

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

DATE: June 30, 2022

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

TIME: 6:00 P.M.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Jim Fowler

Mike Jones

Leslie Mathewson

Kathryn Kennison

Kelly Watson Jr.

Taylor Marshall

Allen Wiseley

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

OLD BUSINESS:

BZA 11-22 Jurisdiction: Board of Zoning Appeals

Being a continuation of 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 overhead doors facing Madison and 5th Streets, and 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 5th Street formerly addressed as 1203 South Madison Street, Muncie, Indiana, as more accurately described in the application.

BZA 13-22 Jurisdiction: Board of Zoning Appeals

Being a continuation of 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.

NEW BUSINESS:

BZA 18-22 Jurisdiction: Board of Zoning Appeals
Special Use Being a public hearing on the matter of an application filed by **Partuck Corporation and Richard Case**, 5000 North Isabella Lane, Muncie, Indiana, requesting a special use and a variance under the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a revision to the Copperfield Commons PUD to reduce the area in the PUD and to decrease the recreational area on premises located on the east side of the 4300-4600 block of North Morrison Road, Muncie, Indiana, as more accurately described in the application.

BZA 19-22 Jurisdiction: Board of Zoning Appeals
Special Use Being a public hearing on the matter of an application filed by **Advantix Development Corporation and Heritage Apostolic Tabernacle, Inc.**, 500 SE 10th Street, Evansville, Indiana, requesting a special use under the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a new 25 unit multi-family housing development on premises located on the east side of the 3100 block of South Walnut Street Street, Muncie, Indiana, as more accurately described in the application.

BZA 20-22 Jurisdiction: Board of Zoning Appeals
Being a public hearing on the matter of an application filed by **Francis and Pamela Simmons**, 18801 North Wheeling Avenue, Gaston, Indiana, requesting variances 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 and an increased height for a new 30'x40'x19' pole barn in a residence zone on premises located at 18801 North Wheeling Avenue, Washington Township, Delaware County, Indiana, as more accurately described in the application.

BZA 21-22 Jurisdiction: Board of Zoning Appeals
Being a public hearing on the matter of an application filed by **Christopher Wallace**, 3821 North Piper Street, Muncie, Indiana, requesting a variance of use from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a personal storage building without a dwelling for a new 30' x 40' garage on premises located on the east side of the 3600 block of North Franklin Street, Muncie, Indiana, as more accurately described in the application.

BZA 22-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **CIO Real Estate, LLC and Central Indiana Orthopedics**, 3600 West Bethel Avenue, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased ground sign height and an increased number of wall signs for an existing orthopedics center on premises located at 3600 West Bethel Avenue, Muncie, Indiana, as more accurately described in the application.

BZA 23-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Burlington PK LLC**, 4111 North Wheeling Avenue, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow reduced parking, reduced drive-thru stacking and no foundation sidewalk along the façade facing Arlington St., all for a new Pizza King restaurant on premises located at 3403 East Memorial Drive, Muncie, Indiana, as more accurately described in the application.

REPORT FROM DIRECTOR:

ADJOURNMENT:

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

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Ms. Stinton, sitting in for Ms. Moody, called roll and the following members were present: Mr. Fowler, Mr. Jones, Ms. Mathewson, and Mr. Wiseley. Absent: Ms. Kennison, Ms. Marshal, and Mr. Watson. Also Absent: attorney for the Board.

OLD BUSINESS:

BZA 11-22 Jurisdiction: Board of Zoning Appeals

Being a continuation of 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 overhead doors facing Madison and 5th Streets, and 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 5th 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.

Mr. Fowler stated that since last months' meeting it looked like Mr. Fuller had provided some additional drawings and asked him to talk about that.

Mr. Fuller stated that they had agreed to add shrubs and sidewalks and that he had provided a better drawing of the building. He stated that they had talked to the City Engineer about the sidewalks and landscaping. He stated that the contractor to build this would be the same contractor who were currently building Gillman's Home Goods, and that it would be a very nice building.

Mr. Fowler asked if he would be installing sidewalk along 5th Street and if it would tie into the sidewalk on Madison street.

Mr. Fuller stated yes.

