

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS
JUNE - 2017 REGULAR MONTHLY MEETING
AGENDA**

DATE: June 29, 2017

PLACE: Commissioner's Court Room
3rd Floor, Delaware County
Building

TIME: 6:30 P.M.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Jack Neal, Jr.

Kathy Carey

Scott O'Dell

Jim Fowler

Kelly Watson, Jr.

Katherine Kennison

Phyllis Zimmerman

MINUTES: Consideration of the April, 2017 and May, 2017 regular monthly meeting minutes.

OLD BUSINESS:

BZA 18-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Jeffrey Harry**, 410 Woodlawn Parkway, Parker City, Indiana, requesting a variance of use from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a photography studio, a 2' x 2' wall sign in front and a 3' x 5' sign on a fence in the rear in a residence zone on premises located at 217 East Centennial Avenue, Muncie, Indiana, as more accurately described in the application.

NEW BUSINESS:

BZA 21-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Martin D. Schwartz Trust/Judith Ball**, 315 West Adams Street, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow reduced side and rear setbacks for a property line adjustment between two parcels on premises located at 2900 & 2901 West Devon Road, Muncie, Indiana, as more accurately described in the application.

BZA 22-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Nebo Road, LLC and Nick Dellen**, 2527 West Main Street, Greenfield, Indiana, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a modification to an approved variance to allow a reduction in the diameter of landscape trees for two new auto dealerships on premises generally located at the southeast corner of Nebo Road/CR 400W and McGalliard Road/SR 332, Muncie, Indiana, as more accurately described in the application.

BZA 23-17 **Jurisdiction: Board of Zoning Appeals**
Being a public hearing on the matter of an application filed by **Richard A. & Debra A. Miller**, 17990 North Willman Road, Eaton, Indiana, requesting a variance from the terms of the Delaware County Comprehensive Zoning Ordinance to allow the square footage of the accessory buildings to exceed that of the dwelling for a new detached garage on 3.99 acres on premises located at 17990 North Willman Road, Union Township, Delaware County, Indiana, as more accurately described in the application.

BZA 25-17 **Jurisdiction: Board of Zoning Appeals**
Being an automatic continuance of a public hearing on the matter of an application filed by **Max & Susan Ford and Estep & Company**, 8030 East Cliffton Road, Albany, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased front setback build-to line and reduced parking for a new restaurant and retail building on premises located at 3000 North Wheeling Avenue, Muncie, Indiana, as more accurately described in the application.

BZA 26-17 **Jurisdiction: Board of Zoning Appeals**
Being a public hearing on the matter of an application filed by **Michael K. Greicus Trust/ Michael K. Greicus (Trustee) and Belle Tire Incorporated**, 1000 Enterprise Drive, Allen Park, Michigan, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased front setback build-to line and no sidewalk along McGalliard Road/SR 332 for a new retail building on premises generally located on the south side of the 4300 Block of West Bethel Avenue, Muncie, Indiana, as more accurately described in the application.

BZA 27-17 **Jurisdiction: Board of Zoning Appeals**
Being a public hearing on the matter of an application filed by **Eastern Indiana Management Company and John Gasser (Wendy's)**, 2621 West Main Street, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow partial sidewalk reduction, partial reduced greenbelts, partial side yard buffering, reduced parking lot screening, reduced foundation treatment and a pole sign for expansion of an existing restaurant site on premises located at 2626 West Jackson Street, 104 South Manning Avenue and 2617-2621 West Main Street, Muncie, Indiana, as more accurately described in the application.

BZA 28-17 **Jurisdiction: Board of Zoning Appeals**
Being a public hearing on the matter of an application filed by **Victory Honda of Muncie & Cappel Properties, LLC**, 3939 Holden Drive, Ann Arbor, Michigan, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow replacement of a 10' x 30' pylon sign on premises located at 4901 West McGalliard Road/SR 332, Muncie, Indiana, as more accurately described in the application.

REPORT FROM DIRECTOR:

ADJOURNMENT:

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS
JUNE - 2017 REGULAR MONTHLY MEETING
MINUTES**

The Delaware-Muncie Metropolitan Board of Zoning Appeals (BZA) held its regular monthly meeting on Thursday, June 29, 2017 at 6:30 P.M., in the Commissioners' Court Room of the Delaware County Building, Muncie Indiana. Chairman Jack Neal, Jr. called the meeting to order.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Ms. Moody called roll and the following members were present: Ms. Carey, Mr. Fowler, Mr. Neal, Mr. O'Dell, Mr. Watson and Ms. Zimmerman. Absent: Ms. Kennison. Also present, Ms. Quirk, attorney for the Board.

