

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

**DATE:** November 21, 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 October, 2019 regular monthly meeting minutes.

**OLD BUSINESS**

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

Being a continuation of 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, decreased greenbelts 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 continuation of 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 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.

**NEW BUSINESS**

**BZA 36-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Larry and Donna Fouch**, 300 West Berkley Avenue, Muncie, Indiana, requesting variances 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 garage in a residence zone on premises located at 300 West Berkley Avenue, Muncie, Indiana, as more accurately described in the application.

**BZA 37-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Ryan and Samantha Humbert**, 9231 North County Road 675 West, Gaston, 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 garage on 1.56 acres on premises located at 9231 North County Road 675 West, Harrison Township, Delaware County, Indiana, as more accurately described in the application.

**REPORT FROM DIRECTOR:**

**ADJOURNMENT:**

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

The Delaware-Muncie Metropolitan Board of Zoning Appeals (BZA) held its regular monthly meeting on Thursday, November 21, 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. Mathewson, and Mr. Watson. Absent: Ms. Kennison and Ms. Zimmerman. Also present: Ms. Quirk, attorney for the Board.

**MINUTES:**

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

**OLD BUSINESS**

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

Being a continuation of 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, decreased greenbelts 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.

Kathy Vannice, Ashton Land Surveyor, 325 W. Washington St., Muncie, Indiana, appeared. She stated that this was a unique site and that before construction began there was sheet draining and that they were asking for several variances. She stated that this was an existing building, so they were unable to meet the current build to line. She stated that they were requesting no sidewalk along Yale because of the height disparity it would be unusable, and no sidewalk along Broadway since it would have no connections to anything. She stated that they had a letter from the City of Muncie with concerns about the line of sight, so they were asking for reduced greenbelt along Broadway and Yale. She stated that they were trying to utilize as much space for parking and that was the reason for the reduced rear bufferyard. She stated that there was a retaining wall to help hold the water from flooding the surrounding neighbors and to direct flow to the drain across the street.

Mr. Fowler stated that this development could solve some of the drainage issues in the area.

Ms. Vannice stated that the storm drain was 1' below the building and that they would need to do some underground retention.

Mr. Fowler stated that they were requesting a lot of reductions in buffering and asked how they would handle meeting the planting requirements.

Ms. Moody stated that they had not asked for any variances for plantings, so those would all be met.

Mr. Fowler stated that he understood the sidewalks did not lead to anything right now, but there may be development in the future and asked if the applicants would be ok with putting in the sidewalk.

Ms. Vannice stated that the applicant was very adamant about not having the sidewalk since it would have no connections and that there was a lack of pedestrian traffic.

Mr. Fowler stated that there seemed to be a lot of pedestrians.

Ms. Carey stated that she had seen many bikes in that area.

Mr. Bishop asked about the 2-way angled parking.

Ms. Vannice stated that they could do a one-way in that area.

Mr. Fowler stated that the traffic flow was a little confusing but maybe they could keep it moving counterclockwise.

Ms. Moody stated that the north entry needs to remain since there was not enough room to meet the isle width requirement, but the 24' width could be met further back.

Mr. Watson stated that the entry and exit points could cause trouble.

Mr. Fowler asked if they could remove the request for no sidewalk along Broadway.

Ms. Moody stated that a motion to deny that request could be made and deal with the remainder of the request separately.

No one appeared in opposition.

Mr. Watson made a motion to remove the request for no sidewalk along Broadway and to approve the remainder of the request for BZA 34-19 the appeal of PV 3 Holding Company – Roberto Escamilla with the hardship as stated in the application. Ms. Carey seconded the motion. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, Ms. Mathewson and Mr. Watson. Voting against: none. Motion carried, BZA 34-19 approved.

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

Being a continuation of 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 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 they had meetings with some residents of Whitely Neighborhood and members of the church regarding some of their concerns with the fence and sidewalks. He stated that they would like to have the curb cuts request approved, and continue the remainder to December so that they can have more talks with the neighbors.

Steve Murphy, 400 S. High St., Muncie, Indiana, appeared in opposition. He stated that he was a member of the church and that there were 2 people here to speak tonight about their concerns.

Sam Wrisley, 1010 E. Centennial Ave., Muncie, Indiana, appeared in opposition. He stated that Harvest Church had the least amount of time to review this development, and were the ones who would be making the most sacrifices. He stated that Muncie Sanitary District was asking the neighbors to trust that this would be a good thing for the area, but that there had been no communication about the project. He stated that they would like more time to review the plans and to do their own research and to have more meetings with everyone. He stated that if they had been informed about everything in the beginning, they would have had more time to address any concerns or fears about the development. He stated that they were not wanting to stand in the way of progress, but that 1 month was still not enough time to consider how the church and other neighbors would be impacted. He stated that they would like to see the request continued until after the new year, to give everyone time to research and have questions answered.