Mr. Fowler asked if the pictures he had provided was the type of building he would be constructing and if would be all metal or some brick.

Mr. Fuller stated that he had taken a few pictures of the Gillman building to show their work and that he also provided a picture of his proposed building. He stated that it would be a metal building with brick 4' high along the front.

Mr. Fowler asked if he still wanted to have 2 overhead doors facing Madison Street and 3 facing 5th Street.

Mr. Fuller stated yes, that it would be for ventilation, exit, and to be able to accommodate more people. He stated that when the doors are closed they would only be able to have 40 people inside, but when opened more people can come and go easily and safely.

Mr. Fowler asked for clarification on what this building would be used for and if it would have any office spaces.

Mr. Fuller stated that there would be no office spaces, this would be a gathering place where they can feed people and that there would be a few picnic tables inside. He stated that they would also be storing the food in this building, and have some community events here as well. He stated that they had talked with Pastor Marvin who is from a nearby church and stated they could use the building for some of their activities.

Mr. Jones asked if the building had air condition and asked if the door facing Madison Street would be used for pedestrian traffic.

Mr. Fuller stated no, and that the doors would be open when they were having any event for air flow and safe exit in an emergency.

Reverend Vicki Perkins, 5509 W. Greythorne Dr, Muncie, Indiana, appeared. She stated that she was the Lead Pastor at the Garden of Gethsemane and the Main Street Campus, and that she had worked with Mr. Fuller for over 7 years. She stated that when the church at Main Street had a light out, Mr. Fuller helped and she had experienced his passion for helping and feeding the community first hand. She stated that without the light the religious community provides, things get dark and each time a church closes, it gets dark. She stated Mr. Fuller brings that light to the area and that the service The Norm provides needs to be a beacon for the community.

Pastor Tony Collins, 2409 W. Riggins Rd., Muncie, Indiana, appeared. He stated that he was the Pastor of Garden of Gethsemane and that he was a big part of Celebrate Recovery and that since the beginning of Covid he had seen an increase in the number of addiction cases, homelessness, and people in need. He stated that we need to find a way to step up and do something so that those people in need do not become a part of the population that no one wants in their community. He stated that Mr. Fuller gives them a way to survive with Faithbuilders Ministries.

Eric Strauch, 1412 W. 10th St., Muncie, Indiana, appeared. He stated that he was the Associate Pastor at the Main Street Church and that he had known Mr. Fuller for many years and that they had worked in various ministries together. He stated that the ministries that Mr. Fuller would be running from this building would help people who were

homeless or without resources to get clothing, furniture, and food and that this building would help with storage of those items that were donated to be distributed to the people who need that help. He stated that for the people that Mr. Fuller provides these types of services to, it has helped them to become contributing members to the community and he would like to see the board approve the request.

William Blevins, 1505 E. 24th St., Muncie, Indiana, appeared. He stated that he was an Associate Pastor at The Norm and that he had know Mr. Fuller for over 18 years and that he had seen a lot of change thanks to the services provided. He stated that some of the people that come to The Norm have no hope and no idea where to go for help and that Mr. Fuller is able to make a difference and help them get on track and he hopes that can continue to grow.

Mayor Dan Ridenour, 300 N. High St., Muncie, Indiana appeared. He stated that he had been working with Mr. Fuller on this area for a few years now and that he had been to several events. He stated that he did not know much about the building but that he can say the services offered provide a beacon of hope for that area and the people that have those needs.

Adrian Dunn, 4401 N. Ball Ave, Muncie, Indiana, appeared. He stated that he used to live in this neighborhood and that the homes were in bad condition back then and that they had since been rebuilt. He stated that now that he was older he has seen what a great resource Faithbuilders has been for that area and that the services they provide are life changing. He stated that he had taken several people to get help and that they need to know someone cares about them and that he hopes the request was approved.

No one appeared in opposition.

Mr. Wiseley made a motion to approve BZA 11-22 the appeal of Faithbuilders Ministries with the hardship as stated in the application with the following condition: That the applicant continue to work with the staff to provide a plan with tree and shrub species approved by the staff. Mr. Jones seconded the motion. Voting in favor: Mr. Fowler, Mr. Jones, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 11-22 approved.

