

Call to Order

The meeting was called to order at 6:00PM by Mr. Knartzer

Members Present: Kenneth Knartzer, Vickie Peters, Josh King, and Chris Mull. Members attended in-person with the option to use Zoom.

Also in Attendance: Planning Director Gabriel Nelson, Planner Kevin Tolloty, Assistant City Attorney Drew Foster, Recording Secretary Stevie Jarrett, and Greenwood IT Department.

Approval of Meeting Minutes

Mrs. Peters moved to approve the minutes from January 23, 2023, seconded by Mr. Mull. Vote: Ayes: Mr. Knartzer, Mrs. Peters, Mr. King, and Mr. Mull. (4-0). **MOTION CARRIES.**

Special Requests/Continuances

Russell Brown requested the RaceTrac variances be continued to Monday, March, 2023. The Board of Zoning Appeals need a 5th member to vote on these dockets. Mr. Mull moved to continue, seconded by Mr. King. Vote: Ayes: Mr. Knartzer, Mrs. Peters, Mr. King, and Mr. Mull. (4-0). **MOTION CARRIES.**

New Business

- A. **BZA2022-048 Use Variance**, Petitioner, Menard Inc, is requesting approval of a use variance in order to operate an Outdoor Storage Facility at 300 Marlin Drive, parcel # 41-03-35-044-049.000-041. Outdoor Storage Facilities are not a permitted use in the Commercial Large (CL) zone.

Mr. Nelson confirmed that all notices were in order. Mr. Foster submitted certified copies of the Comprehensive Plan and Unified Development Ordinance into the record.

Nick Brenner, 5105 Menard Drive, Eau Claire, WI, was administered the oath.

The public hearing was opened.

Mr. Brenner explained that Menard's proposes to build a self-storage facility. This will operate similar to the lumber yard. All the units will face inside. The back of the units would act like a fence to hide the doors, lights, and people within in them. There would be security cameras throughout. A code would be used to access. The code deactivates after users get rid of their storage unit. Mr. Brenner explained it would be a quiet use and buffer against the intense use of the store.

Mr. Brenner explained that this is a 3-4 million dollar investment. Mr. Brenner explained the background of this variance. Staff changes and interpretations have changed the course of this variance.

PETITIONER'S DETAILED STATEMENTS OF REASONS

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because:

Menards is proposing a self-storage facility that is classified as an outdoor facility per city code. Storage use is not visible from outside the facility and could not impact the public. Storage is a business that is in high demand in this region and the location is setback from any main roads by 500 feet. Menards has found that placing storage near retail store locations brings more traffic to both the store and the storage and the uses are well suited to be located next to each other.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

As mentioned above the storage is 100% screened and buffer from the outside world. From the outside it would not be immediately apparent this is a storage facility. Menards does not use barbed wire or any chain link fence like a typical storage facility does. The storage doors face inside the facility and there is no view of any door or storage from the exterior. This is the same model Menards used on the existing retail store to screen activity from the lumber yard. The same method of screening means that there is no net change in the impact on the surrounding property or public. The surrounding properties are all commercial properties and Menards operates these facilities as commercial operation the same way the retail store is run.

3. The need for the variance arises from some condition peculiar to the property involved, because:

This particular property is not suited for a typical commercial development. An out lot use like fast food restaurant, a bank or a tire shop would not choose this lot because it has no frontage visibility. The small size of the lot means that many other uses are automatically eliminated as well as they would not fit on the available space. The property is not suited for any residential use and Menards has no intention of using it for an industrial use. Following the zoning code would result in this property remaining vacant forever due to those reasons. Storage is a fantastic use of the property. Not only does it match the outdoor storage type use found at Menards but it matches the look and feel of the Menards store. This project allows Menards to invest money into a second business in the city on land that it already owns.

4. The strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the variance is sought, because:

Strict application of the ordinance means one of two things. First, creating an indoor climate controlled facility to meet the code is not as desirable to the consumer and would not have the

same occupancy levels as the proposed facility. Menards would be creating a subpar business from the start. The second outcome with adherence to the ordinance would be the project doesn't happen at all. Without the ability to construct an outdoor storage facility as proposed Menards could not make the project a viable business. Menards has taken the intent of the ordinance to create an attractive storage facility without the chain link fences and roll up doors and hid all of the storage uses from. From the exterior the facility looks like a normal building and similar to what an indoor facility would look like.

5. The approval does not interfere substantially with the Comprehensive Plan, because:

Storage itself is an allowable use as long as it is the interior storage type. Storage is also a large component of the Menards store use. Menards considers self-storage a commercial use. The customer pays for a service and receives a product. In this case the storage is the service and product but the functionality is the same as the Menards retail store.

