

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

DATE: December 27, 2018

PLACE: Commissioner's Court Room
3rd 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 November, 2018 regular monthly meeting minutes.

NEW BUSINESS:

BZA 34-18 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Thomas Parkison**, 4601 West Treasure Lane, Muncie, Indiana, requesting a variance of use and a variance from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a decreased street side setback for a new attached garage and for the new garage to be used for business storage on premises located at 3210 West Cypress Drive, Hamilton Township, Delaware County, Indiana, as more accurately described in the application.

BZA 35-18 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Donald and Karen Miller**, 2809 West Twickingham Drive, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a decreased street side setback and a decreased rear setback for a new attached garage on premises located at 2809 West Twickingham Drive, Muncie, Indiana, as more accurately described in the application.

BZA 36-18 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Matthew and Brittany Hayden/AgriMax, LLC**, 14620 West County Road 400 South, Daleville, Indiana, requesting a variance from the Delaware County Comprehensive Zoning Ordinance to allow a new ground sign for a farm equipment business operating under an existing variance in a residence zone on premises located at 14620 West County Road 400 South, Salem Township, Delaware County, Indiana, as more accurately described in the application.

BZA 37-18 **Jurisdiction: Board of Zoning Appeals**
Being a public hearing on the matter of an application filed by **Stanley R. Richards Trust**, 1100 East Golf Course Drive, Albany, Indiana, requesting variances from the Delaware County Subdivision Control Ordinance and the Delaware County Comprehensive Zoning Ordinance to allow a property split on a major road resulting in a new 0.52 acre parcel containing an existing storage building, also to allow business storage use in the existing building and a decreased rear setback in a farm zone on premises located on the south side of County Road 1200 North 950' west of County Road 150 East, Union Township, Delaware County, Indiana, as more accurately described in the application.

BZA 38-18 **Jurisdiction: Board of Zoning Appeals**
Being a public hearing on the matter of an application filed by **Stjepan and Laura Sestet**, 409 South Harvey Road, Muncie, Indiana, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a decreased front setback for a new addition to an existing home on premises located at 409 South Harvey Road, Muncie, Indiana, as more accurately described in the application.

BZA 39-18 **Jurisdiction: Board of Zoning Appeals**
Being a public hearing on the matter of an application filed by **Judceil Incorporated DBA Low Bob's**, 1709 East Main Street, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow no sidewalks along Jackson and Main Streets, increased front setbacks, a decreased foundation area on the east façade and no foundation treatment on the north, west and south facades, decreased distance between ground signs, and decreased greenbelt widths and landscape plantings for a new commercial redevelopment of Low Bob's on premises located at 1709 East Main Street, Muncie, Indiana, as more accurately described in the application.

BZA 40-18 **Jurisdiction: Board of Zoning Appeals**
Being a public hearing on the matter of an application filed by **Justin and Tiffany Whitaker**, 6000 South Burlington Drive, Muncie, Indiana, requesting a variance of use and variances from the Delaware County Comprehensive Zoning Ordinance to allow 3 horses to be stabled in a new barn and reduced minimum distance to two residences on 3.43 acres in a residence zone on premises located at 6000 South Burlington Drive, Perry Township, Delaware County, Indiana, as more accurately described in the application.

REPORT FROM DIRECTOR:

ADJOURNMENT:

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

The Delaware Muncie-Metropolitan Board of Zoning Appeals (BZA) held its regular monthly meeting on Thursday, December 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, Ms. Carey, Mr. Fowler, Ms. Kennison, Ms. Mathewson, Mr. Watson, and Ms. Zimmerman. Absent: none. Also present: Ms. Quirk, attorney for the Board.

MINUTES:

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

NEW BUSINESS:

BZA 34-18 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Thomas Parkison**, 4601 West Treasure Lane, Muncie, Indiana, requesting a variance of use and a variance from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a decreased street side setback for a new attached garage and for the new garage to be used for business storage on premises located at 3210 West Cypress Drive, Hamilton Township, Delaware County, Indiana, as more accurately described in the application.

