

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS  
MAY - 2025 REGULAR MONTHLY MEETING  
AGENDA**

**DATE:** May 29, 2025

**PLACE:** Commissioners Court Room  
3<sup>rd</sup> Floor, Delaware County  
Building

**TIME:** 6:00 P.M.

**PLEDGE OF ALLEGIANCE:**

**ROLL CALL:**

<b>Leslie Mathewson</b>	
<b>Matt Billington</b>	<b>Delaney Fritch</b>
<b>Ellen Brannon</b>	<b>Sue Kaiser</b>
<b>Dustin Clark</b>	<b>Kristi Knapp</b>

**MINUTES:** Consideration of the April, 2025 regular monthly meeting minutes.

**ANNOUNCEMENTS:**

**BZA 11-25 Jurisdiction: Board of Zoning Appeals**

**WITHDRAWN** Being an automatic withdrawal of a public hearing on the matter of an application filed by **Michael Standish**, 2601 North Timber Lane, Muncie, Indiana.

**BZA 21-25 Jurisdiction: Board of Zoning Appeals**

**WITHDRAWN** Being an automatic withdrawal of a public hearing on the matter of an application filed by **Brightwork Real Estate, Devon Chu and Paul Criswell Junior**, 3708 West Swann Avenue, Suite 200, Tampa, Florida.

**OLD BUSINESS:**

**BZA 09-25 Jurisdiction: Board of Zoning Appeals**

Being a continuation of a public hearing on the matter of an application filed by **TXCRE Muncie, LLC and Wawa Incorporated**, 2665 North White Chapel Boulevard, Southlake, Texas, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased sign height for a new gas station and convenience store on premises located on the south side of Jackson Street west of Country Club Road, Muncie, as more accurately described in the application.

**BZA 16-25 Jurisdiction: Board of Zoning Appeals**

**SPECIAL USE** Being a continuation of a public hearing on the matter of an application filed by **Darrell E. Smith and Integrated eBusiness Solutions, Incorporated**, 1813 Edward Lane, Anderson, Indiana, requesting an amusement park special use under the terms of the Delaware County Comprehensive Zoning Ordinance to allow a seasonal amusement business known as Stillwell Manor Haunted Attraction on premises located on the east side of County Road 750 West south of State Road 67 including the address of 9090 South County Road 750 West, Salem Township, Delaware County, as more accurately described in the application.

## **NEW BUSINESS:**

### **BZA 22-25      Jurisdiction: Board of Zoning Appeals**

**SPECIAL USE** Being a public hearing on the matter of an application filed by **Muncie Monthly Meeting of Friends and Recovery Café Muncie, Incorporated**, 418 West, Indiana, requesting a charitable institution special use under the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a recovery support organization known as Recovery Café to operate in an existing church in a residence zone on premises located 418 West Adams Street, Muncie, as more accurately described in the application.

### **BZA 24-25      Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Dean Peercy and Julie Danielson**, 11700 South County Road 396 East, Muncie, Indiana requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow keeping farm animals in a residence zone with a decreased distance to neighboring houses on premises located on 11700 South County Road 396 East, Perry Township, Delaware County, as more accurately described in the application.

### **BZA 25-25      Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Amy and Kenneth Pope**, 16099 West County Road 750 South, Daleville, Indiana requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a second dwelling (total of two dwellings) on 16.21 acres in a farm zone on premises located at 16099 West County Road 750 South, Salem Township, Delaware County, as more accurately described in the application.

### **BZA 26-25      Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **YMCA of Muncie Building Corporation**, 654 North Jefferson Street, Muncie, Indiana requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased front setback/build-to line on Walnut Street for the new YMCA building located at 615 North Walnut Street, Muncie, as more accurately described in the application.

### **BZA 27-25      Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Parlour Properties, LLC and Crescent Hills Recovery, LLC**, 1300 West University Avenue, Muncie, Indiana requesting a variance of use from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a Health Care Center for short-term inpatient treatment in an historic house in a residence zone on premises located at 1300 West University Avenue, Muncie, as more accurately described in the application.

## **REPORT FROM DIRECTOR:**

## **ADJOURNMENT:**

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS  
MAY - 2025 REGULAR MONTHLY MEETING  
MINUTES**

The Delaware-Muncie Metropolitan Plan Commission held its regular monthly meeting on Thursday, May 29, 2025 at 6:00 P.M., in the Commissioners Court Room of the Delaware County Building, Muncie, Indiana. Chairperson Leslie Mathewson called the meeting to order.

**PLEDGE OF ALLEGIANCE:**

**ROLL CALL:**

Ms. Swackhamer called the meeting to order and the following members were present: Mr. Billington, Ms. Brannon, Mr. Clark, Ms. Fritch, Ms. Kaiser, Ms. Knapp, and Ms. Mathewson. Absent: None. Also present: Mr. Murphy, attorney for the Board.

**MINUTES:**

Ms. Fritch made a motion to approve the April 2025 regular meeting minutes. Ms. Knapp seconded the motion. Voting in favor: Mr. Billington, Ms. Brannon, Ms. Fritch, Ms. Kaiser, Ms. Knapp, and Ms. Mathewson. Voting against: None. Abstaining: Mr. Clark. Motion carried, April 2025 minutes approved.

**ANNOUNCEMENTS:**

Ms. Swackhamer stated that there had been 2 cases had been automatically withdrawn and since that was done in advance, there was enough time to send proper notice to those surrounding property owners. She stated that the items that were withdrawn were BZA 11-25 filed by Michael Standish and BZA 21-25 filed by Brightwork Real Estate, Devon Chu and Paul Criswell Junior.

Ms. Mathewson stated that before moving forward, the Board would like to address BZA 27-25 the appeal filed by Parlour Properties, LLC and Crescent Hills Recovery, LLC. She stated that Ms. Swackhamer would explain the circumstances and that the Board could to decide how to proceed with the following matter.

**BZA 27-25      Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Parlour Properties, LLC and Crescent Hills Recovery, LLC**, 1300 West University Avenue, Muncie, Indiana requesting a variance of use from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a Health Care Center for short-term inpatient treatment in an historic house in a residence zone on premises located at 1300 West University Avenue, Muncie, as more accurately described in the application.

Ms. Swackhamer stated that the office had received an email request from Chris Palladino, the Director of Real Estate Services at Ball State University asking for a continuation on the matter of Parlour Properties (see full letter attached). She stated that she had responded to Mr. Palladino outlining the BZA requirements of the legal notice for requests. She stated that the notice had been posted in the newspaper and that she had sent a list of the surrounding property owners that had been notified within 300' or 2 properties deep. She stated that Ball State Board of Trustees was on that list 4 times, and that Ms. Palladino confirmed that 1 address had not received notice, and that the address where he received the mail did not get notice. She stated that Mr. Palladino stated that it could be mail related

and timing, but that she would present his request for a continuance to be considered. She stated that she had received an email from Nora Powell also asking for a continuance of the matter to allow Ball State University time to research and attend the meeting. She stated that she had received an email from Cameron Sarah, a property manager for----- and he attached a list of property owners that he had highlighted those he had spoken to and who were in opposition of the request.

Mr. Murphy stated that the Board had complied with the statute and that notice had been given in this case. He stated that it would not be an automatic continuance, but that at the Board's discretion they could decide to continue the case to the next meeting.

Ms. Swackhamer stated that the legal notice in the newspaper, surrounding property owner notices and the signs posted at the property had all been done.

Ms. Fritch made a motion to continue BZA 27-25 the appeal filed by Parlour Properties, LLC, and Crescent Hill Recovery, LLC to the next regular meeting. Ms. Kaiser seconded the motion.

Mr. Clark asked for clarification that all notice had been made, and that 4 notices went to Ball State University. He stated that with 4 addresses on that list, there could be at least one representative that could have attended the meeting, therefore he would not be in favor of continuing to the next meeting.

Mr. Billington stated that he felt this would be setting an example that anytime a property asked for a continuance, that there could be many based on individuals not being able to attend a meeting.

Ms. Swackhamer stated for clarification, that Ball State Board of Trustees was listed 4 times on the list with different addresses.

Ms. Knapp asked if 2 of the 3 addresses had not received the notice.

Ms. Swackhamer stated yes, that in his email Mr. Palladino stated that 2 had not received a letter.

Mr. Clark asked if the notices was physically posted and in the newspaper.

Ms. Swackhamer stated yes.

*[Ms. Fritch made a motion to continue BZA 27-25 the appeal filed by Parlour Properties, LLC, and Crescent Hill Recovery, LLC to the next regular meeting. Ms. Kaiser seconded the motion.]*

Voting in favor: Ms. Fritch, Ms. Kaiser, and Ms. Knapp. Voting against: Mr. Billington, Ms. Brannon, Mr. Clark, and Ms. Mathewson. Motion failed, BZA 27-25 will not be continued to the May meeting.

Mr. Murphy stated that BZA 37-25 would be heard in its proper place on the agenda.

Ms. Mathewson stated that she would address some rules for the meeting. She asked that all cell phone be silenced or turned off, she asked the audience to be respectful to those speaking, and that all those wishing to speak come to the podium at the appropriate time and give their name and address prior to speaking.

