

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS
DECEMBER - 2020 REGULAR MONTHLY MEETING
AGENDA**

DATE: Wednesday, December 17, 2020

PLACE: Commissioners Court Room
3rd Floor, Delaware County
Building

TIME: 6:30 P.M.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Jim Fowler

Zane Bishop

Leslie Mathewson

Mike Jones

Kelly Watson, Jr.

Kathryn Kennison

Allen Wiseley

MINUTES: Consideration of the November, 2020 regular monthly meeting minutes.

NEW BUSINESS

BZA 45-20 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Douglas and Rebecca Slusser**, 6209 West Eaton-Wheeling Pike, Muncie, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a business use of a new 336 sq. ft. building to sell farm products including meat in a farm zone on premises located at 6209 West Eaton-Wheeling Pike, Washington Township, Delaware County, Indiana, as more accurately described in the application.

BZA 46-20 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Amy Renee Pope**, 8414 South Lynn Street, Daleville, Indiana, requesting a variance of use and a variance from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a flower field and event venue business use of an existing barn and a ground sign in a farm zone on premises located at 16099 West County Road 750 South, Salem Township, Delaware County, Indiana, as more accurately described in the application.

BZA 47-20 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Annette Caldwell**, 7110 North Morrison Road, Muncie, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a revised event venue business use of an existing barn in a farm zone on premises located at 6000 West County Road 400 North, Harrison Township, Delaware County, Indiana, as more accurately described in the application.

REPORT FROM DIRECTOR:

ADJOURNMENT:

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS
DECEMBER - 2020 REGULAR MONTHLY MEETING
MINUTES**

The Delaware-Muncie Metropolitan Board of Zoning Appeal (BZA) held its regular monthly meeting on Thursday, December 18, 2020 at 6:30 PM., 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, Mr. Jones, Mr. Fowler, Ms. Mathewson, Mr. Watson, and Mr. Wiseley. Absent: Ms. Kennison. Also Present: Mr. Rhetts, attorney for the Board.

MINUTES:

Mr. Watson made a motion to approve the November, 2020 regular monthly meeting minutes. Mr. Bishop seconded the motion. Voting in favor: Mr. Bishop, Mr. Jones, Mr. Fowler, Ms. Mathewson, Mr. Watson, and Mr. Wiseley. Voting against: None. Motion carried, November 2020 minutes approved.

NEW BUSINESS

BZA 45-20 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Douglas and Rebecca Slusser**, 6209 West Eaton-Wheeling Pike, Muncie, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a business use of a new 336 sq. ft. building to sell farm products including meat in a farm zone on premises located at 6209 West Eaton-Wheeling Pike, Washington Township, Delaware County, Indiana, as more accurately described in the application.

Doug Slusser, 6209 W Eaton-Wheeling Pike, Muncie IN appeared. He stated that they raise and grow meats and produce and wanted a place for people to pick up their orders. He stated that most of the sales were preordered and then picked up, but some people do just come and purchase.

Mr. Fowler asked if any processing was done on site or if this was just to be a sales location.

Mr. Slusser stated that all of the meat processing was done at a dairy processing plant, this would just be for sales.

Mr. Fowler stated that the processing plant needed to be a USDA approved location for the Health Department to allow the sales.

Mr. Slusser stated that was not a problem and that they had been certified for many years.

Mr. Fowler asked how many employees there would be during those peak hours and where would they park.

Mr. Slusser stated that he would have a few part time employees and that his in-laws owned the property across the street where they would be parking.

Mr. Fowler asked if the 3 parking spaces for customers would be adequate.

Ms. Moody stated yes.

Mr. Watson asked how many customers he might have each day.

Mr. Slusser stated that during the winter they were only open on Saturday and they may have 6-12 customers. He stated that during the summer peak hours they may see a maximum of 40 people each day.

Mr. Fowler asked if Mr. Slusser had talked to any of the neighbors and if anyone had expressed any concerns.

Mr. Slusser stated that many of the neighbors are customers and are very supportive and happy to have a nearby location to purchase fresh meats and produce.

Mr. Fowler asked how the products would arrive from the dairy to this location.

Mr. Slusser stated that they had a van that was equipped with coolers to deliver the items.

Mr. Bishop asked if the new building would have refrigeration units.

Mr. Slusser stated that once the building was moved to the location the freezers and refrigerators would be installed.

Mr. Fowler read a letter from a neighbor that had concerns about cars parking on the road and traffic safety along this portion of Eaton-Wheeling Pike.

Mr. Slusser stated he had added parking spaces and the circle drive so that no one parks on the road. He stated that there would be an enter and exit to help traffic not back out on to the road and to help with visibility.

