

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS  
FEBRUARY - 2024 REGULAR MONTHLY MEETING  
AGENDA**

**DATE:** February 29, 2024

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

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

**PLEDGE OF ALLEGIANCE:**

**INTRODUCTION/CONFIRMATION OF MEMBERS:**

**ROLL CALL:**

vacant

**Ellen Brannon  
Delaney Fritch  
Mike Jones**

**Sue Kaiser  
Leslie Mathewson  
Allen Wiseley**

**MINUTES:** Consideration of the January, 2024 regular monthly meeting minutes.

**NEW BUSINESS:**

**BZA 04-24 Jurisdiction: Board of Zoning Appeals**

**Special Use** Being a public hearing on the matter of an application filed by **Delaware County Redevelopment Commission**, 100 West Main Street, Muncie, Indiana, requesting a special use under the terms of the Delaware County Comprehensive Zoning Ordinance to allow a charitable institution emergency transitional residence development in a residence zone on premises located on the west side of Tillotson Avenue south of Cornbread Road, Center Township, Delaware County, Indiana, as more accurately described in the application.

**BZA 05-24 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Phillip Mark and Stacy R. Mark Jeurisson**, 2600 West Riggins Road, Muncie, Indiana, requesting a variance of use from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow conversion of an existing 6-bedroom house into two dwelling units in a single-family residence zone on premises located at 1800 North Rosewood Avenue, Muncie, Indiana, as more accurately described in the application.

**BZA 06-24 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Wise Food Company Incorporated and TD Wise Real Estate Incorporated**, 5100 North Twin Ponds Lane, Muncie, Indiana, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow creation of three lots through platting without meeting all of the performance standards for the existing commercial development on premises located on the east side of Walnut Street north of Centennial Avenue, Muncie, Indiana, as more accurately described in the application.

**BZA 07-24 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Justin and Cami Mills**, 1201 West County Road 1200 North, Muncie, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow keeping chickens, goats, pigs and turkeys on 5 acres in a residence zone on premises located at 1201 West County Road 1200 North, Union Township, Delaware County, Indiana, as more accurately described in the application.

**BZA 08-24 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Timothy and Karita Tackett**, 507 North Eastwood Avenue, Muncie, Indiana, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a decreased dwelling width for placement of a mobile home in a residence zone on premises located at 511 North Eastwood Avenue, Muncie, Indiana, as more accurately described in the application.

**BZA 09-24 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Dustin and Cortney Felton**, 105 South County Road 550 East, Selma, Indiana, requesting a variance from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a decreased lot area so that an existing dwelling can be separated from the tillable acreage through platting on premises located at 8330 and 8440 South U.S. 35, Perry Township, Delaware County, Indiana, as more accurately described in the application.

**REPORT FROM DIRECTOR:**

**ADJOURNMENT:**

**DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS  
FEBRUARY - 2024 REGULAR MONTHLY MEETING  
MINUTES**

The Delaware-Muncie Metropolitan Board of Zoning Appeals (BZA) held its regular monthly meeting on Thursday, February 29, 2024 at 6:00 P.M., in the Delaware County Building, Muncie, Indiana. Chairman Leslie Mathewson called the meeting to order.

**PLEDGE OF ALLEGIANCE:**

**ROLL CALL:**

Ms. Swackhamer called roll and the following members were present: Ms. Fritch, Mr. Jones, Ms. Kaiser, and Ms. Mathewson. Absent: Ms. Brannon and Mr. Wiseley. Also present: Mr. Wright, attorney for the Board.

**MINUTES:**

Mr. Jones made a motion to approve the January 2024 regular monthly meeting minutes. Ms. Delaney seconded the motion. Voting in favor: Ms. Fritch, Mr. Jones, Ms. Kaiser, and Ms. Mathewson. Voting against: None. Motion carried, January 2024 minutes approved.

**NEW BUSINESS:**

**BZA 04-24 Jurisdiction: Board of Zoning Appeals**

**Special Use** Being a public hearing on the matter of an application filed by **Delaware County Redevelopment Commission**, 100 West Main Street, Muncie, Indiana, requesting a special use under the terms of the Delaware County Comprehensive Zoning Ordinance to allow a charitable institution emergency transitional residence development in a residence zone on premises located on the west side of Tillotson Avenue south of Cornbread Road, Center Township, Delaware County, Indiana, as more accurately described in the application.

Kathy Vannice, Ashton Land Surveyor, 325 W. Washington St., Muncie, Indiana appeared to represent the applicant. She stated that there would be a home built for children to be placed prior to entering the foster care system or a guardianship. She stated that it would look like a home with a bedroom and a game room with space to play outside. She stated that there were other facilities throughout the United States, and that Hannah Coffman was here to talk about the program.

