

DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS

APPLICATION FOR APPEAL

Jurisdiction: (Check One)

Delaware County

City of Muncie

Submitted: 4-3-25

Case No.: BZA 21-25

(1) Applicant: Brightwork Real Estate

Address: 3708 W Swann Ave Ste 200, Tampa FL 33609

Phone: 813-874-1700

(2) Applicant's Status: (Check the appropriate response)

(a) The applicant's name is on the deed to the property.

(b) The applicant is the contract owner of the property.

(c) Other: Developer under contract for acquisition

(3) If Item (2)(c) is checked, please complete the following:

Owner of the property involved: Devon S Chu and Paul Criswell Jr

Owner's address: 2200 W Kilgore Ave and 2280 W Kilgore Ave, Muncie IN 47304

(4) Record of Ownership:

Deed Book No.: 2022R16760 and 2004-03327 (pages 3327-3328)

Page: _____

Purchase Date: 11/04/2022 and 03/12/2004

Legal Description: (From the Deed or Abstract)

See attached deeds and legal descriptions

(5) Common Address of the Property Involved: (Give full street address. If no address, give geographic location such as s. side of CR 400S, 500' west of SR 3).

2200 W Kilgore Ave and 2280 W Kilgore Ave, Muncie IN 47304

(6) Type of Appeal: (Check the appropriate response)

(a) Request for an Appeal from the Decision of the Administrative Zoning Officer according to Article XXXII, Section 5-B-1. (Attach a copy of said decision/ruling).

(b) Request for a Special Use according to Article XXXII, Section 5-B-2.

(c) Request for a Variance according to Article XXXII, Section 5-B-3.

(7) State explanation of requested Appeal: (State what you want to do and cite the Article and Section of the Ordinance which applies and/or creates the need for this Appeal.)

SEE ATTACHED

(8) State reasons supporting the Appeal: (If filing for a variance, refer to the attached sheet entitled "Hardship Variance" for explanation/guidance.)

See attached answer to number 8

(9) Present Zoning of the property: (Give exact classification)

BV Variety Business

(10) Present use of the property:

Restaurant and Storage

(11) Describe the proposed use of the property:

Convenience store with fuel pumps

(12) Is the property:

Owner Occupied

Renter Occupied

Other: _____

Answer to #7

BZA 21-25 Wawa Kilgore

Request for variances from the terms of the City of Muncie Comprehensive Zoning Ordinance, Article XXX, Sections 3.E and 7.J, to allow a 20' tall sign rather than an 8' tall ground sign for a variance of 12', Article XXX, Section 4.B.2, to allow a 35' driveway width along Kilgore rather than a maximum width of 30' for a variance of 5', and Article XXX, Section 7.F.9, to allow the drive-thru lane to be between the building and Kilgore rather than being located to the rear of the building, all for a new gasoline fueling station and convenience store on a corner lot.

