

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

DATE: April 25, 2024

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

TIME: 6:00 P.M.

PLEDGE OF ALLEGIANCE:

INTRODUCTION/CONFIRMATION OF MEMBERS:

ROLL CALL:

	Leslie Mathewson	
	Ellen Brannon	Sue Kaiser
	Delaney Fritch	Allen Wiseley
	Mike Jones	vacant

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

OLD BUSINESS:

BZA 06-24 Jurisdiction: Board of Zoning Appeals

Being a continuation of 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 continuation of 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 10-24 **Jurisdiction: Board of Zoning Appeals**
Special Use Being a continuation of a public hearing on the matter of an application filed by **Big Oak Park, LLC and Trent Conaway**, 19323 Morrison Way, Noblesville, Indiana, requesting a special use under the terms of the Delaware County Comprehensive Zoning Ordinance to allow expansion of an existing nonconforming campground in a farm zone on premises located at 9401 North County Road 500 West, Harrison Township, Delaware County, Indiana, as more accurately described in the application.

BZA 11-24 **Jurisdiction: Board of Zoning Appeals**
Special Use Being a continuation of a public hearing on the matter of an application filed by **REL Homes, LLC**, 11706 Little River Way, Parrish, Florida, requesting a special use under the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an accessory dwelling in an existing detached garage for a total of two dwellings in a single-family residence zone on premises located at 223 South McKinley Avenue, Muncie, Indiana, as more accurately described in the application.

BZA 12-24 **Jurisdiction: Board of Zoning Appeals**
Being a continuation of a public hearing on the matter of an application filed by **Murphy Oil USA, Incorporated**, 200 Peach Street, Eldorado, Arizona, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow relocation of the front yard trees to be outside of the greenbelt for redevelopment of a gasoline fueling station and convenience store on premises located at 1421 East 29th Street, Muncie, Indiana, as more accurately described in the application.

BZA 13-24 **Jurisdiction: Board of Zoning Appeals**
Being a continuation of a public hearing on the matter of an application filed by **Joshua Brunner and Jennifer Brunner**, 9411 North Hickory Hill Drive, Muncie, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow an increased height, a decreased rear setback and for the floor area of the accessory building to exceed that of the dwelling for a new barn in a residence zone on premises located at 9411 North Hickory Hill Drive, Delaware Township, Delaware County, Indiana, as more accurately described in the application.

BZA 14-24 **Jurisdiction: Board of Zoning Appeals**
Being a continuation of a public hearing on the matter of an application filed by **Rheuben A. Allen Trust**, 2627 South Meeker Avenue, Muncie, Indiana, requesting a variance of use and variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a non-profit organization to operate in an existing church building, parking on a vacant lot across 15th Street and a new storage building on a lot on Acorn Avenue without a dwelling in a residence zone on premises located at 1600 West 15th Street, 1601 West 15th Street and 2101 South Acorn Avenue, Muncie, Indiana, as more accurately described in the application.

BZA 15-24 Jurisdiction: Board of Zoning Appeals

Being a continuation of a public hearing on the matter of an application filed by **Aimee M. Vinson**, 3741 Indianwood Drive, Columbus, Indiana, requesting a variance of use from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow conversion of an existing house into two apartments in a single-family residence zone on premises located at 2308 South Mock Avenue, Muncie, Indiana, as more accurately described in the application.

NEW BUSINESS:

BZA 16-24 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Sonji Hospitality, LLC**, 1936 West Wolfram Street, Chicago, Illinois, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased front setback build-to line, increased building height, no bus stop, decreased east and west side bufferyards, decreased sidewalk width, and reduced on-site parking, all for a new 4-story hotel on premises located on the northwest corner of Bethel Avenue and Marleon Drive, Muncie, Indiana, as more accurately described in the application.

BZA 17-24 Jurisdiction: Board of Zoning Appeals

Being a continuation of a public hearing on the matter of an application filed by **Ryan Baker**, 5112 South Eldorado Lane, Muncie, Indiana, requesting a variance from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a new above ground swimming pool to be located in the side yard on premises located at 5112 South Eldorado Lane, Monroe Township, Delaware County, Indiana, as more accurately described in the application.

BZA 18-24 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Muncie Property Holdings, LLC**, 12701 Covered Bridge Road, Sellersburg, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow decreased parking, no bus stop, 5 new service bays facing Hometown Boulevard, no east and west side bufferyards, no foundation landscape area and no sustainability features, all for an addition to the Hyundai building and for separation of Hyundai and Quick Lane onto their own lots through replatting on premises located at 6200 and 6230 West Hometown Boulevard, Muncie, Indiana, as more accurately described in the application.

