

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS
JANUARY - 2024 REGULAR MONTHLY MEETING
AGENDA**

DATE: January 25, 2024

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

TIME: 6:00 P.M.

PLEDGE OF ALLEGIANCE:

INTRODUCTION OF DIRECTOR:

INTRODUCTION/CONFIRMATION OF MEMBERS:

ROLL CALL:

vacant

**Ellen Brannon
Delaney Fritch
Mike Jones**

**Sue Kaiser
Leslie Mathewson
Allen Wiseley**

ELECTION OF OFFICERS:

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

OLD BUSINESS:

BZA 62-23

Jurisdiction: Board of Zoning Appeals

Being a continuance of a public hearing on the matter of an application filed by **Adams Roofing and Construction, LLC and Rockie Jernigan**, 5109 South Breezewood Drive, 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 rear setback, increased fence height, decreased intersection visibility, an overhead loading door facing Center Street, no greenbelt area or plantings along Willard and Center Streets, decreased buffering and landscape area, and no sustainability feature, all for a new metal warehouse on premises located at the northwest corner of Willard Street and Center Street formerly known as 410 East Willard Street, Muncie, Indiana, as more accurately described in the application.

NEW BUSINESS:

BZA 01-24 Jurisdiction: Board of Zoning Appeals

Special Use Being a public hearing on the matter of an application filed by **3 Brothers Campus Properties, LLC**, 7675 West McColm Road, Gaston, Indiana, requesting a special use under the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an accessory dwelling unit for a new 3,454 square foot 2-unit residential development in a single-family residence zone on premises located at 1221 West Rex Street, Muncie, Indiana, as more accurately described in the application.

BZA 02-24 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Drake Properties I, LLC**, PO Box 96, Eaton, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a barn without a dwelling and a decreased front setback for a barn for a property split through platting to result in 3 lots in a residence zone on premises located at 4008 East Centennial Avenue, Muncie, Indiana, as more accurately described in the application.

BZA 03-24 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Thomas and Sally Tighe and Mason and Destiny Barber**, 7904 East Turtledove Road, Muncie, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a barn without a dwelling and a decreased south side setback for an existing barn so that 2.88 acres may be platted into 2 lots in a residence zone on premises located at 6109 North County Road 500 East, Delaware Township, Delaware County, Indiana, as more accurately described in the application.

REPORT FROM DIRECTOR:

ADJOURNMENT:

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS
JANUARY - 2024 REGULAR MONTHLY MEETING
MINUTES**

The Delaware-Muncie Metropolitan Board of Zoning Appeals held its regular monthly meeting on Thursday, January 25, 2024 at 6:00 P.M., in the Commissioner's Court Room, of the Delaware County Building, Muncie, Indiana. Vice Chairman Leslie Mathewson called the meeting to order.

PLEDGE OF ALLEGIANCE:

INTRODUCTION OF DIRECTOR:

Mr. Wiseley stated that at the January, 2024 Plan Commission meeting, the Board voted in favor of hiring Kylene Swackhamer as the New Executive Director. He stated that the past year had been a difficult one for the Plan Commission, and that the staff had stepped up to the task, and that this was a positive step for the office. He stated that Ms. Swackhamer had previously been the Principal Planner, which involved the transportation side of the office and that this was her first meeting.

Ms. Mathewson asked Ms. Swackhamer if she would like to say a few words.

Ms. Swackhamer stated that she was from Muncie and had been with the Plan Commission for around 1 ½ years now, and was excited to move forward.

ROLL CALL:

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

ELECTION OF OFFICERS:

Ms. Mathewson opened the floor for nominations for the office of Chairman.

Mr. Wiseley nominated Ms. Mathewson. Ms. Brannon seconded the motion. There being no further nominations, the nominations were declared closed. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, Ms. Mathewson to serve as the Chairman for 2024.

Ms. Mathewson opened the floor for nominations for the office of Vice-Chairman.

Ms. Kaiser nominated Mr. Wiseley. Ms. Brannon seconded the motion. There being no further nominations, the nominations were declared closed. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, Mr. Wiseley to serve as Vice-Chairman for 2024.

MINUTES:

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

Mr. Jones asked who the appointing body was for the vacant seat on the Board.

Ms. Mathewson stated that it was up to the County Commissioners to fill that seat, and that they were aware of the vacancy.

OLD BUSINESS:

BZA 62-23

Jurisdiction: Board of Zoning Appeals

Being a continuance of a public hearing on the matter of an application filed by **Adams Roofing and Construction, LLC and Rockie Jernigan**, 5109 South Breezewood Drive, 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 rear setback, increased fence height, decreased intersection visibility, an overhead loading door facing Center Street, no greenbelt area or plantings along Willard and Center Streets, decreased buffering and landscape area, and no sustainability feature, all for a new metal warehouse on premises located at the northwest corner of Willard Street and Center Street formerly known as 410 East Willard Street, Muncie, Indiana, as more accurately described in the application.

