

The **Noblesville Board of Zoning Appeals** met on Monday, May 6, 2024. Members in attendance were as follows:

- Mike Field Chairman
- Dave Burtner Vice-Chairman
- Dan MacInnis..... Citizen Member
- Kevin Sears Citizen Member
- Lauren Wahl Citizen Member

Others in attendance included Principal Planner Denise Aschleman, Senior Planner Amy Steffens, Associate Planner Rina Neeley, Attorney Jacob Antrim, and Attorney Beth Copeland.

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

APPROVAL OF MINUTES

Ms. Aschleman states there are no minutes ready for approval.

APPROVAL OF FINDINGS OF FACT

Motion by Mr. Burtner, seconded by Mrs. Wahl, to approve the Findings of Fact as presented.

AYE: Burtner, Field, MacInnis, Sears, Wahl. The motion carries 5-0.

NEW BUSINESS

Mr. Field states that Staff has made a request to move agenda item number 6 to the front of the agenda. The Board’s legal counsel has a conflict, and the City has brought in additional counsel to represent the Board for this item.

Motion by Mr. Burtner, seconded by Mrs. Wahl to move item 6 to the front of the agenda.

AYE: Burtner, Field, MacInnis, Sears, Wahl. The motion carries 5-0.

1. BZNA 0059-2024	
Location:	14800 Herriman Blvd
Applicant:	Reagan Outdoor Advertising
Description:	UDO § 11.C.5.H and 11.C.6 – Board to consider a Variance of Use application to permit the relocation and reinstallation of an off-premise sign.
Staff Contact:	Denise Aschleman

Ms. Denise Aschleman states for the record, Beth Copeland from Taft has joined us. Bose is conflicted out on the Reagan matter, so Ms. Copeland has agreed to step in and represent the Board for this item. This site is located just north of 146th Street on the west side of State Road 37. It includes an industrial building and the associated parking, and up until approximately two years ago, there was also an off premise advertising sign. That sign had two faces that faced northbound traffic, so the faces were on the south side of the sign, and it was a double stack configuration. As part of the State Road 37 upgrades and the installation of the interchange at 146th Street, the sign was actually within the acquisition area for the project. The acquisition area is this yellow on this illustration and you can see the existing sign right here. After construction, it basically ended up in a drainage swale, so it was very precariously located and was removed by the contractor sometime in 2022. This request is the first step in a multi-step process. They're requesting approval because we do not allow off premise signs as a permitted use within the UDO, but also the sign was taken down as part of a road project. The variance of use that they are requesting would allow them to reinstall the off premise sign. There are a couple changes to the configuration that are being requested. The previous sign was a double post configuration, they would go to a single black post and instead of the double stack configuration they would go to a back to back sign. The sign complies with the approximate height of 40 feet of the previous sign and the sign faces are approximately the same size as the previous sign. One request that they are making is that they be able to illuminate the new sign. They have provided to you a copy of their previous INDOT permit from 1993 that shows that it was illuminated or approved to be illuminated. The sign that was removed was never lit. They are requesting the approval to light the sign with the reinstallation. As she said this is the first step. One of the things that has not happened, we believe, is that the property owner and the sign owner have not reached a settlement agreement for the taking with INDOT or the City of Fishers so your approval is their indicator that they can go back to them and settle the outstanding right-of-way issues.

Mr. Field states sounds like we are kind of putting the cart before the horse and they haven't settled with the property owner.

Ms. Aschleman states here is the issue. If you don't approve the sign, the number is different. So we could do it either way is her understanding.

Ms. Copeland states she would say that it is contingent on a couple of things. So the reason why they're here first is to see whether or not it's authorized in that particular position. If it is, in fact, then that likely will reduce the amount of just compensation that they would be entitled to. There is still the alternative that this billboard can be located anywhere in the market area. So that would still be a second component of an analysis that would be done following this meeting.

Ms. Aschleman states on that one of the things they notice that in their presentation is that Noblesville could be responsible for up to a million dollars in costs associated with the sign removal. We refute that in that it most likely is the City of Fishers that is responsible for those costs, but that's something to be negotiated on the other side of this. Staff is providing a neutral recommendation. There are findings of fact both in favor and against included in your staff report, and if you do choose to approve this, there is also suggested conditions in the staff report.

Mrs. Wahl states she is not familiar with INDOT permits, but 1993 seems a long time ago. Is there an expiration date or the fact that it's changed design.

Ms. Aschleman states she is not super familiar with INDOT permits either. We have no records of the previous sign that was there so we have to rely a little on the INDOT permit as a record that they did intend to light it but we can't back that up with any records. She searched literally everywhere could in their system to try to find a record.

Ms. Michelle Noppenberger, Reagan Outdoor Advertising, 511 Madison Avenue Indianapolis, states if it's all right with you, she would like to go over her presentation that she had already planned. Kind of has some of the exhibits in the staff report that she had but she just wanted to go through it more detail if that's all right. Good evening, Chairman and members of the Board. She is here today to present petition BZNA 0009-2024 located at 14800 Herriman Boulevard for a variance of land use for the city's ordinance. Reagan Outdoor has been in business for 58 years and is owned by Bill Reagan Sr. and his three children. Reagan Outdoor has seven markets including our Indianapolis, Indiana market. The Reagan's have helped out the communities they are part of by paying it forward to various causes like the American Red Cross, the United Way and the YMCA to name just a few. There's an off premise sign owned by Reagan Outdoor Advertising that existed at 14800 Herriman Boulevard Noblesville, Indiana and Hamilton County along State Road 37. As a result of a State of Indiana Department of Transportation road project at State Road 37 and 146th Street interchange called the State Road 37 road improvement project. This project required the taking of right away of such that the off premise sign owned by Reagan Outdoor Advertising was removed from the area which had existed for decades. The top left 2022 aerial photo shows the location of the now removed off premise sign with a street view photo on the top right. The image on the bottom left is a 2023 Aerial view where it shows the off premise sign removed, and a street view photo of the removed structure on the bottom right. Here are close up photos of the removed off premise sign where the two poster panels faced south for northbound traffic. The off premise sign was a double stack poster unit, with each facing being 12 feet by 25 feet in size and had an overall height of 40 feet. Pursuant to INDOT rules and regulations and in conformity with state statute, this off premise sign is eligible for relocation as it is permitted to be relocated within the same county of the current location under Indiana Code 8-23-20-25.6 which is referenced here. She would like to point out the highlighted text to the left section 25.6(J), which states that Reagan Outdoor may relocate the outdoor advertising sign if the parties have not entered into a final settlement agreement or no final judgment has been entered with the state, which is true for this location. INDOT acquired the right of way property for the construction of the State Route 37 road improvement project and Reagan Outdoor is still eligible for relocation within the City of Noblesville, which is considered the market area. Under INDOT rules and regulations outdoor advertising structures are allowed in commercially and industrial zoned parcels. Under Indiana Code 8-23-20.5-3 if the variances or and/or special exception are not granted, the financial difficulty would be imposed on the city of Noblesville, with the total taking costs likely to reach up to a million dollars. The last highlighted paragraph to this code states the county or municipality that did not approve the relocation of the outdoor advertising sign within the market area is responsible for the payment of full and just compensation for the outdoor advertising sign. The structure will continue to be at 40 foot overall height which, with each static facing being 12 feet by 25 feet and advertising space sides directed towards State Route 37. The previous structure was built on I Beams with each face direct itself for northbound traffic, we are requesting to upgrade to a monopole which would conform to current Indiana building code wind loads which staff also supported a monopole during our pre meeting. We also request the faces to be back to back with a 10 foot V separation with lights as opposed to the double stack which showed the backside of the sign when traveling southbound and here are a few examples of a back to back poster unit with a 10 foot V. They show the current zoning for this location as I-1 light industrial and the land use plan use is manufacturing and due to special circumstances with the need to relocate the off premise billboard sign there is a need for flexibility as the existing sign was not pretty previously subjected to. Here you will see our site plan showing the dimensions of the proposed sign to the parcel perimeter showing the 10 foot V separation. Our faces are angled toward State Route 37 and approximately 21.5 feet from the new right away. Proposed structure location is approximately 80 feet in distance from its previous location. This move allows the new sign to be totally located on the property, while allowing the owner of the parcel the space to add on to the existing building in the future if they choose. The yellow highlighted area shows the approximate

INDOT right-of-way acquisition area. Here's a 1976 Aerial view from Hamilton County's GIS showing our proposed off premise sign parcel which had existed for decades. And here we have a mock up photo for southbound traffic of the north facing panel and structure which is our right hand read. And then a mock up photo for northbound traffic of the south facing panel and structure which is our left hand read. Other opportunities an off premise sign can present is the local public service and advertising for local businesses shown here. So there's quite a few that advertise with us in Noblesville, and then we are requesting that the sign faces be illuminated. INDOT had approved the previous sign for illumination as shown on the INDOT permit for the removed off premise sign. Panel view lights at 220 volts would be used with one light directed toward each of the two faces facing to the sign face.