Ms. Swackhamer stated that the Board would be implementing the normal rules of procedure in regards to time limits for speaking. She stated that there was a 3 minutes time limit for anyone wishing to speak, and that if an attorney was representing a group of people, that list had been submitted prior to the meeting. She stated that the attorney would have a time limit not to exceed 30 minutes, and that time will be kept by staff and that when time was up, please finish. She stated that an applicant had 20 minutes to present their case, and any rebuttals were limited to 5 minutes.

Ms. Mathewson stated that anyone speaking either in support or opposition try to bring up new points rather than repeating the same issues multiple times.

## **OLD BUSINESS:**

### **BZA 16-25     Jurisdiction: Board of Zoning Appeals**

**SPECIAL USE** Being a continuation of a public hearing on the matter of an application filed by **Darrell E. Smith and Integrated eBusiness Solutions, Incorporated**, 1813 Edward Lane, Anderson, Indiana, requesting an amusement park special use under the terms of the Delaware County Comprehensive Zoning Ordinance to allow a seasonal amusement business known as Stillwell Manor Haunted Attraction on premises located on the east side of County Road 750 West south of State Road 67 including the address of 9090 South County Road 750 West, Salem Township, Delaware County, as more accurately described in the application.

Ms. Mathewson stated that the Board had received detailed minutes and looked at all of the information provided at the previous meetings, and asked that anyone speaking try and focus on any new material or concerns.

Allen Wiseley, attorney with Beasley and Gilkison LLP, appeared to represent the applicant. He stated that Mr. Smith was the owner of a longstanding haunted attraction that had formerly been located in Anderson, and that location was no longer available. He stated that Mr. Smith found this site with the help of ECIRPD (East Central Indiana Regional Planning District) and that he had changed the plans since he originally submitted the request. He stated that all of the attractions had been moved to be closer to SR 67 and farther away from the adjoining neighborhood and that there would be several acres of crops planted between them as well. He stated that the driveway had been moved and that Mr. Smith had worked diligently to respond to the concerns of those neighbors.

Darrell Smith 1813 Edward Lane, Anderson, Indiana, appeared. He stated that he had done a lot of research and made many modifications to make the site as neighborhood friendly as he could. He stated that there were a few items that he did not understand from the last meeting, and would like to maybe address those at this time. He stated that they had reviewed the plans they provided at the previous meeting and looked at installing a fence or a barrier as a way to separate their 11 acres and the neighbors. He stated that they had also looked at a new access to the property from SR 67, but that would cause more headaches for everyone with 2 connections for traffic entering and existing the site. He stated that they only had heavy traffic 1-2 nights per year and that he did not feel it would be an issue to use 650 West as their access. He stated that there had been an accident in that area 2-3 weeks after the last meeting and that this was a 4-lane highway with a turn lane and people were traveling 55 mph, and that someone crossing the center line had nothing to do with his request. He stated that he understood the concerns, but that their site would not cause more of those traffic concerns since their traffic was not all coming and going at the same time. He stated that they had camouflage netting that was in place and that they use artificial trees to help block the view of buildings that would be on the property.

Ms. Mathewson stated that one of the things that was not understood was the anticipated special events and when those would take place during the year and what the hours for those events would be.

Mr. Smith stated that the hours of operation were primarily 7:30 P.M. to 11:00 P.M. except on Thursdays or Sundays and they would close at 10:00 P.M. those nights. He stated that on the last 2 Saturdays and Fridays in October they try to stay open until midnight. He stated that they stop taking ticket sales 30 minutes before they close so that people can still have a little time at the attraction before closing.

Mr. Clark asked what months the special events were held.

Mr. Smith stated that the main dates were the last 2 weekends in September on Fridays and Saturdays, Thursday thru Sunday in October, and the first weekend in November. He stated that if the ticket sales were slow, they close the doors, and that the weekend in November was not a big weekend, and that he could get rid of that if needed. He stated that they had done the special events in the past, but that they were not big money makers and he could get rid of those times as well. He stated that they had a Valentine's Day Cupid's Curse event on a Friday and Saturday night with maybe 150 guests.

Mr. Clark asked if this would be a total of 8-10 weeks throughout the year with 2 weekends in September, all of October, 1 weekend in November and maybe a special event.

Mr. Smith stated yes, it would be 8 weekends total, he stated that they did not do anything Monday to Wednesday because it was not worth having the actors get into makeup for the money that they made those nights.

Ms. Kaiser asked if it would be possible to hire a traffic cop on those busy nights to help with public safety.

Mr. Smith stated yes, and that every night they had between 2-3 officers on the property when they were opened and that he had talked to the Town of Daleville about having someone at the road and that he would pay for that. He stated that public safety was very important to him and that they had letters that had been submitted from individuals that state how important safety was to them.

Ms. Mathewson asked if he would have any issue if they had the closing time as 11:00 P.M. instead of midnight for all activities since there was a residential neighborhood just down the road.

Mr. Smith stated he was not against that, but that he hoped they could prove they would not be a problem especially since there was no noise ordinance in Delaware County and he had agreed to comply to the guidelines concerning noise.

Ms. Mathewson asked if Mr. Smith had opportunities to speak to any of the surrounding property owners since the last meeting to address any of their concerns.

Mr. Smith stated no, he had talked to a few people who lived in Daleville, but not any of the neighbors. He stated that Mr. Zion had spoken to the 2 neighbors that lived next door, and that they had decided to stay neutral so that no one gets upset with them. He stated that he had offered to meet with the neighborhood from the beginning but that no one seemed to want to do that.

Ms. Knapp asked if the information the Board had was the most current since he stated they had moved the mid-way area.

Mr. Daniel stated that the Board had the information that was submitted on the day of the previous meeting.

Mr. Smith stated that there were some pictures that had been provided from the previous location and that the mid-way drawings were the designs of how it would look at this location. He stated that they had a haunted mansion, but that it was not gory and that they did not touch the guests and that they never would. He stated that they had not many any other big changes other than to discuss with the state for an access on SR 67 and that they could petition for a traffic light, but he had no idea how much that would cost. He stated that there were some concerns about a hill at the entrance and that they had measured it and that the height difference was 4' from the entrance to where it would be. He

stated that he had also agreed to place a 6' tall fence around the pond area if they even built that, but otherwise they had not changed much on their drawings.

Ian Christine, 8106 S. Lodge Lane, appeared. He stated that his father had planned to speak but had to leave so he would be reading a letter he wrote. He read, "Hello, my name is CJ Christine and I am a detective with the Anderson Police Department and have been an officer for 25 years. I will be quick with my speech, I assume there are some safety/security concerns with a haunted house wanting to locate here in Daleville and I understand why you may be hesitant. I have worked for Darrell providing security and I definitely can say with 100% certainty that everyone's safety and security is one of Darrell's top priorities. When Darrell was operating in Anderson he made it a point to hire 2 maybe more off duty police officers to work security during operating hours. Rarely does a business hire 1 officer let alone 2 or more. I am a very protective parent, like many people in this room but I also know that Darrell had such an emphasis on safety that I actually felt comfortable enough with the environment that he created that I, a police officer, felt strongly enough to allow my 13 and 15-year old boys along with my fiancé's 13-year old daughter to work at the haunted house. In my opinion during operating hours everything/everyone in the area are actually going to be safer due to the added extra concerns for safety that employees have and the off-duty officers. Darrell is a highly trusted reputable business owner and a really good person. I think Daleville has such a great opportunity for a unique business to come be part of your community. Thank You".

Holly DeHart, 121 W. Monroe St., Alexandria, Indiana, appeared. She stated that she was in support of Stillwell Manor and that she wanted everyone to know that they were not bad people and that they were not trying to cause any trouble. She stated that they tried to bring joy and happiness to people who enjoy spooky season and that they want to produce an entertaining show that was safe for everyone. She stated that they also provided opportunities for youth actors and artist to share their creativity and do things that they may not normally get to do.

Joseph Smith, 1600 Linbrooke Rd., Anderson, Indiana, appeared. He stated that at the previous meeting he had heard the opposition speaking about their safety concerns, but that a lot of that was the "what if" situations. He stated that the decrease in property value was the biggest concern he heard, and he read "that a haunted house attraction could significantly boost property values and revenue in rural areas by drawing visitors and stimulating local economies, these attractions create a unique tourism draw attracting thrill seekers from beyond the immediate area which increases foot traffic to nearby businesses like restaurants, gas stations and shops. The influx of visitors can lead to higher demand for short term rentals or accommodations encouraging property owners to invest in upgrades or new developments, thereby raising property values. Additionally, haunted houses require seasonal staff providing local jobs and injecting money into the community for example, a well promoted attraction can generate thousands of visitors annually, each spending on tickets, food, and souvenirs with revenue staying local, and the cultural buzz from local haunted houses can put a rural area on the map". He stated that the Stillwell Manor Haunt was on the map and that they had tourism groups that came from all over the country and that this was a 7 billion dollar industry and that they would bring money to the community. He stated that he hoped that they would consider the probability of what would happen and not the what might happen.