REPORT FROM DIRECTOR:

ADJOURNMENT:

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

The Delaware-Muncie Metropolitan Board of Zoning Appeals (BZA) held its regular monthly meeting on Thursday, April 25, 2024 at 6:00 P.M., in the Commissioners Court Room of 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. Brannon, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Absent: None. Also present: Mr. Wright, attorney for the Board.

MINUTES:

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

Ms. Mathewson stated that due to the amount of business on the agenda, and seeing that some cases have previously been heard, there would be time limits set on the amount of time for each case and that applicants and speakers should try not to repeat information.

OLD BUSINESS:

BZA 06-24 Jurisdiction: Board of Zoning Appeals

Being a continuation of 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.

Kathy Vannice, Ashton Land Surveyor, 325 W. Washington St., Muncie, Indiana, appeared to represent the applicant. She stated that this was a 9.59 acre area and that they were in the process of dividing the parcel. She stated that between the 4 buildings on the land and the parking lot, it was mostly solid surface where the old Marsh store used to be and there was only 2.86 acres of grassy area on the far east side of the property. She stated

that with the front curb being so high, there was really no way to add any plantings which was why they were requesting a variance from that standard so that they could divide the parcel. She stated that the applicant would retain the building and land at the south end of the property which was where the Wise Country Market was located and he intended to continue that business.

Mr. Wiseley asked each of the proposed lots would have their own curb cut along Walnut Street.

Ms. Vannice stated that they would not create anymore curb cuts, and that as part of the plat they would have a shared entrance and exit.

No one in opposition.

Mr. Wiseley made a motion to approve BZA 06-24 the appeal of Wise Food Company Inc. and TD Wise Real Estate Inc., with the hardship as stated in the application with the condition that any future development shall meet the corridor standards. Mr. Jones seconded the motion. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 06-24 approved.

BZA 07-24 Jurisdiction: Board of Zoning Appeals

Being a continuation of 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.

Ms. Mathewson stated that there would be a 10 minute time limit for those wishing to speak in support as well as 10 minutes for those wishing to speak in opposition. She stated that the Board had received all of the documents prior to the meeting including the minutes from the previous meeting, and that any speakers should try and focus their comments on new information.

David Carnes, Attorney with Dennis, Wenger, and Abrel, 324 W. Jackson St., Muncie, Indiana, appeared to represent the applicant. He stated that this would not be a rezoning of the property, this would be a variance specific to the Mills and their request to be allowed to homestead on their property. He stated that they have had chickens up to this point, and had a great amount of support from the community and for having lived there for only 2 years that speaks highly to the Mills. He stated that this was an area in the northern most part of the county, this small portion had been zoned residential and he wanted to show the square mile of land that surrounded their property. He stated that there were hundreds of acres of farm ground contiguous to their 5 acre wooded property including 40 acres and 109 acres that was residential and mostly used for farming. He stated that they were requesting to continue to be able to homestead for their own purposes on the property.

Cami Mills, 1201 W. CR 1200N, Muncie, Indiana, appeared. She stated that her family had moved here in 2022 from Carmel Indiana with the intention of homesteading in their land. She stated that until this point they were not aware that they were in a residential zone, so they did raise 40 meat chickens and 2 turkeys on their property last summer and that they processed on their property. She stated that they had over 800 square feet of garden space along with 20 egg laying chickens and 1 rooster. She stated that once they discovered they were in a residential area, they filed all of the applications and paperwork with Ms. Carnes help to request the variance for the chickens along with the pigs and goats they would like to have in the future. She stated that the pigs would be strictly for meat, and would go to the butcher after 6-7 months, and that the meat chickens would be processed after 8-12 weeks. She stated that they had an 8 year old son in the second grade, and that he hoped to participate in 4-H with either the pigs or the goats and that opportunity was part of the reason that they moved into a rural area from Carmel.

Justin Mills, 1201 W. CR 1200N., Muncie, Indiana, appeared. He stated that they researched homesteading for 6 years prior to moving, so they had done a lot of research and decided that this was the lifestyle that they wanted to live. He stated that they wanted responsibly raise the animals so that they would not destroy the land and part of that was the rotational grazing so that as they are moved the land can recover.

Linda Chastain, 19001 Little John Lane, Muncie, Indiana, appeared in opposition. She stated that she lived adjacent to the Mills and asked if the Board had the letters that had been submitted since the last meeting.

Ms. Mathewson stated yes, and that those letters would be addressed for the record.

