

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS  
MAY - 2022 REGULAR MONTHLY MEETING  
AGENDA**

**DATE: May 26, 2022**

**PLACE: Commissioners Court Room  
3<sup>rd</sup> Floor, Delaware County  
Building**

**TIME: 6:00 P.M.**

**PLEDGE OF ALLEGIANCE:**

**ROLL CALL:**

	<b>Jim Fowler</b>
<b>Mike Jones</b>	<b>Leslie Mathewson</b>
<b>Kathryn Kennison</b>	<b>Kelly Watson Jr.</b>
<b>Taylor Marshall</b>	<b>Allen Wiseley</b>

**MINUTES:** Consideration of the April, 2022 regular monthly meeting minutes.

**NEW BUSINESS:**

**BZA 09-22 Jurisdiction: Board of Zoning Appeals**

**Special Use** Being a public hearing on the matter of an application filed by **Muncie Arts & Culture Council, Inc. and Ditch Lily Designs, LLC.**, P.O. Box 488, Muncie, Indiana, requesting a special use under the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a charitable institution special use and variance for part of the parking to be off-site, all for a non-profit office, gallery and project space in a residence zone on premises located at 115 and 117 South Council Street, Muncie, Indiana, as more accurately described in the application.

**BZA 10-22 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Paul David and Deborah Kay Browning**, 13420 North County Road 100 West, Muncie, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a mobile home originally approved for temporary placement for the duration of need to become a permanent second dwelling in a farming zone on premises located at 13420 North County Road 100 West, Union Township, Delaware County, Indiana, as more accurately described in the application.

**BZA 11-22 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Faithbuilders Ministries**, 1127 South Madison Street, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow loading docks facing Madison and 5<sup>th</sup> Streets, no sidewalk on 5<sup>th</sup> Street, decreased buffer area and landscape plantings, all for a new metal building to provide services to people in need on premises located at the southwest corner of Madison Street and 5<sup>th</sup> Street formerly addressed as 1203 South Madison Street, Muncie, Indiana, as more accurately described in the application.

**BZA 12-22 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Brittainy N. and John M. Raef, Jr.**, 7779 West County Road 850 North, Gaston, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow storage of construction business vehicles and materials in an F Farming Zone on premises located at 7779 West County Road 850 North, Washington Township, Delaware County, Indiana, as more accurately described in the application.

**BZA 13-22 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Royalty Lionesz LLC. and Anibal Salazar**, 2868 Gin Berry Way, West Palm Beach, Florida, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow remodeling a 6-unit apartment house into a 4-unit apartment house in a single-family residence zone on premises located at 6500 East Jackson Street, Liberty Township, Delaware County, Indiana, as more accurately described in the application.

**BZA 14-22 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Olympus Management LLC. and Anibal Salazar**, 17062 Olympus Court, Westfield, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a 2-unit apartment house to replace a fire-damaged dwelling in a single-family residence zone on premises located at 6504 East Jackson Street, Liberty Township, Delaware County, Indiana, as more accurately described in the application.

**BZA 15-22 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Rittenhouse Properties, LLC.**, 2902 Oak Borough Run, Fort Wayne, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a decreased minimum lot area for a 2-unit house and decreased business parking, all to divide an existing property in a business zone on premises located at 1316 and 1400 North Wheeling Avenue, Muncie, Indiana, as more accurately described in the application.

**BZA 16-22 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Nathaniel S. Williams**, 403 South Woodlawn Street, Parker City, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow construction of a storage building for personal use prior to the dwelling on 3.46 acres in a farming zone on premises located west of and adjacent to 12000 East County Road 500 South, Perry Township, Delaware County, Indiana, as more accurately described in the application.

**BZA 17-22 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **3 Rivers Federal Credit Union and Meijer Stores LTD. Partnership**, 2929 Walker Northwest, Grand Rapids, Michigan, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased maximum front setback build-to line, 2 ground signs and no sidewalk along McGalliard, all for a new credit union on a parcel to be platted on premises located on the north side of the 6200 Block of West McGalliard Road, Muncie, Indiana, as more accurately described in the application.

**REPORT FROM DIRECTOR:**

**ADJOURNMENT:**

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS  
MAY - 2022 REGULAR MONTHLY MEETING  
MINUTES**

The Delaware-Muncie Metropolitan Board of Zoning Appeals (BZA) held its regular monthly meeting on Thursday, May 26, 2022, at 6:00 P.M., in the Commissioners Court Room of the Delaware County Building, Muncie, Indiana. Vice-Chairman Kelly Watson Jr. called the meeting to order.

**PLEDGE OF ALLEGIANCE:**

**ROLL CALL:**

Ms. Moody called roll and the following members were present: Mr. Jones, Ms. Mathewson, Mr. Watson, and Mr. Wiseley. Absent: Mr. Fowler and Ms. Marshall. Also Absent: Mr. Rhetts, attorney for the board. (Ms. Kennison arrived at 6:24 PM).