Hannah Coffman, 14585 N CR 175 E., Eaton, Indiana, the location leader for the Delaware County Isiah 117 House, appeared. She stated that this house would serve as a place for kids to go to wait to go into foster care. She stated that currently when a child was removed from a

home, they go to the Delaware County Department of Child Services Office, and could wait for hours up to days until an appropriate placement is found, and that this would serve as a homelike setting for the child to be with their case worker while they wait. She stated that there were currently 4 of these facilities in Indiana, the closest being in Marion County and Boone County.

Mr. Jones asked what the capacity would be.

Ms. Coffman stated that there would be 2 bedrooms and each room with have twin beds with a trundle bed, a game room, kitchen and living room, taking only 1 case at a time. She stated that the higher capacity would be for sibling sets, kids with disabilities, and teenagers since they were harder to place.

Mr. Jones asked what the average length of stay would be.

Ms. Coffman stated that the average was 9 hours up to 72 hours, which was the organizations limit, and that after that time the kids would go back to the Department of Child Services.

Mr. Jones asked if there was a charge to the family for this service.

Ms. Coffman stated no, this was all funded and run by volunteers and the community.

Ms. Delaney asked how they decided on this location to build the facility.

Commissioner James King, stated that the property had been gifted to them by the County Commissioners. He stated that he was also the President of the Delaware County Redevelopment Commission and that they had given them \$200,000 towards the project. He stated that he was the Town Marshall for the Town of Daleville, and he sees children that have been removed from their homes, sitting in an office, waiting for placement, and that this was a great program that was needed for these kids. He stated that they would have toys, a bed, and a place to be comfortable and that he was grateful that Isiah's house had come to the County Commissioners. He stated that this property was 4 acres, and if there becomes a need for growth, they had the room. He stated that the County had owned this property for over 16 years, and that this was a great use of that land.

Mr. Jones asked since property had been given to the County Redevelopment Commission, would the \$200,000 be enough to complete the project.

Commissioner King stated that the \$200,000 was a start, and that they had been raising other funds.

Mr. Jones asked if this was a joint effort between the City and County.

Commissioner King stated that this was just the County.

Brad Bookout, Delaware County Redevelopment Commission, appeared. He stated that he wanted to add that the funding pledge from the Redevelopment Commission was unanimously voted on as well as the pledge of the property from the County Commissioners. He stated that he wanted to thank Commissioner King, Ms. Coffman, and Ms. Vannice for their work on this,

and that Ms. Coffman had the support of many local churches and that the project had been very well received in the community. He stated that the facility would be located on the southern portion of the property which was almost across the street from the entrance to the Justice Center, south of the intersection of Cornbread Road and Tillotson Avenue.

Bill Maggard, 3100 W. Cornbread Rd., Muncie, Indiana, appeared in opposition. He stated that he appreciated the project, but that due to the high traffic in this area he had many concerns. He stated that he thought with the jail in the area it would slow down the traffic, but it had gotten worse and that there were people running the stop signs at that intersection and cars racing down the roads. He stated that the roads had recently been redone, and he wondered how they would be connecting to the water and sewage, because he had been told that he could not connect to city utilities since there were no drains in that area. He stated that he had worked at YOC for several years, and he was familiar with working with children and he was concerned for their safety. He asked if this property was in the county or if was considered city.

Mr. Jones asked Mr. Maggard to show where his property was on the map.

Mr. Daniel stated that it may not show on the map that had been provided.

Mr. Maggard stated that he was next door to M.D. Golf Academy.

Ms. Vannice stated that the site plans were not scaled at this time, but that behind the house will be a fenced in play area to help keep the kids safe. She stated that there would be a basketball area in the parking lot, which would also be behind the structure. She stated that the property would be completely in the county, the property to the north was inside the city limits, and that they could not have fit a residential structure into that zoning which was Industrial. She stated that since it was in the county there would be no sewer or city water connections, it would be treated as a residential home with septic and well on site.

Mr. Jones asked if the facility would provide services for kids in the city and county, or just those in the county.

Commissioner King stated it would be for both.

Mr. Bookout stated that the utilities would come from the south of the property to the facility and that despite Cornbread being in the City limits, the County did pave and pay for that project.

Mr. Jones stated that the traffic was fast in that area sometimes.

Ms. Mathewson stated that this matter had been before the Plan Commission Board.

