

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS
JANUARY - 2019 REGULAR MONTHLY MEETING
AGENDA**

DATE: January 31, 2019

PLACE: Commissioner's Court Room
3rd Floor, Delaware County
Building

TIME: 6:30 P.M.

PLEDGE OF ALLEGIANCE:

INTRODUCTION/CONFIRMATION OF MEMBERS:

ROLL CALL:

	Jim Fowler	
	Zane Bishop	Leslie Mathewson
	Kathy Carey	Kelly Watson, Jr.
	Kathryn Kennison	Phyllis Zimmerman

ELECTION OF OFFICERS:

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

NEW BUSINESS:

BZA 01-19 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Paul Douglas and Michelle Genice Cook**, 1208 North Grove Court, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow beekeeping and crop farming use and a new farm equipment storage shed without a dwelling on 23.74 acres in a residence zone on premises located on the west side of Petty Road, 400' north of Brook Drive, Muncie, Indiana, as more accurately described in the application.

BZA 02-19 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **James R. Davis**, 5440 East County Road 450 North, Albany, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow business office and personal storage use of a new building with a decreased side setback on 2.11 acres without a dwelling in a farming zone on premises located on the west side of County Road 320 East, 950' north of County Road 450 North, Delaware Township, Delaware County, Indiana, as more accurately described in the application.

REPORT FROM DIRECTOR:

ADJOURNMENT:

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS
JANUARY - 2019 REGULAR MONTHLY MEETING
MINUTES**

The Delaware-Muncie Metropolitan Board of Zoning Appeals (BZA) held its regular monthly meeting on Thursday, January 31, 2019 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:

Mr. Fowler stated that Fred Daniel would be sitting in for Ms. Moody.

ROLL CALL:

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

ELECTION OF OFFICERS:

Ms. Mathewson nominated Mr. Fowler to serve as Chairman. There being no further nominations, Mr. Daniel declared the nominations closed. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, and Ms. Mathewson. Voting against: none. Motion carried, Mr. Fowler will serve as Chairman for 2019.

Ms. Carey nominated Mr. Watson to serve as Vice-Chairman. There being no further nominations, Mr. Daniel declared the nominations closed. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, and Ms. Mathewson. Voting against: none. Motion carried, Mr. Watson will serve as Vice-Chairman for 2019.

MINUTES:

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

NEW BUSINESS:

BZA 01-19 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Paul Douglas and Michelle Genice Cook**, 1208 North Grove Court, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow beekeeping and crop farming use and a new farm equipment storage shed without a dwelling on 23.74 acres in a residence zone on premises located on the west side of Petty Road, 400' north of Brook Drive, Muncie, Indiana, as more accurately described in the application.

Michelle Cook, 1208 N. Grove Court, Muncie, Indiana, appeared. She stated that she wanted to have the portable building to store her mower and other garden equipment and that it would not be visible from the road. She stated that she thought bee keeping would be a fun hobby but that may not even happen this summer.

Mr. Fowler asked how large the garden would be.

Mrs. Cook stated she was not sure the first year but she planned for it to be a fairly big personal garden, not a full scale farm, and that she would sell anything she could not use at a farmers market.

Mr. Fowler asked if this was mainly for personal use.

Ms. Cook stated yes and that if she had more than she could use maybe for the farmers market.

Mr. Fowler stated that the bee keeping area looked to be close to the surrounding residential properties and asked if there was any way to move that farther away.

Ms. Cook stated that the area they would use for the bee keeping was to the back in the large area of trees and it would not be visible from the houses.

Mr. Fowler stated that the building was marked on the map but not the bees.

Ms. Cook indicated that the bees would be west of the proposed building.

Rhett Scott, 1500 N. Petty Rd., Muncie, Indiana, appeared. He stated that he lives directly across from this property and was not necessarily for or against this request but that he had some concerns. He stated that the property would be a beautiful place for a residence and that he was surprised to find that it was already zoned as a residential property. He stated that he did not know the Cook's but they had been taking care of the property since they purchased it and he was pleased with the work they had done. He stated that bee keeping is a noble profession but there were concerns with the proximity to the neighbors. He stated that the farming was also a concern depending on the size and scale because it can be noisy and dusty and they take care of their grandchildren and these things could be disruptive. He stated that having a building for the equipment made perfect sense but that he did not understand what a portable building was.

Mr. Fowler stated that it means there was no concrete foundation and it could be moved if needed and that it would not be a full scale farm but a personal garden.

Mr. Scott stated that he does see some of the benefits but also had concerns and that he does not understand what kinds of restrictions could be put in place.

Carolyn Curra, 1901 N. Petty Rd., Muncie, Indiana, appeared in opposition. She stated that her family had owned the same property for 60 years and they had seen a lot of changes and that much care had been taken to keep the community safe. She stated that she was concerned about a portable building not being sturdy and posing a hazard with some of the weather conditions and high winds like we have had lately. She stated that it may just be a small

garden right now but in the future would they expand or consider adding livestock, which can also pose hazards.