**MINUTES:**

Mr. Wiseley made a motion to approve the April, 2022 regular monthly meeting minutes. Mr. Jones seconded the motion. Voting in favor: Mr. Jones, Ms. Mathewson, Mr. Watson, and Mr. Wiseley. Voting against: None. Motion carried, April 2022 minutes approved.

**NEW BUSINESS:**

**BZA 09-22 Jurisdiction: Board of Zoning Appeals**

**Special Use** Being a public hearing on the matter of an application filed by **Muncie Arts & Culture Council, Inc. and Ditch Lily Designs, LLC.**, P.O. Box 488, Muncie, Indiana, requesting a special use under the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a charitable institution special use and variance for part of the parking to be off-site, all for a non-profit office, gallery and project space in a residence zone on premises located at 115 and 117 South Council Street, Muncie, Indiana, as more accurately described in the application.

Erin Williams, Executive Director, Muncie Arts & Culture Council, PO Box 488, Muncie, Indiana, appeared. She stated that they were in the process of a purchase agreement with Ditch Lily Designs for a new location to house the Muncie Arts & Culture Council's programs and residency program. She stated that the residency program was a program where artists from all over the world come to Muncie for a 4-12 week time to do projects with nonprofits and this location would be an exciting new location. She stated that they

had a previous property that they had been renting and that this would be a property owned by the Muncie Arts & Culture Council. She stated that there would be some occasional events but that the building that had been a church, would be used primarily for the residency space and that the gallery would be in the old sanctuary of the church. She stated that they had 5 parking spaces in the plan at 115 S. Council Street for the office staff and that the overflow parking would be in a lot adjacent to the church property that they are planning to purchase from Ditch Lily Designs as well.

Mr. Watson asked if they had an agreement with the church for off street parking.

Rebekah Hannah, owner of Ditch Lily Designs, 515 W. Adams St., Muncie, Indiana, appeared. She stated that she owned both parcels and that the Muncie Arts & Culture Council would be purchasing both of those properties and that there was an abandoned house that they were trying to purchase as well. She stated they did have an agreement to park on those lots.

Mr. Wiseley asked if 4 spaces would be enough for the regular day-to-day traffic.

Ms. Williams stated yes.

Mr. Watson asked if they had many visitors other than the artists who were working on projects.

Ms. Williams no, not on a regular basis. She stated that the off-street parking and spots on the over-flow lot would be more than enough spaces.

Amy Logan, 524 W. Jackson St. Muncie, Indiana, appeared. She stated that she lived across the street and that they fully support the request and feels it would be a great addition and look much better when entering the downtown area.

Lexi Musmen, 407 S. Liberty St., Muncie, Indiana, appeared. She stated that the residency program was an amazing program that she had volunteered for several years. She stated that they bring in artists from all over the world and that those artists and the program had been written about in the New York Times. She stated that this would be a great place for the program to call home and to further their programs and outreach into the Old West End and a community that was working hard to revitalize the area.

No one appeared in opposition.

Ms. Moody read the favorable recommendation given by the Plan Commission at their May 2022 regular monthly meeting.

Mr. Wiseley stated that they had also received a letter of support from the Old West End Neighborhood Association.

Mr. Jones made a motion to approve BZA 09-22 the appeal of Muncie Arts & Culture Council, Inc., and Ditch Lily Designs, LLC with the hardship as stated in the application.

Mr. Wiseley seconded the motion. Voting in favor: Mr. Jones, Ms. Mathewson, Mr. Watson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 09-22 approved.

**BZA 10-22 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Paul David and Deborah Kay Browning**, 13420 North County Road 100 West, Muncie, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a mobile home originally approved for temporary placement for the duration of need to become a permanent second dwelling in a farming zone on premises located at 13420 North County Road 100 West, Union Township, Delaware County, Indiana, as more accurately described in the application.

Deborah and David Browning, 13420 N CR 100W, Muncie, Indiana, appeared. She stated that they had been granted temporary placement of the mobile home for 20 years for her mother and that she had recently passed away. She stated that they would like to keep the mobile home for family when they visit and for her to have a sewing room.

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

Ms. Browning stated yes, and that it would not be a rental.

Mr. Watson asked if there was a mortgage on the property.

Ms. Browning stated yes.

Mr. Jones stated that the mobile home had its own septic and asked if someone would be living there.

Ms. Browning stated that no one would be living in the mobile home.

Ms. Mathewson asked if they had talked to any of their neighbors or if there had been any complaints about the mobile home.

Ms. Browning stated that the mobile home was very nice and that many of the neighbors had been friends of her mothers and had no complaints.

No one appeared in opposition.

