

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS
AUGUST - 2023 REGULAR MONTHLY MEETING
AGENDA**

DATE: August 31, 2023

PLACE: Commissioners Court Room
3rd Floor, Delaware County
Building

TIME: 6:00 P.M.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Jim Fowler	
Ellen Brannon	Sue Kaiser
Delaney Fritch	Leslie Mathewson
Mike Jones	Allen Wiseley

MINUTES: Consideration of the July, 2023 regular monthly meeting minutes.

OLD BUSINESS:

BZA 33-23 Jurisdiction: Board of Zoning Appeals

Being a continuation of a public hearing on the matter of an application filed by **Kirk and Judi Shafer**, 5600 South County Road 575 East, Selma, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow no frontage on a public road with no public access to a public road and an increase lot depth for a property split through platting to create a new 2 acre building site on premises located at 5600 South County Road 575 East, Perry Township, Delaware County, Indiana, as more accurately described in the application.

NEW BUSINESS:

BZA 34-23 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **John and Ashlee Hughes**, 2808 East Chesterfield Lane, Muncie, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow the area of the accessory structures to exceed that of the dwelling and an increased height for a new 35' x 80' x 27' building in a residence zone on premises located at 2808 East Chesterfield Lane, Hamilton Township, Delaware County, Indiana, as more accurately described in the application.

BZA 37-23 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Michael Wilson**, 9951 South County Road 600 West, Daleville, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a business use of an existing barn for warehouse and sale of outdoor furniture in a farm zone on premises located at 9951 South County Road 600 West, Salem Township, Delaware County, Indiana, as more accurately described in the application.

BZA 38-23 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Coresa Klein**, 24909 North Graystone Drive, Muncie, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a decreased dwelling size and dog treat business on 2.67 acres in a farm zone on premises located on the north side of County Road 700 West 0.4 mile east of County Road 100 West formerly known as 1000 West County Road 700 North, Hamilton Township, Delaware County, Indiana, as more accurately described in the application.

BZA 39-23 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Christopher Davis**, 106 West Granville Avenue, Albany, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a decreased side setback and decreased lot width for a property split separating an encroaching carport on premises located at 2017 East Wabash Avenue, Muncie, Indiana, as more accurately described in the application.

BZA 40-23 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Deidra Lynn Hale**, 2015 East Wabash Avenue, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow decreased front, side and rear setbacks for an existing carport that is to be separated from 2017 East Wabash Avenue and joined with the lot and home on premises located at 2015 East Wabash Avenue, Muncie, Indiana, as more accurately described in the application.

BZA 41-23 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Ted and Susan Townsend**, 12001 North County Road 675 West, Gaston, Indiana, requesting a variance from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a decreased side setback for a new barn on premises located at 12001 North County Road 675 West, Harrison Township, Delaware County, Indiana, as more accurately described in the application.

BZA 42-23 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Adam and Heather Phillips**, 1100 North Country Club Road, Muncie, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a garage without a dwelling and a decreased side setback for an existing garage in a residence zone on premises located on the north side of Woodlawn Avenue 350' east of Country Club Road, Liberty Township, Delaware County, Indiana, as more accurately described in the application.

BZA 43-23 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **JRF Management, LLC**, 1924 North Elm Street, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased front setback build-to line, decreased greenbelt and foundation plantings, and for a new metal building, all for an auto sales business on premises located at 2800 North Wheeling Avenue, Muncie, Indiana, as more accurately described in the application.

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS
AUGUST - 2023 REGULAR MONTHLY MEETING
MINUTES**

The Delaware-Muncie Metropolitan Board of Zoning Appeals (BZA) held its regular monthly meeting on Thursday, August 31, 2023 at 6:00 P.M., in the Commissioner's Court Room of the Delaware County Building, Muncie, Indiana. Chairman James Fowler called the meeting to order.

ROLL CALL:

Mr. Daniel called roll and the following members were present: Ms. Brannon, Mr. Fowler, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Absent: None. Also present: Mr. Wright, attorney for the Board.

MINUTES:

Mr. Wiseley made a motion to approve the July 2023 regular monthly meeting minutes. Ms. Mathewson seconded the motion. Voting in favor: Ms. Brannon, Mr. Fowler, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, July 2023 minutes approved.

