

The **Noblesville Board of Zoning Appeals** met on Tuesday, September 6, 2022. Members in attendance were as follows:

Mike Field .....Chairman  
 Dave Burtner .....Vice-Chairman  
 Dan Mac Innis .....Citizen Member  
 James Hanlon .....Citizen Member

Others in attendance included Senior Planner Denise Aschleman, Development Services Manager Joyceann Yelton, Associate Planner Rina Neeley, and Attorney Jonathan Hughes.

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

### APPROVAL OF MINUTES

**Motion by Mr. Burtner, seconded by Mr. Hanlon, to approve the August 1, 2022 meeting minutes as presented. AYE: Burtner, Hanlon, Field, Mac Innis. The motion carries 4-0.**

### APPROVAL OF FINDINGS OF FACT

Ms. Denise Aschleman states that the Findings of Fact presented include the property owner transfer of Chapman Electric on Westfield Road and My Inner Baby. The Findings of Fact for the project at 1268 Grant Street was not included.

Mr. Field asks if it will be presented at the next meeting.

Ms. Aschleman confirms that it will be presented at the next meeting.

**Motion by Mr. Burtner, seconded by Mr. Hanlon, to approve the August 1, 2022 Findings of Fact for BZNA-0117-2022 My Inner Baby at 15480 Herriman Boulevard and BZNA-0123-2022 Chapman Electric at 1486 Westfield Road as presented. AYE: Burtner, Mac Innis, Field, Hanlon. AYE: Burtner, Hanlon, Field, Mac Innis. The motion carries 4-0.**

### CONTINUED BUSINESS

#### **1. BZNA-0126-2022 / BZNA-0127-2022 / BZNA-0128-2022**

**Location:** 3355 Conner Street

**Applicant:** Joseph Lese for Progress Studio (applicant)

**Description:**

- a) UDO § 11.C.1.d.3 – Board to consider a Variance of Development Standards application to increase the maximum number of signs permitted.
- b) UDO § 12.0.5.C.1 – Board to consider a Variance of Development Standards application to reduce the minimum required Planting Islands, including applicable standards.
- c) UDO § Table 12.0.6 – Board to consider a Variance of Development Standards application to reduce the minimum Building Base Landscaping requirements in the PB (Planned Business) zoning district.

**Staff Contact:** Kevin Martin

Ms. Aschleman states there is a Staff Planner substitution on the project.

Ms. Joyceann Yelton introduces herself as the Development Services Manager for the Planning Department and states that she is filling in for Senior Planner Kevin Martin. She states that this item was continued from the last meeting to give an opportunity to staff and the applicant to further reduce some of their variance requests. She states that according to the Staff Report, there are revised plans showing a building addition, interior parking islands with shrubs but no trees, the required perimeter parking lot landscaping except for one small area and the required building base landscaping along the west and north sides with a request for a reduction on the east side. She shows the Board an illustration of the original Site Plan and the revised Site Plan with their updated request.

Ms. Yelton states that for variance application BZNA-0126-2022, the applicant previously requested a reduction of the minimum parking lot setback around the entire perimeter of the property. She states that the requirement is 20 feet and the applicant has now met the requirement throughout the property except for a length of area (along the east side of the property north of the Presley Drive entrance) where it varies from 9 foot to 16.5 foot wide as shown on the plans. She states that this reduction is requested due to adjacent parking spaces and a required a 24-foot drive aisle for two-way traffic. She states that parking spaces in that immediate area would be for customers coming to look at vehicle inventory on display. She states the original request was for a 67% reduction of the interior parking lot landscaping which has now been reduced to a 39% reduction. She states that they are still requesting a 100% reduction of the trees required in the parking islands. She states that the applicant has provided shrubs within all the interior parking islands.

Ms. Yelton states that application BZNA-0127-2022 requests a reduction of the building base landscaping to five (5) feet on the eastern side due to the required twenty four (24) foot drive aisle and parking and that they that they cannot increase it (building base landscaping) to ten (10) feet (in this area). She states that they are also requesting to eliminate the building base landscaping along (a portion of the south side of) the building where a parking is proposed. She states that the applicant can meet the building base landscaping on the west and north sides.

Ms. Yelton states that the final variance request is in regard to signage. She states that the applicant has reduced their sign request from five signs down to three (3) signs. She states that they call one sign a wayfinding sign, but a wayfinding sign, by City definition, would be a four (4) square foot sign located adjacent to the building that said "Service Area." She states that they are basically providing signage on the decorative element (or roof extension) on the building that they have identified as a blade sign. She states that the sign is not a blade sign by the UDO definition. She states that Staff has asked that these signs not exceed 34.23 square feet (as shown on the plans). She states that the sign(s) consist of individual channel letters without a backer nor a cabinet.

Ms. Yelton concludes her summary of the three updated variance requests. She states that Staff is supportive of the three updated variance requests. She states that if the Board wanted the applicant to further reduce the landscaping request of 39%, it is possible. She states that the applicant has requested that the three (3) parking islands with the striped hatch at the end (of the parking row as shown on the Site Plan sheet A1-10 dated 08/17/2022) be striped areas so that people can drive in that area. She states that they will not have landscaping and just be a yellow-striped area. She states that the (striped hatch) area to the south seems to be an area that would not be used for a whole lot. She states that they could park a car (in that area) for display to Presley Drive. She states that she is not sure if that is the intent of the area, but that is an area where additional landscaping could be added. She states that additional landscaping could be added to the area shown at the top of the Site Plan (east of the property entrance on Conner Street) that should technically be a landscape island, but will be used for vehicle display. She states that Mr. Joseph Lese, the applicant, is present and can answer in-depth questions about the request.

Mr. Hanlon asks if the specific conditions reflect the applicant's request.