Thomas Parkison, 4601 W. Treasure Lane, Muncie, Indiana, appeared. He stated that he was contacted by AEP/I&M and they informed him that his current garage was located inside their easement and that he would need to move that structure. He stated that he wanted to rebuild the garage but it would create the setback issue. He stated that it was a rental property and that he used the garage to store his mower and appliances for his other rentals.

Mr. Fowler stated that if he used the garage to store those items that would be considered for business purposes.

Mr. Parkison stated that he does use it for business and personal use.

Mr. Fowler asked if he planned to demo the existing garage.

Mr. Parkison stated he had quotes for that demo work and quotes to rebuild it. He stated that he would not be making a new curb cut and that there was plenty of room to park.

Mr. Bishop asked which road the driveway for the proposed garage would face and if the tenants would have access to that garage.

Mr. Parkison stated he would use the existing drive which comes from Cypress Drive. He stated that at this point the tenants do not have access to that garage but they could have in the future when he no longer needed to store his extra rental equipment. He stated that he had owned the property since 2011 and was unaware of the utility easement.

Mr. Fowler stated that was the reason the business use was being requested.

Mr. Watson stated that most of the houses along there have garages and that this fits the area.

No one appeared in opposition.

Ms. Kennison made a motion to approve BZA 34-18 the appeal of Thomas Parkison with the hardship as stated in the application with the following condition: That the business storage is for the applicant only. Mr. Watson seconded the motion. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, Ms. Kennison, Ms. Mathewson, Mr. Watson, and Ms. Zimmerman. Voting against: none. Motion carried, BZA 31-18 approved.

BZA 35-18 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Donald and Karen Miller**, 2809 West Twickingham Drive, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a decreased street side setback and a decreased rear setback for a new attached garage on premises located at 2809 West Twickingham Drive, Muncie, Indiana, as more accurately described in the application.

Donald Miller, 2809 W. Twickingham Dr., Muncie, Indiana, appeared. He stated that he needed the new garage for storage of his 4 cars.

Mr. Fowler asked if it would be for personal use only and if he had talked to any of his neighbors.

Mr. Miller stated it was for personal use only and that he had talked to the neighbor to the south.

Mr. Fowler asked if he had talked to the city about putting in a new curb cut.

Mr. Miller stated not yet.

Ms. Moody stated that if the variance was approved that does not guarantee the driveway cut.

Mr. Miller stated that the house faces Twinkingham Drive and that was why the backyard needed the 10' variance.

Mr. Fowler asked if there would be a room between the house and the garage.

Mr. Miller stated it would be an enclosed room with sliding doors and windows. He asked if he did not have that room would he only need the 4' variance.

Ms. Moody stated that was correct, but he would still need the street side setback.

Mr. Fowler stated he would need to obtain all other permits needed.

Mr. Miller stated he could use the existing driveway if he could not get a new curb cut.

No one appeared in opposition.

Mr. Watson made a motion to approve BZA 35-18 the appeal of Donald and Karen Miller with the hardship as stated in the application with the following condition: That the garage be for personal use only. Ms. Zimmerman seconded the motion. Voting in favor: Ms. Carey, Mr. Fowler, Ms. Kennison, Ms. Mathewson, Mr. Watson, and Ms. Zimmerman. Voting against: Mr. Bishop. Motion carried, BZA 35-18 approved.

BZA 36-18 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Matthew and Brittany Hayden/AgriMax, LLC**, 14620 West County Road 400 South, Daleville, Indiana, requesting a variance from the Delaware County Comprehensive Zoning Ordinance to allow a new ground sign for a farm equipment business operating under an existing variance in a residence zone on premises located at 14620 West County Road 400 South, Salem Township, Delaware County, Indiana, as more accurately described in the application.

Matthew Hayden, 14620 W. CR 400S., Daleville, Indiana, appeared. He stated that he was requesting a sign for more of a marker for his business so that delivery drivers mostly can find them.

Mr. Fowler asked how many signs he wanted.

Mr. Hayden stated it would just be 1 sign 50' from the center of the road.

Mr. Fowler asked how often someone missed the business drive.