BZA 13-22 Jurisdiction: Board of Zoning Appeals

Being a continuation of 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.

Theodore Faison, 2868 Gin Berry Way, West Palm Beach, Florida, appeared. He stated that he was the owner of Royalty Lionesz, LLC and that he had purchased the property in December 2021 from Ken and Gaye Sparks. He showed the board a picture of the 6 electric meters that are on the building. He stated that at the last meeting he had been asked about registering his LLC in Indiana, and that even though it was not a requirement he has done that. He stated that he had been encouraged to talk to some of the surrounding owners and that he had talked to Gaye Sparks, the previous owner who had lived in the building for over 20 years. He stated that he had provided a diagram of the existing building showing the reduction from a 6-unit to a 4-unit and that they would not be changing the façade of the building. He stated that they had done this type of renovation before and that they currently had projects in Muncie, Anderson, and Indianapolis.

Mr. Jones asked what would become of the building if the request was not approved.

Mr. Faison stated that it would require making it a single-family home and that it was too big for that use, and they most likely would not have purchased the property if they had this information sooner.

Mr. Fowler asked if they would only be remodeling the inside.

Mr. Faison stated that they would be adding more egress with balconies, and that the footprint would not change. He stated that they had purchased the property next door and had demolished the burned home and since the request for a duplex had been denied that would become single-family now.

Milana Sparks, 708 N. Northwood Dr. Parker City, Indiana, appeared. She stated that she grew up in this house and that her dad had remodeled the house 57 years ago, and that she did not know why things had changed and that was why she was here. She stated that she was told it was changed back to a single-family home without her knowledge and that she was here to find out why she was not notified when she was the property owner. She stated that due do privacy laws, they could not get electric bills for past tenants but that she had bills proving that from 1990 she had paid the electric bills and that she had a letter from Liberty Regional about the 6-units in 2014. She stated that there had been a water issue in the units and the bill had been so high that they decided to shut off the water and cap the access off so they were not using water or sewage and that had been a few years ago. She stated that they had a tenant that has used it for storage for the past 10 years and that helped with the security of the building. She stated that she just cannot understand how it can be changed to a single-family home when it has been an apartment for so long. She stated that she spoke to a neighbor, Mr. Walburn who lived at 305 N. Orchard Drive, and that he said he knew it had been an apartment for as long as he can remember.

Mr. Fowler asked when it was changed to a single-family home.

Ms. Matheson stated that it was just zoned single-family.

Ms. Stinton stated that it was in the R2-Residence Zone which was a single-family residence zone and that when a non-conforming use ceases for a year or more it reverts back to that was conforming, the nonconformity was no longer legal. She stated that if it had been changed back and used as a single unit it has lost the non-conformity to be 6-units.

Ms. Mathewson asked if Ms. Sparks was the owner that sold the property to the applicants.

Ms. Sparks stated yes, and that they had other properties including this one.

Ms. Mathewson stated that Ms. Sparks talked about how they had capped off the utilities and asked when that had happened.

Ms. Sparks stated that Liberty Regional believes it was in January of 2015, but at that time they were allowing someone to have storage there.

Ms. Mathewson asked if they had stopped renting out the units as apartments in 2015.

Ms. Sparks stated yes but that her husband had always used the second floor for office space, but she did not know it would be an issue because no one told her it would.

Kenneth Sparks, 708 N. Northwood Dr. Parker City, Indiana, appeared. He stated the apartment was part of S&H Rental properties and that he owned 29 rentals and that he owned S&S construction and that things got too much for him to handle. He stated that he shut the building down other than his office space. He stated that he shut the sewer off because it was costing too much and that he never knew it would change the use of the property by doing that.

