

# INDIANA FIRE PREVENTION AND BUILDING SAFETY COMMISSION

## COMMISSION MEETING MINUTES

Indiana Fire Prevention and Building Safety Commission  
Video/Teleconference Cisco Webex Format

Wednesday, November 4, 2020

### APPROVED AS AMENDED AT 12/1/2020 MEETING

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 9:00 a.m. EST on Wednesday, November 4, 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 (Wes) Jordan  
Robin Nicoson, Chairman  
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 nine (9) members in attendance at the beginning. Commissioner Henson was delayed but joined the call shortly after the meeting began. Commissioner Pannicke was absent from the meeting.

	Present	Absent
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	
<b>Joe Heinsman</b>	X	
<b>David Henson</b>	X	
<b>Todd Hite</b>	X	
<b>James Jordan</b>	X	
<b>Robin Nicoson</b>	X	
<b>Scott Pannicke</b>		X
<b>Michael Popich</b>	X	

3. Commission Review and Action on Meeting Minutes

a. Tuesday, October 6, 2020

Director Boyle asked the Commission’s members if any corrections needed to be made to the Tuesday, October 6, 2020 meeting minutes. The commissioners stated that everything appeared to be correct. As such, Commissioner Corey motioned to approve the meeting minutes as submitted. Commissioner Popich made the second. It was voted on and carried.

	Yes	No
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	
<b>Joe Heinsman</b>	X	
<b>David Henson</b>		
<b>Todd Hite</b>	X	
<b>James Jordan</b>		
<b>Robin Nicoson</b>	X	
<b>Michael Popich</b>	X	

The October 6, 2020 meeting minutes were **approved as submitted**, with a vote of 8-0.

#### 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 20-47 has extended the State of Indiana's public health emergency declaration through December 1, 2020. All relaxed requirements pertaining to the open-door law and electronically conducted public meetings will continue until further notice.

- b. State Building Commissioner's Report – Craig Burgess, State Building Commissioner

State Building Commissioner Craig Burgess stated that no written interpretations were published in time for today's meeting. In other news, Mr. Burgess informed that the 2020 edition of the IDHS-Purdue University Building Academy has been postponed due to the pandemic. A virtual event was attempted, but it could not be adequately organized. Mr. Burgess advised that he still has hope that the 2021 event will take place next year, as scheduled.

#### 5. Rulemaking Update(s)

- a. Indiana Elevator Code Committee Meeting

- i. Next Meeting: Tuesday, November 17, 2020 beginning at 9:00 a.m. EST, Webex Electronic Meeting

Director Boyle advised that the Indiana Elevator Code Committee will continue reviewing model code ASME A17.3-2017 at its next meeting.

***Public notice and meeting access details will be provided on the Committee's web page (<https://www.in.gov/dhs/4200.htm>) in advance of the meeting.***

- ii. Commission Appointment of Brian Smith (Indiana University Facility Operations – Elevators & Generator Shop Supervisor) to the Indiana Elevator Code Committee

Director Boyle stated that he contacted Brian Smith, from the Indiana University Elevator Shop, to serve as the newest member on the Indiana Elevator Code Committee. Mr. Smith briefly explained his background to the

Commission’s members. Commissioner Corey motioned to approve Mr. Smith’s appointment to the Indiana Elevator Code Committee. Commissioner Heinsman made the second. It was voted on and carried.

	Yes	No
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	
<b>Joe Heinsman</b>	X	
<b>David Henson</b>		
<b>Todd Hite</b>	X	
<b>Robin Nicoson</b>	X	
<b>James Jordan</b>	X	
<b>Michael Popich</b>	X	

Brian Smith was **approved as a member of the Indiana Elevator Code Committee**, 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

Director Boyle reminded the Commission that he emailed a copy of submission to them a short time ago. Justin Guedel emailed the Office of Management and Budget (OMB) a week ago, and the Department hopes that this request is granted within the next week or two.

c. Variances Proposed Rule [to Replace Current Emergency Rule (LSA Document #19-333(E)) and Become New Final Rule under 675 IAC 12-5] – **see IDHS’ revised draft proposed rule provided in meeting materials**

i. Final Comments/Considerations

Director Boyle reminded the Commission that an additional month was afforded to the members for further concerns to be gathered, but after discussion with Chairman Nicoson, the Department decided that it is now time to voice any final concerns, approve the proposed rule, and submit the exception request. Below is a list of all errors or areas/concerns identified by the Commission:

- 1) Concern over language, which appeared to put the Department and the Commission on equal footing – Commissioner Heinsman
- 2) In § 12-5-4, “form” should only be mentioned once to allow for

conciseness; all instances of “*must*” should be changed to “*shall*” for purposes of consistency – Commissioner Popich

- 3) In § 5(b)(9), “*manufacturer’s*” was incorrectly written as “*manufacturers*” – Commissioner Jordan
- 4) In § 12-5-5.1(e), “*if delivered*” was rewritten to read “*upon delivery*” – Commissioner Popich
- 5) In § 12-5-9, “*local fire department*” was reworded to read “*local fire official*” – Commissioner Jordan

