

DELAWARE-MUNCIE METROPOLITAN BOARD OF ZONING APPEALS

APPLICATION FOR APPEAL

Jurisdiction: (Check One)

Delaware County

City of Muncie

Submitted: 1-6-25

Case No.: BZA 03-25

(1) Applicant: Jeffrey L. Brubaker/Sparky's Corner Greenhouse, LLC

Address: 1723 S Sampson Ave Muncie, IN 47302 Phone: 765-714-2963

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

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

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

(c) Other: Sparky's rents half of the property from Jeffrey Brubaker

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

Owner of the property involved: Jeffrey L. Brubaker

Owner's address: 1723 S Sampson Ave Muncie, IN 47302

(4) Record of Ownership:

Deed Book No.: 2024R15857

Page: _____

Purchase Date: November 26, 2024

Legal Description: (From the Deed or Abstract)

Lot 77 in Block 5 of John J. Perkins Addition to the City of Muncie, Indiana, the plat of which is recorded in Plat book 2, page 72 in the Office of the Recorder of Delaware County, Indiana.

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

1723 S Sampson Ave Muncie, IN 47302 (formerly 1401 W 10th St Muncie, IN 47302)

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

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

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

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

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

SEE ATTACHED

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

See attached

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

R-4 Residence Zone

(10) Present use of the property:

Owner-occupied residential and greenhouse

(11) Describe the proposed use of the property:

Owner-occupied residential and greenhouse

(12) Is the property:

Owner Occupied

Renter Occupied

Other: _____

Answer to #7

BZA 03-25 Brubaker

Request for variance from the City of Muncie Comprehensive Zoning Ordinance, Article IX, Section 14.A.1, to allow the floor area of the accessory buildings including a 96 sq. ft. shed, greenhouses measuring 120 sq. ft., 360 sq. ft., 48 sq. ft., 120 sq. ft. and 280 sq. ft for a total of 1,024 sq. ft. to exceed that of the 963.5 sq. ft. dwelling for a variance of 60.5 sq. ft., Article XVI, Section 1, to allow a greenhouse business use, Article XVI, Section 1 and Article XXX, Section 3.F, to allow two 18"x 24" signs attached to fences facing the public streets and a 3'x 6' banner sign, all advertising the greenhouse business, and Article XXX, Section 2.C, to allow no off-street parking to be provided for the business use rather than the required 1 space per 3 employees plus 1 space for each 333 sq. ft. of sales area, all for a greenhouse business in a residence zone.

- (13) Has the Applicant provided stamped, addressed envelopes to send notices of this Appeal to all property owners within 300 feet? Yes
Has the Applicant discussed this Appeal with these owners personally? Some
If answer is "YES", give their attitudes toward the proposal.

Neighbors are generally supportive of the greenhouse. Many of them frequently buy from the greenhouse and appreciate having the business in their neighborhood.

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

No

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

Yes. Business already exists and new greenhouse is currently under construction.

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

No

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

ASAP

When will it be completed?

May 2025

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

Sparky's Corner Greenhouse, LLC, and Jeffrey L. Brubaker

AFFIDAVIT

(I or We) Jeffrey L. Brubaker & Brian Carless
TYPE NAME(S) OF SIGNATORIES

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

SIGNATURES:

[Handwritten signatures of Brian Carless and Jeffrey L. Brubaker]

Subscribed and sworn to before me this 6th day of January, 2025

FRANCES SANDERS
Notary Public - Commission #07436550
SEAL
State of Indiana
My Commission Expires February 01, 2031

[Handwritten signature of Frances Sanders]
Notary Public
2/1/31

Commission Expires
Resident of Delaware County
State of Indiana

DO NOT WRITE IN THIS SPACE

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

If properly advertised by the applicant, the application will be heard in public hearing on the 30 day of January, 2025.

Signed: *[Handwritten signature]*
Date: 1-15-25

Answer to #8

I. History of the Property

The property consists of a single platted lot that was divided into two separate parcels for many years. The current house at 1723 S Sampson Ave was built in 1911 and has continuously served as a single-family residence since at least 1917. The lot formerly contained a second building that was built between 1902 and 1911, addressed as 1401 W 10th St. By 1928, 1401 W 10th St was operating as a grocery store with an apartment above it that was lived in by the owner. The grocery store operated until 1969. From then until sometime in the 1990s, the building was operated as a rental property, containing three apartments. In 2009, it was reported that the building had been vacant for 13 years. The apartment building was condemned on July 14, 2009 and it was finally demolished in 2013.

Jeffrey Brubaker purchased 1723 S Sampson Ave in 2005. He acquired the vacant lot that had formerly been 1401 W 10th St from Delaware County in 2017. He joined the two parcels together, which created the current property.

By viewing aerials of the property from the 1960s, 1970s, and 1990s, there is no evidence that there has ever been any parking located on the property. Parking has always been on the street, on either S Sampson Ave or W 10th St.