OLD BUSINESS:

BZA 33-23 Jurisdiction: Board of Zoning Appeals

Being a continuation of a public hearing on the matter of an application filed by **Kirk and Judi Shafer**, 5600 South County Road 575 East, Selma, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow no frontage on a public road with no public access to a public road and an increase lot depth for a property split through platting to create a new 2 acre building site on premises located at 5600 South County Road 575 East, Perry Township, Delaware County, Indiana, 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 they had asked for the continuance last month because when they were doing the survey they noticed the electric riser on the property line along with the well on the property to north being very close to the property line. She stated that they would like to divide the 2 acres on the far east side of this parcel and had since asked to purchase an additional 50' from the property to the south to have a little more room for the garage. She stated that this was an odd shape that they would be making and that was the reason for the variance and that they would have an ingress/egress maintenance agreement written by a title company. She stated that the applicant would be moving to the smaller home that was a 1 story home and it would be easier to live in and to take care of their parents.

Mr. Fowler asked about the location of the driveway.

Ms. Vannice stated that it was a shared driveway and would have a 20' wide ingress/egress access from the county road and would run along the north line of the property.

Mr. Fowler asked how they would access the 2 acres being split.

Ms. Vannice stated that where the driveway goes south they would then turn back to the east and even at the narrowest part it would remain 20' wide.

Mr. Fowler asked if they had any soil samples for that 2 acres.

Ms. Vannice stated that they had 3 good soil borings from Adams Environmental that had been submitted to the Health Department for their approval.

Tom Noble, 5330 S. CR 575E, Selma, Indiana, appeared in opposition. He stated that he lived 3 properties north of this location, and that his brother-in-law lived to north, and his father farmed ground just north, and that none of them were in support of the request. He stated that when they built their houses the rules stated they had to have 5 acres and that he was worried about the precedent that his would set in the area by allowing less than 5 acres. He stated that if approved, his advice to his father would be to divide his 20 acres into 2 acre lots, develop the area and retire. He stated that they know their neighbors and can see them, but that they live far enough away that it still feels like they live in the country and not right on top of each other. He stated that allowing this 2-acre split could put the board in a bad spot of deciding where subdivisions can be developed in the county. He stated that he believed that the 5 acre rule was in case there was a septic failure it could be contained on that property and would be difficult on a 2 acre lot, and that he understood that to be a Health Department issue, but he had concerns. He stated that with it being so close to the reservoir if there was a septic failure on a smaller lot it could contaminate the water supply. He stated that looking at the measurements provided by Ashton's they are correct but when you compare that to Beacon it was very misleading. He stated that the Water Company had a setback from the edge of the water and that there was 300-400 feet of property where they could still have a 5 acres parcel divided from the lot, and felt they did not want to do that because then they would lose water access for the bigger house.

Mr. Fowler clarified that each case was looked at and treated individually and that there had been cases of selling less than 5 acres to sell a house and not the farm ground. He stated that there needs to be enough room for a septic and backup system in case of a failure and that 1-2 acres can be enough room and that they were regulated by the Health Department.

Ms. Vannice stated that they had 3 soil tests on the far north end of the proposed parcel that had met the requirements by Adams Environmental and that the house would be placed on the south end of the parcel and there was room for additional tests and possible septic locations. She stated that if they tried to meet the 5 acres, it would be a very odd shaped parcel and would not actually provide any more buildable area to the 2 acres. She stated that they tried to find an area to not block the view for the bigger house and find an area to keep the new house out of the septic fields for any replacement areas.

Ms. Mathewson made a motion to approve BZA 33-23 the appeal of Kirk and Judi Shafer with the hardship as stated in the application. Mr. Wiseley seconded the motion. Voting in favor: Ms. Brannon, Mr. Fowler, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 33-23 approved.

NEW BUSINESS:

BZA 34-23 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **John and Ashlee Hughes**, 2808 East Chesterfield Lane, Muncie, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow the area of the accessory structures to exceed that of the dwelling and an increased height for a new 35' x 80' x 27' building in a residence zone on premises located at 2808 East Chesterfield Lane, Hamilton Township, Delaware County, Indiana, as more accurately described in the application.

John Hughes, 2808 E Chesterfield Lane, appeared. He stated that they had purchased the vacant lot next to their home and combined them together and would now like to build a pole barn tall enough to play basketball inside.

Mr. Fowler asked if the building would be for personal use and if he had contacted any of his neighbors.

Mr. Hughes stated it would be for personal use only and that he had talked to some of the neighbors after they received their notice and they were all in support.

Mr. Fowler asked if this would be a traditional stick-built pole barn or if it would be a metal building.

Mr. Hughes stated that it would be a true pole barn with a concrete floor.

Mr. Wiseley asked what utilities would be run to the building.

Mr. Hughes stated that there would be electrical only and no water or plumbing.

No one appeared in opposition.