Justin Guedel stated that he will need time to review the *determination section* of the public comment submitted on behalf of Ron Ritchey. Jacob German stated that the goal of this section was simply to furnish a report to the Commission for public awareness regarding variances acted on by the Department. Director Boyle reminded that Department decisions are made based on the facts of the application available at the time of submittal. Nevertheless, Christina Collester implored the Commission to reconsider the reviewal process, specifically the appeals process due to its long-drawn-out nature. Chairman Nicoson reminded Director Boyle it was time to move on. Before moving on, Justin Guedel added that written reports would be time consuming and unnecessary. In lieu of this, he advised that the Department can simply issue a summary of all action taken on variances and provide it to Commission staff and stakeholders in advance of each meeting.

**Breaking & Reconvening:** The Commission recessed for a short break at 10:00 a.m. EST. The meeting was called back to order at 10:10 a.m. EST.

ii. Commission Review and Action on Proposed Rule

Staff recommended adoption of the draft rule, so that it may move on to the regulatory process. Mr. Guedel reminded the Commission that a public hearing for additional comments will be held during the formal rulemaking process before the final rule is adopted. Commissioner Popich motioned to approve the proposed rule with its added amendments and tasked staff with filing the exception request to the regulatory moratorium. 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	

<b>James Jordan</b>	<b>X</b>	
<b>Robin Nicoson</b>	<b>X</b>	
<b>Michael Popich</b>	<b>X</b>	

The proposed rule was **approved with amendments**, by a vote of 9-1. A copy of the Commission’s approved rule with the additional amendments included is attached to the end of this document, for reference.

6. Commission Action on Third Party Inspection Agency Annual Renewals

a. Expert Modular Consultants, LLC

Kevin Troy, State Fire Marshal’s Office, recommended approval. Commissioner Heinsman motioned to approve. Commissioner Corey made the second. It was voted on and carried.

	<b>Yes</b>	<b>No</b>
<b>Jameson Berry</b>	<b>X</b>	
<b>Michael Corey</b>	<b>X</b>	
<b>Greg Furnish</b>	<b>X</b>	
<b>Jim Greeson</b>	<b>X</b>	
<b>Joe Heinsman</b>	<b>X</b>	
<b>David Henson</b>	<b>X</b>	
<b>Todd Hite</b>		
<b>Robin Nicoson</b>	<b>X</b>	
<b>James Jordan</b>	<b>X</b>	
<b>Michael Popich</b>	<b>X</b>	

The annual renewal for Expert Modular Consultants, LLC was **approved**, with a vote of 9-0.

7. Variances

a. Tabled

20-07-24 Knapp Supply Company, Muncie

Christina Collester spoke as the proponent. She stated that though improvements were made to reach maximum possible scoring, the building still would not pass with the installation of sprinklers. Ms. Collester elaborated that the deficit in scoring was due to exceeding allowable area and a wood-based construction. Given that a sprinkler system would cost between \$265,000-\$400,000 and would not contribute to a passing score, the request is to forego the sprinkler requirement. Muncie Fire Chief, Aaron Wood, indicated that the State Fire Marshal’s Office felt comfortable with this proposal and would accept

any determination made by the Commission. Per the Commission’s inquiry, the owner stated that a maximum of four (4) employees would be in the storage facility at given time. Commissioner Jordan motioned to approve variances (a) and (b) with conditions. Commissioner Greeson made the second. It was voted on and carried. Commissioner Hite abstained from the vote.

	Yes	No
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	
<b>Joe Heinsman</b>	X	
<b>David Henson</b>	X	
<b>Todd Hite</b>		
<b>Robin Nicoson</b>	X	
<b>James Jordan</b>	X	
<b>Michael Popich</b>	X	

Variances (a) and (b) were approved on the condition that storage height of all stored materials shall not exceed eight (8) feet above the floor, by a vote of 9-0.

20-09-38 185 Madison Ave, Peru

Jerry McClure spoke as the proponent. The project involves the refurbishing of a building and converting it from manufacturing to warehouse space – all of which has been city approved. Due to the costly nature to update the sprinkler system coupled with the site’s close proximity to the Peru Fire Department, Mr. McClure asked that this requirement be removed from the facility. Costs that Mr. McClure believed to be a hardship included: an update to the most current software of between \$1,700-\$4,700 along with a \$42-\$56 fee per month to operate the system, and one (1) year and five (5) year inspection fees of \$150 and \$850, respectively. He noted that insurance premiums would increase a couple hundred dollars but would still net him a savings based on no longer having a monthly utility fee of \$132, as well as the aforementioned service-related expenses. The commissioners ultimately stated that they would like to see a proper code analysis presented to ensure that there were no combustible areas of the facility that would require a sprinkler system. With that, Commissioner Corey motioned to table. Commissioner Heinsman made the second. It was voted on and carried.

