

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS  
SEPTEMBER 2018 REGULAR MONTHLY MEETING  
AGENDA**

**DATE: September 27, 2018**

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

**TIME: 6:30 P.M.**

**PLEDGE OF ALLEGIANCE:**

**ROLL CALL:**

**Jim Fowler**

**Zane Bishop**

**Leslie Mathewson**

**Kathy Carey**

**Kelly Watson, Jr.**

**Kathryn Kennison**

**Phyllis Zimmerman**

**MINUTES:** Consideration of the August, 2018 regular monthly meeting minutes.

**OLD BUSINESS:**

**BZA 22-18 Jurisdiction: Board of Zoning Appeals**

Being a continuance of a public hearing on the matter of an application filed by **Jesse Doughty**, 3317 West 26<sup>th</sup> Street, Muncie, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow the floor area of the accessory buildings to exceed that of the dwelling and a decreased rear setback for a new personal storage building in a residence zone on premises located at 3317 West 26<sup>th</sup> Street, Center Township, Delaware County, Indiana, as more accurately described in the application.

**NEW BUSINESS:**

**BZA 25-18 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Stephen and Rebecca Shook**, 500 South Winmere Avenue, Selma, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a new personal storage building without a dwelling on a platted lot in a residence zone and an increased height for the new storage building on premises located at 500 South Winmere Avenue, Liberty Township, Delaware County, Indiana, as more accurately described in the application.

**BZA 26-18 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **M. Jewell, LLC**, 3804 West Allen Court, Muncie, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow decreased lot widths and decreased setbacks so that a legally non-conforming parcel containing two dwellings can be platted into two conforming lots each with one dwelling on premises located at 8701 and 8711 South County Road 800 West, Salem Township, Delaware County, Indiana, as more accurately described in the application.

**BZA 27-18      Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Southern Financial Group, LLC**, 900 Austin Avenue, Suite 900, Waco, Texas, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased setback to Bethel Avenue, an increased height and reduced landscape planting for a new 4 story, 100 room hotel on premises located at the northwest corner of Bethel Avenue and Marleon Drive, Muncie, Indiana, as more accurately described in the application.

**OTHER BUSINESS:**

**BZA 20-18      Jurisdiction: Board of Zoning Appeals**

Being a consideration of more specific findings of fact pertaining to the matter of an approval of the request for **Bailey's Place, LLC**, 2995 South Whitney Road, Selma, Indiana.

**REPORT FROM DIRECTOR:**

**ADJOURNMENT:**

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS  
SEPTEMBER 2018 REGULAR MONTHLY MEETING  
MINUTES**

The Delaware-Muncie Metropolitan Board of Zoning Appeals (BZA) held its regular monthly meeting on Thursday, September 27, 2018 at 6:30 P.M., in the Commissioners' Court Room of the Delaware County Building, Muncie, Indiana. Chairman James Fowler called the meeting to order.

**PLEDGE OF ALLEGIANCE:**

**ROLL CALL:**

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

**MINUTES:**

Mr. Watson made a motion to approve the August, 2018 regular monthly meeting minutes. Mr. Bishop seconded the motion. Voting in favor: Mr. Bishop, Mr. Fowler, Ms. Mathewson, Mr. Watson, and Ms. Zimmerman. Voting against: none. Motion carried, August, 2018 minutes approved.

Mr. Fowler thanked the Board for the last several meetings.

**OLD BUSINESS:**

**BZA 22-18 Jurisdiction: Board of Zoning Appeals**

Being a continuance of a public hearing on the matter of an application filed by **Jesse Doughty**, 3317 West 26<sup>th</sup> Street, Muncie, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow the floor area of the accessory buildings to exceed that of the dwelling and a decreased rear setback for a new personal storage building in a residence zone on premises located at 3317 West 26<sup>th</sup> Street, Center Township, Delaware County, Indiana, as more accurately described in the application.

Jesse Doughty, 3317 W. 26<sup>th</sup> St., Muncie, Indiana, appeared. He stated that he wanted the building to store his lawn equipment and cars.

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

Mr. Doughty stated yes and they were all fine with the building. He stated he had provided the envelopes to the surrounding property owners and had not heard of any objections.

