

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

DATE: March 28, 2019

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 February, 2019 regular monthly meeting minutes.

NEW BUSINESS:

BZA 04-19 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Cynthia Linn and David Ray Smith**, 6101 South Cowan Road, Muncie, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a business office use in an existing building in a farming zone on premises located at 6201 South Cowan Road, Monroe Township, Delaware County, Indiana, as more accurately described in the application.

BZA 05-19 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Teresa Calvert and Phillip and Rose Calvert**, 4212 East Maple Manor Parkway, Muncie, Indiana, requesting a variance from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a new building for personal dog training use without a dwelling in a residence zone on premises located at 2205 South Cecil Road, Center Township, Delaware County, Indiana, as more accurately described in the application.

BZA 06-19 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Muncie Mall, LLC and Panera, LLC**, 6101 South Cowan Road, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased building setback and decreased bufferyard and landscape plantings for a new Panera restaurant on premises located on the north side of McGalliard Road 560 feet east of Barr Street, Muncie, Indiana, as more accurately described in the application.

REPORT FROM DIRECTOR:

ADJOURNMENT:

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

The Delaware-Muncie Board of Zoning Appeals (BZA) held its regular monthly meeting on Thursday, March 28, 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:

ROLL CALL:

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

MINUTES:

Mr. Watson made a motion to approve the February, 2019 regular meeting minutes. Mr. Bishop seconded the motion. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, Ms. Mathewson, Mr. Watson, and Ms. Zimmerman. Voting against: None. Motion carried, February 2019 minutes approved.

NEW BUSINESS:

BZA 04-19 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Cynthia Linn and David Ray Smith**, 6101 South Cowan Road, Muncie, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a business office use in an existing building in a farming zone on premises located at 6201 South Cowan Road, Monroe Township, Delaware County, Indiana, as more accurately described in the application.

Cynthia Linn, 6101 S. Cowan Rd., Muncie, Indiana, appeared with her son David Smith. She stated that they had a tenant that wanted to lease office and storage space in an existing building that she and her son owned.

Mr. Fowler stated that usually approval would be for the applicant only.

Ms. Moody stated that the conditions could specify the variance be in effect for the duration of occupancy by SEPM Construction and Maintenance, LLC.

Mr. Fowler asked if the use would just be office space and no deliveries would occur.

Ms. Linn stated the SEPM Construction and Maintenance, LLC would use the space for administration purposes and to dispatch field technicians for plumbing type maintenance. She stated that there were 4 office staff and 2 field technicians and no onsite construction would take place.

Ms. Moody stated that there would also be no signage.

Mr. Fowler asked if the 4 full time employees and 2 field technicians would be all of the employees.

Ms. Linn stated yes.

Mr. Watson asked if the field technicians would just be using trucks or also trailers.

Ms. Linn stated that they may have a trailer but there was a gravel lot where it could be parked.

Mr. Fowler asked if there would be any outside storage or vehicles parked outside overnight.

Ms. Linn stated that they would keep everything inside.

No one appeared in opposition.

Mr. Watson made a motion to approve BZA 04-19 the appeal of Cynthia Linn and David Smith with the hardship as stated in the application with the following conditions: 1) That the business be limited to 6 employees; 2) That there be no outside storage or signage; and 3) That the variance is for SEPM Construction and Maintenance, LLC only and is limited to the duration of their tenure on the property. Ms. Carey seconded the motion. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, Ms. Mathewson, Mr. Watson, and Ms. Zimmermann. Voting against: None. Motion carried, BZA 04-19 approved.

BZA 05-19 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Teresa Calvert and Phillip and Rose Calvert**, 4212 East Maple Manor Parkway, Muncie, Indiana, requesting a variance from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a new building for personal dog training use without a dwelling in a residence zone on premises located at 2205 South Cecil Road, Center Township, Delaware County, Indiana, as more accurately described in the application.

Phillip Calvert 4212 E. Maple Manor Pkwy, Muncie, Indiana, appeared. He stated that his daughter Teresa owned a veterinary clinic and that she competes with agility dogs. He stated that she was competing on a national level and would like to move to an international level and try for the USA team. He stated that they have an outdoor training area but the weather doesn't always cooperate and that the proposed 70' x 100' building would be heated and air conditioned. He stated that it would only be for Teresa to train her dogs and that the building would be far away from any of the surrounding neighbors.

Mr. Fowler asked if she would only be training her own dogs.

Mr. Calvert stated yes and they would not stay there only train.

Mr. Fowler asked if training was all that would be done in the building.