Bowman

April 1, 2025

Delaware Muncie Metropolitan Plan Commission

RE: Variance Justification for 2200 & 2208 W Kilgore Avenue

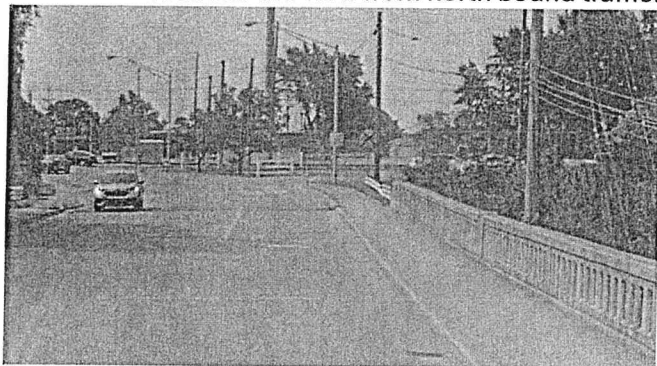
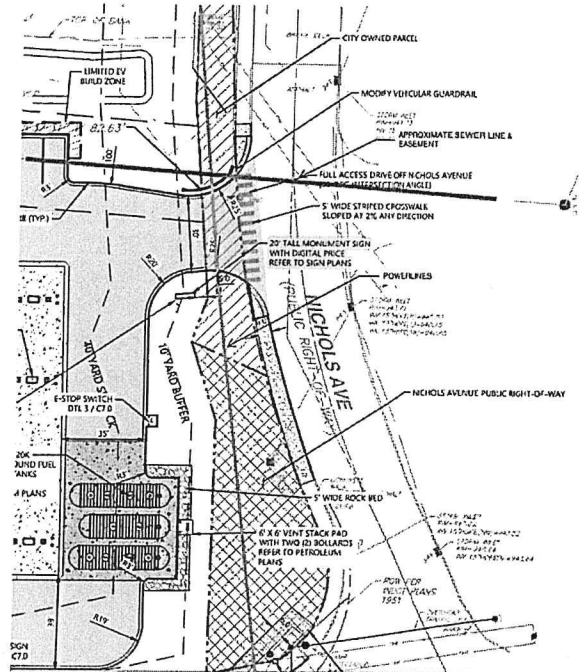
To Whom it Concerns:

The following variances are being requested for a 1-year approval/ expiration for a proposed Wawa Convenience Store with Fuel Pumps. Below are justifications for the requested variances.

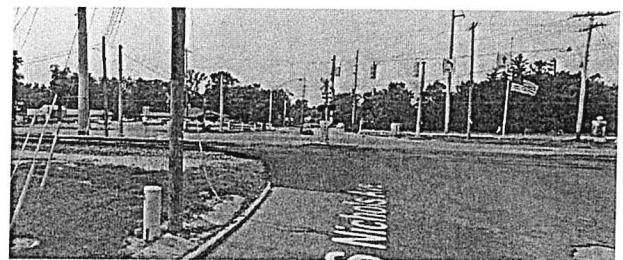
1. 20' Tall Sign Height Variance along Nichols Avenue.

The following hardships force the monument sign further back from the travel lanes and impacts visibility: thus, the request for additional height.

- a. The City of Muncie owns a 16' wide parcel along Nichols, pushing the sign back 16', then another 5' for setback.
- b. Unusually wide Nichols Avenue Public Right-of-way south of City owned parcel restricts the sign from being placed on the true intersection corner
- c. Corridor Overlay requires signs to be 300' apart, thus restricting location along Nichols.
- d. Power poles along Nichols restrict visibility
- e. Existing Sanitary sewer and easement requires sign to be on south side of driveway
- f. Railroad crossing infrastructure south of Kilgore restricts the view from north bound traffic.



View of sign South Bound on Nichols



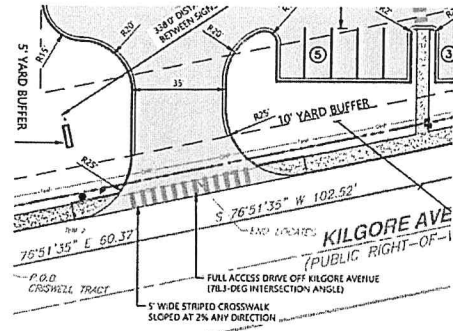
View of sign location North Bound

Bowman

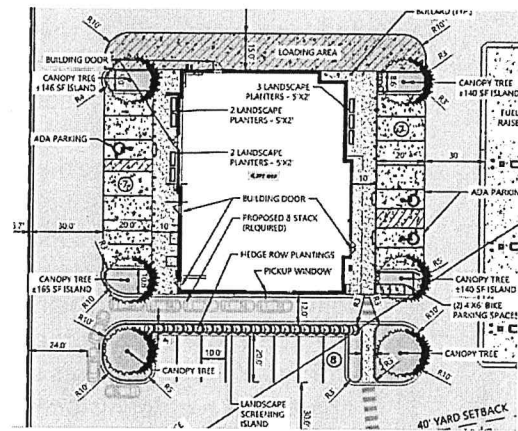
#8 cont.