II. Current Business Operations

Sparky's was originally started as a personal garden for Jeff and Brian. The goal was for this to also be a place for neighborhood residents who wanted to learn about gardening to receive training. When the COVID-19 pandemic hit, neighbors wanted to be able to purchase locally rather than going out to the big box stores so Sparky's shifted their focus to growing plants to sell. Over time, the reputation of the greenhouse grew and people started coming to the greenhouse from all over. In addition to various plants and flowers, the greenhouse also grows seasonal plants for the neighborhood, such as mums in the fall and poinsettias at Christmas.

The days Sparky's Corner Greenhouse is open vary seasonally but the time is 10 am to 6 pm. A significant amount of the sales occurs off site at various events. The owners are at the property every day tending to the plants. There are currently no employees other than the owners and there are no plans to add any in the immediate future. There are no restrooms that are available to the public. There are 4 current greenhouses with a 5th greenhouse currently being constructed by Northedge Steel. A permit has been issued for this greenhouse by the City of Muncie Building Commissioner. However, this building will put the total square footage of the outbuildings above the square footage of the house.

For signage, there are two 18" by 24" corrugated plastic signs, one each facing Sampson Ave and 10th St. There is also a 3' by 6' banner that is attached to the back of a greenhouse, facing out towards 10th St.

FILED

Nov 26 2024

EWC
DELAWARE CO. AUDITOR

ER NC/ND
\$10.00

2024R15857
JAN SMOOT
DELAWARE COUNTY RECORDER
RECORDED ON
11/26/2024 12:34 PM
REC FEE 25.00
PAGES: 2
RECORDED AS PRESENTED

[Space above this line reserved for recording data.]

MAIL TAX STATEMENTS TO GRANTEE'S ADDRESS: 1723 S SAMPSON AVE, MUNCIE, IN 47302

TRANSFER ON DEATH DEED

THIS INDENTURE WITNESSETH, That

Jeffrey L. Brubaker

of Delaware County, in the State of Indiana, RELEASES and QUITCLAIMS to

Jeffrey L. Brubaker, Transfer on Death ("TOD") to
Brian Carless,

for NO consideration, the receipt whereof is hereby acknowledged, the following described Real Estate in Delaware County, in the State of Indiana, to-wit:

Lot Number Seventy-seven (77) in Perkins Addition Block 5 to the City of Muncie, Indiana, the plat of which is recorded in Plat book 2 page 72 in the Office of the Recorder of Delaware County, Indiana.

Parcel NO.: 18-11-16-357-021.000-003
Commonly known as: 1723 S Sampson Ave, Muncie, IN 47302

Grantee assumes and agrees to pay all taxes and assessments now a lien against said real estate and all taxes and assessments levied against said real estate thereafter.

Subject to all liens, covenants, restrictions, reservations, easements, conditions, rights of way and other rights appearing of record.

In Witness Whereof, This deed has been executed by the undersigned Grantor on this 26 day of November, 2024.

Jeffrey L. Brubaker
Jeffrey L. Brubaker

SS:
DELAWARE COUNTY

Before the undersigned Notary Public in and for said State, on the 26th day of November, 2024, personally appeared Jeffrey L. Brubaker, the above named Grantor, and acknowledged the voluntary execution of the foregoing deed and certified to the truth of the representations contained therein.

OFFICIAL SHORT
Notary Public - Commission NP0795312
SEAL
State of Indiana
My Commission Expires March 19, 2032

Jessica Short
Notary Public of the State of Indiana
A resident of Delaware County

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This instrument prepared by Allen F. Wiseley, Attorney, P.O. Box 1648, Muncie, IN 47308.
I affirm, under the penalties for perjury, that I have taken reasonable care to redact each
Social Security number in this document, unless required by law. Allen F. Wiseley.

[Space below this line is reserved for recording data.]

APPROVED AND FILED
DIEGO MORALES
INDIANA SECRETARY OF STATE
11/13/2024 12:01 PM

ARTICLES OF ORGANIZATION

Formed pursuant to the provisions of the Indiana Code.