Summary and Proposed Conditions:

Staff provides an unfavorable recommendation regarding this proposal. In the opinion of staff, this location is better suited to other forms of commercial development already permitted by right in this location. There is in the opinion of staff no unique aspects of the property that would prohibit development of already permitted uses on this site. Yet if the board is in favor of approval, staff recommends that the following conditions be integrated into the design plan. Staff also desires the board to know that if this use variance is granted, even with the following conditions, multiple dimensional variances would still be required regarding transparency and building materials in order for this project to move forward as currently designed.

- 1.) The exterior envelope of the development (excluding points of access) shall be fully encapsulated by a combination of 10' masonry walls between building gaps and full masonry rear, outward facing, walls of the perimeter storage units as highlighted in green on exhibit C.
- 2.) Per 35 lineal feet of building wall a minimum of one (1) tree of 2 inch caliper and (3) shrubs must be planted around the entire perimeter of the development as highlighted in yellow on exhibit C. Areas that require drive aisle plantings do not need to double this standard. (Western side of development facing existing Menards warehouse excluded).
- 3.) Planting strips with a minimum width of 10 feet must be planted along portions of the perimeter facing the street and parking lot as highlighted in pink on exhibit C. Shrubs, flowers, long grasses, ornamental trees at the recommended spacing by plant type. Spacing distance for plantings may not be greater than the recommended spacing by plant type. (Western side of development facing existing Menards warehouse excluded).

Mr. Nelson explained that the permitted and non-permitted use comes down to the definition of indoor self-storage. Mr. Nelson explained that he felt this project fit the description of outdoor self-storage. Staff determined that this property doesn't have a hardship that would cause it not to be successful as commercial property.

Mr. Brenner stated he was willing to look at and revisit the masonry and facades.

Stephen Matthews, 93 S Restin Road, was administered the oath.

Mr. Matthews had questions about the location of the storage facility and how it might affect property values.

The public hearing was closed.

Mr. Mull discussed that the property could be used for another commercial building. Mr. Brenner explained that this lot sits back pretty far. Mr. Mull asked if there was a limit on storage facilities. Mr. Nelson explained that there is not a limit.

Mr. King asked about the lay out of the facility. There was discussion about the facility lay out. Mr. King asked about the access. It will be able to be accessed 24/7.

There was discussion about the platting the area and the use of the back wall as a fence. Mr. Knartzer asked about change in zoning. Mr. Nelson discussed that this is a use variance. The interpretation comes down to the definition and what it means to access from outside. The current storage facilities were built before the new UDO.

Mrs. Peters moved to admit all the evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of Comprehensive Plan and Unified Development Ordinance, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, and to include the testimony of those present this evening, seconded by Mr. Mull. Vote: Ayes: Mr. Knartzer, Mrs. Peters, Mr. King, and Mr. Mull. (4-0). **MOTION CARRIES.**

Mr. King moved to approve the request with the three conditions as listed in staff report, seconded by Mrs. Peters. Vote: Ayes: Mr. Knartzer, Mrs. Peters, and Mr. King. Nays: Mr. Mull. (3-1). **MOTION CARRIES.**

Mrs. Peters moved to direct the Corporation Counsel's Office to draft written Findings of Fact, regarding the decision on the variance request presented in Variance Petition Number BZA2022-048, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as the final decision and final action regarding this Petition at the next meeting, seconded by Mr. King. Vote: Ayes: Mr. Knartzer, Mrs. Peters, Mr. King, and Mr. Mull. (4-0). **MOTION CARRIES.**

B. BZA2023-001 Development Standards Variance, Petitioner, CrossRoad Engineers, on behalf of Amanda Cottingham Johnson, is requesting relief from the following sections of the Unified Development Ordinance:

1. Section 10-03-13 (C) Accessory Structures (10) Accessory structures must be located in a rear yard, to allow an accessory structure in a side yard

2. Section 10-02-19 (A) Commercial Medium Format Development Standards, Side Yard Setback, to reduce the side yard setback from 20' to 0'

Mr. Nelson confirmed that all notices were in order. Mr. Foster submitted certified copies of the Comprehensive Plan and Unified Development Ordinance into the record.

The public hearing was opened.

Derek Snyder, CrossRoad Engineers, 115 N 17th Avenue, Beech Grove, Indiana, was administered the oath.

The property is located in the southwest quadrant of Greenwood in the northeast corner of Stones Crossing Road and Galena Drive. Adjacent uses include residential, Copper Chase Apartments, The Barn at Bay Horse Inn, and more. The sideyard changed when this property was rezoned.