Mr. Wiseley made a motion to approve BZA 10-22 the appeal of Paul and Deborah Browning with the hardship as stated in the application with the following conditions: 1) That the mobile home placement is for personal use of the property owner and 2) That there will be no rental or commercial use of the mobile home. Mr. Jones seconded the motion. Voting in favor: Mr. Jones, Ms. Mathewson, Mr. Watson, and Mr. Wiseley.

## **BZA 11-22 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Faithbuilders Ministries**, 1127 South Madison Street, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow loading docks facing Madison and 5<sup>th</sup> Streets, no sidewalk on 5<sup>th</sup> Street, decreased buffer area and landscape plantings, all for a new metal building to provide services to people in need on premises located at the southwest corner of Madison Street and 5<sup>th</sup> Street formerly addressed as 1203 South Madison Street, Muncie, Indiana, as more accurately described in the application.

Ken Fuller, 1127 S. Madison St., Muncie, Indiana, appeared. He stated that he had applied for permits for the building and when they noticed the large doors facing Madison Street, the City Building Commissioner let them know that they needed a variance. He stated that during the pandemic, they would serve meals to people at the site across the street at The Norm, and that they could only serve 40 people. He stated that he spoke to Mr. Selvey about a new building on this lot to be able to serve more people in the community. He stated that the doors would not be loading doors, there would be a sidewalk to them and they would be able to remain open to allow them to serve more people at one time.

Mr. Watson asked if there would be any deliveries.

Mr. Fuller stated no, the deliveries would be along 5<sup>th</sup> Street on the side of the building. He stated that the open doors would help with fire safety and to have the ability to serve more people and have more events.

Mr. Watson asked what the capacity would be with the doors opened.

Mr. Fuller stated that the building would be 40'x80' and that they would be able to have around 150-200 people, but that they don't usually have that many at one time. He stated that they help families during the week with groceries and that was around 100 families each week. He stated that they had built great relationships with the neighbors around the area and that they loved what Faithbuilders Ministries had been doing the past couple of years and wanted to see it continue.

Mr. Jones asked if the large doors facing Madison Street would be an entrance and exit for people only.

Mr. Fuller stated yes, it would be an emergency exit. He stated that there would be a sidewalk in front of the building.

Mr. Jones asked if there would be any restrooms or kitchen in the new building.

Mr. Fuller stated no. He stated that the kitchen and restrooms were in the The Norm building right next door and that building was always open.

Mr. Watson asked if this building would be primarily used as a banquet hall and grocery distribution site.

Mr. Fuller stated yes. He stated that they would have a few picnic tables and some chairs inside for people.

Mr. Jones aksed about any windows around the building.

Mr. Fuller stated no, that there would be 4 large garage doors all around to be opened.

Ms. Moody asked if there would be 3 or 4 large doors.

Mr. Fuller stated he misspoke, and that it would be 3.

Mr. Wiseley stated that the plans provided only show the doors on the side of the building facing Madison Street and 5<sup>th</sup> Street.

Mr. Fuller stated that it was supposed to be 3 doors on 3 sides of the building.

Mr. Wiseley asked why he would not be installing the required buffer area even though the plans show there is enough room to do so.

Mr. Fuller stated that if they were to bring skids of food and supplies into the building it would be the side along 5<sup>th</sup> Street and that he did plan to place shrubs along the front side of the building.

Mr. Wiseley stated that he was referring to the side facing the alley and between the 2 lot lines.

Mr. Fuller stated that he could on the alley side but he did not feel it was necessary between the two sites since people would be walking between the buildings, but that he would be happy to do so.

(Ms. Kennison arrived at 6:24)

Ms. Moody stated that trees and shrubs were required.

Mr. Watson asked about there being no sidewalks along 5<sup>th</sup> Street.

Mr. Fuller stated that there is no sidewalk along 5<sup>th</sup> street currently.

Ms. Moody state that the development standards would require that sidewalks be installed along 5<sup>th</sup> street.

Mr. Watson asked if that would be where the pedestrian traffic would be entering the building.



Mr. Fuller stated that there would be a sidewalk facing Madison Street.

Ms. Moody stated that there was an existing sidewalk on Madison Street but they were talking about installing sidewalk along 5<sup>th</sup> Street, and she asked Mr. Fuller to clarify where the sidewalk was he mentioned installing would be.

Mr. Fuller stated that it was in the front along Madison Street in front of the big doors. He stated that he did not know he would need a sidewalk along 5<sup>th</sup> Street but he would install one if he needed to.

Mr. Watson stated that they would need a road cut and a ramp for the deliveries.

Mr. Fuller stated that on the front lawn along Madison Street that they had a few nice big trees and that there would be around 30' of grass between the building and Madison Street.

Mr. Watson stated that he did not see any sidewalk close to the buildings.

Ms. Moody stated that there was not, but it would be required and asked if Mr. Fuller would be connecting his sidewalk along the building to the existing sidewalk along Madison Street.