Chairman Field opened the public hearing; seeing no one, Chairman Field closed the public hearing.

Mr. Field states so basically the State of Indiana has said the heck with your ordinances and zonings you pretty much have to do this or you have to bear the costs incurred by the sign company. Is that correct? Is that an accurate assessment?

Ms. Copeland states to some degree, yes, the state has regulated this. But one thing that she would like to clarify that she believes was not accurately represented is market area is not Noblesville. Market area is the entire county. They have the opportunity to be able to relocate in the market area, which is the entire county, and if they cannot locate within the entire county, then they are entitled to just compensation.

Sounds like it sounds like it turns into quite a controversy and basically, we are picking a plaintiff tonight is that what you are saying.

Ms. Copeland states potentially.

Mrs. Wahl states so just to get this right, even if there's an overlay that protects the corridor, it goes away because the state is saying it doesn't matter what kind of rules and regulations you may have that would protect signage like this.

Ms. Copeland states the state's regulation on this requires us consider the variance and you have to approve or deny the variance. You have to approve the variance if they meet the qualifications, deny it if they do not.

Mrs. Wahl states they haven't looked anywhere else. Obviously, this would be the first site that they look at within their market area.

Ms. Copeland states she can't answer whether they've looked anywhere else.

Mr. Field states well there was a sign there before and we all survived. Rather than create another legal headache for the city he is tempted to approve it.

Mr. MacInnis states he thinks he would agree with that.

Motion by Mr. Sears, second by Mr. MacInnis to approve application BZNA-0059-2024 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 need for the proposed variance arises from some condition peculiar to the property involved;**
- **The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property for which the variance is sought; and**
- **The approval of this variance does not interfere substantially with the provisions of the Comprehensive Plan for the City of Noblesville, Indiana.**

With the following specific conditions:

1. The proposed sign shall not exceed 40 feet in height.
2. The sign shall be setback a minimum of 20 feet from the revised right-of-way line shown on the INDOT drawings regarding the construction (also shown as yellow shaded area on page 11 of Petitioner's Presentation – Exhibit 5).
3. The lighting shall be shielded from the adjacent roadway.
4. The sign shall not be converted to an electronic sign display in the future.
5. If the sign is destroyed by any means to an extent that the cost to repair the structure exceeds 50% of the cost to build a new structure, the sign shall not be reinstalled until a new variance of use approval is obtained from the Board of Zoning Appeals.

6. 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.
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 Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

AYE: Field, MacInnis, Sears. NAY: Burtner, Wahl. The motion carries 3-2.

2. BZNA-0006-2024

Location:	142 Edgewater Drive
Applicant:	Mathew J & Michelle R Rose (property owner)
Description:	UDO § Table 8.B – Board to consider Variance of Development Standards application to allow the reduction of the front yard setback for a property within the R-3 (Moderate to High Density Single Family Residential) zoning district (25 feet required; 15 feet requested).
Staff Contact:	Rina Neeley

Mrs. Rina Neeley states the subject site is located at 142 Edgewater Drive approximately 2000 feet south of Carrigan Road. The 0.6 acre property contains a single family residence built in 1993 as part of the East Harbour II subdivision. The property owners are looking to subdivide the property into two lots so that they could build a separate home for their aging parents. The aging parents obviously would need a ground floor master bedroom suite. Unfortunately, due to the shape of the existing lot as well as a 20 foot Morse Reservoir maintenance easement and floodplain the property is constrained. And if they were to subdivide the property as it is now, they would only have a 20 foot building pad without the approval of a variance reduction to 15 feet. The existing houses within this neighborhood tend to have homes that are at least 32 feet deep. With this variance to allow a 15 foot front yard setback, the proposed building pad for the new lot would be 30 feet by 65 feet, which would allow them to build a house with architectural interest that matches the existing neighborhood. There was previously a remonstrance letter from the neighbor across the street. However, in light of the staff report, as well as a talk with his neighbors, he has rescinded that remonstrance letter. Staff recommends the approval of the variance based on the specific conditions.

Mr. Burtner asks about the driveway coming to the property and if there is enough room to get it in there.

Mrs. Neeley states she is going to let the petitioner speak about how they're going to design where that drive is going to go. She believes they talked about a side load garage, but she doesn't have plans to that effect at this time.

Mr. Andy Wert, 2 North 9th Street, states he is here tonight on behalf of his clients, Matt and Michelle Rose, who are here in the audience and also present are Gale and Beth Foglesong. As staff pointed out both in her verbal and written reports, they are seeking a front setback variance for a lot in East Harbour that is pretty unique in several respects. Not only is it the largest lot in the subdivision, but it is also one of just four that doesn't have westward facing frontage on Morse Reservoir. Michelle's parents, Gale and Beth, until recently owned a home just down the street in East Harbour Point. They have reached a stage in their lives where they would like a little less property to maintain and a master bedroom on the main floor, so they don't have stairs to negotiate as much. Still very much want independence, but they're being realistic and having a family member next door will be convenient, but in the coming years perhaps critical. Planning staff has very wisely counseled us to have a surveyor lay this out with a building pad, which they had Miller Surveying do just that. As it turns out, the floodplain around the reservoir has changed somewhat. It's not the level of the waters rising it has more to do with a floodplain associated with the reservoir and how that's calculated. There is as some of you probably know, a 20 foot License Agreement held by the water company around the water's edge that is effectively an easement. At this location, as they have indicated on the site plan, the floodplain and that easement pretty much run together. That limits of course, how close they can get to the water we can build. So they need the front setback, as Mrs. Neeley had mentioned their need for that stems from a desire to construct a home that is in keeping with the architecture of the existing East Harbour II homes. Should the variance be approved, they would follow it up with a replat of a lot which itself would be a public hearing with the Plan Commission and of course, a building permit. He has reviewed the staff report and they are in agreement with the suggested conditions of approval.

Mr. Field asks is there a property owners association in this area.

Mr. Wert states there is yes.

Mr. Field asks how does this jive with them and they approved this or blessed this.

Mr. Wert states they reviewed the covenants. There are no restrictions on subdividing lots in East Harbour II. They are pretty basic. They're not like the covenants you see with newer subdivisions now but pretty similar for what was

developed in the 90s. The association is aware of this, and they would be reviewing architectural plans when they are ready for building permit.

Mr. Burtner asks about the driveway access.

Mr. Wert states they haven't designed the house yet. They have talked about a side load garage that would make some sense given the fact that it is shallow and have plenty of width. But at this point, he doesn't have anything specific to show you.

Mr. MacInnis asks if the utilities will be separate.

Mr. Wert states they will all be separate.

Chairman Field opened the public hearing; seeing no one, Chairman Field closed the public hearing.

Motion by Mr. Sears, second by Mrs. Wahl to approve application BZNA-0006-2024 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 proposed house will be architecturally compatible with the existing neighborhood.
2. 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.
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 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, Field, MacInnis, Sears, Wahl. The motion carries 5-0.