	Yes	No
<b>Jameson Berry</b>	X	

<b>Michael Corey</b>	<b>X</b>	
<b>Greg Furnish</b>	<b>X</b>	
<b>Jim Greeson</b>	<b>X</b>	
<b>Joe Heinsman</b>	<b>X</b>	
<b>David Henson</b>	<b>X</b>	
<b>Todd Hite</b>	<b>X</b>	
<b>Robin Nicoson</b>	<b>X</b>	
<b>James Jordan</b>	<b>X</b>	
<b>Michael Popich</b>	<b>X</b>	

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

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

Carrie Ballinger spoke as the proponent. She stated that a structural engineer provided additional analysis, including inspections of both the stairways and guardrails and found the overall condition of the structure to be satisfactory. Handrails will be installed on either side of the stairs, and additional posts or floor extensions will make up for the gap at the edge of the second floor. Commissioner Jordan motioned to approve variances (a) and (b). Commissioner Heinsman made the second. It was voted on and carried.

	<b>(a)</b>		<b>(b)</b>	
	<b>Y</b>	<b>N</b>	<b>Y</b>	<b>N</b>
<b>Jameson Berry</b>	<b>X</b>		<b>X</b>	
<b>Michael Corey</b>	<b>X</b>		<b>X</b>	
<b>Greg Furnish</b>	<b>X</b>		<b>X</b>	
<b>Jim Greeson</b>	<b>X</b>		<b>X</b>	
<b>Joe Heinsman</b>	<b>X</b>		<b>X</b>	
<b>David Henson</b>	<b>X</b>		<b>X</b>	
<b>Todd Hite</b>	<b>X</b>		<b>X</b>	
<b>Wes Jordan</b>	<b>X</b>		<b>X</b>	
<b>Robin Nicoson</b>	<b>X</b>		<b>X</b>	
<b>Michael Popich</b>	<b>X</b>		<b>X</b>	

Variance **(a)** was **approved**, with a vote of 10-0.

Variance **(b)** was **approved on the condition that it shall expire November 30, 2021 (11/30/2021)**, by a vote of 10-0.

b. New

20-10-33 Brown County Music Center, formerly known as Maple Leaf Performing Arts Center, Nashville



Doug Harden spoke as the proponent. He sought clarification to determine whether cited code applies to single entrance seating format of this facility. Per the Commissioners' inquiry, Mr. Harden stated that the lower level exits found on the diagram are purely for emergency purposes only. Commissioner Henson inquired whether an NVR was necessary. Mr. Burgess recommended that the Commission grant the variance for the following reasons: 1) the definition of an assembly space is poorly worded because such a facility generally begins at a single level, and 2) the location of the accessible seating space already seems to be in a reasonable location. With that, Commissioner Henson motioned to approve. Commissioner Jordan made the second. It was voted on and carried.

	Yes	No
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	
<b>Joe Heinsman</b>	X	
<b>David Henson</b>	X	
<b>Todd Hite</b>	X	
<b>Robin Nicoson</b>	X	
<b>James Jordan</b>	X	
<b>Michael Popich</b>	X	

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

20-10-34 (a)(b) Kinser Flats Apartments, Bloomington

Christina Collester spoke as the proponent. Variance 20-08-06 was approved last month regarding partitions of membrane ceilings by interior walls. The project involves construction of a 4-story apartment building. The building will be classified as R-2 Occupancy and Type VA Construction.

In variance (a), the interior partitions of the wet walls of the shower and tub enclosures are not sheathed with drywall between the fiberglass surrounding and the stud wall. In lieu of a sheathing, Ms. Collester stated that a membrane constructed rated shaft will be installed inside the walling, which will allow for void space where plumbing pipeage can run through. In addition, to offset the fiberglass finish adjacent to bathrooms, all bathrooms will be sprinklered. Tim Clapp, Bloomington Fire Department, had advised Director Boyle that he was okay with these plans.

In variance (b), the double top plate of 1-hour rated partitions interrupts the fire-rated ceiling membrane of a 1-hour floor-ceiling assembly. Ms. Collester stated that a 1-5/8-inch gap between the top plates of the double stud walls will be filled with three (3) inches of compressed mineral wool insulation. The code exception

for rated walls penetrating rated ceiling membranes does not address a double stud wall with a space between the top plates. Ms. Collester stated that variance 20-08-06 was approved last month, which also dealt with membrane partitions.

Commissioner Heinsman motioned to approve variances (a) and (b). Commissioner Jordan made the second. It was voted on and carried.

	(a)		(b)	
	Y	N	Y	N
<b>Jameson Berry</b>	X		X	
<b>Michael Corey</b>	X		X	
<b>Greg Furnish</b>	X		X	
<b>Jim Greeson</b>	X		X	
<b>Joe Heinsman</b>	X		X	
<b>David Henson</b>	X		X	
<b>Todd Hite</b>	X		X	
<b>Wes Jordan</b>	X		X	
<b>Robin Nicoson</b>	X		X	
<b>Michael Popich</b>	X		X	

**Variances (a) and (b) were approved**, with a vote of 10-0.

**Breaking & Reconvening:** The Commission recessed for lunch at 12:04 p.m. EST. The meeting was called back to order at 12:45 p.m. EST.