Mr. Fuller stated that he had planned to bring the sidewalk from 5<sup>th</sup> Street, but that he would be happy to connect to the existing one on Madison Street.

Mr. Watson stated that he would need to comply with the requirements for pedestrian safety.

Ms. Moody read a letter of opposition from Zane Bishop regarding there being no sidewalk on 5<sup>th</sup> street and the safety concerns that raises.

Mr. Fuller stated that he was new to this process and that he would install a sidewalk if that was required.

Ms. Moody stated that it was not in his application so he would need to install the sidewalk, and the only things listed in the application were non-natural façade materials, the loading doors, and no buffer plantings along the south of the building.

Mr. Jones asked about the number of loading doors along Madison Street.

Mr. Fuller stated that it was just the doors for air flow, no loading and unloading.

Mr. Watson stated that Mr. Fuller agreed to installing all of the plants and trees as well so the only variance needed would be for the non-natural material and doors.

Mr. Fuller stated yes.

Ms. Moody stated that if granted, that the applicant would work with staff to meet development standards not requested in the variance.

No one appeared in opposition.

Ms. Mathewson made a motion to approve BZA 11-22 the appeal of Faithbuilders Ministries with the hardship as stated in the application with the following conditions; 1) That the variance be for the non-natural façade materials, the 2 doors facing Madison Street, and the 3 facing 5<sup>th</sup> Street; and 2) That the applicant continue to work with staff to produce a plan that meets the development standards or to file for additional variances as needed. Mr. Jones seconded the motion. Voting in favor: Mr. Jones, Ms. Mathewson, and Mr. Watson. Voting against: Mr. Wiseley. Abstaining: Ms. Kennison. Motion Failed, no official action. BZA 11-22 will be automatically continued to the June 30, 2022 regular monthly meeting.

**BZA 12-22 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Brittainy N. and John M. Raef, Jr.**, 7779 West County Road 850 North, Gaston, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow storage of construction business vehicles and materials in an F Farming Zone on premises located at 7779 West County Road 850 North, Washington Township, Delaware County, Indiana, as more accurately described in the application.

John Raef, Jr. and Brittainy Raef, 7779 W CR 850N, Gaston, Indiana, appeared. He stated that he had stored machinery and extra work materials on his property and that he would like to continue to do that.

Mr. Watson asked if they were planning to have a building to keep everything under roof.

Mr. Raef stated that the building was existing.

Ms. Moody stated that they had applied for a building permit for the new home and that was when the business activity had been discovered so they were directed by the Building Commissioner that they needed the variance.

Mr. Watson asked how long he had been storing the business items here.

Mr. Raef stated it had been about 15 years.

Mr. Watson asked if this came about due to a complaint and asked if they would be adding a new storage building.

Ms. Moody stated it had not been due to a complaint, but that they had applied for a permit to remove the old house and build a new one.

Mr. Jones asked where the new home would be built.

Mr. Wiseley stated that it was indicated on the map in their application. He asked if Ms. Moody had spoken to the Surveyor's Office about the ditch shown on the map.

Ms. Moody stated no and asked Mr. Daniel if he had.

Mr. Daniel stated no.

Mr. Raef stated that he had contacted the Surveyor's Office and that the location of the ditch was about 100' away from where it was located on the map.

Ms. Mathewson stated that you can see where the ditch is actually located on the aerial.

Mr. Watson asked if this was for his personal business.

Mr. Raef stated that the business address was actually on East Jackson Street and that he works for the company and that they store some equipment here.

Mr. Jones asked for clarification on the variance request.

Ms. Moody stated that the variance was for the business use which even though had been there was not a legal use. She stated that the fact that he was building a new home and demolishing the old one was irrelevant to the request.

Ms. Leslie asked if this was his personal business or if someone else was operating their business on his property.

Mr. Raef stated that he was an employee of Panscape Corporation and that they lease the building on his property for storage.

Ms. Moody stated that typically with a request such as this, it is for a business owned and operated by the property owner with a condition that it would be for the applicant only. She stated that in this instance the board could make a condition that the use be for the applicant and the lessee only.

James Wormer, 15202 N CR 900W, Gaston, Indiana, appeared. He stated that he was speaking on behalf of the Gaston Lions Club which was a neighbor to this property. He stated that the business here was invaluable to the Lions Club, and that they take care of the track work and anything else they need help with, and that they did a lot for the farmers in the area as well.

No one appeared in opposition.

Mr. Wiseley made a motion to approve BZA 12-22 the appeal of Brittainy and John Raef Jr., with the hardship as stated in the application with the following condition; That the variance of use is for the current owner and the current lessee (Panscape, Inc.) only. Ms.

Mathewson seconded the motion. Voting in favor: Mr. Jones, Ms. Kennison, Ms. Mathewson, Mr. Watson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 12-22 approved.

