

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

DATE: September 28, 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.
Kathryn Kennison		Phyllis Zimmerman

MINUTES: Consideration of the August, 2017 regular monthly meeting minutes.

OLD BUSINESS:

BZA 35-17 Jurisdiction: Board of Zoning Appeals

Being a continuance of a public hearing on the matter of an application filed by **JL Capital One, LLC**, 18077 River Road, Suite 102, Noblesville, Indiana, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a third wall sign for an existing health clinic on premises located at 4101 West Clara Lane, Muncie, Indiana, as more accurately described in the application.

NEW BUSINESS:

BZA 43-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Cynthia L. Linn and David Ray Smith**, 6101 South Cowan Road, Muncie, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a 4 acre building site with an existing 4,900 square foot barn without a dwelling and to allow the square footage of the barn to exceed the living area of a future dwelling on the 4 acre building site, all to allow the 5.76 acre parcel to be platted into two lots on premises located at 1700 West County Road 400 South, Monroe Township, Delaware County, Indiana, as more accurately described in the application.

BZA 44-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Edward and Susan Fordyce**, 5810 North County Road 600 West, Gaston, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow the floor area of the accessory buildings to exceed that of the dwelling and an increased height for a new barn in a residence zone on premises located at 5810 North County Road 600 West, Harrison Township, Delaware County, Indiana, as more accurately described in the application.

BZA 45-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Shannon and Tiffany Turner**, 1050 East County Road 500 South, Muncie, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow temporary business storage in an existing barn and a kennel in a residence zone and to allow the floor area of the accessory buildings to exceed that of the dwelling for a new kennel building on premises located at 1050 East County Road 500 South, Monroe Township, Delaware County, Indiana, as more accurately described in the application.

BZA 46-17 Jurisdiction: Board of Zoning Appeals

Being an automatic continuance of a public hearing on the matter of an application filed by **Barnes Development Company, LLC and Belle Tire, Incorporated**, 1000 Enterprise Drive, Allen Park, Michigan, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a new 23' tall pole sign along McGalliard Road on premises located at 4551 West Bethel Avenue, Muncie, Indiana, as more accurately described in the application.

BZA 47-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Annamarie Davis and MV Residential Development, LLC**, 9349 Water Stone Boulevard, Cincinnati, Ohio, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow decreased side street and side setbacks, decreased foundation and buffer plantings and decreased parking for a new multi-unit residential development of 22 units on premises located at 1125 South Walnut Street, Muncie, Indiana, as more accurately described in the application.

BZA 48-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Reverend Kenneth J. Masiongale Trust, Paxon Vong and MV Residential Development, LLC**, 9349 Water Stone Boulevard, Cincinnati, Ohio, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow decreased side street setbacks and buffer plantings for 12 new townhomes on premises located on the east side of the 1100 block of South Walnut Street including 1100 S. Walnut Street, Muncie, Indiana, as more accurately described in the application.

REPORT FROM DIRECTOR:

ADJOURNMENT:

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

The Delaware-Muncie Metropolitan Board of Zoning Appeals (BZA) held its regular monthly meeting on Thursday, September 28, 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, Ms. Kennison, Mr. Neal, Mr. O'Dell, and Ms. Zimmerman. Absent: Mr. Watson. Also present was Ms. Quirk, attorney for the Board.

MINUTES: Consideration of the August, 2017 regular monthly meeting minutes.

Mr. Fowler made a motion to approve the August, 2017 regular monthly meeting minutes, with the name changes to be from Mr. Dishman to Mr. Neal throughout. Mr. O'Dell seconded the motion. Voting in favor: Ms. Carey, Mr. Fowler, Ms. Kennison, Mr. Neal, Mr. O'Dell, and Ms. Zimmermann. Motion carried, September, 2017 minutes approved.

OLD BUSINESS:

BZA 35-17 Jurisdiction: Board of Zoning Appeals

Being a continuance of a public hearing on the matter of an application filed by **JL Capital One, LLC**, 18077 River Road, Suite 102, Noblesville, Indiana, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a third wall sign for an existing health clinic on premises located at 4101 West Clara Lane, Muncie, Indiana, as more accurately described in the application.

Kristen Sprague, 8816 Corporation Drive, Indianapolis, Indiana appeared. She stated that US Health Works has two wall signs, one for the urgent care center and one for the physical therapy center. She stated they were asking for the third wall sign to match the existing urgent care center sign, so people can be properly directed to the entrances.

No one appeared in opposition.

Ms. Kennison made a motion to approve BZA 35-17, the appeal of JL Capital One, LLC with the hardship as stated in the application. Mr. Fowler seconded the motion. Voting in favor: Ms. Carey, Mr. Fowler, Ms. Kennison, Mr. Neal, Mr. O'Dell and Ms. Zimmerman. Voting against: none. Motion carried, BZA 35-17 approved.

NEW BUSINESS:

BZA 43-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Cynthia L. Linn and David Ray Smith**, 6101 South Cowan Road, Muncie, Indiana, requesting

variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a 4 acre building site with an existing 4,900 square foot barn without a dwelling and to allow the square footage of the barn to exceed the living area of a future dwelling on the 4 acre building site, all to allow the 5.76 acre parcel to be platted into two lots on premises located at 1700 West County Road 400 South, Monroe Township, Delaware County, Indiana, as more accurately described in the application.