Ms. Swackhamer stated that this matter had been heard by the Plan Commission at their February 1, 2024 meeting and that after discussion, with a vote of 7-0, the Plan Commission issued a Favorable Recommendation to be forwarded to the BZA. She stated that an email had been received January 30, 2024 from Bonnie Coffman, which stated that she was in favor of the request.

Mr. Jones made a motion to approve BZA 04-24, the Special Use filed by the Delaware County Redevelopment Commission for a charitable institution. Ms. Fritch seconded the motion. Voting in favor: Ms. Fritch, Mr. Jones, Ms. Kaiser, and Ms. Mathewson. Voting against: None. Motion carried, BZA 02-24 approved.

### **BZA 05-24 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Phillip Mark and Stacy R. Mark Jeurisson**, 2600 West Riggins Road, Muncie, Indiana, requesting a variance of use from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow conversion of an existing 6-bedroom house into two dwelling units in a single-family residence zone on premises located at 1800 North Rosewood Avenue, Muncie, Indiana, as more accurately described in the application.

Doug Jeurisson, 2600 W. Riggins Rd., Muncie, Indiana, appeared. He stated that he was the Property Manager for the rentals owned by his family, and that they were seeing a higher demand for smaller dwellings with fewer units. He stated that they had a larger home that they would like to divide and convert into 2 units in order to keep them occupied.

Ms. Mathewson asked if the request was to have the duplex with an additional dwelling.

Mr. Jeurisson stated that one unit would have 2 bedrooms and the other would have 3 bedrooms, and that it would not require any exterior changes, that the footprint would remain the same.

Mr. Jones asked if they would anticipate more occupants in the dwelling.

Mr. Jeurisson stated that there would actually be fewer, and the hope was that it would not sit empty.

Ms. Mathewson stated that the map that had been provided showed the parking, and asked if they felt they would have adequate spaces.

Mr. Jeurisson stated that they had space for 8-9 cars.

Ms. Mathewson asked if anyone from the Plan Commission had looked at the site plan and if they had provided enough parking to meet the requirements.

Mr. Daniel stated that they had currently been parking half way in the right of way, however there was space along the alley that had room for 4 spaces, which would be 2 per unit as the ordinance requires. He stated that they may need to add some gravel or pavement and direct the residents to park on the eastside of the property, but there was adequate space.

Ms. Fitch asked if the garage on the property was currently used for parking.

Mr. Jeurisson stated that it had been converted years ago.

No one appeared in opposition.

Mr. Jones made a motion to approve BZA 05-24 the appeal of Phillip Mark and Stacy R. Mark Jeurisson with the hardship as stated in the application. Ms. Fritch seconded the motion. Voting in favor: Ms. Fritch, Mr. Jones, Ms. Kaiser, and Ms. Mathewson. Voting against: None. Motion carried, BZA 05-24 approved.

**BZA 06-24 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Wise Food Company Incorporated and TD Wise Real Estate Incorporated**, 5100 North Twin Ponds Lane, Muncie, Indiana, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow creation of three lots through platting without meeting all of the performance standards for the existing commercial development on premises located on the east side of Walnut Street north of Centennial Avenue, Muncie, Indiana, as more accurately described in the application.

Ms. Mathewson stated that a member of the Board would need to recuse themselves from this request, and it takes 4 voting members to be present to take official action. She stated that with only 3 remaining members present, this case would be automatically continued to the next regular meeting, and that no new notice would be sent.

**BZA 07-24 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Justin and Cami Mills**, 1201 West County Road 1200 North, Muncie, Indiana, requesting a variance of use from the terms of the Delaware County Comprehensive Zoning Ordinance to allow keeping chickens, goats, pigs and turkeys on 5 acres in a residence zone on premises located at 1201 West County Road 1200 North, Union Township, Delaware County, Indiana, as more accurately described in the application.

David Carnes, lawyer with Dennis, Wenger, and Abrell, 324 W. Jackson St., Muncie, Indiana, appeared to represent the applicant. He stated that the Mills had moved to this property in 2022 and after they found this property they had gone to great lengths to build the pens for the protection of their animals. He stated that their son was in 4H, and that they had been learning how to properly homestead on the property in order to grow their own food. He stated that they had listed all of the potential animals that they would like to have in the future, and that they did have some of the egg laying and meat chickens up to this point. He stated that the Mills had noticed other property owners in the area having pigs, chickens, and even a horse, and had believed that the properties had at one time been zoned farming, and still had farming all around the area.