Ms. Yelton states that it depends. She states that condition #1 will be determined on whether the Board requires trees within the parking islands. She states that if the Board does not require trees within the parking islands, then condition #1 will not be one that they will adopt. She states that (condition #2) notes that the third sign meet the requirements of a directional sign, a small four (4) square foot sign. She states that if the Board allows the applicant to have the wall sign on the building, then they will not adopt condition #2 either. She states that condition #3 reads "all signs shall comply with the aesthetic requirements of the UDO." She states that this means that the City requires channel letters, no backers and no box signs. She states that conditions #4 and #5 are the typical (conditions) that are included with any BZA action.

Mr. Field asks for clarification whether the petitioner is requesting no trees.

Ms. Yelton answers yes, no trees within the parking lot islands.

Mr. Field states that condition #1 says that trees shall be incorporated into the parking lot islands. He states that it seems like there is some disagreement there.

Ms. Yelton states that she saw that too and why she stated if the Board was not in agreement with that, condition #1 and #2 would not apply and they would only adopt conditions #3, #4 and #5.

Mr. Mac Innis asks what the reasoning is for not wanting trees in the parking islands.

Ms. Yelton states that she will let Mr. Joseph Lese (the applicant) answer that question.

Mr. Joseph Lese of Progress Studio, 1103 E 10<sup>th</sup> Street, Indianapolis, thanks Ms. Yelton for introducing their revisions. He states that they have essentially increased the number of parking islands on the site from the prior (original application). He states that they have improved what they presented previously as well as increasing the building base landscape areas to the extent that they could. He states that on the illustration (Site Plan) they are showing what is possible from a landscaping standpoint. He states that one area that he would like to address is the (central parking lot) area where they added a second row of parking lot islands and peninsulas to offset the striped islands (at the north end of the parking aisles). He states that they are proposing striped islands for maneuverability of transports, deliveries, etc. He states that this is also the back (of the building) so there will be service ingress at two different locations. He states that per the UDO they are not required to do landscaping in service areas where there is an overhead door. He shows a photo of the (Tom Wood) Volkswagon Dealership and states that they are on a different part of State Road 37. He states that their parking islands have shrubs and no trees but probably not the required amount of shrubs. He shows another photo (of the back of the building on the Tom Wood property) showing no landscaping by the overhead doors. He states that this was the basis of their justification for their landscaping. He states that on the east side of the existing building (on the subject property), they have a hardship constraint between the right of way and the east part of the building. He apologizes for not showing the intended 5 foot landscape area with shrubs along the east side of the building on the Site Plan. He shows the Board the updates to the Site Plan. He states that they have improved the front-facing and east-facing building base landscape as much as they could. He states that they have complied with the perimeter landscaping per the ordinance except for the north portion (west of the entrance on Conner Street). He states that as shown on submitted plans (Enlarged Survey sheet A1.11) there are a lot of easements, utilities and infrastructure in the area. He states that while it might be okay to plant shrubs there, it's probably not okay to put trees there and that is why there are no trees proposed along there. He states that part of the use of the dealership is to display vehicles. He states that they are trying to use as much of the area up front (along Conner Street) for vehicle display and customer parking. He states that the request for the trees, as previously mentioned, would be for the islands (within the interior of the parking lot). He shows a photo of the (Hare) Chevrolet dealership down the road. He states that he knows that site is existing, but they have a large area on the backside of their building that is all striped and without any landscaping whatsoever. He states that he does not know when it was actually built but there is fresh paving. He states that this is just an example of what they are applying for. He shows a photo of the Kahlo dealership and points out that there is a distinct addition to paving and there is nothing landscaped back there (behind the building). He states that they feel they have done their best to accommodate the use of the car dealership and meet as much of the UDO as possible. He states that the justification of not having trees in a parking lot for display vehicles is primarily to avoid bird droppings. He states that the trees that were to be on the west side by the detention area have been moved to, with a little more dense spacing on, Presley Drive. He states that this was done to screen the primary glare from the parking lot. He states that it is the Board's discretion on whether they want to consider that based on his explanation of the background (regarding the removal of trees from the parking islands).

Mr. Lese states that they have reduced their variance request from five (5) building signs down to three. He states that they are the wall mounted signs at the front of the building only. He states that the wayfinding sign on Presley Drive would just be a directional sign for the service entrance. He states that the logo wall sign on the main façade of the building would actually be individual letters and cut shapes that would be internally illuminated as proposed on the detail (on the elevations of the submitted plans). He states that he is open to specific questions from the Board.

Mr. Hanlon asks if he has a copy of the Staff Report.

Mr. Lese answers that he does not.

Mr. Hanlon asks if he got a copy of it (the Staff Report).

Mr. Lese answers that he did not.

Mr. Hanlon states that there are five (5) items and that Ms. Yelton discussed the first two. He asks how this varies from what they are requesting.

Mr. Field states that, from his understanding, the applicant would like the Board to strike conditions #1 and #2.

Ms. Aschleman states that Mr. Hanlon had some questions during the applicant's presentation... She states that Tom Wood is in the City's jurisdiction in a Planned Development called the Crossing, so it was specifically approved by City Council. She states that Hare Chevrolet was built in 1997 and pre-dates (the City employment of) Ms. Aschleman and Ms. Yelton. She states that she cannot explain why it (Hare Chevrolet) was developed the way it was. She states that she can explain (the development of) Kahlo. She states the Planning Director when she started (at the City) believed that vehicle storage areas were not parking areas and did not require landscape islands at the end of the parking rows. She states that this is not written in the UDO. She states that the Planning Directors since then have not carried on (that belief), so Staff is enforcing what is in the UDO.

Mr. Hughes asks if the most recent one is the Hyundai dealership.

Ms. Aschleman states that Terry Lee (Hyundai), Tom Wood and Ed Martin are the most recent, but they are all a part of (different) Planned Developments where they wrote their own standards.

Mr. Lese states that they knew that going in, that the most recent one, Hyundai, is a Planned Development.

