

Call to Order

The meeting was called to order at 6:00PM by Mrs. Peters.

Members Present: Vickie Peters, Josh King, and Steve Milbourn. Members attended in-person with the option to use Zoom. Mr. Knartzer and Mr. Mull were absent.

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

Mr. King moved to approve the minutes from April 24, 2023, seconded by Mr. Milbourn. Vote: Ayes: Mrs. Peters, Mr. King, and Mr. Milbourn (3-0). **MOTION CARRIES.**

Special Requests/ Continuance

Russel Brown requested to continue the variances to June 12, 2023.

Mr. King moved to continue the variances to June, seconded by Mr. Milbourn. Vote: Ayes: Mrs. Peters, Mr. King, and Mr. Milbourn (3-0). **MOTION CARRIES.**

Findings of Fact

BZA2023-010 Development Standards Variance, Petitioner, Chris Magness, for 1338 W. Curry Road

Mr. King moved to adopt the written Findings of Fact as presented, incorporating the evidence submitted into the record, as the final decision and final action for Variance Petition Number BZA2023-010, seconded by Mr. Milbourn. Vote: Ayes: Mrs. Peters, Mr. King, and Mr. Milbourn (3-0). **MOTION CARRIES.**

BZA2023-015 Development Standards Variance, Petitioner, Russell Brown, on behalf of Quik Trip, for the SE corner of Graham Road & E. Main Street

Mr. King moved to adopt the written Findings of Fact as presented, incorporating the evidence submitted into the record, as the final decision and final action for Variance Petition Number BZA2023-015, seconded by Mr. Milbourn. Vote: Ayes: Mrs. Peters, Mr. King, and Mr. Milbourn (3-0). **MOTION CARRIES.**

New Business

BZA2023-016 Development Standards Variance, 2441 E. Main Street, Petitioner, F.A. Wilhelm Construction Company, on behalf of Eli Lilly & Company, is requesting relief from Section 10-03-09 (C) Fence Height, (2) to allow a six foot tall fence in a front yard

The public hearing was opened.

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.

Jamilah Mintz, 3914 Prospect Street, Indianapolis, was administered the oath.

Petitioner understood that it is outside of the normal height, but requests approval. This will appear at Board of Public Works and Safety for an encroachment request.

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 fence is just slightly higher than allowed. The higher fence is just to provide more security.

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 area is currently mostly warehouse type buildings. A slightly taller fence would have no impact. Many of the neighbors currently have installed taller fences.

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

The shorter fence does not deter crime as much. We have had several incidences on this property that motivated us to file this variance.

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

Not applicable.

Comments and Findings:

Staff agrees with the petitioner that the 4' height restriction imposes an undue burden in their attempt to minimize criminal impact on the property and would meet the character of the area which is primarily industrial in nature with other 6' fencing that erected prior to the update to the Unified Development ordinance prohibiting such fencing of this height.

Summary and Proposed Conditions:

Staff provides a **favorable** recommendation.

Proposed condition:

- Location of the fence and fence material type shall substantially conform to what is shown in Exhibits B and C. Minor alteration to the fence location in order to accommodate Engineering and Stormwater concerns is permissible.

The public hearing was closed.

Mr. King 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. Milbourn. Vote: Ayes: Mrs. Peters, Mr. King, and Mr. Milbourn (3-0). **MOTION CARRIES.**

Mr. King moved to approve the request, seconded by Mr. Milbourn. Vote: Ayes: Mrs. Peters, Mr. King, and Mr. Milbourn (3-0). **MOTION CARRIES.**

Mr. King 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 BZA2023-016, 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. Milbourn. Vote: Ayes: Mrs. Peters, Mr. King, and Mr. Milbourn (3-0). **MOTION CARRIES.**

BZA2023-017 Development Standards Variance, 1387 W. Stones Crossing Road, Petitioner, James Coop, is requesting relief from the following sections of the Unified Development Ordinance:

Sec. 10-03-13 (C) Accessory Structures, (6) to remove the requirement for a 36 inch wainscot of mortared masonry for accessory structures over 300 square feet

Sec. 10-03-13 (C) Accessory Structures, (7) to allow a 4,608 square foot accessory structure exceeding the UDO maximum of 150% of the enclosed square footage of the primary structure

Sec. 10-03-02 (F) Parking Area Surfaces, (4) to allow a gravel driveway extension

The public hearing was opened.