Michael McCoy, 1332 W. 8<sup>th</sup>, appeared. He stated that he would be an actor at Stillwell Manor in 2025. He stated that Darrell was a good friend and that he taught him many things, and that he loved Stillwell Manor with a passion. He stated that if it was not for Darrell he would not have come to Stillwell Manor in 2023, and that he loved Darrell and would love to be able to be an actor there again.

Evan Norris, an attorney with Drewry Simmonns Vornhem, 736 Hanover Place, Carmel, Indiana, appeared to represent a group of surrounding property owners in Hickory Park Addition who were in opposition. He stated that he had provided a letter of opposition on behalf of those neighbors along

with his notice of representation and his power point presentation. He stated that the Hickory Park Neighbors ask that the BZA uphold the 6-0 vote for an unfavorable recommendation that was given by the Plan Commission. He stated that he was not here to judge haunted house and that he would keep his presentation as factual as possible, and that he would be happy to answer any questions along the way. He stated that he would go through the 6 different criteria found under Article XXXI, Section 2B of the Zoning Ordinance for a special use, and that they believe that this request failed all of those points. He stated that it goes without saying that there were great concerns about the traffic impact at 750 West and that issues regarding the public health, safety, and morals, and general welfare. He stated that SR 67 was a 4-lane road that encountered an abundant amount of traffic every day and was controlled by INDOT. He stated that Mr. Smith had provided no evidence of any consultations with any engineer's or that any traffic studies had been performed to support this development. He stated that the high traffic volume raised serious safety concerns throughout the development, and recent fatal accident further underscored the importance of safety and the reasons why he had been retained by the neighbors to represent their interests in this matter. He stated that he would argue that there was no real plan for ingress/egress into the proposed development and that they were concerned about traffic backups during peak hours of operation. He stated that he drove SR 67 on his way to Daleville often and that the traffic could get very heavy and congested. He stated that there was also no plan for infrastructure improvements such as culverts roadway aprons or transition pieces onto the property and that they were concerned about the traffic control. He stated that 750 West was a stop sign controlled intersection and that the applicant stated he would entertain a traffic light at that intersection, and he knew that INDOT would not take that lightly due to the cost. He stated that when there were cars passing going 55 mph and a continuous flow of traffic, a lot of congestion and issues were created and many opportunities for right angle collision which were some of the most deadly types of collisions. He stated that he had seen some of the conceptual drawings, but did not have a clear idea of the materials that would be used, which comes down to a fire safety issue. He also stated that the neighbors had serious concerns about the width restrictions and the pavement durability of the roads to handle the amount of traffic that was anticipated from the attraction. He stated that on average the daily traffic in 2024 was 14,610 vehicles through this particular section of roadway on SR 67 which classified it as a major arterial roadway. He stated that special design considerations were needed for a major arterial road and it was not feasible to believe that INDOT would install a traffic light in the next 3-6 months. He stated that when the traffic in that area was increased, it also increased the potential for the likelihood of additional serious or even fatal collisions. He stated that it was also worth noting that the Indiana Fore Code required that materials that were flame resistant be used and he had seen nothing in the applicant's commitments to suggest that would be done, and afforded this Board the opportunity to deny the request. He stated that another one of the criteria that the Board was to consider was if a request would be injurious to the public, and there were certainly concerns at this site. He stated that the topography of the property was not flat and had many hills and that there were obvious depressions and asked if any due diligence had been done to delineate the wetland areas on this site. He stated that there may be permitting required by IDEM, DNR and the Army Corp of Engineers for the pond, and if a professional design consultant been involved in planning the site, those issues may have been considered. He stated that he was not an engineer, but when he looked at the topography maps, he had concerns about where all of the water would run off and did not know if the idea of a pond was feasible to the site. He stated that another consideration was the substantial adverse effect on the community, and one of the concerns was the noise and light pollution from the chainsaws, combines, screaming and yelling and things of that nature. He stated that placing a haunted house in this area would disrupt the rural character that the neighbors moved there to enjoy. He stated that this business could be a nuisance and that there were concerns about the general welfare and security protocols associated with this site that others have spoken about. He stated that it measured 331' from the corner of the proposed site to the nearest neighbor in Hickory Park, and that there would be a substantial impact on those neighbors when they go outside to enjoy their rural area that now had a haunted house attraction that close. He stated that the tent that was on the site now did not meet that rural character and the farming aesthetics of the area. He stated that they believed that the access and



mobility of those neighbors would be impacted during peak hours of the attraction given the increase in vehicles during those times. He stated that they had concerns about emergency access to and from that site given the lack of infrastructure in that area as well. He stated that the agricultural impact needed to be given due consideration where the water run off could harm the surrounding crops and farm animals. He stated that another concern was the property values and it could be argued that a carnival setup could be a visual blight to those nearby and was not the best use of this property. He stated that driving down the SR 67 corridor, while it was primarily agricultural now, the best use of this property in the future could be commercial that would bring year-round jobs and higher property values. He stated that allowing this attraction could have an adverse impact on any future commercial development in that area. He stated that the Hickory Park addition and all of the surrounding property with the exception of Sam Pierce Chevrolet was zoned Farming and that the special use did not fit the character of the property. He stated that this special use contradicted the 2022 Delaware County Comprehensive Plan and there were concerns about hinder responsible development in the future. He stated that the irregular nature of the request with no clear outline of the dates of operation, suspicions were raised as to whether this supported normal and orderly development in the area. He stated that there were not enough details to the hours and dates of operation, the ingress/egress access points, how the mud would be dealt with on the roads, and that they did not believe that the applicant had done his due diligence regarding developing the site. He stated that consideration of utilities and storm water runoff and drainage had not been properly looked into for the site. He stated that he had pictures showing that soybeans had been planted this season and that one of the main points the applicant presented at previous meetings was that corn would be planted and used as a buffer and that it was not feasible now to plant that corn. He stated that was a major factor to be considered and that would not happen this year but rather there would be just a few rows of soybeans in place. He stated that there were standards when paving and installing roadways in the area and that he had heard that gravel or mulch would be used in the parking area, and that lacked the level of detail the zoning ordinance would require. He stated that he had not seen a proposed development plan that worked through some of these concerns with drainage, the roadways, landscape, and other issues. He stated that CR 750 West and SR 67 was a stop sign controlled intersection and cars would be forced to leave the property and wait for 2 lanes of traffic to cross and then enter the median to turn and travel west towards I69. He stated that there would be a significant amount of visitors each night entering and leaving that property, and many being after dark, raises concerns for the neighbors. He stated that the proposed entrance and exit sat within INDOT's right-of-way and that at this time he had not seen any announcement that the applicant had obtained a permit which would be required and that INDOT have very strict standards. He stated that he believed that the request lacked the due diligence in order to meet the 6 points of criteria for the special use, and he thanked the Board for the time and opportunity to represent a concerned group of neighbors and asked that they deny the request at this time.

Ms. Swackhamer read "Exhibit A" provided by Mr. Norris as part of the record (see BZA 16-25 for entire letter).

Ryan Jacobs, 12610 W. CR 650S., Daleville, Indiana, appeared in opposition. He stated that anyone leaving this site would go past his house and that safety was his biggest concerns. He stated that he loved the business and the entertainment factor, but everyone in the area want to enjoy their homes and be outside without the noise from this business late at night. He stated that 330' from your porch and anyone would feel the same way. He stated that he had seen the business model be a success, inside, and he asked is Mr. Smith had thought about joining with an existing venue such as Landess Pumpkin Patch or Jacob's Orchard. He stated that those businesses had the parking and restrooms and would maybe love to partner with his business. He stated that the large number of people here in opposition understood the issues with SR 67 and they see the accidents, and have concerns.

Amy Jacobs, 12610 W. CR 650 W, Daleville, Indiana, appeared in opposition. She stated that after the last meeting she had sent an email to Sherriff Skinner asking what his department's involvement might

be if this request was granted. She stated that his response was that they were responsible for responding to calls in that area, but that he would not assign units at that intersection to direct traffic during the business hours of the proposed haunted house, but it was possible to increase patrols if the request was granted.

Florence Mallory, 9009 S. Honeycreek Rd., Munice, Indiana, appeared in opposition. She stated that she drove SR 67 most days and had spent 26 years as a firefighter and EMT covering that area, and that she was aware of 3 fatal accidents within ½ mile of 750 West. She stated that directing traffic in the dark, in fall weather, with rain, and people speeding, it could be so much worse for travelers who were not familiar with the area. She stated that she had concerns about the safety and the added noises and lights from the business.

Brenda Watson, 105 S. Buckingham Dr., Yorktown, Indiana, appeared in opposition. She stated that her in-laws property was the first one in Hickory Park Addition and that her father-in-law was a disabled Vietnam Veteran and that she had concerns about the noise and lights effecting his ability to enjoy his property. She stated that she had concerns regarding statements made by the applicant that were conflicting statements from the Plan Commission meeting to now. She stated that at the Plan Commission meeting he discussed there being events in February, March, May, October and December events, and that seemed like a year-round business, not just at Halloween. She stated that Mr. Smith also mentioned 120 parking spaces with his busiest night being 820 patrons and asked where the employees, vendors, and suppliers would park, not to mention sometimes there were buses that came to the attraction. She stated that those roads were not designed for buses and had no idea how 2 buses would pass each other safely. She stated that 750 West was a 2 lane road and as people exit the site, there would be traffic from the east and from the west trying to turn into the attraction while others were leaving, and that this would cause a backup of traffic. She stated that she imagined trying to turn left anywhere on McGalliard Road, and how difficult and time consuming that was. She stated that the applicant spoke about medical calls due to fainting and panic attacks, and that she had concerns about emergency personal being able to access her father-in-law or anyone else in that area needing those services. She asked the Board to please deny the request.