Mr. Calvert stated yes.

Mr. Watson asked if the outdoor training facility was in the same area.

Mr. Calvert stated yes it was approximately a ¼ acre fenced in area but the building would be back more to be away from the neighbors.

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

Mr. Calvert stated that he had talked to some and they had no objections.

No one appeared in opposition.

Mr. Watson made a motion to approve BZA 05-19 the appeal of Teresa Calvert and Phillip and Rose Calvert with the hardship as stated in the application with the following conditions: 1) That the proposed dog training use of the new building be for Teresa Calvert only; and 2) That there be no business use and no signage on the property. Ms. Carey seconded the motion. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, Ms. Matheson, Mr. Watson, and Ms. Zimmerman. Voting against: None. Motion carried, BZA 05-19 approved.

BZA 06-19 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Muncie Mall, LLC and Panera, LLC**, 6101 South Cowan Road, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased building setback and decreased bufferyard and landscape plantings for a new Panera restaurant on premises located on the north side of McGalliard Road 560 feet east of Barr Street, Muncie, Indiana, as more accurately described in the application.

Chris Wilson, with Cole and Associates for Panera, 401 S. 18th St. St. Louis, Missouri, appeared. She stated that Panera would be relocated from its current location and would include a drive thru for the new restaurant. She stated that the plan works well with this corner of the Muncie Mall property and was in line with other nearby businesses but to make it happen they were requesting the greater building setbacks. She stated that in hope of gaining the landscape variance, they had over compensated in other areas.

Ms. Moody stated that the decreased bufferyard was just referring to the south property line and that all other sides would meet the requirements and had additional plantings.

Mr. Watson stated this would be an improvement over the existing parking lot.

Mr. Fowler asked if the decreased landscape would be mainly along McGalliard Road.

Ms. Moody stated yes, and that they would still have landscaping but technically their south property line joins a row of parking that belongs to JC Penny's so their buffer would be set in a little.

Mr. Fowler asked if the Plan Commission was ok with all of the plantings.

Ms. Moody stated that the staff had reviewed the plans and feel that Panera had done a good job of meeting the ordinance with the exception of the requested variance.

Mr. Fowler asked if the other Panera location would close once the new restaurant opened.

Ms. Wilson stated yes.

Ms. Carey asked if the new location would have a drive thru.

Ms. Wilson stated yes.

Mr. Watson stated it would be an improvement for the whole corner and that Panera would be more visible.

Ms. Carey stated that Panera had outgrown the current location and agreed this would be much better.

Mr. Bishop asked for more explanation of why they could not move closer to McGalliard road.

Ms. Wilson stated that the prototype for Panera was to have as much parking around the building as much as possible for closer access to the front doors. She stated that if they met the required setbacks they would not be able to have a drive thru or as much parking.

Mr. Bishop stated that it would be an improvement in terms of meeting the intentions of the ordinance, and asked if the primary purpose of the variance request was for drive thru and parking.

Ms. Wilson stated yes, to maintain the parking around the building for close access.

Mr. Bishop asked if there would be bike parking.

Ms. Wilson stated yes, and that there would also be a patio.

Ryan Van Debusch, with Muncie Mall, LLC 111 Monument Circle, Indianapolis, Indiana, appeared. He stated that they fully support the variance requests and look forward to having a quality national tenant invest in this site.

Linda Hanson, with the League of Women Voters, 1400 W. North St., Muncie, Indiana, appeared. She stated that in 2014 they complimented the Board for a new ordinance that would move toward the standards of excellent urban planning. She stated that they had spoken many times in support of the ordinance that governs the McGalliard corridor, and that progress had been made as new and remodeled business began to meet the standards. She stated that monument style ground signs, parking behind buildings, reduced curb cuts and the addition of plantings and pedestrian accessibility were some of the improvements. She stated that she wanted to applaud Panera for their thoughtful planning and noted that the placement of the building would allow for the drive thru and safe pedestrian passage, while recognizing that parking lot that plantings were necessary.

No one appeared in opposition.

Mr. Watson made a motion to approve BZA 06-19 the appeal of Muncie Mall, LLC and Panera LLC, with the hardship as stated in the application. Ms. Zimmerman seconded the motion. Voting in favor: Ms. Carey, Mr. Fowler, Ms. Mathewson, Mr. Watson, and Ms. Zimmerman. Voting against: None. Motion carried, BZA 06-19 approved.

ADJOURNMENT:

James Fowler, Chairman

Marta Moody, Secretary