Cami Mills, 1201 W. CR 1200 N, Muncie, Indiana, appeared. She stated that she and her husband Justin live here with their 8 year old son, and that they had moved to this area from Carmel with the hopes of gardening and raising their own food. She stated that being able to raise their son in a rural area and understand where their food comes from was important to them and that they were not aware that the property was residential when they purchased it. She stated that because the property was 5 acres, they believed it was sufficient to have the small number of animals that they wanted to raise here. She stated that they had no expectations to have all of the animals at one time, and that with the rotational grazing that they practice, they would have either the pigs or the goats, not both at the same time. She stated that the meat chickens were 20-25 at a time and that their pens were moved daily so that they had fresh grass to eat.

Ms. Mathewson stated that the pictures provided showed chickens on the property now and asked how many they currently had.

Ms. Mills stated that they had egg laying chickens now.

Ms. Matheson asked if the turkey, pigs, goats, and meat chickens would be animals they would add in the future.

Ms. Mills stated yes, and that last summer they did have some meat chickens. She stated that those chickens were considered full grown at 8-10 weeks and that they processed them at that time. She stated that a feeder pig takes around 6-7 months to get to a size that they can be taken to a butcher, and that they had no intentions of having pigs year-round.

Ms. Mathewson asked what they would do with the parts of the chickens that could not be eaten after they processed them.

Ms. Mills stated that it was very important to them that they honor the animals, and that they use as much of the animals as they can either themselves or as dog treats. She stated that they had a hot compost system on the property and that the center of that gets to a temperature that animals do not dig, so that is where the unused parts go to be broken down.

Ms. Mathewson stated that she had been a BZA Board member for several years, and stated that she would like to ask some of the questions that she had heard in similar requests. She asked how they addressed the animal waste to help cut down on the smell that may bother the neighbors.

Ms. Mills stated that rotational grazing means that the animals had a smaller pen within a larger pen and that they are moved around so that the waste does not build up in any one location. She stated that smell occurs with mismanagement of the animals' area and there being too much waste in one place, and the rotational grazing helps with that, along with the fact that they did not have a large volume of animals.

Ms. Mathewson asked about the noises that the chickens create and if they had any roosters.

Ms. Mills stated that with the location on the property that they plan to have the animals there would be plenty of space from the neighbors and if anyone had any issues about the noise they

could talk to them. She stated that some of the meat chickens were males so they did crow, and that they had not received any complaints when they had those on the property.

Ms. Mathewson asked if anyone had come to talk about any concerns they may have.

Ms. Mills stated that the neighbor to the south had talked to them about what they would like to do and he asked that they just not have any animals next to the fence. She stated that she assured him that they would follow the county ordinance and keep the animals at least 200' away from any neighboring structures. She stated that the neighbor had a concern with his own dog, and did not want him to cause any trouble. She stated that they had talked to other neighbors and being that they were out in the county, they had no issue with what they were doing. She stated that there was one neighbor that had concerns about how the animals could affect the water system and possible smells that might occur. She stated that there is a lot of farming properties that surround the area, and that she did not believe that the small number of animals that they would have would cause any more harm than what the farm ground created.

Mr. Jones asked how many chickens they currently had.

Justin Mills, 1201 W. CR 1200 N, Muncie, Indiana, appeared. He stated that they had 10 egg laying chickens with 1 rooster. He stated that they had the opportunity to have 10 more egg laying chickens, which would be the reason for the request of 20 chickens, and that was all that they had at this time.

Mr. Jones asked about the 40 additional chickens they asked for.

Mr. Mills stated that those would be meat chickens, and would be in the portable pens for approximately 8 weeks.

Mr. Jones asked if the 20 they currently had were free range chickens.

Mr. Mills stated no, those were the egg laying chickens and that they were in pens.

Mr. Jones asked if they would then be adding 40 meat chickens.

Ms. Mills stated that they would raise them in batches and not have all 40 at one time. She stated that they would only have 20-25 at one time for space in the pens and that it was more manageable to harvest 20-25 at one time as opposed to 40.

Mr. Jones asked about the 2 pigs and that they had stated this was the standard they had to ask for.

Ms. Mills stated that they had asked for anything that they may want in the future so that they would not have to come back to the BZA each time to change anything.

Mr. Mills stated that this was their dream and that their son wanted to be in 4H and that they were trying to encourage that, which was the reason for moving to this property. He stated that they researched and educated themselves on how to rotational graze, homestead, and compost and that they were trying to make the land better as they use it. He stated that this was their

home where they want to raise their family. He stated that the neighbors come to their farm stand to get produce and that they had tried to accommodate and be friendly with everyone. He stated that they were not set up to have all of these animals right now, but that this was what they wanted for their future.

Mr. Jones asked if they anticipated having all of these animals at one time.

Mr. Mills stated no. He stated that one year they would have pigs to fill their freezer and the next year they might have turkeys or goats. He stated that this would allow them to have different animals on the land over time.