Mr. Field opens the public hearing. Seeing no one wishing to speak, Mr. Field closes the public hearing.

Mr. Hanlon asks if the Board is only considering the last three items (conditions).

Mr. Field states yes, in his opinion.

Mr. Mac Innis asks for clarification.

Mr. Hanlon states that of the conditions presented by Staff, the first two do not seem to be...

Mr. Field states that if he (a Board member) wants to allow the Petitioner to replace trees with shrubs and if he wants to allow the Petitioner to have signs as shown in the Staff Report, he would approve the agenda item and omit specific condition #1 and #2 from the motion. The Chairman states that if he does want them (the Petitioner) to have trees and different signage, then he would keep condition #1 and #2 in the motion.

Mr. Mac Innis states that the dealerships he drove by today all had trees in their lots. He states that he thinks the argument here is that on the south side of the building, they are calling that the service area when it is really two front yards.

Mr. Field states that it is the north side and the east side. He states that he is tempted to allow them to replace trees with bushes for reasons the applicant said...to avoid the birds and tree sap from getting on their inventory.

Mr. Mac Innis states that there are trees that do not do that (drop sap and leaves), but he cannot answer to the birds.

Mr. Hanlon asks if they are to incorporate bushes instead of trees for condition #1, eliminate condition #2 and keep conditions #3, #4 and #5.

Mr. Field answers if that is what he wants to propose, yes.

Mr. Hanlon asks if they eliminated trees here altogether.

Ms. Yelton answers that the applicant eliminated trees in the interior parking islands. She states that Staff would not require trees within the 5-foot building based landscaping because it is not enough space for a tree to survive. She states that they do have perimeter parking lot landscaping which does have trees, but the big elimination of trees is within the interior parking lot where the parking islands are located. She states that item #2 regarding the proposed sign meeting directional sign requirements

would mean that the proposed "Service" sign would not be a permitted sign. She states that a directional sign is a four (4) square foot sign.

Mr. Field asks where that sign is located...on the front of the building or the back of the building.

Ms. Yelton states that the "Service" sign is located on the front with comments from Mr. Lese.

Mr. Lese states the sign is on the front (of the building) even though it is the egress of the service area.

Ms. Yelton states that the "Service" sign is on the north side of the building.

Mr. Field states that he thinks about Sam Zeckel's "your signage is your livelihood."

**Motion by Mr. Hanlon, second by Mr. Burtner to approve application BZNA-0126-2022 / BZNA-0127-2022 / BZNA-0128-2022 based upon the following findings of fact:**

- **The approval will not be injurious to the public health, safety, morals, and general welfare of the community;**
- **The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and**
- **The strict application of the terms of the zoning ordinance constitutes an unnecessary hardship if applied to the property for which the variance is sought.**

**With the following specific conditions:**

1. ~~Trees~~ Shrubs shall be incorporated into Planting Islands, throughout the parking areas, in accordance with Section 12.0.5.C of the UDO.
2. ~~The third sign shall meet the requirements of a Directional Sign in accordance with Section 11.C.3.D of the UDO.~~
3. All signs shall comply with the aesthetic requirements of the UDO.
4. The Applicant shall sign the Acknowledgement of Variance document prepared by the Planning and Development Department 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.
5. 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 Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

Ms. Yelton states that there are already shrubs required in the parking islands. She states that the applicant will not be able to add additional shrubs to a parking island when he has already provided shrubs there. She states that motion to replace trees with shrubs...

Ms. Aschleman states that Ms. Yelton would like it (the motion) to be cleaner if it was approve the parking lot landscape request as requested.

Mr. Hanlon asks what particular type of shrubbery is proposed.

Mr. Lese states the standard shrubs are boxwoods, 30-inch tall screening shrubs. He states that they can offer a service barrier that might be 4.5 or 5 feet tall, something that would provide a little bit of height within the parking islands. He states that they would be the shrubs replacing the required trees.

Ms. Aschleman asks if the proposal is a 30-inch shrub minimum to replace the interior parking lot trees.

Mr. Lese answers no. He states that the 30-inch shrub is already required.

Ms. Yelton states this is not in the Corporate Campus.

Ms. Aschleman states that it is not in the Corporate Campus and an 18-inch shrub is required.

Ms. Yelton states that in the perimeter parking lot landscaping a 24-inch shrub is required.

Mr. Lese states that they have provided shrubs as required by the UDO. He states that they are offering a shrub taller than 30-inches in lieu of the trees within parking islands and peninsulas.

Ms. Aschleman suggests that they give them a specific size shrub and designate an area.

Mr. Hanlon asks what they are putting in instead of the trees.

Ms. Aschleman states that the applicant is offering something more than the ordinance requires. She states that the UDO requires 18-inch shrubs. She states that if he is offering a 30-inch shrub then they should amend condition #1 to install 30-inch shrubs in the interior parking lot islands.

Mr. Lese adds "in lieu of trees" to Ms. Aschleman's statement.

Mr. Field asks if Mr. Hanlon would like to amend his motion.

Mr. Hanlon states that instead of substituting bushes entirely for trees, it (condition #1) should be amended to be 18-inch shrubs with intermittent 30-inch shrubs where the trees would be.

**Motion by Mr. Hanlon, second by Mr. Burtner to approve application BZNA-0126-2022 / BZNA-0127-2022 / BZNA-0128-2022 based upon the following findings of fact:**

- The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- The strict application of the terms of the zoning ordinance constitutes an unnecessary hardship if applied to the property for which the variance is sought.