Kathy Vannice, 325 W. Washington St., Muncie, Indiana appeared. She stated the property had a house to the south and a pole barn to the north and that this split would separate those buildings. She stated the pole barn had a variance granted to be used for a church and they would continue that use. She also stated they were asking that the square footage of the barn be allowed to exceed a future house if built.

Mr. Neal asked if the parcels would be re-platted

Ms. Vannice stated yes.

Mr. Fowler asked if a minimum square footage for a future house should be set and if the owner had an idea of the size they would like to build.

Ms. Vannice stated they have no plans for a house at this time.

Mr. Neal stated the Board should set a minimum.

Mr. Fowler stated 2500 square feet, which is half the size of the barn should be the minimum.

No one appeared in opposition.

Mr. Fowler made a motion to approve BZA 43-17, the appeal of Cynthia L. Linn and David Ray Smith, with the hardship as stated in the application with the following conditions: 1) That BZA 38-14 remains in effect with all its conditions; and 2) That the future home on the 4 acre platted lot have a minimum floor area of 2,500 square feet. Voting in favor: Ms. Carey, Mr. Fowler, Ms. Kennison, Mr. Neal, Ms. O'Dell, and Ms. Zimmerman. Voting against: none. Motion carried, BZA 43-17 approved.

BZA 44-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Edward and Susan Fordyce**, 5810 North County Road 600 West, Gaston, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow the floor area of the accessory buildings to exceed that of the dwelling and an increased height for a new barn in a residence zone on premises located at 5810 North County Road 600 West, Harrison Township, Delaware County, Indiana, as more accurately described in the application.

Susan Fordyce, 5810 N. 600 W., Gaston, Indiana appeared. She stated she and her husband had moved here several years ago. She stated they discovered one of the barns had too much damage and cannot be repaired. She stated they were asking for the increased height for the new barn to accommodate their RV.

Mr. Fowler asked if this was for personal use only.

Ms. Fordyce stated it was for storing their RV and cars.
No one appeared in opposition.

Mr. O'Dell made a motion to approve BZA 44-17, the appeal of Edward and Susan Fordyce, with the hardship as stated in the application with the following condition: That the accessory building be for personal use only. Mr. Fowler seconded the motion. Voting in favor: Ms. Carey, Mr. Fowler, Ms Kennsion, Mr. Neal, Mr. O'dell, and Ms. Zimmerman. Voting against: none. Motion carried, BZA 44-17 approved.

BZA 45-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Shannon and Tiffany Turner**, 1050 East County Road 500 South, Muncie, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow temporary business storage in an existing barn and a kennel in a residence zone and to allow the floor area of the accessory buildings to exceed that of the dwelling for a new kennel building on premises located at 1050 East County Road 500 South, Monroe Township, Delaware County, Indiana, as more accurately described in the application.

Shannon Turner, 1050 E. CR 500 S., Muncie, Indiana, appeared. He stated he uses his current barns for storage of his trailer, snow plow and other equipment, and he would like to have the proposed building for a kennel.

Mr. Neal asked if his equipment he was storing was for a business.

Mr. Turner stated yes. He stated he is self employed installing fencing and all of his work is done off site.

Ms. Moody stated his primary request is to allow the kennel in a residence zone. She stated while Mr. Turner was filing his case, staff realized there was business storage, and wanted to include that in his request.

Mr. Neal asked if he had talked to any of his neighbors.

Mr. Turner stated had talked to all of them, and no one had any complaints or problems with his request.

Ms. Moody asked if the neighbors knew he wanted dogs.

Mr. Turner stated yes, they all know.

Mr. Neal asked how many dogs and what breed of dog.

Mr. Turner stated he would have no more than 14-20 adult dogs. He stated they would not be boarding any dogs, just breeding so there would not be a lot of added traffic.

Mr. Neal asked what would be the maximum number of dogs.

Mr. Turner stated the adult dogs would be no more than 20, and the litters would be gone after 8 weeks of age. He stated he would like to have 7 kennels on each side of the barn, but would start with 3 on each side for now.

Mr. Fowler stated 20 dogs would be just too many.

Mr. Turner stated he would not start with 20, but that would be his maximum.

Ms. Zimmerman asked if he was planning to retire from his fencing business once he starts the kennel.

Mr. Turner stated yes.

Ms. Zimmerman asked if there would be more traffic with the fencing business and a kennel.

Mr. Turner stated the fencing is all offsite, and there would be no extra traffic.

Mr. Fowler stated a maximum of 14-15 adult dogs should be a condition.

Ms. Kennison asked if Mr. Turner would have any problem with a smaller number of dogs.

Mr. Turner stated he would have no problem starting smaller and if business goes well he would come back and discuss the number being increased.

Mr. Fowler stated that if he starts smaller and things go well, they could revisit the number of dogs allowed in a few years.

Mr. Neal asked if Mr. Turner was a licensed breeder.

Mr. Turner stated he is working on that now.

