

## Agenda Item #3

<b>Case Number</b>	BZNA-000157-2018	<b>Acreage</b>	0.44 acres
<b>Address</b>	8715 Kensington Dr	<b>Zoning</b>	R1 (low density single family residential)
<b>Owner</b>	Robert Lloyd & Ruth Ann Davis	<b>Reviewer</b>	Oksana Polhuy
<b>Applicant</b>	Rachael McCracken	<b>BZA Meeting</b>	October 1, 2018

### Requested Action:

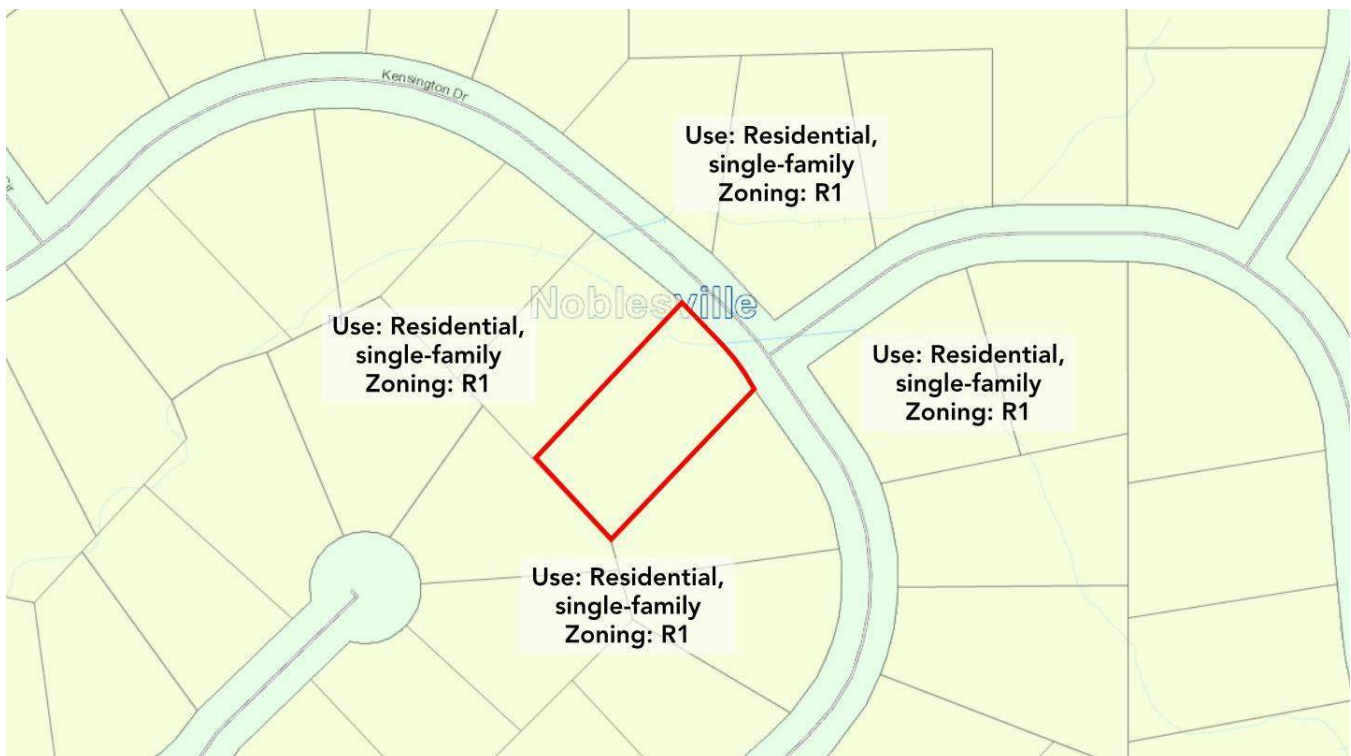
UDO § 8.B.2.B and Appendix C. Variance of Use to permit a Child Care Home as a primary use instead of accessory use in R1 (Low Density Single Family) residential zoning district.

### Recommendation:

Approve. See Findings of Facts for Approval on pages 3-4 and Conditions of Approval on page 4.

### Table of Contents:

1. Staff Report
2. Parcel Map
3. Aerial Map
4. Application
5. Site Plan & Elevations
6. State License
7. Site Pictures
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10. Support Letters



## ANALYSIS

The subject site is located in Wellington Heights subdivision on the southwest side of Kensington Drive, about 800 feet east of Allisonville Road and 700 feet north of 146<sup>th</sup> Street (Exhibits 2 & 3). It is located in the R1 (low density single family) residential zoning district and is surrounded by single-family residential uses on all sides. The petitioner is requesting a variance of use of UDO §8.B.2.B and Appendix C to permit the existing Child Care Home as a primary use instead of an accessory use in the R1 residential zoning district.

A Child Care Home, commonly called a daycare, has been operated at this location since 2010. Specifically, it is a Class II Child Care Home that may serve more than twelve (12) but not more than any combination of sixteen (16) full-time and part-time children at any time per Unified Development Ordinance (UDO) and Indiana Code (IC) definitions. A Child Care Home (Class I and II) is permitted in all residential zoning districts in our planning jurisdiction as a Home Occupation, meaning that it is an accessory use to the primary residential use per Appendix C and the definition of Home Occupation. In addition to this, per UDO § 9.C.6.C, "a Child Care Home shall be operated by a resident of the dwelling in which it is located".

The existing Child Care Home operates Monday through Friday, 7 a.m. to 6 p.m. It may have up to 16 children of any age between an infant and eighteen years old. There is a fenced-in playground area at the back of the house, which meets the state and UDO §9.C.6.D requirement about the playground area. The state may require up to four (4) teachers depending on the number and age of the children. UDO §9.C.6.E requires one additional off-street parking space for the Child Care Home. The property has an attached two-car garage and a driveway about 110 feet long and 14-20 feet wide, creating enough space to park at least four (4) cars for teachers. No signs are displayed on the property. Finally, the petitioner has been licensed by the state during all years of the Child Care Home operation. Thus, the existing Child Care Home meets all of our Child Care Home regulations except for UDO §9.C.6.C that requires the operator of Child Care Home to be a resident of the dwelling in which it is located.

Petitioner's parents own the house. The parents moved out of it in 2010. The petitioner at the time lived with her family in a different residence in Fishers and had a Child Care Home there, so she could not move into the subject property for permanent living. The petitioner received the state license to operate the Child Care Home at this location in 2010. She currently still owns these two Child Care Homes. The petitioner was not aware that she needed to obtain a Home Occupation permit from the City of Noblesville Planning Department to run the Child Care Home legally under our regulations. The house was sometimes rented to the people who helped the petitioner run the Child Care Home, and during these times, the Child Care Home met our definition of an accessory home occupation use. However, when a teacher of the Child Care Home did not reside in the house, it did not meet our regulations.

