

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

DATE: October 27, 2022

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

TIME: 6:00 P.M.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Jim Fowler

**Mike Jones
Kathryn Kennison
Taylor Marshall**

**Leslie Mathewson
Kelly Watson Jr.
Allen Wiseley**

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

OLD BUSINESS:

BZA 32-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Megan Sparks**, 5109 North Broadway Avenue, Muncie, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a dental lab business in an existing detached garage in a residence zone on premises located at 5109 North Broadway Avenue, Hamilton Township, Delaware County, Indiana, as more accurately described in the application.

BZA 33-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Indiana Ministries of the Church of God, Inc.**, 13300 Olio Road, Suite 303, Fishers, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a decreased lot size for a property containing a house and accessory buildings and a parking lot to be re-platted and for off-site church parking on the second re-platted lot on premises located at 215 East 22nd Street, Muncie, Indiana, as more accurately described in the application.

BZA 34-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Charles Allen, Jr.**, 120 South Vine Street, Muncie, Indiana, requesting a variance of use from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a new 30'x60' accessory structure without a dwelling and for business storage use in a residence zone on premises located on the east side of the 2600 block of South Blaine Street, Muncie, Indiana, as more accurately described in the application.

CITY VIEW: DECREASED SIDE SETBACK AND DECREASED BUILDING WIDTH

Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of applications filed by **City of Muncie Redevelopment Commission and City View Homes II, LLC**, 9100 Centre Point Drive, Suite 210, West Chester, Ohio, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a decreased building width and decreased street side setback for a new house on each of the following locations:

- BZA 36-22** on premises located on the southwest corner of the intersection of Rochester Avenue and 15th Street formerly known as 1901 West 15th Street, Muncie, Indiana,
- BZA 37-22** on premises located on the southwest corner of the intersection of Port Avenue and 14th Street formerly known as 2111 South Port Avenue, Muncie, Indiana,
- BZA 38-22** on premises located on the southwest corner of the intersection of Port Avenue and Memorial Drive formerly known as 1701 West Memorial Drive, Muncie, Indiana,
- BZA 43-22** on premises located on the southeast corner of the intersection of 16th Street and Mulberry Street formerly known as 2300 South Mulberry Street, Muncie, Indiana,
- BZA 44-22** for a new house on premises located on the northeast corner of the intersection of 17th Street and Walnut Street formerly known as 2328 South Walnut Street, Muncie, Indiana,

all as more accurately described in the applications.

CITY VIEW: DECREASED BUILDING WIDTH

Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of applications filed by **City of Muncie Redevelopment Commission and City View Homes II, LLC**, 9100 Centre Point Drive, Suite 210, West Chester, Ohio, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a decreased building width for a new house on each of the following locations:

- BZA 39-22** on premises located on the north side of 10th Street 160' east of Rochester Avenue formerly known as 1804 West 10th Street, Muncie, Indiana,
- BZA 40-22** on premises located on the south side of 8th Street 50' east of Perkins Avenue formerly known as 1435 West 8th Street, Muncie, Indiana,
- BZA 41-22** on premises located on the south side of 7th Street 100' west of Perkins Avenue formerly known as 1511 West 7th Street, Muncie, Indiana,
- BZA 42-22** on premises located on the west side of Walnut Street 80' south of 13th Street formerly known as 2009 South Walnut Street, Muncie, Indiana,

BZA 45-22 on premises located on the east side of Ebright Street 450' south of 13th Street formerly known as 2104 South Ebright Street, Muncie, Indiana,

BZA 46-22 on premises located on the north side of 17th Street 134' west of Rochester Avenue formerly known as 1916 West 17th Street, Muncie, Indiana,

all as more accurately described in the applications.

MOVED TO THE END OF OLD BUSINESS AT THE APPLICANT'S REQUEST

BZA 35-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Amber Corduan and Hailey Perkins**, 4141 South County Road 900 East, Selma, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow the keeping of 8 personal and 4 foster dogs and 2 personal and 3 foster cats on 2.5 acres in a farming zone on premises located at 4141 South County Road 900 East, Liberty Township, Delaware County, Indiana, as more accurately described in the application.

NEW BUSINESS:

BZA 47-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Garfield Facility, LLC**, 2601 West Mount Pleasant Boulevard, Muncie, Indiana, requesting a variance from the terms of the Delaware County Comprehensive Zoning Ordinance to a decreased front setback for a new shed on premises located at 2601 West Mount Pleasant Boulevard, Center Township, Delaware County, Indiana, as more accurately described in the application.

BZA 48-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Lauren Cunningham**, 10871 West County Road 700 South, Middletown, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a new guest house/studio as an accessory to an existing residence in a farming zone on premises located at 10871 West County Road 700 South, Salem Township, Delaware County, Indiana, as more accurately described in the application.

BZA 49-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Larry New and Casey's Marketing Company**, 5721 Dragon Way, Suite 300, Cincinnati, Ohio, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow an increased height for a pole sign for a new gas station/general store and for the sign to be located in the greenbelt on premises located at the southeast corner of Jackson Street and Country Club Road, Liberty Township, Delaware County, Indiana, as more accurately described in the application.