Mr. Wiseley made a motion to approve BZA 34-23 the appeal of John and Ashlee Hughes, with the hardship as started in the application with the following conditions: 1) That the building be for personal use of the property owner; and 2) That there be no plumbing in the building. Mr. Jones seconded the motion. Voting in favor: Ms. Brannon, Mr. Fowler, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 34-23 approved.

BZA 37-23 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Michael Wilson**, 9951 South County Road 600 West, Daleville, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a business use of an existing barn for warehouse and sale of outdoor furniture in a farm zone on premises located at 9951 South County Road 600 West, Salem Township, Delaware County, Indiana, as more accurately described in the application.

Michael Wilson, 9951 S. CR 600W, Daleville, Indiana, appeared. He stated that he would like to sell Amish built furniture from the existing pole barn.

Mr. Fowler asked if he already had furniture on display and if that was for display only.

Mr. Wilson stated yes, they had some display only items on the front porch.

Mr. Fowler asked where the furniture was manufactured and how often he received those shipments.

Mr. Wilson stated that he used 2 builders from Ohio and that he picked items up every 2 weeks.

Mr. Fowler asked how people purchase items currently.

Mr. Wilson stated that he owned Wilson Furniture in Daleville and that they used the store as the sales site and then the pieces are brought to the store.

Mr. Fowler asked what the days and hours would be for operation.

Mr. Wilson stated that they had been using online appointments to meet people since the shutdowns from COVID, and that they had no hours at this time.

Mr. Fowler asked how many customers they may have at a time.

Mr. Wilson stated the way the appointments were set up there could only be one customer per hour.

Mr. Fowler asked if he had talked to any of the neighbors.

Mr. Wilson stated that most of his neighbors were his relatives and they had no problems.

Mr. Jones asked if there would be any signage on the property.

Mr. Wilson stated that since this was by appointment only he had no need to advertise and would not have any signs.

Mr. Jones asked if there were any utilities in the barn.

Mr. Wilson stated that they had electric and no plumbing. He stated that he did have a catalog of items he sold if the board needed that.

Mr. Fowler asked if he would be doing any changes to the building.

Ms. Wilson stated that the only difference was that he would have more outside furniture.

No one appeared in opposition.

Mr. Jones made a motion to approve BZA 37-23 the appeal of Michael Wilson with the hardship as stated in the application. Ms. Mathewson seconded the motion. Voting in favor: Ms. Brannon, Mr. Fowler, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 37-23 approved.

BZA 38-23 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Coresa Klein**, 24909 North Graystone Drive, Muncie, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a decreased dwelling size and dog treat business on 2.67 acres in a farm zone on premises located on the north side of County Road 700 West 0.4 mile east of County Road 100 West formerly known as 1000 West County Road 700 North, Hamilton Township, Delaware County, Indiana, as more accurately described in the application.

Coresa Klein, 24909 N. Graystone Dr., Muncie, Indiana, appeared. She stated that she would like to have a small home and a garage on the property that would be used as the bakery space. She stated that there was no industrial sized equipment used, she just needed more space to bake the items that they take to the farmers markets and that no one comes to the property to purchase items.

Mr. Fowler asked if they would still need to get all of the permits through the Health Department.

Mr. Wright stated yes.

Mr. Fowler stated that the minimum floor area was 950 square feet and Ms. Klein was asking for that to be 896 square feet and asked if it would be a 1 bedroom house.

Ms. Klein stated yes, it would be 1 bedroom and 1 bathroom.

Mr. Fowler asked if she had talked to any of her neighbors.

Ms. Klein stated no, she had just officially purchased the land last week.

Mr. Fowler asked if all sales would be off-site and no customers at the property.

Ms. Klein stated that was correct.

Mr. Fowler asked about any deliveries for materials and supplies.

Ms. Klein stated that she personally picked up at the stores and that she purchased many organic items from the farmers markets.

Mr. Fowler asked if she had any floor plans for the house and asked if it would be a stick-built home.

Ms. Klein stated that she did not submit those with her application and that it would be a modular home.

Mr. Fowler asked about the garage.

Ms. Klein stated that the same contractor for the home would do the concrete for the garage which was a prebuilt structure that would be delivered and then finished on the inside for the bakery equipment.

Mr. Jones asked if there would be cars or other storage in the garage or if it would be strictly for the bakery.

Ms. Klein stated that it would be divided to be used for both the bakery and storage.

Mr. Wiseley asked about utilities to the garage.

Ms. Klein stated that they would have electricity and water depending on the well.

Mr. Fowler asked if there would be a bathroom or just water for cleaning and baking.

Mr. Klein stated there would not be a bathroom in the garage.

No one appeared in opposition.

