

BZA minutes are transcribed in a summarized manner. Video footage is available for viewing in the (CATS) Audio-visual Department of the Monroe County Public Library at 303 E. Kirkwood Avenue. Phone number: 812-349-3111 or via email at the following address: moneill@monroe.lib.in.us

The Board of Zoning Appeals (BZA) met on September 22, 2022 at 5:30 pm; a hybrid meeting was held both in the Council Chambers, located in Room 115, at 401 N. Morton Street, City Hall – Bloomington, IN 47404 and remotely via Zoom. Members present in the Council Chambers: Tim Ballard, Flavia Burrell, Erik Coyne, Barre Klapper (President), and Jo Throckmorton (Vice President).

APPROVAL OF MINUTES: June 23, 2022

Burrell moved to approve the minutes as distributed. Throckmorton seconded. Motion carried unanimously.

REPORTS, RESOLUTIONS, COMMUNICATIONS:

Scanlan explained there is an error in the digital packet because it is somewhat out of order according to the agenda; however, petitions will be heard in order as they appear on the agenda.

PETITIONS CONTINUED TO: October 20, 2022

- AA-17-22 Joe Kemp Construction & Blackwell Construction – Summit Woods (Sudbury Farm Parcel O) W. Ezekiel Drive – Administrative Appeal of the Notice of Violation (NOV) issued March 25, 2022. (Case Manager: Jackie Scanlan)

PETITIONS:

V-27-22 **Cutters Kirkwood 123, LLC** (*Continued from the August hearing*)
115 E. Kirkwood Ave.
Request: Variances from Downtown Character Overlay standards to allow less non-residential area and less large display windows; and a variance from the requirement to align with the front setback of an adjacent historic structure in the Mixed-Use Downtown zoning district with the Courthouse Square Character Overlay (MD-CS).
Case Manager: Karina Pazos

**Eric Coyne will be recusing himself since he did not hear this petition at the August 2022 hearing.*

Throckmorton moved to allow the petitioner an additional 10 minutes of time to present their petition. Burrell seconded. Motion carried unanimously.

Randy Lloyd, Cutters Kirkwood 123, presented his case pertaining to Variance #2 on why he believes they achieve the goals and requirements of the UDO.

Throckmorton moved to allow Mr. Lloyd an additional 5 min. of speaking time. Burrell seconded. Motion carried unanimously.

BZA Discussion:

Throckmorton asked Scanlan to elaborate on staffs finding for criteria (1) “*The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*” Scanlan explained.

Discussion ensued by Klapper regarding underground parking. Ryan Strauser, Strauser Construction, explained.

Discussion ensued regarding any practical difficulties associated with the grade/site.
Timestamp: 45:46

Throckmorton moved to approve V-27-22: Variance from downtown character overlay standards to allow for a smaller percentage of total first floor façade area dedicated to large display windows in the (MD-CS) zoning district. **(Variance #1)** Ballard seconded. Roll Call 4:0. See attached findings form.

Burrell moved to approve V-27-22: Variance from downtown character overlay standards to allow for a smaller percentage of total ground floor area dedicated to non-residential use other than a parking garage use in the (MD-CS) zoning district. **(Variance #2)** Ballard seconded. Roll call 2:1:1 (Klapper opposed/Throckmorton abstained) Motion fails.

Klapper moved to deny the V-27-22: variance request for a reduction of commercial space. Ballard seconded. Roll call 2:2 – motion fails. **(Variance #2)**

Burrell moved to continue V-27-22 to the October 20th 2022 hearing. Ballard seconded. Motion carried 3:1 (Throckmorton opposed) **(Variance #2)**. Petition continued to October 20, 2022.

V-28-22 **Warren Witt (Chipotle)**
3151 W. 3rd St.
Request: Variances from entrance and drive standards to allow a driveway in the front parking setback, from maximum parking standards, and from pedestrian sidewalk connection standards.
Case Manager: Eric Greulich

Eric Greulich presented the staff report for V-28-22. See meeting packet for details.

* *Eric Coyne has rejoined the Board.*

Mike Carmin, Carmin Parker P.C., spoke on behalf of the petitioner. Lori Adler, Real Estate Manager for Chipotle, also spoke to the petition request.

BZA Discussion:

Discussion ensued by Throckmorton about the parking lot to the south of the proposed building.