Bret Watson, 105 S. Buckingham Rd., Yorktown, Indiana, appeared in opposition. He stated that his father lived in that area and he prayed that traffic would not be backed up during these events if an ambulance was needed for any of those residents in Hickory Park. He stated that he grew up in that neighborhood and that he wanted to stress the concerns about the hours of operation for the business. He stated that they would all be naïve if they believed that this plan they had laid out would be only be open for a few weekends each year. He stated that they indicated they would be able for special occasions, but that those were not defined. He stated that his birthday was a special occasion to him, so how do we define those occasions in this case and that the door would be left open for an event to occur at any time. He stated that the residents of Hickory Park were not against the business and many of them had visited the attraction in Anderson, but that this was not the location.

Brandon Watson, 13901 W. Carroll St., Daleville, Indiana, appeared in opposition. He stated that his father lived there and that they had major concerns about the emergency vehicles having access to those in need. He stated that there had been numerous accidents at that location, including himself, and that he was lucky to have survived. He stated that they were not against the business, they were against the location. He stated that his parent moved to that area for a peaceful neighborhood, like everyone else in that area. He stated that the peace and quiet was what they wished to keep for their neighborhood.

Carol Combes, 9820 S. CR 750W, Daleville, Indiana, appeared in opposition. She stated that Delaware County was offering people \$5,000 to relocate here, and that this was a highly coveted area for families. She stated that it was a wonderful community with 4 star schools and that if approved, some of those

families would leave. She stated that she did not want her property value to go down because of this, and that the property was already becoming an eyesore and that it was only going to get worse. She stated that there were not many renters, they had a lot of property owners and granting this request would go against trying to pay people to relocate here.

Glen Tomlinson, Fire Chief for Salem Township and the Town of Daleville and the Building Commissioner for the Town of Daleville. He stated that he was not there to speak in favor or opposition. He stated that he was at the accident that occurred here a few weeks ago, and that he had seen some unimaginable things in his career. He stated that as the authority for fire inspections in that area for the safety of the entire area, and that was a conversation that had not occurred. He stated that in his opinion he did not believe that the applicant was ready since there had been no risk plan analysis yet. He stated that he did believe it was a good idea, but not a good location. He stated that as the Fire Chief and the Building Commissioner he was asking that he and the owners have a conversation before any decision was made so that everyone in the community remains safe.

Mr. Wiseley stated that the relocation program was for anyone with a Muncie address, he knew that because he was the attorney who wrote that item, and was not a concern for this area. He stated that the special occasions were clearly outlined in the information provided to the Board and that Mr. Smith stated he would forgo those special nights if that was the Board's desire. He stated that there was a letter from any inspector from the state level for haunted attractions and who had worked with Mr. Smith for several years. He stated that many of the pieces of equipment were the same pieces that were in Anderson and had been inspected each year and passed. He stated that regarding the access to SR 67 and any wetlands studies, those have not been done at this time because they were expensive, so he started here first for approval before spending more money. He stated that Mr. Smith had stated that he would abide by all of the necessary standards and that he understood if he could not meet any, he would need to come back before this Board and seek variances for those items. He stated that the traffic study mentioned had been taken in front of Sam Pierce Chevrolet which had a significant amount of traffic, but at very different than the proposed attraction. He stated that anything regarding due diligence would still be done, and that this was the initial approval before going onto to those next steps.

Mr. Smith stated that the Army Corp of Engineer's had placed the existing culverts and that he would enhance those culverts.

Kevin Zion, 9090 S. CR 750W. Daleville, Indiana, appeared. He stated that he was the property owner and that they had a different farmer this year and that since they were going install a 12' tall fence, he did not think the beans would be an issue.

Ms. Mathewson stated that it had been addressed, but as a reminder the Plan Commission had forwarded an unfavorable recommendation for this request with a 6-0 vote.

Ms. Swackhamer stated for the record, that the Board had received letters from The Scare Factor, Marquela Merrit, Sahninalin Connery, and Kameron Coffman, all in support.

Ms. Brannon stated that she was curious about the comments from the Daleville Building Commissioner and his request to have a conversation, and should that be allowed before this Board makes a decision.

Mr. Murphy stated that the Board was not obligated to take any action or allow any conversation, and that he would point out that this case had already had a significant history.

Ms. Swackhamer clarified that the area being discussed was under the jurisdiction of the County Building Commissioner, Mr. Fouch and he would be part of the process.

Mr. Clark made a motion to deny BZA 16-25 the appeal of Darrell E Smith and Integrated eBusiness Solutions, Incorporated. Ms. Fritch seconded the motion. Voting in favor: Mr. Billington, Ms. Brannon, Mr. Clark, Ms. Fritch, Ms. Kaiser, Ms. Knapp, and Ms. Mathewson. Voting against: None. Motion carried, BZA 16-25 denied.

**BZA 09-25      Jurisdiction: Board of Zoning Appeals**

Being a continuation of a public hearing on the matter of an application filed by **TXCRE Muncie, LLC and Wawa Incorporated**, 2665 North White Chapel Boulevard, Southlake, Texas, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased sign height for a new gas station and convenience store on premises located on the south side of Jackson Street west of Country Club Road, Muncie, as more accurately described in the application.

*(moved to second on the agenda to allow for applicant to appear)*

Patrick Moon, appeared to represent the applicant. He stated that at the last meeting they had been asking for a sign to be 23' and that they agreed that they could move to a 20' tall sign and be similar to what was existing in the area.

No one appeared in opposition.

Ms. Swackhamer stated that an email from James Day was received in opposition and that the Board all had a copy of that letter.

Ms. Mathewson asked if the northside of Jackson Street was in the County or the City.

Mr. Daniel stated that on the east side of Jackson Street at Country Club Road that was the city limits along with the northeast, northwest, and southwest corners.

Mr. Fritch stated for the record that she would like the Board to take into consideration the purpose of the community redesigning the sign ordinance and all of that work that went into that as we continue to see businesses moving here and asking for the same variance, and how the Board wants to uphold that ordinance for the community.

Ms. Fritch made a motion to approve BZA 09-25 the appeal of TXCRE Muncie, LLC and WAWA Inc., with the hardship as stated in the application to allow a 20' tall sign, Ms. Kaiser seconded the motion. Voting in favor: Mr. Billington, Ms. Brannon, MR. Clark, Ms. Kaiser, and Ms. Mathewson, Voting against: Ms. Fritch and Ms. Knapp. Motion carried, BZA 09-25 approved.

**NEW BUSINESS:**

**BZA 22-25      Jurisdiction: Board of Zoning Appeals**

**SPECIAL USE** Being a public hearing on the matter of an application filed by **Muncie Monthly Meeting of Friends and Recovery Café Muncie, Incorporated**, 418 West, Indiana, requesting a charitable institution special use under the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a recovery support organization known as Recovery Café to operate in an existing church in a residence zone on premises located 418 West Adams Street, Muncie, as more accurately described in the application.

Linda Daniel, 1305 S. Elm St., Muncie, Indiana, appeared. She stated that the Muncie Monthly meeting of Friends owned the Friends Memorial Church and that they had decided last year that it was too large of a church to own. She stated that Recovery Café made an offer to purchase the church on contract and they came to an agreement that the Muncie Monthly Meeting of Friends would still remain in the building, just occupying a smaller portion of the building. She stated that they were asking a special use that would allow Recovery Café to move into the building with them.

Mr. Clark asked how long they had been at this location.

Ms. Daniel stated over 100 years, and that the church was built in 1908. She stated that they would be located in the east wing which was built in 1964.

Mr. Clark asked if there was any approval needed from the church for Recovery café to do any exterior modifications or removal of any of the building.

Ms. Daniel stated that it would all be interior work.

Bill Rogers, President of Board of Directors of Recovery Café, currently located at 201 E. Charles St., Muncie, Indiana. He stated that the current lease was running out and that they had outgrown the space and were in the process of purchasing the Friends Memorial Church and would be responsible for the maintenance and upkeep of the building. He stated that their hours were 11:00-3:00 Tuesdays to Saturdays, and that they would not conflict with any church programs.

No one appeared in opposition

Ms. Swackhamer read the favorable recommendation received from the Plan Commission at their May 1, 2025 meeting.

Ms. Fritch made a motion to approve BZA 22-25 a special use filed by, Muncie Monthly Meeting of Friends and Recovery Café Muncie, Incorporated, as stated in the application. Mr. Billington seconded the motion. Voting in favor: Mr. Billington, Ms. Brannon, Mr. Clark, Ms. Kaiser, Ms. Knapp, and Ms. Mathewson. Voting against: None. Abstaining: Ms. Fritch. Motion carried, BZA 22-25 approved.