Ms. Chastain stated that she would like to highlight some of the concerns that she mentioned in her letters. She stated that this was a hardship variance and that her concern would be compliance moving forward since the Mills said that they were unaware that they were moving to a residential area. She stated that most of the neighbors had lived in that area for 50 years or longer, and they purchased property knowing that the farm was there and that they love the neighborhood. She stated that she had sent a letter from an appraiser and that having animals next door could affect her property value and be an issue when it was time for her to sell her property. She stated that she wanted to know who would be monitoring the animals and that she was trying to protect herself and the other property owners that had been her for all these years. She stated that she had heard this was not a rezoning, but this could open the door for others in the area to ask for the same thing since many of the properties were 4-5 acres. She stated that the Mills have a rope along the joining property lines, and she would ask that any fence installed be setback from their property so that they are not trespassing. She stated that they have an interest in selling vegetables from the property and they were all worried about the traffic becoming an issue. She stated that she had health issues and that the drainage problems were another concern that she had and had provided the Board with some photos. She stated that the Mills had been cutting down trees and that some of those were actually on her property, and that she had concerns with how compliance would be handled.

Joann Davis, 18808 N Little John Lane, Muncie, Indiana, appeared in opposition. She stated that she had been a home owner in this neighborhood for over 30 years and that she was also a real estate broker. She stated that she had sent an email to Mr. Daniel to share with the Board so that they could understand what the neighborhood really looked like, and to understand that Little John Lane was different from the houses along 1200 N. She stated that she had the MLS sheet from when the home was purchased, and it clearly stated that the home was a residential property and it was simple to understand. She stated that if they were allowed this variance, it would set a precedent and allow anyone in the neighborhood to have animals and the whole area could change. She stated that the Mills had stated that they would rotate the animals and asked who would monitor this on a weekly or monthly basis to determine the amount of livestock on this property. She stated that there had been a question about odor and noise and that all of the animals were not there yet, so this has yet to be a problem. She stated that as a real estate broker she thinks this request if granted would have an affect on the property values of the adjacent land.

Mr. Jones stated that they had requested a variety of animals and that they would not all be there at once and asked how many they would have on the property at one time.

Mr. Mills stated that the egg laying chicken would be there the whole time, and that they had been there the whole time.

Mr. Jones asked how long those chickens had been on the property.

Ms. Mills stated that they had those chickens since August 2022.

Mr. Jones asked if there had been complaints about them.

Ms. Mills stated nothing had been brought to their attention.

Mr. Mills stated that they had raised 40 meat chickens, and that it would be easier for them to process 20 at one time. He stated that it was an 8 week time frame to process the chickens, so there would be 20 in the grazing area, and the other 20 in the brooder for 3 weeks until the first group was processed and then they would be introduced to the grazing area. He stated that they would only be raising turkeys for their Thanksgiving dinner so they would not be on the property continuously and that time frame was around 8-12 weeks until they could be processed.

Mr. Jones asked if they would have chickens and turkeys at the same time, and when the goats might be on the property.

Mr. Mills stated that it was just the 2 of them, and that they were not wanted to be overwhelmed with the amounts they were taking care of. He stated that the turkeys were a colder weather animal and the chickens were not, so they would not have them both. He stated that the goats would be for 4H, so they had requested 5 and they would not be processed, but more of a pet.

Ms. Mills stated that they had decided to ask for up to 5-6 goats, which would allow them to have a male and female, but if they had babies it would still be within the number they were asking to have at the property. She stated that all of the requested number of animals was meant to be respectful and that would be the maximum of those numbers of animals, but there were times it would be less than that number.

Mr. Jones asked if they would have pigs and goats at the same time.

Ms. Mills stated that the pigs would be feeder pigs which are kept until time to go to the butcher which was typically 6-7 months.

Mr. Jones asked how they would ensure the animals would not cause any issues to their neighbors.

Ms. Mills stated that they were installing a perimeter fence around their 5 acres and inside that fence there would be electric fencing to keep the animals inside. She stated that they would follow the county ordinance that stated no animals could be within 200' of a surrounding neighbor' dwelling, and they had included a map that shows they can do that.

Mr. Carnes asked in the interest of time, anyone who was in the audience and was in support to please stand (4 people).

Ms. Mathewson stated in fairness, those in opposition could also please stand (6 people).

Mr. Carnes stated that Rhonda Smith gave permission for him to mention her name as someone in support although she was not the owner of the property and that she had no problems with the Mills.

Ms. Swackhamer stated that 2 emails had been received and shared with the Board. She stated that the email from Diana Charron also included pictures, and the second email was from Joann Davis, who was here tonight to speak.

Mr. Wiseley asked Ms. Swackhamer and Mr. Daniel to explain what the procedure would be for checking compliance.

Ms. Swackhamer stated the Tom Fouch, The County Building Commissioner would be in charge of investigating any violations, and any members of the public that had concerns should call the office to report those.

Mr. Daniel stated that unfortunately it was not possible for staff to visit a property on a regular basis so enforcement was largely complaint driven. He stated that those that live close by should call the office to make staff aware that they believe there was an issue that needed to be looked at. He stated that Mr. Fouch would then investigate any of those complaints received.

Mr. Jones asked what would happen if any complaints were found to be valid.