**BZA 13-22 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Royalty Lionesz LLC. and Anibal Salazar**, 2868 Gin Berry Way, West Palm Beach, Florida, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow remodeling a 6-unit apartment house into a 4-unit apartment house in a single-family residence zone on premises located at 6500 East Jackson Street, Liberty Township, Delaware County, Indiana, as more accurately described in the application.

Anibal Salazar, 17062 Olympus Ct., Westfield, Indiana, appeared.

TJ Faison, 2868 Gin Berry Lane, West Palm Beach, Florida, appeared.

Mr. Salazar stated that the building on the property had been dilapidated for many years and that they wanted to remodel and update the structure from a 6 unit to a 4-unit building.

Mr. Jones asked how long it had been vacant.

Mr. Salazar stated it had been well over 10 years.

Mr. Jones stated that it had been occupied within the past 2 years, but maybe not at full capacity.

Mr. Salazar stated that according to the seller he had allowed someone to store their belongings at the property but that no one was actually living here.

Mr. Jones stated respectfully, that there were a number of legal issues that Mr. Salazar had encountered over the past few years from Homeowner's Associations and a number of foreclosures on other properties that he owned.

Mr. Salazar stated that he had never had a foreclosure.

Mr. Faison stated that he was the owner of Royalty Lionesz and that with the real estate downturn in 2008, he had a few foreclosures but that he had recovered since that time. He stated that Mr. Salazar was his business partner who handles things when he cannot be in town.

Mr. Jones asked where else he had businesses.

Mr. Faison stated that Royalty Lionsz was a Nevada based LLC that owns properties in Indiana, and that he lived in Florida.

Mr. Wiseley asked who would be managing the rental side of the business.

Mr. Faison stated that Golden State Management was the property management company that would handle the management of the properties, and that they were local.

Mr. Watson stated that he knew as far back as 20 years ago that it had apartments.

Mr. Faison stated that Mr. Salazar had a very high quality of work and that they had some examples of work they had done in Indianapolis.

Eric Hensley, 6609 E. Hickory Lane, Muncie, Indiana, appeared in opposition. He stated that he lived in Woodlawn Park Addition, which was adjacent to this property. He stated that his attorney had done some research and that the LLC is not registered in Indiana with the Secretary of State. He stated that he would like to see a developer live in the community and that they do not and that was a concern. He stated that they had issues with the rental properties across the highway and that there were many calls to law enforcement and that he did not want to see that increase. He stated this was a single-family residence and had been for over 75 years and would like to keep it that way.

Mr. Watson stated that he knew personally that it had been a multi-unit for many years.

Mr. Hensley stated that he did not know if that was legal or not, but that he was opposed to a multi-family dwelling in an R-1 Residence Zone even though they have done some cleaning up to the property.

Mr. Jones asked since Mr. Alazar was registered in Indiana, did that satisfy the requirement from the state since he was representing Royalty Lionsz.

Ms. Moody stated that she did not know that answer.

Mr. Hensley stated that Mr. Salazar did have several listings in foreclosure and that he questioned the financial stability of the business. He stated that he also had concerns that at some point this would become low income housing, which brings its own set of issues and that he did not wish to live next to that. He stated that they had been residents of Woodlawn Park since 1969, and that he had demolished his parents house in 2017 and that he wanted to keep it a nice addition with no more rentals.

Travis Ring, 6605 E. Hickory Lane, Muncie, Indiana, appeared in opposition. He stated that across the highway there were many duplexes and that the properties were not well maintained. He stated that this area did not need more rental properties and that it should remain a single-family home.

Darexa Sandoe, 100 N. Orchard Dr., Muncie, Indiana, appeared in opposition. She stated that there was only one house between her and this property and that she had lived here

since 1955. She stated that it was a lovely neighborhood and she would hate to see that change.

Patrick Parker, 214 N. Orchard Dr., Muncie, Indiana, appeared in opposition. He stated that he had moved here 7 years ago with his wife and that they had made many improvements to their home, much like others in the neighborhood. He stated that he was sure that the gentlemen were good people just trying to make money but that he had seen property management teams fail to take care of their rentals. He stated that when the property owners are out of town, it makes it difficult to keep up on the maintenance. He stated that he believes in his neighborhood and that he would like it to remain a single-family neighborhood because too many issues can happen when there are multi-units in a single-family neighborhood.

Bradon Kelly, 6612 E. Jackson St. Muncie, Indiana, appeared in opposition. He stated that approving this request would fundamentally change the character of Woodlawn Park Addition, a neighborhood that has been here for over 82 years. He stated that it was a single-family neighborhood that was owner occupied and that many of the residents have been here for decades. He stated that the applicant stated that he would not be able to re-coop his investment if he were to build a single-family home, but provided no statement from a realtor or banker to back up that claim. He stated that this project was inconsistent with the current zoning and would permanently change the neighborhood, not beautify it. He stated that most importantly they have failed to prove any type of hardship and that in the list of criteria for a hardship, financial loss or gain does not apply. He stated that an applicant that knowingly or unknowingly violates the ordinance, and then asks to continue with that venture, has taken a gamble and that was not a hardship. He stated that he was asking the board to uphold the existing zoning and insure that Woodlawn Park was not impacted in a negative way.

