

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

**DATE:** October 31, 2019

**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 September, 2019 regular monthly meeting minutes.

**NEW BUSINESS**

**BZA 28-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Paul Voyles and Sheila Voyles**, 5620 East County Road 500 South, Muncie, Indiana, requesting a variance 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 for a new accessory structure on 3.9 acres on premises located at 5620 East County Road 500 South, Perry Township, Delaware County, Indiana, as more accurately described in the application.

**BZA 29-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Randall and Heidi Huxhold**, 12751 South County Road 50 West, Muncie, Indiana, requesting a variance 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 for a new accessory structure on 1.808 acres on premises located at 12751 South County Road 50 West, Monroe Township, Delaware County, Indiana, as more accurately described in the application.

**BZA 30-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Stephen and Cheryl Schlenker**, 10111 West County Road 700 North, Gaston, Indiana, requesting variances from the terms of the Delaware County Subdivision Control Ordinance and the Delaware County Comprehensive Zoning Ordinance to allow a property split resulting in a 1.5 acre parcel on a major road and for the accessory buildings to exceed that of the dwelling on premises located at 10111 West County Road 700 North, Harrison Township, Delaware County, Indiana, as more accurately described in the application.

**BZA 31-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Jessica Edwards and Rebecca Cartwright**, 10905 East County Road 50 South, Selma, Indiana, requesting a variance from the terms of the Delaware County Comprehensive Zoning Ordinance to allow the temporary placement of a mobile home for the duration of need of Rebecca Cartwright on premises located at 10905 East County Road 50 South, Liberty Township, Delaware County, Indiana, as more accurately described in the application.

**BZA 32-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Tracie Lynn Lambright-Disher**, 4801 West Robinwood Drive, Muncie, Indiana, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow the floor area of the accessory buildings to exceed that of the dwelling for a new accessory structure in a residence zone on premises located at 4510 West Garver Drive, Muncie, Indiana, as more accurately described in the application.

**BZA 33-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Decade, LLC, the Base Group, LLC and the Phi Epsilon Chapter of Chi Omega Fraternity**, 9200 West Smith Street, Yorktown, Indiana, requesting a variance of use and variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a sorority meeting/gathering space use in an existing building located in a residence zone and for a wall sig and reduced parking on premises located at 2101 West Jackson Street, Muncie, Indiana, as more accurately described in the application.

**BZA 34-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **PV 3 Holding Company – Roberto Escamilla**, 697 Hill Road, Bowling Green, Kentucky, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased build-to line, decreased buffering and no sidewalks on Broadway and Yale for a new restaurant on premises located at 3901 North Broadway Avenue, Muncie, Indiana, as more accurately described in the application.

**BZA 35-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Muncie Sanitary District**, 300 North High Street, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased build-to line, non natural building façade materials with no architectural features for 2 new buildings, decreased buffering, increased fence height, three additional access drives and service bay doors facing the road along Doctor Martin Luther King Junior Boulevard, and no sidewalk along unimproved Market Street on premises located at 2121 North Doctor Martin Luther King Junior Boulevard, Muncie, Indiana, as more accurately described in the application.

**REPORT FROM DIRECTOR:**

**ADJOURNMENT:**

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

The Delaware-Muncie Metropolitan Board of Zoning Appeals (BZA) held its regular monthly meeting on Thursday, October 31, 2019 at 6:30 P.M., in the Commissioner's Court Room of the Delaware County Building, Muncie, Indiana. Chairman James Fowler called the meeting to order.

**ROLL CALL:**

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

**MINUTES:**

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

**NEW BUSINESS**

**BZA 28-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Paul Voyles and Sheila Voyles**, 5620 East County Road 500 South, Muncie, Indiana, requesting a variance 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 for a new accessory structure on 3.9 acres on premises located at 5620 East County Road 500 South, Perry Township, Delaware County, Indiana, as more accurately described in the application.