Ms. Swackhamer stated that there was some new information regarding this request.

Rockie Jernigan appeared. He stated that he was the owner of Adams Roofing and Construction, LLC and the owner of A1 Roofing and Construction, LLC and that at this time he would like to withdraw his variance request. He stated that he had received his building permit and was satisfied that he could move forward at this time.

Kathy Vannice, Ashton Land Surveyor stated for the record that she had a letter from Mr. Jernigan stating his intention to withdraw, which she would present to the Board.

Mr. Murphy stated that given the applicant's request to withdraw, the Board can make a motion and second and a vote by affirmation to withdraw the request.

Mr. Wiseley made a motion to withdraw the request of BZA 62-23, the appeal of Rockie Jernigan and Adam's Roofing and Construction, LLC, at the applicants request. Mr. Jones seconded the motion. With a vote of 6 yeas, and 0 nays, the motion to withdraw BZA 62-23 was approved.

NEW BUSINESS:

BZA 01-24 Jurisdiction: Board of Zoning Appeals

Special Use Being a public hearing on the matter of an application filed by **3 Brothers Campus Properties, LLC**, 7675 West McColm Road, Gaston, Indiana, requesting a special use under the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an accessory dwelling unit for a new 3,454 square foot 2-unit residential development in a single-family residence zone on premises located at 1221 West Rex Street, Muncie, Indiana, as more accurately described in the application.

Cameron Sarah, 7904 S. CR 560E., Selma, Indiana appeared to represent the applicant. He stated that he was an owner of Campus Rentals, the property management company for this and many other properties in the neighborhood, as well as a property owner in the area himself. He stated that Campus Rentals managed 650 units within a half mile radius of Ball State campus, which was approximately 2000 bedrooms, with the majority of those being leased by Ball State students, and that equaled around 10% of the BSU student body. He stated that they managed those properties on behalf of 60 owners, almost all being Indiana residents, and all sharing the goal for premium off campus housing. He stated that of the 2000 bedrooms that they manage, only 8% have private, 1 bedroom accommodations, and that the majority have 2 bedrooms or more. He stated that in 2008 there was still a demand for larger 4-5 bedroom houses, and that those houses were already in the market and they were able to purchase them and renovate them. He stated that as time has passed, smaller 1 bedrooms were not created and have since become more in demand. He stated that the majority of the neighborhoods were zoned R2 and R4 Residence Zone, and did not allow for the multi family dwellings. He stated that they were continuing to find ways to renovates houses, and improve the housing around campus and create the unit types that the students are interested in and had a low supply of currently. He stated that the push to 1 bedroom units was not unique to private landlords and that Ball State had made a switch to providing some private dorm rooms rather than all shared rooms. He stated that the Neely Addition currently had 402 single or multi-family properties in that neighborhood, and that 1 in 10 was already a multi-family property, and that their project would not be a rarity in the area. He stated that of the properties with 2-3 units, the assessed value was \$148,000 compared to the single dwelling properties at around \$112,000. He stated that they feel the Special Use was appropriate, and that it was a win for everyone.

Ms. Mathewson stated that this LLC had filed a request in October, 2023 and were asking for 3 units at that time, and asked what had changed since then.

Mr. Sarah stated that they initial request was for a triplex, and that would have created a unique property type in the neighborhood. He stated that the previous request had been denied, and that they had changed the request to meet the setbacks and the parking requirements, so they no longer need those variances. He stated that they had been to the Plan Commission and had received the approval of that Board.

Ms. Mathewson stated that in the Plan Commission meeting, it was recommended that the room on the floor plans listed as a movie room, not be converted to a future bedroom. She asked if that was something that 3 Brothers Campus Properties would be willing to agree to.

Mr. Sarah stated yes. He stated that they would be creating a 4-bedroom unit and a 1-bedroom unit on this property, and had no intentions to transition the movie room to a bedroom at any time. He stated that the parking would prohibit that, and that they were trying to move away from creating larger 5-bedroom units. He stated that the concern of the movie room becoming a bedroom had been given to the Board by Steven Buck, and he had talked to Mr. Buck, and neither of them wanted to create 5-bedroom units.

Mr. Murphy stated that a portion of the recommendation from the Plan Commission should be read into the record, beginning after the discussion, and that the entire document would be part of the record.

Ms. Mathewson asked Ms. Swackhamer to read that portion of the recommendation into the record.