Mr. Carnes asked them to explain that they had a turkey.

Ms. Mills stated that they had 2 turkeys that they raised and provided a 100% homestead Thanksgiving meal to their family.

Mr. Jones asked how long they had lived here.

Ms. Mills stated that they closed on the house in August, 2022 and that they had the egg laying chickens since that time.

Mr. Carnes asked the Mills if they had any pigs or goats on the property yet, and if they would also be for 4H for their son.

Ms. Mills stated no, they had not had pigs or goats and that they would potential be for 4H as well.

Mr. Carnes stated that in the diagrams they provided it showed the pens that they had built and asked the Mills to explain to the Board a little more about that.

Ms. Mills stated that on the diagram the gray area would be for any pig, goat, or meat chicken, and that the location was chosen to be at least 200' from any neighboring structure. She stated that they were also working on a perimeter fence that would have an additional fence within that area so that they could continue to rotationally graze the animals, and at no point would they have access to the entire area.

Ms. Fritch asked for the timeline of installing the perimeter fence.

Ms. Mills stated that the perimeter fence would be completed this summer.

Ms. Kaiser stated that the area looked to be wooded and asked if they had any wildlife problems.

Ms. Mills stated that they had seen deer cross the property and that they had only seen coyotes from a distance and thankfully they had not encountered predator issues on their property, other than aerial predators such as hawks.

Brittany Carrier, 18600 N. Little John Lane, Muncie, Indiana, appeared. She stated that she had lived on Little John Lane for 22 years, and that it was originally intended to be a subdivision, but

had never been fully completed. She stated that when she purchased her current property that she had the listing, and did not know that it was considered a residential area, in fact on the listing it mentioned a chicken coop that was on the property. She stated that she was surrounded by a heavily wooded area that was all farm ground, and not an area that would be considered a residential neighborhood setting. She stated that she had more of a complaint about noise due to the dogs in the area rather than any chicken or pig. She stated that she lived just north of the elk farm, and that was more also noisier than any chickens had been. She stated that the Mills son and her son were good friends and that she had known them since they moved in. She stated that was aware of all of the research and time that they had put into this, and that as a local resident she had no problems or concerns with what the request was. She stated that she visited the home frequently and that she had never smelled the chickens and that she believed the Mills had full intentions of using their property for homesteading purposes. She stated that 2 properties west of Elizabeth Lane, there was a property that had 42 chickens, and that if there was any noise from roosters it was from that property. She stated that she was in favor of the request and had no concerns and would gladly buy their eggs anytime.

Ann Hicks, 1401 W. CR 1200 N, Muncie, Indiana, appeared. She stated that she lived 2 properties west and that she agreed with everything Ms. Carrier had said. She stated that she had moved here 11 years ago and had no idea that it was zoned residential. She stated that she never heard the Mills chickens at all, but that the chickens on the other side of her property she did hear, but that they were in the country and it was not a big deal. She stated that she also agreed with the issues with the dogs barking and roaming around more than any issue with chickens being in pens in someone's yard. She stated that she had purchased eggs and vegetables from the Mills in the summer and had never been overwhelmed by any smells from the animals. She stated that having grown up on a farm with livestock, she wanted everyone to understand that there was a difference in having a large amount of confined animals to just having a few out in pens. She stated that as a neighbor, she had no problem with any of the things they are requesting.

Courtney Cortinas, 19108 N. Little John Lane, Muncie, Indiana, appeared. She stated that she also had no problems with the chickens and that she had a dog and he was louder than any animals the Mills had. She stated that she frequently gets vegetables from their stand and that she and her son would get eggs, and that they often give away their fruits and vegetables to anyone who needed them. She stated that the Mills were trying to provide for their family and that she had no problem with the request.

Ashley Lykens, 19101 N. Elizabeth Lane, Muncie, Indiana, appeared. She stated that she owned the 5 acres west of the Mills and that she was in favor of their request. She stated that they had never had any of their animals come over to her property and had never noticed any smells from the animals. She stated that the Mills provide all the vegetables and eggs to people in the neighborhood.