Mr. Wiseley made a motion to approve BZA 38-23 the appeal of Coresa Klein with the hardship as stated in the application with the following conditions; 1) That all necessary permits including those from the Building Commissioner and Health Department be obtained; and 2) That the variance is for the applicant only and will not transfer with the property. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: Mr. Fowler. Motion carried, BZA 38-23 approved.

Mr. Wiseley asked if it would make sense to consider BZA 39-23 and BZA 40-23 together since one depends on the other.

Mr. Fowler stated yes.

BZA 39-23 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Christopher Davis**, 106 West Granville Avenue, Albany, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a decreased side setback and decreased lot width for a property split separating an encroaching carport on premises located at 2017 East Wabash Avenue, Muncie, Indiana, as more accurately described in the application.

and,

BZA 40-23 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Deidra Lynn Hale**, 2015 East Wabash Avenue, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow decreased front, side and rear setbacks for an existing carport that is to be separated from 2017 East Wabash Avenue and joined with the lot and home on premises located at 2015 East Wabash Avenue, Muncie, Indiana, 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 while doing a survey it was discovered that a carport had been built 11' across the property lines. She stated that the seller was not willing to sell anymore property than necessary to just accommodate the carport.

Mr. Fowler asked about the ingress/egress agreement.

Ms. Vannice stated that they would not have ownership or rights to any parking spaces but would allow them rights to access the carport.

No one appeared in opposition.

Mr. Wiseley made a motion to approve BZA 39-23 the appeal of Christopher Davis and BZA 40-23 the appeal of Deidra Hale, with the hardships as stated in the applications. Ms. Mathewson seconded the motion. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Fowler, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 39-23 and BZA 40-23 approved.

BZA 41-23 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Ted and Susan Townsend**, 12001 North County Road 675 West, Gaston, Indiana, requesting a variance from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a decreased side setback for a new barn on premises located at 12001 North County Road 675 West, Harrison Township, Delaware County, Indiana, as more accurately described in the application.

Susan Townsend, 12001 N. CR 675W, Gaston, Indiana appeared. She stated that she used the existing garage for her car and needed the extra building for the lawnmowers and 4 wheelers. She stated that she had talked to the neighbor to the south and that he had no problems with the request.

Mr. Fowler stated that it looked like the septic was on the other side of the house so that would not be a good location for the building.

Ms. Townsend stated that this was the best location for her to have easy access to the building.

Mr. Fowler asked if it would be for personal use only.

Ms. Townsend stated yes and that eventually they would run electric to the building.

Ms. Townsend stated that eventually they would have electricity but that was all.

No one appeared in opposition.

Ms. Mathewson made a motion to approve BZA 41-23 the appeal of Ted and Susan Townsend with the hardship as stated in the application with the condition that the building be for personal use only and not used for business. Mr. Jones seconded the motion. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Fowler, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 41-23 approved.

BZA 42-23 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Adam and Heather Phillips**, 1100 North Country Club Road, Muncie, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a garage without a dwelling and a decreased side setback for an existing garage in a residence zone on premises located on the north side of Woodlawn Avenue 300' east of Country Club Road, Liberty Township, Delaware County, Indiana, as more accurately described in the application.

Adam Phillips, 1100 N Country Club Road, Muncie, appeared. He stated that when he had the garage built last year the contractor told him he did not need a permit, and when he applied for an electrical permit this year he discovered the issues. He stated that the garage was only used for the storage of his personal cars and belongings.

Mr. Fowler asked if Mr. Phillips also owned the property on Country Club Road.

Mr. Phillips stated yes.

Mr. Fowler asked if the garage on Woodlawn Avenue would be for personal storage only.

Mr. Phillips stated yes, that he and his wife did not want to have their show cars parked outside so they stored them in this building. He stated that there had been a garage in the same location at one time so he didn't realize he needed a permit to build a new one.

Mr. Fowler asked how the neighbors felt about the garage.

Mr. Phillips stated that he keeps the property well maintained and the lawn cut and the neighbors were all pleased with that since the previous owner would only mow once a year and not keep the trash picked up.

Mr. Fowler stated that they were probably glad that the cars were not sitting outside.

Mr. Phillips stated yes, although they did enjoy looking at them.

No one appeared in opposition.

Ms. Mathewson made a motion to approve BZA 42-23 the appeal of Adam and Heather Phillips with the hardship as stated in the application with the condition that the building be for personal use only and will not be used for business. Mr. Jones seconded the motion. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Fowler, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 42-23 approved.

BZA 43-23 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **JRF Management, LLC**, 1924 North Elm Street, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased front setback build-to line, decreased greenbelt and foundation plantings, and for a new metal building, all for an auto sales business on premises located at 2800 North Wheeling Avenue, Muncie, Indiana, as more accurately described in the application.