Recently, the state changed its administrative process and started requesting applicants for the Child Care Home license to obtain all required local business licenses and/or permits before issuing or renewing their state license. This is when the petitioner found out about the local regulations and that her current Child Care Home does not meet the requirements for an accessory Home Occupation use. Trying to rectify this situation, the petitioner is requesting a variance of use to permit Child Care Home as a primary use instead of an accessory use. The petitioner is not planning on changing its current operation of the Child Care Home. The number of children, teachers, and the hours of operation will remain the same as they have been so far.

## VARIANCE OF USE FINDINGS

### AGENDA ITEM #3:

If the Board should decide to APPROVE the requested variance, please use the following findings of fact:

The Noblesville Board of Zoning Appeals is authorized to approve or deny variances of use from the terms of the zoning ordinance. **The BZA may impose reasonable conditions as part of its approval. A variance of development standards may be approved only upon a determination in writing that the following five (5) conditions are met (see Indiana Code § 36-7-4-918.4):**

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

It is likely that this variance will NOT be injurious to the public health, safety, morals, and general welfare of the community. If at least one operator of the Child Care Home lived in the house, and there was an application for a Home Occupation filed, we would permit this use under Home Occupation regulations. The petitioner has a state license and has been annually renewing it, meeting all the state regulations that are much stricter than our local regulations. This Child Care Home operation in the past has not been observed to 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 included in the variance will not be affected in a substantially adverse manner:

It is likely that the use and value of real estate adjacent to the subject site will NOT be affected in a substantially adverse manner by allowing the requested variance. Nearby property owners may remonstrate against this petition if they believe this request will have significant adverse effects on adjacent properties. Should nothing contrary be brought to light by adjacent owners at the public hearing, it is presumed that the approval of this variance request will not have a substantially adverse effect on the use and value of adjacent properties. The Planning Department did not receive any complaints about this daycare before the variance application was filed, so it appeared that the community did not have issues with this use and its impact on their property values.

3. The need for the variance arises from some condition peculiar to the property involved:

The need for the variance does arise from a condition peculiar to the property involved. The petitioner already lived with her husband and children at a different location when her parents moved out of the house. She already had a Child Care Home at her other house outside of Noblesville Planning jurisdiction. Due to that, they stayed at their house. The parents didn't sell their house after they moved out. Rather than having an empty house, they decided to use it for a Child Care Home. Sometimes, the Child Care Home teachers live in the house, and the property meets our ordinance regulations (again, upon receiving a Home Occupation permit), but it doesn't happen all the time. This variance would permit the use for the times when no employee of the Child Care Home resides in the house.

4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought:

The strict application of the terms of the zoning ordinance WILL result in practical difficulties in the use of the property. The petitioner would have a few options that would result in practical difficulties. She would need to a) make sure and then prove that the teachers reside at the property all the time, which restricts caretakers' living options; b) move in herself, which could jeopardise the Child Care Home at her current residence, maybe even losing it; c) sell this property and lose the Child Care Home at this site. The closure of either Child Care Home will result in a number of families having to find an alternative daycare. Due to that, the strict application of the terms of the zoning ordinance will result in the practical difficulties both for the petitioner and the families that use her Child Care Homes.

5. The approval does not interfere substantially with the comprehensive plan adopted by the Noblesville Plan Commission and Council:

The approval does not interfere substantially with the comprehensive plan. The subject site is zoned residential and is proposed to remain residential in the future. The petitioner is not planning to change the residential character of the residence and of the property.

## RECOMMENDATIONS

### AGENDA ITEM #3:

**APPROVE the requested use variance based upon the following findings of fact:**

- The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- The use and value to the area adjacent to the property will not be affected in a substantially adverse manner;
- The need for the variance does arise from some condition peculiar to the property involved;
- The strict zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought;
- The approval does not interfere substantially with the comprehensive plan adopted by the Noblesville Plan Commission and Council.

**If the Board should decide to approve the variance, please include the following specific conditions:**

1. This variance of use is granted only to the current business owner of the Child Care Home, Rachael McCracken. Should the owner of the property or business owner of the Child Care Home change, the variance will become null and void.
2. The approval of this variance shall not supersede any rights or restrictions imposed by the covenants and rights applicable to all lots in Wellington Heights subdivision.
3. The Applicant shall sign the Acknowledgement of Variance document prepared by the Planning and Development Department Staff within 60 days of this approval. Staff will then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.
4. Any alterations to the approved building plan or site plan, other than those required by the Board of Zoning Appeals (BZA), shall be submitted to the Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.



EXHIBIT 2. PARCEL MAP

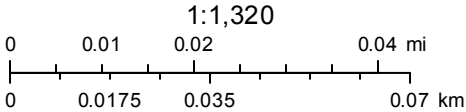


September 21, 2018

**Buildings**

- Building
- Building Foundation

Parcels



Basemap information here

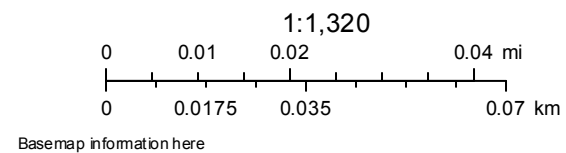


### EXHIBIT 3. AERIAL MAP



September 21, 2018

 Parcels







## EXHIBIT 4. APPLICATION

**CITY OF NOBLESVILLE**  
**BOARD OF ZONING APPEALS**  
**VARIANCE OF USE APPLICATION**



Application Number: BZNA-0157-2018

The undersigned requests a Variance of Use as specified below. Should this variance request be approved, such approval shall only authorize the particular use described in this application and as further limited by reasonable conditions imposed upon such approval by the Board of Zoning Appeals.

Project Name or Occupant Name: Rachael McCracken daycare home

Common Address 8715 Kensington Drive, Noblesville, IN 46060

**Applicant Name:** Rachael McCracken

Applicant Address: 13783 Meadow Lake Drive

Applicant City/State/Zip: Fishers, IN 46038 E-mail: rachael daycare@sbcglobal.net

Applicant Phone #1: 317.340.2632 Phone #2: \_\_\_\_\_ Fax: \_\_\_\_\_

**Owner Name:** Robert Lloyd & Ruth Ann Davis

Owner Address: 15804 Barnard Drive

Owner City/State/Zip: Noblesville, IN 46062 E-mail: \_\_\_\_\_

Owner Phone #1: \_\_\_\_\_ Phone #2: \_\_\_\_\_ Fax: \_\_\_\_\_

Property Location: ☐ Not located in a recorded subdivision, see legal description attached.