BZA 50-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Hanna Indy Investments, LLC**, 10809 Country Club NE, Albuquerque, New Mexico, requesting a variance of use from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a dwelling in an existing detached garage for a total of two dwellings on one property in a single-family residence zone on premises located at 2219 South Elm Street, Muncie, Indiana, as more accurately described in the application.

ADJOURNMENT:

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

The Delaware-Muncie Metropolitan Board of Zoning Appeals (BZA) held its regular monthly meeting on Thursday, October 27, 2022 at 6:00 P.M., in the Commissioner’s Court Room of the Delaware County Building, Muncie, Indiana. Chairman James Fowler called the meeting to order.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Mr. Daniel called roll and the following members were present: Mr. Fowler, Mr. Jones, Ms. Marshall, Ms. Mathewson, and Mr. Wiseley. Absent: Ms. Kennison and Mr. Watson. Also absent: attorney for the Board.

MINUTES:

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

Mr. Fowler stated that meeting notes for August 2022 had been included, but that meeting had been cancelled due to a lack of quorum.

OLD BUSINESS:

BZA 32-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Megan Sparks**, 5109 North Broadway Avenue, Muncie, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a dental lab business in an existing detached garage in a residence zone on premises located at 5109 North Broadway Avenue, Hamilton Township, Delaware County, Indiana, as more accurately described in the application.

Megan Sparks, 5109 N. Broadway Ave., Muncie, Indiana, appeared. She stated that she had a detached garage on her property that she would like to convert into a dental lab.

Mr. Fowler asked if she had talked to any of her neighbors and asked if they had expressed any concerns.

Ms. Sparks stated that she had talked with a few and that only one neighbor had a concern because their addresses were similar and she did not want anyone coming to her house on accident.

Mr. Fowler asked how many employees she would have.

Ms. Sparks stated that it would be just her and one employee.

Mr. Fowler stated that as a condition the board would limit her to one employee and that the variance would be subject to her meeting all other codes and permitting requirements.

Ms. Sparks stated that was fine.

Mr. Fowler asked what the hours of operation would be and if she expected any big deliveries to the property.

Ms. Sparks stated that the hours would be mainly Monday to Thursday from 8:00 A.M. to 5:00 P.M. and she would not have any deliveries and only one employee that would be her driver to pick up and deliver supplies.

Mr. Wiseley stated that the detached garage was very close to the property line and asked if she had concerns of creating any run off on to the neighboring properties.

Ms. Sparks stated no.

No one appeared in opposition.

Mr. Wiseley made a motion to approve BZA 32-22 the appeal of Megan Sparks with the hardship as stated in the application with the following conditions; 1) That the variance shall be for Ms. Sparks and one employee only; 2) That the hours of operation be as stated in the application and; 3) That the applicant shall comply with all health codes and obtain all the necessary permits. Ms. Mathewson seconded the motion. Voting in favor: Mr. Fowler, Mr. Jones, Ms. Marshall, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 32-22 approved.

BZA 33-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Indiana Ministries of the Church of God, Inc.**, 13300 Olio Road, Suite 303, Fishers, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a decreased lot size for a property containing a house and accessory buildings and a parking lot to be re-platted and for off-site church parking on the second re-platted lot on premises located at 215 East 22nd Street, Muncie, Indiana, as more accurately described in the application.

Andrew Wert, with the law firm of Church, Church, Hittle, and Antrim, 2 N 9th St., Noblesville, Indiana, appeared with Jenene Lighty from Indiana Ministries of God. He stated that Indiana Ministries owned the property at 215 E 22nd St. and that it currently had a single-family dwelling that was no longer used for the parsonage and that they would like to split the property and sell the site with the house. He stated that the requested split of the property brought about the need for the variances for the parking lot and reduced lot size. He stated that there would no physical changes made to the property, and that the parking lot would continue to be used how it had been for the church. He stated that an access easement would be provided for the residents to use and to allow access to one of the garages on the residential lot and that the lot size would still be inline with some of the other properties in the area.

Mr. Fowler asked if the church would be selling the house.

Mr. Wert stated yes.

Mr. Fowler asked where the residents of the house would be parking.

Mr. Wert stated that there were 2 detached garages next to the house.

Mr. Wiseley asked if there was an existing driveway from 22nd Street to service the garage.

Mr. Wert stated yes.

Mr. Fowler asked if the drive from the church parking lot would have an easement.

Mr. Wiseley stated that it was in the application and asked if it went down the middle of the parking lot and avoid existing parking spaces.

Mr. Wert stated that it would run perpendicular to 22nd Street.

Mr. Fowler stated that his only concern was that the people living in the house would still have access to their property and adequate parking spaces.

Mr. Wert stated that they would be re-platting the property and that the easement would be part of that process.