Ms. Swackhamer stated for the record, that at the Plan Commission meeting on January 4, 2024, the Board made a motion to approve the Special Use with the suggested condition that the movie room shown on the plans not be used for a future bedroom. She stated that with a vote of 7 yeas and 0 nays, official action was taken, and a Favorable Recommendation was forwarded to the Board of Zoning Appeals.

No one appeared in opposition.

Mr. Wiseley made a motion to approve BZA 01-24 the appeal of 3 Brothers Campus Properties, LLC, with the condition that the movie room shown on the plans not be become a future bedroom. Mr. Jones seconded the motion. Voting in favor: Ms. Brannon, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: Ms. Fritch. Motion carried, BZA 01-24 approved.

BZA 02-24 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Drake Properties I, LLC**, PO Box 96, Eaton, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a barn without a dwelling and a decreased front setback for a barn for a

property split through platting to result in 3 lots in a residence zone on premises located at 4008 East Centennial 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 they intend on selling the house, and originally that included the barn, but that they were having difficulty selling. She stated that they decided to divide the parcel so that the house and barn were on separate parcels, and that the split would result in 3 parcels. She stated that they were intending to plat this, and that lot 1 would include the house, and would have verified a second septic system on that parcel. She stated that there would be a reduced front setback due to the location of the house and the barn, and they made that reduction on the barn parcel due to the septic area for the house.

Mr. Wiseley asked if this would result in 3 lots total.

Ms. Vannice stated that it was at 2 currently.

Mr. Wiseley stated it was confusing because the drawings show the house, the barn, and a 3rd lot next to them.

Ms. Vannice stated that the small lot would be sold to the neighbor on the west, and that she had forgotten about that small parcel.

Mr. Wiseley stated that was what he thought was happening, but since they were labeled as lot 1, lot 2, and parcel B, it was little confusing.

No one appeared in opposition.

Mr. Wiseley made a motion to approve BZA 02-24 the appeal of Drake Properties, LLC with the hardship as stated in the application, with the condition that the formal platting process be finished and recorded. Ms. Brannon seconded the motion. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 02-24 approved.

BZA 03-24 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Thomas and Sally Tighe and Mason and Destiny Barber**, 7904 East Turtledove Road, Muncie, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a barn without a dwelling and a decreased south side setback for an existing barn so that 2.88 acres may be platted into 2 lots in a residence zone on premises located at 6109 North County Road 500 East, Delaware Township, Delaware County, Indiana, as more accurately described in the application.

Kathy Vannice, Aston Land Surveyor, 325 W. Washington St., appeared to represent the applicant. She stated that this request had a complicated element, and she would try and give the Board a little history first. She stated that the property owners to the west were the Barber's, and that the current property owners of this parcel were the Tighe's. She stated that the goal was for the Barber's to purchase the parcel with the barn, rezone to the F Farming Zone, Platting, and then eventually combining that with their property. She stated that the Barber's house sits in floodway, and that the goal was to eventually build a new dwelling, and that this parcel would become their access to the county road. She stated that they had a prior BZA approval on the parcel to the south, and that the new division would leave the barn to close to the property lines, and would not meet the setbacks. She stated that Destiny Barber would like to explain a little more to the Board.

Destiny Barber, 7904 E. Turtledove Dr., Muncie, Indiana, appeared. She stated that even though they were not building a new dwelling now, she wanted to explain why this new driveway access was so important. She stated that when they purchased their home they did not realize what a floodway was, she just knew that she would need flood insurance for her mortgage. She stated that she had been told that DNR would come out and reassess the floodway and she did not know until later that was not an option. She stated that the current driveway comes into the property from the east and makes a 90° turn, which makes deliveries, such as propane and appliances, difficult since the drive was very narrow. She stated that the school bus had a hard time, and that the road and the driveway floods badly now, washing away the gravel, and that the new driveway access would be nice.

No one appeared in opposition.

Mr. Jones made a motion to approve BZA 03-24 the appeal of Mason & Destiny Barber with the hardship as stated in the application. Ms. Brannon seconded the motion. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 03-24 approved.

Ms. Swackhamer stated that staff would prepare a Certification of approval that would allow them to move forward with platting, and thanked the Barbers for coming to help explain the request.

REPORT FROM DIRECTOR:

Ms. Mathewson stated that as a first meeting, Ms. Swackhamer did a wonderful job, and asked if she had any report for the Board.

Ms. Swackhamer stated that the 2 open positions were posted, and that the office was excited about filling those hopefully soon. She stated that she wanted to thank everyone for their willingness to contribute knowledge, and that she had a hardworking staff and that she appreciated them.

ADJOURNMENT:

Leslie Mathewson, Chairman

Kylene Swackhamer, Secretary