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

James Coop, 1088 Sweetbriar Drive, was administered the oath.

Mr. Coop requested three different variances for the construction of a pole barn. Mr. Coop presented pictures to the Board that showed examples of neighboring pole barns.

There was discussion about the current and future square footage of the primary residence.

VARIANCE #1: To remove the requirement for mortared masonry wainscot

Greenwood Code References:

Unified Development Ordinance, Section 10-03-13 (C) Accessory Structures, (6) Accessory structures over 300 square feet shall have a 36-inch tall mortared masonry wainscot.

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:

It will be located roughly 50 yards behind our property. The structure will be very nice looking and will be very similar or above quality to all of the pole barns in the surrounding area and neighbors.

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 pole barn will be located solely on our property as well as the ingress/egress to said pole barn will be located solely on our property and within building setback lines, easements, etc.

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

Adding brick to the front of the pole barn would cause the cost of the build to be raised outside of our overall budget on the rehab of the home and barn combination.

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 larger than 150% of the primary structure

Greenwood Code References:

Unified Development Ordinance, Section 10-03-13 (C) Accessory Structures, (7) Residential accessory structures shall not exceed 150 percent of the enclosed square footage of the primary structure.

See Exhibit C: Site Plan and Exhibit F: Property Report Card

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:

It will be located roughly 50 yards behind our property. The structure will be very nice looking and will be very similar or above quality to all of the pole barns in the surrounding area and neighbors.

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 pole barn will be located solely on our property as well as the ingress/egress to said pole barn will be located solely on our property and within building setback lines, easements, etc.

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

The size of the barn will be needed to store our boat, trailers, RV, off road vehicles, classic cars, etc. inside.

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

Not applicable.

VARIANCE #3: To allow a gravel driveway extension

Greenwood Code References:

Unified Development Ordinance, Section 10-03-02 (F), Parking Area Surfaces

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 gravel drive will be consistent with current driveways adjacent and around our property including the long driveway extending past our property to the east.

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 driveway will be solely on our property and within building set back lines.

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

We are making additional improvements to the new construction on the primary home. We will be using and storing large equipment over the next several years as we make additional improvements. Asphalt/Concrete will not be conducive to the weight of the equipment as we make the improvements.

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

Not applicable.

Comments and Findings:

Staff does not necessarily disagree with the applicant's statements of reason, however, it is not clear that these rise to the necessity of variances. The surrounding neighborhood consists of larger lots with large accessory buildings and a mix of gravel and asphalt driveways. Although the requested variances are not necessarily out of character for the neighborhood, there are concerns over whether the applicant's justifications are sufficient to warrant a variance. Also, please note that financial hardship does not constitute a practical difficulty.

Summary and Proposed Conditions:

Staff cannot provide a favorable recommendation for variance requests 1 and 2 as a fairly large (3,200 square feet) accessory structure could be built without a variance and in compliance with our residential building design standards. However, if the Board were to grant any of the variances, staff recommends the following condition for variances 1 and 2:

1. The final plans shall substantially conform to the site plan depicted in Exhibit C and building elevations depicted in Exhibit D.
2. The structure shall be used for residential purposes only. Commercial activities and uses shall be prohibited.

Staff recommends **denial** of variance 3 for driveway surface. New or expanded gravel drives are not permitted in any zone within the City.

Mr. Tolloty stated that they are not providing a favorable recommendation for any of the variances. In the event that variances are approved, Staff requests conditions. Mr. Nelson discussed masonry wainscot and size limitations.

The public hearing was closed.

Mrs. Peters discussed the driveway extension. It is currently 100 feet and they would be adding 30 feet.