Terry Tolle, 2717 S. Jefferson St., Muncie, Indiana, appeared in opposition. She stated that she received a notice because she owned the property across the alley from the church at 2901 S. Jefferson Street. She stated that the alley was the driveway into the garage and that there was no easement. She stated that she takes care of that property and that it had created a natural area for the kids to play and she enjoyed watching them play. She stated that she hopes that the board votes no to this request because she and some of the other neighbors had concerns of the house becoming a multi-family use. She stated that she thought the church should have a fence around the property where the house was located to create a safer space. She stated that she felt if the church ever wanted to sell, that this was an opportunity to use the building as a social service hub that would benefit the entire community especially this neighborhood.

Ms. Mathewson made a motion to approve BZA 33-22 the appeal of Indiana Ministries of the Church of God with the hardship as stated in the application with the following understanding: That the applicant will replat the property to include an easement. Mr. Wiseley seconded the motion. Voting in favor: Mr. Fowler, Mr. Jones, Ms. Marshall, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 33-22 approved.

BZA 34-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Charles Allen, Jr.**, 120 South Vine Street, Muncie, Indiana, requesting a variance of use from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a new 30'x60' accessory structure without a dwelling and for business storage use in a residence zone on premises located on the east side of the 2600 block of South Blaine Street, Muncie, Indiana, as more accurately described in the application.

Charles Allen Jr, 120 S. Vine St., Muncie, Indiana, appeared. He stated he would like to build another garage that would match the style of the existing structures to keep the property looking clean and uniform and that he would like to have running water on the property.

Mr. Fowler asked if Mr. Allen had been before the board last year.

Mr. Allen stated yes.

Mr. Fowler stated that he was glad to see the camper had been removed. He stated that the previous request made by Mr. Allen stated that there would be no running water and no business use at the property and asked why he was asking to change those conditions.

Mr. Allen stated that he had a place for his mowers and other business storage but that the rental lease had come to an end. He stated that he would be storing some mowers and a trailer for his business but that it would be mostly for the personal storage of his boat and cars. He stated that this was a 3-acre wooded property, and that he and his kids like to spend time here, but they have to drive to a restaurant to use the restroom. He stated that the restroom would have a sink and toilet to make things easier while they were on the property.

Mr. Fowler stated that a 30' x 60' building was pretty big, and asked if he planned to store everything inside.

Mr. Allen stated yes. He stated that the truck and the trailer would take up most of the building and that was the reason for the overall length. He stated that this was a 3-acre property in the city and that it almost had a country feeling and that he wanted to keep the property looking nice. He stated that there would be no signage, no employees, no customers, and that he would store everything indoors.

Mr. Fowler stated that he had concerns of having business storage here and how often would he be coming and going with equipment.

Mr. Allen stated that he had his dogs here all of the time and that he was at the property 2-3 times per day to take care of them or when he wanted to get to his boat and other cars. He stated that as far as the mowing equipment, they would come by around 8:00 in the morning to pick up items and come back at 6:00 in the evening to drop off, which was no more than what he was there now checking on the dogs.

Mr. Wiseley asked since 20th Street was a dead-end street, did Mr. Allen access the property from Blaine Avenue.

Mr. Allen stated that there were actually 2 entrances but that he used the one on Blaine Avenue because it was easier to access. He stated that he had talked to some of his neighbors and that they had no problems with his request and that they were happy with how he cleaned up the property.

Mr. Fowler asked if he had any employees for the mowing business or if it would just be him.

Mr. Allen stated that he had 2 friends that worked for him and that they would meet at the property in the morning to pick up equipment and then drop it back off in the evening.

Troy Ingram, 2905 W. Woodbridge Dr., Muncie, Indiana, appeared. He stated that he was in favor of Mr. Allen's request and that he had made many improvements to the property that had raised the value of all the properties in the neighborhood. He stated that he was friends with many of the people that live in the area and that they had no issues with Mr. Allen and his request. He stated that having running water would also be a good thing for the landscaping that would be placed around the new building. He stated that the he did not believe that the traffic would be increased by this use.

No one appeared in opposition.

Mr. Jones made a motion to approve BZA 34-22 the appeal of Charles Allen Jr. with the hardship as stated in the application with the following conditions: 1) That the variance is for the applicant only and; 2) That all storage shall be inside. Mr. Wiseley seconded the motion. Voting in favor: Mr. Fowler, Mr. Jones, Ms. Marshall, and Ms. Mathewson. Voting against: Mr. Wiseley. Motion carried, BZA 34-22 approved.

Mr. Daniel stated that the following 11 items filed by City View Homes, had been divided into two groups based on their requests.

Mr. Fowler stated that if the Board was inclined, they could discuss and vote on all 11 cases at the same time.

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and,

Jurisdiction: Board of Zoning Appeals

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- BZA 46-22** on premises located on the north side of 17th Street 134' west of Rochester Avenue formerly known as 1916 West 17th Street, Muncie, Indiana,

all as more accurately described in the applications.

Nick Cline, Pivotal Housing Partners, 9100 Centre Point Dr., West Chester, Ohio, appeared to represent the applicant. He stated that they were asking for a decreased side setback for some locations and a decreased side setback and decreased building width for the other sites. He stated that these were the same variances that they had received for City View Homes I and that for many of these sites, the setbacks were too large to able to build their homes and townhomes. He stated that this was just simply about fitting their product onto these sites, which did have a lot of support from the Mayor and Muncie Redevelopment Commission. He stated that they did have some standard floor plans and sizes for their homes, but they make changes to the architecture and colors to fit the community.