3. BZNA-0031-2024	
Location:	7810 E 160 th Street
Applicant:	Beaver Materials
Description:	UDO § 8.B.2.B and Appendix C – Board to consider Variance of Use application to permit Mineral/Sand/Gravel extraction on a property within the R1 (Low Density Single Family Residential) zoning district.
Staff Contact:	Denise Aschleman

Ms. Aschleman states the site is located outside of city boundaries but within the planning and zoning jurisdiction and are exercising that planning and zoning jurisdiction subject to state law. The property is on the north side of 160th Street and is approximately 800 feet west of River Road. This site consists of a single parcel approximately 2.91 acres in size and the property to the north, east, and west are existing gravel extraction operations owned by Beaver Gravel, and also Martin Marietta, and to the south and further east along 160th Street there are some single family residences that line that street. In addition to the directly adjacent land uses, there are also a number of active mining and excavation sites located in the area, including the area to the west and the south that is part of the underground mining operations owned by Martin Marietta. They also have surface excavation sites and their main plant on the south side of 160th Street and along River Road. In December 2023 the Department of Planning was made aware of the operations on this site because of an email to the department email account asking about the zoning of the property. So once we received the email, we began doing research on the property in question and found that it was and is zoned residential. Based on satellite imagery, however, it appeared that excavation work was occurring on the property, and further review also indicated that a residence on the property was demolished late last year and we had not approved a demolition permit for that work. The department promptly notified the owner of the violations on the property and informed them that they must stop operations on the property until the violations were corrected. The owner complied by stopping work, completing a demolition permit, paying the applicable fine, and seeking the variance before you tonight. The owner informed the department that they had mistakenly believed that the property was zoned I-2 Heavy Industrial like their parcels directly adjacent to the property and that is why they began excavating the property. Once

we received the fine and paperwork for the demolition permit, it was approved by the Department, however, the department cannot and has not approved excavation work on the property, and that is the need for the variance tonight. They are requesting a land use variance to allow them to conduct sand and gravel excavation on the subject site because the property is zoned residentially. The sand and gravel on the site had to cease until the approval of the variance, and the owner has informed the department that they have mined approximately two-thirds of the material on this parcel with a third remaining. The submitted request would allow them to complete the excavation on the site, and if approved, the applicant would also complete reclamation efforts on the site. They are proposing to accept construction and demolition waste in compliance with the IDEM guidance document requiring the acceptance of clean waste only. Upon completion of the excavation, this site will be placed back as close into its natural conditions as possible. Staff has provided a neutral recommendation on this project. We believe that there are facts for and against granting the variance and that the Board will need to consider the evidence submitted by the petitioner and any remonstrators and weigh that evidence and then make the appropriate findings. To aid the board, the department has submitted favorable and unfavorable findings, and you could use those findings, craft your own findings, or modify the below as you see fit. One recommendation from our legal counsel has also been that you allow staff and our counsel to craft those findings and you would then consider them at your next meeting. One thing to add to this that did not make it into your staff report. We received a call from Duke Energy this morning, and they do have transmission lines in the area. He's tried roughly to highlight them with the red lines. There is a 70 foot easement included with that those electric lines going through there. They have asked that the board be aware of the existing easement and that there are concerns from them about grading around the polls and the movement of dirt near them along with the planting of trees in or around the easement. Staff would recommend that if you do choose to approve this we add a condition to the approval of what's already in your staff report to address that they work with Duke Energy regarding the easements and the plantings that are in the area near that easement.

Mr. Jim Shinaver, 550 Congressional Boulevard, states they represent the petitioner Beaver Gravel Corporation and present tonight on behalf of Beaver are Chris Beaver, Ali Alvey, and Rob Shank. Also with him tonight is Jon Dobosiewicz, land use professional with his office. As Ms. Aschleman just described, Beaver is seeking a variance of land use approval for the single parcel of real estate that consists of about 2.91 acres. Parcels located north and adjacent to East 160th Street and west of River Road. As Ms. Aschleman also explained, the real estate is zoned R1 residential situated between Martin Marietta's mine operations on the north side of 160th and also nearby Beaver's current operations. By way of general background while the other Beaver owned parcels that surround this particular real estate to the immediate north, east, and west are zoned I-2 as Ms. Aschleman also explained this particular parcel is zoned R1, which would not permit these types of mining activities. Beaver apologizes for inadvertently misunderstanding this zoning issue and they want to remedy it by seeking this variance. After mining about two thirds of the real estate, only about a third of that real estate is left to be mined if the variance were approved. As well as the information that we provided to the board, if the request is approved in mining completes, then reclamation efforts would be underway to return the real estate to a different condition than it is here mining which would include a landscape berm and landscaping that he will describe in a moment.

Mr. Field states so you've already mined two thirds of the property. Now we are informed by the power company that there are power lines running through the company which are going to reduce again the amount of land that can be mined. Is it worth it at this point to continue.

Mr. Shinaver states part of the reason they also seeking this variance is that if the variance were denied, based on the underlying R1 zoning standards, their understanding based on information that they have received from staff is that a landscape berm in that situation can only be six feet in height.

Mr. Field states in order to remediate it, you have to be able to change the zoning.

Ms. Aschleman states he is correct. The maximum berm height with R1 zoning is six feet. Traditionally, they've gone closer to a 15 foot berm around their facilities. He is correct also that remediation, filling in what they had done, also wouldn't be permitted.

Mr. MacInnis asks when that berm is going to be put in.

Mr. Shinaver states one of the additional conditions of approval that they were going to propose tonight is that if approved, the approval would only last for one year. And during that one year time period, they would have to complete the remaining mining activity, but also complete the reclamation, installation of the berm and landscaping. So it would all occur within a one year period of approval of the request.

Mr. MacInnis asks will that connect to the berm already there for Martin Marietta.

Mr. Shinaver states yes, sir. It would and if approved to finish out the mine operations, a five foot berm would then be installed along the segment. Then once the mining activity were complete, that five foot berm would be increased to a 20 foot berm, which they believe provides much better buffering to the neighbors to our south, as compared to how the individual home previously buffered the neighbors to the south before it was demolished. Because again, when you look at the overall mining exhibit, our subject real estate, the 2.91 Acres is outlined here in blue and so when you look to the to the north, the east and the west, you have all these different mining operations. Granted while the existing ranch home that existed there previously provided a somewhat of a buffer, they feel if allowed to finish the mine and complete the reclamation, the installation of a 20 foot landscape berm along that entire segment would actually provide

a more proper screen and buffer to those neighbors to the south. One item that they want to point out is as Ms. Aschleman stated, staff has taken a neutral position on the request, and they provided you two separate findings of fact consider one in support and one if you were to take action to deny the request. When you review those, each finding of fact are essentially the same other than finding number four, which is the unnecessary hardship finding, and that was an observation that they wanted to point out to this board that if this request were denied, that puts a different situation at hand because the underlying R1 zoning would only allow a berm of a certain height. Whereas if the request were granted, they could actually extend the height of the berm and then incorporate the landscape plantings, and so that was something very important that they wanted to explain to the board as it relates to the unnecessary hardship. This last exhibit on display was included in your informational brochures, and this is just an example, again of the landscape planting areas and the location where the berm would be located. And so with that said, the conditions of approval, one Beaver would be more than agreeable to the conditions of approval that are currently contained in your staff report. They want it clear on the record that if allowed to proceed, they would install a five foot tall berm at this time. And then once mine operations are complete, they would they would expand that extend that to be a 20 foot tall berm with the landscaping. They are also agreeable to working with Duke Energy regarding their poles on that particular type of situation which Beaver has good relationship with Duke, so they know how to interact with each other and come to resolution. With that said, in conclusion, the Beavers did have a neighborhood open house on April 17. That occurred from about three to five in the afternoon on April 17. They mailed out notice of that open house to the other surrounding owners that would have received notice of tonight's BZA meeting, they had a few in attendance. But with that said, we do believe that granting this variance request actually allows for a more superior and significant buffering treatment along this segment of 160th Street where the property is located, and that's the unnecessary hardship they are trying to avoid. They want to be able to provide that buffering and that taller berm. But with that said, they do thank you for your time consideration, and will remain available to answer any questions you have as now or after the public hearing. Thank you.