BZA 21-25

2. 35' Driveway Width off Kilgore Avenue:
 - a. This facility will have semi-trailer deliveries for both store supply and fuel. A wider driveway is needed for truck turning maneuvers. Support letter has been received from Adam Leach (City Engineer and Street Superintendent)



3. Drive Thru Facing Public Right-of-way.
 Due to this being a corner lot, the following hardships impact the drive thru/ pickup window location and warrant locating on the south façade:
 - a. East Façade – Store’s main entry and right-of-way facing
 - b. North Façade – semi-trailer delivery zone for store operations
 - c. West Façade – Store’s secondary entry point
 - d. South Façade – due to parcel configuration, this drive-thru location allows for pickup window and still allows for head in parking and a landscape shrub row to buffer the stacking queue.



(13) Has the Applicant provided stamped, addressed envelopes to send notices of this Appeal to all property owners within 300 feet? yes
Has the Applicant discussed this Appeal with these owners personally? No
If answer is "YES", give their attitudes toward the proposal.

(14) Are there any restrictions, laws, covenants, governing the property which would prohibit its use for the purpose specified in this application? If answer is "YES", attach a copy.

No

(15) Has work for which this application is being filed already started? If answer is "YES", give details.

No

(16) Has there been any previous appeal filed in connection with this property? If answer is "YES", give the date and the decision of the appeal.

No

(17) If the Appeal is granted, when will work commence?

2025

When will it be completed?

2026

Requesting 1 year
Approval/Expiration

(18) If the Appeal is granted, who will operate and/or use the proposed improvement for which this application has been filed?

Land Owner/WAWA

AFFIDAVIT

(I or We) Devon Chu
TYPE NAME(S) OF SIGNATORIES

being duly sworn depose and say that (I or We) (am or are) the (owner[s]) (contract owner[s]) of property involved in this application and that the foregoing signatures, statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of (my or our) knowledge and belief.

SIGNATURES:



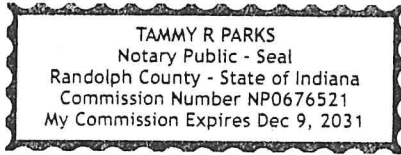
Subscribed and sworn to before me this 2nd day of April, 2025

Tammy R Parks
Notary Public

Dec 9, 2031
Commission Expires

Resident of Randolph County

State of Indiana



DO NOT WRITE IN THIS SPACE

The foregoing application has been inspected by me and was filed with the office of the Delaware-Muncie Metropolitan Board of Zoning Appeals in accordance with all the formal requirements and procedures.

If properly advertised by the applicant, the application will be heard in public hearing on the _____ day of _____, 20____.

Signed:

Date:

Devon *chu*
JP

Duly Entered for Taxation
Transfer Fees \$ 10.00 *JK*

NOV 04 2022

Stacy J. Conroy
Delaware County Auditor

2022R16760
MELANIE MARSHALL
DELAWARE COUNTY RECORDER
RECORDED ON
11/04/2022 03:00 PM
REC FEE 25.00
PAGES: 2
RECORDED AS PRESENTED

File No.: 20222547
Parcel Number: 18-11-17-402-012.000-003

WARRANTY DEED

This Indenture Witnesseth, That **Betty Chai Chu** and **Devon S. Chu** (Grantor) **Convey(s) and Warrant(s)** to **Devon S. Chu** (Grantee) for no consideration, the following described real estate in Delaware County, in the State of Indiana:

SEE EXHIBIT "A" ATTACHED HERETO

The parties hereto acknowledge that the preparer has not conducted a title search in connection with this transaction and makes no guarantee as to the status or condition of the real estate title.

Subject To any and all easements, assessments, agreements, and restrictions of record.

