow**, by a vote of 8-0.

20-09-54 Taxman CityWay Brewery, Indianapolis

Carrie Ballinger spoke as the proponent. The request is for sail shade structures to be considered temporary structures for an outside dining area approximately one hundred and eighty (180) days each year. The shades will meet NFPA 701 flame propagation requirements. Commissioner Greeson asked if there were any wind load provisions. Ms. Ballinger stated the structures are wind performance rated but would need to be removed each winter due to failure to meet snow load requirements. The tents were cited earlier this summer for non-compliant fabric but have since been updated to remedy this issue. Commissioner Pannicke motioned to approve the variance with the condition that the variance shall be effective until October 31, 2022 (10/31/2022). Commissioner Jordan made the second. It was voted on and carried. Commissioner Heinsman recused himself from the vote.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	
Jim Greeson	X	
Joe Heinsman		
David Henson	X	
Todd Hite	X	
Wes Jordan	X	
Robin Nicoson		
Scott Pannicke	X	
Michael Popich	X	

The variance was **approved with the condition that it shall be effective until October 31, 2022 (10/31/2022)**, by a vote of 9-0.

20-09-55 (a)(b) Pine Cone Recycling (subsidiary of Waste Away Group), Elkhart

Carrie Ballinger spoke as the proponent. The project involves construction of a new covered storage facility for recycled wood animal bedding, which will exceed the allowable area for Type VB construction. The building is made of noncombustible steel frames and concrete. Only two (2) employees will be occupying the building at a given time. Fire hydrants are connected to city water

and located throughout the site Ms. Ballinger stated that employees are required to log temperature readings of the storage piles multiple times a day, with a heat sensor being tied to the alarm system to notify the local fire department in case of any irregularities or fire related incidents. The local fire official is in support of this variance. Thus, Commissioner Heinsman motioned to approve variance (a) as submitted. Commissioner Jordan made the second. It was voted on and carried.

Regarding variance (b), it is estimated to cost over \$400,000 to provide sprinklers in the non-heated building. Additionally, the hoop building structure is not engineered to withstand the weight of a fire suppression system and it is impractical due to the nature of the canvas design. In the event of a fire, the canvas will burn off before the fusible link would melt rendering the fire suppression system and the capital investment useless. The request is to allow the sprinkler system to be omitted. As such, Commissioner Heinsman motioned to approve variance (b) as submitted. Commissioner Furnish made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey		
Greg Furnish	X	
Jim Greeson		
Joe Heinsman	X	
David Henson	X	
Todd Hite	X	
Wes Jordan	X	
Robin Nicoson		
Scott Pannicke	X	
Michael Popich	X	

Variance (a) and (b) were approved as submitted, by a vote of 8-0.

20-09-56 Homestead High School Additions and Renovations, Fort Wayne

The project scope involves additions of approximately 350,000 square feet. The project also includes demolition and renovation of approximately 350,000 square feet of existing area at the conclusion of the project. These plans will be executed in five (5) phases to be complete in the summer of 2024. The request is to not provide existing means of egress, as permanent exits would be difficult to maintain during ongoing construction. Temporary means of egress provisions will be provided for occupied areas during construction. Commissioner Pannicke motioned to approve with the condition that the variance shall be effective until October 1, 2024. Commissioner Jordan made the second. It was voted on and carried. Commissioner Heinsman recused himself from the vote.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	
Jim Greeson	X	
Joe Heinsman		
David Henson	X	
Todd Hite	X	
Wes Jordan	X	
Robin Nicoson	X	
Scott Pannicke	X	
Michael Popich	X	

The variance was **approved with the condition that it shall be effective until October 1, 2024 (10/1/2024)**, by a vote of 10-0.