Paul Voyles, 5620 E. CR 500S, Muncie, Indiana, appeared. He stated that he wanted the new building for storage of his antique cars and that his insurance requires they be stored indoors.

Mr. Fowler asked if there would be anything outside.

Mr. Voyles stated no.

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

Mr. Voyles yes and they were supportive.

No one appeared in opposition.

Mr. Watson made a motion to approve BZA 28-19 the appeal of Paul and Sheila Voyles 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, and Mr. Watson. Voting against: none. Motion carried, BZA 28-19 approved.

**BZA 29-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Randall and Heidi Huxhold**, 12751 South County Road 50 West, Muncie, Indiana, requesting a variance 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 for a new accessory structure on 1.808 acres on premises located at 12751 South County Road 50 West, Monroe Township, Delaware County, Indiana, as more accurately described in the application.

Randall Huxhold, 12751 S. CR 50W, Muncie, Indiana, appeared. He stated that he would be taking down one of the smaller garages that was in poor condition to build a new one for his cars and pontoon.

Mr. Fowler asked if there would be any type of business.

Mr. Huxhold stated no.

Mr. Bishop asked about the condition of the old garage and if it could be fixed.

Mr. Huxhold stated that with the age and condition of the building, it would not be worth fixing.

Mr. Watson asked if it was for his personal storage only.

Mr. Huxhold stated yes.

No one appeared in opposition.

Mr. Watson made a motion to approve BZA 29-19 the appeal of Randall and Heidi Huxhold with the hardship as stated in the application. Ms. Carey seconded the motion. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, Ms. Kennison, Ms. Mathewson, and Mr. Watson. Voting against: none. Motion carried, BZA 29-19 approved.

**BZA 30-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Stephen and Cheryl Schlenker**, 10111 West County Road 700 North, Gaston, Indiana, requesting variances from the terms of the Delaware County Subdivision Control Ordinance and the Delaware County Comprehensive Zoning Ordinance to allow a property split resulting in a 1.5 acre parcel on a major road and for the accessory buildings to exceed that of the dwelling on premises located at 10111 West County Road 700 North, Harrison Township, Delaware County, Indiana, as more accurately described in the application.

Cheryl Schlenker, 10111 W. CR 700N, Gaston, Indiana, appeared. She stated that they wanted to split the property to preserve the farm ground.

Mr. Fowler stated that there were several structures on the property and that this would be reducing the property size quite a bit. He asked if this had a septic system or on sanitary sewer.

Ms. Schlenker stated that it had a septic system.

Mr. Fowler stated that if that system were to fail, there would not be much room for a replacement.

Ms. Schlenker stated that they would be tearing down the old house and barn in the next 2 years and that her parents would be buying the property to live in the newer house.

Mr. Fowler stated that he was not aware of the requirements for a septic system in soil that had been compacted by having a building on it. He stated that the proposed rear property line seemed a little too close to meet the setback requirements.

Ms. Moody stated that the rear setback would be 50' from the rear wall of the southernmost barn.

Ms. Schlenker stated that her husband does installations of septic systems and he feels there would be enough room for a replacement system.

Mr. Fowler stated that he did not know what the Health Department requirements would be for soil that had been compacted by buildings.

Ms. Moody stated that she did not know the specifics, but that it could be problematic.

Steve Schlenker, 10111 W. CR 700N, Gaston, Indiana appeared. He stated that he looked at the property and there would be enough room to install a modern septic system on the east end of the property according to what the Health Department requires.

Mr. Fowler asked where the current system was located.

Mr. Schlenker stated that it was on the south side of the newer dwelling and a new system could be placed to the northeast.

Mr. Fowler asked if they could meet the 50' rear setback.

Mr. Schlenker stated that could adjust the split to accommodate that setback and that would also leave room for two septic systems in the future.

Mr. Bishop asked about the structure to be removed.

Mr. Schlenker stated it was the original farm house and old barn which would both be torn down in the next 1-2 years.

Mr. Bishop asked about the condition and if any consideration had been given to saving the structure.