Subdivision Name: Wellington Heights

Subdivision Section: 4 Lot Number: 66 Last Deed of Record Number 851869

Existing Land Use: Residence, Daycare Home

Common Description of Request: Daycare Home not operated by owner of home

Zoning District of Property: R1 Code Section(s) Appealed: UDO § 8.B.2.B & Appendix C

Date: 8.20.18 Applicant's Signature: Rachael McCracken

The Noblesville Board of Zoning Appeals (BZA) is authorized to approve or deny Variances of Use from the terms of the Unified Development Ordinance. The BZA may impose reasonable conditions as part of its approval. A Variance of Use may be approved only upon a determination in writing that the following five (5) statements are true (see Indiana Code § 36-7-4-918.4):

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. Explain why this statement is true in this case:

The daycare has operated out of this location for eight (8) years. No known complaints  
have been filed with the City. It is still a functioning residence. The only difference  
between this and any other daycare home is that the operator does not reside at  
the residence.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner by the approval of this variance request. Explain why this statement is true in this case:

The applicant/operator grew up in this residence and respects the neighborhood and  
those that reside in it. She is very involved in the day-to-day operations of the daycare  
home. It is licensed by the State of Indiana and is, otherwise, in a state of compliance.

3. The need for the proposed variance arises from some condition peculiar to the property involved. Explain why this statement is true in this case:

The peculiar aspect to this property is not physical but the fact that the owners are the  
parents of the operator not the operator herself.

4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which this variance is sought. Explain why this statement is true in this case:

This daycare home has been in operation for eight years, and there are long term  
employees as well as families with young children that are dependent on this operation.  
The hardship would be that families would be required to seek alternative quality child  
care and existing employees would be out of work.

CITY OF NOBLESVILLE ♦ VARIANCE OF USE APPLICATION

5. The approval of this variance does not interfere substantially with the provisions of the Comprehensive Master Plan for the City of Noblesville, Indiana. Explain why this statement is true in this case:

PlanNoblesville identifies this area as Mixed Density Single Family Residential. The

approval of this variance will not change the residential use or characteristics of this

home. The facility is licensed by the State of Indiana as a daycare home.

\_\_\_\_\_  
\_\_\_\_\_



## **Rachael McCracken – Use Variance for Daycare Home**

### **Narrative Statement**

The petitioner, Rachael McCracken, has been a licensed daycare operator since 2002. Eight years ago, Rachael's parents moved out of the home in Wellington Heights (8715 Kensington Drive) where she grew up. At that time, Rachael opened her second daycare home at her parents' house. The other daycare home location is at Rachael's home in Fishers where she resides with her husband Ryan.

Article 9.C.6.C of the Noblesville UDO requires a Child Care Home to be operated by a resident of the dwelling in which it is located. While the subject site is still a single family residence (the daycare operates on the first floor of this 2-story home), Rachael, as the operator, does not reside here.

The license Rachael holds for the daycare home is a Class II, which permits up to 16 children. There are three to four full time staff members present at all times, which meets State standards. A recent change in Indiana Family & Social Services Administration (FSSA) policy requires all child care license holders to provide the Division of Family Resources proof that the child care program has a valid local business permit. When Rachael investigated Noblesville's requirements, it was then that she learned of the home occupation requirement that the operator must be a resident.

Rachael's daycare home is accredited by the National Association For Family Child Care. She has an excellent inspection record with FSSA. Quality day care is a value to the neighborhood and to the community at large. We respectfully request that the Board of Zoning Appeals look favorably upon this variance request.

## **LEGAL DESCRIPTION**

Lot Number 66 in Wellington Heights, Fourth Section, an addition in Hamilton County, Indiana, as per plat thereof, recorded in Plat Book 3, page 122 in the Office of the Recorder of Hamilton County, Indiana.



## Warranty Deed

BOOK 347 PAGE 402

This Indenture Witnesseth, That RONALD E. ROSS and BETTY L. ROSS,  
 husband and wife

("Grantor")

of \_\_\_\_\_ County, in the State of West Virginia, CONVEY  
 AND WARRANT to ROBERT LLOYD DAVIS and RUTH ANN DAVIS,  
 husband and wife

of Hamilton County, in the State of Indiana, for the sum  
 of -Two and no/100- Dollars (\$ 2.00 ) and other  
 valuable consideration, the receipt of which is hereby acknowledged, the following described real estate in  
Hamilton County, in the State of Indiana:

Lot Number 66 in Wellington Heights, Fourth Section, an  
 addition in Hamilton County, Indiana, as per plat thereof,  
 recorded in Plat Book 3, page 122 in the Office of the  
 Recorder of Hamilton County, Indiana.

Subject to the unpaid balance of a mortgage to Inland Mortgage  
 Company, Inc. in the original principal amount of \$75,600.00  
 dated October 26, 1979 and recorded October 31, 1979 in  
 Mortgage Record 389, page 165; and assigned to Lincoln  
 National Life Insurance Company by assignment dated October  
 26, 1979 and recorded November 7, 1979 in Mortgage Record 389,  
 page 527 in the records of the Office of the Recorder of  
 Hamilton County, Indiana.

Subject to taxes for 1984, payable in 1985.

Subject to easements, restrictions, covenants and agreements  
 of record.

8715 Kensington Drive, Noblesville

RECEIVED  
 FEB 11 3 57 PM '85

FILED ENTERED FOR TAXATION

11<sup>th</sup> day February 19 85

Polly Pearce Auditor  
 Hamilton County

This Instrument Recorded Feb. 11 1985  
 Mary L. Clark, Recorder, Hamilton County, Ind.

Parcel # 10-13-CY-04-011.000

In Witness Whereof, Grantor has executed this deed this Feb day of February 19 85

Signature Ronald E. Ross (SEAL)

Signature Reverly S. Ross (SEAL)

Witnessed by RONALD E. ROSS

Printed XXXXXXXXXXXX

STATE OF WEST VIRGINIA  
 COUNTY OF Putnam } SS:

Before me, a Notary Public in and for said County and State, personally appeared

RONALD E. ROSS ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

who acknowledged the execution of the foregoing Warranty Deed, and who, having been duly sworn, stated that  
 any representations therein contained are true.

Witness my hand and Notarial Seal this 6th day of February, 19 85

My commission expires

Signature William K. Bragg, Jr.

December 3, 1990

Printed William K. Bragg, Jr.

STATE OF WEST VIRGINIA  
 My Commission Expires Dec. 3, 1990

Residing in Putnam West Virginia  
 County, Indiana

This instrument was prepared by

Edwin H. Hughes, III, attorney at law.

Return to:

CONNER TITLE, INC.  
30 S. Ninth Street  
Noblesville, Indiana 46060  
(317) 776-0125  
84-948

BOOK 347 PAGE 403

Signature Betty L. Ross  
Printed Betty L. Ross

COMMONWEALTH OF KENTUCKY,  
COUNTY OF CLARK;

This Instrument Recorded Feb 11 1985  
Mary L. Clark, Recorder, Hamilton County, Ind.

The foregoing Warranty Deed was acknowledged before me this 7th  
day of February, 1985, by Betty L. Ross.

My Commission expires 3-23-88.