**With the following specific conditions:**

1. ~~Trees~~ Shrubs shall be incorporated into 18-inch shrubs shall be planted with 30-inch shrubs intermittently in lieu of trees in Planting Islands, throughout the parking areas, in accordance with Section 12.0.5.C of the UDO.
2. ~~The third sign shall meet the requirements of a Directional Sign in accordance with Section 11.C.3.D of the UDO.~~
3. All signs shall comply with the aesthetic requirements of the UDO.
4. The Applicant shall sign the Acknowledgement of Variance document prepared by the Planning and Development Department 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.
5. 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 Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

**AYE: Burtner, Mac Innis, Field, Hanlon. The motion carries 4-0.**

## NEW BUSINESS

### **2. BZNA-0153-2022**

<b>Location:</b>	607 Washington Street
<b>Applicant:</b>	Amy Ballman (property owner/applicant)
<b>Description:</b>	UDO § 9.B.4.E – Variance of Development Standards to allow a fence within the front yard setback to exceed the maximum height required (4 feet allowed; 6 feet requested).
<b>Staff Contact:</b>	Rina Neeley

Ms. Rina Neeley states that this project is to allow a 6-foot fence within the front yard on a corner lot at 607 Washington Street. She states that according to the UDO, a lot that is along an intersection of two or more streets is a corner lot and there are two front yards on a corner lot. She continues that this variance request was filed as a result of a fence permit application where the property owner proposed to install a 6 foot fence within the front yard along South 6<sup>th</sup> Street. She states that the proposed fence is to contain a newly adopted dog within the yard. She states that the fence would separate the dog from pedestrians on the sidewalk and keep the dog safe. She shows the Board Exhibit 6 - Site Plan with the proposed fence.

Mr. Field asks what is currently on the east side of the house as represented by the dotted yellow line (on Exhibit 6). He asks if there is an existing fence there now.

Ms. Neeley confirms that there is an existing fence and that the property owner is installing her fence in phases. She states that the current fence is a 4-foot chain link fence and the property owner is interested in replacing the chain link fence with a 6-foot wood privacy fence so that the dog cannot see critters or people outside the fence. She states that one of the issues of concern was whether sight distance would be affected by the fence. She states, based on the Site Plan, the proposed fence is not within the sight distance triangle and would allow vehicles to see oncoming traffic. She states that staff recommends the approval of the variance as requested.

Mr. Field asks if the proposed fence will be chain link along 6<sup>th</sup> Street and privacy on the other (east) side.

Ms. Neeley clarifies that the proposed fence will be a privacy fence along with the exception of a chain link segment between the privacy fence along 6<sup>th</sup> Street and the detached garage.

Mr. Hanlon states that he has not seen a fence issue before the Board in a long time. He states that fences (within the front yard) were allowed to be 3 or 4 feet and could not go past the front of the house.

Ms. Aschleman answers that the City previously allowed a 3 foot fence in the front yard and that was amended to 4 feet within the last 5 years. She states keep in mind that because this is a corner lot they have two front yards and they are currently asking for a waiver from that (4-foot) requirement.

Mr. Hanlon asks if it is the front of the house.

Ms. Aschleman states that it is considered, by definition, the front yard, but that does not necessarily mean that it is the front of her house. She states that she believes the front of the house faces Washington Street.

Mr. Burtner comments that the Board has approved them (fences exceed 4 feet within the front yard) before on other properties and there are several other 6-foot fences (within the front yard on the street).

Ms. Neeley shows the Board the location of the front and side of the house on Exhibit 6. She states that applicant would like to replace the existing (4-foot chain link) fence with a 6-foot fence.

Mr. Field asks the petitioner to come forward. He states that Staff has recommended approval. He asks if the fence along the frontage on Washington Street will a privacy fence or a chain link fence.

Ms. Amy Ballman, the applicant and property owner of 607 Washington Street, replies no. She states that fence will start behind her front porch at the back corners of her house. She states that the fence will not go up to the intersection of 6<sup>th</sup> & Washington, but about 20 feet back from the intersection.

Mr. Field asks if her porch will be exposed.

Ms. Ballman states that the front porch will be exposed as it is now. She states that they are replacing the chain link fence as it sits with a privacy fence.

Mr. Field opens the public hearing. Seeing no one wishing to speak, Mr. Field closes the public hearing.

**Motion by Mr. Burtner, second by Mr. Mc Innis to approve application BZNA-0153-2022 based upon the following findings of fact:**

- The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.

**With the following specific conditions:**

1. The Applicant shall sign the Acknowledgement of Variance document prepared by the Planning and Development Department 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 Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

**AYE: Burtner, Mac Innis, Field, Hanlon. The motion carries 4-0.**

### 3. BZNA-0154-2022 / BZNA-0155-2022 / BZNA-0156-2022

<b>Location:</b>	8555 E 206 <sup>th</sup> Street
<b>Applicant:</b>	Church Church Hittle + Antrim (applicant) Contact Person: Andrew Wert
<b>Description:</b>	<ol style="list-style-type: none"> <li>a) UDO § 4.B.6 – Variance of Development Standards to allow relief from development standards related to non-residential architectural standards.</li> <li>b) UDO § 10.0.4.D.1 – Variance of Development Standards to allow relief from from development standards related to paved parking areas.</li> <li>c) UDO § 12.0.6 – Variance of Development Standards to allow relief from development standards related to building base landscaping.</li> </ol>
<b>Staff Contact:</b>	Rina Neeley

Ms. Neeley states that the property is at 8555 E 206<sup>th</sup> Street. She states that the property is a 37 acre parcel in the I-1 zone that fronts both Cicero Road and 206<sup>th</sup> Street except for a little corner (at southwest corner the intersection). She states the property was formerly known as Heinzman Farms. She states that it is surrounded agricultural and residential uses to the north and west, industrial and commercial uses to the south and a mix of residential, agricultural and commercial uses to the east. She states that the proposed use is a contractor's office with outdoor storage for Firm Foundation of Indiana, Inc., a residential foundation construction company that specializes in pouring residential basement walls and basement waterproofing. She states that this is a permitted use in the I-1 zone. She states that the Board previously reviewed the project in 2021 and approved a variance to allow a reduction of the front yard setback to 15 feet so that they (the property owner, Firm Foundation of Indiana, Inc.) could use an existing building. She states that earlier this year, they filed an improvement location permit for the property and it was discovered that they needed additional variances. She states that the additional variances are to allow a relief from development standards per UDO § 4.B.6 for non-residential architectural standards, UDO § 10.0.4.D.1 for paved parking areas and UDO § 12.0.6 for building base landscaping.

