

The **Noblesville Board of Zoning Appeals** met on Monday, May 11, 2020. Due to COVID-19, some Board members and City staff attended in person, while others utilized Microsoft Teams to attend via video- and audio-conferencing. Those attending remotely are so noted below. Members in attendance were as follows:

- Mike Field .....Chairman
- Dave Burtner .....Vice-Chairman
- James Hanlon ..... Citizen Member
- Dan Mac Innis ..... Citizen Member
- Barry McNulty ..... Citizen Member (remote)

Others in attendance included Assistant Director Caleb Gutshall, Senior Planner Denise Aschleman, Associate Planner Rina Neeley (remote), Senior Planner David Hirschle (remote), and City Attorney Mike Howard.

Chairman Field calls the meeting to order at 6:00 p.m.

**NEW BUSINESS**

<b>1.</b>	<b>BZNA-0038-2020</b>	
	<b>Location:</b>	9508 Fairview Parkway
	<b>Applicant:</b>	Jeremy & Stacia Malloch
	<b>Description:</b>	UDO § 9.B.4.E.3 – Variance of Development Standards to allow a residential fence installed without a permit to exceed the maximum height permitted within the front yard setback (4 feet allowed; 5 feet requested).
	<b>Staff Contact:</b>	Rina Neeley

Ms. Neeley states that the subject site is located at the northeast corner of Fairview Parkway and Wimbley Way, approximately 1,900 feet east of North 10<sup>th</sup> Street. She states that the property is located within the Fairfield Farms subdivision and is surrounded by single family residential uses on all sides. She relates that, according to the Unified Development Ordinance (UDO), corner lots are considered to have two front yards. She adds that the UDO also limits the height of fences to four (4) feet within the front yard setback and a maximum of seven (7) feet outside the front yard setback. She describes the subject property as having a 30-foot front yard setback from along both Fairview Parkway and Wimbley Way.

Ms. Neeley recounts the history of the fence constructed within the front yard setback at a height of five feet, including its construction without a permit, the applicant’s claim that they were not aware of the fence height limit until the fence was already installed, a belated application for a fence permit, and eventual issuance of a Violation Letter by Code Enforcement for fence height. She refers to the applicant’s reasoning for constructing the fence, that being to contain a family pet. She explains that, because the applicant installed the fence without obtaining a permit, any hardship is self-created, leading Staff to recommend denial of the Variance application based on the Staff Report’s Findings of Fact.

Jeremy Malloch, attending remotely with Stacia Malloch, both residents of 9508 Fairview Parkway, states that his reading of the “Code” led to the impression that the front yard in which the fence was constructed was actually a side yard. He states that a newly-adopted dog was the impetus for installing the fence “while we were going through the application process,” and they were informed during the review process that their assumed side yard was actually a front yard. He states that the fence does not impede traffic views and does not present a safety risk.

Stacia Malloch states that the dog was escaping from the property several times a day. She adds that there was no intent to get around a Code provision.

Mr. Field opens the public hearing. With an absence of persons wishing to speak, he closes the public hearing.

Mr. Hanlon inquires as to who installed the fence. Ms. Malloch states that Stony Creek Fence completed the installation. Mr. Field asks if the fence company informed the Mallochs that they needed to obtain a fence permit before construction. Ms. Malloch responds that the fence contractor asked whether the Mallochs had "all your permits." She states that they provided the fence plans to the neighborhood association, which approved them, whereupon she instructed the fence company to construct the fence. She justifies the construction as necessary to contain the dog, adding that she thought their interpretation of the front-yard-versus-side-yard issue was correct. She adds her apologies for the mistake of constructing without a permit.

Mr. Mac Innis asks whether the fence company has been contacted about lowering the height of the fence. Ms. Malloch responds that the fence company was contacted, but the fence height, as installed, was not enough to contain the dog, and they have had to install an Invisible Fence wire at the top to contain the dog. She also cites the great expense of moving and/or lowering the fence.