Mr. Schlenker stated that the metal roof was fairly new but all the work inside it was not worth fixing and they could not have two dwellings on the property anyway.

Mr. Watson stated that in 1997 the second structure had been built and asked if the other house had been vacant since then.

Mr. Schlenker stated yes.

Ms. Moody stated that a normal condition for a property split that was surrounded by farm fields was to attach the Right to Farm Covenant to the deed. She stated that the agreement states to future buyers that they are in a farm zone surrounded by farm use and that they would be waiving their rights to complain about that farm use.

Mr. Schlenker stated that was fine.

No one appeared in opposition.

Mr. Watson made a motion to approve BZA 30-19 the appeal of Stephen and Sheryl Schlenker with the hardship as stated in the application with the following conditions: 1) That the final platted lot meets the 50' rear setback requirements; and 2) That the plat includes the Right to Farm Covenant. Ms. Carey seconded the motion. Voting in favor: Ms. Carey, Mr. Fowler, Ms. Kennison, Ms. Mathewson, and Mr. Watson. Voting against: Mr. Bishop. Motion carried, BZA 30-19 approved.

**BZA 31-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Jessica Edwards and Rebecca Cartwright**, 10905 East County Road 50 South, Selma, Indiana, requesting a variance from the terms of the Delaware County Comprehensive Zoning Ordinance to allow the temporary placement of a mobile home for the duration of need of Rebecca Cartwright on premises located at 10905 East County Road 50 South, Liberty Township, Delaware County, Indiana, as more accurately described in the application.

Jessica Edwards, 10905 E. CR 50S, Selma, Indiana, appeared. She stated that the temporary mobile home would be for her aunt Rebecca Cartwright, who is legally blind. She stated that it would be easier to help take care of her and be there in case of an emergency if she lived on the same property.

Mr. Fowler stated that it looked like they had a temporary mobile home on the same site in 2015.

Ms. Edwards stated that had been for her father and that this mobile home would set back a little farther.

Mr. Fowler asked if they would be using the same utility hook-ups as before.

Ms. Edwards stated yes.

Ms. Moody stated that if granted this would be for the duration of need for the aunt only, and that they would receive an annual letter checking to see if they were meeting the conditions of the variance.

Ms. Edwards stated that she was familiar from her father's variance.

Mr. Fowler asked if there were any concerns from any of the neighbors last time.

Ms. Edwards stated that she had talked to the closest neighbor and they had no issues with the request.

Mr. Bishop asked who would maintain the mobile home.

Ms. Edwards stated that she and her fiancé would take care of it.

No one appeared in opposition.

Ms. Kennison made a motion to approve BZA 31-19 the appeal of Jessica Edwards and Rebecca Cartwright with the hardship as stated in the application. Mr. Bishop seconded the motion. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, Ms. Kennison, Ms. Mathewson, and Mr. Watson. Voting against: none. Motion carried, BZA 31-19 approved.

**BZA 32-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Tracie Lynn Lambright-Disher**, 4801 West Robinwood Drive, Muncie, Indiana, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow the floor area of the accessory buildings to exceed that of the dwelling for a new accessory structure in a residence zone on premises located at 4510 West Garver Drive, Muncie, Indiana, as more accurately described in the application.

John Disher, 4801 W. Robinwood Dr., Muncie, Indiana, appeared. He stated that that this was a rental property he and his wife owned and that they would like to put a garage on the north end of the property to store their summer vehicles and extra storage for personal items.

Mr. Fowler asked how far away from this property they lived.

Mr. Disher stated they lived approximately 1.2 miles from the property.

Mr. Fowler asked if the existing house and garage were rented.

Mr. Disher stated yes.

Mr. Fowler asked if the proposed garage would be for personal use only.

Mr. Disher stated yes, it would be for Christmas decorations and extra vehicles.

Mr. Fowler asked if any of the trees on the property would be taken down.

Mr. Disher stated that the fence line on the north end has some overgrowth that would be cleared out and that it would improve the look of the property once complete.