Eric Hensley 6609 E. Hickory Lane, Muncie, Indiana, appeared in opposition. He stated that he lived in the addition next to the property and that there was no question that it had been an apartment at one time. He stated that his understanding was that since this was a single-family residence zone and the apartment had been empty for over 1 year, it should revert back to that single-family use. He asked if there was a variance needed for them to go back to a single-family dwelling or just to have the 4-unit and not a 6-unit. He stated that they had concerns that since this would be a rental, it could become low income or Section 8 housing and that they would have to deal with how that could negatively impact the property values of the neighborhood. He stated that all of the homes in Woodlawn Park were single-family and that they were those property owners forever homes, and that some residents had lived there since 1955. He stated that he knows some of the board drives past this area and can see the eyesore but at this point they would rather live with looking at the building as is than to deal with some of the problems that could come with a rental. He stated that he does not want to see anyone without a place to live, but that he had made a sizeable investment in his property just like some of the other property owners had, and that this would be a negative impact from an investment company that was not even a local company.

Bradon Kelly, 6612 E. Jackson St. Muncie, Indiana, appeared in opposition. He stated that a number of his neighbors had attended last months' BZA meeting or sent emails, speaking in opposition to this variance request and that there were a number of reasons why this use should not be allowed to continue. He stated that it had always had the single-family residence zoning and multi-family had never been a permitted use, that they had just made it that way. He stated that approval of this variance would permanently and negatively change the character of Woodlawn Park, and there are people who have lived here for decades. He stated that he had reviewed the application and that the applicant stated a hardship and by the BZA's own rules, financial loss or gain is not a hardship. He stated that it was not a hardship when the applicant wants to use the property as an apartment building, which is a commercial use, in a zone that does not permit commercial uses. He also stated that it is not a hardship if an applicant knowing or unknowingly violates a zoning ordinance and then attempts to cite his financial losses as a hardship if not granted a variance. He stated that he was sorry the applicant did not do his due diligence but by the board's own standards, he has failed to demonstrate a hardship, and therefore his request should not be approved, and he asked the board to comply with their own plan.

Ms. Stinton read an email received from Pat Parker, who live at 214 N. Orchard Dr., Muncie, stating that he and his wife were in opposition to the request.

Mr. Wiseley made a motion to approve BZA 13-22 the appeal of Royalty Lionesz LLC and Anibal Salazar with the hardship as stated in the application. Ms. Mathewson seconded the motion. Voting in favor: Mr. Fowler, Mr. Jones, and Mr. Wiseley. Voting against: Ms. Mathewson. Motion failed, no official action. BZA 13-22 automatically continued to the July 28, 2022 meeting.

NEW BUSINESS:

BZA 18-22 Jurisdiction: Board of Zoning Appeals

Special Use Being a public hearing on the matter of an application filed by **Partuck Corporation and Richard Case**, 5000 North Isabella Lane, Muncie, Indiana, requesting a special use and a variance under the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a revision to the Copperfield Commons PUD to reduce the area in the PUD and to decrease the recreational area on premises located on the east side of the 4300-4600 block of North Morrison Road, Muncie, Indiana, as more accurately described in the application.

Kathy Vannice, Ashton Land Surveyors, 325 W. Washington St., Muncie, Indiana, appeared to represent the applicant. She stated that the original approval was in 2016 and that had intended to create 150 duplex units with a 90 unit assisted living facility. She stated that currently the goal with Copperfield Commons was to have viable housing and opportunities to attract more people to Muncie. She stated that since the drastic change in the economy, they were trying to accommodate that by asking to build single family homes. She stated that the new homes would be 3000 square feet of living area,

including a patio or screened in porch, and that the price range should be around \$300,000 or more. She stated that the single-family homes would meet the R2-Residence Zone requirements and that each one would have plenty of room for recreational space on each property. She stated that there were 7 lots with duplexes, and the PUD had set aside outlot 5 that will have a landscaped area with a walking path, seating for relaxation, and this was located in the back of the subdivision away from high-traffic area and would be the first construction for section B. She stated that they had received a favorably recommendation from the Plan Commission.

Ms. Fowler asked about lot 25A and 25B.

Ms. Vannice stated that those were preexisting duplexes and that there were 7 units that were built, except for 4B and that was not owned by Partuck.

Mr. Fowler asked if they were basically turning this into a single-family subdivision with no more duplexes.

Ms. Vannice stated yes.

Mr. Wiseley stated that from what he remembered at the Plan Commission meeting, lot 5 would meet the requirement for the 7 duplexes.