Ms. Moody stated that a phone call was received from Steve Hole, that owns 2 properties in Woodlawn Park and that he was in opposition to both BZA 13-22 and BZA 14-22 and stated that it had taken too long for the current owners to begin cleaning up the properties and that this was not a good first impression. She stated that an email from Mickey Stewart who stated that he did not want a rental in his neighborhood and that was why he moved to this neighborhood.

Mr. Faison stated that he understood the concerns and that he wishes there was a different way for him to get to know the neighbors. He stated that he was registered in Indianapolis and that he was just starting to expand into Muncie and that he had no problem becoming registered here as well. He stated that they purchased both properties in December of 2021 and that they had demolished the burned house and that they were trying to make the properties look better. He stated that they purchased the house believing that it was a 6-unit apartment and that it was his mistake for not looking into it more and that they had invested over \$60,000 each to get to this point today. He stated that they would not be changing the footprint of the house, they would be replacing the roof and make sure that things are structurally sound and adding ingress/egress where needed for safety. He stated that whether the variance was approved or not they would need to renovate the building to make some use of it and they would like to make it a 4-

unit instead of 6-unit and make things look so much better. He stated that they had references regarding work they had done in Indiana and that they would be happy to provide those to anyone. He stated that they were new to the area and that he could not change any opinions and that they were not offended, they would just like an opportunity to show the work they can do. He stated that they were told by the previous owner that it was a 6-unit and that they had rezoned it to a single family to save money on the taxes, which he did not learn until after they had already purchased the property.

Mr. Salazar stated that it had been an apartment for a while, but that they did not know the complete rental history from the previous owner. He stated that he did understand that it had been a 6-unit building since the 1960's, so it has been used that way for a very long time. He stated that they wanted to make it beautiful and clean up the property and that they have hired a local management company to help with that. He stated that they owned other properties in Muncie and Anderson so he would be back and forth often. He stated that he had been a contractor for approximately 12 years doing home repairs and additions and new construction both residential and commercial and that they had a lot of experience.

Mr. Faison stated that just to give a little background on himself, he was an Electrical Engineer and had spent 18 years working with IBM and just joined Microsoft 18 months ago. He stated that some of the real estate issues that he had back in 2008 was due to having vacant properties that he tried to keep going for as long as he could but had to let go through foreclosures. He stated that he had not wanted to offend anyone by stating they wanted to make the area beautiful, he just wanted to let people know that they wanted to do quality work on the project.

Mr. Hensley stated that they do seem like nice gentleman and that he can't speak to what has been on the property beforehand or if it was even done legally, the issue is that they do not want multi-family zoning in the neighborhood. He stated that this would change the dynamics of the area which he had lived in since 1969, and the values of the homes here would be impacted by this change.

Ms. Kennison asked if the zoning of the property was for single-family use only.

Ms. Moody stated yes.

Mr. Watson asked if it had ever been zoned for multi-family.

Ms. Moody stated that if the house was built in the 1960's, that was before the zoning ordinance went into effect in the 1970's, so this would have been considered legally non-conforming. She stated that once a use is discontinued for more than 1 year, you lose that nonconformity and revert back to the current zoning and those permitted uses.

Ms. Kennison asked if the house has been vacant for 1 year or more, then it would revert back to a single-family use.

Ms. Moody stated yes.

Mr. Jones stated that he believes it has been occupied in the past year.

Ms. Moody stated that it would need to be occupied as more than a single-family unit.

Mr. Salazar stated that the house was built around the turn of the century.

Ms. Moody stated that the rules would still apply.

Ms. Kennison asked about occupancy over the last year since this seems to be what the request hinges on.

Ms. Moody stated that if there was a claim that this was a 6-unit building and they want to go down to 4-units without a variance they would have to show that it had been used as a 4-unit dwelling for the past 5 years, and they can't prove that.

Mr. Watson stated that the utilities could prove that.

Mr. Faison stated that they can show there are 6 meters on the building.

Mr. Watson stated that they would have to prove that they had been used for someone for the past 5 years.

Ms. Kennison asked who should look into to that information.

Ms. Moody stated that the current owners needed to do that.

Mr. Salazar stated that the utility companies could not give them any information but that they did have someone look at the sewer line and that 2-3 years ago the line was cut, so it had been vacant that long.

Ms. Moody stated that with that, they had lost their legal nonconformity and this was why they needed the variance for the 4-units because it has reverted back to a single-family use.