Mr. MacInnis asks what is the reason that the 20 foot berm can't go in now.

Ms. Aschleman states the zoning won't allow it. It only allows a six foot berm on residential properties in an R1.

Mr. MacInnis asks if we grant proposal, can they put the 20 foot berm in now.

Mr. Shinaver states they are actually seeking a use variance. So they are not seeking a rezone of the underlying zoning classification. What they are seeking is specific approval to allow for this particular activity.

Mr. Chris Beaver, 16160 Cherry Tree Road, states they can put a 20 foot berm in now. What they are doing is they are going to extract the sand and gravel out. There is two easements running through there you have a sewage easement that is high pressure and then you have the power line easement. The power line easement runs through all of our property east/west, and they are very used to working with Duke. Their berms today are set up to meet their requirements. He thought it was a 60 foot in this particular area because of the age of it. So it's 30 feet on each side or berms are set up that way now. So they could put up the taller berm right away. What they want to do is make sure that they do what the neighbors asked during the neighborhood meetings, and that it has some types of grass, rees, different things of that nature, but Duke will supersede anything they do. So they are okay to put the taller berm now, and then they will fill it as soon as it's dug. He will have that done by one year. Anything else? He does want to apologize. He does want to apologize for Beaver doing this. It's not something that they are very proud that they did, and they do know zoning. In this instance they misread. There's a small sliver that is I2 that goes clear to 160th. So if you go to the map, you hit it looks like all the property is I2. When he called his father, they were both very shocked that this was not because it was bought in a large parcel of land, and this small section for some reason didn't get zoned. He would like to apologize for that.

Mr. MacInnis asks is it on septic and well.

Mr. Beaver states it is septic and well.

Mr. MacInnis asks if those were demolished to the specifications of the Health Department.

Mr. Beaver states yes, they went and got all the permits. When they had taken the house down, they just started and the city notified them and they stopped immediately. They came to the city and met with them and to find out exactly what they needed. Then they filed for the proper permits, which means the well, the septic, the house. We had August Mack come out and do a study on the house to make sure it didn't have asbestos or anything else. All those reports were given when we got the permit.

Mr. Sears asks was the house a Beaver family house.

Mr. Beaver states yeah, his father owned it in an LLC, and then they bought most of the LLC have the house was included in it. So yes, it was a Beaver Gravel. They moved the renter one house over. They bought the neighbor's house, and they moved them there because they liked the area.

Chairman Field opened the public hearing.

Mr. Bill Kirsch, 7825 East 160th Street, states his wife Becky and he live immediately south of where the illegal mining occurred. Kyle Davidson with their two young children live right next door to us to the west. He would like to show you

what it was before. This is the best mapping he could get. It's in red right here. This is obvious a residence. There's a single residence there, and honestly, he came here not understanding how anyone could find the findings of fact 4, were not met, and he appreciates the lawyer saying absolutely there was no hardship whatsoever in this being R1 zoned. It was R1. The data you had otherwise is also a little bit out of date. He has the Hamilton County GIS from 2024. He thinks you can see right here there's no trees, no house, it's already been mined fairly extensively or taken out of there. The other thing he wants to make clear, and it was mentioned, Beaver is not merely extracting material. This is off their website, they have become Beaver dump, and they are busy dumping material in there. As long as Beaver Material states that it is clean, the IDEM calls it unregulated. They do not do any inspection on it. You guys may all be aware that he was not when this started. So going back and talking and he thinks there's two key points. One of the findings of fact we all agree if you can't find that item is true. It's not an undue hardship whatsoever. He wants to spend some time on item one, it's not injurious to the public. Beaver Materials has presented experts that state there's no problem with the water supply in our wells that close to having unregulated dumping. In previous meetings, he has been here when other experts and brought in and stated that it's fine. He is concerned. He has grandchildren. His neighbor here has children. So I started asking unbiased government employees. He started with Hamilton County Water, he said is it safe to take out an extra 250 feet of sand and gravel which filters and fill it with unregulated waste. He said I can't say that's true. He tried the Indiana Department of Natural Resources. They wouldn't tell him that it's safe for his family. He tried IDEM. They were not telling him it's safe. So he understands dumping in a wellhead area and so forth. He just hasn't been convinced, but as you consider that the final thing. He appreciates the apology. He feels frustrated. He thinks you should feel frustrated that someone who's an expert in mining they told me at 56 years, he would think the first thing you do is find out that you're zoned to do it. They did not come to you and ask do we have permission to change this from residential. It's interesting if they had obviously you couldn't have done it because finding of fact number four held. So he is going to stop there hoping he too much time. He just doesn't think the City of Noblesville, on their birthday, wants to condone illegal mining. Thank you very much for your time. If he could make one final comment. He does want to admit, Chris Beaver and Rob Shank did take time to meet with him. They're very kind. Denise Aschleman was very kind to explain to him the process. So he wants to thank all of them here publicly. Thank you.

Mr. Kyle Davidson, 7795 East 160th Street, states just from this image right over here, how it was set up previously there was a berm behind the house and the garage and that had all been taken down. And now the berm is I don't know, five, six feet away from the road. So the berm was there before and now it's completely gone.

Ms. Pam Adams, 15269 Blazier Trace, and Jada Aidun, 6547 Pennan Court introduce themselves. Ms. Adams states since convenience does not meet the standards for hardship in the findings of fact, sand and gravel can be easily mined away from existing homes, as your maps indicate, but there are concerns about the injury caused by a business that mines, dumps, and demolishes homes illegally within a residential neighborhood and here's why. Approving this variance will reward a business that operates outside the law, and since IDEM allows so much self regulation, why should the BZA impose such high risk to residents next door. Why should Noblesville inherit a precedent for lawlessness. Who wants to buy a home where mining interests can ignore the minimum protection set for the community. Since preventing injury to the public is a standard, why are the materials that were illegally mined, dumped and buried not checked for toxicity and removed since it appears the water table has possibly been exposed. Why hasn't the testing of nearby wells and ponds for contaminants commenced since the home was demolished illegally and was built during the time when asbestos was used. Asbestos was commonly used in houses that age and could be and should be removed by licensed professionals. Is there documentation for this. Lead from plumbing, teratogens in insulation, cement board ceilings, etc have been dumped near the water supply. Has there been any testing for the contamination of the soil and water. What happens when a gas line is hit or if it's been nicked during demo, and the illegal mining will an explosion result over time as the damaged line degrades such as out east. We've heard those news stories. This is a huge risk and liability for neighbors and Noblesville. The fact demolition and mining occurred in the same space is a recipe for water and soil contamination particularly when it is done when it was done outside the law. Past violations indicate additional risks to homeowners since this variance allows heavy industrial activities closer to existing homes now more than ever before. And here are some of the items in the item cabinet. Operating without a stormwater permit in Strawtown. She just found out that's in the county surveyor's office not in the item cabinet. Fugitive dust dragging mud on road there are numerous violations for this. Operating without a permit River Road including air emissions units. This pattern of operation is injurious to the public health and welfare especially near homes. Why are there no consequences for digging and dumping and demolishing the home steps from neighbors without permits. Can all of us dig 50 foot holes in our backyards for months without permission and then bury items we say are clean without question. Isn't it illegal to establish a dump on residential property. Why would BZA consider this application or any application from Beaver Materials in the future when citizens homes, air, and water are in such great risk of contamination based on past and current behaviors that we know about. Why would the BZA grant this variance when no one has evaluated the dump, the water, and the soil. Why hasn't the materials been removed or restored to its original condition as it is customary in cases when permission such as like this has never been granted. So you know what they say for reclamation, they can't do it because they need it to be the variance and that kind of creates a bad situation and created a force into a variance when there shouldn't be a variance for this based on what is here happened, and she thinks that's it. Thank you very much for your attention and she hopes she has influenced your decision