Diana Charron, 18911 N Little John Lane, Muncie, Indiana, appeared in opposition. She stated that she had submitted a letter to the Board, but she would like to express some of those concerns in person. She stated that she had only lived in this area since April 2020, and that her grandson and granddaughter both have animals for 4H including goats, cows, and chickens. She stated that they kept the animals at her stepson's house due to the noise and smells, and that when she visits his barn, it is very strong and bothers her allergies. She stated that her husband had Parkinson's and needs his rest, and that they like to keep their windows open in the summer

so she was worried about the noises and smells bothering him. She stated that unless an area was kept clean, over time the smells can build up and be a problem. She stated that the drainage on her property was already poor and they had several low spots that stay soggy, and was worried this would cause more issues. She stated that they also had concerns about contamination to their well, and that they already don't drink their water due to the farms surrounding them. She stated that they chose to live in this area because it was wooded, and she noticed that the Mills were already starting to clear some of the trees on their property. She stated that the paperwork from the purchase of her property stated it was residential and that she was concerned about this lowering the value of her home. She stated that they drove around the mile block and did not notice any other animals, so if anyone has animals they must be farther back on their properties. She stated that there is a lot of wildlife including deer that cross the property, raccoons, and even baby owls, so they have concerns of loss of wildlife. She stated that she had never been contacted about this request and that they were within 400' of the back of their property. She stated that she had done some research on livestock and she had concerns with the disease, odor, and pests that can come with raising chickens, that rodents were attracted to waste and feed. She stated that chicken needed at least 4 square feet of coop space per bird, and since turkeys were a slower bird, they were more susceptible to predators. She stated that there was a concern of water contamination since everyone in that area had a well. She stated that pigs attract hog lice and itch mites, and that goats were loud and both needed a larger fenced in area. She stated that there was a bald eagle's nest within 2 miles of this area, and that she was worried about the predators this would attract since they were cutting down some of the trees.

Ms. Mathewson stated that Ms. Charron talked about loss of wildlife and wooded acres, but even if the variance was not granted, they could cut down all of the trees.

Ms. Charron stated that would make her sad, but she understood that.

Ms. Mathewson stated that the Mills had the chickens for several years, and asked if she had noticed the rodents and predators in that time.

Ms. Charron stated no, and that she was glad to see the limited number of chickens they were requesting.

Ms. Mathewson asked Ms. Charron if she had noticed any loud noises or smells coming from the property.

Ms. Charron stated that she heard the chickens in the summertime, but since she did not travel that direction, she was not aware of them, and that she had not noticed any smell.

Ms. Mathewson asked if the drainage and runoff of water onto her property was coming from the Mills property.

Ms. Charron stated that she did not know the source of the water that makes the area swampy.

Linda Chastain, 19001 N. Little John Lane, Muncie, Indiana, appeared in opposition. She stated that she did enjoy hearing from Ms. Mills, and that she had been raised on a small farm and understood the impact of farming. She stated that she had lived here for 47 years, and wanted

to share her concerns, and that she would be reading from a letter she had written. She stated that she had a right to disagree with the appeal requesting a homestead variance to allow chickens, goats, pigs, and a turkey on a neighbor's property that was purchased on July 13, 2022, adjacent to her property at 19001 N. Little John Lane. She stated that the Mills stated that they had witnessed others running farm operations and assumed that a homestead was permitted, and were unaware that they had purchased property in a residential zone. She stated that after receiving her notice, she went around the neighborhood, and that in the past few weeks there were 2 new residence and they knew this area was zoned residential, not farming and that was why they purchased their properties. She stated that she disagrees that there were many neighbors that had farm animals in that area, and that when visiting those 18-20 houses she did confirm that there may be a pig at one of the homes. She stated that it was frustrating to her that a property owner would think it was ok to violate their neighbors' rights and not follow the zoning regulations. She stated that that if people would just come forward and apply for zoning at the beginning like the should it would be different but that it was frustrating. She stated that in the next 5-6 years many of the older residents would be selling their homes, and that they did move there knowing it was residential and she had the plat pages to show this. She stated that she had not been informed of the encroachment of her rights with the appeal of zoning. She stated that after Christmas, she had encountered the Mills cutting sown some of their trees, and they shared at that time that they had a desire to have pigs. She stated that she called planning the next day to find out the zoning and it was confirmed that it was zoned residential, and she shared what she had encountered. She stated that she knows that an inspection was done and that this was how we ended up here with the request because you have to follow the rules. She stated that the poor drainage was a constant issue in the neighborhood with ongoing well and septic tank issues, which was confirmed when she talked to all of her neighbors. She stated that the Mills property drains across her property and an adjacent neighbor on down to the ditch and there was a concern about the standing water in the whole neighborhood. She stated that there was a concern about animal waste and fecal matter contaminating the soil and water, and the she had 2 sump pumps under her home to get rid of the excess water. She stated that she also had concerns about the air quality, especially on a windy day and that noise travels in the addition easily. She stated that they were seeing an encroachment to the natural deer migration through the neighborhood and that a neighbor recently called DNR when they found a decapitated deer in their yard. She stated that she was a double lung transplant patient and that she had a compromised immune system, and that she could not drink the well water, have a pet, or have contact with the dirt or birds, due to the fungal spores that could harm her. She stated that if this appeal was granted she was worried about how that might affect her property values. She thanked the Board for listening to her concerns as well as her neighbors and that she had a list of over 20 names of those who would also be directly affected.