Mr. Fowler asked if these would all be rent to own homes.

Mr. Cline stated yes, that they would all be rentals with lease purchase options.

Mr. Wiseley asked if they would all be single-family homes since he mentioned townhomes.

Mr. Cline stated that he believed there were some townhomes.

Mr. Daniel stated that the ones for this meeting were all single-family homes.

Mr. Fowler stated that many notices must have been sent out for these 11 requests, and asked if there had been any feedback or if they had talked to any of the neighbors.

Mr. Cline stated that around 700 letters had been sent to the surrounding property owners and that they had not heard any feedback from those individuals. He stated that this was a project that was supported by the Mayor and MRC and that they were the same kinds of variances that had been approved for City View I.

Mr. Daniel stated that the office had received a number of phone calls and that most were asking about the type of homes these would be and the timeframe of building for both City View I and City View II.

Mr. Fowler asked what the timeframe was on City View I to begin to build some of those homes being developed.

Mr. Cline stated that City View I would be starting in mid to late November and that construction would last 12-14 months and City View II would begin in late December.

Mr. Fowler asked if both projects would be under construction at the same time

Mr. Cline stated yes.

Mary Beth Lambert 2010 S. High St., Muncie, Indiana, appeared in opposition. She stated that she also owned property at 2013 S. Walnut Street, which was 2 lots down from the City View site at 2009 S. Walnut St. and would like to talk about that location specifically. She stated that she had not been able to find any information and would like to know if there had been any consideration as to how cars would park on the property. She stated that this lot faces S. Walnut, where there is no on-street parking and that was a block that faced a lot of parking issues and that she had pictures she could share with the board. She stated that there were 6 houses on this block and that they all had multiple cars with at the most 1 parking space for their cars. She stated that the sole purpose for her acquiring the lot at 2009 S. Walnut St. was to create extra parking in the alley to solve a massive parking issue. She stated that she used it for 1 car, and that 2 other houses uses 2 of the other spots and that there was also extra space for visitors to any of those houses. She stated that she had not been able to find out any information and that no one had approached any of the property owners down this block.

Mr. Fowler asked if Mr. Daniel would share a map to show the parking spaces for that site that was provided.

Mr. Wiseley stated that the map looks like they would have 2 spaces off the alley.

Ms. Lambert stated that anyone living there would have at least 2 vehicles and maybe more and after looking at the map stated that was too narrow of a lot to have 2 parking spaces.

Mr. Wiseley asked for clarification that she was using a lot that she did not own for parking.

Ms. Lambert stated that her reasoning was that the alley was already congested with parking and that adding another house to this block would create more of an issue since there was no on-street parking in the area.

Mr. Wiseley stated that they were not asking for a variance for the parking.

Mr. Daniel stated that what this meant was that if they built a house they would need to provide the required 2 parking spaces per dwelling since they had not asked for that variance.

Mr. Wiseley made a motion to approve BZA 36-22 thru BZA 46-22, the appeals by City of Muncie Redevelopment Commission and City View Homes II, LLC, with the hardships as stated in the applications. Ms. Mathewson seconded the motion with the following conditions: 1) That all necessary permits be obtained and; 2) That they include plans that provide the required parking spaces. Ms. Mathewson seconded the motion. Voting in favor: Mr. Fowler, Mr. Jones, Ms. Marshall, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 36-22 thru BZA 46-22 approved.

(MOVED TO THE END OF OLD BUSINESS AT THE APPLICANT'S REQUEST)

BZA 35-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Amber Corduan and Hailey Perkins**, 4141 South County Road 900 East, Selma, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow the keeping of 8 personal and 4 foster dogs and 2 personal and 3 foster cats on 2.5 acres in a farming zone on premises located at 4141 South County Road 900 East, Liberty Township, Delaware County, Indiana, as more accurately described in the application.

Hailey Perkins and Amber Corduan, 4141 S. CR 900E., Selma, Indiana appeared. Ms. Perkins stated that had asked for the variance to have more personal animals on their property than what the ordinance allowed and while filing that request they realized that their fence was taller than what was permitted. She stated that they did foster dogs and cats on occasion, but would not always have 4 dogs.

Mr. Fowler asked how long they might keep a dog that they were fostering.

Ms. Perkins stated that it may be 1-2 months and that most of their fosters were terminal or just needed to heal from an injury before they could be adopted. She stated that they currently did not have any foster dogs and that the longest they had fostered was 6 months.

Mr. Fowler asked if their personal dogs were outside all day.

Ms. Perkins stated no. She stated that 1 of their dogs had just died and that they had 7 personal dogs that actually go to work with them every day at their pet store. She stated that they had a 2000 square foot office upstairs at the pet store where the dogs go every day.

Mr. Fowler stated that they were not here to talk about the types of dogs, it was the number of animals they had.

Ms. Perkins stated that she had additional letters of recommendation to provide in discussing the dogs training and expectations for behavior. She stated that all of their personal dogs had their CGC letters which was their K-9 Good Citizens test and that they were all very well behaved.