Mr. Hayden stated that 4 times per week due to different delivery drivers every time. He stated that he takes pride in his property and a sign marking the business would be nice.

Mr. Fowler asked how many employees they had.

Mr. Hayden stated that they had 3 employees plus his wife was the secretary.

Mr. Fowler stated he was glad to hear business was going well.

Mr. Watson asked if the sign would be 4'X5'.

Mr. Hayden stated yes, the overall height was 4' tall but the signage itself was 30".

Ms. Moody stated that he was accommodating the proposed right of way.

Mr. Fowler asked if he would be submitting plans with his permit application.

Mr. Hayden stated he had applied for the permit and that was when he found out he needed the variance first.

No one appeared in opposition.

Ms. Mathewson made a motion to approve BZA 36-18 the appeal of Matthew and Brittany Hayden with the hardship as stated in the application. Ms. Kennison seconded the motion. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, Ms. Kennison, Ms. Mathewson, Mr. Watson, and Ms. Zimmerman. Voting against: none. Motion carried, BZA 36-18 approved.

BZA 37-18 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Stanley R. Richards Trust**, 1100 East Golf Course Drive, Albany, Indiana, requesting variances from the Delaware County Subdivision Control Ordinance and the Delaware County Comprehensive Zoning Ordinance to allow a property split on a major road resulting in a new 0.52 acre parcel containing an existing storage building, also to allow business storage use in the existing building and a decreased rear setback in a farm zone on premises located on the south side of County Road 1200 North 950' west of County Road 150 East, Union Township, Delaware County, Indiana, as more accurately described in the application.

Stan Richards, 1100 E. Golf Course Dr., Albany, Indiana, appeared. He stated he may have a buyer that lives next door to the storage building but if not, he would continue to use it for his own storage.

Mr. Fowler stated that if the property was spilt it would not be a buildable site for a house.

Mr. Richards stated it would be for inside storage only.

No one appeared in opposition.

Mr. Bishop made a motion to approve BZA 37-18 the appeal of Stan R. Richards Trust, with the hardship as stated in the application with the following conditions: 1) That the parcel is created for the accessory building only and shall not be considered a buildable parcel for residential use; and 2) That the business storage use is limited to the applicant. Ms. Carey seconded the

motion. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, Ms. Kennison, Ms. Mathewson, Mr. Watson, and Ms. Zimmerman. Voting against: none. Motion carried, BZA 37-18 approved.

BZA 38-18 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Stjepan and Laura Sestet**, 409 South Harvey Road, Muncie, Indiana, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a decreased front setback for a new addition to an existing home on premises located at 409 South Harvey Road, Muncie, Indiana, as more accurately described in the application.

David Delaney, 8750 N. CR 25W., Muncie, Indiana, appeared to represent the applicants. He stated that he was the applicants' contractor and was here on their behalf. He stated they wanted to add a 16' family room to the front of the house and that they were unaware of the setbacks and after doing a survey decided to ask for a variance.

Mr. Fowler stated that this room addition looks like it would match up to the other homes. He asked if the backyard was an option.

Mr. Delaney stated that the backyard was not very big and they would like to keep that for a play area for the kids. He stated that they even discussed adding a second story, but the front room addition was the best option.

Mr. Fowler asked how the other neighbors felt about the request.

Mr. Delaney stated that the applicants get along very well with all of the neighbors and he had a letter from one of them.

Ms. Moody read a letter from T.C. Scott stating that he lives at 3915 W. Clover Lane, Muncie, Indiana, and that he was in support of the request, and that the Sestet's take very good care of their property.

Mr. Fowler stated that they were 19' from the right of way with a lot of room still between that and the road.

Mr. Watson stated it was not far out of line from the other homes.

Ms. Moody stated that on the other side of the street the homes were much farther out of line.

Mr. Bishop asked what the building would look like.

Mr. Delaney stated that the north front corner would have the front door and the sidewalk would be 12' from the house and that it would have a double gabled roof with a small front porch.

Mr. Fowler asked if all of the exterior materials would match the house.

Mr. Delaney stated yes, it would all be white.

Ms. Moody asked where the front porch would be located.