Discussion among Board members involves several subjects, including cutting the fence by a foot, the apparent misunderstanding of an ordinance section, and aesthetic effects of altering the fence. Mr. Mac Innis asks if a four-foot fence with an Invisible Wire top would meet the ordinance. Ms. Aschleman responds that "a four-foot fence complies with the ordinance requirement."

Mr. Field states that if the Board gets into the business of granting after-the-fact Variances, that is all they will be doing. Mr. Hanlon asks as to the length of the fence. Ms. Aschleman responds that it is at least 70 feet in length. Mr. McNulty states that, although he understands the dilemma, it is clearly stated what is required to construct a fence. Mr. Burtner states that this problem has come up in this subdivision before. He adds that the fence company is at fault here. Mr. Howard states that, in other portions of the County, the Drainage Board is a co-applicant on a fence permit when that fence is to cross a drainage easement, as the fence permit is not issued until the Drainage Board approves.

**Motion by Mr. Mac Innis, seconded by Mr. Burtner, to deny application BZNA-0038-2020 based on the Findings of Fact contained in the Staff Report.**

**AYE: Mac Innis, Burtner, Field, McNulty. NAY: Hanlon. The motion carries 4-1.**

## 2. BZNA-0039-2020

<b>Location:</b>	1138 Cherry Street
<b>Applicant:</b>	Kurt & Andrea Meyer
<b>Description:</b>	UDO § 9.B.2.C.1 – Variance of Development Standards to permit: <ul style="list-style-type: none"> <li>• the combined square footage of accessory structures on a property less than one acre to exceed the 1,000 square feet allowed; and</li> <li>• the height of a detached garage to exceed the maximum height allowed (14 feet allowed; 21 feet requested).</li> </ul>
<b>Staff Contact:</b>	Rina Neeley

Ms. Neeley states that the subject site is on the north side of Cherry Street between 10<sup>th</sup> Street and 12<sup>th</sup> Street, and that the property contains a single family residence built around 1900, a detached 2-car garage, and a gazebo. She states that the property is surrounded by single-family and two-family residential uses on all sides, with some commercial uses along 10<sup>th</sup> Street about 450 feet to the west.

Ms. Neeley states that two Variances of Development Standards are requested, one to allow the combined square footage of accessory structures on a property of less than one acre to exceed the 1,000 square feet allowed, and the second to allow the height of a detached garage to exceed the maximum height of 14 feet allowed. She relates that the purpose of the construction is for a second story addition to an existing detached two-car garage for a home office.

Ms. Neeley states that a variance request to construct a detached accessory structure that exceeds height and size requirements in the Central Core is not uncommon. She adds that, while an addition to the house may be possible, the property owners would like to preserve the historic nature of the existing house. She suggests that the two-story garage, as proposed, is in character with the architectural style of the surrounding neighborhood and incorporates architectural details that are compatible with existing house. She provides Staff's recommendation for the approval of both variances with conditions listed in the Staff Report.

Mr. Kurt Meyer, applicant, states his agreement with the conditions requested by Staff if an approval motion is made. To Mr. Hanlon's question, Mr. Meyer confirms that the use of the addition would be for an office, along with personal storage. Mr. Hanlon asks if the office would be a personal office or a business office. Mr. Meyer responds that, as he is a real estate agent and his wife a graphic designer, both types of office use may be served, but there would be "no clients or employees or anything like that on site." Mr. Fields states his assumption that there would be heating and air conditioning, minimal power, and Internet hookup. Mr. Meyer confirms this. Mr. Hanlon asks if a restroom will be included. Ms. Aschleman responds that there will be a half bath.

Mr. Field opens the public hearing. With an absence of persons wishing to speak, he closes the public hearing.