Mr. Fowler stated that since this request was due to a complaint that was received, had they talked to their neighbors about everything.

Ms. Perkins stated yes. She stated that they had purchased the property in May and placed a 5' tall fence in July but that they had not moved onto the property yet. She stated that the neighbor that called to complain thought that they were moving the business which was a commercial

kennel to this property. She stated they explained that was not their plan but at that time they found out that the number of person animals would require a variance. She stated at that time they talked to the neighbors and explained what variance they would be applying for and that cleared up some of the confusion. She stated that the neighbors they had a chance to talk to apologized for calling in the complaints, they were just concerned about having a business next door.

Mr. Fowler asked if they planned to replace the dog they recently lost or if they would be asking for 7 personal dogs not instead of 8.

Ms. Perkins stated that the board could lower that to 7 personal dogs.

Mr. Wiseley asked if all of the animals were spayed and neutered.

Ms. Perkins stated that they were mostly show dogs and that they were not allowed to be spayed or neutered until after they are no longer a show dog, and then they would be fixed.

Mr. Fowler asked if they breed any of the animals.

Ms. Perkins stated no, not in their home.

Mr. Wiseley asked if they had any issues with their dogs jumping the fence.

Ms. Perkins stated no, and that they had the taller fence to keep their dogs in but also to keep coyotes from jumping in and harming the dogs.

McKenna Snyder 2113 W. Purdue Ave., Muncie, Indiana, appeared. She stated that she had worked with Ms. Perkins and Ms. Corduan for over a year at their business as a kennel worker. She stated that she also dog sits at their home on occasion and would be happy to speak about how clean and well kept the animals were at the business and in their own home. She stated that she believes it was one of the best kennels in Muncie, and that it was the best job that she had ever had. She stated that she will be dog sitting again soon and is looking forward to spending time with the animals because they were so well behaved and would be happy to answer any questions about the day-to-day cleaning of the kennel.

Mr. Fowler stated that we were not really here to discuss the kennel, but thanked her for her confirmation that they were good pet owners.

Deborah Dorste, 14330 E. Stanley Rd., Muncie, Indiana, appeared. She stated that she lived across the street from the applicants and that she had been concerned when she first saw the fence going up. She stated that she met them and quickly learned that they were very good neighbors with well behaved, well taken care of animals and that she had no problems with them or the animals.

Phil West, 2208, S. Jefferson St., Muncie, Indiana, appeared. He stated that he was familiar with the applicants through their pet store which he cannot say enough kind things about. He stated that if they ran their home anything like they run the business, he would be happy to live next to them.

Jerry Hays, 14105, E. Stanley Rd., Muncie, Indiana, appeared in opposition. He stated that he and his wife Suzy lived 2 houses down from the applicant and that he was sorry to be meeting

them this way because he loved animals just as much as anyone. He stated that he had owned and operated his own businesses, and had helped build some of the houses here in the neighborhood. He stated that he understood that they had gone through a lot of expense fixing the property and that he wished them no harm, he just did not want to live next to a kennel again. He stated that there were many very nice, expensive homes in the area, and that adding any type of kennel would not add to the value of those homes.

Ms. Mathewson asked if he lived across the street.

Mr. Hays stated that he was the 2nd property down the road.

Ms. Mathewson asked if they had witnessed anything concerning since the applicants had moved into the house.

Mr. Hays stated that the average dog produced .75 pounds of waste per day, and multiplied by the number of dogs they had, that would be over 9 pounds per day and that waste cannot be put into the septic system because it would fail. He stated that he loved dogs as much as anyone, but that the smell will be terrible and he would not be able to enjoy his backyard.

Mr. Fowler stated that the applicants take their dogs to work with them every day.

Mr. Hays stated that he wished he could believe that someone was taking 8-12 dogs back and forth to work every day but he does not.

Ms. Mathewson asked if Mr. Hays had smelled the dogs and the waste since they moved in.

Mr. Hays stated that they had not been there very long and that he had only seen 3 dogs so far and that it would take time but the smell would get worse. He stated that the applicants were asking him to believe that they were going to pick up the animal waste everyday and that was hard for him to believe. He stated that they were good people and he was not speaking against them, but things happen and he did not want to see a septic problem become an issue.

Mr. Fowler stated that it was illegal for them to put animal waste into the septic system.

Ms. Hays stated that they would not have been so concerned but that the applicants had not approached them about it and that they only found out about this by receiving the letter in the mail. She stated that they had problems in the past with a neighbor running a kennel and the Health Department had to remove those animals and condemn the property. She stated that she was not blaming the applicants for a past problem, but that they were concerned it could happen again with the number animals and puppies that could really add up over time.

Mr. Fowler stated that there would be a condition that they could not breed any animals here and that if they had puppies they would be over their limit in the number of dogs.

Ms. Hays stated that in the letter in their application it stated that they may have pregnant dogs that would have litters of puppies that they would foster until they could be adopted. She stated that they did not want to see the past issues with animals happen again and not be able to do anything because it was approved and already happening like the 5' fence.