MINUTES:

Mr. Watson made a motion to approve the April and May, 2017 regular monthly meeting minutes. Mr. Fowler seconded the motion. Voting in favor: Ms. Carey, Mr. Fowler, Mr. Neal, Mr. O'Dell, Mr. Watson and Ms. Zimmerman. Voting against: none. Motion carried, April, 2017 and May, 2017 minutes approved.

OLD BUSINESS:

BZA 18-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Jeffrey Harry**, 410 Woodlawn Parkway, Parker City, Indiana, requesting a variance of use from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a photography studio, a 2' x 2' wall sign in front and a 3' x 5' sign on a fence in the rear in a residence zone on premises located at 217 East Centennial Avenue, Muncie, Indiana, as more accurately described in the application.

Jeff Harry, 410 Woodlawn Parkway, Park City, Indiana appeared. He stated they would like to use the house as an indoor photo studio and would like to have a 2'x2' sign. His wife would have about 2-3 photo shoots a week in the house. He stated they would not like to turn the house into a rental unit because it would cause more traffic than a photo studio. He stated they would be working hard to improve the overall look of the property.

Mr. Neal asked about hours of operation.

Mr. Harry stated it would be by appointment only and usually between 4-6 PM. He also stated that his wife would be the only staff.

Suzanne Giesman, 220 E Ward Ave, Muncie, Indiana, appeared in opposition. She stated the alley is full of potholes and even a few extra cars per week would be a problem. She stated they don't want businesses in the neighborhood. She also stated they have concerns about this request being granted and remaining a business in the future if this owner sells the property.

Mr. Neal stated if granted, the variance would be only for the applicant.

Paula Weller, 213 E Centennial, Muncie Indiana, appeared in opposition. She stated she lives next door and if Mr. Harry builds a fence she is concerned it will cause people to park in her yard.

Mr. Neal asked Mr. Harry to address some of the concerns of the neighbors at this time.

Mr. Harry stated no fence would be located in the rear of the property. He stated there would be more traffic if it was turned into a rental unit and if he were to move, it would most likely become a rental. He also stated he would like have the sign in front sign so clients would recognize the house.

Mr. Fowler asked would they instruct the customers to park in the driveway.

Mr. Harry stated yes.

Matt Giesman, 212 Ward Ave, Muncie, Indiana, appeared in opposition. He stated the alley is in very poor condition and the added traffic would cause more damage. He stated he had concerns of people from the photo studio parking on his yard.

Mr. Fowler made a motion to approve, BZA 18-17 the appeal of Jeffrey Harry, with the hardship as stated in the application with the following conditions: 1) That signage is limited to the 2'x2' front wall sign; 2) That there shall be no employees; and 3) That the variance is limited to the applicants wife, Michele Harry, only. Mr. O'Dell seconded the motion. Voting in favor: Mr. Carey, Mr. Fowler, Mr. Neal, Mr. O'Dell and Mr. Watson. Voting against: Ms. Zimmerman. Motion carried, BZA 18-17 approved.

NEW BUSINESS:

BZA 21-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Martin D. Schwartz Trust/Judith Ball**, 315 West Adams Street, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow reduced side and rear setbacks for a property line adjustment between two parcels on premises located at 2900 & 2910 West Devon Road, Muncie, Indiana, as more accurately described in the application.

Kathy Vannice, Ashton Land Surveyor, 325 W. Washington Street, Muncie, Indiana appeared to represent the applicant. She stated they would like to sell the property with the larger home, and they are asking to reduce the rear setback so that the building for the enclosed pool can remain with that home to be sold.

No one appeared in opposition.

Mr. Fowler made a motion to approve, BZA 21-17 the appeal of Martin D. Schwartz Trust/Judith Ball with the hardship as stated in the application. Mr. Watson seconded the motion. Voting in favor: Ms. Carey, Mr. Fowler, Mr. Neal, Mr. O'Dell, Mr. Watson and Ms. Zimmerman. Voting against: none. Motion carried, BZA 21-17 approved.

BZA 22-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Nebo Road, LLC and Nick Dellen**, 2527 West Main Street, Greenfield, Indiana, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a modification to an approved variance to allow a reduction in the diameter of landscape trees for two new auto dealerships on premises generally located at the southeast corner of Nebo Road/CR 400W and McGalliard Road/SR 332, Muncie, Indiana, as more accurately described in the application.

Ms. Moody stated the Board received a letter from Mr. Hughes, the attorney representing Nebo Road, LLC and Nick Dellen, requesting their case to be withdrawn. She stated this was not received in time to be automatic, so a vote to accept their request must take place.