20-10-35 Overstock Central LLC, Mishawaka

Melissa Tupper and Micah Zehr spoke as the proponents. The project involves a warehouse addition to an existing building. The existing building is retail sales for consumer fireworks and the warehouse is for the storage of 1.4G consumer-grade fireworks. The variance request is to permit the warehouse to be set back less than fifty (50) feet. Based upon the quantities stored in the warehouse the warehouse is required to be a detached building with a setback not less than fifty (50) feet. Emergency alarm as required by code and smoke detectors will be installed. Additionally, the warehouse will be separated from the existing building by a 3-hour masonry fire wall. The hardship is the construction of the building is nearly complete. To comply with code, the building would have to be completely torn down. The issue was brought up on an RFI for the sprinkler system, but not during the architectural review. Commissioner Greeson and Mr. Burgess were concerned that the local fire official had not been contacted to provide a recommendation. The proponent asked whether it would be possible for the variance to be approved, contingent on approval of the local fire official. Mr. Burgess interjected by recalling a written interpretation he had issued over the summer – CEB-2020-20-2014IBC-T415.5.2 – in which he stated that fireworks of 1.4G class are not subject to the detached building requirement. Ms. Tupper advised that she and her client will withdraw the variance request, based on

Commissioner Burgess' written interpretation. The variance was **withdrawn**, and no further action was needed. Commissioner Burgess apologized for failing to notify State Plan Review of this written interpretation when the project was reviewed during the construction design release process.

20-10-36 Victor Polen, Celestine

Victor Polen spoke as the proponent. These cabins are planned to be seasonal rentals primarily in the Summer with a short Spring and Fall Market. They are not in use during the winter months and would plan to be winterized. As of now, the plans only include three (3) one-bedroom cabins and three (3) two-bedroom cabins, but Mr. Polen stated there could potentially be two (2) additional units built in the future. These are considered industrialized buildings, as they are manufactured in Kentucky and placed on the property in a portable fashion. The request is to not include sprinklers in each of the units, as the cost would equate to 10% of the construction cost of a single cabin once installation, waterline supply, and risers for heating are accounted for. In addition, none of the nearby cabins include sprinklers either. Mr. Polen stated that this will be mitigated through a relatively short egress distance coupled with the use of all electric kitchen appliances. There was some confusion regarding the code that was used during the design process. Commissioner Popich pointed out that the application indicated it was built in coordination with the 2014 Indiana Residential Code (IRC), but upon further review, Kevin Troy stated that the official design release performed by the engineer was done with regard to the 2014 IBC. Because the units could be viewed as tourist cabins, they may need to be built in accordance with the IRC; thus, it was recommended that the Commission table this to allow for Plan Review to make the necessary CDR revisions. Commissioner Corey motioned to table. Commissioner Popich made the second. It was voted on and carried.

	Yes	No
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	
<b>Joe Heinsman</b>	X	
<b>David Henson</b>	X	
<b>Todd Hite</b>	X	
<b>Robin Nicoson</b>	X	
<b>James Jordan</b>	X	
<b>Michael Popich</b>	X	

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

20-10-37 Common Grounds, Hartford City

Christina Collester spoke as the proponent. The project involves the use of the first-floor tenant space of approximately 4,000 square feet as a coffee shop to be classified as a change of occupancy – from B/M use to A-2. The variance request is to permit the occupancy of the tenant space without complying with rules for new construction, nor a complying Chapter 34 evaluation. This is due to the cost to sprinkler the building of \$100,000 being significantly higher than the original estimate of \$15,000.00.

The building was constructed in 1893 of Type III-B construction, which includes steel columns and beams with brick exterior walls with wood floors and roofing. The second floor will remain vacant. Due to the relatively short egress distance of sixty (60) feet, as well as two (2) remote exits, Ms. Collester stated that the lack of sprinklers should not pose a risk to public safety. Commissioner Heinsman motioned to approve with conditions. Commissioner Corey made the second. It was voted on and carried.

	Yes	No
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	
<b>Joe Heinsman</b>	X	
<b>David Henson</b>	X	
<b>Todd Hite</b>	X	
<b>Robin Nicoson</b>	X	
<b>James Jordan</b>	X	
<b>Michael Popich</b>		X

The variance was **approved on the condition that: 1) no occupants shall be permitted on the second floor of the structure, and 2) the maximum occupancy of the first floor shall be posted at fifty (50) persons**, by a vote of 9-1.

20-10-38 Borto Building Renovation, Merrillville

No proponent for the variance was present during the initial consideration of the variance. Mick Graham (LFO) stated that upright pendants have already been installed; thus, the facility should not be in violation of any code, based on new information he had received regarding the specific scope of the project. After some discussion, the Commission decided that it needed to table the variance until the applicant/submitter could be available. Commissioner Heinsman motioned to table. Commissioner Corey made the second. It was voted on and carried.