Ms. Swackhamer stated that Mr. Fouch would send them a letter stating that they were out of compliance with a time frame to come back into compliance.

Mr. Daniel stated that if the variance was granted, and they were found to be in violation of the approval of the variance, the applicant could come back to the Board and ask for changes to the request. He stated that eventually it comes down to the Building and Zoning Administrator turning the issue over to the attorney which can turn into a lengthy process.

Mr. Wiseley stated that there was at least 1 case he can recall that had to go that far, so it was not just an option but something that had actually been done.

Mr. Jones made a motion to approve BZA 07-24 the appeal of Justin and Cami Mills with the hardship as stated in the application. Ms. Fritch seconded the motion. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 07-24 approved.

BZA 10-24 Jurisdiction: Board of Zoning Appeals

Special Use Being a continuation of a public hearing on the matter of an application filed by **Big Oak Park, LLC and Trent Conaway**, 19323 Morrison Way, Noblesville, Indiana, requesting a special use under the terms of the Delaware County Comprehensive Zoning Ordinance to allow expansion of an existing nonconforming campground in a farm zone on premises located at 9401 North County Road 500 West, Harrison Township, Delaware County, Indiana, as more accurately described in the application.

Ms. Mathewson stated that this case would be limited to 10 minutes for each side to speak. She also added that the Board had a lot of information that had been submitted for review regarding this request including the minutes from the March 2024 Plan Commission meeting.

Trent Conaway, 19323 Morrison Way, Noblesville, Indiana, appeared. He stated that at the Plan Commission meeting there were claims from the neighbors that there were drugs and other things happening at the campground and he had been surprised by those comments. He stated that he had a copy of the listing of the calls to the property from 2022 to now involving the police and that there had only been 5 calls in that 2 ½ years. He stated that those incidents involved a fraud charge to a credit card, a juvenile disturbance involving drugs and theft, a tenant who had not paid rent and had actually stole the camper they were staying in, a missing dog, and a facebook page being hacked. He hoped that this cleared things up and that all of the terrible things mentioned at that meeting were not happening at the site. He stated that they had invested hundreds of thousands of dollars into the property and that they were very proud of the location. He stated that there were rules to zoning, and that he had a formal expansion plan that was state approved for 11 sites where they had torn down a house. He stated that they had installed a new sewer system and a new septic system that would facilitate all of the existing sites and the 11 new sites which had all been approved by the state and the county. He stated that he had letters from IDEM that they water plans were approved

and letter from Courtney Pruitt with Stormwater Management and that was also approved. He stated that he believed that the concerns mentioned at the last meeting had been addressed and that there had been no issue for the past 10 years and that they have met all of the requirements needed for zoning.

Ms. Mathewson asked about the status of the work that had a deadline of May 1st, 2024.

Mr. Conaway stated that he was working with the state on the final approval of the septic system and that the \$250,000 treatment system was all functional at this time and that they were working on replacing the lines to each site a few at a time. He stated that they were working with the state to get just a little more time to finish that work.

Ms. Mathewson asked how much longer they would need to complete that work.

Mr. Conaway stated that this was their busy season but by the end of the calendar year it should be completed. He stated that they had existing pipes but that they state preferred that they were new as part of a new system. He stated that they had normal inspections by the state and that Ball State University had an environmental studies class come visit to look at the sewer system while it was being installed.

Mr. Wiseley stated that the Board had the 6 standards that were required for a private campground, and that one of those stated that trailers be no closer than 15' to one another.

Mr. Conaway stated that had been verified by Mr. Daniel.

Mr. Daniel stated that he had talked to the County Building Commissioner, Mr. Fouch this morning about the current state of the campground. He stated that Mr. Fouch stated several concerns, one being that the campers were not all 15' apart. He stated that there were also ongoing concerns about the septic system being under construction but had not been signed off on by the State Board of Health. He stated that Mr. Fouch would like to see that signed off on before the Board gave any approvals for expansion since the due date for completion of the system was approaching. He stated that a report about junk on the property and the possibility of a permanently placed mobile home on the property had just been reported to Mr. Fouch and he had not had time to investigate those complaints.

Mr. Wiseley stated that he had checked with the Auditor's Office and they confirmed at least 1 permanent placement mobile home.

Mr. Conaway stated that they did not rent that mobile home during the winter and was only used as a rental during the summer but if it was an issue they could remove it. He stated that on the plans for the site the campers were 15' away from each other and they could take a look at that.

Mr. Daniel stated that by measuring on the 2023 aerials, the campers were not all 15' apart.

Mr. Conaway stated that was according to the 2023 aerials and that the plans show them being more than 15' apart.

Mr. Wiseley stated that another requirement was that the road should be 20' wide and that 500 W was a very narrow road and he had concerns about safety if a camper was traveling along the road, someone would not be able to pass them in the other direction.