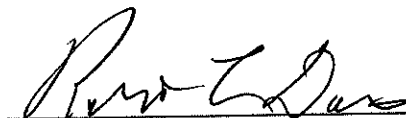
Gerry T. Boocock  
Signature Gerry T. Boocock

Natary Public  
Title

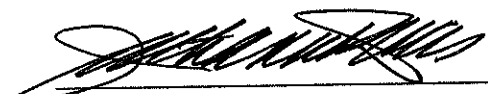


## CONSENT FORM

The undersigned, Robert L & Ruthann Davis, being the owner of the property commonly known as 8715 Kensington Drive, Noblesville, IN 46060, hereby authorizes Church, Church, Hittle & Antrim by Andrew Wert to file a Variance of Use petition for a Licensed Home Daycare to be located at the aforementioned address, and supports such request. We further acknowledge that an application has been filed and docketed as Case #BZNA-0157-2018.



9-7-18

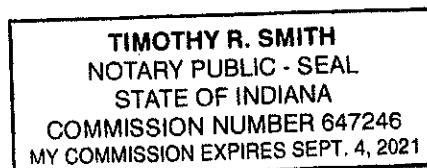
  
Signature(s) of Owner(s)

9.7.18  
Date

STATE OF INDIANA,  
COUNTY OF Hamilton, SS:  
Subscribed and sworn to me this

7<sup>th</sup> day of September, 2018

  
Notary Public



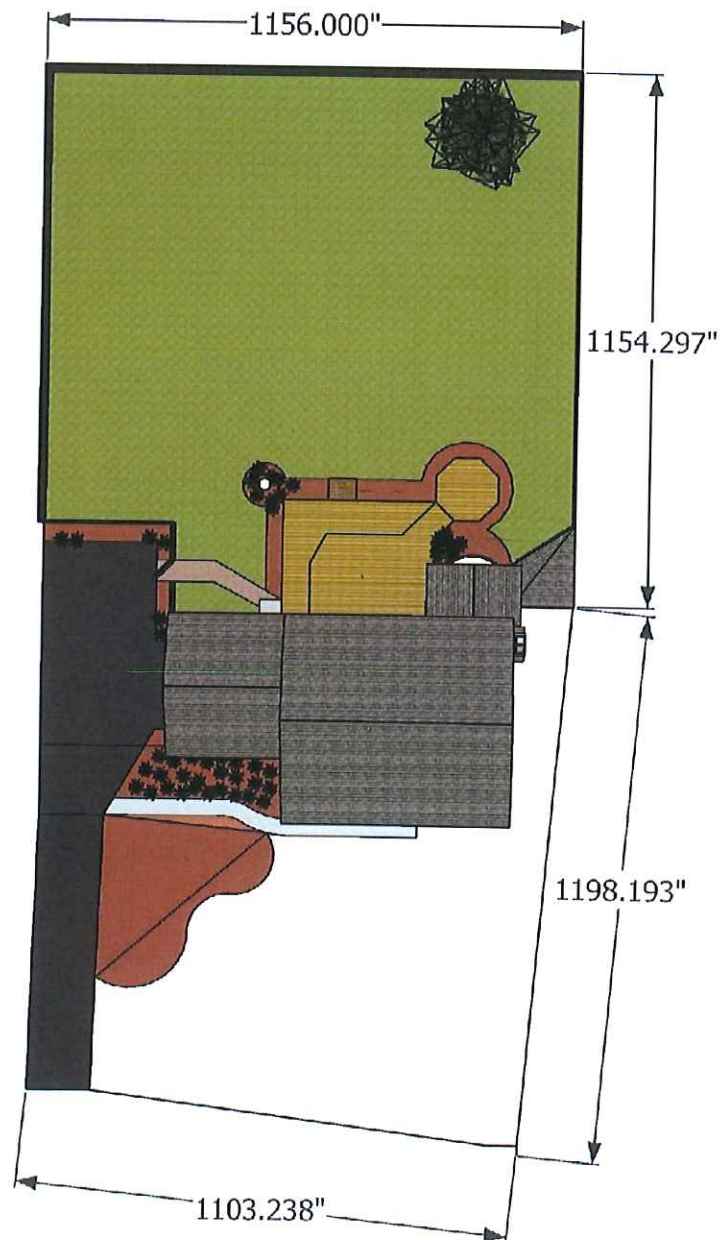
Timothy R. Smith  
Printed Name of Notary Public