Ms. Vannice stated that looking at the current duplexes, the requirement would be 25% and lot 5 would be 27%, so it would slightly exceed the requirement. She stated that this recreation area would not be restricted and could be used by anyone in that entire subdivision.

Mr. Wiseley asked if it would have a dry-bottom pond, or if it would be filled.

Ms. Vannice stated that it was considered a dry-bottom for the drainage calculations.

Mr. Fowler stated that it was designed for the 30-year flood.

Ms. Vannice stated yes, and that it was from the original Section A.

Mayor Dan Ridenour, 300 N High St., Muncie, Indiana, appeared. He stated that he has had several meetings with Mr. Case of Partuck, Ms. Vannice, and Ms. Moody all trying to make sure that everything works. He stated that there were major housing needs in Muncie and that he hopes the board views these efforts as working to improve that issue. He stated that Mr. Case has had offers from developers who are not of as high-quality builders as he is, and he appreciates the types of homes he builds and hopes that he continues that. He stated that Mr. Case had a waiting list for homes, and that he would appreciate a favorable vote form the Board.

Richard Case, 5000 N. Isabella Ln., Muncie, Indiana, appeared. He stated that he had lived in Muncie for 75 years and had been in the construction business his whole life. He

stated that he was getting close to retirement and that he wanted to give back high-quality housing to the community.

Ms. Stinton read the favorable recommendation from the Plan Commission meeting on June 2, 2022.

No one appeared in opposition.

Mr. Jones made a motion to approve BZA 18-22 the appeal of Partuck Corporation and Richard Case with the hardship as stated in the application. Ms. Mathewson seconded the motion. Voting in favor: Mr. Fowler, Mr. Jones, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 18-22 approved.

BZA 19-22 Jurisdiction: Board of Zoning Appeals

Special Use Being a public hearing on the matter of an application filed by **Advantix Development Corporation and Heritage Apostolic Tabernacle, Inc.**, 500 SE 10th Street, Evansville, Indiana, requesting a special use under the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a new 25 unit multi-family housing development on premises located on the east side of the 3100 block of South Walnut Street, Muncie, Indiana, as more accurately described in the application.

Tim Martin, Chief Operating Manager for Advantix Development Corporation, 500 SE 10th St., Evansville, Indiana, appeared. He stated that they were proposing construction of a 25-unit townhome development called Southern Terrace that would also have 25 single-family homes on formerly blighted lots around the city.

Mr. fowler asked if these were similar to the housing that was across from the fieldhouse.

Mr. Martin stated that he was not familiar with that development so he could not answer that question.

Mr. Fowler asked about the façade and the design.

Mr. Martin stated that they would have a combination of masonry and hardy-board siding materials and that they would work with the staff to comply with the requirements upon approval.

Mr. Folwer stated that on the map it appeared that there would be 5 separate buildings being built, and asked what the building labeled "I" would be.

Mr. Martin stated that there would be 5 residential buildings and 1 community building. He stated that the building marked "I" would be the office.

Mr. Wiseley asked if this was the 15-year rent to own program through the state.

Mr. Martin stated yes, that each renter would receive credit towards the value of the real estate that would be applied to the purchase price at the end of the 15 years.

Mr. Wiseley asked when the next application deadline for the tax credit was due.

Mr. Martin stated application were due in July and that the announcements would be made in November.

Mr. Wiseley asked if approved how soon when construction begin and then how soon to have people move in to the units.

Mr. Martin stated that construction usually begins 6-8 months after, depending on site plan reviews and permit approvals. He stated that they typically have 12-14 months of construction, and since this included some scattered building sites, once they had a certificate of occupancy tenants could start moving in within 12 months of the beginning of construction.

Mr. Jones asked what roll Heritage Tapernacle Church had with this request.

Mr. Martin stated that they were purchasing the Property from the church.

Mr. Jones asked if this would be a tax-exempt development.

Mr. Martin stated no, that it would be placed back on the tax rolls.