	Yes	No
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	
<b>Joe Heinsman</b>	X	
<b>David Henson</b>	X	
<b>Todd Hite</b>	X	
<b>Robin Nicoson</b>	X	
<b>James Jordan</b>	X	
<b>Michael Popich</b>	X	

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

William Hutton interrupted at a later point to provide additional information. As such, Commissioner Corey motioned to **un-table** the variance. Commissioner Heinsman made the second. The motion was voted on and carried.

	Yes	No
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	
<b>Joe Heinsman</b>	X	
<b>David Henson</b>	X	
<b>Todd Hite</b>	X	
<b>Robin Nicoson</b>	X	
<b>James Jordan</b>	X	
<b>Michael Popich</b>	X	

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

Per the code, concealed spaces connected to the ceiling or within six (6) inches of wood joist or similar solid member construction shall not be required to be sprinklered, so it was proponent's opinion that the second phase of the project did not have to be sprinklered. Duct work and piping are covering much of the ceiling space, so above ceiling sprinklers may prove to be inefficient. The commissioners disagreed stating that there are void spaces throughout the ceiling that should include sprinklers, and that the project hardship does not prove to be any worse than past buildings which were required to be sprinklered. After further discussion, Commissioner Greeson motioned to deny. Commissioner Heinsman made the second. It was voted on and carried.

	Yes	No
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	
<b>Joe Heinsman</b>	X	
<b>David Henson</b>	X	
<b>Todd Hite</b>	X	
<b>Robin Nicoson</b>	X	
<b>James Jordan</b>	X	
<b>Michael Popich</b>	X	

The variance was **denied**, with a vote of 10-0.

20-10-39 Samira Apartments, Bloomington

Melissa Tupper and Doug Bruce spoke as the proponents. The project involves converting the second floor of an existing building from offices to apartments. In the original design the stairway, on the other side of the horizontal exit in the adjacent building, was going to be enclosed with 1-hour construction. There is a deed from 1919 that allows this building to use the stair in the adjacent building. Ms. Tupper stated that the owner of the adjacent building, where the stairway is located, will not allow it to be enclosed. As this is the only means of exit from the second floor, a fire escape ladder will be provided on the outside of each apartment window. Tim Clapp and the local fire officials were not opposed to this variance. Commissioner Corey motioned to approve. Commissioner Henson made the second. It was voted on and carried.

	Yes	No
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	
<b>Joe Heinsman</b>	X	
<b>David Henson</b>	X	
<b>Todd Hite</b>	X	
<b>Robin Nicoson</b>	X	
<b>James Jordan</b>		X
<b>Michael Popich</b>		X

The variance was **approved as submitted**, with a vote of 8-2.

20-10-40 Carroll County Sheriff's Office and Jail

Ralph Gerdes spoke as the proponent. Building code requires jails to have a smoke control system to provide a tenable environment for the relocation of occupants. Mr. Gerdes stated that the math for such a system is not feasible. When considering detection of fire and time to start fans, the smoke is still within six (6) feet of the floor after using prescribed formulas or other fire models. In lieu of following these regulations, Mr. Gerdes proposes to follow suit of the American Correctional Facilities Association, which only mandates sprinklers. Additionally, the prison will comply with NFPA 101 standards in requiring six (6) air changes per hour. This should suffice, as deaths related to prison fires are relatively rare across the country. Commissioner Jordan motioned to approve. Commissioner Heinsman made the second. It was voted on and carried.

	Yes	No
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	
<b>Joe Heinsman</b>	X	
<b>David Henson</b>	X	
<b>Todd Hite</b>	X	
<b>Robin Nicoson</b>	X	
<b>James Jordan</b>	X	
<b>Michael Popich</b>	X	

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

20-10-41 (a)(b) Spiceland Event Center, Spiceland

Crystal Kent spoke as the proponent. The project involves the conversion of an existing barn, of Class 2 structure, into an event space. The request of variance (a) is to permit portable toilets to be used for a period of two (2) years due to a lack of a sewer system. The request is to utilize Chapter 34 analysis to permit the conversion even though the building is two (2) stories above grade. Ms. Kent stated that the engineer provided a letter which indicates that the building has met all live and lateral load requirements. Commissioner Heinsman pointed out that there was no indication of lateral load requirements. Ms. Kent stated that she was under the assumption that live and lateral loads were one-in-the-same. As such, the Commission requested that the engineer be contacted to correct this discrepancy in the letter.

Commissioner Hite then inquired about the timeline for the installation of a sewer system. Commissioner Hite stated that the owners now have a six (6) inch sewer line that runs through the property, but the estimate to connect bathrooms to this sewer line is too costly right now. Commissioner Hite stated that he did not have

a problem with this two (2) year timeframe as the owners work to generate the necessary revenue to install permanent sewer pipelines. Commissioner Popich motioned to table both variances. Commissioner Berry made the second. It was voted on and carried.