#### **BZA 24-25     Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Dean Peercy and Julie Danielson**, 11700 South County Road 396 East, Muncie, Indiana requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow keeping farm animals in a residence zone with a decreased distance to neighboring houses on premises located on 11700 South County Road 396 East, Perry Township, Delaware County, as more accurately described in the application.

Julie Danielson, 11700 S. CR 396E, Muncie, Indiana, appeared. She stated that her father Dean Peercy owned the home and that she had lived there for 7 years. She stated that she was in the process of installing the fence for her animals. She stated that she did not intentionally allow her animals to get into other people's yards and that the pictures of the rabbits were from last year. She stated that when they bought the rabbits they were told they were the same sex, and when they placed them together they discovered that they were not, and that after the rabbit had babies, her daughter put them outside and did not latch the door completely so they got loose. She stated that she had talked to the neighbor's wife and explained that her daughter had special needs and that they had not let them out intentionally and that they no longer had the rabbits. She stated that the wife had told her that she also had no

problems with them having chickens because they ate the bugs. She stated that her parents had owned this house for over 40 years and that she had grown up there. She stated that the fence between the properties had been there for so long that the trees had grown up and that some of the fence boards were in the trees. She stated that she had started fixing the front of the fence, and with her health issues, winter weather, and then a hip replacement, she had been delayed fixing it. She stated that her neighbor told her she needed to do something with her animals and she told him that she was trying. She stated that then he called animal control on her, and that she admitted that she did yell at him for calling them, and that he could have allowed her more time to take care of it. She stated that she did tell him she would get a pig so that he would have smell it, just because she was mad, and that was the reason he filed a complaint. She stated that there were cows across the road, and down the road there were horses, goats and chickens. She stated that she was not 100% healed from her hip replacement and that she was irritated that he would not give her time to do anything. She stated that she had talked to a neighbor and that they were upset because the neighbor who called on her had a lamb at one time and a dog that runs around in all the neighbor's yards.

Ms. Mathewson stated that this was an area that was not zoned for animals.

Ms. Danielson stated that she had not thought about that since everyone in that area had animals.

Ms. Mathewson stated that the application stated she had 28 chickens, 7 ducks, 2 turkeys, 2 fowl, and 4 goats. She asked for clarification if that was the correct number of animals she had right now.

Ms. Danielson stated no, that something had killed some of the chickens last week and 2 more today.

Ms. Mathewson asked if she had 23 chickens, 7 ducks, 2 turkeys, 2 fowl, and 4 goats.

Ms. Danielson stated yes, and that she was getting rid of 2 of the goats next week.

Ms. Mathewson asked if she would agree that the number of animals be limited to what Ms. Danielson would have next week.

Ms. Danielson stated yes. She stated that her daughter and her husband were the ones that wanted the animals, but that she was done with them because they were so much work.

Ms. Mathewson stated that if approved, the Board would likely add a condition that they fencing be added to prevent the animals from roaming since it had been reported that there had been chickens in neighboring yards.

Ms. Mathewson asked if she sold any of the animal products, and if so, would she be agreeable to that being a condition that she not be permitted to sell those items.

Ms. Danielson stated that she sometimes sold the eggs to her neighbors, but she would be ok with that.

Ms. Fritch asked for clarification on the acreage of the property and how big the area was for the animals.

Ms. Danielson stated that it was 2.25 acres total and that the majority of the property was for the animals.

Ms. Mathewson asked if the fencing was on her property or had it been installed in the right-of-way.

Ms. Danielson stated that the fence had been there as long as she had lived there.

Ms. Mathewson asked if it was determined that the fence was in the right-of-way, would she be willing to move it.

Dean Peercy, 11700 S. CR 396E, Muncie, Indiana, appeared. He stated that he had purchased the property in 1989 and the fence was there at that time.

Mr. Daniel stated that the deeds indicated that there were platted lots owned by Mr. Peercy, and that there were unimproved street right-of-ways and alley right-of-ways that were not included on the deeds. He stated that they may not have clear rights to that land, but there was a process to get a clear deed of that land and that he had found no indication that had been done.

Mr. Clark stated that he was making a few quick calculations and that the amount of 2.25 acres, he was figuring the enclosed animal area as 0.11 acres, which would fall short of even the state minimum of 0.3 acres for 2 goats, and they currently had 4 goats.

Mr. Peercy stated that the fence went all the way around the property.

Ms. Brannon asked if they were adding fence where there was none or just repairing the existing fence.

Ms. Danielson stated she was mending what was already there.

Mr. Clark stated that using that additional space, it still only added up to 0.14 acres for the animals.

Ms. Danielson stated that this was not individual lots that were fenced off, the whole area was 4 lots.

Mr. Clark stated that he had 1 map with the proposed area.

Ms. Danielson stated that the goats and a pen and a stall in the pole barn.

Ms. Fritch asked if the animals were kept on the parcel of land with the house and the right-of-way access.

Ms. Danielson stated that it was 4 lots that their house and property sat on and had been since her parents purchased the property.

Ms. Fritch asked if it was 4 separate lots, were all 4 parcels covered within the description.

Mr. Daniel stated that the map in the case analysis was a little misleading, and that there were 4 platted lots owned by Mr. Peercy. He stated that the 2 that were outlined contained the house and that the 2 further to the east that may have some of the animals on that lot, all separated by an alley way.

Ms. Fritch asked if from a zoning standpoint, were those lots all separate.

Mr. Daniel stated that they were the 4 platted lots on the deed and were all part of this request.

Ms. Danielson stated that her drawing showed what all was inside the fence between her property and the neighbor. She stated that she had talked to some of the other neighbors and that they all had animals and had no issues.

Ms. Fritch stated that she felt it would need to be very clear with the number of animals how much land they would be occupying, and that she was not comfortable voting to approve the request.

Ms. Danielson stated that they had a decent amount of land and that there were cows across the street from her and horses down the road that did not have as much land as she had.

Mr. Clark asked if all of the lots that may or not be included were all zoned R3-Residents Zone.

Mr. Daniel stated yes.

Ms. Kaiser asked if the hand drawn map Ms. Danielson provided was how the property was now or how it would be laid out.

Ms. Danielson stated that nothing had changed and that was how it looked now.

Ms. Brannon stated that she understood that the disagreements with neighbors regarding the animals was what brought this matter to the Board and asked how long it would take to finish the fence.

Ms. Danielson stated that the main fence had one side finished and that she had a few animals that were getting out at the bottom of the fence and she was working on that.

Ms. Brannon asked if there were family members that could help her out at all.

Ms. Danielson stated that she would get it finished, it had just been difficult due to her health.

Ms. Brannon stated that if approved the Board would place a reasonable expectation of the fence being completed.

Ms. Danielson stated that within 1-2 weeks the bottom would be finished and she would continue from there.

Carla Smith and her husband Scott Smith, 11610 S. CR 396E, Muncie, Indiana, appeared in opposition. She stated that they were the neighbors that had complained about the animals being in their yard. She stated that originally it was just the rabbits and that the chickens were not a problem last year, but that they had known for over a year that their animals were getting out. She stated that there were 20-25 rabbits all free range in the yard and never confined and that during last summer the chickens began to cause problems. She stated that they did not know that her daughter had special needs but when she was at their house one day they told her that she needed to get the animals under control near the end of the summer last year. She stated that the chickens had dug up all of the flowers and mulch, and had no idea how destructive chickens could be until they began coming to her yard. She stated that her children were in 4-H and that they had a barn for their goats and sheep, and that they were never out unless they were on a leash since they did not have a fence. She stated that the fence there was more for large livestock and was not made for chickens and that patching it would not fix the problems. She stated that it needed to be a complete enclosure so that the chickens were not able to get out. She stated that she had over 2 acres and that Ms. Danielson's property was not that large for 28 chickens and all of that other animals they had. She stated that if she knew her animals were getting out she would make sure they were secured and not wait for someone to complain.

Scott Smith stated that when he talked to Ms. Danielson he asked her to keep her animals in her yard and she said she would do what she could do, and he had asked her more than twice and that nothing had been done. He stated that he was just asking her to keep them in her yard and not let them free range and cause damage to other properties. He stated that he did not know that she had surgery until



animal control called him. He stated that after that Ms. Danielson stated that she was going to add a pig pen close to his property so that he would have deal with the smell and that was when he filed his complaint. He stated that he did not know that the zoning was R3 and did not allow farm animals, and that he would just ask the Board to uphold that rule.

Jane Hopper, 11501 S. US Hwy 35, Muncie, Indiana, appeared in opposition. She stated that she had lived here since 1978 and that she did not know about the request until just a few days ago. She stated that the Smith's lived next door to her most of that time and that she had met the Peercy's but did not really know them. She stated that the Smith's did keep their sheep contained and they were never loose. She stated that for the future, she did not wasn't to see zoning changes occur in her area so that her neighbor could have animals if they wanted to. She stated that she did not know of other neighbors that had farm animals unless they had farm ground since one side of the street was residential and the other was farm land. She stated that she was not in favor of changing the zoning.

Ms. Swackhamer stated that the Board had received the email from Mr. and Ms. Smith with the pictures they had submitted.