Mr. Conaway stated that Big Oak had been here for over 60 years, they had 90 sites and were only asking for 11 more. He stated that they were on the corner of State Road 28 and 500 W, so it was less than 500' from their location to SR 28 and that it was wide enough for cars to pass. He stated that there was not a lot of traffic here and the people staying here were working on infrastructure around the county so there was not any weekend camping with people coming and going continuously.

Ms. Swackhamer read the letter of recommendation from the March 7th, 2024 Plan Commission which forwarded an unfavorable recommendation with a vote of 9-0, for the request of Big Oak Park.

Mr. Conaway stated that he believed that the claims by the neighbors were outrageous and that he brought evidence that the types of activity mentioned had not been happening.

Ms. Mathewson stated that if Mr. Conaway wanted those police reports to be part of the record, he could submit those to Mr. Daniel at this time.

Mr. Conaway stated that if all of the claims were true he would have voted against the request, but those things were no longer an issue at the location. He stated that there was no sewage on the ground and that they were finishing the system which shows their commitment to Big Oak.

Mr. Jones stated that the Plan Commission's unfavorable recommendation carried significant value in his decision and even more so, the concerns of the Building Commissioner. He asked if it would be appropriate to table the request to allow for the septic concerns and those of the Building Commission to be brought into compliance.

Mr. Wiseley stated that they did not have the police reports at the Plan Commission meeting. He stated that Mr. Conaway was really not asking for 31 more lots, and asked Mr. Conaway to explain that to the Board.

Mr. Conaway stated that there had been 97 lots throughout the history of Big Oak and that on the state sewer registry it was listed as 77 lots. He stated that the septic had been inspected based on the 97 lots for over 10 years and that they would be adding 11 more spaces and they would change the state's records for the number of spaces on the site. He stated that he had been at the property for the past 2 days and he knew who the neighbor was that was complaining about the junk at the property, and that they had done nothing but make improvements to the property.

Ms. Mathewson stated that the Board could ask for a continuance to allow Mr. Fouch time to investigate some of the complaints and to the septic installation, or that Mr. Conaway could ask for that as well.

Mr. Conaway stated that they had provided all of the information that was asked for and that they had been waiting for months. He stated that they were supposed have a meeting a month ago and that was cancelled, and to now find out that complaints have been the day of this meeting was outrageous.

Mr. Jones stated that he would explain this as nice as he could, he would either be voting for a continuance or to deny.

Ms. Fritch asked that if they move to approve and that did not pass could they then make a second motion to continue.

Ms. Mathewson stated no because if they voted and had the proper number of votes, it would be final action.

Mr. Wiseley stated unless the vote fell 3-3 and was not official action.

Mr. Jones asked how long would be an appropriate amount of time for Mr. Fouch to do his inspection.

Ms. Swackhamer stated that she did not want to speak for Mr. Fouch since he had an already full schedule, but if the request were continued to May she would ask him to make it a priority.

Mr. Jones made a motion to continue BZA 10-24 the appeal of Big Oak Park, LLC., to the May 2024 regular monthly meeting. Ms. Fritch seconded the motion. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Jones, Ms. Kaiser, and Ms. Mathewson. Voting against: Mr. Wiseley. Motion carried, BZA 10-24 continued to the May 30th, regular Monthly meeting.

BZA 11-24 Jurisdiction: Board of Zoning Appeals

Special Use Being a continuation of a public hearing on the matter of an application filed by **REL Homes, LLC**, 11706 Little River Way, Parrish, Florida, requesting a special use under the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an accessory dwelling in an existing detached garage for a total of two dwellings in a single-family residence zone on premises located at 223 South McKinley Avenue, Muncie, Indiana, as more accurately described in the application.

James Rhoades, 7001 W. Isanogel Rd, Muncie, IN, appeared to represent the applicant. He stated that they wanted to convert an existing 1 car garage into a 1-bedroom apartment in the Ball State area. He stated that the garage was in need of repair and felt this would be a good opportunity to remodel that structure for a better use.

Mr. Wiseley stated that at the Plan Commission meeting Mr. Rhoades had provided some examples of his work which was very helpful, and asked if he had that with him now to show what he planned to do with the property.

Mr. Rhoades stated yes and passed out some of those pictures to the Board.

Mr. Wiseley stated that the pictures were of a house that Mr. Rhoades had worked on but for a different property owner. He asked Mr. Rhoades if the property management for this property was local.

Mr. Rhoades stated yes.

No one appeared in opposition.

Ms. Mathewson asked Ms. Swackhamer to read the recommendation from the Plan Commission.

Ms. Swackhamer read the letter of recommendation from the March 7th, 2024 Plan Commission which forwarded a favorable recommendation with a vote of 9-0, for the request of REL Homes, LLC.