Cindie Weltch, 1080 Greenfield Avenue, states she has actually presented evidence on the Potter's Bridge, a debacle. We won't go through that. She guesses she is going to be short and sweet. Okay, she made a presentation on the noise issue. She has seen so much shenanigans so much. She has seen so many things that she would never expect would be rubber stamped here. Her testimony is that we have all been down here for she doesn't know how many times and you cannot tell her that Beaver was ignorant, knowing that wasn't zoned R1 and thought it was industrial. Now he's forced you into a corner where you have to almost back him, which she just thinks is just incredible. She has studied a lot of land use zoning plans, all over the United States, she has never seen such utter disregard of the law, and if you rubber stamp that it's going to set a precedence to her, and a whole lot of people. And she thanks you so much. She knows it's been a very, very difficult issue that people are very passionate about this. Laws are meant to be made to be followed, and how dare anybody go and mine two-thirds of the property, and then come back in here to ask for all of this special consideration, because he's forced your back to the wall. Thank you very much for your time, she hopes you consider what she has to say. Thank you.

Chairman Field closed the public hearing.

Mr. Field states there's been allegations that you're running an unregulated, uncontrolled dumping operation, could you speak to the types of materials you take in and how you dispose of them.

Mr. Shinaver states yes. Let him reintroduce Mr. Beaver because he can give you very detailed information on that topic.

Mr. Beaver states there's a little misunderstanding about regulation. They are not a dump, or solid landfill. A dump is something you would take is regulated by the state. They are regulated by the state and the county because we're a solid landfill. The county will come in and make sure that they are putting the right product in. They can only take certain materials, and they have a list. He has cameras set up all over. They have an operator that checks every truck, they can see the license plate, the truck, inside the bed, and then so it is regulated by the state and the county.

Mr. Field asks what are you allowed to take.

Mr. Beaver states solid fill, concrete, dirt, things like that. They cannot take anything that is trash. Anything that is manufactured like wood. He can take trees, but he cannot take wood that has been processed. Cannot take any type of trash. So basement dirt, road debris, the work just going on right here. So, a lot of that would have been brought to their solid landfill and the operators taking it are responsible for it. So if they have found that they have brought in the wrong material IDEM will come in, they will mark that area, that person has to come and remove it and take it to a trash dump.

Mr. Field asks what did what did you do with the house.

Mr. Beaver states the house was hauled off to a trash fill. They hauled all of it off. They did not put or bury any on their own property. So the house was hauled to Boone County because he cannot take trash. He did not take it. He loaded it into dumpsters, and they took it out and hauled it. He has the receipts, and he can prove that the only dirt that has been dumped on this property is actually dirt from his own property where he stripped off for gravel. He can say on here today the only dirt that would be put on R1 property is dirt that comes off his own property. They will not dump anything from the solid fill because solid fill is going on I2 and not R1.

Mrs. Wahl states just further clarification, when there is a demo of a structure that does have asbestos that has to be removed to a special location and your location is not one of those, correct.

Mr. Beaver states it is not. Their location, they cannot take anything like that trash. Everybody already knows that you just can't mess around with IDEM. You don't take things to the wrong area because of the fines. This project here is the same that he did across the street on the Kinsey property. They have done this in multiple locations. Every one of those has a job trailer. Every one of those is heavily regulated by them and by the government.

Mr. Field states the proposed 20 foot berm. How far east is that going to extend. Is that going to be just on the property that was R1 or is that going to go all the way to River Road.

Mr. Beaver states they are connecting two berms together. So if you look here, this is a berm now that they have put up for the neighbors to the south, and they have made that considerably higher. They asked them to do certain things with mowing. They try to work with their neighbors. They all want to get along. Everybody here they get along, they have a difference of opinion. So the berm to the west is Martin Marietta and the berm to the east is their berm now. It will connect all the berms, so you have one solid berm that is maintained.

Mr. Antrim states Mr. Chairman, just wanted to reiterate, given the complexities of this case, whatever you guys decide to do with your motion, just be sure whenever you make the motion to have your written findings be drafted by legal counsel in consultation with staff as well.

Mr. Sears states while Beaver acknowledged that the wrongdoing in the first place, he believes that long term best interest for the area would be to have a higher berm which is ineligible to be the case without the approval of this body. So, not condoning the absence of the front end effort for the long term future of the area

Ms. Aschleman asks if he would like to hear a possible condition before making a motion. Excavation and mounding in the area near the Duke easement at the southeast corner of the site shall be discussed with Duke Energy and all changes shall be mutually agreed upon by all parties. That is staff, the applicant, and Duke Energy.

Motion by Mr. Sears, second by Mr. MacInnis to approve application BZNA-0031-2024 based upon the following findings of fact to be crafted by staff and counsel and adopted at a subsequent meeting:

- **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 need for the proposed variance arises from some condition peculiar to the property involved;**
- **The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property for which the variance is sought; and**
- **The approval of this variance does not interfere substantially with the provisions of the Comprehensive Plan for the City of Noblesville, Indiana.**

With the following specific conditions:

1. The Applicant shall install perimeter landscaping and buffer treatments along the 160th Street frontage. This shall comply with the plan shown in Exhibit 3.
2. No gravel processing – blasting, crushing, or wet processing – shall occur on the subject site (Parcel #10-10-11-00-00-017.001).
3. All clean fill accepted on the site shall comply with the IDEM guidance document contained within Exhibit 6.
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.
6. The excavation and mounding in the area near the Duke easement at the southeast corner of the site shall be discussed with Duke Energy and all changes shall be mutually agreed upon by all parties.

AYE: Burtner, Field, MacInnis, Sears, Wahl. The motion carries 5-0.

4. BZNA-0054-2024	
Location:	2166 Sheridan Road
Applicant:	Nathan Peternel, Life Church Assembly of God (Property Owner)
Description:	UDO § 11.C.1.C – Board to consider Variance of Development Standards application to permit a ground sign on a property within the R-1 zoning district that has an existing ground sign for the church.
Staff Contact:	Rina Neeley

Mrs. Neeley states the property is located on the north side of Sheridan Road about 825 feet northwest of South Harbour Drive. It's part of the Noblesville Life Church campus located at 2200 Sheridan Road. The petitioner is requesting a variance to allow a ground sign on a property that already has a ground sign for the church. The existing church ground sign is located here. They would like to request a ground sign to be located at least 100 feet from the existing ground side for the coffee shop. As you know in 2021 Life Church Assembly of God obtained the land use variance to allow a transitional home, coffee shop, and meeting hall typically classified as commercial uses. Unfortunately, the transitional home is no longer part of the project because the program was dissolved in 2022. At the time of the land use variance the petitioner did not request signage for the coffeehouse, so they are doing so at this time. The proposed coffeehouse ground sign will be similar to the existing church sign which looks like this, and this is their proposed sign. It will be smaller, and she has outlined specific conditions for the limits of a sign under the conditions of approval. Staff recommends that the Board approve this variance with the specific conditions as listed.

Mr. Nathan Peternel, 2166 Sheridan Road, states he is the lead pastor at Life Church.

Mr. Field asks if he received a copy of the staff report and is he willing to comply with the conditions listed in the staff report.

Mr. Peternel states he believes that they have agreed to pretty much everything that has been said.

Chairman Field opened the public hearing; seeing no one, Chairman Field closed the public hearing.