Mr. Fowler stated that unfortunately most cases come to the BZA after the fact to try and resolve the issues.

Mr. Hays stated that when he built his business and was the contractor on an apartment complex, he had to go through zoning in advance before he could do anything. He stated that he purchased the property next to him to keep from having a kennel next door again and that he would like to be able to enjoy a bar-b-que in his back yard and not smell animal waste and hear them barking.

Scott Martin, 14440 E. Stanley Rd., Selma, Indiana, appeared in opposition. He stated that he had sent an email listing his concerns about the variance for the animals and the fence. He stated that in the time that the applicants had lived here, he had noticed that the dogs were very well behaved and that he did not notice them barking any more than other dogs in the area. He stated that he purchased the property across the road from them to build a new house and when they started seeing the fence go around the entire property it raised some concerns. He stated that the ordinance stated that a fence in the front yard could be 42" and they were asking for an additional 12" to the approved height of the chain link fence they installed. He stated that they sold their previous house because they were planning a solar farm all around his property and that chain link fences reduce property values. He stated that his email had been a quick response to everything and that he had never meet the applicants in person. He stated that he works on his property a lot and that he saw the applicants in the yard with the dogs and that they were very well behaved but that he still had concerns about there being pregnant dogs and puppies until old enough to adopt. He stated that if the variance was approved, it should be limited to the applicants so that if they ever move, it would not carry to the next property owner, same thing for the fence. He stated that he did not like the idea of the term kennel being used because it would make things very difficult to file a complaint because the police would not have an understanding of what was allowed and it becomes difficult to enforce.

Greg Martin, 14113 E. Stanley Rd., Selma, Indiana, appeared in opposition. He stated that he lived on the property adjacent to the west. He stated that the applicants had been to his home and that he had no problem with them personally he just had concerns of the possibility of constant barking. He stated that the dogs they had now were no problem and that his son had been there several times to play with them and that they seemed like really good dogs. He stated that the dogs they had now were good, but he had concerns of future dogs constantly barking and the smell that would make it hard to enjoy his backyard. He stated that if approved, he would like to see that it be for the applicants only and for no type of kennel.

Glenda Durham, 4205 S. CR 900E, Selma, Indiana, appeared in support, and that she was sorry she was late. She stated that if anything, the applicants should be complaining about her dog that was a barker. She stated that she had never heard their dogs barking and that the fence would not hurt the values of any of the homes in the area. She stated that the applicants treated their animals like family and that she would like to learn from them how to train her own dogs to be so well behaved. She stated that they had a pig farm next door for many years, and this would not smell like that at all.

Ms. Perkins stated that they understand how important cleaning up after the animals was and that they scoop the yard daily and that most of the time the dogs were with them and they had bags all of the time. She stated that they used Johnson's Pet Waste Removal if for some reason they did not have time to clean the area themselves. She stated that she also did not want to smell the waste, and that cleaning up would not be an issue. She stated that they were pet nutritionist and that the better-quality food your animals were eating, the less waste and the less smell it would have, and that their animals produce about half as much as an animal their size on a different diet. She stated that she was confident that they would keep things clean and if anyone ever smelled her dogs she would be happy to have them tell her so she could take care it.

Mr. Fowler stated that another concern was of the fostering of pregnant dogs and that he did not see that in their application.

Ms. Perkins stated that she did not recall writing that in the application.

Mr. Wiseley stated that it was in the application and stated that they would occasionally bring a foster home which were usually terminal cases or pregnant fosters that they would keep until the offspring were of the appropriate ages to be adopted.

Ms. Perkins stated that they had fostered pregnant dogs at the kennel before but if the board would not allow that here they would find other resources.

Mr. Fowler stated that if granted, the variance would be for a specific number of animals, and that having pregnant dogs and puppies would put them over that number.

Ms. Perkins stated that they had purchased the home for \$140,000 in rough condition and that they had put over \$50,000 into the property in renovations so far. She stated that the fence was very expensive and that if they ever moved they would take it with them.

Mr. Fowler asked if the previous owner with their dogs had destroyed the place.

Ms. Perkins stated that it more out dated and just needed a lot of work. She stated that she did not want to buy a minivan at the age of 28, but she did so that she could take her dogs back and forth to work with her every day.

Mr. Allen made a motion to approve BZA 35-22 the appeal of Amber Corduan and Hailey Perkins with the hardship as stated in the application with the following application with the following conditions: 1) That the variance be for 7 personal dogs, 4 foster dogs, 2 personal cats, and 3 foster cats for the applicant only and; 2) The 5' tall fence must be removed when no longer used by the applicant. Mr. Jones seconded the motion. Voting in favor: Mr. Fowler, Mr. Jones, Ms. Marshall, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 35-22 approved.

NEW BUSINESS:

BZA 47-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Garfield Facility, LLC**, 2601 West Mount Pleasant Boulevard, Muncie, Indiana, requesting a variance from the terms of the Delaware County Comprehensive Zoning Ordinance to a decreased front setback for a new shed on premises located at 2601 West Mount Pleasant Boulevard, Center Township, Delaware County, Indiana, as more accurately described in the application.