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

Mr. Doughty stated yes.

Ms. Moody stated that the Auditor's Office had the house on one parcel and a separate vacant lot where the proposed building would go as a separate parcel and that if the Board approves the building Mr. Doughty should go to the Auditor's Office and have the 2 parcels combined.

Mr. Fowler asked since an accessory building can't be built without a dwelling, did that need to be part of the discussion.

Ms. Moody stated no. She stated that Mr. Doughty owns all the parcels and they were all on one deed but for some reason the Auditor's Office does not show it as one parcel. She stated that the proposed building would actually cross the parcel line so just a correction needs to be made.

Ms. Quirk stated that it was not a legal deed issue but more of a book keeping issue that needs to be cleared up.

Ms. Moody stated that in the motion it could be with the understanding that the issue be cleared up.

No one appeared in opposition.

Mr. Watson made a motion to approve BZA 22-18 the appeal of Jack Doughty with the hardship as stated in the application with the understanding that the two parcels will be combined through the Auditor's Office. Ms. Zimmerman seconded the motion. Voting in favor: Mr. Bishop, Mr. Fowler, Ms. Mathewson, Mr. Watson, and Ms. Zimmerman. Voting against: none. Motion carried, BZA 22-18 approved.

#### **NEW BUSINESS:**

#### **BZA 25-18 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Stephen and Rebecca Shook**, 500 South Winmere Avenue, Selma, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a new personal storage building without a dwelling on a platted lot in a residence zone and an increased height for the new storage building on premises located at 500 South Winmere Avenue, Liberty Township, Delaware County, Indiana, as more accurately described in the application.

Stephen Shook, 500 S. Winmere Ave., Selma, Indiana appeared. He stated he needed the increased height for storage of his RV.

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

Mr. Shook stated yes.

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

Mr. Shook stated he had talked to all of them and no one had any issue with the building.

Ms. Moody stated that since the proposed building would be entirely on one lot that a house could be built there in the future.

No one appeared in opposition.

Ms. Zimmerman made a motion to approve BZA 25-18 the appeal of Stephen and Rebecca Shook with the hardship as stated in the application. Mr. Watson seconded the motion. Voting in favor: Mr. Bishop, Mr. Fowler, Ms. Mathewson, MR. Watson, Ms. Zimmerman. Voting against: none. Motion carried, BZA 25-18 approved.

**BZA 26-18 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **M. Jewell, LLC**, 3804 West Allen Court, Muncie, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow decreased lot widths and decreased setbacks so that a legally non-conforming parcel containing two dwellings can be platted into two conforming lots each with one dwelling on premises located at 8701 and 8711 South County Road 800 West, Salem Township, Delaware County, Indiana, as more accurately described in the application.

Kathy Vannice, Ashton Land Surveyors, 325 W. Washington St., Muncie, Indiana, appeared. She stated that the two houses were built in 1952 and 1966 on the same parcel. She stated that in order to split the parcel they needed the reduced setbacks since the houses were built so close to each other.

Mr. Fowler stated this was the best solution to bring them into compliance and asked if it would be platted.

Ms. Vannice stated yes.

Ms. Moody stated that the Subdivision Ordinance states that property can't be divided unless it was in compliance with the Zoning Ordinance so the variances were needed so that it could be platted.

No one appeared in opposition.

Mr. Bishop made a motion to approve BZA 26-18 the appeal of M. Jewell, LLC with the hardship as stated in the application. Ms. Zimmerman seconded the motion. Voting in favor: Ms. Bishop, Mr. Fowler, Ms. Mathewson, Mr. Watson, and Ms. Zimmerman. Voting against: none. Motion carried, BZA 26-18 approved.

**BZA 27-18 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Southern Financial Group, LLC**, 900 Austin Avenue, Suite 900, Waco, Texas, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased setback to Bethel Avenue, an increased height and reduced landscape planting for a new 4 story, 100 room hotel on premises located at the northwest corner of Bethel Avenue and Marleon Drive, Muncie, Indiana, as more accurately described in the application.