Mr. Watson made a motion to accept the request to withdraw BZA 22-17 the appeal of Nebo Road, LLC and Nick Dellen. Ms. Zimmerman seconded the motion. Voting in favor: Ms. Carey, Mr. Fowler, Mr. Neal, Mr. O'Dell, Mr. Watson, and Ms. Zimmerman. Voting against: none. Motion carried, BZA 22-17 request to withdraw approved.

BZA 23-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Richard A. & Debra A. Miller**, 17990 North Willman Road, Eaton, Indiana, requesting a variance from the terms of the Delaware County Comprehensive Zoning Ordinance to allow the square footage of the accessory buildings to exceed that of the dwelling for a new detached garage on 3.99 acres on premises located at 17990 North Willman Road, Union Township, Delaware County, Indiana, as more accurately described in the application.

Richard Miller, 17990 N. Willman Rd, Eaton, Indiana appeared. He stated he would like to build a 24'x36' pole building on his property.

Mr. Fowler asked if there would be any business activity.

Mr. Miller stated no. He stated it was strictly for his personal storage.

No one appeared in opposition.



Mr. Watson made a motion to approve, BZA 23-17 the appeal of Richard A. & Debra A. Miller with the hardship as stated in the application. Voting in favor: Ms. Carey, Mr. Fowler, Mr. Neal, Mr. O'Dell, Mr. Watson and Ms. Zimmerman. Voting against: none. Motion carried, BZA 23-17 approved.



BZA 25-17 Jurisdiction: Board of Zoning Appeals

Being an automatic continuance of a public hearing on the matter of an application filed by **Max & Susan Ford and Estep & Company**, 8030 East Clifton Road, Albany, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased front setback build-to line and reduced parking for a new restaurant and retail building on

premises located at 3000 North Wheeling Avenue, Muncie, Indiana, as more accurately described in the application.

Ms. Moody stated this is an automatic continuance which is allowed and a vote is not needed.

BZA 26-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Michael K. Greicus Trust/ Michael K. Greicus (Trustee) and Belle Tire Incorporated**, 1000 Enterprise Drive, Allen Park, Michigan, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased front setback build-to line and no sidewalk along McGalliard Road/SR 332 for a new retail building on premises generally located on the south side of the 4300 Block of West Bethel Avenue, Muncie, Indiana, as more accurately described in the application.

Todd Bower, Foresight Consulting LLC, 1910 St. Joe Road, Ft Wayne, Indiana, appeared to represent the applicant. He stated the variance would eliminate the sidewalk from McGalliard. He stated INDOT is proposing a pathway project on the opposite side of the roadway from their property, so doing a sidewalk on the property that goes nowhere would not be logical. He stated the second part of the variance is to exceed the setback to create a better entrance to the site.

Mr. Neal asked if the 81' is measuring to the center of the property.

Mr. Bower stated it is from the right of way to the edge of the building.

Ms. Moody stated access would be from Bethel Avenue with no access from Allison Road. She stated they have a few additions to make to the landscape plan, but they will meet the standards.

Ms. Carey asked why there would be no need for a sidewalk.

Mr. Bower stated the sidewalk would be along McGalliard, but due to the proposed sidewalk from INDOT there is really no need.

Ms. Moody stated that the sidewalks are being installed by the Delaware County Redevelopment commission not INDOT. She also stated there could be an agreement that an easement along the south property line be granted if sidewalks are ever to be installed.

Mr. Bower stated that donating the property for the sidewalk would not be a problem.

No one appeared in opposition.

Mr. O'Dell made a motion to approve BZA 26-17 the appeal of Michael K. Greicus Trust/Michael K. Greicus (Trustee) and Belle Tire Incorporated as stated in the application with the following condition: That if and when sidewalks would be installed on McGalliard Road, a sidewalk easement would be donated by the property owners. Mr. Watson seconded the motion. Voting in favor: Ms. Carey, Mr. Fowelr, Mr. O'Dell, Mr. Neal, Mr. Watson, and Ms. Zimmerman. Voting against: none. Motion carried, BZA 26-17 carried.

BZA 27-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Eastern Indiana Management Company and John Gasser (Wendy's)**, 2621 West Main Street, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow partial sidewalk reduction, partial reduced greenbelts, partial side yard buffering, reduced parking lot screening, reduced foundation treatment and a pole sign for expansion of an existing restaurant site on premises located at 2626 West Jackson Street, 104 South Manning Avenue and 2617-2621 West Main Street, Muncie, Indiana, as more accurately described in the application.

David Karnes, attorney for Dennis, Wenger and Abrell 324 W Jackson St, Muncie, Indiana appeared to represent the applicant. He stated he is accompanied by Scott Gasser, a co-operator and brother to John Gasser.