Justice Hendrickson, Garfield Facilities, LLC, 2601 W. Mount Pleasant Blvd., Muncie, Indiana, appeared. He stated that this was for a new 12'x20' structure to be used for an employee smoking area and that it would not meet the setback requirements.

Mr. Wiseley asked if there were any concerns with how close to the building it would be.

Mr. Hendrickson stated no.

No one appeared in opposition.

Mr. Jones made a motion to approve BZA 47-22 the appeal of Garfield Facility, LLC with the hardship as stated in the application. Mr. Wiseley seconded the motion. Voting in favor: Mr. Fowler, Mr. Jones, Ms. Marshall, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 47-22 approved.

BZA 48-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Lauren Cunningham**, 10871 West County Road 700 South, Middletown, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a new guest house/studio as an accessory to an existing residence in a farming zone on premises located at 10871 West County Road 700 South, Salem Township, Delaware County, Indiana, as more accurately described in the application.

Lauren Cunningham, 10871 W CR 700S, Middletown, Indiana, appeared. She stated that she was an Air Force Veteran and that she often had peers visit and would like a tiny house for them to stay. She stated that her spouse was an author, and that they could also use the space for writing and that no one would be living in the house.

Mr. Fowler stated that the board would place conditions that stated it could not be used for a rental or business use.

Ms. Cunningham stated that she would be happy to have those conditions.

Mr. Fowler stated that it looked as though there was enough room for parking and asked if it would have a full bathroom and be connected to the septic system.

Ms. Cunningham stated yes.

No one appeared in opposition.

Ms. Mathewson made a motion to approve BZA 48-22 the appeal of Lauren Cunningham with the hardships as stated in the application with the following condition: That the dwelling be used for personal use only and not become a rental. Mr. Wiseley seconded the motion. Voting in favor: Mr. Fowler, Mr. Jones, Ms. Marshall, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 48-22 approved.

BZA 49-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Larry New and Casey's Marketing Company**, 5721 Dragon Way, Suite 300, Cincinnati, Ohio, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow an increased height for a pole sign for a new gas station/general store and for the sign to be located in the greenbelt on premises located at the southeast corner of Jackson Street and Country Club Road, Liberty

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

John Wocher 5721 Dragon Way, Suite 300, Cincinnati, Ohio, appeared to represent the applicant. He stated that they would like to have a 40' tall pole sign and be allowed to place that in the greenbelt. He stated that Casey's was purchasing the property under a contract and had planned to develop a 3200 square foot store with 5 fuel islands at the location. He stated that they had worked with the adjacent property owner to relocate the access easement that currently traverses the property to give access to Country Club Road. He stated that the highway right-of-way was very large here with the proposed property line 30' from the edge of pavement and the county would require another 5' for an easement. He stated that the sign would be approximately 40' from the edge of the road and that the existing sign across the street at the Village Pantry was also a pole sign with a very similar setback. He stated that he felt the request was justified and that it would not be changing the overall characteristics of the area. He stated that there were existing trees along the road frontage that they would like to keep to comply with the landscape requirements, and the height of the sign would make it visible over those trees.

Mr. Fowler asked if they had submitted an approved landscape plan.

Mr. Daniel stated that they were working towards being in compliance but that they were not there yet.

Mr. Wocher stated that their intent was to comply with the requirements.

Mr. Wiseley asked if the gas station and bank were in the city so they fell under different ordinance requirements.

Mr. Daniel stated yes, and that the other 2 properties predate the current requirements for landscape and signage.

Mr. Fowler stated that the Village Pantry had been there for over 20 years.

Mr. Wocher stated that he respected that issue and that their point was that the character of the area would not be detrimentally affected. He stated that the gas price needs to be visible and identifiable for the type of business that Casey's was.

No one appeared in opposition.

Mr. Fowler stated that part of the approval would be that they continue to work with staff on an approved landscape plan.

Mr. Jones asked if the entrance and exit from 32 East was the same one used for the doctors' office.

Mr. Wocher stated yes, it would be the same drive on Jackson Street and that the Country Club Road driveway shifted slightly.

Mr. Jones made a motion to approve BZA 49-22 the appeal of Larry New and Casey's Marketing Company, with the hardship as stated in the application with the following conditions: 1) That the developer continue to work with staff on the landscape plan and; 2) That the easement is recorded with the County. Ms. Mathewson seconded the motion. Voting in favor: Mr. Fowler, Mr.

Jones, Ms. Marshall, and Ms. Mathewson. Voting against: Mr. Wiseley. Motion carried, BZA 49-22 approved.

BZA 50-22 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Hanna Indy Investments, LLC**, 10809 Country Club NE, Albuquerque, New Mexico, requesting a variance of use from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a dwelling in an existing detached garage for a total of two dwellings on one property in a single-family residence zone on premises located at 2219 South Elm Street, Muncie, Indiana, as more accurately described in the application.

Kevin Clark, Asset Manager for Midtown Properties, 1709 S. Walnut St., Muncie Indiana, appeared with McKenna Davis to represent the applicant. He stated that there was a detached garage on the property that had only ever been used as storage that he would like to convert to a 1-bedroom studio apartment.