Mr. Fowler stated that this was not to rezone this property to the farm zone it would be for the requested uses only and no farm animals.

Ms. Curra stated that her other concern was the bees because they will seek food and water and there are pools and a water ditch that would attract the bees and kids are around those pools.

Mike Dial, 4207 W. Robinwood Dr., Muncie, Indiana, appeared in opposition. He stated that people live in the country to have things like animals and farms and people live in residential areas for safety. He stated that once a zone is changed a property owner can do whatever is permitted within that zone and that he understands this was not a rezoning but was the first step of that process. He stated his wife has a daughter who is allergic to bees and she carries an epi-pen and that bees cannot be contained like a dog with a fence.

Ms. Cook stated that she also carries an epi-pen because she has a lot of allergies and that was one of the reasons she wanted to grow some of her own food. She stated that the bees were just an idea at this time that her family thought they might try. She stated the biggest thing was that she wanted her building and her garden.

Mr. Fowler asked if she had any drawings or pictures of what the building would look like.

Ms. Cook stated that the building she picked out had a concrete floor and was a nice building that would not fly away. She stated that the builder called it a portable building because with equipment it could be moved but that it would be anchored down and safe. She stated that she was allergic to animals and did not want any livestock. She stated that they had already been out there many times with the tractor to mow and that they don't plan for any more equipment but that they would like to store it in a building to keep it safe. She stated that the noise would not be an issue because the field would be plowed and then planted and they would not be subletting it for commercial farming because it was just for her to have a large garden. She stated that if the bees are a problem they could be taken off the request.

Mr. Fowler stated that since she was not sure about the bees anyway, it could be taken off the request for tonight. He stated maybe they need to determine the size of the garden as well.

Ms. Cook stated that at one time the whole property was farmed and there was a much bigger farm down the road if people had concerns about noise and dust.

Mr. Fowler stated that the building would be for personal use and no business use and that they would remove the bees from the request and the garden would be for personal use only.

Mr. Bishop asked if the garden was for personal use would she no longer be allowed to sell the produce.

Ms. Cook asked if they could restrict her from taking excess items to a farmers market to sell.

Mr. Fowler stated that the concern was that it not become a bigger commercially farmed property.

Mr. Bishop made a motion to approve BZA 01-19, the appeal of Paul Douglas and Michelle Genice Cook with the hardship as stated in the application with the following conditions: 1) That the variance be for the applicant only; 2) That the building be for personal use only; and 3) That the bee keeping shall be removed from the request. Ms. Carey seconded the motion. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, and Ms. Mathewson. Voting against: none. Motion carried, BZA 01-19 approved.

BZA 02-19 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **James R. Davis**, 5440 East County Road 450 North, Albany, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow business office and personal storage use of a new building on 2.11 acres without a dwelling in a farming zone on premises located on the west side of County Road 320 East, 950' north of County Road 450 North, Delaware Township, Delaware County, Indiana, as more accurately described in the application.

Zane Martens, 1005 E. Main St., Berne, Indiana, with Marquis Builders appeared to represent the applicant. He stated that the Davis's were donating the current PAWS building to Ball State University and they would like to build a new facility to run the business from. He stated that there would be a maximum of 4 employees in the new building since most work from home. He stated that the building would be for account management, business deliveries, product sales, and receiving fan mail along with some storage space.

Mr. Fowler asked if this would become the receiving area for the business and what size would the building be.

Mr. Martens stated yes and that it was a 40' x 80' building with the front half as the business side and the back part for storage.

Mr. Fowler asked if he had any pictures of how the building would look when finished.

Mr. Martens stated he did not.

Ms. Mathewson made a motion to approve BZA 02-19, the appeal of James Davis with the hardship as stated in the application. Ms. Carey seconded the motion. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, and Ms. Mathewson. Voting against: none. Motion carried, BZA 02-19 approved.

REPORT FROM DIRECTOR:

Mr. McKeel, 6600 W 850N., Gaston, Indiana appeared to update the Board on his progress. He stated that things had been a little slow due to the weather and a lot of flooding but he had made some progress.

Mr. Fowler stated that the letter Mr. McKeel provided explains that some scrape and cars had been removed and that no new cars had been added and that he should continue to do as much as he can.

Mr. Daniel stated that there were several outstanding items to be done according to the conditions of the approval including plantings, a privacy fence and the removal of cars at the rate of 4 per month until down to 75 to be in compliance with the agreement from April, 2018.

Mr. Fowler stated that once the weather permits, those plantings and fences need to be installed.

ADJOURNMENT:

James Fowler, Chairman

Fred Daniel for Marta Moody, Secretary