Mr. Fowler stated that approval of this request would be subject to all permits including a driveway permit.

Mr. Watson asked what kind of driveway they planned to put in.

Mr. Disher stated it would be crushed limestone.

Mr. Fowler stated he had a concern that a crushed gravel driveway would not match the rest of the neighborhood which were concrete or paved.

Ms. Moody stated that there may be a few that are not paved.

No one appeared in opposition.

Ms. Mathewson made a motion to approve BZA 32-19 the appeal of Tracie Lambright-Disher with the hardship as stated in the application with the following condition; That the garage be for personal use only. Voting in favor: Ms. Bishop, Ms. Carey, Mr. Fowler, Ms. Kennison, Ms. Mathewson, and Mr. Watson. Voting against: none. Motion carried, BZA 32-19 approved.

**BZA 33-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Decade, LLC, the Base Group, LLC and the Phi Epsilon Chapter of Chi Omega Fraternity**, 9200 West Smith Street, Yorktown, Indiana, requesting a variance of use and variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a sorority meeting/gathering space use in an existing building located in a residence zone and for a wall sign and reduced parking on premises located at 2101 West Jackson Street, Muncie, Indiana, as more accurately described in the application.

Jo Boyce, 4221 W. Warren Way, Muncie, Indiana, appeared. She stated that she was speaking on behalf of The Base Group LLC, and as the President of the Housing Corporation of the Phi Epsilon Chapter of Chi Omega, which had been an active chapter at Ball State since 1952. She stated that she was the Chapter advisor of the Sorority and had been in that position for the past 10 years. She stated that 8-10 years ago Ball State started a development to go with sorority housing and over the years they purchased properties along Riverside Avenue. She stated that the 10 sororities stepped away from the projects because it was just not feasible to obligate themselves to Ball State for a time of 25 years. She stated that they had been renting a suite at Woodworth Hall and last year their floor had been turned into a male dorm and in February this year they received notice that they would no longer have those suites. She stated that they had placed their things into a storage unit and they have had to arrange meetings at the library or apply to Ball State for a space to meet, and this was taking away from the unity of being together, so they had been looking for a place. She stated that she and her husband had found this property and if approved they would renovate the inside and outside of the building and that there would be no sleeping rooms it would only be used for meetings. She stated that it was on the opposite end of campus from the fraternities and that the members would not have to walk any farther to this building than they did to other meetings. She stated that a kitchen would be renovated, the four bathrooms would remain and that the existing rooms would be turned into meeting rooms with the addition of one laundry room. She stated that parking was an issue but most of the members would be walking or taking the bus and that they would have parking and that it can be changed. She stated that the Chi Omega Chapter has had the highest grade point average for the past 29 semesters and that they contribute many hours to the community, ARF, the Make a Wish Foundation, and Little Red Door.

Ms. Moody stated that the staff had received a letter from Heather Williams, President of the Riverside-Normal City Neighborhood Association. She stated that the letter stated that they appreciated Chi Omega's plans to renovate this property but they do have a few concerns. She

stated that they would like to request Chi Omega work with the City of Muncie's Urban Forester and that after a consultation if trees need to be removed, they be replaced 1:1.

Ms. Boyce stated that there was a large tree in the back that was very old and had many loose branches and if it was removed they would have no problem replacing it.

Ms. Moody stated that the letter also asked that the size of the letters be reduced from the proposed 4' x2' letter to possibly be 2' x 1' to not draw undue attention to the property.

Ms. Boyce stated that the letters could be smaller and hung over the doorway enough for the members to see them but not as an advertisement. She also stated that there would be no alcohol served at any of the activities at the house.

Mr. Fowler asked if they were concerned with people having enough room to park with some of the members walking and taking the bus.

Ms. Boyce stated that right now they were meeting at the library many of the girls carpool so the parking is not an issue.

Ms. Carey asked if all of the other sororities had moved out of the suites or if it was just this one.

Ms. Boyce stated that all of them had been removed.

Ms. Carey asked if this property would be used for any other sororities.