Motion by Mr. Burtner, second by Mrs. Wahl to approve application BZNA-0054-2024 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 ground sign shall meet the ground sign requirements based on UDO § 11.C.1.D:
 - Maximum Sign Area: Forty-five (45) square feet
 - Maximum Ground Sign Height: Five (5) feet (from grade)
 - Location: A minimum of ten (10) feet from the street right-of-way and a minimum of ten (10) feet from the leading edge of the driveway. The sign shall be separated from another ground sign located on the same side of the right-of-way, a minimum distance of one hundred (100) linear feet.
 - Materials: The sign shall be constructed of materials that blend with the character of the building such as but not limited to wood, metal, or masonry. The copy shall be individually mounted channel letters, sandblasted, or etched. Please note that push through letters do not meet this requirement..
 - Illumination: Externally lit
 - Landscaping: An area equal to three times the area of the sign face shall be required for base landscaping around a ground sign. The landscape area will radiate out a minimum of five (5) feet from the base of the sign shall be provided and shall be planted in such a way to substantially cover the area with landscape materials such as, but not limited to annuals, ground covers, perennials, shrubs, and ornamental trees. A mixture of plant types is required.
2. This building and/or property (as shown on the Site Plan) may have one (1) ground sign or one (1) wall sign. If the petitioner pursues a wall sign in lieu of a ground sign, the sign shall comply with wall sign requirements outlined per UDO §11.C.1.D.
3. 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.
4. 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, Field, MacInnis, Sears, Wahl. The motion carries 5-0.

4. BZNA-0056-2024 / BZNA-0057-2024 / BZNA-0083-2024 / BZNA-0084-2024	
Location:	5880 E 161 st Street
Applicant:	Jeremy & Amy Hochstedler (property owner)
Description:	<ol style="list-style-type: none"> a) UDO § 9.A.6.A – Board to consider a Conditional Use application to permit a tree farm with a limited commercial or retail operation on a property located within the R-1 (Low Density Single Family Residential) zoning district; b) UDO § 9.B.2.C.3.a – Board to consider a Variance of Development Standards application to permit the construction of a barn that exceeds the maximum sum of accessory buildings allowed for a property greater than five (5) acres; c) UDO § 9.B.2.E – Board to consider a Variance of Development Standards application to permit the construction of an accessory structure without a primary residential structure and use on a property within the R-1 zoning district; and

- d) UDO § 9.B.2.C.3.b – Board to consider Variance of Development Standards application to permit the construction of a barn that exceeds the maximum accessory building height allowed for a property greater than five (5) acres

Staff Contact: Rina Neeley

Mrs. Neeley states this property is located at the northeast corner of Hazel Dell Road and 161st Street. It is an undeveloped lot that has been historically used for agriculture. The property is surrounded by single family residential uses on all sides. As you know agricultural uses are permitted in all zones within the City of Noblesville, however, if the property owner or user wants to have some sort of commercial use on the project, or limited commercial use on the property they would need a conditional use from the Board of Zoning Appeals. The petitioner, the Hochstedlers, will be operating a you pick Christmas tree farm on site. They will have limited operations during the holiday season from Thanksgiving weekend through the end of December. What they're doing is providing families with an opportunity to establish a holiday tradition by picking their own trees and cutting them down on site. At full capacity, the tree farm will have approximately 15,000 Christmas trees planted over seven acres of the property. Unfortunately, it takes approximately six to eight years for Christmas tree to grow before harvest so they have requested a portion of the site be allowed for precut trees that weren't grown on site while they get their farm established. In addition to the conditional use, the petitioner has requested three variances in relation to a proposed pole barn. The first one is the construction of an accessory building without a primary building or house on a residential property since this is in the R1 zone, the second variance is a 10,000 square foot accessory structure which would be 9600 square feet square feet of pole barn with an attached 1400 square foot covered patio. This exceeds the maximum sum of 4000 square feet of accessory buildings allowed on a property greater than five acres. And the last one is a pole barn that is 24 feet in height. This exceeds the maximum 20 feet allowed for accessory structures on a property greater than five acres. They do not plan to construct a house on the property at this time. However, they will need a pole barn to support their farm operations to store their equipment, supplies, vehicles that sort of thing, as well as operate a portion of the Christmas tree farm operations. They will have multiple tree processing stations inside the barn. This will allow them to have a place to put the netting on, shake it, and that sort of thing, and the taller barn structure will allow them to have to be able to do that for taller trees. It will also allow place for families to gather inside and protected from the winter weather that usually happens at that time of year. Farm experiences open to the public are becoming less common as family farms are sold to developers for residential or commercial development, and the Hochstetler has would like to establish the Christmas tree farm to revive the holiday farm tradition and have most of the activities occur indoors. Staff recommends the approval of the conditional use and variances based on the specific findings of fact, and she is going to show a couple of exhibits. This is what they propose the site to look like. They will have a paved driveway back to the barn. This is the proposed elevation of a barn and the proposed layout of operations in the barn. She forgot to mention that they have also requested a sign for the Christmas tree farm which has been included as a condition of approval, and it's approximately going to look like that. The last thing was she received an email from Linda Coin, and she has several questions that she has passed on to the petitioner about the proposed operations of the farm.

Mrs. Wahl asks is the parking area paved or gravel. Like are they going to see another variance.

Mrs. Neeley states at this time, they haven't said whether it was going to be paved or not. The driveway for sure is going to be paved. If you guys want to see it paved, you can request that.

Ms. Aschleman states she will real quickly answer one of those questions that is listed as she doesn't think that the applicant is going to be able to answer the first question which is what is the sound ordinance. This property would be subject to regulation from the noise ordinance for Hamilton County unless they annex and hook up to our sewer in which case they would be subject to the Noblesville noise ordinance which have a requirement at the property line.

Mr. MacInnis asks about hours of operation. Is this seven days a week.

Mrs. Neeley states it would be restricted to weekends during the holiday season or by appointment during the week.

Mr. MacInnis asks what about the classes.

Mrs. Neeley states you will have to ask the petitioner the specifics about that.

Mr. Jeremy Hochstedler, 5103 Sweetwater Drive, states he is joined by his wife who is in the back. Basically here for any questions, but long story short, they would kind of want to create the Hallmark experience here in Noblesville. His wife loves to listen to Christmas music starting on Halloween. She watches Hallmark movies in July. They purchased the farm last fall. They planted 3900 Canadian fir trees approximately three weeks ago, over the span of four days with the help of his father, his father in law and several friends. Long story short, they want to also build a barn on the property. They don't do not want to change the zoning because they do want to plan to build their future home on the site as well, but that's not what they are here for today. The barn itself would exceed restrictions as mentioned previously. They have met with several neighbors in the area, including Allen Weaver and his family who is in the audience here today as well. As far as he knows, everybody has been excited. They had several people stopped by during planting asking about it. One lady mentioned a Christmas tree farm, we needed one of those. So anyways, long story short, happy to answer any questions. He did just receive these questions from Miss Coin just 15 minutes ago, but happy to start there or answer any other questions you have.

Mr. Field asks what the proposed hours of operation are.

Mr. Hochstedler states they would be looking at the Friday, Saturday, Sunday after Thanksgiving and then potentially the following weekend or weekends leading up to Christmas. This is a side hobby job.

Mr. Burtner asks if they are going to pave the drive. With a tree farm you could have heavy equipment moving in and out.

Mr. Hochstedler states they would like to pave that long term. He guesses they haven't thought what that would look like in the immediate term. If that is a condition that they would need to place on this, they would be happy to do so. They would like to work with the City for any of these whether it is a noise ordinance they would abide by those specific ordinances as well as the parking restrictions. They want everyone to be on the property.

Chairman Field opened the public hearing.

Mr. Alan Weaver, 5920 East 161st Street, states his parents are at 5910 East 161st Street. He states they are 87 and he is speaking on their behalf as well. They like this idea, but they have some concerns. Part of his concern is he is not an attorney, and he wants to make sure he understands what a use variance is, and then if something should change, for instance, they decide they want to sell pumpkins in October and Easter egg hunts at Easter. Does that require a new variance or does it encompass that because it's a retail holiday type operation. He doesn't know whether that's a question he poses here or whether he just leaves that.

Ms. Aschleman states anything beyond Christmas Trees requires a new hearing.