**Motion by Mr. Burtner, seconded by Mr. Mac Innis, to approve application BZNA-0039-2020 based on the Findings of Fact contained in the Staff Report, with the following conditions:**

1. The proposed accessory structure shall be used for personal use and/or storage of personal materials only. The structure will not be used for any business, commercial, or industrial uses or separate residential purposes.
2. The Applicant shall sign the Acknowledgement of Variance document prepared by the Department of Planning and Development Staff within 60 days of this approval. Staff will then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.
3. Any alterations to the approved building plan or site plan, other than those required by the Board of Zoning Appeals (BZA), shall be submitted to the Department of Planning and Development prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

**AYE: Burtner, Mac Innis, McNulty, Hanlon, Field. The motion carries 5-0.**

### 3. BZNA-0045-2020

<b>Location:</b>	6910 E. 161 <sup>st</sup> Street
<b>Applicant:</b>	Hoosier Futbol Club, Inc.
<b>Description:</b>	UDO § 8.B.2.B. and Appendix C (Official Schedule of Uses) – Variance of Land Use to permit revision of a condition placed on a previously-approved Variance of Land Use permitting an outdoor commercial recreation facility in an R-1 zoning district.
<b>Staff Contact:</b>	David Hirschle

Mr. Hirschle begins by stating that the site in question, on the north side of 161<sup>st</sup> Street, one-quarter mile west of Cherry Tree Road, was granted a Land Use Variance in September 2004 to permit construction and operation of a "Sports Park" in an R-1 (Low-Density Single-Family Residential) zoning district. He states that this remains the zoning district of this site and of all surrounding properties. He displays an aerial photograph of the 10.3 acres which reveals five soccer fields of varying sizes for training and matches, a 104-space lighted parking lot, and two primary structures for soccer instruction and office use.

Mr. Hirschle states that, although approved as a Land Use Variance, there were 10 conditions imposed upon the 2004 approval. He relates that, in reviewing those 10 conditions, Staff has

confirmed that the site is in substantial compliance with the 2004 approval. He states that since the petitioner wishes to revise one of the conditions, a re-review by the Board is necessary.

Mr. Hirschle relates that the specific condition sought to be changed with this application states, "No artificial lights shall be used to illuminate any athletic fields." He displays a site plan showing the location of the lighted field at the north end of the property. He describes the proposed lighting as consisting of LED lamps placed on 70-foot poles at four locations, two on the north side of the field and two on the south side. He states that the lamps would be fully-shielded, cutting off up-lighting and side-lighting to limit illumination to the field itself, with little spillover. He displays a photometric plan, explaining that the plan shows illumination levels at from 34 to 42 footcandles for the playing field. He adds that the illumination level at the closest property lines (east and north) is shown at or below the UDO-maximum of 0.5 footcandles. He states that use of the lights would occur mainly from October through April, with the lights turned off at or before 10:00 p.m. Mr. Hirschle refers to documentation included in the Staff Report which is from the 2004 hearing for this property, at which there was objection to lighting of the athletic fields. He adds that there has been no objection to the current application to light one field.

Mr. Hirschle displays a photograph of the tree and mounding line along the eastern property line and states that the nearest residence is 1000 feet east of that line. He relates that the 2020 Comprehensive Plan indicates on its Future Land Use Map that this parcel is to be "Infill Residential," noting that the definition of "Infill Residential" includes the statement that "Residential areas should have access to parks and recreational opportunities and are within walking distance to neighborhood activity centers." He provides Staff's recommendation that the Variance be approved with the conditions listed in the Staff Report.

Mr. Field draws attention to a similar use to the southwest of this site. Ms. Aschleman states that this nearby athletic complex currently offers only soccer.

Mr. Hanlon asks how the community would benefit if the lighted field is not a public facility. Mr. Hirschle confirms that the property is private, but there would be the opportunity to join a club and take part in the recreational offerings.

Mr. Mark Strothkamp, representing Hoosier Futbol Club, states that the operation is a not-for-profit that has a relationship with the "Noblesville Rec Program," in that a discount in price is provided to those members that come from Noblesville. He also adds that they conduct programs, open to the entire community, for younger children from five to seven years of age. He refers to the 2004 BZA hearing, noting that technological advances in lighting such as LED lighting and safety mechanisms to restrict up-lighting and side-lighting will result in vast differences in lighting on the one field requested for illumination, as opposed to the lighting intensity of the fields to the southwest, across 161<sup>st</sup> Street.