10. Petitions for Administrative Review

- a. Granted and Forwarded to the Office of Administrative Law Proceedings (OALP)
 - i. IDHS Boiler and Pressure Vessel Safety Division’s Order Withholding Certificate of Inspection for Boiler/Pressure Vessel Device ID No. 355035 – Winona Building Products, LLC
 - ii. IDHS Sanctions Order No. 187-258 – Sublime

Director Boyle stated that the above petitions for administrative review were granted as timely and forwarded to the Office of Administrative Law Proceedings (OALP) for assignment to the administrative law judge (ALJ).

- b. Commission Determination (Recommendation for Denial for Untimeliness)
 - i. IDHS Notice of Violations Order No. 474409, Violations No. 8 and 12 – Head Start of LaPorte County/Niemann Elementary School

Director Boyle recommended that the Commission should deny the above petition due to it being filed six (6) days after the filing deadline afforded to the petitioner in statute. Commissioner Pannicke motioned to deny. Commissioner Furnish made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey		
Greg Furnish	X	

Jim Greeson		
Joe Heinsman	X	
David Henson	X	
Todd Hite	X	
Wes Jordan	X	
Robin Nicoson		
Scott Pannicke	X	
Michael Popich	X	

The petition was **denied**, by a vote of 8-0

- ii. IDHS Notice of Violations Order No. 476421 – American Legion Post 267

Director Boyle recommended that the Commission deny the above petition due to it being filed nearly a month after the filing deadline afforded to the petitioner in statute. Commissioner Popich motioned to deny. Commissioner Berry made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey		
Greg Furnish	X	
Jim Greeson		
Joe Heinsman	X	
David Henson	X	
Todd Hite	X	
Wes Jordan	X	
Robin Nicoson		
Scott Pannicke	X	
Michael Popich	X	

The petition was **denied**, by a vote of 8-0

11. Commission Review and Action on Non-Final Orders/Non-Final Orders of Dismissal

a. Non-Final Orders of Dismissal

- i. Variance No. 20-05-33 - Torsion Group Corp Building Expansion
Cause No. DHS-0620-000087

Based on a refiling of the variance, which was approved by the Commission at the previous meeting, both parties agreed to file a Joint Motion to Dismiss with the ALJ. Accordingly, the ALJ submitted a Non-Final Order of Dismissal. Upon Director Boyle’s recommendation, Commissioner Popich

motioned to affirm the ALJ's Non-Final Order of Dismissal as the Final Order of Dismissal of the Commission. Commissioner Jordan made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey	X	
Greg Furnish	X	
Jim Greeson	X	
Joe Heinsman	X	
David Henson	X	
Todd Hite	X	
Wes Jordan	X	
Robin Nicoson	X	
Scott Pannicke	X	
Michael Popich	X	

The Non-Final Order of Dismissal was **affirmed** as the Final Order of Dismissal of the Commission, by a vote of 11-0.

- b. Commission Consideration of Delegating Ultimate Authority Powers to the Administrative Law Judge (ALJ)/Office of Administrative Law Proceedings (OALP) for Final Orders of Dismissal

Director Boyle informed the Commission of the department's plan to recommend having the Commission delegate ultimate authority powers to the ALJ/OALP in certain administrative review proceedings. Justin Guedel stipulated that this would only occur if a Joint Motion to Dismiss is filed with the ALJ by the parties, or if a petitioner voluntarily dismisses (withdraws from) further administrative review proceedings. Orders requiring review and discussion of the substantive interpretation of the Commission's rules will continue to be placed before the Commission. Given that there was consensus among the members, Director Boyle stated that he will contact the ALJ to bring forward the proposal in writing with the specific details for one final review at next month's meeting.