	(a)		(b)	
	Y	N	Y	N
<b>Jameson Berry</b>	X		X	
<b>Michael Corey</b>	X		X	
<b>Greg Furnish</b>	X		X	
<b>Jim Greeson</b>	X		X	
<b>Joe Heinsman</b>	X		X	
<b>David Henson</b>	X		X	
<b>Todd Hite</b>	X		X	
<b>Wes Jordan</b>	X		X	
<b>Robin Nicoson</b>	X		X	
<b>Michael Popich</b>	X		X	

Variances (a) and (b) were tabled, with a vote of 10-0.

20-10-42 Bottleworks Garage 2 and 3 Food Hall Tenants, Indianapolis

Ed Rensink spoke as the proponent. He stated that this facility received a variance at last month’s meeting for the restrooms. Recently, the inspector cited sinks in the food service areas due to the walls failing to meet smooth service requirements. Mr. Rensink questioned the legitimacy of the violation because the Indiana State Department of Health allows for brick, so long as it is filled with a surface coating that can be easily cleaned. Commissioner Popich briefly interrupted to recuse himself, as Mr. Rensink confirmed that the violation was only relayed in a verbal manner from the City of Indianapolis. Commissioner Hite agreed with Mr. Rensink’s evaluation that a sealer is a permissible alternative but stated that local health inspectors could have a different opinion. Ultimately, Commissioner Jordan motioned to approve. Commissioner Berry made the second. It was voted on and carried.

	Yes	No
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	
<b>Joe Heinsman</b>	X	
<b>David Henson</b>	X	
<b>Todd Hite</b>	X	
<b>Robin Nicoson</b>	X	



<b>James Jordan</b>	<b>X</b>	
<b>Michael Popich</b>		

The variance was **approved as submitted**, with a vote of 9-0.

20-10-43 Ellie’s Loft, Nashville

Melissa Tupper spoke as the proponent. The project includes a renovation and addition to the first floor of a two-story facility. There is a candy store and a series of retail stores located on the first floor, as well as overnight rentals on the second floor. The addition will consist of a laundry and storage facility on the first floor of approximately one hundred and eighteen (118) square feet. Ms. Tupper stated that this increase of occupancy will require a sprinkler system to be installed throughout the entirety of the facility. In lieu of a sprinkler, a smoke detection system tied to the fire alarms will be installed. Commissioner Greeson asked whether a quote for a 13D system had been obtained instead. Ms. Tupper stated that it would be too costly to install any sort of fire mitigation system for such a small addition and that the renovation plans would be halted if this variance were not approved. With that, Commissioner Greeson motioned to approve. Commissioner Corey made the second. It was voted on and carried.

	<b>Yes</b>	<b>No</b>
<b>Jameson Berry</b>	<b>X</b>	
<b>Michael Corey</b>	<b>X</b>	
<b>Greg Furnish</b>	<b>X</b>	
<b>Jim Greeson</b>	<b>X</b>	
<b>Joe Heinsman</b>	<b>X</b>	
<b>David Henson</b>	<b>X</b>	
<b>Todd Hite</b>	<b>X</b>	
<b>Robin Nicoson</b>	<b>X</b>	
<b>James Jordan</b>	<b>X</b>	
<b>Michael Popich</b>		<b>X</b>

The variance was **approved as submitted**, with a vote of 9-1.

**Breaking & Reconvening:** The Commission recessed for a short break at 3:25 p.m. EST. The meeting was called back to order at 3:35 p.m. EST.

20-10-44 Lawrence North HS Additions and Renovation, Indianapolis

Ed Rensink spoke as the proponent. The project scope involves demolition and renovation of portions of the existing building, construction of a three-story classroom wing, news media center, and a pool addition. Mr. Rensink stated that existing means of egress will be altered during construction, which began in the fall of 2020 and will end in overlapping phases by the fall of 2023. Sprinklers will

be provided in all classroom areas, and fire drills will take place based on the revised egress pathways. Commissioner Greeson motioned to approve with conditions. Commissioner Corey made the second. It was voted on and carried. Commissioner Heinsman recused himself from the vote.

	Yes	No
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	
<b>Joe Heinsman</b>		
<b>David Henson</b>	X	
<b>Todd Hite</b>	X	
<b>Robin Nicoson</b>	X	
<b>James Jordan</b>	X	
<b>Michael Popich</b>	X	

The variance was **approved on the condition that it shall expire December 31, 2023 (12/31/2023)**, by a vote of 9-0.

20-10-45 Lawrence Central HS Additions and Renovations, Lawrence

Ed Rensink spoke as the proponent. The project involves a three-story addition, which is virtually identical to the previous variance. There are some differences in the overall building configuration, as well as a longer egress distance. Mr. Rensink stated that three (3) exits will be closed off to south; thus, other doors will be wired open. The Lawrence Fire Department is in support of these plans. In lieu of providing tunnels for students to utilize, sprinklers will be maintained in all construction sites, as tunnels will significantly disrupt construction, and the construction type poses a safety hazard to students. The project is scheduled to be completed prior to the 2022 school year, and Mr. Rensink informed that the project is on schedule. Commissioner Greeson motioned to approve with conditions. Commissioner Furnish made the second. It was voted on and carried. Commissioner Heinsman recused himself from the vote.