My Commission Expires: 9-4-2021

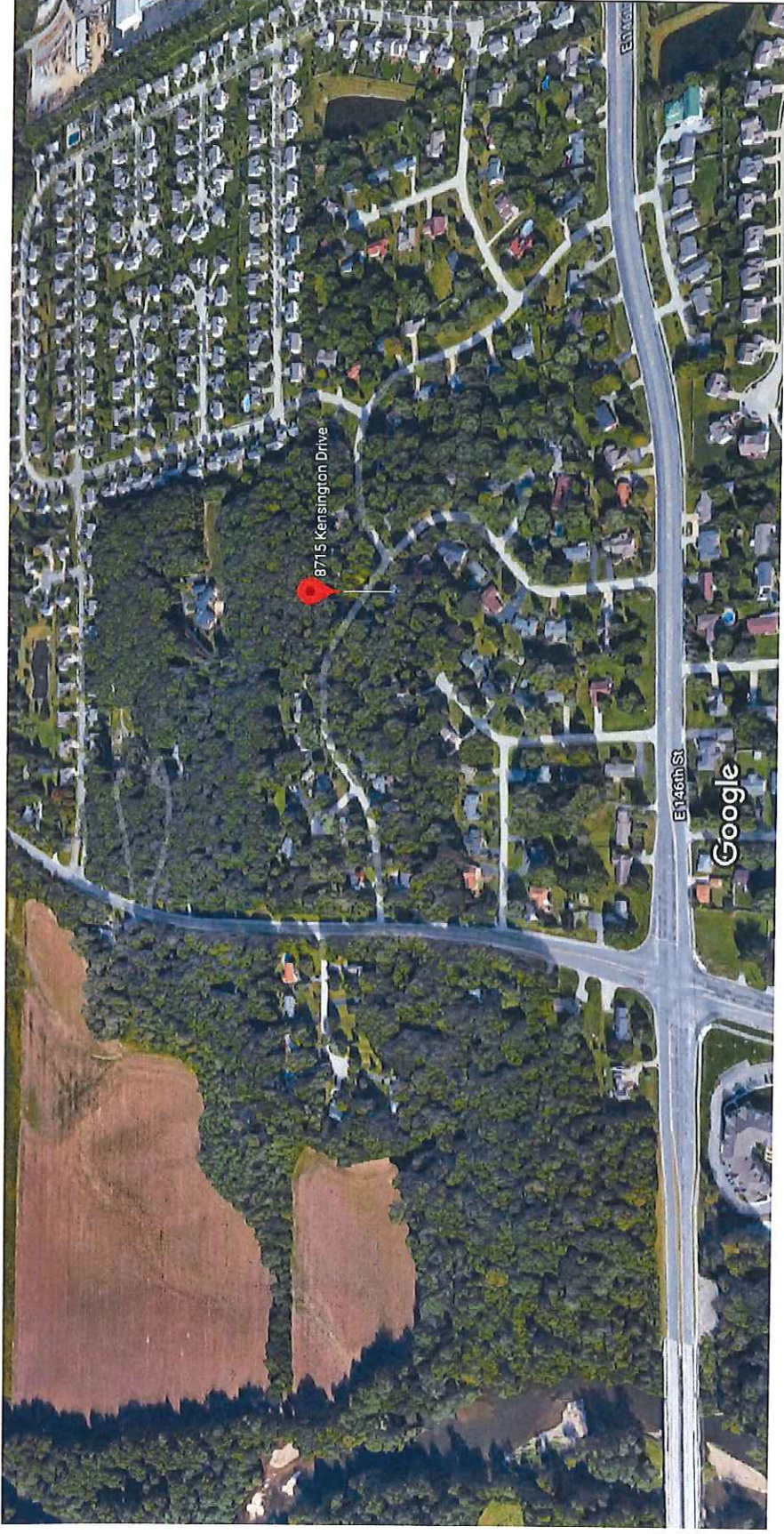
My County of Residence: Hamilton

## EXHIBIT 5. SITE PLAN & ELEVATIONS

### SITE PLAN — 8715 Kensington Drive







## RACHAEL McCRACKEN VARIANCE OF USE





**RACHAEL McCRACKEN VARIANCE OF USE**

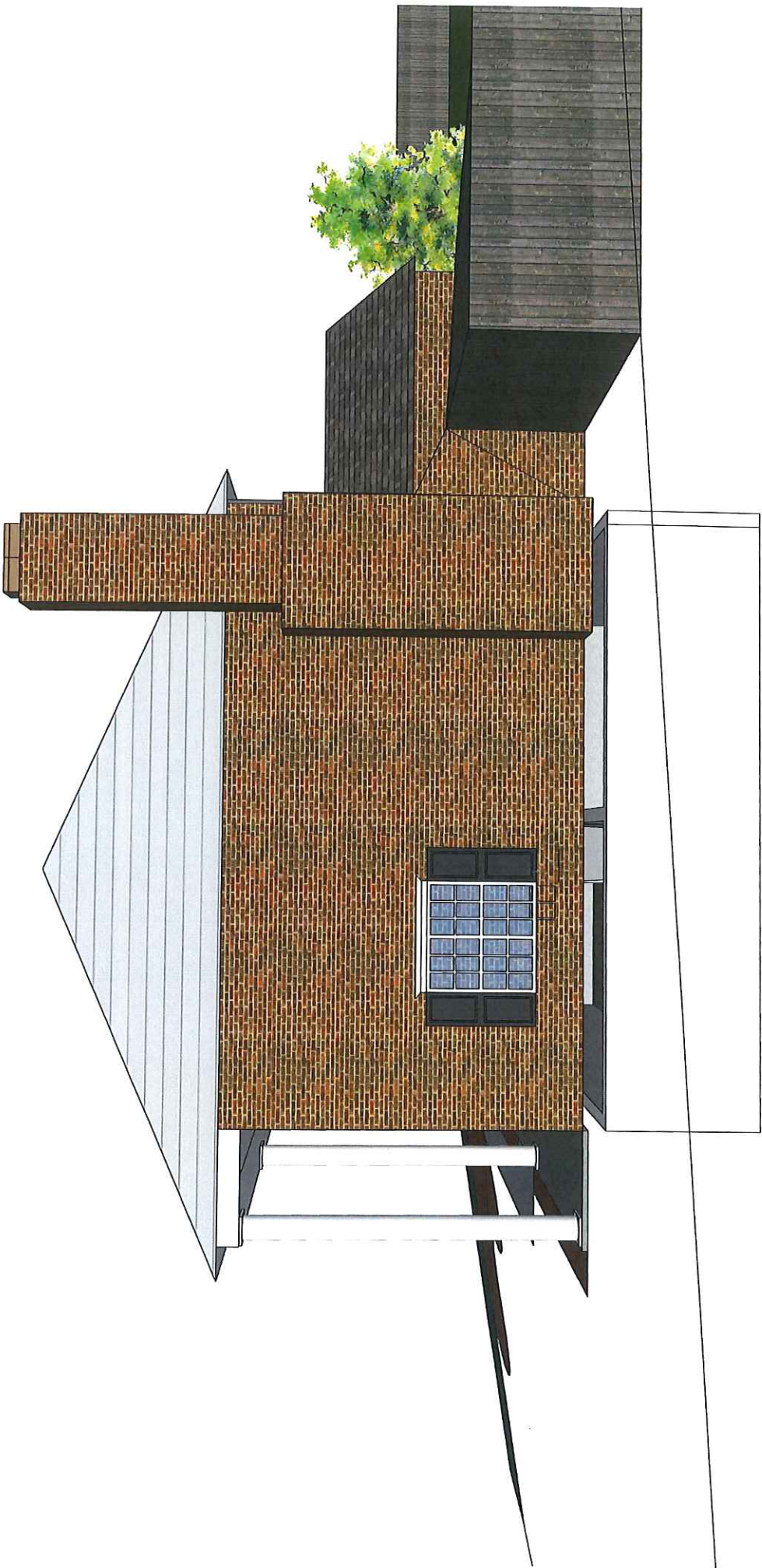


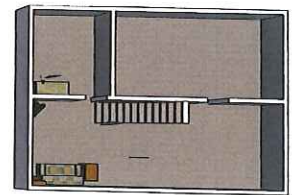
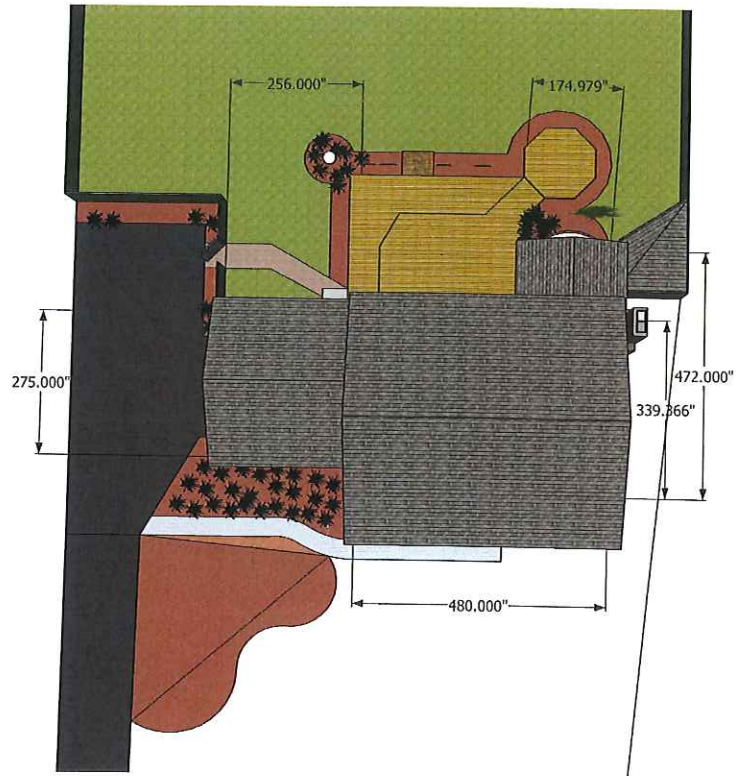
