Mr. Weaver states the other question he would have is on lighting. There's nothing in the proposal about exterior lighting or elevated lighting for a tree lot. So he is assuming that would not be in the proposal as well because that would that would drastically affect their properties if they had elevated lighting.

Ms. Aschleman states one of the things to keep in mind is our ordinance has a maximum light at a property line of half a foot candle. For context of what half a foot candle is, because you're not going to know that it would be if you got underneath the desk. There's no direct lighting into it so it's dim at the property line.

Mr. Weaver states so not sports field lighting. Then the other thing he would like to recommend, on approval of this is that before the public is allowed on the property, that there will be an actual fence erected along the property line. He doesn't care whether it's chain link whether it's white farm, he doesn't care what it is, but just so people wandering the property realize that this is no longer the tree farm. They have beehives on their property, they have some yard equipment out. Just having that acknowledgment that this is a property line that they don't go crossing and if they do, it's their own problem. So that would be his request. Thank you very much.

Ms. Linda Coin, 5590 East 161st Street, states that pole barn is more extravagant than her pole barn with her equipment, and her concern is that becoming an event center based on what they would like to do. She is asking what is the capacity, and what are the parking arrangements and knowing how many parking spots because that will limit their business operation as to what can be afforded in that building. The second major thing to her is, where are they hooking to city water and sewer. She knows that there are several properties down a sewer line that was run from one subdivision down to Twin Oaks. It had been proposed before for some other development that the sewer go across, which would require their allowing that sewer to run through their back property. So she has never been approached by that that might not be the plan, but she does have concern, because as of right now, that is not authorization that they are willing to give across their private property. So in looking at them pursuing a business like that, it could add expense depending upon where they are hooking into sewer. So those are probably her two major concerns. The applicant did not say what is their capacity of visitors. What did they do with overflow parking because that is tight through there, and the swales and the drainage ditches through there. It's tight. So the only other, if there was overflow, it would either have to be somewhere else on that farm or it would have to be across on Twin Oaks by that sidewalk, and there's a swale and there's some area there. She would guess she would like that to be defined before the variance was granted.

Chairman Field closed the public hearing.

Mr. Field states he thinks it is a fine idea.

Mrs. Wahl states agreed. She likes Christmas.

Mr. Burtner states as a neighbor down the street he does too because they are going to get enough on the north and south end of us on Hazel Dell so this is going to fit.

Motion by Mr. Burtner, second by Mr. MacInnis to approve application BZNA-0056-2024 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.

And applications BZNA-0057-2024, BZNA-0083-2024, and BZNA-0084-2024 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 onsite retail commercial operation shall be limited to the holiday season between Thanksgiving weekend through the end of December. No roadside stands or other seasonal outdoor sales shall apply to this residential property. No other uses apply unless otherwise authorized with an approved Temporary Use permit
2. The barn shall be used to support the agricultural operation on the subject property, including the storage of equipment, materials, and supplies used onsite, and the limited retail commercial operation of the Christmas tree farm during the holiday season (Thanksgiving weekend through the end of December). The barn may also be used for the storage of personal items in association with the residential home (if applicable). No other uses apply unless otherwise authorized with an approved Temporary Use permit.
3. A Temporary Use permit shall be obtained for any temporary uses that require a permit, including, but not limited to, bazaars, barn sales, weddings, or other temporary special events on the property. The event shall comply with the temporary use regulations of the Unified Development Ordinance (UDO) § 9.G.
4. The driveway to the barn and associated parking shall be paved (without curbing).
5. The proposed barn, as shown on the Preliminary Site Plan and Preliminary Building Plan, shall not exceed 10,000 square feet (9,600-square-foot barn with a 1,400-square-foot attached covered patio) in size and twenty-four (24) feet in height.
6. One (1) ground sign shall be permitted that meets the following requirements based on UDO § 11.C.1.D:
 - Maximum Sign Area: Forty-five (45) square feet
 - Maximum Ground Sign Height: Five (5) feet
 - Location: Shall be a minimum of ten (10) feet from the street right-of-way and minimum of ten (10) feet from the leading edge of the driveway. The sign shall be separated from another ground sign located on the same side of the right-of-way, a minimum distance of one hundred (100) linear feet.
 - Permitted Materials: The sign shall be constructed of materials that blend with the character of the building such as but not limited to wood, metal, or masonry. The copy shall be individually mounted channel letters, sandblasted, or etched.
 - Illumination: none
 - Landscaping: An area equal to three times the area of the sign face shall be required for base landscaping around a ground sign. The landscape area will radiate out a minimum of five (5) feet from the base of the sign shall be provided and shall be planted in such a way to substantially cover the area with landscape materials such as, but not limited to annuals, ground covers, perennials, shrubs, and ornamental trees. A mixture of plant types is required.
7. 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.

8. 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, Field, MacInnis, Sears, Wahl. The motion carries 5-0.

6. BZNA-0058-2024	
Location:	15075 Allisonville Road
Applicant:	HWC Engineering, Contact: Chris Hamm
Description:	UDO § 8.B.2.B and Appendix C – Board to consider a Variance of Use application to permit an office use and ground sign within the R-1 zoning district
Staff Contact:	Amy Steffens

Mrs. Amy Steffens states before you is a variance of use request submitted by HWC Engineering to permit the use of the existing 4026 square foot school building and 2228 square foot accessory structure for professional office use. The site is two parcels totaling 1.67 acres and is on the east side of Allisonville Road half a mile north of 146th Street. This site as well as parcels in all directions are zoned R1 Single Family Low Density Residential. In 2004, the site received conditional use approval for use as a Montessori school offering preschool and kindergarten classes. If approved, HWC Engineering would occupy a portion of the building and may have an additional five professional office suites. So what's on the screen here is the conceptual plot plan submitted by the applicants. Per the UDO professional office would include attorneys, architects, engineers, financial planners, realtors, insurance agents, or the like. No retail or commercial use would be permitted although ancillary retail would be permitted if conducted in conjunction with a permitted professional office, such as an interior decorator who has an office there, they could sell pillows or whatnot. HWC proposes to make improvements to the accessory structure, the current pole barn that is in the southeast corner of the site, for use as storage of office related equipment and fleet vehicles. The applicant has indicated that the accessory structure could be converted in the future to additional occupied workspace, and the second accessory structure shown on the northeast corner could be constructed over an existing slab of concrete or in the location of the existing slab of concrete. The existing playground to the north of the school will be removed to allow for outdoor patio improvements. These are proposed this is not what they may build but it's typical of what their existing. The outdoor patio would be used by the building occupants. Also proposed is a six foot tall multi-tenant ground sign. The height and size of the proposed sign would be regulated by the UDO for multi-tenant buildings which would allow for a six foot tall 40 square foot ground sign. You'll see that staff is recommending approval of the request. Staff finds that the request will not be injurious to the public health, safety, morals and general welfare of the community. Staff finds that the proposed use likely will be less intensive than the previously approved school use due to number of trips generated. The city's engineering department estimated a number of trips for both a school with 37 students and four employees that came from their sewer hookup application she believes. In this case, the daycare center land use was applied due to the age and hours of operation of the for the students and the general office building. So she will just tell you what the chart says since you can't see it. The number of expected vehicle trips for a general office use is 1/3 of those trips generated by a daycare center or the Montessori School.

Mr. Field states basically, traffic in the area be considerably lower for an office use than for the school.