Mayor Dan Ridenour, 300 N. High St., Muncie, Indiana, appeared. He stated that he had been working with Advantix for a while and one of the goals was to get the MRC lots that were formerly dilapidated homes, back onto the tax rolls and provide better housing opportunities. He stated that this was work force housing and that someone making \$30,000 per year would pay a different rent than someone earning \$50,000 per year. He stated the states had recognized that it has become too expensive for people to build high quality homes and get that financing. He stated that this gives an opportunity for middle income people to be able to have new housing and eventually become a homeowner. He stated that this is a development that will have nice townhomes which people were always looking for, and also roughly 25 lots to become single-family homes which will have a positive impact on those neighborhoods. He stated that the city was investing resources into the project and that it was supported by the city and that they recognize the need for new and affordable housing. He stated that he hoped the board votes in support of the request.

Matt Mardis, 109 E 26th St., Muncie, Indiana, appeared. He stated that he was not necessarily in opposition, but he had some concerns. He stated that the area across the street from this project was an area of mostly retired people and he had concerns about the noise, extra traffic, and added lights.

Paula Morrison, representing Paul and Amber Evans who live at 201 E. 26th St., Muncie, Indiana, appeared in opposition. She stated that there was a concern since there would

only be one entrance and exit and that it was right at an approach at 26th street. She stated that there would be 54 parking spaces for this development and that all of that traffic would come out at the Parris's, Mardis's, and Evans's front doors. She stated that her parents' home had been hit by a vehicle from traffic leaving the existing assisted living facility in 2015, and that thankfully her father had not been injured, but that it was always going to be a huge concern. She stated that it had a Walnut Street address and yet the entrance was on 26th and that traffic was always backed up. She asked if these townhomes were rent-to-own for 15 years, who would be doing the maintenance and upkeep during that time. She stated that the proposed apartment building that was denied by the BZA for the same location was Walnut Manor, and where it did end up developing was not a well-maintained development. She stated that she was born and raised in her parent's home that was across the street and that they would be negatively impacted by all of the traffic. She stated that yes, housing was needed but did it have to be at this location and whether they were townhomes or not, they could eventually become a Section 14 housing development, which was a non-taxable development. She stated that the company developing this project was a 501-3C, and that they were not taxable, and that they were also known to the work with Rental Assistance Program, which was based on your income, however they were a TCS, which was a HUD program, and that was what would potentially become of this development if they were not all rent-to-owns.

Mr. Martin stated that yes, there was only one entrance and exit which was similar to the other developments they have planned and there had been no complaints. He stated that his management team would do their best to mitigate any issues and that they wanted to work with their neighbors wherever they locate. He stated that Advantix Corporation had over 1500 units in multiple cities in Indiana and other states, so this was not their first project. He stated that Advantix was a 501-3C, but it was a stand-alone corporation and that it had no connection with HUD or any HUD programs. He stated that during the 15 years of rent-to-own operations, to get to the lease-to-own option, their management team would be required to keep the properties maintained and keep up with city code, such as trash removal and mowing. He stated that he was not familiar with Section 14, but that he would be happy to look into that and try to answer any questions. He stated that this was workforce housing and that serves the median income which in this community was \$59,600 for a family of 4, so this would appeal to a lot of people living and working in this area.

Mr. Jones asked if the sales price was negotiated at the time of the sale.

Mr. Martin stated yes, it was subject to appraisal at the time of the sale and that they would get credit for a portion of the rent payments.

Mr. Jones asked who would maintain the property as far as structural repairs to roofing, plumbing, and other issues and asked who would pay for that.

Mr. Martin stated that they would have maintenance and management staff onsite and that it was part of the properties operating budget received from the rental fees.

Mayor Ridenour stated that the city was supportive of this project because these renters now will be homeowners in 15 years and due to that, this will not become Section 8 properties. He stated that this was not intended to be a forever rental property and that in order for the developer to get the tax credits, they were expected to sell them.

Mr. Jones stated that he had a concern with the one entrance and exit and the traffic problems that it could cause.

Mr. Martin stated that this was a preliminary site plan and that changes can be made to add a different access. He stated that they were trying to fit on the site without needing any other variances, but that they could look for another opportunity for an entryway.