**Indiana Family and Social Services Administration**  
*in accordance with Indiana Law IC 12-17.2 hereby issues a*

# CHILD CARE HOME LICENSE - CLASS II

State Child Care Information (877) 511-1144 [www.ChildCareFinder.IN.gov](http://www.ChildCareFinder.IN.gov)  
Child Care Resource & Referral For HAMILTON County: Child Care Answers (800) 272-2937

Identification Number: 29-1650

to:

Rachael McCracken

Known as

Rachael's Daycare II

Located at

8715 Kensington Drive, Noblesville, IN 46060

Capacity: 16

Age Range: Infant

to: Eighteens

Restrictions:

*State law requires that this permit must be publicly displayed so that it may be available and shown to each child's parent or guardian when the child is enrolled. It cannot be bought, sold, or transferred. It is valid only for the location address noted above. This permit is the property of the State of Indiana and must be returned to the Child Care Licensing Section in the event of termination or revocations.*

Effective From: 1/1/2017 to: 12/31/2018

*Nicole Handell*

Director

# STATE ONLINE INSPECTION REPORT

https://secure.in.gov/apps/fssa

**INCONNECT**

**Provider Details**

**RACHAEL'S DAYCARE II**

**ADDRESS**

46060

**PHONE**

317-340-2632

**COUNTIES SERVED**

HAMILTON

**PRINT VIEW**

**Child Care Ages:**  
Infant-Eighteen:  
Total Capacity:

**Hours of Operation:**  
Mon: 7:00 AM-6:00 PM  
Tue: 7:00 AM-6:00 PM  
Wed: 7:00 AM-6:00 PM  
Thur: 7:00 AM-6:00 PM  
Fri: 7:00 AM-6:00 PM

**Applicants:**  
16 Rachael McCracken  
16 **Provider Status:**  
Open

**License/Reg. Dates:**  
1/1/2017 - 12/31/2018

**License/Reg. Status:**  
Regular

**Provider Type:**  
Licensed Home

https://secure.in.gov/apps/fssa

**INCONNECT**

**Provider Details**

**Hours of Operation:**  
Mon: 7:00 AM-6:00 PM  
Tue: 7:00 AM-6:00 PM  
Wed: 7:00 AM-6:00 PM  
Thur: 7:00 AM-6:00 PM  
Fri: 7:00 AM-6:00 PM

**Open**

**License/Reg. Dates:**  
1/1/2017 - 12/31/2018

**License/Reg. Status:**  
Regular

**Provider Type:**  
Licensed Home

**Provider Programs:**  
CCDF Provider

**Accreditations:**  
None

**PTQ Level:**  
3

**Inspection** **Compliance** **History**

(Click on a tab to see more info)

**Inspection** **Compliance** **History**

**Inspection type:** Licensing  
**Date:** 11/22/2017  
**Type of correction needed:**  
**Regulation:**  
**Action needed to correct issue:**  
**Date resolved:**  
**Provider response:**

**Previous** **Next**

**Inspection** **Compliance** **History**

**Inspection type:** Licensing  
**Date:** 11/29/2016  
**Type of correction needed:**  
**Regulation:**  
**Action needed to correct issue:**  
**Date resolved:**  
**Provider response:**

**Previous** **Next**

**Inspection** **Compliance** **History**

**Inspection type:** Licensing  
**Date:** 11/15/2016  
**Type of correction needed:**  
**Regulation:**  
**Action needed to correct issue:**  
**Date resolved:**  
**Provider response:**

**Previous** **Next**

**FSSA WEBSITE :**

**Inspection Reports**

<https://secure.in.gov/apps/fssa/carefinder/index.html>



## EXHIBIT 7. SITE PICTURES

Looking southwest at the front of the subject site, northeast side of the property.







Looking north at the front of the subject site, northeast side of the property.





## EXHIBIT 8. NEIGHBORHOOD PICTURES

Looking southeast from the subject site.



Looking southeast from the subject site. onto Kensington Dr going south.





Looking east from the subject site.



View from Saville Road to the south of Kensington Drive.









# EXHIBIT 9. REMONSTRANCE LETTERS

## Letter # 1

**Oksana Polhuy**

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**From:** Tina <jetiduncan1@att.net>  
**Sent:** Wednesday, September 19, 2018 10:56 PM  
**To:** Oksana Polhuy  
**Subject:** 8715 Kensington Drive - Daycare in neighborhood requesting zoning change

Good Evening Ms. Polhuy,

Unfortunately, I can not be present on October 1st but I have a few major concerns regarding taking our neighborhood and beginning to allow business zoning. There are multiple people in our neighborhood that will be retiring and potentially moving away over the next couple of years. If you allow this business zoning to go through as homes are sold that will allow major changes to take place.

Currently, the traffic has increased in the mornings/evenings and there have been multiple incidents of vehicles coming/going from the daycare that are driving way in excess of the speed limit. If I had time to meet them at their cars in the morning after flying by my house I would but I, unfortunately, have not been able to go down there and confront some of these drivers. They definitely do NOT drive like their children live in the neighborhood and it's scary and frustrating. There are kids out in the morning and afternoon coming and going to school and its very frustrating. The speed monitors that were out here last week just confirmed that a few of these drivers are going WAY too fast. They didn't slow down.

There is not adequate parking available as neighbors are parking vehicles on the street and when the daycare is in full swing we can't turn left from Saville onto Kensington because day care vehicles are in the way.

If there are going to be 16 children and 4 adults on site at all times that definitely increase the traffic and the careless attitudes of current daycare parents ignoring the safe speed is a definite concern. We do not have sidewalks in the neighborhood so kids ride their bikes and walk on the street and the additional FAST traffic is dangerous at best. While it's also a danger for normal traffic increasing speed, number of cars and traffic increases that concern. On busy / peak traffic times we already have an issue with lack of adequate parking, walking area, and places for our kids to ride bikes so increasing this traffic is a dangerous concern.

We would ask that the planning commission vote no to allowing more traffic in an area that can not handle the traffic at multiple times throughout the day now. We ask that you urge this business to set up in an area zoned for business already and do not open the door to additional business zoning within the neighborhood. We moved into a neighborhood 25 years ago that we expected to be a residential neighborhood and would appreciate the planning committees attention to keeping it that way.