Mrs. Steffens states yes, it is expected that is true. So for a daycare center again with that level of service for 37 students and four staff expected trip generation is 61.9. For a general office building, and this is based not on number of employees, but on the square footage of the building 19.5 trips. Staff does not believe that the proposed office use would be more intense than the use currently occupying the site. Furthermore, the proposed use would not interfere with the Noblesville Comprehensive Plan adopted in January of 2020. The site is planned for mixed residential which is marked by a variety of housing types with accompanying mixed use retail and office located along intersections and corridors. Professional office uses would support the intent of the comprehensive plan for this section of Allisonville Road. This section of Allisonville is also in the general urban built form transect, which also would support mixed use multi-unit residential, commercial nodes and mixed use centers. Four letters were received by staff, one of which was in your packet in time to make it to publication. Letters from Cober, Ruhl, and Ketterer were given to you just moments ago separately. It's important to point out that the should the BZA approve the variance of use, the underlying zoning of R1 is not going to change. The site will still be zoned for single family residential use. A variance of use, just like the conditional use granted to the Montessori School in 2004, runs with the land and not the property owner. As long as the use complies with all approvals, the variance of use will remain valid in perpetuity, however, any expansion of the proposed use if approved or change of use, except for use permitted by right in the underlying R1 zoning district would require approval either by the BZA or the Plan Commission depending on the scope of the project. While staff believes that the proposed use meets the findings of facts, there are suggested conditions starting on page five of the staff report that the BZA should consider to further mitigate the professional office uses impact on the surrounding R1 zoned properties. Conditions one and two are the standard conditions regarding recording the acknowledgement of variance and any alterations having to come back to this board. Condition three is intended to make it clear to the applicant and future property owners that only professional office uses are permitted by any approvals given by the board. Condition for specifies that future development of the site will be subject to Site Plan Review and potentially Technical Advisory Committee review. Conditions five and six address bulk standards and future structures on the site. Staff believes that

the local business zoning district side and rear yard setback should apply rather than the R1 District standard of 10 foot side yard and five foot rear yard setbacks for detached accessory structure. Additionally, the R1 standards for accessory structure, height and size should apply. These two conditions in tandem are intended to offer additional buffering to the adjacent residences while maintaining a residential appearance for both bulk and height. Signage must conform to the UDO requirements for size, setback, and landscaping. Parking and access drive should be submitted should be paid to mitigate any noise and dust pollution onto adjacent residential properties. And finally future development of the northernmost parcel that's that very long skinny parcel running the length of the site on the north. That should require submittal of a plat to combine the parcels into one lot. With that she happy to answer any questions that the Board may have.

Ms. Elizabeth Bentz Williams, 320 North Meridian Street Suite 1100, states she is a land use planner with Clark Quinn Moses Scott and Grahn. She is here representing HWC this evening and there are two representatives of the company with her. Staff has done an excellent job outlining the staff report and the positives and issues that should be addressed by the conditions in the staff report. HMC is very excited at the opportunity of preserving these two existing buildings and reusing those, as opposed to starting over with a new use. It also, as you know, creates a buffer that's anticipated in the comprehensive plan for the existing single family homes to the east. So they are in agreement with all the conditions that are listed in the staff report, and so they would ask for your favorable recommendation. They did host a neighborhood meeting, and she thinks there are just a couple of things that somebody wants to share.

Mr. Chris Hamm, 135 North Pennsylvania, Suite 2800, states he is the Director of Economic Development with HWC Engineering. They are very excited to be here, they are very excited about the opportunity to occupy this space, be able to reuse these spaces. It's a little personal to him, it's a little personal to Terry Baker, the president of the company who's with him this evening. They both had children that are graduates of Country Children's House. His oldest is a graduate of Ball State University now almost, in theory, graduate, and also a graduate of Country Children's House. So this is a place that's near and dear to his heart. So to be able to occupy that space, in a respectful way of the way the property has been operated for the last 20 years, is very personal to them. So they are very excited about this. They did host a neighborhood meeting last Tuesday, they had about 25 neighbors, attend the meeting, some very good questions and dialogue and comments as part of that. Overall he feels like the neighbors were supportive of the concept of what they are trying to do here. There was one point that was brought up, and that's the parking area. The neighbors had asked that as best as possible, they'd like to maintain the existing character of the property, and some of them felt that the parking area was a little bit too commercial for the property. They put the parking in place because they assumed the city wanted some more defined parking and they are open to having less parking there. In fact, they have looked at it since the neighborhood meeting, and they believe that if they did some additional work to the circular drive, they might be able to define five or six or maybe even seven spaces off the circular drive that would be parking spaces and not have to have the significant 11 spaces parking field if staff and the BZA are open to that. They are comfortable building it the way it's shown here as well, but they are certainly happy to alter that if that was the will of the board and staff to be able to do that. They would like to maintain however, the access drive back into the barn because currently it's not one to use and they really need to drive. They are happy to answer any questions that you have them this evening and thank you for your consideration.

Chairman Field opened the public hearing.

Ms. Laura Carter, 15077 Orchid Court, states she is directly behind this property. There's a pond that is between them, a substantial pond with a fountain and it's beautiful and she sees the old barn. The barn is not actually a pole barn. She believes it is a wood timber frame barn that looks like 100 years old. It's super old. So the schoolhouse is a very old, quaint two story beautiful home. Beautiful property. Her concern and why she is here today is the variance request. While she is generally for the variance request, she would like to stipulate that she is not in favor in favor of rezoning, and she understands that they're not going to rezone so that's a good thing. She is requesting to add her concerns or conditions to the variance request. A stipulation to the variance that if the barn is rebuilt or replaced that it be done with a like structure. Meaning not a pole barn, not a metal, anything like that. Something that's made of wood to include any future structures or barns because they talked about future structures that they might make up there and also requesting the property not be used as a parking lot for construction or utility vehicles. So that's her main concern. She just wants to make sure that it stays a residential looking area because it is a beautiful area. She thinks their neighborhood is a beautiful area. That's all she had. Thank you.

Mr. Terry Baker, 135 North Pennsylvania, Suite 2800, states he is the least qualified the three of them to actually speak on formal issues. He is the President of HWC Engineering. They have about 200 employees statewide and seven offices. His wife went to the Montessori School that was here, she's taught here, our children went here, and really the reason to just give a little color to that is that they always told Shelly if she ever wanted to sell or not have the school there anymore, they would love to be a part of that. So the specific reason is to preserve the barn. They will keep it in similar character it's in pretty - even the couple months he has been tromping around over there you know, once the water starts getting in. So what he would like to be able to do is take as much of the wood, save as much as they can and use that for one or two sides and then we would skin it in wood as well. In terms of the equipment, they have about a dozen survey trucks and they also have a little water and land division they take care of like all the waterways that the county surveyor they maintain that for him. So they have two or three trailers, two or three Argos, you know something about the size of a golf cart, so things would be kept inside unless something rare with something breaks

down or something strange happens, but their intent is to keep all the equipment inside and to repair the barn as best they can.

Chairman Field closed the public hearing.

Motion by Mr. Sears, second by Mrs. Wahl to approve application BZNA-0058-2024 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 to the area adjacent to the property will not be affected in a substantially adverse manner;**
- **The need for the variance does arise from some condition peculiar to the property involved;**
- **The strict zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought;**
- **The approval does not interfere substantially with the comprehensive plan adopted by the Noblesville Plan Commission and Council.**

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.
3. Only professional office uses shall be permitted.
4. Future development of the site shall be subject to Article 4, Section B., site plan review.
5. Additional structures shall comply with the setback standards of the Local Business zoning district (25-foot front and side yard setbacks and a 20-foot rear yard setback).
6. The maximum height allowed for an accessory structure in the R-1 zoning district is 17 feet and the combined square footage of all accessory structure shall be limited to the square footage of the principal building or two thousand (2,000) square feet, whichever is less.
7. Signage shall conform to UDO Article 11.C.1.E., internally accessed multi-tenant building, regulations.
8. Parking and access drives shall be paved.
9. Future development of the northern parcel shall require submittal of a plat to combine the two parcels.
10. If the barn was to be rebuilt it would be done with a like structure.
11. The property will not be used as a parking lot for construction or utility vehicles.

AYE: Burtner, Field, MacInnis, Sears, Wahl. The motion carries 5-0.

MISCELLANEOUS

ADJOURNMENT

The meeting is adjourned at 7:59 p.m.

Mike Field, Chairman

Caleb P. Gutshall, Secretary