VARIANCE #1: To reduce the side yard setback from 20' to 0'

PETITIONER'S DETAILED STATEMENTS OF REASONS

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because:**

The accessory barn is an existing nonconforming structure that has been in place since 2013-2014 and has not been injurious to the public health, safety, morals, or general welfare to date. Furthermore, allowing the structure to remain in place and be incorporated into the redevelopment of the property will not be injurious because it does not negatively impact proposed public or private utilities, vehicular movements, morals, or general welfare of the proposed Shiloh's Corner development.

- 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:**

The accessory barn is an existing nonconforming structure that has been in place since 2013-2014 and has not adversely impacted the use and value of the adjacent area to date; therefore, allowing the structure to remain in place and be incorporated into the redevelopment of the property will not adversely impact the adjacent area. Although the existing barn encroaches onto the adjoining property, the owner owns both properties and is working with the buyer/developer on an agreement to allow the existing barn to remain in place as part of the redevelopment.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

The intent is for the existing nonconforming structure to be re-used and incorporated into the redevelopment of the site into Shiloh's Corner (proposed commercial subdivision). In order to comply with the UDO, the barn would have to be reconstructed or relocated outside the setback. The age (less than 10 years old) and condition (excellent) of the existing barn do not necessitate a costly reconstruction or relocation; therefore, the strict application of the UDO would result in a practical difficulty.

4. The structure is/is not regulated under Indiana Code 8-21-10-3 for hazard air navigation.

Not applicable.

VARIANCE #2: To allow an accessory structure in a side yard

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because:

The accessory barn is an existing nonconforming structure that has been in place since 2013-2014 and has not been injurious to the public health, safety, morals, or general welfare to date. Furthermore, allowing the structure to remain in place and be incorporated into the redevelopment of the property will not be injurious because it does not negatively impact proposed public or private utilities, vehicular movements, morals, or general welfare of the proposed Shiloh's Corner development.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The accessory barn is an existing nonconforming structure that has been in place since 2013-2014 and has not adversely impacted the use and value of the adjacent area to date; therefore, allowing the structure to remain in place and be incorporated into the redevelopment of the property will not adversely impact the adjacent area. Although the existing barn encroaches onto the adjoining property, the owner owns both properties and is working with the buyer/developer on an agreement to allow the existing barn to remain in place as part of the redevelopment.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

The intent is for the existing nonconforming structure to be re-used and incorporated into the redevelopment of the site into Shiloh's Corner (proposed commercial subdivision). In order to comply with the UDO, the barn would have to be reconstructed or relocated outside the setback. The age (less than 10 years old) and condition (excellent) of the existing barn do not necessitate a costly reconstruction or relocation; therefore, the strict application of the UDO would result in a practical difficulty.

4. The structure is/is not regulated under Indiana Code 8-21-10-3 for hazard air navigation.

Not applicable.

Comments and Findings:

Staff finds no issue with the applicant's statements of reason. The two variance requests are basically asking for the same thing, which is to allow the existing barn to remain in its current location after the property is redeveloped. The attached site plan provides an idea of where the barn will be situated in relation to the planned development, where it will serve as an accessory structure. The property to the north is under the same ownership, so it will not cause any hardship to the nearest neighboring property.

Summary and Proposed Conditions:

Staff provides a positive recommendation for both variances with no conditions.

The public hearing was closed.

Mrs. Peters moved to admit all the evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of Comprehensive Plan and Unified Development Ordinance, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, and to include the testimony of those present this evening, seconded by Mr. Mull. Vote: Ayes: Mr. Knartzer, Mrs. Peters, Mr. King, and Mr. Mull. (4-0). **MOTION CARRIES.**

Mr. King moved to approve the request #1 with no conditions, seconded by Mrs. Peters. Vote: Ayes: Mr. Knartzer, Mrs. Peters, Mr. King, and Mr. Mull. (4-0). **MOTION CARRIES.**

Mr. King moved to approve the request #2 with no conditions, seconded by Mr. Mull. Vote: Ayes: Mr. Knartzer, Mrs. Peters, Mr. King, and Mr. Mull. (4-0). **MOTION CARRIES.**

Mrs. Peters moved to direct the Corporation Counsel's Office to draft written Findings of Fact, regarding the decision on the variance request presented in Variance Petition Number BZA2023-001, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as the final decision and final action regarding this Petition at the next meeting, seconded by Mr. Mull. Vote: Ayes: Mr. Knartzer, Mrs. Peters, Mr. King, and Mr. Mull. (4-0). MOTION CARRIES.