Thank you for considering our comments.

Respectfully,  
Jeff & Tina Duncan

## Letter # 2

**Oksana Polhuy**

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**From:** Joe Kabat <joe\_kabat@att.net>  
**Sent:** Thursday, September 20, 2018 9:02 AM  
**To:** Oksana Polhuy  
**Subject:** Day Care Petition 8715 Kensington Drive Wellington Heights

We are current residents of Wellington Heights residing at 8866 Saville Rd. We am opposed to this re zoning request. This will not only cause potential parking and increased traffic concerns but set a precedent for future requests. The owner should abide by the current regulations or relocate the day care. Please submit this email to the hearing committee as oppositon to the re zoning request.

Please confirm receipt.

Thank You

Joe and Barbara Kabat  
8866 Saville Rd  
Noblesville In 46060

## Letter # 3

September 18, 2018

Oksana Polhuy  
City of Noblesville  
Department of Planning and Development  
16 S. 10<sup>th</sup> Street  
Noblesville, IN 46060

Dear Oksana:

With the regard to Application number: BZNA-0157-2018, 8715 Kensington Drive, meeting date of October 1, 2018, I would like to express my concern and objection to the proposed change in our neighborhood zoning.

1. A person who does not reside in our neighborhood should not be allowed to change the zoning of the neighborhood for all those who DO reside here. I encourage a spirited discussion on this subject by all current residents.
2. I have concern about parking and the increased traffic that this business brings to our neighborhood.
3. Our neighborhood is not designed for this type of business use and I have concern for the precedent that is set, if this application is approved.
4. I purchased my house because it was a single family neighborhood. I have concern about the potential impact on my taxes and negative impact on the value of my property, if this application is approved.

With respect to all parties involved, I would request that you please deny this application.

You can contact me at 317-709-0278 to discuss this matter further.

Respectfully submitted,

Helen T. Cox  
14647 Wellington Court  
Noblesville, IN 46060



## Letter # 4

**Oksana Polhuy**

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**From:** BestefarJohn M <johnk9jgs81@gmail.com>  
**Sent:** Friday, September 21, 2018 11:25 AM  
**To:** Oksana Polhuy  
**Subject:** Day Care in a Residence in Wellington Subdivision

Oksana,

I want to add my objection to the request for a daycare in our residential subdivision.

I think this is a bad idea because there are no other businesses in the area and to grant this request would establish a bad precedent for future requests. I hope you will deny this request and any similar ones in the future. Residential areas should remain residential and businesses should be in appropriate areas for business.

I am a resident in the affected area.

John F. Moe MD, MPH, FAAFP

## Letter # 5

**Oksana Polhuy**

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**From:** Corey Halgren <cth92@yahoo.com>  
**Sent:** Sunday, September 23, 2018 2:17 PM  
**To:** Oksana Polhuy  
**Subject:** Application BZNA-0157-2018

I am writing to express my concern with the above Application for Variance to allow the primary use of a residential property as a Day Care Center. As this is an older residential neighborhood, I am concerned that the potential for increased traffic on Kensington Drive due to the anticipated increase in number of children being cared for on the property could cause an unacceptable traffic issue during morning and evening "rush hours", as well as (and more importantly) an unacceptable decrease in the level of safety on Kensington Drive.

Please note that I have no problem with the current operation, so long as it continues to be incidental use of the property the owner/resident/operator is living in.

I would encourage the Board of Zoning Appeals to deny this Request for Variance. Thank you for your consideration.

Corey Halgren  
3 Rugby Court

Sent from my iPhone

## Letter # 6

September 24, 2018

Bob and Cherie Harvey  
1423 Wellington Court  
Noblesville, IN 46060

City of Noblesville  
Department of Planning and Development  
16 South 10<sup>th</sup> Street  
Noblesville, IN 46060

This letter is in regards to the proposed Variance of Use change on the property located at 8715 Kensington Drive. We have been property owners in the Wellington Heights Subdivision for over 33 years. We are in favor of the continuation of our subdivision as a residential only neighborhood.

We are opposed to this request for change because of several reasons. We believe our property value would decrease significantly if this were approved. This change would also allow for a large increase in traffic flow to accommodate the business, potentially allowing up to 16 children and 4 daycare workers to daily commute to and from this residence. Our neighborhood streets and traffic patterns are not designed to allow for this unsafe increase in traffic, i.e., parking shortage, parents rushing to drop off their child on their way to work, and our own school children waiting for and leaving school busses on a daily basis.

If this variance is approved, we feel it will open the door to future requests for variances. Please allow us to keep our neighborhood as a R1 zoned district in order to maintain the design for its original intentions – a family neighborhood, not a business district.

Respectfully submitted,

Bob and Cherie Harvey  
[harv24@scglobal.net](mailto:harv24@scglobal.net)  
(317) 966-2262

## Oksana Polhuy

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**From:** Bob Harvey <harv24@sbcglobal.net>  
**Sent:** Monday, September 24, 2018 11:52 AM  
**To:** Oksana Polhuy  
**Subject:** Re: Variance Request at 8715 Kensington Drive

Thank you for notifying me of your receiving our letter. I know that this business has been in operation without residence for sometime (illegally, I might add). I also know that there won't be increased traffic beyond what we have experienced since they are at their 16/4 limit. My traffic remarks are from what I have directly observed from my daily walking, at various times of the day, directly passing this location, while they have been operating with these numbers, well beyond the design of the streets and residential access. My comments were intended to reference what has been happening prior to this request for change. We are just "backing up", through past illegal practices, with observed actions from this residential site. Nothing may not change from the past, as you noted, except the increased potential of one of our school kids getting hit by a "rushing, high speed parent" running late for work, or meeting the deadline for picking up their child. It's an accident waiting to happen.

You may attach these comments to our original letter.

Respectfully,  
Bob & Cherie Harvey

Sent from my iPhone

On Sep 24, 2018, at 11:14 AM, Oksana Polhuy <[opolhuy@noblesville.in.us](mailto:opolhuy@noblesville.in.us)> wrote:

Mr. Harvey,

Thank you for expressing your concern. I'll add it to the staff report for the Board to see it.

I read your letter and would like to respond to the traffic concern. This daycare has already been operating at this address for many years having up to 16 kids and the necessary number of caretakers. This variance will not open a door to an increase in the number of kids or caretakers – they've already been there. Nothing about the ongoing daycare operation will change except for the fact that the people who care for the children won't always live in the house. The rest will remain the same. Their state license already allows them to care for up to 16 kids, and the state may not allow more than 16 children in a residential structure. So, there won't be an increase in traffic.