Ms. Neeley states that the applicant is seeking a variance for the relief of architectural standards for the proposed new building, specifically for the roof pitch as well as blank elevations. She states that the existing building will be remodeled to have windows and doors on all elevations when it does not currently have that as shown on the site photos (Exhibit 8). She states that the proposed building has blank walls on the north and south elevation. She states that the north elevation will be facing the existing building, so it is not going to be seen (from 206<sup>th</sup> Street) except for a few feet above the existing building. She states that the south elevation will only be seen by the neighboring property, known as Green Cycle, and the building will be approximately 600 feet from the property line. She states that the other request for architectural relief for roof pitch. She states that the existing building has a roof pitch of 4/12 and the proposed building has a roof pitch of 1/12. She states that Staff recommends that the roof pitch match the 4/12 of the existing building. She states that the Board may choose to strike that condition.

Ms. Neeley states that the second variance request is a relief from the paved parking area. She states that according to the UDO the outdoor storage area would considered a parking area since the it is for the storage of trucks and heavy equipment associated with the contractor's office. She shows the location of the proposed gravel for the outdoor storage area and the driveway (south of the proposed building) that leads to the trash enclosure on the Site Plan (Exhibit 6). She states that the applicant is

proposing gravel to reduce maintenance issues associated with heavy trucks and equipment parked on pavement.

Mr. Field asks if Staff is recommending approval of the project with the exception of a roof pitch to match...

Ms. Neeley states yes, but she has to finish her presentation.

Ms. Neeley states that the variance request is the relief of building based landscaping south of the proposed building along the gravel drive. She states that the proposed use is consistent with the I-1 zone and it would be an improvement to the current state of the property. She states that the request is consistent with the rural character of the existing neighborhood. She states that Staff recommends approval with the specific conditions:

1. A digital copy of the recorded secondary plat shall be submitted to the Planning and Development Department prior to the issuance of a Certificate of Occupancy for the new storage building.
2. The roof pitch of the proposed building shall be a minimum of 4/12 to match the existing building.
3. An architectural feature or wall sign shall be installed on the portion of the north elevation of the proposed building above the roofline of the existing building. If a wall sign is installed, it will not increase the amount of signage onsite and shall meet all requirements of the current UDO.
4. All outdoor storage areas shall provide a solid, opaque wall or fence of not less than seven (7) feet in height measured at the highest finished grade to screen the view from any adjacent property or right-of-way. A chain link fence or a variation of a chain link fence combination shall not constitute acceptable screening for the outdoor storage area.

Mr. Field asks what would be acceptable.

Ms. Neeley answers that a wood, vinyl or other privacy fence that is a solid, opaque wall or fence.

Mr. Burtner asks what where are they screening; is it out in the middle of nowhere.

Ms. Neeley states yes, they are screening trucks and equipment.

Mr. Burtner states he gets that but they are back there and there is nothing on either side.

Ms. Aschleman states they are on 206<sup>th</sup> Street and everyone drives by it. She states that she has gotten a lot of calls about Heinzman junk.

Mr. Field states he is concerned about completely screen off the parking storage area so that the catalytic converter thieves will have free range...

Ms. Aschleman states that the I-1 zoning district already requires all outdoor storage to be screened and is in the UDO. She continues that it is just simply a re-statement of what the ordinance already says.

Ms. Neeley states that she included the condition because the submitted Site Plan shows a chain link fence. She states that she received calls from neighbors at Carrigan at the Levy who were concerned about truck traffic as well as what the outdoor storage would look like and whether it would be screened. She said that the neighbors had done their homework and visited the current location (of Firm Foundation of Indiana, Inc) in Westfield. She said that those residents did not wish to submit a formal remonstrance letter.

Mr. Andrew Wert from Church Church Hittle + Antrim, 2 N 9<sup>th</sup> Street in Noblesville, states that he is appearing on behalf of his client, Firm Foundation of Indiana based in Westfield. He states that they have been in business over 25 years and they specialize in residential foundation construction. He states that in the audience is Jeremy Fish, President of Firm Foundation, and Kathleen Boaz, who is an attorney with his office. He states that Firm Foundation has recently purchased the property at 8555 E 206<sup>th</sup> Street, formerly known as the old Heinzman Farm. He states that the company plans to relocate their headquarters to this site. He states that they will be removing most of the structures on the site, including the barn, the hoop buildings, all the corn bins. He states that they do plan to repurpose the

front building to use as an office. He states that the existing building to the south is in rather poor condition and will be demolished and replaced by a 70 foot by 120 foot building to be used for truck storage. He states that there will be a 63- space parking lot constructed for passenger vehicles that will be paved, curbed and landscaped per the Noblesville UDO standards. He states that they are seeking the Board's help by requesting three (3) variances. He states that he was told by contractor Scott Eiker of Design Build that the new proposed 8,400 square foot building did not meet the criteria for architecture. He states that the standards are conflicting. He states that the UDO requires that the new build match or complement the existing, but the existing building does not meet the architectural standards either. He states that as mentioned there are a couple of sides that do not have windows and the roof pitch is basically a flat roof, so it does not meet the minimum 6/12 pitch. He continues that the gravel parking area is classified as a parking lot when in reality it is an equipment storage area. He states that the heavy equipment that Firm Foundation uses will be stored in this location. He shows an aerial photo of the current site in Westfield with large dump trucks to illustrate what would be stored onsite. He states they have screened the area west of the proposed building with a landscape buffer. He states that they will be screening (the storage area) with a solid fence along the front including a security gate. He states that regarding the building base landscape request that (the site) will be nicely landscaped per the Landscape Plan. He states that they are asking for (landscape) relief from the south edge of the new building. He states that there are two reasons for this: one is that it is located in the least visible location of the property; secondly, and maybe more important, with only a 25-foot aisle width, the possibility of planting being backed over by a garbage truck is too high.