Mr. Delaney stated that the front door would be 10' from the existing front wall of the house and then the porch would be the next 6' of the addition.

Ms. Moody stated that nothing would extend beyond the east wall of the addition.

Ms. Delaney stated that was correct.

Mr. Bishop asked if the roof lines would match with the addition continuing to slope down towards the street.

Mr. Delaney stated it would be 2 gables facing the street and that they would not exceed the peak of the existing roof.

No one appeared in opposition.

Ms. Zimmerman made a motion to approve BZA 38-18 the appeal of Stjephan and Laura Seset with the hardship as stated in the application. Ms. Kennison seconded the motion. Voting in favor: Ms. Carey, Mr. Fowler, Ms. Kennison Ms. Mathewson, Mr. Watson, and Ms Zimmerman. Voting against: Mr. Bishop. Motion carried, BZA 38-18 approved.

BZA 39-18 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Judceil Incorporated DBA Low Bob's**, 1709 East Main Street, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow no sidewalks along Jackson and Main Streets, increased front setbacks, a decreased foundation area on the east façade and no foundation treatment on the north, west and south facades, decreased distance between ground signs, and decreased greenbelt widths and landscape plantings for a new commercial redevelopment of Low Bob's on premises located at 1709 East Main Street, Muncie, Indiana, as more accurately described in the application.

Bruce Everetts, Taylor Architects, 111 E. Washington St., Muncie, Indiana, appeared. He stated that the owner wanted to rebuild the store and with this site having 4 front yards it made things difficult. He stated that the site was currently all hard surface and felt this was a good time to redevelop and add some convenience items to the store along with a drive thru.

Mr. Fowler stated he appreciates the work done but that it looked like there was still room to do more planting to eliminate some of the variances.

Ms. Moody stated that they were still short 1 ornamental on the Main Street frontage and 1 ornamental on the Jackson Street frontage.

Mr. Everetts stated they could add 2 more trees.

Mr. Fowler stated that this will improve the site greatly. He asked about the request for a reduction in distances of the 2 ground signs.

Mr. Everetts stated that the pole sign would be taken down and replaced with 2 ground sign that would be closer to each other than allowed.

Mr. Bishop asked why the no sidewalks along Main Street and Jackson Street.

Mr. Everetts stated that it would encourage people to cross in places where it was dangerous and that there was no destination along those areas.

Mr. Watson stated he agrees that pedestrian traffic was not needed there.

Mr. Bishop asked for clarification that the sidewalks would be in the right of way and not on the applicant's property.

Ms. Moody stated yes.

Mr. Bishop stated that it did not feel safer to have no sidewalks.

Mr. Everetts stated that it would encourage people to cross the street where there was no crosswalk but if they would cross at Macedonia Avenue it was safer.

Ms. Carey agreed that the traffic on Macedonia Avenue was much slower than the other roads.

Mr. Fowler stated that until the City creates something on Main Street, this would be the right way to handle the sidewalks.

Mr. Bishop stated that there was a crosswalk from the parking lot to the building so if someone was walking from Macedonia Avenue, what would be the intended path for them to reach the building.

Mr. Everetts stated they would just walk thru the parking lot to the walkways around the building.

Ms. Carey asked if most of the customers use the drive up or actually walk in.

Ann Simpson, 1709 E. Main Street, Muncie Indiana, appeared. She stated that it was mostly drive up.

Mr. Bishop stated if the site was not made easy to access by foot that people would not be accessing by foot.

Ms. Kennison commended them for making an entrance to the city a more attractive site.

Mr. Everetts stated that the building would be very attractive building that was all brick with a metal roof.

Mr. Fowler thanked them for removing the pole sign.

No one appeared in opposition.

Ms. Carey made a motion to approve BZA 39-18 the appeal of Judceil dba Low Bob's with the hardship as stated in the application with the following condition that 1 ornamental front yard tree on Main Street and 1 front yard ornamental tree on Jackson Street will be added to the landscape plan. Mr. Watson seconded the motion. Voting in favor: Ms. Carey, Mr. Fowler, Ms. Kennison, Ms Mathewson, Mr. Watson, and Ms. Zimmerman. Voting against: none. Motion carried, BZA 39-18 approved.