In Witness Whereof, Grantor has executed this deed this 4th day of November, 2022.

Betty Chu

Betty Chai Chu

Devon S. Chu

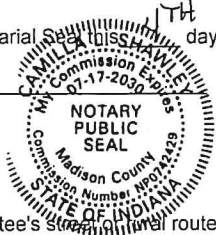
Devon S. Chu

State of Indiana, County of Delaware SS: ACKNOWLEDGMENT

Before me, a Notary Public in and for the said County and State, personally appeared **Betty Chai Chu** and **Devon S. Chu** who acknowledged the execution of the foregoing Warranty Deed, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 4th day of November, 2022.

My Commission Expires:



Camille M. Stanley

Camille M. Stanley, Notary Public
Residing in Madison County

Send tax bills to and Grantee's current route address is: 405 S. Normandy Dr. Muncie, IN 47304

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. James W. Smith, Attorney-at-Law

This instrument prepared by: James W. Smith, Attorney-at-Law



EXHIBIT "A"
LEGAL DESCRIPTION

TRACT I:

Beginning at a point in the north curb line of State Highway #67 (now State Highway #32) 789.75 feet northeasterly from the point of intersection of the west line of the Southeast Quarter of Section 17, Township 20 North, Range 10 East with the said north curb line (said point of beginning being the southeast corner of Deed Record 1984 page 620 Tract II of the Records of Delaware County, Indiana); thence continuing northeasterly on and along said curb line 164.0 feet, more or less, to its intersection with the west right-of-way line of Nichols Avenue in Westside Addition extended south; thence north on and along the said right-of-way line extended 410.0 feet, more or less, to the centerline of White River; thence westerly on the center line of said White River 164.0 feet, more or less, to the northeast corner of the said Deed Record 1984 page 620 Tract II; thence southerly on and along the east line of the aforementioned Deed 412.0 feet to the point of beginning. Estimated to contain 1.50 acres, more or less.

TRACT II:

100.0 feet in equal width from north to south off of the entire east end of the following described real estate, to-wit: A part of the Southeast Quarter of Section 17, Township 20 North, Range 10 East, described as follows: Beginning at a point in the north curb line of State Highway No. 67, commonly known as Yorktown Pike 106.0 feet northeasterly from the point of intersection of the west line of said Southeast Quarter Section and the said north curb line of said Highway No. 67, and running thence north 72-1/2 degrees east 689.15 feet; thence north 5.5-1/2 degrees west 412.0 feet, more or less, to the center of White River; thence westward down the center line of White River to a point 100.6 feet east of the west line of said Southeast Quarter Section; thence south 5-1/2 degrees east 432.0 feet, more or less, to the place of beginning.

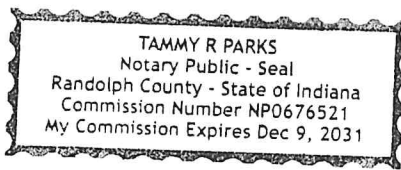
AFFIDAVIT

(I or We) Paul Criswell Jr
TYPE NAME(S) OF SIGNATORIES

being duly sworn depose and say that (I or We) (am or are) the (owner[s]) (contract owner[s]) of property involved in this application and that the foregoing signatures, statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of (my or our) knowledge and belief.

SIGNATURES: [Handwritten Signature]

Subscribed and sworn to before me this 2nd day of April, 2025



Tammy R Parks
Notary Public
Dec 9, 2031
Commission Expires
Resident of Randolph County
State of Indiana

DO NOT WRITE IN THIS SPACE

The foregoing application has been inspected by me and was filed with the office of the Delaware-Muncie Metropolitan Board of Zoning Appeals in accordance with all the formal requirements and procedures.

If properly advertised by the applicant, the application will be heard in public hearing on the 24 day of April, 2025.