Mr. Wert states that they have read the Staff Report and agree with all the conditions except for two. He states that condition #1 asks for a recorded copy of the secondary plat. He states that there is no secondary plat for this property. He states that at some point in the real estate acquisition process, the property owner contemplated buying a portion of the property. He states that they ended up buying the whole thing from Ms. Heinzman, hence no plat is necessary. He states they did receive approval for a primary plat from the Planning Commission last year, but it is a moot point since they bought the whole thing. He states that in lieu of the plat, they can dedicate right of way along 206<sup>th</sup> Street consistent with the County Thoroughfare Plan. He states the Site Plan shows a 50-foot right of way from the centerline, whereas today the right of way is 16 feet from the centerline. He states that suggested condition #2 requiring that they build a 4/12 pitch roof instead of a 1/12, as proposed. He states that the proposed building is a pre-engineered building and they are not using a wood structure. He states that they are requesting that condition #2 be omitted and condition #1 be substituted with right of way dedication. He states that it would be a tremendous improvement over what is out there today. He states that they (his client) is an active, established business that will maintain the property. He states they would be an added value to the local economy. He reiterates that the property is zoned I-1 and that this is what has been contemplated out here for many years. He states that the Firm Foundation has been in business for a long time and they (his company) are proud to represent them.

Mr. Field opens the public hearing. Seeing no one wishing to speak, Mr. Field closes the public hearing.

Mr. Field states that what is proposed is a vast improvement over what is there currently.

Mr. Hanlon states that the road by today's standards is very narrow. He states that the intersection of 206<sup>th</sup> Street and State Road 19 is a mess for two hours every morning for all the kids on their way to high school and the same thing coming back. He asks if there are any proposals to make changes there, not necessarily about the road specifically, but truck access in and out (of the property).

Mr. Field states that they are dedicating right of way along 206<sup>th</sup> Street, so if they (the County) does expand the road, there is a place for it to go.

Mr. Hanlon asks if 206<sup>th</sup> Street will be expanded.

Ms. Aschleman states there is a discrepancy between the Noblesville plan and the Hamilton County plan. She states that Hamilton County will be building a new road five hundred north of 206<sup>th</sup> Street and 206<sup>th</sup> Street would actually be a cul-de-sac with only local access in this area and would not have direct access to State Road 19. She continues that the Noblesville Thoroughfare Plan shows that the road would remain to provide access and terminate in a round-a-bout at 206<sup>th</sup> Street and Hague Road. She states that because State Road 19 is a state highway, they (the State) are ultimately responsible for any improvements at State Road 19 and, to her knowledge, there are no plans for any improvements at that intersection at this point in time. She states that it (206<sup>th</sup> Street) is a County highway and they

will see the construction drawings at Technical Advisory Committee Meeting. She states that they will have the opportunity to make comments on traffic or improvements required at that point in time.

Mr. Wert states that the driveway that is there now is just an agricultural driveway. He states that they will have to work with County Highway for a commercial driveway permit. He states that the driveway will be at the location shown, but it will be up to them (County Highway) whether acceleration/deceleration lanes will be required.

Mr. Hanlon states that it (206<sup>th</sup> Street) is a narrow country road.

Mr. Burtner states that he assumes the equipment will not be moved in and out of there (the storage area onsite) every day. He asks if the equipment would be on the jobsite.

Mr. Wert states that he will defer to Jeremy Fish (President of Firm Foundation) for operational questions.

Mr. Jeremy Fish, 8555 E 206<sup>th</sup> Street, answers that they will have 15-20 trucks go out in the morning and 15-20 trucks come back in the evening. He states that it is not a high traffic volume. He states that they are currently located at 305 Cherry Street in Westfield. He states that the traffic at State Road 32 and Cherry Street is a disaster and has prompted his move. He states that Cherry Street is a much smaller street than 206<sup>th</sup> Street. He states that they would like to widen their entrance (on 206<sup>th</sup> Street) have sufficient room to get trucks in and out and to minimize any back-up as much as possible.

Mr. Mac Innis asks what time they (the trucks) go in and out.

Mr. Fish states that they (the trucks) typically they leave the office between 7:30 am and 9:00 am and they get back around 5:00 am or 5:30pm, so it would be around the tail end of school traffic in the morning and well after school traffic in the afternoon.

Mr. Mac Innis asks Staff where the 4/12 roof pitch requirement came from.

Ms. Neeley states that the existing building has a 4/12 roof pitch.

Mr. Jon Hughes clarifies that the building without an "X" on the Site Plan will stay as an office building so Staff just matched that roof pitch. He states that the building they are proposing will go behind that (existing) building.

Mr. Mac Innis asks if it comes from Staff or an Architectural Review Board.

Mr. Hughes states that the architectural standard requires a much steeper pitch, so this was a compromise (between their request and the UDO requirement). He states that Staff was trying to give them a benefit, but not the full benefit they were requesting.

Mr. Hughes and Ms. Aschleman state that it comes from Staff.

Mr. Field opens the public hearing. Seeing no one wishing to speak, Mr. Field closes the public hearing. He states that he thinks he did the public hearing (statement) twice.

Ms. Aschleman states that Staff is amenable to the dedication of right of way in replacement of the secondary plat. She states that when they went through (the variance process) in 2021, they were only buying a portion of the property. She states that as a single property owner, it is much easier for them to accomplish a dedication of right of way. She states that Staff is fine with it (right of way dedication) being through a secondary plat or another dedication mechanism.