Mr. Wiseley made a motion to approve BZA 11-24 the appeal of REL homes, LLC. Mr. Jones seconded the motion. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 11-24 approved.

BZA 12-24 Jurisdiction: Board of Zoning Appeals

Being a continuation of a public hearing on the matter of an application filed by **Murphy Oil USA, Incorporated**, 200 Peach Street, Eldorado, Arizona, requesting a variance from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow relocation of the front yard trees to be outside of the greenbelt for redevelopment of a gasoline fueling station and convenience store on premises located at 1421 East 29th Street, Muncie, Indiana, as more accurately described in the application.

Avi Horwits, appeared representing Greenbergfarrow, 8600 W. Bryn Mawr Ave., Chicago, Illinois, the engineering firm working on the project on behalf of Murphy Oil. He stated that they were proposing a redevelopment of an existing fueling station and convenience store at this location. He stated that they were requesting to relocate the front yard trees outside of the greenbelt due to the easements and existing utilities on the site and that they were requesting those trees be moved as far north as possible on the property.

Mr. Wiseley asked if they would be provided the required number of plantings.

Mr. Horwits stated yes.

Mr. Wiseley asked if they would be relocating the existing drive.

Mr. Horwits stated no.

No one appeared in opposition.

Mr. Wiseley made a motion to approve BZA 12-24 the appeal of Murphy Oil USA, Inc. with the hardship as stated in the application. Ms. Kaiser, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 12-24 approved.

BZA 13-24 Jurisdiction: Board of Zoning Appeals

Being a continuation of a public hearing on the matter of an application filed by **Joshua Brunner and Jennifer Brunner**, 9411 North Hickory Hill Drive, Muncie, Indiana, requesting variances from the terms of the Delaware County Comprehensive Zoning Ordinance to allow an increased height, a decreased rear setback and for the floor area of the accessory building to exceed that of the dwelling for a new barn in a residence zone on premises located at 9411 North Hickory Hill Drive, Delaware Township, Delaware County, Indiana, as more accurately described in the application.

Joshua Brunner, 9411 N Hickory Hill, Muncie, Indiana, appeared. He stated that he would like to build a new barn to store his pontoon and camper, and that the square footage would be more than his dwelling. He stated that his neighbors were all fine with the request and that he had recently purchased the property where the barn will be located from his neighbor.

Ms. Mathewson asked if it would be for personal storage only.

Mr. Brunner stated yes, and that everything would be inside and the barn would have a nice looking porch.

No one appeared in opposition.

Ms. Swackhamer stated that Mr. Brunner brought it to the attention of staff that when he turned in his application, he had omitted the small 120 square foot shed from his calculations. She stated that Mr. Brunner does intend to remove that small shed once the barn is completed, he just did not think to add that for the brief amount of time that those 2 structures would co-exist. She stated that she had talked to Mr. Murphy to see if the request could move forward with the request and he advised yes, and that the Board could add a condition that the small shed be removed.

Mr. Wiseley made a motion to approve BZA 13-24 the appeal of Josh & Jennifer Brunner with the hardship as stated in the application with the condition that the existing 120 square foot shed be removed after new barn is completed. Ms. Brannon seconded the motion. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 13-24 approved.

BZA 14-24 Jurisdiction: Board of Zoning Appeals

Being a continuation of a public hearing on the matter of an application filed by **Rheuben A. Allen Trust**, 2627 South Meeker Avenue, Muncie, Indiana, requesting a variance of use and variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow a non-profit organization to operate in an existing church building, parking on a vacant lot across 15th Street and a new storage building on a lot on Acorn Avenue without a dwelling in a residence zone on premises located at 1600 West 15th Street, 1601 West 15th Street and 2101 South Acorn Avenue, Muncie, Indiana, as more accurately described in the application.

Rheuben Allen, 2627 S. Meeker Ave., Muncie, Indiana appeared. He stated that they give musical instruments to kids grades K-12, college students and senior citizens, at no cost as well as providing classes. He stated that around 80% of their business was to give instruments to other non-profit organizations, so there would not be a lot of traffic at this property.

Ms. Mathewson stated that there were 3 different parcels involved and asked Mr. Rheuben to explain what his plans were for them.

Mr. Allen stated that the church was located on the parcel at 1600 W 15th street, and that 1601 W 15th Street was really a vacant lot and he had no plans for that in the future other than maybe some additional parking.

Ms. Mathewson asked how often they may need the extra parking.

Mr. Allen stated it might never happen since they had 14 spaces around the church and that he doubted they would have more than 15-20 kids at one time and 1-2 kids were brought by one parent.

Mr. Jones asked if they would provide any instruction at this location.

Mr. Allen stated that they would provide master classes but most would be via zoom. He stated that he had moved here from California, and had given out over 500 instruments.