David Karnes, Attorney with Dennis, Wenger & Abrell, 324 W. Jackson St., Muncie, Indiana, appeared to represent the applicant. He stated that he had a rendition of the proposed building along with a similar project in Ohio already under construction. He stated that this would be a

4 story, 50' tall building and that was the reason for the variance of height request and that they were also asking the setback to be 30' rather than the 25'. He stated that the corridor standards require front façade plantings and that they would meet the numbers but are asking to move them from the front.

Ms, Moody stated that the front façade was actually the west side of the building and because of the angle of Bethel Avenue you could see both sides and there would be landscape around the other facades visible from the road.

Mr. Karnes stated yes.

Mr. Fowler asked if they had submitted the landscape plans to the Plan Commission and if everything was in compliance.

Ms. Moody stated yes.

Ms. Karnes stated that they have not submitted the specific placement of everything but based on the size of the lot they would be able to meet the standards for plantings as required.

Pete Gensic, Gensic Engineering, 407 Airport North Office Park, Fort Wayne, Indiana, appeared. He stated that the reason for the landscape request was simply due to the layout of the building there would be no space. He stated that they have plenty of greenspace area to make up for that side of the building and screen things very well. He stated that the extra setback was to allow for better traffic flow at the entrance of the building and not for any parking. He stated that so far the landscape plans submitted just show the planting count to show that they would get the correct numbers to meet the ordinance.

Ms. Moody stated that once they determine the species that would be submitted and reviewed.

Mr. Fowler stated he just wanted to be sure that the ordinances would be met.

Todd Donati, Muncie Redevelopment Commission, Muncie, Indiana, appeared. He stated that the Bethel corridor had been narrowed and more greenspace had been added and that it was looking much better. He stated that the City likes to see a business like this with higher amenities to keep the revenue here and not lose business.

No one appeared in opposition

Mr. Watson made a motion to approve BZA 27-18 the appeal of Southern Financial Group, LLC with the hardship as stated in the application. Voting in favor: Mr. Bishop, Mr. Fowler, Ms. Mathewson, Mr. Watson, and Ms. Zimmerman. Voting against: none. Motion carried, BZA 27-18 approved.

## **OTHER BUSINESS:**

### **BZA 20-18 Jurisdiction: Board of Zoning Appeals**

Being a consideration of more specific findings of fact pertaining to the matter of an approval of the request for **Bailey's Place, LLC**, 2995 South Whitney Road, Selma, Indiana.

Ms. Moody stated that some of the surrounding property owners of Bailey's Place, LLC had filed a writ of certiorari with the courts to appeal the Board of Zoning Appeals decision. She stated that the regular findings of fact were a template and did not meet the requirements, but in situations where a filing with the courts has taken place more specific findings of fact would be needed. She stated that she had looked at the records for the case and prepared those more specific findings of fact for the Board to review.

Mr. Fowler asked if this would go on to the court.

Ms. Quirk stated this would become part of the certified record that was due October 13<sup>th</sup>.

Ms. Mathewson made a motion to approve the more specific findings of fact pertaining to the matter of an approval of the request for Bailey's Place, LLC as presented. Mr. Watson seconded the motion. Voting in favor: Mr. Bishop, Mr. Fowler, Ms. Mathewson, Mr. Watson, and Ms. Zimmerman. Voting against: none. Motion carried, specific findings of fact for Bailey's Place, LLC approved.

**REPORT FROM DIRECTOR:**

Ms. Moody stated that Ashton Land Surveyor was in the process of reducing the number of the lots located in the PUD known as Pineview at Riverside because they were in the floodplain.

Mr. Fowler asked when the next floodplain survey would be released.

Ms. Moody stated that the digital mapping was done in 2011 and in 2017 there was an amendment along York Prairie Creek that resulted in some changes. She stated that when changes were adopted to the floodplain it was done through federal register notices and that was done and those effected locally were also notified of those changes. She stated that there were no changes on the horizon although studies of areas may occur.

Mr. Fowler stated that the house at ARF was torn down and they had a hard time rebuilding because it was in the floodplain.

**ADJOURNMENT:**

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James Fowler, President

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Marta Moody, Secretary