Mr. Watson made a motion to approve BZA 45-20 the appeal of Douglas and Rebecca Slusser with the hardship as stated in the application with the following conditions: 1) That approval of the appeal is subject to the applicant meeting the Board of Health requirements; 2) That there shall be no on-site processing; and 3) That the variance is for the applicants only. Mr. Wiseley seconded the motion. Voting in favor: Mr. Bishop, Mr. Fowler, Mr. Jones, Ms. Mathewson, Mr. Watson, and MR. Wiseley. Voting against: None. Motion carried, BZA 45-20 approved.

BZA 46-20 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Amy Renee Pope**, 8414 South Lynn Street, Daleville, Indiana, requesting a variance of use and a variance from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a flower field and event venue business use of an existing barn and a ground sign in a farm zone on premises located at 16099 West County Road 750 South, Salem Township, Delaware County, Indiana, as more accurately described in the application.

Amy Pope, 8414 S. Lynn St., Daleville, Indiana, appeared. She stated that the request was to allow use of the existing barn for weddings mostly, but could possibly have other events. She stated that they would limit the guests to 200 maximum and that the 20 acres had plenty of room for parking with one area already being graveled. She stated that the hours for a wedding would allow 2 hours on Friday to setup and on Saturday the wedding would last no later than midnight and they could come on Sunday before noon to finish cleaning up, that any other events would be limited to 1 day between the hours of 12-8 PM. She stated that in the spring they had planned to have a flower field where people could also come and pick their own flowers.

Mr. Fowler asked if the only bartenders would be her and her husband, and what would be permitted as far as the music.

Ms. Pope stated yes, that they both had their bartenders license. She stated that all of the music would be inside and would be a DJ or a band.

Mr. Fowler asked if she had spoken to any of the neighbors.

Ms. Pope stated that they had received phone calls from several neighbors who are very supportive and are happy with the cleanup of the property. She stated that many of them wanted to come and show their support.

Mr. Fowler stated that it looked like an existing drive would be used to access the parking at the back of the property and asked if any trees would need to be removed.

Ms. Pope stated that only one tree had to be removed.

Mr. Fowler asked about security during events and if there would be any employees.

Ms. Pope stated that they would not have any employees and that she and her husband would be there the whole time.

Mr. Fowler asked if about the midnight ending time for events.

Ms. Pope stated that the event must be over and cleaned up by midnight and that it would only be that late on Saturday night.

Mr. Jones asked if the driveway was gravel.

Ms. Pope stated yes.

Mr. Bishop asked if she had sent the proper notice to all of the surrounding property owners including those in different counties.

Ms. Moody stated yes.

Mr. Bishop asked if the sign would be 4'x4' or 4'x6' in size since both are mentioned in the paperwork.

Mr. Fowler stated that they would go with what was written on Ms. Pope's application which was 4'x4'.

Mr. Jones asked if there would be restrictions on the type of sign and the placement.

Ms. Moody stated that it would need to be setback at least 5' from the proposed right of way.

Mr. Fowler stated that the location on her drawing seems sufficient.

Mr. Watson made a motion to approve BZA 46-20 the appeal of Amy Pope with the hardship as stated in the application with the following conditions: 1) That the sign be limited in size to 4'x4'; and 2) That the variance is for the applicant Amy Pope, only. Ms. Mathewson seconded the motion. Voting in favor: Mr. Bishop, Mr. Fowler, Mr. Jones, Ms. Mathewson, Mr. Watson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 46-20 approved.

BZA 47-20 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Annette Caldwell**, 7110 North Morrison Road, Muncie, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a revised event venue business use of an existing barn in a farm zone on premises located at 6000 West County Road 400 North, Harrison Township, Delaware County, Indiana, as more accurately described in the application.

Annette Caldwell, 7110 N Morrison Rd., Muncie, Indiana appeared. She stated that she had tried to address some of the neighbor's concerns from the first request by creating a different parking area and changing the hours. She stated that she had also worked on the contract for anyone who would be renting the venue addressing alcohol and music and lowered the number of guests to 200.

Mr. Fowler asked if the only entrance and exit would be from 400 N to the parking lot and if she planned to have the toilets emptied or removed after each event.

Ms. Caldwell stated yes.

William Terhune, 6400 N. Nebo Rd., Muncie, Indiana, appeared in opposition. He stated that since the denial of the last request, he did not see any significant changes to the application. He stated that there was a ditch across the street that already caused water problems, and this would add to that issue. He stated that the more than 200 people in the neighborhood do not want the problems caused by alcohol being served at events, and then extra traffic.