Mr. Hanlon asks if neighborhood kids would be allowed to play pick-up games on the property. Mr. Strothkamp responds that there may be legal ramifications if a child got hurt on the property, as there would be for any other property. He adds that the lighting request may be more significant in the wake of COVID-19, as there may be restrictions on the number of people allowed on a field at any one time and, therefore, the need for the use of the fields to extend until later in the day is increased.

Mr. Field opens the public hearing. With an absence of persons wishing to speak, he closes the public hearing.

Mr. McNulty recalls the 2004 BZA hearing and the significant commitment that was made by the applicant not to pursue lighting. He states his opinion that "a commitment is a commitment." Mr. Hanlon echoes that opinion, but notes that the location is "fine" for this type of use and there does not seem to be any opposition.

Mr. Strothkamp suggests that the operation would be put at great disadvantage without the lighting, considering that just across the street is a much larger identical use with lighting of a greater perceived intensity. Mr. Hanlon interjects and repeats that technological advances have greatly improved lighting options since 2004. Ms. Aschleman confirms this. She also suggests

that, as a not-for-profit, the Board of Directors for Hoosier Futbol Club likely turns over as kids age out of the system, meaning that the leaders in the organization are different than they were in 2004. Mr. Strothkamp confirms this. Ms. Aschleman reminds the Board that there will not be anything built to the west of this property, as the land is part of the Martin-Marietta mines.

**Motion by Mr. Burtner, seconded by Mr. Hanlon, to approve application BZNA-0045-2020 based on the Findings of Fact contained in the Staff Report, with the following conditions:**

1. All conditions imposed upon application 04N-13-1261, heard by the BZA on September 13, 2004, shall remain in effect, with the exception of #7.
2. Field lighting shall be limited to the single field indicated on the site plan submitted with application BZNA-0045-2020.
3. Field lights shall be turned off by 10:00 p.m., Eastern Standard Time.
4. Parking lot lighting shall be provided so that all portions of the parking lot shall be lit to the UDO-minimum one (1.0) footcandle. Before issuance of an Improvement Location Permit, a photometric plan shall be submitted showing conformance with this requirement. Any new parking lot lighting lamps shall be limited to a maximum of 3000 Kelvin.
5. The level of illumination at the property lines shall not exceed 0.5 footcandles (UDO requirement).
6. The Applicant shall sign the Acknowledgement of Variance document prepared by the Department of Planning and Development Staff within 60 days of this approval. Staff will then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.
7. Any alterations to the approved building plan or site plan, other than those required by the Board of Zoning Appeals (BZA), shall be submitted to the Department of Planning and Development prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

**AYE: Burtner, Hanlon Mac Innis, Field. NAY: McNulty. The motion carries 4-1.**

**4. BZNA-0046-2020**

<b>Location:</b>	2995 E. Conner St.
<b>Applicant:</b>	S-M-2 Acquisition Corp, dba GoLo Xpress Mart
<b>Description:</b>	UDO § 8.C.4.D. and Appendix C (Official Schedule of Uses) – Conditional Use to permit "Automobile Rental" as an added land use in a PB (Planned Business) zoning district.
<b>Staff Contact:</b>	David Hirschle

Mr. Hirschle states that the site is located at the southwestern corner of the intersection of State Road 37 and Conner Street, and exhibits a gas station/convenience store with canopied fuel pumps and a bail bondsman's office in a detached structure formerly used as a car wash. He explains that, recently, the rental of U-Haul trucks was noticed as being conducted on the property and reported as a zoning violation to the Department of Planning. He states that, consequently, this Conditional Use application comes to the Board as a result of code enforcement, as "Automobile Rental" is not a "Permitted" use in the PB (Planned Business) zoning district, but requires Board review.

Mr. Hirschle indicates that the parking of the U-Haul trucks has been noticed in the drive lane to the former car wash and in parking spaces along the northeastern property line. He refers to the applicant's statement that these would be the two main parking areas. He indicates that the property exhibits 17 marked parking spaces. He provides the current requirements for the number of parking spaces for the gas station/convenience store as 12 spaces, and for the bail bondsman's office, 4 spaces. He relates the applicant's statement that there would be between 1 and 8 U-Haul trucks on the site at any given time.