Ms. Danielson stated that whenever the chickens were out they did go gather them back to the property. She stated that not until this year had the Smith's come to her and told her that the chickens were an issue, and that he had not been very nice to her. She stated that there were a lot of rabbits but that there were not 20 of them and that they had caught most of them. She stated that nothing had been brought to attention until this March and she told Mr. Smith that she was trying and he was rude to her.

Ms. Mathewson stated that it had been mentioned that the rabbits and the chickens had been running loose and asked how many times in the past year her chickens had been on her neighbors' property.

Ms. Danielson stated that she had no idea.

Ms. Mathewson asked if it was more or less than ten times.

Ms. Danielson stated that whenever they realized they were loose, they would go after them and that she had no idea that that the chickens were getting out at the front of the fence.

Mr. Clark asked for clarification on the swine that was mentioned and asked if she had that animal now.

Ms. Danielson stated that she only said that to the neighbor because he had irritated her.

Mr. Clark asked about the rabbits that had not been collected.

Ms. Danielson stated that was last year and that they had no more rabbits.

Mr. Clark asked if there was any plan to gain control of the right-of-way between the 2 properties.

Ms. Danielson stated that she did not know anything about that and that she expected her neighbor to purse that now.

Mr. Clark stated that the gaps in the fencing had been mentioned, but he had not heard mention of that part being replaced and asked if that was just being spot fixed.

Ms. Danielson stated that she was filling in the gaps but not replacing the sections.

Mr. Peercy stated that he had replaced part of the fence 7-8 years ago that was falling down.

Mr. Clark stated that he heard some of the animals had been lost from fox intrusion or some other animal.

Ms. Danielson stated that she could not do anything about that.

Mr. Clark stated that encouraging predators in a residential zone was something to be aware of.

Mr. Peercy stated that when he bought the property no one told him that it was residential and he purchased it because it was in the country.

Ms. Fritch made a motion to approve BZA 24-25 the appeal of Julie Danielson and Dean Peercy with the hardship as stated in the application with the following conditions; That the animals be limited to the applicant only at a maximum of 23 chickens, 7 ducks, 2 turkeys, 2 guinea fowl, and 2 goats only; That all of the animals be kept in enclosed areas and not roam free or leave the property; and that the fencing be completed within 1 month; and that the variance will not transfer with the property; and that there will be no business or sale of the animal products produced on the property. Ms. Knapp seconded the motion. Voting in favor: None. Voting against: Mr. Billington, Ms. Brannon, Mr. Clark, Ms. Fritch, Ms. Kaiser, Ms. Knapp, and Ms. Mathewson. Motion failed, BZA 24-25 denied.

#### **BZA 25-25     Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Amy and Kenneth Pope**, 16099 West County Road 750 South, Daleville, Indiana requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a second dwelling (total of two dwellings) on 16.21 acres in a farm zone on premises located at 16099 West County Road 750 South, Salem Township, Delaware County, as more accurately described in the application.

Amy Pope, 16099 W. CR 750W, Daleville, Indiana, appeared with her husband Kenneth Pope. She stated that they would like permission to build a structure where her elderly parents could live so that they would be close for any healthcare needs they may have in the future.

Ms. Mathewson stated that according to the application, when the parent no longer lived there the building would be used for personal storage.

Ms. Pope stated yes, the housing area would be 1000 square feet with the barn area 1400 square feet, and could be used for lawn equipment for the property.

Ms. Mathewson asked if it was ever their intention to make that a rental dwelling.

Ms. Pope stated no.

Ms. Mathewson asked if they planned to have any business use there.

Ms. Pope stated no.

No one appeared in opposition.

Ms. Fritch made a motion to approve BZA 25-25 the appeal filed by Amy and Kenneth Pope with the hardship as stated in the application with the following conditions; That the dwelling shall not become

a rental and that the applicant will work with the Building Commissioner to meet all applicable codes. Ms. Knapp seconded the motion. Voting in favor: Mr. Billington, Ms. Brannon, Mr. Clark, Ms. Fritch, Ms. Kaiser, Ms. Knapp, and Ms. Mathewson. Voting against: None. Motion carried, BZA 22-25 approved.

**BZA 26-25      Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **YMCA of Muncie Building Corporation**, 654 North Jefferson Street, Muncie, Indiana requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased front setback/build-to line on Walnut Street for the new YMCA building located at 615 North Walnut Street, Muncie, as more accurately described in the application.

Kathy Vannice, Ashton Land Surveyor, 325 W. Washington St., Muncie, Indiana, appeared to represent the applicant. She stated that when the new YMCA was constructed, that they were doing the as built survey for financing and discovered that it had been built too far away from the required build-to-line. She stated that the contractor had measured from what they believed to be the center of Walnut Street, and it was not, and they were asking for that 5' variance.

Stephen Hinds, 276 S. Cowing Ave., Muncie, Indiana, appeared. He stated that for obvious reasons, he would ask the Board to approve the request.

Mayor Dan Ridenour, appeared and also asked for approval for the obvious reasons.

No one appeared on opposition.

Ms. Fritch made a motion to approve BZA 26-25 the appeal filed by the YMCA of Muncie Building Corporation with the hardship as stated in the application. Mr. Billington seconded the motion. Voting in favor: Mr. Billington, Ms. Brannon, Mr. Clark, Ms. Fritch, Ms. Kaiser, Ms. Knapp, and Ms. Mathewson. Voting against: None. Motion carried, BZA 26-25 approved.

**BZA 27-25      Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Parlour Properties, LLC and Crescent Hills Recovery, LLC**, 1300 West University Avenue, Muncie, Indiana requesting a variance of use from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a Health Care Center for short-term inpatient treatment in an historic house in a residence zone on premises located at 1300 West University Avenue, Muncie, as more accurately described in the application.

David Carnes, attorney with Dennis Wenger and Abrel, 324 W. Jackson St., Muncie, Indiana, appeared to represent the applicant. He stated that they were asking for approval for a rehabilitation health care center that would be an upscale boutique. He stated that the home on this site was over 100 years old and that in 2017 had been used commercially and operated as Parlour Salon. He stated that when looking at the property and what could be here, this was a great opportunity for the community to fill a need for treatment centers. He stated that this variance of use would allow the resources to retain the historic nature of the home. He stated that there were no intentions to change the outside of the building, and that they would just remodel the interior to run the center. He stated that they believed it would help and improve public health and welfare of the community. He stated that this would be their 9<sup>th</sup> center in the country and that 2 of those were in Indianapolis that were operated from large houses in residential communities with positive results. He stated that they were very well versed in what they

do, and that they did a good job and would like to answer any questions here tonight. He stated that the property was over an acre, and was made up primarily of the home and 50 parking spaces and was not conducive to be a single-family home. He stated that the current owners tried and put many resources into the home and unfortunately could not sustain that much property.

Steve Slaven, Caldwell Banker Real Estate Group. He stated that he represented Parlour LLC in their endeavor to sell the property. He stated that there were no comparable sales to a property such as this so pricing to sale was difficult. He stated that he also knew that this was not something that would make the seller a lot of money they were just trying to sell. He stated that just minutes before the tax sale Middletown Group paid the taxes off and at that point had a deal with Northwest Bank to take over the mortgage and take it out of foreclosure. He stated Northwest Bank and Middletown Group could not come to an agreement so the property faced the foreclosure proceedings, and he needed to find a buyer very quickly. He stated that he had many interesting phone calls and that some of the interested buyers wanted to tear down the structure and build student housing. He stated that he had 2 other people who wanted to turn it into a wedding venue which would have the potential of late parties, loud music, and alcohol use at the property. He stated that 1 person was interested in converting it to a single-family house and realized it would take millions of dollars to do that. He stated that he personally visited a facility owned by this applicant, and he saw their professionalism, and that they wanted to be great neighbors to their community. He stated that they worked out a deal, and the foreclosure proceedings were stopped, and Northwest Bank gave them a timeframe to try and get things finalized.

Mr. Carnes stated that the Church was the closest neighbor and that they had met with approximately 20 people about their concerns, and the they were able to discuss those.

Eli Fuhrer, 150 Airport Rd., Lakewood New Jersey, appeared. He stated he wanted to discuss their background since it was unique and that he hoped no one would ever have to use. He stated that he had a very close friend who had been struggling with alcohol and he tried to find a treatment center for him. He stated that after making some calls, he found that the options were between an institutional setting and a very expensive treatment center. He stated that the average person could not afford that expensive option and that there was a huge gap in affordability for people who want to get better and di not have thousands of dollars. He stated that they had created an upscale, boutique environment and that they also accept every type of insurance to make the treatment much more affordable. He stated that their focus was on people who wanted help and that they tried to create a true environment of recovery. He stated that they did not allow for visitors to allow those in treatment to get away and have a re-set period to get better. He stated that there was a stigma around recovery, and that these were people that were dealing with addiction and that they were not bad people. He stated that unfortunately the need for treatment centers had been growing across the country and that when he saw this property it really caught his attention. He stated that their intentions for the property were not to gut the inside, but to the best of their ability maintain what was there and work around that. He stated that there would be a significant investment to get things updated especially since there were no restrooms upstairs. He stated that he made a few phone calls and he was unable to find a center that would take a client the same day that was not over 1 ½ hours away from Muncie. He stated that for anyone who needed help there was a small window of opportunity and that they could not wait for 30-60 days to be admitted. He stated that they had a great conversation with the church about what to do with the daycare and the thought was to make a donation to the church so that they could move the daycare to the other side of their property. He stated that they had a significant screening process, and that their clients did not have a criminal history and would not be wondering around the grounds. He stated that he wanted to provide some clarity to the letter that had been sent to the Board and try and help the community understand what they were trying to do at the property. He stated that out of all their clients at the Indianapolis location they only had 2 out of state clients and that this was truly focused on the local community and helping those residents. He stated that they also fully intended to use local contractors for any of the work that would go into redeveloping the building and that they

would also use local vendors for janitorial services, catering, and any other services they would need. He stated that the first time he walked through the building he was amazed, and that they truly intended to keep it as much as possible.