Mr. Jones stated that he passes this property every day, and that the other duplexes and rentals in the area are in terrible condition and that he had concerns of out of town property owners and creating more problems in neighborhoods. He stated that something needs to be done with these properties, but he was not sure multi-family use was the answer.

Ms. Sandoe stated that she had lived here since 1955 and if this is approved along with the next case, that will make 2 apartments in the area.

Mr. Wiseley made a motion to approve BZA 13-22 the appeal of Royal Lionesz, LLC and Anibal Salazar with the hardship as stated in the application. Ms. Mathewson seconded the motion. Voting in favor: Mr. Jones, Mr. Watson, and Mr. Wiseley. Voting against: Ms.



Kennison and Ms. Mathewson. Motion failed, no official action. BZA 13-22 automatically continued to the June 30, 2022 regular monthly meeting.

**BZA 14-22 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Olympus Management LLC. and Anibal Salazar**, 17062 Olympus Court, Westfield, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a 2-unit apartment house to replace a fire-damaged dwelling in a single-family residence zone on premises located at 6504 East Jackson Street, Liberty Township, Delaware County, Indiana, as more accurately described in the application.

Anibal Salazar, 17062 Olympus Ct., Westfield, Indiana, appeared. He stated that the house on this lot had burned and that they had demolished it recently. He stated that they were planning to build a duplex in its place and to continue to clean the property.

Ms. Mathewson asked why they wanted to build a duplex and not a single-family home.

Mr. Salazar stated that due to the cost of materials it was almost impossible to get a loan for a single-family home and to re-coop any money.

Ms. Kennison asked how the property was zoned and how it was used before it burned.

Mr. Salazar stated that it was also single-family use.

Mr. Watson stated that it was next door to the previous case and has been a single-family house.

Eric Hensley, 104 N. Orchard Dr., Muncie, Indiana, appeared in opposition. He stated that the only difference to this request and the one from earlier was that this was Lot 1 in Woodlawn Park, so this would be changing and effecting the property values of the other homes in the addition. He stated that he realizes that they have invested money to purchase the properties, tear down the house, and begin to clean it up, but that does not make it ok to make them rental properties. He stated that they should have done more homework before they purchased the properties and maybe even talk to some of the neighbors, and if they were not willing to do that chances are they will not be around much in the future. He stated that the plat for the addition stated that the setback needed to back 60' and their plans only show 30' with parking in the front and that SR 32 was an extremely busy road and for anyone trying to exit from Orchard Drive, that would be a safety hazard. He stated that he would like to have Woodlawn Park remain a single-family addition.

Patrick Parker, 214 N. Orchard Dr., Muncie, Indiana, appeared in opposition. He stated that the house he lived in was one of the first to be built in the addition and that the developer wanted it to remain a single-family neighborhood. He stated that people see

some of the eyesores just driving by, but that they live here and don't want to see more issue come to the area because of rentals. He stated that the applicants were asking to expand a use from 1 to 2 properties, that should never have been happening to start with. He asked what the board members might think if this was their neighborhood or right next door to their home. He stated that a new tenant could find out what the past utilities have been on average, so that can be answered.

Mr. Watson stated that they could get the usage information from the utility companies.

Mr. Parker asked how far would multi-family use be allowed to extend into the neighborhood.

Bradon Kelly, 6612 E. Jackson St., Muncie Indiana, appeared in opposition. He stated that Mr. Salazar stated he could not get a loan for a single-family home, but that he could for a duplex and he asked where the proof was for his claim. He asked the Board to follow their own rules, and to see that there was not a hardship in this case and to not approve this request.

Derexa Sandoe, 100 N. Orchard Dr., Muncie, Indiana, appeared in opposition. She stated that if approved, there would only be one home between her house and these apartment buildings, and asked the board not to do this to her community.

Ms. Moody stated that the same letter and phone call for BZA 13-22 ad been received for this case as well from Steve Hole and Mickey Stewart.

Mr. Salazar stated that they would not be expanding the use into the neighborhood, they would just be building a new building on the same lot where it had been a single-family home. He stated that they had submitted building plans and site plans for the duplex which can be changed if the setbacks were not correct. He stated that the evidence for receiving the loan also had to do with the value of the home, and that a smaller home or single unit has an effect on that. He stated that they wanted to build something that looks very nice and that he would be willing to add a privacy fence if that would help the neighbors. He stated that at this time the property was an eyesore on 2 lots, and that their goal was to improve the properties, and he showed the audience the plans that had been provided to the board. He stated that he did not know the other duplex owners in the area, but he would not want to live next to a terrible property, and so he does not want to do that to the neighborhood.

Mr. Wiseley asked what the setbacks were for this property.