Ms. Boyce stated that other sororities had asked about the possibility of using this house, but she would need to check from the national sorority on the rules.

Ms. Mathewson asked how many members would be there and what types of activities would be taking place.

Ms. Boyce stated that they rent a venue for their annual alumni convention so this house would be for new members, executive board meetings, and limited chapter meetings and that it would be rare to have a large group.

Mr. Fowler asked if she anticipated this being used daily.

Ms. Boyce stated that this was new to them but in the summer she would most likely be checking on the house.

Ms. Carey stated that this was a social club and that she hoped it was used daily.

Ms. Boyce stated that it would be a huge improvement to the area and that they do not want to be a disruption to the community.

Mr. Bishop asked if the building was wheelchair accessible.

Ms. Boyce stated that it was not at this point but that it was in the plans to redo the hallways and doors. She stated that there would be security lights as well to help with the safety of the girls.

Mr. Bishop asked if the access to the parking would be from the alley.

Ms. Boyce stated yes and that there was street parking also available.

Mr. Bishop asked if there were restrictions on the street parking.

Ms. Boyce stated that there were certain hours but it was nothing that would affect them.

Mr. Bishop asked if the 4 parking spaces asked for was being amended since they had talked about angled parking.

Ms. Moody stated that if they can provide more that would be fine.

Ms. Boyce stated that they would like to take the parking off the street by having the angled parking.

Mr. Bishop asked if they would need more parking since she anticipated the members walking or carpooling.

Ms. Boyce stated that she would need a parking space because she would be there a lot.

Mr. Bishop asked if the grassy area was going to be used for any activities.

Ms. Boyce stated that they planned to asphalt some of that space so that they could be outside for some activities.

Mr. Bishop asked if they were expanding the parking area would they need any permits.

Ms. Moody stated no.

Mr. Bishop asked if the 80 person membership required any bike racks.

Ms. Moody stated that with the non-conforming situation 1 would be the requirement and that could easily be added.

Mr. Bishop asked how many accessible parking spaces would be required for the 4 spaces and if that would change if they increased to 8 spaces.

Ms. Moody stated that more than 1 space would not be required but it could be done.

Ryan Kramer, 2200 W. McGalliard Rd., Muncie, Indiana, appeared. He stated he was the real estate broker with ReMax representing both parties of this transaction. He stated that this was a good location and that the renovations would be an improvement to the area. He stated that the property was in need of many repairs and that Scot Boyce does great work and would improve this site.

Janet Burkhart, 2119 W. Main St., Muncie, Indiana appeared in opposition. She stated that she sympathizes with the applicant but does not understand why the neighborhood needs to take on the problem that has occurred. She stated that West Jackson Street is highly traveled and that the property had been rented to students in the past and was glad that was gone. She asked if this variance would only be for this house or if it would extend along the block.

Mr. Fowler stated that the variance was for them only.

Ms. Burkhart stated that she was concerned about spots that are granted these types of variances in the neighborhood and changing the area for the current homeowners. She stated that she had concerns about the parking and that there were times when Talley Avenue had cars parked on both sides of the street making it one lane. She stated that she also had concerns about the girls walking to campus or the buses over 5 blocks away if there were going to be meetings at night. She asked who would be maintaining the property and watching over it when it was not in use since unattended properties can invite problems. She stated that many of her questions had been answered but she still had concerns.

Don Ludwick 4704 W. Cardinal Dr., Muncie, Indiana, appeared. He stated that he was actually in support of this request and that he had 4 properties within the same block of this property. He stated that this was well worth voting in favor of the request.

Ms. Boyce stated that she understands the concerns and that they would have the security systems and the property would be well lit. She stated that she lives local and would be able to check on the properties as well as some of the members who would check on the property.

Mr. Fowler asked about the concerns about the distance from the bus stop.

Ms. Boyce stated that it would not be much farther than what they were already walking on campus.