Ms. Mathewson asked how often people would be cycling through the program and how many staff members they would be anticipating.

Mr. Fuhrer stated that this was a 30-day program so it could be 1 new person each day since that could vary, and that the first few days were more of the medical evaluation. He stated that there would be 24-hour staffing with approximately 3 million dollars per year in payroll and that he could not speak as to the exact number of staff.

Ms. Mathewson stated she had seen that the number could be 40 staff members and asked if that was accurate.

Mr. Fuhrer stated yes, including the administrative staff and over-night staff

Ms. Mathewson stated that he Mr. Fuhrer had mentioned reaching out to the church which was just one of the neighbors and asked if anyone from his organization had talked to the Home Owners Association (HOA) in the area.

Mr. Fuhrer stated that they had reached out to anyone that had opposed the request and that the HOA letter had been received that morning and that they had not had the opportunity to speak with them. He stated that they were committed to working with the neighbors and would be willing to add any safety features such as trees in order to work with the neighbors.

Ms. Fritch asked if the majority of the clients that came to the facility would be occupying the building, and asked if there would be any outdoor activities.

Mr. Fuhrer stated that during treatment time they would remain inside so that they have no access to anything they should not be, and that was only 30 days. He stated that they did have a phase 2 which would not be at this location, but after treatment was finished they had long term resources.

Ms. Kaiser asked where that would be located.

Mr. Fuhrer stated that they had not decided yet, but that they would try and work on that once it was determined that there was the need for that long term out patient care.

Ms. Delaney asked if the additional out patient facility be located in Delaware County.

Mr. Fuhrer stated yes, since everything that they did was focused on staying in the community so that would be local but would be a completely separate location.

Ms. Knapp asked if any new structure would have to meet the historic properties of the existing building.

Mr. Carnes stated that they would not be adding any structures or additions to the existing building. He stated that they were going to try and keep the historic nature of the building but that it obviously needed some repairs and upkeep that they would do.

Ms. Knapp asked if it would just need to be brought up to code.

Mr. Carnes stated that he was not sure which codes but that it needed to be ADA compliant and any repairs that might need addressed.

Reverend Derek Brotheridge, 1400 W. University Ave., Muncie, Indiana, appeared. He stated that they were concerned about any potential neighbor they would have and that he had received many calls, most of them were very disconcerting. He stated that this potential buyer contacted him and set a meeting with ~25 members of the congregation who raised their concerns such as the preschool, daycare, and children being close to the proposed facility. He stated that they then offered to move the playground to the other side of the church and that after the meeting, he felt that the staffing levels during the day would keep the clients controlled. He stated that he did not speak for the church itself just an employee of the church and that the people who support this facility understood the importance of a recovery center and that it would be huge benefit to the community and the church. He stated that the phase 2 portion of the project was also an important service to the community and that he was in support of the project.

Mayor Dan Ridenour, 300 E. McCulloch Blvd., Muncie, Indiana, appeared. He stated that as a citizen, his family had experienced a lot of challenges with this topic. He stated that Muncie was an area that was in great need of facilities to help people, and that he had lost family members who were in and out of treatment and prison and that he had 2 family members in recovery right now. He stated that all of his family members would be able to pay with insurance, so as a citizen he feels this was something that the community needed. He stated that speaking as the Mayor, this was not something that he was aware of and only found out about it a week and that he had asked a lot of questions, similar to what the church was asking. He stated that he did some research on the company and felt very comfortable with what they were proposing. He stated that he was aware of other interested businesses and that if they were to buy the property they would not be as positive for the neighborhood or the community. He stated that he was in support from his personal experiences, a facility that takes someone in immediate need could have saved his family member. He stated that he had talked to some other companies and referred them to the Commissioners to help with the facility in the county that was near completion. He stated that these types of facilities and that he was fearful of what may end up at this location if this was denied.

Douglas Brown, 1209 W. Beechwood Ave., Muncie, Indiana, appeared in opposition. He stated that he had no knowledge of this request and that he lived right next door and he asked that the Board delay voting. He stated that in his opinion, the potential buyer had no consideration of the neighbors or they would have contacted everyone. He stated that there was a facility 4 blocks east and another on 8<sup>th</sup> Street that were treatment centers for alcohol and drugs, so there were places to go. He stated that he had supported the owners of Parlour Salon and was happy to see that, but that he needed to do more research on this buyer before he could believe what they said. He stated that he asked the Board to delay voting to allow more time for research and conversations.

Heidi Bryant, 1301 W. Gilbert St., Muncie, Indiana, appeared in opposition. She stated that she had been a resident of Riverside-Normal City Neighborhood for 33 years and that it was more than where she lived, it was where she was raised. She stated that she attended Hazelwood Christian Preschool as a child, returned as a volunteer in college, and became a teacher there. She stated that it was not just a school, but a deeply rooted part of the community and had a profound on her life and many other lives. She stated that she had serious concerns about the proposed drug rehabilitation center just steps away from Hazelwood. She stated that as a teacher with 9 years experience and as a trauma specialist with her masters degree, she was well versed in the importance of supportive services for addiction. She stated that she supported the mission of healing and recovery, but location did matter. She stated that Hazelwood served the most vulnerable of the community, children and that the playground should not have to be in view of the facility and should not have to move either. She stated that she walked into her classroom everyday willing to do all she could to protect her students, this proposal was deeply

alarming. She stated that this was not about judgement or stigma, it was about protecting spaces that were meant to nurture the most vulnerable among us. She stated that there were numerous properties throughout the city including vacant and underutilized buildings that would be more appropriate for this center, maybe not as pretty, but appropriate. She stated that there were places where recovery could take place without risking the sanctity and safety of a preschool where children were present. She stated that families lived there and had worked hard to preserve the character and safety of the neighborhood and that turning this historic and sacred space into a facility for adult drug treatment center simply did not fit. She stated that they all cared about their neighbors and those who struggled but that they were asking to choose a more fitting location and to vote no to this request.

Brad Polk, 4104 N. Manchester Rd., Muncie, Indiana, appeared in opposition. He stated that he saw the need for this type of facility in Muncie but that this was not the right location. He stated that to change this house from 1914 colonial style home to this center would be a travesty and detrimental to the neighborhood and the historic nature of the house. He stated that it would greatly hamper the beauty and charm of the nearby neighborhood of Riverside-Normal City. He stated that all of the zoning surrounding the property was residential, and that Mr. Brown even stated he was not aware of this request and wondered if he had received the required letter of notification. He stated that Ball State was set to begin construction on townhomes less than 2 blocks away and that he believed they would be hard sell being that close to this facility. He stated that Ball State had invested and continued to invest a lot of money into rebuilding that area and that this would be a hindrance to that process and asked the Board to vote no to the request.

Mia Winbrenner, 16006 Oakhurst Lane, Fishers, Indiana, appeared in opposition. She stated that she and her husband owned more than 30 rental properties in the Ball State area and that 9 of those were within 1 block of this location. She stated that in many of the neighborhoods around Ball State, residents were moving out and that this was a special neighborhood with residents who wanted to stay. She stated that residents, investors, and landlords in that area have tried to keep their homes nice and had put money into doing that. She stated that her tenants were primarily female and those tenants and their parents were very concerned about this request. She stated that as a landlord, they strived to make them feel safe and protected in their home. She stated that this was college age kids and that they would be drinking in their yards and that those yards could be seen from the mansion. She stated that she agreed that a treatment facility of this kind was needed but that she did not believe this was the right location.

Kathy Lee, 1401 W. University Ave., Muncie, Indiana, appeared in opposition. She stated that she lived directly across from the Hazelwood property and that the neighborhood had a meeting last night and there was a lengthy discussion about the property. She stated that those who attended the meeting agreed that they did not have a prejudice regarding that type of facility or the people coming for treatment but they did have concern for the historic structure. She stated that the Board should have received a letter from the association president listing the concerns of what could be the future of that structure. She stated that the partners at Parlour had done a magnificent job in restoring the building both inside and outside. She stated that they had heard that there be an event venue buying that property and that there had been weddings and other parties at that house and that it was lovely for that use. She stated that she did not believe that the potential buyer would do anything to the outside of the home which was important, but the neighborhood had concerns that revolved around the unknowns. She stated that if there were 50 residents there should be 50 bathrooms and bedrooms and that would require a lot of plumbing and electrical work to a house that was built in 1914 and that would not be easy. She stated that there was always a possibility that the business could fail, and asked what would happen to the building at that point. She stated that it could become a frat house or student apartments and that both of those would have a negative impact on the neighborhood. She stated that she had lived in her house for 18 years and that the neighborhood had changed tremendously during that time. She stated that they had students on all sides of her and that some of the homes were nice

and that some were not due to the landlord, and that she had real concerns that this request would change the character of the area. She stated that the mansion was a highlight to the neighborhood and that people walk their dogs there, kids play volleyball there, and that it was a beautiful property that was used.