Mr. Hirschle states that the proposal includes the intention to park some of the trucks in the former car wash's drive lane. He states that there is a problem with this, as the UDO prohibition of stacked parking would come into play. He quotes the UDO language that parking spaces are to "have access to an aisle or driveway so that any automobile may be moved without moving another . . ." He adds that, even if the UDO allowed such stacked parking, Staff wonders how practical it would be to implement in a busy environment like a convenience store. He suggests that in a line of trucks of different sizes parked in the former car wash drive, getting to the size desired by the renter may often mean moving other trucks. He wonders if it will be easier just to park the trucks in the regular marked parking spaces on site and avoid the problem of moving trucks around in the former car wash lane. He summarizes by stating that if this happens, any time there is more than one U-Haul truck on site, the trucks will be taking up marked parking spaces meant for the other two site uses.

Mr. Hirschle states Staff's opinion that eight of the nine Conditional Use Findings have been met, but that Finding #2 deals with the UDO requirements. He states that the proposed U-Haul use would be required to add up to seven additional parking spaces, when, in fact, no valid parking spaces are being added. He adds another concern, that being the issue of setting a precedent. He states that while the term "precedent" has been used in other past cases, this particular case has substantial possibility of seeing a precedent acted upon, both because of the number of convenience stores extant and because of U-Haul's aggressive push to locate their trucks in places such as the Lowe's parking lot. He provides Staff's recommendation that the Conditional Use application be denied.

Mr. Mac Innis refers to the southeast portion of the site and asks if it can be converted to parking. Mr. Hirschle responds that he believes so, but that setback requirements would need to be met. Ms. Aschleman offers that there is a 40-foot landscape buffer requirement along State Road 37.

Mr. Andrew Dickerson, attorney representing Mr. Kamaljit Singh, applicant, states that the number of marked parking spaces represented as being present by Mr. Hirschle as 17 in number is incorrect. He states that there exist 17 spaces just for the convenience store, with additional spaces for the bail bondsman. He states that 12 spaces for the square footage of the convenience store leaves 5 spaces in which U-Haul trucks could be parked and, although the application stated that from one to eight trucks would be on site at any one time, they would gladly reduce this to a maximum of five. He also states that spaces have been marked inside the car wash lane, and that Mr. Singh only parks the same size of trucks in the car wash lane, so there is no question of having to move others to get to the right size.

Mr. Hirschle explains that some "parking spaces," as seen on the aerial photograph, are not considered valid parking spaces. He mentions as example the car parked in the entrance to the former car wash lane and the car parked in front of the dumpster. Mr. Dickerson replies that there are eight parking spaces in front of the store, consisting of five by the storefront and three by the dumpster. He adds that there are two parking spaces at each of the four gas pumps. He states that Mr. Singh has owned the property since 2007 and has not once had a situation where a customer complained about not being able to find parking. Mr. Hirschle confirms that the spaces alongside the gas pumps were not included in the count of marked parking spaces. Mr. Hanlon asks if a person parked at a gas pump is considered to be occupying a parking space. Mr. Dickerson states his belief that it could be looked at this way.

Mr. Field opens the public hearing. With an absence of persons wishing to speak, he closes the public hearing.

Mr. McNulty asks for clarification about the cars parked to the west of the convenience store. Mr. Hirschle responds that the car parked at the entrance to the former car wash lane cannot be considered to be occupying a valid space, as the location of such spaces there would not have been approved. He cites the same argument for the car parked in front of the dumpster. Ms. Aschleman confirms, stating that it is not known when the truck will arrive to empty the dumpster, and the chance cannot be taken that cars will be parked in front of it when it does arrive.

Mr. Hirschle offers his calculation of the number of marked parking spaces, citing eight at the northeastern portion of the property, four in front of the bail bondsman's office, four in front of

the convenience store and partially hidden by the canopy, and an additional space not accounted for [which, due to Mr. Hirschle's error of statement, turned out to be a fifth space in front of the convenience store], totaling seventeen valid spaces.