ARTICLE I - NAME AND PRINCIPAL OFFICE ADDRESS

BUSINESS ID 202411121838975
BUSINESS TYPE Domestic Limited Liability Company
BUSINESS NAME SPARKY'S CORNER GREENHOUSE, LLC
PRINCIPAL OFFICE ADDRESS 1723 S. Sampson St, Muncie, IN, 47302, USA

ARTICLE II - REGISTERED OFFICE AND ADDRESS

REGISTERED AGENT TYPE Individual
NAME Brian Carless
ADDRESS 1211 W 10th St, Muncie, IN, 47302, USA
SERVICE OF PROCESS EMAIL

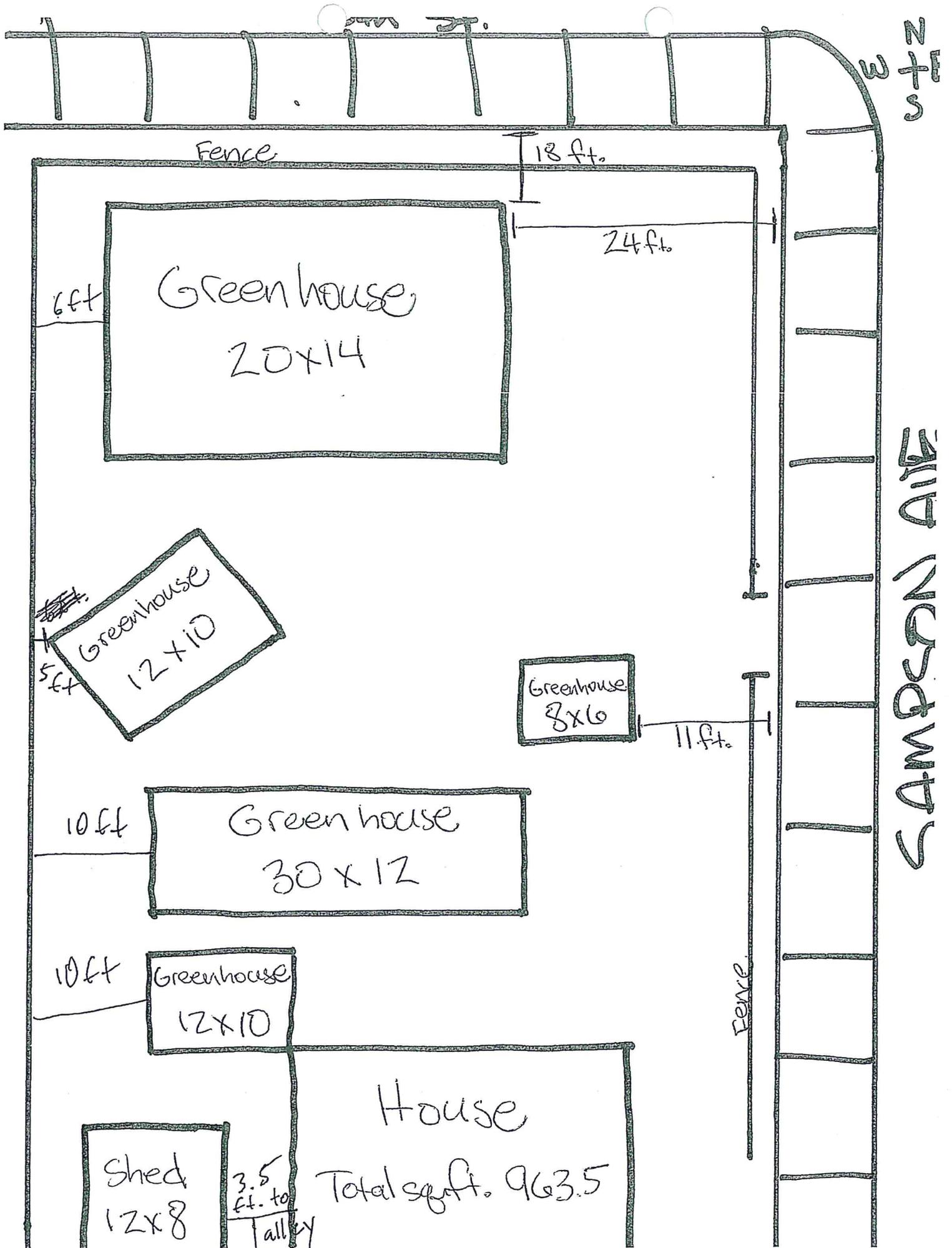
ARTICLE III - PERIOD OF DURATION AND EFFECTIVE DATE

PERIOD OF DURATION Perpetual
EFFECTIVE DATE 11/12/2024
EFFECTIVE TIME 08:04AM

ARTICLE IV - GOVERNING PERSON INFORMATION

TITLE President
NAME Jeffrey L. Brubaker
ADDRESS 1723 S. Sampson St, Muncie, IN, 47302, USA

TITLE Vice President
NAME Brian Carles
ADDRESS 1211 W 10th St, Muncie, IN, 47302, USA





One of two 18" x 24" signs for Sparky's Corner Greenhouse posted on the fences along Sampson Ave and 10th St. September 26, 2024



Three of the greenhouses on the property. September 26, 2024



Entrance to the greenhouse property from Sampson Ave. June 9, 2024.



Sparky's set up for offsite sales at Muncie YART. October 3, 2024.

BZA 03-25



Google Maps view of the property from Sampson Ave prior to the demolition. August 2013.



Google Maps view of the property from 10th St prior to the demolition. August 2013.