Ms. Stinton read the favorable recommendation from the Plan Commission Meeting on June 2, 2022.

Mr. Wiseley made a motion to approve BZA 19-22 with the hardship as stated in the application with the following condition: That the applicant will work with the City Engineer regarding traffic concerns and the possibility of a second entrance. Ms. Mathewson seconded the motion. Voting in favor: Mr. Fowler, Mr. Jones, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 19-22 approved.

BZA 20-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Francis and Pamela Simmons**, 18801 North Wheeling Avenue, Gaston, Indiana, requesting variances 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 and an increased height for a new 30'x40'x19' pole barn in a residence zone on premises located at 18801 North Wheeling Avenue, Washington Township, Delaware County, Indiana, as more accurately described in the application.

Francis Simmons, 18801 N Wheeling Ave, Gaston, Indiana, appeared. He stated that the proposed building would be to store his camper and truck so that they were not outside. He stated that JJ Enterprise would be building the barn for him. Mr. Fowler asked how he would get back to the barn since it did not appear to have a driveway.

Mr. Simons stated that there was a carport that would be moved to different spot on the property and that he would be able to get to the barn along that path.

Mr. Fowler asked if this was for personal storage only.

Mr. Simmons stated yes, and that he would be getting rid of some of the smaller sheds once this barn was built.

No one appeared in opposition

Mr. Wiseley made a motion to approve BZA 20-22 the appeal of Francis and Pam Simmons with the hardship as stated in the application with the following conditions: 1) That the building be for personal use only; and 2) That there be no business activity on the property. Mr. Jones seconded the motion. Voting in favor: Mr. Fowler, Mr. Jones, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 20-22 approved.

BZA 21-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Christopher Wallace**, 3821 North Piper Street, Muncie, Indiana, requesting a variance of use from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a personal storage building without a dwelling for a new 30' x 40' garage on premises located on the east side of the 3600 block of North Franklin Street, Muncie, Indiana, as more accurately described in the application.

Chris Wallace, 3821 N Piper St., Muncie, Indiana, appeared. He stated that he was a fisherman and that he had purchased his home 19 years ago, when he did not own a boat. He stated that he does now and that it had been sitting in his driveway and that he wanted to build a building for storage of the boat. He stated that he found this property which was only 2 blocks away from his house and had purchased it, not knowing he would need a variance. He stated that he had talked to several of the neighbors and that they had mentioned how they appreciated how much he had cleaned the property. He stated that he would have electricity to the building but that would be the only utility.

Mr. Fowler stated that it sounded like he had talked to his neighbors and had their support and asked if the building would be for his boat only.

Mr. Wallace stated that it would be for his boat and some of his fishing equipment.

Mr. Fowler asked if he would have water hooked up to the building.

Mr. Wallace stated that maybe at some point just so that he could wash up, but not at this time. He stated that the boat he has does need to be charged so he would have electricity hooked up.

No one appeared in opposition.

Mr. Jones made a motion to approve BZA 21-22 the appeal of Christopher Wallace with the hardship as stated in the application with the following conditions; 1) That the garage be used for personal storage only; and 2) That there will be no business activity on the property. Mr. Wiseley seconded the motion. Voting in favor: Mr. Fowler, Mr. Jones, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BA 21-22 approved.

BZA 22-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **CIO Real Estate, LLC and Central Indiana Orthopedics**, 3600 West Bethel Avenue, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased ground sign height and an increased number of wall signs for an existing orthopedics center on premises located at 3600 West Bethel Avenue, Muncie, Indiana, as more accurately described in the application.

Cayla Truman, Marketing Manager for Central Indiana Orthopedics, 3600 W. Bethel Ave., Muncie, Indiana, appeared. She stated that they would like to add 2 signs to what they currently had and that both would require a variance. She stated that they had 2 half walls at the entrance to the parking lot that they are trying to be creative with, but since it is within 5' of the right of way, it would not meet the sign requirements. She stated that the sign would include their logo along with some of the services that they provide. She stated that when traveling east on Bethel Avenue there was currently no signage and they would like to put signage on that side of the building. She stated that they were currently undergoing a redesign of the exterior of the building including a new logo so they would like to update those signs.