BZA 40-18 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Justin and Tiffany Whitaker**, 6000 South Burlington Drive, Muncie, Indiana, requesting a variance of use and variances from the Delaware County Comprehensive Zoning Ordinance to allow 3 horses to be stabled in a new barn and reduced minimum distance to two residences on 3.43 acres in a residence zone on premises located at 6000 South Burlington Drive, Perry Township, Delaware County, Indiana, as more accurately described in the application.

Justin Whitaker, 6000 S. Burlington Dr., Muncie, Indiana, appeared with his wife Tiffany Whitaker. He stated that they wanted to build a new barn on the property to have 3 horses that would be 18' from the neighbor.

Ms. Kennison asked if it would be 18' from the neighbors house or just the property.

Mr. Whitaker stated it would be 18' from the neighbor's corn field.

Mr. Fowler asked where the horses would be able to run on the property.

Mr. Whitaker stated that he would be fencing in the entire property and a neighbor has agreed to let him use some of his land for the horses.

Mr. Fowler stated that the extra land could not be included in this variance. He stated that there were many trees on this property and he was worried about how much ground for the horses there would be.

Mr. Whitaker stated that he would be taking down some of the trees to open up the property a little more.

Mr. Fowler asked how he planned to store and dispose of the waste.

Mr. Whitaker stated that he knew a lot of people who wanted it for the fertilizer.

Mr. Fowler stated that it would be a condition of this request to know how it would be disposed of and how often.

Ms. Zimmerman asked why 3 horses.

Mr. Whitaker stated it was 1 each for him his wife and daughter.

Mr. Fowler stated that the Board would also set a limit of 3 horses for this request.

Ms. Moody stated that it was not uncommon for the Board to state the horse is for the applicants only. She asked Mr. Whitaker about using the neighbor's land to the east as pasture.

Mr. Whitaker stated that his neighbor said he could.

Ms. Moody stated that he can't include that unless his property was included in the request. She stated that the owner of the field to the south came into the office and stated that he had no problem with the request but asked that no fence was placed on the property lines because it would create dual ownership and maintenance responsibility.

Mr. Whitaker stated that he had a survey so he knows right where the property line was.

Mr. Bishop asked if the trees that Mr. Whitaker was proposing to remove were currently dead or if he just wanted to open up the space.

Mr. Whitaker stated yes, he just wanted to open up the space.

Mr. Fowler stated that he would like to see the waste removed every 6 months, that it be for 3 horses only and that the entire property be fenced in.

Lorna Springston, 5990 S. CR 400E., Muncie, Indiana, appeared. She stated that her property was to the north of the Whitaker property and she supports their request. She stated that they were good neighbors and that they maintained their property and that she gardens and would be willing to take some of the waste for fertilizer. She stated that she was sure that the horses would be well maintained.

No one appeared in opposition.

Ms. Kennison made a motion to approve BZA 40-18, the appeal of Justin and Tiffany Whitaker with the hardship as stated in the application with the following conditions: 1) That there be no more than 3 horses; 2) That the horse waste shall be removed at least every 6 months; 3) That the fence be placed entirely on the applicant's property and not in the proposed ROW nor along any common property line and; 4) That the variance be for the applicants only. Voting in favor: Ms. Carey, Mr. Fowler, Ms. Kennison, Ms. Mathewson, Mr. Watson, and Ms. Zimmerman. Voting against: Mr. Bishop. Motion carried, BZA 40-18 approved.

Ms. Moody stated that when they apply for the building permit, it would be a good idea to turn in the survey to show that the fence was being placed in the right location.

REPORT FROM DIRECTOR:

Ms. Moody stated that the Bailey's Place appeal that was filed by the surrounding property owners was heard and the Board's decision was upheld by the judge. She stated that they have 30 days to appeal to Indiana Court of Appeals, so it was not quite finished, but locally it was upheld.

Mr. Fowler stated that he thanked the Board and that they handled that case very well.

ADJOURNMENT:

James Fowler, Chairman

Marta Moody, Secretary