	Yes	No
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	
<b>Joe Heinsman</b>		
<b>David Henson</b>	X	
<b>Todd Hite</b>	X	

<b>Robin Nicoson</b>	<b>X</b>	
<b>James Jordan</b>	<b>X</b>	
<b>Michael Popich</b>	<b>X</b>	

The variance was **approved on the condition that it shall expire December 31, 2022 (12/31/2022)**, by a vote of 9-0.

20-10-46 Hoosier Hardwood Floors, Goshen

Carrie Ballinger and the owner, Merle Miller, spoke as the proponents. The project involves a partial second story addition inside an existing structure. The request is that two (2) doors be installed at a height of seventy-one (71) inches to avoid this protrusion. One of the doorways is between multiple showroom areas with independent means of egress; thus, it would be for convenience purposes only. The other doorway provides access to a small office area. Commissioner Henson asked if there had been any discussion of installing a cushion on the protruding beams to prevent patrons from accidentally hitting their head. Ms. Ballinger stated that signage will be provided to alert patrons of the low ceiling clearance, and office workers will already be familiar with the facility's layout. Due to overhead hazards, Commissioner Berry stated he would not be able to approve the variance. The Commissioners were interested in seeing pictures of the existing conditions, as well as investigating the possibility of lowering the floor height. Commissioner Jordan motioned to table. Commissioner Berry made the second. It was voted on and carried.

	<b>Yes</b>	<b>No</b>
<b>Jameson Berry</b>	<b>X</b>	
<b>Michael Corey</b>	<b>X</b>	
<b>Greg Furnish</b>	<b>X</b>	
<b>Jim Greeson</b>	<b>X</b>	
<b>Joe Heinsman</b>	<b>X</b>	
<b>David Henson</b>	<b>X</b>	
<b>Todd Hite</b>	<b>X</b>	
<b>Robin Nicoson</b>	<b>X</b>	
<b>James Jordan</b>	<b>X</b>	
<b>Michael Popich</b>	<b>X</b>	

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

8. Petitions for Administrative Review

- a. Granted and Forwarded to the Office of Administrative Law Proceedings (OALP)
  - i. IDHS Sanctions Order No. 205-286 – AMC Elkhart 14

Director Boyle stated that this petition was submitted in a timely manner of six (6) days, has been granted, and has been submitted to the Office of Administrative Law Proceedings (OALP) for assignment to the ALJ to begin administrative review proceedings.

b. Commission Determination (Recommendation for Denial for Untimeliness)

i. IDHS Construction Design Release Project No. 416937 – Daniel’s Vineyard

Director Boyle stated that the original design release that is the basis for the petition was submitted to the owner on August 21, 2020. As such Director Boyle advised that the petition for administrative review was submitted fifty-five (55) days after the order was issued and is untimely. As such, Director Boyle recommended denial of the petition for administrative review for untimeliness. Commissioner Berry made a motion to deny. Commissioner Heinsman seconded the motion. The motion was voted on and carried.

	Yes	No
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	
<b>Joe Heinsman</b>	X	
<b>David Henson</b>	X	
<b>Todd Hite</b>	X	
<b>Robin Nicoson</b>	X	
<b>James Jordan</b>	X	
<b>Michael Popich</b>	X	

The petition for administrative review was **denied**, with a vote of 10-0. Director Boyle stated that he will follow up with the petitioner regarding the separate, revised construction design release that was recently issued for this project.

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

a. Non-Final Orders of Dismissal

i. IDHS Sanctions Order No. 187-258 – Sublime Cause No. DHS-0920-0000785

Commissioner Popich motioned to affirm. Commissioner Jordan made the second. It was voted on and carried.

	Yes	No
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	
<b>Joe Heinsman</b>	X	
<b>David Henson</b>	X	
<b>Todd Hite</b>	X	
<b>Robin Nicoson</b>	X	
<b>James Jordan</b>	X	
<b>Michael Popich</b>	X	

The ALJ's Non-Final Order of Dismissal was **affirmed**, with a vote of 10-0.

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

The Commission began discussion at last month's meeting regarding instances in which the ALJ would serve as the ultimate authority in certain cases. Director Boyle reiterated that the primary objective of doing this is to condense the Commission's agenda relating to administrative reviews. As such, IDHS staff drafted a letter to be submitted to the Office of Administrative Law Proceedings (OALP) detailing this process. Director Boyle outlined the document and provided an explanation of the conditions that must be met before the ALJ can assume ultimate authority in such matters. A copy of the letter and its conditions are attached below.