Mr. Hanlon asks for Staff's reasoning for recommending denial. Mr. Hirschle responds that, if there is any more than one U-Haul truck on site and the car wash lane is not utilized for parking of trucks due to impracticality, the trucks beyond one truck will be taking up marked parking spaces meant for the other two site uses. Ms. Aschleman adds that the UDO parking requirement for the gas station/convenience store use is based on the square footage of the convenience store. She states that the "spaces" next to the gas pumps are not counted for or against the required parking space number. Mr. Hanlon observes, then, that the "spaces" next to the gas pumps should not be included. Ms. Aschleman describes these "spaces" as a "moot point."

Mr. Howard states that he drives by the property five or six times a day and "there's never anybody there." He adds that the truck parking use itself may be a moot point, because U-Haul owns the ground along State Road 37 between 146<sup>th</sup> Street and 141<sup>st</sup> Street, which is supposed to become their regional center in the future. He reminds the Board that the applicant offered to reduce the number of U-Haul trucks on site at any one time to a maximum of five.

**Motion by Mr. Mac Innis, seconded by Mr. McNulty, to approve application BZNA-0046-2020, with the following conditions:**

1. The number of U-Haul trucks present on the property at any one time shall be limited to a maximum of five (5).
2. The Applicant shall sign the Acknowledgement of Conditional Use document prepared by the Department of Planning and Development Staff within 60 days of this approval. Staff will then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.
3. Any alterations to the approved building plan or site plan, other than those required by the Board of Zoning Appeals (BZA), shall be submitted to the Department of Planning and Development prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

**AYE: Mac Innis, McNulty, Hanlon, Field. NAY: Burtner. The motion carries 4-1.**

#### 5. BZNA-0048-2020

<b>Location:</b>	16685 Mercantile Boulevard
<b>Applicant:</b>	GBC Design, Inc (Allan Wiley) / Canterbury Court Properties, LLC (Owners)
<b>Description:</b>	UDO § 10.0.2.G.2 – Variance of Development Standards to allow for the reduction of queuing requirements for a drive-through at an establishment with an existing drive-through.
<b>Staff Contact:</b>	Denise Aschleman

Ms. Aschleman states that the site is located on the east side of State Road 37, approximately 250 feet south of Town and Country Boulevard. She states that the site includes a quick service restaurant, and the applicant is proposing a 300-square-foot addition to the kitchen on the east side of the building, plus the conversion of the parking lot to a dual-lane drive-up service. She states that the applicant is showing the addition of the dual drive-through lanes on the south side of the building. She states that the five parking spaces and one handicap space currently in the area of the proposed drive-through lanes would be relocated, the handicap spaces to the west side of the lot, closer to the building's west-facing entrance.

Ms. Aschleman states that the reason the application is before the Board is because the UDO requires four stacking spaces for each drive-through station. She states that the site plan shows three stacking spaces for the northernmost drive-through lane and five stacking spaces for the southern adjacent drive-through lane. She states that Staff recommends approval with the

conditions listed in the Staff Report. She adds that the item has already been reviewed for the Technical Advisory Committee, and one issue that was made clear to the applicant was that the canopy to be installed should look substantially similar to the canopy that was approved at the Campus Parkway location, being a muted bronze tone, that all the attachment underneath the canopy are painted the same color, and the posts are of a masonry product.

Mr. Allan Wiley, with GBC Design, states that he is in agreement with the two conditions requested for attachment to an approval motion.

Mr. Field opens the public hearing. With an absence of persons wishing to speak, he closes the public hearing.

**Motion by Mr. Hanlon, seconded by Mr. Burtner, to approve application BZNA-0048-2020 based on the Findings of Fact in the Staff Report and with the following conditions:**

1. The Applicant shall sign the Acknowledgement of Variance document prepared by the Department of Planning and Development Staff within 60 days of this approval. Staff will then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.
2. Any alterations to the approved building plan or site plan, other than those required by the Board of Zoning Appeals (BZA), shall be submitted to the Department of Planning and Development prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