Tom Hahn, 1010 E. Centennial Ave., Muncie, Indiana, appeared in opposition. He stated that based on the amount of confusion and lack of communication about the project, he thought requesting more time was reasonable. He stated that in the 2 meetings they had with Muncie Sanitary District, they had talked about the possibility of donating the house that sits next to the church to them, but found out they can't. He stated that now they are starting over in a way because the person who lived there looked after the church and was a good neighbor and that might change now. He stated that not much progress had been made in the meetings, and that they really needed more time to understand the project and the requests. He stated that Muncie Sanitary has had to bear none of the burden and that the project would continue to move forward unless it was tabled for more discussion.

Ms. Mathewson stated that even if the variances were not granted they could still build.

Mr. Fowler stated that the buildings could still be built; it would be items like the fence and the buffers.

Ms. Mathewson stated that the focus of the meetings seems to be the variances and not the project as a whole.

Mr. Wrisley, stated that the neighbors just don't understand enough about the variances and that was why they asked for more time. He stated that they understood that putting the project on hold would cost money but that they could still build the structures.

Mr. Fowler asked what variances they have issues with.

Mr. Wrisley stated that the traffic flow would have an impact on the area, but the entire project would change the area.

Mr. Fowler stated that it was zoned Variety Business.

Mr. Watson stated that they had been given an extra 30 days and asked how another 30 days would change things.

Mr. Wrisley stated that it would give them time to research and understand the requests.

Mr. Fowler stated that they had tabled a decision for 3 weeks and asked what specific variances the neighbors had concerns with.

Mr. Wrisley stated that the neighbors do not feel they have had enough time for a true understanding of the variances and the impact they may have on the area. He stated that the Whitley Neighborhood had concerns about the fence and questions about the curb cuts.

Mr. Fowler stated that they had eliminated one of the curb cuts.

Mr. Wrisley stated that having the requests delayed had helped with communication, but the neighbors still felt they needed a little more time to understand all of the variances.

Mr. Tevis stated they would prefer to have the curbcut request decided on now, and the rest could wait until January to allow everyone time to understand them.

Ms. Moody read a letter from Braedyn Kelley, expressing his strong opposition to allowing non-natural building façade material with no architectural features, decreased buffering, increased fence height, three additional access drives, and to allow service bays to face the road along Dr. Martin Luther King Junior Boulevard. (The complete text can be found in the file Muncie Sanitary District BZA 35-19)

Mr. Watson made a motion to approve 5 access drives along Dr. Martin Luther King Junior Boulevard rather than 2, and for the remainder of the request to be continued to the January 30, 2020 regular monthly meeting for BZA 35-19 the appeal filed by Muncie Sanitary District with the hardship as stated in the application. Ms. Mathewson seconded the motion. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, Ms. Mathewson, and Mr. Watson. Voting against: None Motion carried, BZA 35-19 approved.

## **NEW BUSINESS**

### **BZA 36-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Larry and Donna Fouch**, 300 West Berkley Avenue, Muncie, Indiana, requesting variances 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 garage in a residence zone on premises located at 300 West Berkley Avenue, Muncie, Indiana, as more accurately described in the application.

Roger Wells, 1500 E Robinwood Lane, Muncie, Indiana, appeared. He stated that he would be removing an existing garage and carport and building a new garage for the homeowner, but the square footage would be more than the house.

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

Mr. Wells stated yes.

Mr. Bishop asked how many bays the garage would have and what the material would be.

Mr. Wells stated that originally it was to have 4 bays but they may change that to 3 and that it would be a metal building.

Larry Fouch, 300 W. Berkley Ave., Muncie, Indiana, appeared. He stated that he was the homeowner and would be using the garage for his cars and boat and a personal workshop.

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

Mr. Fouch stated a few, and no one had any objections.

No one appeared in opposition.

Mr. Watson made a motion to approve BZA 36-19 the appeal of Larry and Donna Fouch with the hardship as stated in the application with the following condition: That the detached garage be used for personal use only. Mr. Bishop seconded the motion. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, Ms. Mathewson, and Mr. Watson. Voting against: none. Motion carried, BZA 36-19 approved.

**BZA 37-19 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Ryan and Samantha Humbert**, 9231 North County Road 675 West, Gaston, 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 garage on 1.56 acres on premises located at 9231 North County Road 675 West, Harrison Township, Delaware County, Indiana, as more accurately described in the application.

Ryan Humbert, 9231 N. CR 675W, Gaston, Indiana, appeared. He stated that he would be using the new building to store his vehicles.

Mr. Fowler asked if it was just for personal use.

Mr. Humbert stated yes, that it would be a 3 bay detached garage for personal storage.

Mr. Fowler asked if any trees would need to be removed.

Mr. Humbert stated that one tree needed to be removed due to damage but that was all.

No one appeared in opposition.

Mr. Bishop made a motion to approve BZA 37-19 the appeal of Ryan and Samantha Humbert with the hardship as stated in the application with the following condition: That the garage be for personal use only. Ms. Carey seconded the motion. Voting in favor: Mr. Bishop, Ms. Carey, Mr. Fowler, Ms. Mathewson, and Mr. Watson. Voting against: none. Motion carried, BZA 37-19 approved.

**REPORT FROM DIRECTOR:**

Ms. Moody stated that the BZA meeting schedule for 2020 had been prepared and that adjustments had to be made due to holidays.

**ADJOURNMENT:**

---

James Fowler, Chairman

---

Marta Moody, Secretary