Mr. Fowler asked if the ground sign was at a 90-degree angle.

Ms. Truman stated that it was close to 90-degree angle.

Mr. Fowler asked if they were painting the brick on those half walls.

Ms. Truman stated that it was a concrete type material and that they were just trying to be creative with an existing structure.

Mr. Jones stated that it appeared nothing new would be built.

Ms. Truman stated no. She stated that if you look at the aerials of the property that the building had unique angles and that they did have signage on the overhang but it was not visible from Bethel Avenue.

Ms. Stinton read a letter of support from Benjamin Smith of Estep Doctor & Company.

No one appeared in opposition.

Mr. Wiseley made a motion to approve BZA 22-22 the appeal of CIO Real Estate, LLC and Central Indiana Orthopedics with the hardship as stated in the application. Ms. Mathewson seconded the motion. Voting in favor: Mr. Fowler, Mr. Jones, Ms. Mathewson, and Mr. Wiseley. Voting against; None. Motion carried, BZA 22-22 approved.

BZA 23-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Burlington PK LLC**, 4111 North Wheeling Avenue, Muncie, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow reduced parking, reduced drive-thru stacking and no foundation sidewalk along the façade facing Arlington St., all for a new Pizza King restaurant on premises located at 3403 East Memorial Drive, Muncie, Indiana, as more accurately described in the application.

Allen Robinson, President and CEO of Pizza King and Burlington PK LLC, 4111 N. Wheeling Ave., Muncie, Indiana, appeared. He stated that they had purchased this property about 1 year ago and that they had a current location on May Avenue, on East 12th Street. He stated that they had rented that location since 1962 and decided that it was time to own their own property. He stated that they purchased the land and thought since it had always been commercially used, that there would be no issues. He stated that there was a residential area where they had to add more greenspace and that was where they had lost the 4 parking spaces that they were short to meet the requirements. He stated that it would have a nice dining room, so they do expect to have that business but that the majority would be carry-out and delivery so they did not feel the loss of those spaces would be a problem. He stated that this was not a drive-thru window in the traditional sense that you can order in line, but that if you placed a call ahead order for carry-out, you could arrive and get in line for pick-up. He stated that if there were 2 cars in line, a staff member would go to the car and have them park in a space, and that they had never run into any issue with cars backing up in line. He stated that the 3' foundation sidewalk facing Arlington Road was because of the pick-up window and that would be too far from the window. He stated that the lease was up at the end of the year but that the landlords there were very nice and willing to work with them while they were getting the necessary approvals. He stated that they had met with staff and were willing to do whatever it took to meet the standards to make this project work.

Mr. Fowler stated that he had been curious about the pick-up window and appreciated the explanation.

Mr. Robinson stated that if there were ever more than 2 cars they would have a staff member ask them to park and then bring their order to them.

Mr. Fowler asked if they were working with Ms. Moody and the staff to meet the planting standards.

Mr. Robinson stated yes, they had emailed and met with staff and were willing to what it takes to have a very professional, clean looking landscape area on the property. He stated that the building and property had been empty for a long time and that they had maintained it since the purchase but feel that they can do more to improve the site.

Mr. Wiseley asked how many parking spaces they had at the May Street location that this would be replacing.

Mr. Robinson started that they operate 1800 square feet in a building that also had a barber shop and a bait and tackle shop so the parking spaces were shared by all 3 businesses. He stated that for the Pizza King that they probably take up 10 spaces, so 16 at the new site would be sufficient. He stated that they had never filled the lot at the current location, and would only anticipate that happening at the new location during the first 1-2 weeks when they first open.

Mayor Dan Ridenour indicated form the audience that he was in support.

No one in opposition.

Mr. Wiseley made a motion to approve BZA 23-22 the appeal of Burlington PK LLC with the hardship as stated in the application with the following condition: That the applicant continue to work with the staff to finalize a landscape plan. Ms. Mathewson seconded the motion. Voting in favor: Mr. Fowler, Mr. Jones, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 23-22 approved.

ADJOURNMENT:

James Fowler, Chairman

Lorey Stinton
for Marta Moody, Secretary