Scott Gasser, 8312 Greenview Drive, Muncie, Indiana, appeared.

Mr. Karnes stated when the restaurant was built in 1983 they had no expansion possibilities at that time. He stated over the years they have purchased the surrounding properties to now make the expansion possible. He stated they have completed the rezoning process and have vacated the alley. He stated by moving the drive-thru line back they can get more cars off of Jackson Street which would block less traffic.

Mr. Neal stated they are asking for many variances for this property.

Ms. Moody stated if they were to try and meet the standards right now, it would eliminate all of the parking along the east and west property line. She also stated that if the fence on the neighboring property is to ever come down, they would need to replace it with an appropriate 5' high buffer.

Mr. Neal asked if Mr. Gasser understands they would need to replace the fence.

Mr. Gasser stated yes.

Ms. Zimmerman asked if they were asking for a new 21' pole sign.

Mr. Gasser stated they would like to keep the existing sign and just change the face to meet with Wendy's logo. He stated they have concerns that a new monument sign at this location would interfere with the line of sight.

No one appeared in opposition.

Mr. Fowler made a motion to approve BZA 28-17 the appeal of Eastern Indiana Management Company and John Gasser (Wendy's) with the hardship as stated in the application with the following conditions: That the side buffer in the northeast corner of the site shall meet the planting requirements by adding 1 shade/evergreen tree, 4 ornamental trees, and 15 shrubs; 2) That if the residential privacy fence on the adjacent property is ever removed, the applicant will install a 5' high buffer (fence or plantings) as a replacement; and 3) That a pedestrian walkway shall be installed from the Jackson Street sidewalk to the patio and walkways in front of the building. Also with the understanding: That a sustainability feature, such as a rain garden to

catch roof run-off, shall be added to the site plan and that a revised site plan will be submitted to the Plan Commission Office reflecting the conditions and understandings set forth herein. Mr. O'Dell seconded the motion. Voting in favor: Ms. Carey, Mr. Fowler, Mr. O'Dell, Mr. Neal, Mr. Watson, and Ms. Zimmerman. Voting against: none. Motion carried, BZA 27-17 approved.

BZA 28-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Victory Honda of Muncie & Cappo Properties, LLC**, 3939 Holden Drive, Ann Arbor, Michigan, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow replacement of a 10' x 30' pylon sign on premises located at 4901 West McGalliard Road/SR 332, Muncie, Indiana, as more accurately described in the application.

Gary Mader, Advanced Signs, 3939 E McGalliard, Muncie, Indiana, appeared to represent the applicant. He stated the current sign was damaged during a storm. He stated in order to fix the sign it would need to be taken down and they would like to repair and replace it as is.

Mr. Fowler asked why they submitted alternative sign heights if they wanted to keep the existing height.

Mr. Mader stated the 30' sign is already built and ready to be placed. He stated he didn't realize when he applied for the sign permit there would be a problem since they were just changing the broken face. He stated that because the sign had to be taken down to be repaired he discovered it can't be replaced at that height.

Ms. Moody stated that the sign face itself is 10'.

Rick Lorrison, City Building Commissioner, 2700 E 27th Street, Muncie, Indiana appeared. He stated the sign would be more structurally sound and that he supports the sign being replaced.

Ms. Moody stated the request is for the 30' sign.

No one appeared in opposition.

Ms. Zimmerman asked why can't we have the 10' sign face on the existing foundation.

Mr. Mader stated that a 10' ground sign would just be blocked by the cars parked on the lot.

Mr. Fowler made a motion to approve BZA 28-17 the appeal of Victory Honda of Muncie & Cappo Properties, LLC with the hardship as stated in the application with the following condition: That the maximum height of the pylon sign shall be 20'. Mr. Watson seconded the motion. Voting in favor: Ms. Carey, Mr. Fowler, Mr. O'Dell, Mr. Neal, Mr. Watson, and Ms. Zimmerman. Voting against: none. Motion carried, BZA 28-17 approved.

REPORT FROM DIRECTOR:

Ms. Moody stated that due to a lack of quorum, the July 27th BZA meeting will be moved to August 1st. She stated that notice will be sent to the newspaper and we will be notifying the property owners for the Michael McKeel and Max & Susan Ford and Estep & Company requests. Ms. Moody also reported that we have been receiving complaints regarding Mr. Mark Hill not complying with the conditions of his variance. She stated that Mr. Hill has placed a fence, but he is not parking the vehicles out of sight as stated in the conditions of his variance.

ADJOURNMENT:

There being no further business the meeting was adjourned.

Jack Neal Jr., Chairman

Marta Moody, Secretary