Allison Polk, 1305 W. Gilbert St., Muncie, Indiana, appeared in opposition. She stated that she went to Ball State and grew up in the area and that she knew she wanted to remain in the Riverside-Normal City community. She stated that if she had known this facility was happening she probably would not have purchased a house there even though she loved Muncie so much and wanted to stay in the area. She stated that Muncie needed a facility like this, but that she worried about the preschool next door and what they might see and hear from the facility next door. She stated that Ball State students in the area and the revitalization of the area caused her some concern that this facility would keep people away from that area. She stated that she understood that there would be no signs on the building advertising what it was but that the students would know and would have concerns. She stated that she also wondered if this would truly benefit the local community of Muncie or if they would be bringing clients in from elsewhere to get the help they needed. She also stated that keeping the historic integrity of the mansion was important and that converting the structure to accommodate 20 rooms would open this up to become something different if this business failed.

Nora Powell, City Council representative, District 2, appeared in opposition. She stated that she would like to address the concerns that had been brought to her by the people who live in her district regarding this request. She stated that Chris Palladino, Assistant Director of Real Estate Service for Ball State University had asked to say "Ball State University is opposed to this petition as it is inconsistent with the plans created and now being implemented for the village". She stated that she had worked with Mr. Palladino and the developers who were investing \$190,000,000 into the village, and that she had concerns about this request even though she appreciated their plans. She stated that her family had been affected directly by addiction and that she understood the need for this type of facility and that it was needed in Muncie. She stated that local did not necessarily mean within the city of Muncie and that she had a concern since 50%-60% of patients fail and she asked what would happen with their treatment if they were from out of town. She stated that if they stayed in Muncie, it would add to the problem and increase the strain on the already strained resources. She stated that she grew up watching her mother and others trying to undo what had been done to historic buildings, and asked what would happen if this business failed. She stated that it would be very difficult to look outside while going through treatment for addiction and see parades and other activities that included a lot of drinking. She stated that concerns that were brought to her were; a residential treatment center next to a preschool; property values of the residents who had built their lives there; staffing and their qualifications; also, to make sure this was a good fit for the area. She stated that Muncie did have a huge need for this, but she did not know if this building was the right fit.

Susan Koper, 1317 W. North St., Muncie, Indiana, appeared in opposition. She stated that she had lived in the neighborhood since 1999, raised her kids there, and that they often played on the grounds of the mansion. She stated that it was a beautiful treasure of the neighborhood and that she continued to walk through that area everyday and that it was quiet and peaceful. She stated that she was frustrated that the company did not reach out to the neighborhood and that she only found out about it when on one of her walks she saw the signs posted on the property a week ago. She stated that it would have been helpful if the company had shared their plans and that she did not believe that a neighborhood was where this type of facility should be located. She stated that she did not question the need for the facility and she would ask all of the members of the Board if they would like this in their neighborhood.

Linda Hanson, 1400 W. North St., Muncie, Indiana, appeared in opposition. She stated that she lived less than 1 block away and that she had walked through the property and admired the house. She



stated that she had been in the house many times and that the restoration of the staircase done by Parlour was gorgeous and was something that everyone should see. She stated that historic preservation had no "teeth" unless it was done locally and that this property was listed on the national registry. She stated that she knew that this kind of facility was needed in Muncie and that she agreed with all of the concerns that have been mentioned. She stated that there was a deadline imposed by Northwest Bank and that she would like to know that timeframe.

(audience member stated it was the end of August)

Ms. Hanson stated that she would like to ask the Board to delay voting on this matter until there was an opportunity to gather more information. She stated that an upscale boutique would work with the house as well as being private, but that there had been concerns raised and it would be wise if more time was given and Ball State could be more involved.

Cameron Sarah, 7904 S CR 560E, Selma, Indiana, appeared in opposition. He stated that he supported the need for the facility in the community he just could not understand why it would be needed in this neighborhood. He stated that he researched and that 48 of the surrounding property owners in the 300' radius, many did not and that he was one of them. He stated that one of the questions on the application asked if the applicant had talked to any of the surrounding property owners, to which they answered no. He stated that after adding all of the owners he spoke to, over 80% of the owners in that area were in opposition to the request. He stated that he did not have a signed petition since he had only learned of the request that day.

Lisa Kemp, 1208 W. Ashland Ave., Muncie, Indiana, appeared in opposition. She stated that she had lived in her house for 28 years and that she was on the opposite side of Hazelwood and were surrounded by students and families and that she would support the request to have more information provided to everyone. She stated that not everyone in opposition was opposed to the services that would be provided just that the location was not ideal. She stated that she would ask the Board if they lived in that neighborhood would they want a drug treatment facility next door. She stated that she had concerns for the children in that area and being on a college campus made it hard for her to believe that was that best place for a treatment center. She stated that the neighbors just did not have enough time to look into things and that the name on the application did not match the company name and that everyone needed more time to research their facilities.

Ms. Fritch asked if since the Board voting earlier not to continue the request if they would be able to do that at this time.

Mr. Murphy stated yes that was an option, they just could not repeat a final action on a matter.

Ms. Swackhamer stated that letters from the Riverside-Normal City neighborhood, Chris Palladino, Nora Powell, had been given to all of the Board members for their review. She stated that the property owner list was in the file and that none of those letters sent had been returned and that since it was mentioned earlier; Mr. Brown was on that list and that he had called the office after receiving his letter.

Mr. Carnes stated that there were not many organizations that would be able to sustain this building in the way it was.

Mr. Fuhrer stated that all of the operations and staffing would be following the Indiana State guidelines and that the actual care would be provided by certified staff and trained recovery specialists. He stated that they were also accredited and constantly audited to make sure that they were in compliance and making progress. He stated that within 30 miles was the target, they do not look across state lines. He stated that the doors were all locked and that if they were opened they were notified and they did have

24 hour surveillance. He stated that there was no data that supported the idea that property values were affected in areas that had a treatment center even though that was a concern. He stated that these clients were just regular people that wanted to get help, they were not criminals or dangerous people and that they were being tested every day.

Mr. Slaven stated that since they were on such a tight timeline before the foreclosure, the agreement was written under the New Jersey LLC and then they were able to establish a more appropriate name which was why they were different.

Ms. Mathewson asked for clarification on that foreclosure and asked how continuing the case would impact that process.

Mr. Slaven stated that it was the hope that it could be completed in 30 days and that they could ask for extensions.

Mr. Clark made a motion to approve BZA 27-25 the appeal filed by Palour Properties, LLC and Crescent Hills Recovery, LLC with the hardship as stated in the application. Mr. Billington seconded the motion.

Ms. Mathewson asked if they should address potential conditions such as a cap to the number of patients or that any future development would need to meet the development standards or request variances.

Mr. Murphy stated that Mr. Clark would need to withdraw his original motion and then a new motion could be made.

Mr. Clark made a motion to withdraw his original motion. Ms. Fritch seconded the motion. Ms. Swackhamer called for all those in favor to say aye, all those opposed, same sign. Ms. Swackhamer stated that the ayes have it, motion withdrawn.

Mr. Clark made a motion to approve BZA 27-25 the appeal of Parlour Properties, LLC and Crescent Hills Recovery, LLC with the hardship as stated in the application with the following conditions; That the variance is for the applicant only and does not transfer with the property; That the maximum number of in state patients be 40; and That any future development shall meet the current stardars or request variances. Mr. Billington seconded the motion. Voting in favor: Mr. Billington, Ms. Brannon, and Mr. Clark. Voting against: Ms. Fritch, Ms. Kaiser, Ms. Knapp, and Ms. Mathewson. Motion failed, BZA 27-25 denied.

## **REPORT FROM DIRECTOR:**

Ms. Swackhamer stated that she had provided the Board with her regular report with the permit, variance, rezoning and plats numbers for the year to date. She stated that a special meeting would be set to discuss the solar ordinance amendments that had been proposed by the County Commissioners. She stated that the meeting had not been set yet, but she would let them know when it was. She stated that there had been a request by Commissioner Henry to revisit the development of a pond ordinance and that a committee had been formed including Courtney Pruitt, Stormwater Management, Tom Fouch Building/Zoning Administrator, and Tom Borchers County Surveyor, herself, and DMMPC staff members Ms. Wilcox and Ms. Ingermann. Shye stated that they had their first meeting and made a lot of progress and that they hoped to have a draft soon. She thanked the Board for all of their time.

Mr. Murphy stated that he had met with Ms. Swackhamer to review and update the rules of procedure for the Board. He stated that if any of the members had any thoughts or concerns to please forward those and he would like to have a draft for the Board soon.

**ADJOURNMENT:**

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Leslie Mathewson, Chairperson

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Kylene Swackhamer, Secretary