Mr. Watson made a motion to approve BZA 33-19 the appeal of Decade, LLC the Base Group, LLC and the Phi Epsilon Chapter of Chi Omega of Chi Omega Fraternity with the hardship as stated in the application with the following conditions; 1) That any tree that needs to be removed, per the concerns laid out in the letter from the Riverside-Normal City Neighborhood Association, be replaced at a 1:1 ratio; 2) That the Chi Omega sign be reduced to 1' x2'; and 3) That the variance be for Chi Omega only. Ms. Carey seconded the motion. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, Ms. Kennison, Ms. Mathewson, and Mr. Watson. Voting against: none. Motion carried, BZA 33-19 approved.

**BZA 34-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **PV 3 Holding Company – Roberto Escamilla**, 697 Hill Road, Bowling Green, Kentucky, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased build-to line, decreased buffering and no sidewalks on Broadway and Yale for a new restaurant on premises located at 3901 North Broadway Avenue, Muncie, Indiana, as more accurately described in the application.

Ms. Moody stated that a letter was received from Kathy Vannice from Ashton Land Surveyor, requesting a continuance to the November meeting, to allow time to make some changes to the site plan and the possible addition of variance requests. She stated that the request was not received in time to send notice and be an automatic so the Board would need to vote.

Mr. Watson made a motion to continue BZA 34-19 the appeal of PV 3 Holding Company – Roberto Escamilla with the hardship as stated in the application. Ms. Mathewson seconded the motion. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, Ms. Kennison, Ms. Mathewson, and Mr. Watson. Voting against: none. Motion carried, BZA 34-19 continued to the November 21, 2019 regular monthly meeting.

**BZA 35-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Muncie Sanitary District**, 300 North High Street, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased build-to line, non natural building façade materials with no architectural features for 2 new buildings, decreased buffering, increased fence height, three additional access drives and service bay doors facing the road along Doctor Martin Luther King Junior Boulevard, and no sidewalk along unimproved Market Street on premises located at 2121 North Doctor Martin Luther King Junior Boulevard, Muncie, Indiana, as more accurately described in the application.

Phil Tevis, with Flatland Resources, 100 E. McCullough Blvd., Muncie, Indiana, appeared. He stated that he was representing the Muncie Sanitary District and that he was joined by the architect Keith Gary, the engineer, Lauren McCleery from BLN, and the superintendant of the sanitation department, Phil Reagon. He stated that the sanitation department which handles the trash collection had recently upgraded to newer diesel trucks and that they have additional energy efficiency requirements which created challenges. He stated that they have slowly converted to compressed natural gas which leads to energy savings for the sanitary district and has challenges surrounding the maintenance of the vehicles and the need for an improved maintenance facility. He stated that the intent was to consolidate the maintenance facilities to one location and to keep the trash receptacle trucks close to the transfer station and that they looked at other possible locations before choosing the property on Martin Luther King Junior Boulevard. He stated that the district had worked very hard to bring the site into compliance and they were focused on improving the property and being a good neighbor and to enhance the Whitley neighborhood. He stated that the sanitary district was going beyond ordinance standards to provide improved lighting, architectural fencing, bike racks, and a sustainability feature but some variances were needed. He stated that he had updated maps and pictures to show the improvement to the fencing, the lighting, and access drives. He stated that there would be no need for sidewalks along Market Street since the sanitary district owns both sides of Market Street which was an unimproved street. He stated that the setback requests were a safety function for the trucks to have the room needed to maneuver around the buildings. He stated that 50% of the proposed new building would be a brick façade except for the truck portion of the building and that extra landscape would be provided in those areas to help soften the look of the metal building. He stated that the city does not maintain Market Street and that Muncie Sanitary District owns both sides of the street and that the intent would be to reduce the buffering on this area. He stated that a question of Right of Way had been brought up and the vacation of a portion of Martin Luther King Junior Boulevard and Wade Avenue had not been recorded yet and that action had also been taken to vacate Market Street in 1974 that was never recorded so those items were being taken care of.

Mr. Fowler asked about a retention pond based on the amount of hard surface that was being proposed.