12. Commission Review of Local Ordinances

- a. Pre-Adoption

- i. Ordinance No. 2020-12 – Building Code of Blackford County, Indiana

This ordinance was received by IDHS staff on September 30, 2020. Director Boyle stated it was being placed on the agenda for informative purposes only. Staff will begin its preliminary review of the ordinance in the coming

weeks and identify any potential conflicts with statute before the ordinance is formally adopted.

b. Adopted

- i. Ordinance No. 2020-OR-05 – Property Maintenance Code of the City of Charlestown, Indiana – **received by Commission via electronic mail on Wednesday, May 27, 2020, and tabled by the Commission at 7/7/2020, 8/4/2020, and 9/1/2020 meetings**

Director Boyle advised that the City of Charlestown decided to **withdraw** this ordinance. Director Boyle also advised that the City of Charlestown had submitted a revised draft ordinance to Commission staff, which Justin Guedel, IDHS Deputy General Counsel, and Philip Gordon, Deputy Attorney General and Legal Counsel to the Commission, reviewed prior to the meeting. Mr. Guedel and Mr. Gordon both advised that they did not identify any building laws or fire safety laws within the revised ordinance which would require the Commission’s approval. Shelly Wakefield, acting as the duly appointed representative of the City of Charlestown, explained that the city will be working to produce additional, separate ordinances to revise its building code in conformance with the Commission’s rules and the State of Indiana’s Unsafe Building Law (IC 36-7-9). No further action was needed by the Commission.

- ii. Ordinance No. 2020-4 (Amending Ordinance No. 1976-3) – Burn Code of the City of Greensburg, Indiana – **received by Commission via electronic mail on Thursday, September 10, 2020**

Director Boyle stated that code enforcement advised him of some concerns related to the fire code that will need to be addressed. As such, he recommended that the Commission table this ordinance until more specific recommendations can be provided by the staff. Commissioner Popich motioned to table. Commissioner Hite made the second. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey		
Greg Furnish	X	
Jim Greeson		
Joe Heinsman	X	
David Henson	X	
Todd Hite	X	
Wes Jordan	X	

Robin Nicoson		
Scott Pannicke	X	
Michael Popich	X	

The ordinance was **tabled**, by a vote of 8-0.

- iii. Ordinance No. 2020-17 – Unified Development Ordinance of the Town of Whitestown, Indiana – ***received by Commission via electronic mail on Tuesday, September 15, 2020***

Due to the substantial length of the ordinance (over 230 pages), Director Boyle recommended that the Commission table the ordinance to give staff and the legal counsels adequate time to complete a review. Commissioner Popich motioned to table. Commissioner Hite made the second. It was voted on and carried. It was voted on and carried.

	Yes	No
Jameson Berry	X	
Michael Corey		
Greg Furnish	X	
Jim Greeson		
Joe Heinsman	X	
David Henson	X	
Todd Hite	X	
Wes Jordan	X	
Robin Nicoson		
Scott Pannicke	X	
Michael Popich	X	

The ordinance was **tabled**, with a vote of 8-0.

- iv. Ordinance No. 2020-29 (Amending Ordinance No. 2019-25) – Chapter 91 Fire Prevention Code of the City of Greenfield, Indiana – ***received by Commission via electronic mail on Monday, September 28, 2020***

Mr. Guedel stated that upon review it was determined the city council failed to vote on the entire ordinance’s adoption, as the substantive fire safety laws provided in the exhibit (Exhibit A) were never actually provided to the city council. The city council will have to go back and adopt the exhibit as well, and then resubmit the finalized document for the Commission’s approval.

13. Final Comments/Closing Remarks from Chairman Nicoson

As Chairman Nicoson had to leave the meeting early due to an appointment, Commissioner Popich thanked everyone for their hard work and wished everyone a nice evening.

14. Next Meeting – Tentatively scheduled for Wednesday, November 4, 2020, beginning at 9:00 a.m. in History Reference Room 211 of the Indiana State Library, 315 W. Ohio Street, Indianapolis, IN 46202

If the Commission's meeting must be conducted electronically/remotely due to the ongoing COVID-19 public health emergency, details will be provided on the Commission main web page (<https://www.in.gov/dhs/2375.htm>) in advance of the meeting date.

15. Adjournment

The meeting was adjourned at 5:23 p.m.

APPROVED: _____
Robin Nicoson, Chairman