Ms. Mathewson asked if she would like to submit that list for the record.

Ms. Chastain stated yes, and that she did have a letter from another neighbor.

Ms. Mathewson asked if the smell, noise, and drainage issues had been a problem since August 2022 when the chickens came to the property.

Ms. Chastain stated that she was not initially aware of the chickens, so that was not as much of a worry. She stated that the lack of communication and the Mills moving forward with clearing

the woods. She stated that she did not know they would be rotating the animals and had been afraid they would be there all at once, and that the standing water in the woods did create a smell, and worried that the animals would make it worse. She stated that over the years there have been people who had considered having a horse and found out that they could not, so it was a matter of the Mills not following the rules.

Joann Davis, 18808 N. Little John Lane, Muncie, Indiana appeared in opposition. She stated that she purchased her property 30 years ago and that everyone had from 2-5 acres and love having that much land. She stated that she was a proponent of 4H and gardening and the idea of homesteading. She stated that when she bought her property she had wanted a small horse, and found at that time it was zoned residential, and that was for a reason. She stated that she had a well and that she had to bleach it 1-2 times a year because of the run off of a farm nearby, so she does feel the contamination from the waste was a concern. She stated that if this variance was approved, her neighbor could have pigs right next to her, and she had rights as well. She stated that she was a real estate agent and that when someone was buying a property they needed to do their homework.

Don Lewis, 18900 N. Little John Lane, Muncie, Indiana, appeared in opposition. He stated that he had lived here for 50 years and could confirm that there were drainage issues. He stated that many of the residents were older, and that they had concern of health issue this could cause. He stated that he could show the Board on a map how the drainage occurs and was a problem.

Ms. Mathewson stated that the drainage would be discussed with the Mills.

Mr. Lewis stated that the water goes across the Mills property, through a tile, down Little John Lane behind 2 houses and ends up in the river, and any pollution from that property would end up in the river.

Mr. Mills stated that he agreed with the drainage issues and that when they purchased the property they had to clean and repair the culvert at their driveway because it was completely blocked. He stated that the water drains across the street, and that the water would all be washed through 3 acres of woods to get to any of the houses behind them. He stated that they believe that they can properly manage any smell or contamination, because for that to happen you would have to let things sit and not be maintained He stated that this was their house, and they would not let things go unattended. He stated that they did not want to clear out the woods because it was the perfect environment to house the pigs and goats, but that they had cleared the property line for the fence.

Mr. Carnes asked the Mills to explain how they did talk to some of the neighbors.

Ms. Mills stated that they had good relationships with everyone on Elizabeth Lane and that they spoke to all of those neighbors. She stated that they recently spoke to some of the neighbors on Little John Lane, and that the major concern mentioned was that they did not speak to anyone farther away than next door. She stated that they gave everyone a letter introducing themselves and explaining what the request would be, and gave them Mr. Daniel's email address so that they could contact staff to ask questions.

Colbert Elrod, 19001 N. Elizabeth Lane, Muncie, Indiana, appeared. He stated that the northeast corner of his property touched the southwest corner of their property. He stated that he built his house here in 1966, and when he bought that property he asked if he could raise animals on his 3 acres and was told yes, as long as they were behind his house. He stated that he was never notified that this was changed to residential, and that he had no problem with the Mills raising food for their family. He stated that in the 70's a family across the street had pigs and a horse for several years while their kids were in 4H. He stated that people do have a right to support themselves on their property and that the drainage had been a problem since 1966, and that a few chickens and 1-2 pigs would not make that much of a difference.

Ron Pence, 15808 N. Little John Lane, Muncie, Indiana, appeared. He stated that he was a HAM radio operator, and that on the local frequency in Delaware County did a report each morning, and that the wind mostly comes from the southwest. He stated that airports were planned the way they were due to how the winds predominately flow.

Ms. Fritch made a motion to approve BZA 07-24 the appeal of Justin and Cami Mills with the hardship as stated in the application. Ms. Kaiser seconded the motion. Voting in favor: Ms. Fritch, Ms. Kaiser, and Ms. Mathewson. Voting against: Mr. Jones. Motion failed, no official action taken. BZA 07-24 automatically continued to the March 28, 2024 regular monthly meeting.