Mr. Hanlon asks Mr. Hughes where he stands based on the specific conditions presented by Staff and the revisions requested by the applicant, Mr. Wert.

Mr. Hughes states that Staff is okay with the change to condition #1 being a dedication of right of way. He states that Staff still prefers a 4/12 pitch for condition #2.

Ms. Aschleman states that Staff prefers the 4/12 roof pitch but understands if the Board grants the 1/12 roof pitch.

Mr. Hanlon asks for clarification (of the changes to the conditions).

Ms. Aschleman states that condition #1 is the dedication of right of way instead of a secondary plat. She states that condition #2 recommends a 4/12 roof pitch, but the applicant would like to keep the requested 1/12. She states that if the Board would like to grant the applicant's request, she recommends striking condition #2.

**Motion by Mr. Field, second by Mr. Burtner to approve applications BZNA-0154-2022 / BZNA-0155-2022 / BZNA-0156-2022 based upon the following findings of fact:**

- The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.

**With the following specific conditions:**

1. In lieu of a secondary plat, a recorded Right-of-Way Dedication Document for 206th Street shall be submitted to the Planning and Development Department prior to the issuance of a Certificate of Occupancy for the new storage building.  
~~A digital copy of the recorded secondary plat shall be submitted to the Planning and Development Department prior to the issuance of a Certificate of Occupancy for the new storage building.~~
2. ~~The roof pitch of the proposed building shall be a minimum of 4/12 to match the existing building.~~
3. An architectural feature or wall sign shall be installed on the portion of the north elevation of the proposed building above the roofline of the existing building. If a wall sign is installed, it will not increase the amount of signage onsite and shall meet all requirements of the current UDO.
4. All outdoor storage areas shall provide a solid, opaque wall or fence of not less than seven (7) feet in height measured at the highest finished grade to screen the view from any adjacent property or right-of-way. A chain link fence or a variation of a chain link fence combination shall not constitute acceptable screening for the outdoor storage area.
5. The Applicant shall sign the Acknowledgement of Variance document prepared by the Planning and Development Department 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.
6. 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 Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

**AYE: Burtner, Mac Innis, Field, Hanlon. The motion carries 4-0.**

#### **4. BZNA-0157-2022**

<b>Location:</b>	1618 South 10 <sup>th</sup> Street
<b>Applicant:</b>	Jerry Conner (applicant)
<b>Description:</b>	UDO § 10.0.3.A.4 and UDO § Table 10.0.3.B – Variance of Development standards application to permit a reduction of the required number of parking spaces for a brewery (120 parking spaces required; 90 parking spaces requested).
<b>Staff Contact:</b>	Denise Aschleman

Ms. Aschleman states that the proposed site is on South 10<sup>th</sup> Street, surrounded by used car lots, car washes and the County Highway Department. She states that the property was previously a tow yard. She states that the existing building will be remodeled and an addition will be added for a total building of about 6,000 square feet of indoor space. She states about 4,000 square feet of that space will be indoor seating areas. She states that the UDO currently reads that if the kitchen area is less than 19% of the overall square footage, the parking calculation is as follows:

- 75% of the area is calculated at the bar rate of 1 parking space per 35 square feet; and
- 25% of the square footage is calculated at the restaurant rate of 1 space per 50 square feet.

Mr. Field asks if she realizes how insane this all is.

Ms. Aschleman states that she understands but she has to inform them of the ordinance part and then she will discuss why Staff is recommending approval. She states that based on the Ordinance, there would need to be 120 parking spaces for this site. She continues that in addition to the 4,000 square feet of indoor area, there is about 4,000 square feet of outdoor area which is calculated at 1 parking space for every 200 square of outdoor area and the first 200 square feet is exempt. She states that there are 120 parking spaces required for this (brewery) use. She states that Staff is recommending approval of this request with some conditions for several reasons.

Ms. Aschleman states that the parking was calculated at the bar and restaurant rate, when the proposed use is a taproom or tasting room (in association with a brewery). She states that it is not like a typical restaurant or bar with tables so close that you cannot get between the chairs. She states that most of them (taprooms) have seating areas for food service, but they also include comfy furniture for lounging and conversation. She states that the patrons do not go to these establishments for the typical bar experience of tight clusters of standing crowds. She states that the patrons will be sitting down and enjoying a leisurely time there.

Mr. Field asks if they realize that they (the applicant) are putting this (brewery) at the south side of Noblesville.

Ms. Aschleman answers yes. She states that they are the first redevelopment of this area, so (the City) is setting the tone. She states that the other reason Staff is recommending approval of the parking reduction to ninety (90) parking spaces is that they are the first new user on the brand new South 10<sup>th</sup> Street trail. She states that City is currently constructing... South 10<sup>th</sup> Street went on what they call a road diet. She states there were 16-20 foot lanes going in each direction that have been narrowed up to a 12 foot lane. She states that there is a curb separating an off-street trail. She states that the trail runs right in front of the property. She explains that if the Board looks at the photos (Exhibit 6) in the Staff Report, there are examples of that trail under construction.

Mr. Burtner asks where the trail goes.

Ms. Aschleman states that the trail currently terminates at the Wellington Northeast entrance and it stops on the north end at Christian Avenue, but at Christian Avenue it ties into...

Mr. Burtner asks if the trail will tie into the (Nickel Plate) rail trail.

Ms. Aschleman answers that to her knowledge, there is not a current plan to do that, but they could because the trails will basically cross at that south end. She states that Staff does not have any data on how much that trail could possibly reduce the vehicle load on the site. She comments that if she were going to a bar, she would much rather take her bike or walk instead of worrying how she will get home later. She states that they are proposing a reduction to 90 parking spaces for this use and condition #1 states that if the Staff sees a repeated problem, they will start looking into shared parking opportunities for employee parking during peak times. She states that they are hopeful that they never get to that situation...between the oddity of how the parking is calculated for the use and trail access that there is never a parking problem in that area. She states that Staff is working with the owner and there are two proposed Site Plans (Exhibit 5) in the Staff Report for reference. She states that the Board will not actually approve one plan or the other.