C. BZA2023-002 Development Standards Variance, Petitioner, The Garrett Companies, is requesting relief from the Unified Development Ordinance, Section 10-02-16; Residential Multi-Unit Complex (RMC) Building Height, to reduce minimum height from 30' to 26'

Mr. Nelson confirmed that all notices were in order. Mr. Foster submitted certified copies of the Comprehensive Plan and Unified Development Ordinance into the record.

The public hearing was opened.

Matt Weaver, Garrett Companies, 1051 Greenwood Springs Boulevard, was administered the oath.

Mr. Weaver explained the variance request is for the minimum height of the clubhouse building.

Mr. Weaver gave a brief history of Garrett Companies. Eric Garrett founded the company in 2014 and is head quartered in Greenwood, Indiana. The property being discussed is sandwiched between Red Dot Storage and Maple Grove subdivision. The property was rezoned from Industrial Large to...

The variance will reduce the minimum building requirement height. The clubhouse would be one level and complimentary to the other buildings. This minimum requirement would only be for the clubhouse.

PETITIOER'S DETAILED STATEMENT OF REASONS

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because:

The change in elevation to a new minimum does not directly impact public health, safety, morals, and general welfare of the community because the building height reduction would visually compliment the multi-family buildings and keep our community as appealing as possible for our

surrounding neighbors. This variance will only affect the clubhouse building near the center of our property eliminating any impact to neighboring properties.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

The change in elevation to a new minimum will not affect the adjacent properties in a substantially adverse manner as it only impacts one building elevation on the owners' property, away from the surrounding property, and seeks to only benefit them by improving sight line variability.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

The minimum building height of 30 ft. for a standalone building that is being utilized as a clubhouse and amenity space would be impractical because it wouldn't allow for building height variation throughout the site. Additionally, the clubhouse is a one level building and it serves no practical reason for this structure to be designed at Minimum Height of 30 ft considering its use as an amenity space and leasing office.

4. The structure is/is not regulated under Indiana Code 8-21-10-3 for hazard air navigation.

The applicant is working with the FAA on the above application and acknowledges this approval will be conditional on securing the aforementioned approval.

Comments and Findings:

Staff does not find issue with the requested variance. The height of the clubhouse building will be approximately twenty-six (26) feet and will be a complimentary fit to the apartment buildings which will be approximately thirty-four (34) feet in height. The approval of the variance request has no effect on any surrounding property and does nothing to harm this property. A denial of the variance would cause the building to be an additional four (4) feet in height for no useful purpose.

Summary and Proposed Conditions:

Staff provides a positive recommendation for the variance with the following condition:

1. The final plans shall substantially conform to the building elevations depicted in Exhibit D.

Mr. Nelson stated that he did believe the airport would be favorable in the height. There is a minimum height for primary structures.

The public hearing was closed.

Mr. Knartzer discussed the minimum for building requirement height.

Mrs. Peters moved to admit all the evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of Comprehensive Plan and Unified Development Ordinance, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, and to include the testimony of those present this evening, seconded by Mr. Mull. Vote: Ayes: Mr. Knartzer, Mrs. Peters, Mr. King, and Mr. Mull. (4-0). **MOTION CARRIES.**

Mr. King moved to approve the request with the conditions, seconded by Mr. Mull. Vote: Ayes: Mr. Knartzer, Mrs. Peters, Mr. King, and Mr. Mull. (4-0). **MOTION CARRIES.**

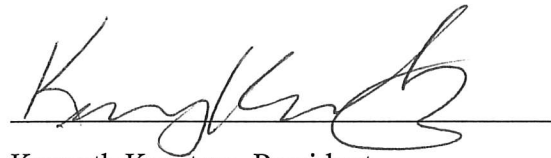
Mrs. Peters moved to direct the Corporation Counsel's Office to draft written Findings of Fact, regarding the decision on the variance request presented in Variance Petition Number BZA2023-002, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as the final decision and final action regarding this Petition at the next meeting, seconded by Mr. Mull. Vote: Ayes: Mr. Knartzer, Mrs. Peters, Mr. King, and Mr. Mull. (4-0). **MOTION CARRIES.**

Announcements

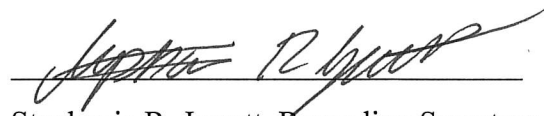
None.

Adjournment

Mr. Knartzer adjourned the meeting at 6:56PM.



Kenneth Knartzer, President



Stephanie R. Jarrett, Recording Secretary