Sincerely,

**Oksana Polhuy, Associate Planner**  
Department of Planning and Development  
City of Noblesville  
16 S. 10<sup>th</sup> Street, Suite 150  
Noblesville, IN 46060  
317.776.6325



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**From:** Bob Harvey [<mailto:harv24@sbcglobal.net>]  
**Sent:** Monday, September 24, 2018 11:07 AM  
**To:** Oksana Polhuy <[opolhuy@noblesville.in.us](mailto:opolhuy@noblesville.in.us)>  
**Subject:** Variance Request at 8715 Kensington Drive

Please find attached our letter to be included in your presentation to the Department of Planning and Development for the change variance at 8715 Kensington Drive. Thank you.

## Letter # 7

**Oksana Polhuy**

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**From:** LEE CLARK <lee.clark8731@comcast.net>  
**Sent:** Monday, September 24, 2018 8:54 PM  
**To:** Oksana Polhuy  
**Subject:** Objection to Variance Request

We have lived in our home at 8731 Kensington Drive for 39 years and are very concerned about the “home” at 8715 Kensington Drive currently being used as a daycare. The use of the “home” as a daycare with no resident present is in direct violation of the Wellington Heights Neighborhood Covenants which say the homes in our neighborhood shall only be used as a residence. There is another daycare on Rugby Circle, operated by the resident, that also brings additional traffic every morning and afternoon.

It is ironic that the only way any home in our neighborhood could support 16 children and 4 adults was because our neighborhood was annexed by the city due to the large number of septic tanks in our neighborhood that were failing. Part of the agreement, to receive city sewers, with the city was that we would forgo installation of sidewalks and street lights. There are students that now wait on their school bus standing in the street with no street lights. The additional traffic (up to 40 cars per day) poses an increased danger of a child being struck. In addition, there is definitely inadequate parking at the home. Parents and workers currently park on both sides of the street which creates an additional danger for anyone, including buses, traversing our street. In the event of an emergency it would be very difficult for a fire truck to get through at certain times of the day.

We take pride in our neighborhood, and as evidenced by the large number of residents on Kensington Drive that have lived in their home for over 20 years, we like our quiet neighborhood. Quite frankly, homes in our neighborhood are currently in the sweet spot for new buyers looking to locate to Hamilton County. Homes sell very quickly. If the Davis family does not want to live in their former residence, then perhaps selling the home and using the money to purchase a facility with adequate parking, safe entrances, and not a residence would be more appropriate. We know the Davis family and they always took good care of their property when they lived there. Now the front yard frequently is overgrown and in the fall the leaves are rarely raked. Until very recently the driveway of the house was a crumbling mess. This does nothing to improve our property values. I asked a new neighbor if she had heard about the Variance request and her response was that when they first moved in they thought the house was abandoned.

In short, the home is not being used as a residence in violation of our neighborhood covenants, there is no resident at the home in violation of Noblesville code, the traffic creates safety hazards and the lack of care of the outside of the home is a direct result of the fact no one lives there. Due to these issues we respectfully request this variance be denied.

Lee and Arlana Clark

## Letter # 8

**Oksana Polhuy**

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**From:** Jan Borcharding <nineofnine1@gmail.com>  
**Sent:** Tuesday, September 25, 2018 1:58 PM  
**To:** Oksana Polhuy  
**Subject:** 8715 Kensington Dr. variance

To The Noblesville Department of Planning and Development

We ask that this variance be denied for many reasons. First and foremost approval of such a variance sets a precedent for further requests allowing anyone to purchase a house in Wellington Heights not live there and operate a business out of the house. If this happens Wellington Heights would cease to be a residential neighborhood. Those running businesses out of unoccupied houses in residential neighborhoods have no incentive to upgrade and care for those properties and have no sense of community with the residents of the neighborhood.

Wellington Heights does not have sidewalks so the increased traffic will erode the safety of neighbors who walk, bike and run and the children waiting for school buses.

Wellington Heights is a single family residential neighborhood and should remain as such . It is at the south entrance of the city of Noblesville and should be preserved for the city's image as well as out of respect for the people who call Wellington Heights home.

Many of us have lived in this neighborhood for over 30 years and would like to stay here. We have raised our families here and invested money, time and sweat equity into these houses to make our homes nice and to preserve our property values so that Wellington Heights remains competitive in the housing market. We respectfully ask the planning and development committee to deny this variance request. Please protect our community and keep Wellington Heights a single family residential neighborhood.

With kind regards

Greg and Jan Borcharding  
14629 Wellington Ct.



## Letter # 9

**Oksana Polhuy**

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**From:** Angie Huser <ahuser630@gmail.com>  
**Sent:** Thursday, September 27, 2018 3:56 PM  
**To:** Oksana Polhuy  
**Subject:** Application Number: BZNA-0157-2018

Ms. Polhuy,

I am writing in regards to the above mentioned application number for a Variance of Use to permit a Child Care Home as primary use. My husband and I will be unable to attend the meeting due to not receiving the notice of public hearing in enough time.

I wanted to voice our objection to the application for the Variance of Use. Wellington Heights is a community of personal residences and NOT of businesses. While I am sure that there are many homes in the community that contain an at-home daycare business, we object to having one in our neighborhood.

The home is located at the intersection of Saville Rd. and Kensington Dr. There have been many times in the mornings that I have had to wait for vehicles to pull in and back out of the driveway. In the evenings, I have also had to wait for vehicles pulling in and backing out of the driveway. There is also a car parked on the street in front of the house at times that can make it difficult to navigate around (because of other cars parked on the street), especially in the winter if the roads are slick. I should not have to come and go a different way from the residential neighborhood because of the daycare customer or employee vehicles.

My husband and I are also worried that a known daycare in the neighborhood may diminish our property values when we look to put our home up for sale.

Is there going to be anyone who will monitor/enforce the city or county ordinances in regards to in-home daycares?

Thank you for your time.

Sincerely,

Angie Huser

Sent from [BlueMail](#)

## EXHIBIT 10. SUPPORT LETTERS

**Oksana Polhuy**

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**From:** Jonathan Moen <jonathan.moen@icloud.com>  
**Sent:** Sunday, September 30, 2018 8:04 PM  
**To:** Oksana Polhuy  
**Subject:** BZNA-0157-2018

Oksana,

My name is Jonathan P. Moen and I live at 8716 Kensington Drive, Noblesville, IN. 46060. My house sits at the southeast corner of Kensington Drive and Saville Road. I am not opposed to the use as a Child Care Home since it has been one for several years. I would like the BZA to consider two conditions to Ms. McCracken request.

1. The variance is non transferable if the property is sold.
2. The property be maintained. There was a period when cars were allowed to park on the lawn perpendicular to the driveway and the yard was not maintained. It was rather unsightly as a property owner who tries to maintain his home.

I thank you for allowing myself the opportunity to speak to the Noblesville Planning Department and the BZA. If you have any questions regarding my two concerns, I can be reached at (317) 408-8090

Sincerely,

Jonathan P Moen

Sent from my iPad