Lauren McCleery, BLN 8320 Craig St., Indianapolis, Indiana, appeared. She stated that it was in the requirements that if you were a certain distance to a creek you would not be allowed to install a retention pond because it would do more harm. She stated that they were following the regulations to make sure they were in compliance to obtain the storm water permits.

Mr. Fowler stated that he had concerns since this was in a flood zone and did not want to see more flooding occur. He asked why the buffer in the back was something they felt they did not need to do.

Mr. Tevis stated that was only on the western side and the main reason was that Muncie Sanitary owns the other side of the street and it was already naturalized but they could add more if needed.

Mr. Watson asked if the natural buffer would filter any of the water headed to the creek.

Mr. Tevis stated that sheet flow from the pavement to the natural area was a greater benefit because it would filter out the nutrients on its way to the creek.

Ms. Carey asked if all the offices would be in the new building.

Mr. Tevis stated that only the sanitation department and relocation of the truck repairs would be here.

Mr. Bishop asked whether the southern building would be both an entrance and an exit.

Phil Reagon, Superintendant of Muncie Sanitary District, appeared. He stated that the trucks would enter that building from the back and exit onto Martin Luther King Junior Boulevard.

Mr. Bishop asked why there were 2 separate parking lots instead of one combined lot.

Mr. Tevis stated that one was for employees and the other lot was for guests.

Steve Murphy, 400 S. Walnut St., Muncie, Indiana, appeared in opposition. He stated that he was there on behalf of the Harvest Christian Church and asked everyone there from the church to raise their hands (full courtroom). He stated that they were not opposed to the sanitary district they were feeling surrounding by the sanitary district and without warning. He stated that they were not asking the Board to deny the variances but they had a list of over 20 concerns that could have adverse effects on the neighborhood and they would have liked to have the sanitary district talk to them. He stated that the church's pastor met with the sanitary district and made an agreement with Bill Smith to have a meeting to try and discuss some of the issues, but that meeting was cancelled. He stated that they were not a Sunday only church and that their everyday activities that serve the neighborhood would be affected by some of the requests. He stated that they feel the meeting would be useful and asked that the request be continued to the November meeting to allow them to talk to each other to try and work together.

Tom Hahn, 4201 E. Bluegrass Dr., Muncie, Indiana, appeared in opposition. He stated that he was an employee of the church and that he drives on Market Street every day. He stated that the church exists as an organization to uplift the entire community and they had put millions of dollars into their property over last past 15-16 years. He stated that the information they received 5 years ago did not indicate the much larger project planned. He stated that they were asking for time to have conversations to determine the best way to move forward and asks the Board to suspend approval until those talks can happen to find a solution that works for everyone.

Frank Scott, 1005 N. Gavin St., Muncie, Indiana, appeared in opposition. He stated that he was the President of the Whitely Neighborhood Association and that he was not for or against the request but this was the first he had heard of something that would affect the neighborhood. He stated that the development all sounded wonderful but it would have been nice if the neighborhood had prior knowledge of the project to look at plans and to ask how it would affect them.

Mr. Fowler asked if setting up a meeting was something that could still be done.

Keith Gary US Architects, 9200 W. Smith St., Yorktown, Indiana, appeared. He stated that the only concern would be delaying the construction with winter weather coming. He stated that all of the things being done would be improving the look of the Martin Luther King Junior Boulevard. He stated that he was not sure about all of the meetings that were asked for and then cancelled.

Ms. Carey asked if this plan had been in the works for so long, why had no one reached out to the Whitley community to explain what was happening.

Mr. Watson asked if the notice had been mailed properly for the request.

Mr. Tevis stated yes.

Mr. Fowler asked the time frame for mailing the notices.

Ms. Moody stated that they are mailed so that they receive notice 10 days before the meeting.

Ms. Quirk stated that the plans and the application are also available for review.

Ms. Carey asked if the church and the neighborhood association had received the notices.