Joe Jackson, 4221 W. Line Way, Muncie, Indiana, appeared to represent the applicant. He stated that this location had been a gas station and they would like to have a new auto sales business and had been learning about the corridor standards. He stated that there was an existing building on the property and they did not want to rebuild the building or move the walkway to meet the greenbelt requirement on the property. He stated that this was an odd shaped property but they had found space for the greenbelt area around the building, the bio-swell along the back, the fencing, and other plantings for the site. He stated that the building was required to be 20' from the right-of-way but that would be the display location for the cars so they would like for the building to be behind that with the garage doors facing the back of the property. He stated that the area between the cars and the street would have grass and flowers instead of trees and shrubs that would block the view of the cars on display.

Mr. Fowler asked about the sign for the site.

Mr. Jackson stated that it would meet all of the requirements for a sign. He stated that the garage area would be to clean up the cars as they are brought in to be placed for sale.

Mr. Fowler stated that there were no drawings for the landscaping but it appeared they had been working with staff.

Mr. Daniel stated all of the plans that had been submitted were drawn by Mr. Jackson and that they had been very receptive to working with staff on those plans.

Mr. Jackson stated that they had a drawing to show the plants and another for the electrical and that they had revised the plans several times to get to this point.

Mr. Daniel stated that they were nice drawings although they were not stamped by an engineer or design professional which would make them construction drawings which is what would be needed to obtain his building permits. He stated that he did anticipate those professional drawings being submitted to be reviewed for compliance and that the board could make that a condition if the variance was granted.

Mr. Jackson stated that they work with GEA Architect and that they would be preparing those construction drawings.

Mr. Fowler asked how many cars they would have on display at one time.

Mr. Jackson stated that it was a small lot so it would be approximately 10 cars.

Mr. Wiseley asked if all of the underground tanks had been removed.

Mr. Jackson stated they had all been removed and that the environmental cleanup had all been completed and that no further action was required.

Mr. Fowler stated that it was nice to see this property being cleaned up.

Mr. Jackson stated that it had been an eyesore for the past 10-15 years.

Mr. Daniel stated that a letter of support for new business had been received, but it had no name.

Mr. Jackson stated that he had gone door-to-door and talked to the neighbors and that they were all happy about it.

Mr. Jones made a motion to approve BZA 43-23 the appeal of JRF Management, LLC with the hardship as stated in the application. Mr. Wiseley seconded the motion. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Fowler, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried. BZA 43-23 approved.

STAFF REPORT:

Mr. Daniel stated that the office had received a request from Tasha Warthman, BZA 20-23 who had been denied a variance and was submitting new evidence and requesting a second hearing. He stated that when a request was denied, an applicant could file an appeal with the courts within 30 days, wait 1 year and resubmit to the BZA, or submit new evidence and request a second hearing.

Mr. Jones asked if this had been the request for the prefabricated building and stated he felt she had been unprepared for her request.

Mr. Daniel stated yes, and that she had appeared before the board once, but had failed to pick up her sign and therefore had not completed her requirement for legal notice so her case was continued. He stated that she still did not pick up the sign and failed to appear before the board and at that time the request was denied. He stated that there had been surrounding property owners who appeared and presented their concerns.

Mr. Jones asked if here initial request was for the structure to become a residence.

Mr. Daniel stated yes, and one that would be smaller in width and square footage than allowed.

Mr. Fowler stated that she was asking for a 576 square foot house.

Mr. Jones stated that the way her new information read it would no longer be for a residence.

Mr. Daniel stated that it would still be for a residence.

Mr. Fowler stated that she now listed storage since the building was a utility shed.

Ms. Mathewson stated that her newly submitted information request a house, utility shed, and a greenhouse.

Ms. Brannon stated that she had not been present during Ms. Warthman's first request.

Mr. Fowler stated that there had been a lot of discussion and at the end Ms. Warthman stated she would just sell the property. He stated that since she had not met the legal requirement for the request, the case was continued to give her time to consider what to do with the property and she did not appear at the next meeting.

Mr. Jones stated that he did not believe that her new evidence was very clear as to what was new this time compared to the last time.

Mr. Wiseley stated that since his time on the BZA they had only granted one rehearing and it was denied the second time as well.

Mr. Jones made a motion to deny allowing a second hearing for Ms. Warthman based on new evidence. Mr. Wiseley seconded the motion. Voting in favor of the motion: Ms. Brannon, Ms.

Fritch, Mr. Fowler, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None.
Motion carried, second hearing denied.

ADJOURNMENT:

James Fowler, Chairman

Fred Daniel, Acting Secretary