Ms. Moody stated that the setbacks were 2 different issues, one being the setbacks set forth in the restrictions for the Woodlawn Park Subdivision and the other being the setbacks set forth in the zoning ordinance. She stated that there are many times when those are different and usually a subdivision setback was the greater of the two. She stated that the restrictions were enforced by the owners of property in the subdivision, not by government and that we recommend that they know those restrictions since the

property owners in the neighborhood can file with the courts to stop construction if they feel the restrictions are being violated.

Mr. Wiseley made a motion to approve BZA 14-22 the appeal of Olympus Management LLC and Anibal Salazar with the hardship as stated in the application. Voting in favor: Mr. Wiseley. Voting against: Mr. Jones, Ms. Kennison, Ms. Mathewson, and Mr. Watson. Motion failed, BZA 14-22 denied.

Ms. Moody stated that when the Board denies a request, the applicant can submit new evidence and ask the Board for a second hearing, and if granted the applicant would file a new request. She stated that the applicant could also file an appeal with the courts within 30 days or wait 1 year and refile the request.

**BZA 15-22 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Rittenhouse Properties, LLC.**, 2902 Oak Borough Run, Fort Wayne, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a decreased minimum lot area for a 2-unit house and decreased business parking, all to divide an existing property in a business zone on premises located at 1316 and 1400 North Wheeling Avenue, Muncie, Indiana, as more accurately described in the application.

Rachel Sipe, 5100 W Bradburn Dr., Muncie, Indiana, appeared. She stated that they had an accepted offer for the duplex and have had a survey to split the property and need the variance to have the duplex be on a smaller lot.

Dale Anderson, 10001 W Gallagher Way, Muncie, Indiana, appeared. He stated that he worked next door at Fastenall and would like to understand the proposed property lines.

Ms. Sipe showed Mr. Anderson the map and Mr. Anderson stated he had no problems with how it was drawn.

Ms. Wiseley made a motion to approve BZA 15-22 with the hardship as stated in the application. Ms. Mathewson seconded the motion. Voting in favor: Mr. Jones, Ms. Kennison, Ms. Mathewson, Mr. Watson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 15-22 approved.

**BZA 16-22 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Nathaniel S. Williams**, 403 South Woodlawn Street, Parker City, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow construction of a storage building for personal use prior to the dwelling on 3.46 acres in a farming zone on premises located west of and adjacent to 12000 East County Road 500 South, Perry

Township, Delaware County, Indiana, as more accurately described in the application.

Nathaniel Williams, 403 S. Woodlawn St., Parker City, Indiana, appeared. He stated that he planned to build a house here in the future next to his parents and that he would like to build the storage building first for his belongings.

Mr. Watson asked if he would be storing his building materials here.

Mr. Williams stated that it would be for his boat and personal storage.

Ms. Moody stated that the office had received a letter of support from Eugene Whitehead.

No one appeared in opposition.

Mr. Wiseley made a motion to approve BZA 16-22 with the hardship as stated in the application. Mr. Jones seconded the motion. Voting in favor: Mr. Jones, Ms. Kennison, Ms. Mathewson, Mr. Watson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 16-22 approved.

#### **BZA 17-22 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **3 Rivers Federal Credit Union and Meijer Stores LTD. Partnership**, 2929 Walker Northwest, Grand Rapids, Michigan, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased maximum front setback build-to line, 2 ground signs and no sidewalk along McGalliard, all for a new credit union on a parcel to be platted on premises located on the north side of the 6200 Block of West McGalliard Road, Muncie, Indiana, as more accurately described in the application.

John Schoder, 6267 South St Rt 587, New Regal, Ohio, appeared on behalf of TE Incorporated, the design company of the project. He stated that this property was a limited access right of way area and that INDOT would not allow sidewalk there. He stated that the request for the build-to-line was to allow room for a drive-thru and parking on the front. He stated that they would like to have a sign at McGalliard Road and with all of the trees and landscaping needed, the sign would not be as visible so they would also like to have a sign on the other end of the property.

Mr. Watson stated that this would be going right next to Discount Tires.

Mr. Jones asked if there would be an entrance from McGalliard Road.

Ms. Moody stated no.

Ms. Kennison asked if the signs would be ground signs and not pole signs.

Mr. Schoder stated that it would be ground signs.

Ms. Moody stated that a few recommended conditions should be that the applicant submit a detailed site plan for approval and that the plat for the lot be finished and recorded.

No one appeared in opposition.

Mr. Wiseley made a motion to approve BZA 17-22 the appeal of 3 Rivers Federal Credit Union and Meijers Stores LTD Partnership with the hardship as stated in the application with the following conditions; 1) That the plat be finished and recorded; and 2) That the applicant will submit and get approval for a detailed landscape plan. Ms. Kennison seconded the motion. Voting in favor: Mr. Jones, Ms. Kennison, Ms. Mathewson, Mr. Watson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 17-22 approved.

**ADJOURNMENT:**

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Mr. Watson, Vice-Chairman

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Ms. Moody, Secretary