**AYE: Hanlon, Burtner, Mac Innis, McNulty, Field. The motion carries 5-0.**

#### 6. BZNA-0059-2020

<b>Location:</b>	105 Susan Court
<b>Applicant:</b>	Church, Church, Hittle & Antrim
<b>Description:</b>	<p>UDO § 9.B.2.C.2 – Variance of Development Standards to permit:</p> <ul style="list-style-type: none"> <li>• the combined square footage of accessory structures on a property between one and five acres to exceed the maximum 2,000 square feet allowed;</li> <li>• the height of an accessory structure to exceed the maximum height allowed (17 feet allowed; 19 feet requested); and</li> <li>• the reduction of the required side yard setback for a detached accessory structure (20 feet required; 16 feet requested).</li> </ul>
<b>Staff Contact:</b>	Rina Neeley

Ms. Neeley states that the subject site is located at the end of a cul-de-sac known as Susan Court, approximately 940 feet from East 169<sup>th</sup> Street. She states that the 1.10-acre property is located within a single-family residential subdivision called Cherry Hill Farms subdivision. She adds that the subject site is surrounded by residential uses on all sides, though some lots to the north may have agricultural uses, and properties beyond the subdivision and the regulated Vestal drain to the east exhibit established outdoor recreational uses and mineral, sand, and gravel excavation uses.

Ms. Neeley displays an aerial photograph for reference, and states that the property owners are interested in extending the existing pole barn to north for the storage of an RV, boat, and other personal items, as well as adding another small shed close to the existing pool for the storage of pool supplies and toys. She states that a variance is required to proceed with construction because the size, location, and height of the accessory building does not meet the requirements for the combined accessory structure square footage maximum of 2,000 on a property greater than one (1) acre and less than five (5) acres, and does not meet the accessory structure height maximum of 17 feet, 19 feet being requested. She states that there are several constraints to the further development of the property, including a 15-foot drainage and utility easement along the west side of the property, a 20-foot regulated drainage easement along the rear property

line; and a septic system with leach fields that appears to be located behind the house near the southeast portion of the property near the east driveway. She states that other factors contributed to the proposed design and location of the pole barn addition, including the overall size of the RV at approximately 13.5 feet tall and 40 feet long, the radius required to maneuver the RV into the pole barn, and the desire to ensure architectural compatibility of the accessory structure with the existing house. She summarizes, stating that, due to property and design constraints, the proposed addition to the existing pole barn at the southwest portion of the subject site is the ideal location, height, and size for an accessory structure that will be used for the indoor storage of personal items, including the RV and the boat. She adds that the proposed structures are accessory in nature to support the primary residential use of the property and are consistent with the character of the surrounding neighborhood. She provides Staff's recommendation that the Variances be approved based on the Findings of Fact in the Staff Report and with the conditions listed therein.

Mr. Andy Wert, of Church, Church, Hittle & Antrim, 2 North 9<sup>th</sup> Street, Noblesville, Indiana, states that accessory structures are very common in Cherry Tree Farms and the construction will not be out of character with the neighborhood.

Mr. Field opens the public hearing. With an absence of persons wishing to speak, he closes the public hearing.

Mr. Field states that the aerial photograph shows that at least three other nearby residences have secondary driveways and accessory structures "at least as large as this one."

Mr. Mac Innis states that he drove by the property and, in his opinion, construction of the addition will not be unduly noticeable.

**Motion by Mr. Mac Innis, seconded by Mr. Burtner, to approve application BZNA-0059-2020 based on the Findings of Fact included in the Staff Report and with the following conditions:**

1. The accessory structures shall not be used for any business, commercial, or industrial uses or separate residential purpose.
2. The Applicant shall sign the Acknowledgement of Variance document prepared by the Department of Planning and Development Staff within 60 days of this approval. Staff will then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.
3. Any alterations to the approved building plan or site plan, other than those required by the Board of Zoning Appeals (BZA), shall be submitted to the Department of Planning and Development prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

**AYE: Mac Innis, Burtner, Hanlon, McNulty, Field. The motion carries 5-0.**

#### **ADJOURNMENT**

The meeting is adjourned at 7:18 p.m.

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Mike Field, Chairman

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Caleb Gutshall, Secretary