Mr. Fowler stated that this would result in 2 dwellings on one parcel.

Mr. Clark stated that it would just become 2219 ½ S Elm Street.

Mr. Daniel clarified that we do not issue half addresses.

Mr. Fowler asked if he had intention of splitting the property to have separate parcels for the dwellings.

Mr. Clark stated no.

Mr. Fowler stated that if appeared there were 3 parking spaces in the back and 2 in the front.

Mr. Daniel stated that the on-street parking would not count towards the parking requirements.

Mr. Wiseley asked if the garage would no longer be available for parking once renovated.

Mr. Clark stated that no one parked inside the garage at this time anyway.

Mr. Fowler asked how many bedrooms the house existing house had.

Mr. Clark stated that it was a 3-bedroom house.

Phil West, 208 W. Jefferson St., Muncie, Indiana, appeared in opposition. He stated that he had lived here for 8 years and had friends that had lived here for over 20 years. He stated that he would argue that there were not 3 parking spaces available behind the garage. He stated that when they had begun the remodel of the apartment and that he hoped they were not very far into it since they were just asking for the variance. He stated that when the remodeling began there were at least 2 service vehicles that would block the alley in the back so that that other property owners could not use it. He stated that another concern was having another rental in the area where they already have so many and they have created issues. He stated that there was a reason that this property was zoned a single-family residence and that this request was just about an out of state company trying to make money.

Robert Williams, 2213 S. Elm St., Muncie, Indiana, appeared in opposition. He stated that he lived 2 houses down from this property and that there were at the most 2 parking spaces and asked what would happen when one of the tenants had visitors. He stated that they had been having problems with this property for years since the previous owner put the upstairs in and then discovered he could not have an apartment. He stated that there was no good way to drive onto the property and that they had been driving on the next-door neighbor's yard to get to the property to work. He stated that they should not be working on the property until a decision was made by the BZA but that they had been working on the apartment for the past year and did not believe that they had any of the permits needed. He stated that the hand rails for the stairway were not installed, and that he had concerns on if the electrical and plumbing work had been done to code, and felt that an inspector should visit the site. He stated that there was only one electrical meter and asked how the tenants of the house and apartment would split those utilities, especially if the house had a family of 5 living there. He stated that he had lived here for over 45 years, and that the trash truck had to use the alley and he feels like this will create more problems for the neighborhood.

Mr. Fowler stated that they would have to pass all of the inspections and be up to code and since it would have its own address it could have its own meter.

Mr. Williams asked if they would need their own septic hookup for the apartment.

Mr. Fowler stated that they would have to pass all inspections and be to code.

Ms. Mathewson asked for clarification on the contract amendment that was included in the application and asked if the property was for sale.

Mr. Clark stated that this was not for sale and that the owner was out of town, but that was a good thing. He stated that they had checked the site and that there was easily room for 3 parking spaces and even though the front did not count, it could be used for parking. He stated that in the few months that he had known this property owner he was one of the better owners who really did want to take care of his properties and that this was a way to boost his income.

Ms. Marshall asked if the house was currently vacant and registered with the City of Muncie.

Mr. Clark stated that the tenant had been evicted and that he assumed it was registered.

Ms. Marshall asked if there was any work being done at this time.

Mr. Clark stated no and that if there was it would be to the house.

Ms. Marshall stated that any alterations, repair, or replacements needed to have the proper permits before work begins.

Mr. Wiseley asked what the measurement was from the back of the garage to the start of the alley, because what shows on the map looks like it extended into the alley and asked if there was enough length for the parking spaces.

McKenna Davis, with Midtown Properties, 1709 S. Walnut St., Muncie Indiana, appeared. She stated that she was not sure of the actual dimensions, but that she had visited the site many times and parked by the garage and that she was out of the alley.

Mr. Wiseley stated that there was a difference in the length of a car and a legal parking spaces size and since there was not measurements on the map it made it difficult to determine.

Mr. Daniel stated that the ordinance required 9' x 18' parking space, and that if there was not 18' in length it would reduce the number of spaces. He stated that the board could make their motion with the contingency that all parking spaces meet the minimum dimension and if they do not end up with 3 spaces they would need to come back to the board.

Mr. Williams stated that he was told that the garage needed to be 20' from the alley to have enough room for the parking spaces and that it was only 12-14' from the alley.

Ms. Mathewson made a motion to approve BZA 50-22 the appeal of Hanna Indy Investments, LLC, with the hardship as stated in the application with the following conditions; 1) That the parking spaces meet the requirements for length and width and; 2) That all other codes and requirements are met. Ms. Marshall seconded the motion. Voting in favor: None. Voting against: Mr. Fowler, Mr. Jones, Ms. Marshall, Ms. Mathewson, and Mr. Wiseley. Motion failed, BZA 50-22 denied.

Mr. Daniel 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. He stated that the applicant could also file an appeal with the courts within 30 days, or wait 1 year and refile the request with the BZA.

ADJOURNMENT:

James Fowler, Chairman

Fred Daniel for Marta Moody, Secretary