<https://www.in.gov/dhs/files/FPBSCs-Authorization-of-ALJ-to-Serve-as-Ultimate-Authority-in-Certain-Administrative-Review-Proceedings.pdf>

Ultimately, Chairman Nicoson recommended that this matter be tabled until the Commission can receive further guidance from legal counsel, Philip Gordon. Director Boyle advised that he was okay with this plan, and everything will remain status quo for now regarding the processing on non-final orders and non-final orders of dismissal. Commissioner Popich motioned to table. Commissioner Hite made the second. It was voted on and carried.

	Yes	No
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	

<b>Joe Heinsman</b>	<b>X</b>	
<b>David Henson</b>	<b>X</b>	
<b>Todd Hite</b>	<b>X</b>	
<b>Robin Nicoson</b>	<b>X</b>	
<b>James Jordan</b>	<b>X</b>	
<b>Michael Popich</b>	<b>X</b>	

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

10. Commission Review of Local Ordinances

a. Pre-Adoption

- i. City of Martinsville, Indiana Fire Prevention Code Ordinance (second draft) – **received by Commission via electronic mail on Wednesday, October 21, 2020**

As always, this was included on the agenda for the Commission’s awareness only. No further action is needed.

b. Adopted

- i. 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, and tabled by the Commission at 10/6/2020 meeting**

Per staff’s review memo that was provided to the Commission as part of its meeting materials, identifying the conflicts and defects with the ordinance, Commissioner Heinsman motioned to deny. Commissioner Jordan made the second. It was voted on and carried.

	<b>Yes</b>	<b>No</b>
<b>Jameson Berry</b>	<b>X</b>	
<b>Michael Corey</b>	<b>X</b>	
<b>Greg Furnish</b>	<b>X</b>	
<b>Jim Greeson</b>	<b>X</b>	
<b>Joe Heinsman</b>	<b>X</b>	
<b>David Henson</b>	<b>X</b>	
<b>Todd Hite</b>	<b>X</b>	
<b>Robin Nicoson</b>	<b>X</b>	
<b>James Jordan</b>	<b>X</b>	
<b>Michael Popich</b>	<b>X</b>	

The ordinance was **denied**, with a vote of 10-0.

- ii. Ordinance No. 2020-17 – Unified Development Ordinance of the Town of Whitestown, Indiana – ***received by Commission via electronic mail on Tuesday, September 15, 2020, and tabled by the Commission at 10/6/2020 meeting***

Director Boyle stated that Kevin Troy, IDHS Code Enforcement/State Fire Marshal’s Office had already identified some conflicts, but legal had not yet completed its review. Director Boyle advised that he will work with Mr. Troy and Mr. Guedel to finish department staff’s review and provide a memo to the Commission in the case that any further conflicts are identified. As such, Director Boyle requested that the Commission table this ordinance. Commissioner Hite motioned to table. Commissioner Berry made the second. It was voted on and carried.

	Yes	No
<b>Jameson Berry</b>	X	
<b>Michael Corey</b>	X	
<b>Greg Furnish</b>	X	
<b>Jim Greeson</b>	X	
<b>Joe Heinsman</b>	X	
<b>David Henson</b>	X	
<b>Todd Hite</b>	X	
<b>Robin Nicoson</b>	X	
<b>James Jordan</b>	X	
<b>Michael Popich</b>	X	

The ordinance was **tabled**, with a vote of 10-0.

- iii. Ordinance No. 20-40 – Fire Prevention Ordinance of the City of Westfield, Indiana – ***received by Commission via electronic mail on Monday, September 28, 2020***

Director Boyle stated that he will be collaborating with Fire Chief Jim Roberts and legal staff to complete a review of this ordinance. Additionally, on Monday, November 2, 2020, Director Boyle received a letter from the Indiana Apartment Association detailing some concerns that they had identified in the ordinance. These concerns will be review by the Department before providing the Commission with an informed recommendation. As such, Director Boyle asked that this ordinance be tabled. Commissioner Popich motioned to table. Commissioner Berry 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	
Robin Nicoson	X	
James Jordan	X	
Michael Popich	X	

The ordinance was **tabled**, with a vote of 10-0.

11. Final Comments/Closing Remarks from Chairman Nicoson

Chairman Nicoson thanked everyone for their time and wished everyone a happy Thanksgiving.

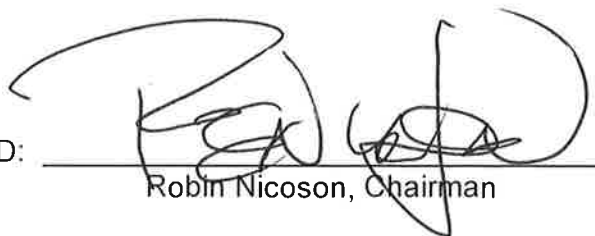
12. Next Meeting – Tentatively scheduled for Tuesday, December 1, 2020, beginning at 9:00 a.m. in History Reference Room 211 of the Indiana State Library, 315 W. Ohio Street, Indianapolis, IN 46202

***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.***

13. Adjournment

The meeting was adjourned at 5:10 p.m. EST.

APPROVED: \_\_\_\_\_



Robin Nicoson, Chairman