Mr. Jones asked where all if the instruments came from that they gave away.

Mr. Allen stated that he owned Kenny G Saxophones with Kenny G, and that he was a manufacturer of instruments and made most of the items that were donated.

Mr. Jones asked if Mr. Rheuben gave those to people at no charge.

Mr. Rheuben stated yes.

No one appeared in opposition.

Mr. Jones made a motion to approve BZA 14-24 the appeal of The Rheuben A. Allen Trust with the hardship as stated in the application. Ms. Fritch seconded the motion. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 14-24 approved.

BZA 15-24 Jurisdiction: Board of Zoning Appeals

Being a continuation of a public hearing on the matter of an application filed by **Aimee M. Vinson**, 3741 Indianwood Drive, Columbus, Indiana, requesting a variance of use from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow conversion of an existing house into two apartments in a single-family residence zone on premises located at 2308 South Mock Avenue, Muncie, Indiana, as more accurately described in the application.

Ms. Mathewson asked since there did not appear to be anyone present to represent the applicant, had staff received a request to continue the request.

Ms. Swackhamer stated no.

Mr. Wiseley asked since the March meeting had been cancelled if there was any communication with the applicant.

Ms. Swackhamer stated no.

Mr. Daniel stated that it was his understanding that if no one appeared the Board must deny the request.

Mr. Wiseley stated that in the past the Board had moved a case to the end of the agenda just in case the applicant was running late.

Ms. Mathewson stated that the time was now 7:40 P.M., and since the meeting began at 6:00 P.M. it was more likely that no one was going to appear.

Mr. Jones made a motion to deny BZA 15-24 the appeal of Aimee Vinson with the hardship as stated in the application. Ms. Fritch seconded the motion. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 15-24 denied.

Ms. Swackhamer stated that staff would notify Ms. Vinson of the denial and provide her with the options she had based on the denial of the request.

NEW BUSINESS:

BZA 16-24 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Sonji Hospitality, LLC**, 1936 West Wolfram Street, Chicago, Illinois, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow an increased front setback build-to line, increased building height, no bus stop, decreased east and west side bufferyards, decreased sidewalk width, and reduced on-site parking, all for a new 4-story hotel on premises located on the northwest corner of Bethel Avenue and Marleon Drive, Muncie, Indiana, as more accurately described in the application.

Chad Mayes, 500 E. 96th St, Indianapolis Indiana, appeared from Kimley-Horn and Associates to represent the applicant. He stated that he had a packet to share with the Board to further explain the variances they were requesting. He stated that the property was located at the northwest corner of Bethel Avenue and Marleon Drive and that the development was for a 109 room hotel on 2.17 acres. He stated that there was an adjacent vacant parcel of 1.36 acres to be used for future development. He stated that the parcels were in the BV Variety Business Zone and that the variances being requested now were the same seven that had been granted last year. He stated that the previous variances had expired since it had taken longer than expected due to the general contractor being reselected for construction. He stated that the hotel brand also took much longer than anticipated to select the design and was needed before permitting. He stated that the client had a contractor now and planned to submit for permits, and he wanted to thank Mr. Daniel for his help through this process.

Mr. Jones asked where the closest bus stop was to this site.

Mr. Mayes stated that it believed it was to the east.

Mr. Wiseley stated that there was one on Marleon Drive just to the north of this property and another along Bethel Avenue near the Hampton Inn. He asked Mr. Mayes if they planned to go through the formal platting process for the 2 lots.

Mr. Mayes stated yes.

Mr. Wiseley stated that this was the 4th round of variances and asked if they were ready to build this time.

Mr. Mayes stated yes, they had a local contractor ready to do the development.

No one appeared in opposition.

Mr. Wisley made a motion to approve BZA 16-24 the appeal of Sonji Hospitality, LLC with the hardship as stated in the application with the condition that the platting process be completed and recorded. Mr. Jones seconded the motion. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 16-24 approved.

BZA 17-24 Jurisdiction: Board of Zoning Appeals

Being a continuation of a public hearing on the matter of an application filed by **Ryan Baker**, 5112 South Eldorado Lane, Muncie, Indiana, requesting a variance from the terms of the Delaware County Comprehensive Zoning Ordinance to allow a new above ground swimming pool to be located in the side yard on premises located at 5112 South Eldorado Lane, Monroe Township, Delaware County, Indiana, as more accurately described in the application.

Ryan Baker, 5112 S. Eldorado Ln., Muncie, Indiana, appeared. He stated that the property was on a cul de sac and since the garage was in the back yard, there were not many places left to place the above ground pool.

Ms. Mathewson stated that based on the aerials it appeared that there were a large number of buildings and sheds on the property. She stated that a swimming pool was in the aerial and asked if that was currently there.

Mr. Baker stated that they had a swimming pool and that the new one was larger and would not fit in that same location.