Sandy Wordinger, 5959 W. CR 400N., Muncie, Indiana appeared in opposition. She stated that she lived across the street and that their properties were within 100 feet of each other. She stated that Ms. Caldwell only had 5 acres and that she had looked at other venues and they all had 16 acres and more. She stated that the property was too small and that the road was not meant for this type of commercial business in this residential area.

Mark Wise, 6310 N. Nebo Rd., Muncie, Indiana, appeared in opposition. He stated that he feels the same way he did at the previous request and that he did not see much difference in what was presented today. He stated that noise, soil compaction, and alcohol being served, and added traffic were among the biggest issues.

Mary Dalton, 6401 N Morrison Rd., Muncie, Indiana, appeared in opposition. She stated that the residents in this area enjoy the peace and quiet and that should be respected. She stated that she did not believe parking in the grass should be permitted and that the request needed to be more specific. She stated that she had concerns about the sprinkler system and fire exits and alarms and that the Board of Health would need to be involved due to the portable restrooms. She stated that

no one wanted to live next to a venue with 200 people adding traffic, noise, and drinking and that even if the event were to end at 10 PM, people always stay longer. She stated that she was upset that an agricultural property was going to be turned into a commercial use, and that she hoped there was enough insurance coverage by the owner in case something happened. She stated that she should have more specific building, drainage, and parking lot plans for review and that she hopes the Board would deny the request again.

Mr. Fowler stated that if approved, Ms. Caldwell would need to go through all the proper permits and meet all of those requirements.

Ms. Dalton stated that she just can't believe parking in the grass would be ok.

Mr. Fowler stated that there are several that do park on the grass.

Donna Glaze 6217 W. CR 400N, Muncie, Indiana, appeared in opposition. She stated that she had a list of other venues that all have 16 acres or more and that this request should be denied once again.

Mr. Fowler asked Ms. Caldwell to address some of the concerns.

Ms. Caldwell stated that the farm was no longer sustainable and that she wanted to preserve this barn and not to build something new. She stated that she was surrounded by farm ground and that she did not need 20 acres to have a venue but you do for a farm. She stated that the concerns about the traffic and drinking do not pose a problem and that none of the other venues had any problems.

Mr. Watson stated that his concern was that there were 224 dwellings within the square mile of this property and that was almost 5 times the amount of any other venue that had been approved.

Ms. Caldwell stated 2/3 of those numbers were from a mobile home park and that no one there objected. She stated that if you looked at the venue on Isanogel Road, it was surrounded by 247 very nice homes and no one objected to that either and that have no complaints.

Ms. Moody stated for the record the venue on Isanogel Road was not within this Board's jurisdiction.

Mr. Bishop stated that residing in a manufactured home does not constitute not living in a dwelling.

Ms. Caldwell stated that the reason she mentioned the mobile home park was that people stated her venue would lower their property values, and that the mobile homes actually decrease the values that and that her venue would only increase them. She stated that the barn was built in the 1940's and that it needs a new purpose to preserve it and that was her hardship.

Mr. Fowler stated that all necessary permits would need to be obtained.

Ms. Moody stated that the Board Members received copies of letters and a petition from more than 40 people all in opposition.

Mr. Watson made a motion to approve BZA 47-20 the appeal of Annette Caldwell with the hardship as stated in the application with the following conditions; 1) That the variance shall be for the applicant Annette Caldwell only and; 2) That all necessary permits be obtained. Mr. Wiseley seconded the motion. Voting in favor: None. Voting against: Mr. Bishop, Mr. Jones, Mr. Fowler, Ms. Mathewson, Mr. Watson, and Mr. Wiseley. Motion failed, BZA 47-20 denied.

Ms. Moody stated that Ms. Caldwell could wait one year to file a new request or file with the courts to appeal the Board's decision.

REPORT FROM DIRECTOR:

Ms. Moody stated that the language that allows for a second hearing had been inserted into the Rules of Procedure several years ago and that the Board could consider amending that option.

Mr. Fowler stated that he did not see any reason to change that rule because if an applicant was denied and could go back and change something about their request they should be able to do that.

Mr. Watson stated that he agreed to leave that in the rules.

Mr. Wiseley stated that he agreed, if an applicant could make necessary changes they should not have to wait a year.

Ms. Mathewson stated that the Board could always continue a case to get more information, but that she disagrees with the option to reapply. She stated that they have still denied cases the second time, and asked how many times we should hear the same case over and over.

Mr. Fowler stated that if an applicant can resolve any concerns and just be continued that would be better, but that the option to reapply should not be taken away.

Mr. Jones stated that he wanted a reason to assist someone with their request rather than just deny them, so if it took a second meeting he was in favor of that option.

ADJOURNMENT:

James Fowler, Chairman

Marta Moody, Secretary