Mr. Fowler stated he needs to get the variance before he can get his license.

No one appeared in opposition.

Mr. Fowler made a motion to approve BZA 45-17, the appeal of Shannon and Tiffany Turner with the hardship as stated in the application with the following conditions: 1) That the applicant become a Licensed Breeder; 2) That the number of adult dogs be limited to a maximum of 14; and 3) That the variance is for the applicant only. Ms. Kennison seconded the motion. Voting in favor: Ms. Carey, Mr. Fowler, Ms. Kennison, Mr. Neal, Mr. O'Dell, and Ms. Zimmerman. Voting against: none. Motion carried, BZA 45-17 approved.

BZA 46-17 Jurisdiction: Board of Zoning Appeals

Being a request for a continuance of a public hearing on the matter of an application filed by **Barnes Development Company, LLC and Belle Tire, Incorporated**, 1000 Enterprise Drive, Allen Park, Michigan, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a new 23' tall pole sign along McGalliard Road on premises located at 4551 West Bethel Avenue, Muncie, Indiana, as more accurately described in the application.

Ms. Moody stated this was an automatic continuance and no action was needed by the Board.

BZA 47-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Annamarie Davis and MV Residential Development, LLC**, 9349 Water Stone Boulevard, Cincinnati, Ohio, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow decreased side street and side setbacks, decreased foundation and buffer plantings and decreased parking for a new multi-unit residential development of 22 units on premises located at 1125 South Walnut Street, Muncie, Indiana, as more accurately described in the application.

Pete Schwiegeraht, 9349 WaterStone Blvd., Cincinnati, Ohio appeared. He stated Miller Valentine has been a developer for over 50 years. He stated they have two developments in Muncie, including The Lofts at Roberts and have continued to look for areas in the community for redevelopment. He stated this would be a single 22 unit building, with 1-2 bedrooms per unit. He stated it would be a 3 story building with an on-site management center office, a fitness center, theater, and community areas all on the 1st floor.

Mr. Neal, asked how long the current building has been sitting empty.

Mr. Schwiegeraht stated he was not sure, but at least ten years.

Ms. Carey asked if they purchased this from the owner.

Mr. Schwiegeraht stated the property is under contract to purchase.

Ms. Carey asked if it would be affordable housing.

Ms. Schwiegeraht stated yes.

Todd Donati, 4800 W. Legacy Dr., Muncie, Indiana, appeared. He stated the Muncie Redevelopment Commission had worked with Miller Valentine on The Lofts at Roberts, and Miller Valentine was cooperative and supportive of the community. He stated this project will go a long way in improving the Walnut corridor and the that city supports this development.

Ms Moody stated that an official landscape plan is still needed, but they have made a commitment to meet all of the landscaping requirements for the corridor standards.

No one appeared in opposition.

Mr. Fowler made a motion to approve BZA 47-17, the appeal of Annmarie Davis and MV Residential Development, LLC., with the hardship as stated in the application with the following understanding: That the landscaping planting regulations will be met. Mr. O'Dell seconded the motion. Voting in favor: Ms. Carey, Mr. Fowler, Ms. Kennsion, Mr. Neal, Mr. O;Dell, and Ms. Zimmerman. Voting against: none. Motion carried, BZA 47-17 approved.

BZA 48-17 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Reverend Kenneth J. Masiogale Trust, Paxon Vong and MV Residential Development, LLC**, 9349 Water Stone Boulevard, Cincinnati, Ohio, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow decreased side street setbacks and buffer plantings for 12 new townhomes on premises located on

the east side of the 1100 block of South Walnut Street including 1100 S. Walnut Street, Muncie, Indiana, as more accurately described in the application.

Pete Schwiegeraht, 9349 WaterStone Blvd., Cincinnati, Ohio, appeared. He stated this is a part of the same development and they are across the street from one another. He stated this development would be for 11 townhomes each with 3 bedrooms and a front porch facing Walnut Street with the parking in the rear. He stated this is a very narrow lot with an alley in the rear. He also stated these are lease rentals units with the ability to purchase.

Ms. Moody stated this site plan will meet with all the requirements except for the rear buffer yard.

Todd Donati, 4800 W Legacy Dr., Muncie, Indiana, appeared. He stated the Muncie Redevelopment Commission was in support of this development.

Dennis Swan, 1105 S. Mulberry St., Muncie, Indiana, appeared. He stated he lives behind this property and wanted to know how this would affect his access to his garage.

Mr. Scwiegeraht stated the alley will remain for use and would be improved.

Mr. Fowler made a motion to approve BZA 48-17, the appeal of Reverend Kenneth J. Masiogale Trust, Paxon Vong and MV Residential Development, LLC., with the hardship as stated in the application with the following understanding: That the landscaping planting regulations will be met except for the rear buffer. Voting in favor: Ms. Carey, Mr. Fowler, Ms. Kennison, Mr. Neal, Mr. O'Dell, and Ms. Zimmerman. Voting against: none. Motion carried, BZA 48-17 approved.

ADJOURNMENT:

There being no further business the meeting was adjourned.

Jack Neal Jr., Chairman

Marta Moody, Secretary