Mr. King 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. Milbourn. Vote: Ayes: Mrs. Peters, Mr. King, and Mr. Milbourn (3-0). **MOTION CARRIES.**

Mr. King moved to approve request #1 with the conditions, seconded by Mr. Milbourn. Vote: Ayes: Mrs. Peters, Mr. King, and Mr. Milbourn (3-0). **MOTION CARRIES.**

Mr. King moved to approve request #2 with conditions, seconded by Mr. Milbourn. Vote: Ayes: Mrs. Peters, Mr. King, and Mr. Milbourn (3-0). **MOTION CARRIES.**

Mr. King moved to approve request #3 with the conditions, seconded by Mr. Milbourn. Vote: Ayes: Mrs. Peters, Mr. King, and Mr. Milbourn (3-0). **MOTION CARRIES.**

Mr. King 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 BZA2023-017, 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. Milbourn. Vote: Ayes: Mrs. Peters, Mr. King, and Mr. Milbourn (3-0). **MOTION CARRIES.**

BZA2023-018 Development Standards Variance. Petitioner, Eric Prime, on behalf of Dexios Food Ventures LLC, is requesting relief from Section 10-03-09 (G) Screening: Mechanical Equipment, (1) to allow screening to be of a material other than the predominant building material

The public hearing was opened.

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.

Attorney Eric Prime, Van Valer Law Firm, 257 S Emerson Avenue, was administered the oath.

Mr. Prime represented Antilogy and presented the vicinity map. Currently, there is a walk-in cooler inside the building. The original plans were for it to go outside.

The exterior walk-in cooler would be the backside of the facility facing east. Mr. Prime presented the hardy plank fiber cement screening. The fence would be 8-feet and blend in with what is already there.

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 approval of this request to allow for the use of quality hardy plank vinyl cement fencing for the purpose of screening mechanical equipment will not affect the public health, safety, morals and general welfare of the community because the proposed deviation will not create any adverse visual impairments.

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 use of adjacent properties would not be substantially affected because approval of this petition is consistent with commercial development in the area. The addition of high quality vinyl fencing

for the purpose of screening mechanical equipment will not diminish the value of adjacent properties.

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

The Unified Development Ordinance as adopted requires that mechanical equipment be screened from public view with 100% opaque screen of the same material as the predominant material of the building. The strip center in which the Antilogy Restaurant is located was originally constructed in 2016 of predominantly masonry and traditional or synthetic stucco. Petitioner is a tenant within the strip center and Petitioner's lease restricts improvements that are permanent in nature. Petitioners proposed vinyl fencing provides adequate screening at a reasonable cost and can be removed upon termination of Petitioner's lease. Petitioner originally tried to place the cooler internally, but public acceptance and demand requires more kitchen space. An internal cooler is impractical.

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

Not applicable.

Comments and Findings:

Staff notes that the mechanical equipment is located at the functioning rear of the building. The subject property is surrounded by public ways on the front, rear, and side. The cooler height is 7 ½ feet and the screening will be 8 feet in height.

Summary and Proposed Conditions:

Staff agrees with the petitioner's statement of reasons (aside from references to reasonable cost, as financial hardship does not constitute a practical difficulty).

Proposed condition:

- Screening and screening location shall substantially conform to Exhibit B and Exhibit C.

Mr. Nelson explained that a cooler can't be placed on a roof and has to be ground level. This site is surrounded by public ways and views. There is no better location. Mr. Nelson stated that they do have a practical difficulty.

The public hearing was closed.

Mrs. Peters asked about the security of the cooler. Petitioner explained that the cooler would open into the building.

Mr. King 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. Milbourn. Vote: Ayes: Mrs. Peters, Mr. King, and Mr. Milbourn (3-0). **MOTION CARRIES.**

Mr. King moved to approve the request with the conditions, seconded by Mr. Milbourn. Vote: Ayes: Mrs. Peters, Mr. King, and Mr. Milbourn (3-0). **MOTION CARRIES.**

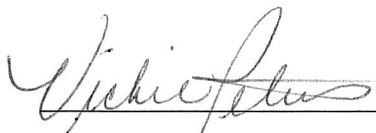
Mr. King moved to direct the Corporation Counsel's Office to draft written Findings of Fact, regarding the decision on the variance request presented in Variance Petition Number BZA2023-018, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration 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. Milbourn. Vote: Ayes: Mrs. Peters, Mr. King, and Mr. Milbourn (3-0). **MOTION CARRIES.**

Announcements

There will be a full agenda in two weeks.

Adjournment

Mrs. Peters adjourned the meeting at 6:47PM.



Vickie Peters, Vice President

Stephanie R. Jarrett, Recording Secretary