Mr. Murphy stated that the pastor at the church did receive notice and he went to the sanitary district meeting the next day and had a meeting with Bill Smith where they agreed to another meeting that was later cancelled.

Mr. Scott stated that he was not close enough to receive the notice but they had a neighborhood meeting every month with 60-70 people in attendance and no one had mentioned receiving anything.

Mr. Tevis stated that they followed the procedure for filing a variance.

Mr. Fowler stated that it was only 10 days notice for something they had been working on for many months.

Ms. Kennison asked if the request was continued to next month, how much would that impact the plans for construction.

Mr. Tevis stated that if the footers were not in place before the ground freezes it could delay construction for 5 months which also increases the construction costs.

Ms. Moody asked if they had the full building release from the state or just the foundation release.

Mr. Gary stated that they do have the full release.

Mr. Bishop asked if any portion of Market Street would be vacated.

Mr. Tevis stated that the sanitary district had not considered it but they might in the future since they own property on both sides of the street.

Mr. Bishop asked if just a small portion of MLK had been vacated and not in the roadway.

Mr. Tevis stated yes.

Mr. Fowler asked if there was a reason that no meetings with the neighborhood ever took place.

Ms. McCleery stated that the oversight may be since the existing building was so close to the proposed site, the thought was the situation would be improved and it was not intentional to not communicate.

Mr. Fowler asked if they could still talk with Mr. Murphy and Mr. Hahn and talk about the concerns they had.

Mr. Tevis stated that they would be happy to meet with anyone that wants talk about the project and hear what the concerns were.

Mr. Hahn stated that they had a list of approximately 20 concerns they would like to discuss. He stated that across the river he can see all of the activity at ECI and now it would be on the church's side of the river and they would be impacted by everything. He stated that standing at the front of the church it was the lowest point in the area and all of the run off would have an effect on the community.

Mr. Fowler stated that they would have to follow all of the requirements for obtaining their drainage permits and that they can't adversely affect any of the properties.

Mr. Tevis stated that the relocation of the facility to the 100 year elevation moves the current building above the 100 year elevation which was better for the environment. He stated that they did look forward to meeting with the neighborhood and discussing the concerns.

Ms. Carey stated that she was not against the request, she just would like to see them get together to discuss everything.

Mr. Fowler asked if a condition could be that they have a meeting.

Ms. Quirk stated that part of the approval could be contingent upon them meeting the legal requirements for the flood zone along with communicating with the surrounding property owners.

Ms. Moody stated that the Board could make a motion to approve and that it would not be effective until meetings have taken place.

Ms. Mathewson stated that her concern would be after the meeting if these issues were not resolved they could not come back with those concerns.

Mr. Watson stated that it would have been better if they had talked to both parties but that they did follow the rules and send proper notices.

Ms. Moody stated that one of the variances deals with the build to line, and that if they had obtained all of the building, drainage, and foundation permits and releases, the Board could grant that variance and everything else could be pending.

Mr. Gary stated that they could continue because they do have a lot of work to complete before they begin the new construction.

Mr. Fowler stated that if the variance for the build to line was granted they could begin some of that work if the weather allowed and continue the other request to the next meeting.

Mr. Gary stated that was reasonable.

Mr. Bishop asked if the setback request was a concern of the neighbors.

Mr. Murphy stated that they may not be opposed to everything they would just like to have a meeting to get more information and come back in November.

Mr. Watson made a motion to approve BZA 35-19 the appeal of Muncie Sanitary District with the hardship as stated in the application with the following conditions: 1) That the approval is for the increased front build to line only; and 2) That the remainder of the variance request be continued to the November 21, 2019 regular monthly meeting to allow a meeting with the Muncie Sanitary District, the Whitely Neighborhood Association and the Harvest Christian Church. Ms. Kennison seconded the motion. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, Ms. Kennison, Ms. Mathewson, and Mr. Watson. Voting against: none. Motion carried, BZA 35-19 approved.

**ADJOURNMENT:**

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James Fowler, Chairman

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Marta Moody, Secretary