Mr. Jerry Conner, 14910 Trotter Court, Carmel, Indiana, comes forward at the request of the Board. He states that he has not seen the most current Staff Report and conditions due to several meetings. He states that this is a family-oriented taproom, so there will be more people (kids) there that do not drive and some parking demand will be eliminated. He states that they anticipate some traffic coming in on the trail in the summer. He states that bike traffic will increase once the Nickel Plate trail is done and that it will reduce the need for actual parking spaces. He states that this will be their third location and that they are excited about Noblesville.

The Board discusses the historical location of Dog N Suds and there was a restaurant in that area before.

Mr. Field opens the public hearing. Seeing no one wishing to speak, Mr. Field closes the public hearing.

**Motion by Mr. Mac Innis, second by Mr. Burtner to approve application BZNA-0157-2022 based upon the following findings of fact:**

- The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property;

**With the following specific conditions:**

1. If Staff receives repeated and validated complaints of parking issues at this location, the applicant/owner shall work with Staff to provide additional parking through either a shared parking agreement that meets the terms of the UDO adopted at that time or expansion of the parking area.
2. Any alterations to the approved site plans, other than those required by the Board of Zoning Appeals (BZA) or the Technical Advisory Committee (TAC) shall be submitted to the Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to such changes.
3. Any alterations to the approved site plans, other than those required by the Board of Zoning Appeals (BZA) or the Technical Advisory Committee (TAC) shall be submitted to the Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to such changes.

**AYE: Burtner, Mac Innis, Field, Hanlon. The motion carries 4-0.**

## **5. BZNA-0162-2022**

<b>Location:</b>	Southwest corner of Butterfly and Dragonfly Drives
<b>Applicant:</b>	Tom Ferguson (applicant)
<b>Description:</b>	UDO § 8.C.4.D, UDO §10.7 and UDO § Appendix C – Conditional Use to allow parking as a principal use within the Town & Country Shopping Center in the PB zone.
<b>Staff Contact:</b>	Rina Neeley

Ms. Neeley states that the property is a 1.29 acre parcel within the PB zone at the southwest corner of Butterfly Drive & Dragonfly Drive, approximately 290 feet from Clover Road in the Town and Country shopping center. She states that it appears to be an unplatted lot created by development of the surrounding lots known as Singh's Addition. She states that the property has a dry detention basin that handles the runoff from the adjacent properties. She states that the application before the Board is a Conditional Use permit to allow parking as a principal use in the PB (Planned Business) zoning district. She states that this would be an allowed use with the approval of a conditional use. She states that the applicant has put forth this project to expand the parking for IU Health Medical Offices which is located in the building immediately east of the property.

Mr. Field asks if they (the applicant) wants to put staff parking behind the building.

Ms. Neeley confirms that this is correct. She states that the approval of parking as a permitted use would free up parking in the existing parking lot where the building is located for patients and customers of the other commercial businesses as well as parking in that area of the commercial center.

Mr. Field asks if they are just going to use the easternmost section of the lot and not disturb the detention basin.

Ms. Neeley states that he is correct. She states that the applicant will be adding landscaping per the UDO. She states that there are five specific conditions. She states that the first two conditions that are requirements for any parking as a primary use uses. She continues that these items were not submitted with this proposal so they have been added as conditions. She states that the condition #3 reads "a secondary plat shall be processed through the Planning Department to create the lot as shown on the Site Plan prior to the issuance of the Improvement Location Permit." She states that this was added because the subject property is an unplatted lot that was basically a remainder lot.

Mr. Pete Alveal, 6284 Rucker Road, Indianapolis, Indiana, comes forward on behalf of his business partner, Tom Ferguson.

Mr. Field asks if they are the owners of the building.

Mr. Alveal states that the owner of the building is here (in the audience). He states that the application is in response to the request for additional parking by Indiana University Medical Clinic.

Mr. Field comments that they are trying to take care of their tenant.

Mr. Field opens the public hearing. Seeing no one wishing to speak, Mr. Field closes the public hearing.

Mr. Field states this is pretty cut and dry.

**Motion by Mr. Burtner, second by Mr. Mac Innis to approve application BZNA-0162-2022 based upon the following findings of fact:**

- Is in fact a conditional use established within the specific zoning district involved;
- Will be harmonious with and in accordance with the general objectives or with any specific objective of the City's Comprehensive Plan and the Unified Development Ordinance;
- Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the same area;
- Will not be hazardous or disturbing to existing neighboring uses;
- Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
- Will not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community;
- Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;
- Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares; and
- Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

**With the following specific conditions:**

1. A photometric plan meeting the standards of the current UDO will be required prior to the issuance of the Improvement Location Permit.
2. Provide information regarding onsite signage in association with the proposed parking lot prior to the issuance of the Improvement Location Permit. This information shall include the location, materials and copy of the proposed signs.
3. A secondary plat shall be processed through the Planning Department to create the lot as shown on the Site Plan prior to the issuance to the Improvement Location Permit.
4. The Applicant shall sign the Acknowledgement of Variance document prepared by the Planning and Development Department 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.
5. 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 Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

**AYE: Burtner, Mac Innis, Field, Hanlon. The motion carries 4-0.**

**MISCELLANEOUS**

Ms. Aschleman states that there is pending litigation following the previous meeting and asks Chairman Field to sign the items before him.

Mr. Hughes states for the record that the items are the Minutes and Findings of Fact related to that item (pending litigation) so that they can close that record up. He states that if the Board has any questions about the litigation they should reach out to him. He states that it is in a holding pattern until they get the record filed.

**ADJOURNMENT**

The meeting is adjourned at 7:20 p.m.

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Mike Field, Chairman

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Caleb P. Gutshall, Secretary