#### **BZA 08-24 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Timothy and Karita Tackett**, 507 North Eastwood Avenue, Muncie, Indiana, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a decreased dwelling width for placement of a mobile home in a residence zone on premises located at 511 North Eastwood Avenue, Muncie, Indiana, as more accurately described in the application.

Karita Tackett, 507 N. Eastwood Ave., Muncie, Indiana, appeared. She stated that they would like to place a mobile home on the property next door, and that she had a letter from his doctor supporting their request due to his diagnosis of frontal lobe dementia. She stated that the mobile home was 16' x 60' and that they had looked at many homes and that this was the one that her husband was the most comfortable with.

Ms. Mathewson stated that they had the site plans and a medical report supporting the request, and that they were only asking for a smaller than permitted mobile home on the property.

Ms. Tackett stated yes.

Mr. Jones asked if there was a mobile home there now.

Ms. Tackett stated that there was only a single car garage there now.

Ms. Mathewson asked if they would be keeping the garage.

Ms. Tackett stated yes.

Tia Tackett, 2408 N. Hollywod Ave., Muncie, Indiana, appeared. She stated that she was their daughter, and that it had been a rough few years since her fathers' diagnosis. She stated that it had been hard to fix things around the house, and that her father was not able to take of those things. She stated that they would like to get him in the mobile home next door to the current home because it was a familiar area. She stated that his doctor feels that it would better for his health and safety since they had lived in that area for over 20 years.

No one appeared in opposition.

Ms. Fritch made a motion to approve BZA 08-24 the appeal of Timothy and Karita Tackett with the hardship as stated in the application. Voting in favor: Ms. Fritch, Mr. Jones, Ms. Kaiser, and Ms. Mathewson. Voting against: None. Motion carried, BZA 08-24 approved.

### **BZA 09-24 Jurisdiction: Board of Zoning Appeals**

Being a public hearing on the matter of an application filed by **Dustin and Cortney Felton**, 105 South County Road 550 East, Selma, Indiana, requesting a variance from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a decreased lot area so that an existing dwelling can be separated from the tillable acreage though platting on premises located at 8330 and 8440 South U.S. 35, Perry Township, Delaware County, Indiana, as more accurately described in the application.

Dustin Felton, 105 S. CR 550E, Selma, Indiana, appeared. He stated that they had purchased the 140 acre property which had 3 houses, and that they had already split one house off. He stated that this property belonged to his great grandmother and that they planned to do another split.

Cortney Felton, 105 S. CR 550 E, Selma, Indiana, appeared. She stated that they wanted the split to maintain the area for the home that had been existing and that they own all of the surrounding land.

Ms. Mathewson stated according to the application provided, they had tested the ground and septic could be able to be installed on the split parcel.

Ms. Felton stated that there was an existing septic and well and they had the test done to confirm 1-2 possible replacement locations.

Mr. Felton stated that the well was also only a few years old. He stated that the existing fence line defines the property and makes it an easy place to split the land.

Ms. Felton stated that they wanted to preserve the tillable farm ground.

Ms. Swackhamer stated for the record that a call was received from Eugene Whitehead, stating that he and his family owned property across the street and were in support of the request.

No one appeared in opposition.

Mr. Jones made a motion to approve BZA 09-24 the appeal of Dustin and Courtney Felton with the hardship as stated in the application. Ms. Kaiser seconded the motion. Voting in favor: Ms. Fritch, Mr. Jones, Ms. Kaiser, and Ms. Mathewson. Voting against: None. Motion carried, BZA 09-24 approved.

**REPORT FROM DIRECTOR:**

Ms. Swackhamer stated that MaryAnn Pope had moved from Planning Technician to Community Planner, and that there were still 2 positions to be filled. She stated that she and Ms. Pope had attended a planning conference February 23, at Ball State and that at that luncheon the rest of the staff joined them. She stated that Marta was honored at that luncheon, and that there was a wonderful video to be played, but they had sound issues and could not show it at that time. She stated that it was a very nice presentation and the award was the Pioneer Planner Award, and someone told her that was the second highest award in the state for planning. She stated that Marta’s brother was there and that her niece Sophie accepted the award. She stated that there was a link to the video on YouTube for anyone who wants to see that.

Ms. Mathewson stated that the Board was still short 1 member which was a County Commissioner appointment, and that Ms. Swackhamer was going to address that at their next meeting. She stated that she had also mentioned this to Commissioner King regarding needing a new member for the Board.

Mr. Jones stated that out of all the offices he visited every day, he felt the Plan Commission was very well run.

Ms. Mathewson stated she agreed.

**ADJOURNMENT:**

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Leslie Mathewson, Chairman

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Kylene Swackhamer, Secretary