Signed: [Handwritten Signature]
Date: 4-10-25

DED 2004 03327

012686

KR

FILED FOR RECORD
4:00 o'clock P.M.
Record 2004 Page 3327-

SPECIAL WARRANTY DEED

13 MAY 20 2004 3328

Mail tax bills to:

2280 W. Kilgore
Murcie IN 46304

Regina Williamson
Delaware County Recorder

THIS INDENTURE WITNESSETH, that BANK ONE NA ("Grantor"), CONVEYS AND WARRANTS UNTO PAUL CRISWELL, JR., of Delaware County in the State of Indiana ("Grantee"), in consideration of Ten Dollars and No Cents (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, real estate located in Delaware County, Indiana, more particularly described as follows, to-wit:

A part of the Southeast Quarter of Section 17, Township 20 North, Range 10 East, more particularly described as follows, to-wit: Beginning at the intersection of the West line of the Southeast Quarter of Section 17, Township 20 North, Range 10 East, with the North right of way line (as now established) of Kilgore Avenue (formerly known as Indiana State Highway 67); thence North 77 degrees 49 minutes 00 seconds East on and on the Northerly right of way line of said Kilgore Avenue 628.04 feet to the point of beginning also being the Southeast corner of deed record 429, pages 410-411 of the records of Delaware County, Indiana; thence continuing North 77 degrees 49 minutes 00 seconds East and on said right of way line 60.37 feet to the Southwest corner of deed record 1994, pages 7195-7198 of the records of Delaware County, Indiana; thence North 00 degrees 32 minutes 15 seconds East and on the West line of said deed record 1994, pages 7195-7196 435.0 feet, more or less, to the center of said White River; thence Westerly on and along the centerline of said White River 87.0 feet, more or less, to a point 625.0 feet East of the West line of the said Southeast Quarter (measured parallel with the North right of way line of Kilgore Avenue); thence South 00 degrees 25 minutes 00 seconds East 425.0 feet to the point of beginning. Estimated to contain .627 of an acre, more or less.

11-17-402-010-000-002.

SUBJECT to all easements, restrictions, and limitations of record, as well as all applicable zoning ordinances.

SUBJECT to real estate taxes due and payable in _____, and thereafter.

GRANTOR covenants and warrants only that said real estate described above is free of any encumbrances made or suffered by said Grantor and that Grantor and Grantor's successors shall warrant and defend the same to said Grantee and said Grantee's successors and assigns forever, against the lawful claims and demands of all persons claiming by, through, or under said Grantor, but against none other.

The individuals signing this Special Warranty Deed warrant and represent that pursuant to the By-Laws or duly adopted corporate resolutions of the Grantor, that the undersigned has all necessary authority to execute this Special Warranty Deed conveying the real estate described above, that no further corporate action is necessary for the making of this conveyance, and that the Grantor is in good standing in the state of its incorporation and, if required, in the state where the aforescribed real estate is located.

Duly Entered for Taxation
Transfer Fees \$ 0.00

MAY 20 2004

Janet Kasstner
DELAWARE CO. AUDITOR

Metropolitan Title - Indiana LLC
100 W. Columbia St.
Fort Wayne, IN 46802

IN WITNESS WHEREOF, Grantor has caused this Special Warranty Deed to be executed

BANK ONE NA

BY:
ITS:

[Signature]
Barry Pittelman

STATE OF WI)
COUNTY OF Waushara) SS:

Before me a Notary Public in and for said County and State, this 12 day of March,
appeared Barry Pittelman the VP of BANK ONE NA, who
acknowledged the execution of the above and foregoing Special Warranty Deed for and on behalf of the above Grantor,
and who, having been duly sworn, stated that the above representations are true.

My Commission Expires: 09/25/06
Resident of: _____



[Signature]
NOTARY PUBLIC

This instrument prepared by VINCENT J. HALLER, JR. (No. 7638-02), Attorney at Law, Haller & Colvin, P.C., 444 East Main Street, Fort Wayne, Indiana 46802; telephone: (260) 426-0444; fax: (260) 422-0274.