Ms. Mathewson asked if he would have a fence around the pool.

Mr. Baker stated that there were 2 fences on this side of the house and that once the pool was installed a new fence would be added to the front for security.

Ms. Mathewson asked if Mr. Baker had measured to make sure that the pool would fit and allow room for the fence.

Ms. Baker stated that it would be roughly 6' from the side and 15'-18' to the rear yard.

Mr. Jones stated that there were several vehicles in the aerials and asked if they all belonged to Mr. Baker.

Mr. Baker stated that he only had 3 vehicles.

Mr. Jones stated that there was a structure on the southside of his property and that there were several vehicles parked there.

Mr. Wiseley stated that the aerials show the vehicles to the south of his property line.

Mr. Baker stated that he owned the field behind his house and that there was only a truck and a trailer there and that the backhoe was gone now.

Mr. Wiseley asked if he owned that lot, had he considered placing the pool there.

Mr. Baker stated that was his original thought, but without a house he would have needed a variance there as well.

Ms. Fritch asked if he had talked to any of the neighbors.

Mr. Baker stated yes, that his neighbor next door was fine and another neighbor came by to talk to him and stated he would attend the meeting if needed to show support.

Mr. Wiseley asked if one of those neighbors was the one that would be nearest to the pool.

Mr. Baker stated yes, they had the shared property line.

Ms. Swackhamer read an email from a concerned neighbor in opposition that had concerns with the condition of the property becoming an eyesore due to there being 8 vehicles including some without wheels, a chicken coop, a continuation of junk being added, and the yard not being mowed. She stated that a phone call was also received from a neighbor in opposition stating that there were various issues with the property including an accumulation of equipment, a lack of upkeep to the property, and construction that had been halted for an extended period of time. She stated that a letter was also mailed to Mr. Baker from the Building Commissioner regarding complaints with the number of vehicles, tree debris being hauled in, and farm animals on the property. She stated that the letter outlined the violations and gave Mr. Baker 15 days to contact the office on these issues, and that failure would result in fines to the property owner.

Ms. Mathewson stated that with there being several reports of multiple cars on the property and asked Mr. Baker how many cars were parked on the parcel where the pool would be installed.

Mr. Baker stated that the only vehicles parked on that parcel were their 2 personal vehicles.

Ms. Mathewson asked if there was enough room on this parcel to accommodate parking and a pool within the setbacks.

Mr. Baker stated yes.

Mr. Jones made a motion to approve BZA 17-24 the appeal of Ryan Baker with the hardship as stated in the application with the condition that the fencing be completed. Mr. Wiseley seconded the motion. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 17-24 approved.

Mr. Wiseley stated that Mr. Baker should reach out to Mr. Fouch to clear up all of those issues outlined in his letter.

BZA 18-24 Jurisdiction: Board of Zoning Appeals

Being a public hearing on the matter of an application filed by **Muncie Property Holdings, LLC**, 12701 Covered Bridge Road, Sellersburg, Indiana, requesting variances from the terms of the City of Muncie Comprehensive Zoning Ordinance to allow decreased parking, no bus stop,

5 new service bays facing Hometown Boulevard, no east and west side bufferyards, no foundation landscape area and no sustainability features, all for an addition to the Hyundai building and for separation of Hyundai and Quick Lane onto their own lots through replatting on premises located at 6200 and 6230 West Hometown Boulevard, Muncie, Indiana, as more accurately described in the application.

Sara Shae Hamilton, attorney with Beasley & Gilkison, 302 E. Jackson St., Muncie, Indiana, appeared to represent the applicant. She stated that the Board had received the application and that she was prepared to answer any questions that they may have. She stated that in summary, this was for a local auto dealership that would include an addition to the southside of the building including 5 new service bays. She stated that there were some challenges to the site development under the current ordinance, and was the purpose of the variance requests.

No one appeared in opposition.

Mr. Wiseley made a motion to approve BZA 18-24 the appeal of Muncie Property Holdings, LLC with the hardship as stated in the application. Mr. Jones seconded the motion. Voting in favor: Ms. Brannon, Ms. Fritch, Mr. Jones, Ms. Kaiser, Ms. Mathewson, and Mr. Wiseley. Voting against: None. Motion carried, BZA 18-24 approved.

REPORT FROM DIRECTOR:

Ms. Swackhamer reported that the part time secretary position had been filled by Desiree McGahey, she was a 2022 Central Graduate and had been training with Ms. Ingermann and Ms. Murrell for a little over a week. She stated that we had a summer graduate assistantship that will begin May 6th, and she would be helping with various projects in the office. She stated that she had provided the Board with a recap of the Building Commissioner and MPO information for the office (see attached report).

ADJOURNMENT:

Leslie Mathewson, Chairman

Kylene Swackhamer, Secretary