Public Comment:

David Kamen, president of Bryan Rentals, spoke in favor of the petition. Eric Kamen also spoke in favor of the requested parking variance. Craig Dowman, Century 21 listing agent, is in favor of the additional parking. He said he would like to see another restaurant on the west side of Bloomington other than burgers and pizza. Anany Maini said having Chipotle on the west side is a good idea because you will no longer need to go to Chipotle on the east side of Bloomington.

Coyne moved to approve V-28-22 with alternative findings. See attached findings form. Ballard seconded. Motion carried 4:1 - Approved (Throckmorton opposed).

AA-31-22 **Lamar Advertising Co.**
1800 N. Kinser Pike
Request: Administrative Appeal of Notice of Violation (NOV) for a sign.
Case Manager: Jackie Scanlan

Mike Rouker, Legal Counsel, presented the report for AA-31-22.

Alan Townsend, Bose McKinney & Evans LLP, presented the appeal in representation of Lamar Advertising.

BZA Discussion:

Discussion ensued by Klapper about an agreement that went into place with Hoosier Outdoor Advertising in 2007 and the variance that was granted in December 2010.

Discussion ensued by Throckmorton regarding the UDO requirements for a digital reader board and the difference from a static billboard.

Public Comment:

Anany Maini spoke in favor of the petitioner.

Back to the Petitioner:

Townsend said he believes they have met the UDO requirements.

Throckmorton moved to deny AA-31-22. Burrell seconded. Motion Carried 3:2. Appeal is denied. (Ballard and Coyne Opposed)

Coyne moved to suspend the BZA rules to hear the following three petition: V-32-22, V-34-22, and AA-35-22. Ballard seconded. Motion carried unanimously.

**5 Minute Recess at 9:00 pm.*

Note: Discussion ensued about having a BZA special hearing within one week of this hearing to address the remaining three petitions on the agenda. The following petitions will be heard at a special meeting of the Board on September 28, 2022 at 5:30 pm:

V-38-22, Bryan Rental – 3175 W. 3rd St.

V-39-22, Strauser Construction Co., Inc. – 3000 and 3070 S. Walnut St.

V-41-22, City of Bloomington Redevelopment Commission (Cornerstone)

V-32-22

Richard Judd

508 W. 3rd St.

Request: Variance from rear setback standards to allow for construction of stair access to and from a driveway in the Residential Small Lot (R3) zoning district.

Case Manager: Karina Pazos

Scanlan presented the staff report for V-32-22. See meeting packet for details.

Richard and Linda Judson, Petitioners, presented the request for variance.

BZA Discussion:

Klapper asked for clarification on the size of variance requested.

Public Comment:

Mark Apple, Neighbor of the Judd's, spoke in favor of the requested variance.

Throckmorton moved to approve V-32-22 with additional findings. Ballard seconded.

Motion carried unanimously. See attached findings form.

V-34-22

Adam Jackson (Caritas-Indiana, LLC)

1420 W. Kirkwood Ave.

Request: Variance from buffer yard standards to allow construction of a 16-unit multifamily building in the Residential High Density Multifamily (RH) zoning district.

Case Manager: Eric Greulich

~Barre Klapper has recused herself

Eric Greulich presented the staff report. Staff recommends the BZA adopt the proposed findings and approve V-34-22 with the following conditions:

1. Site plan approval is required prior to issuance of a grading permit.
2. This approval is for the submitted site plan only.
3. No variances from building architecture standards are approved with this petition.

Jayne York, Springpoint Architects, presented the request on behalf of petitioner.

Public Comment:

Kimberly Stanley, neighbor to petitioner, spoke against the petition in regards to parking, noise, traffic, and property barriers.

Back to the Petitioner:

Adam Jackson, Petitioner, spoke on the issues the neighbor mentioned previously.

Burrell moved to approve V-34-22 based on the written findings including the three conditions outlined in the staff report. Ballard seconded. Motion carried unanimously.

~Barre Klapper has rejoined the Board.

AA-35-22 **Chris Bomba**
708 S. Henderson St.
Request: Administrative Appeal of Notice of Violation (NOV) issued for failure to comply with development standards for maximum impervious surface coverage.
Case Manager: Liz Carter

Liz Carter presented the staff report. See meeting packet for details.

Chris Bomba, Petitioner, presented his case for notice of violation appeal.

BZA Discussion:

Discussion ensued about the accrual of notice of violations and the remedy to comply.

Public Comment:

Jon Torok, complainant, spoke in favor of the notice of violation issued.

Bomba explained that he will get the property back into compliance.

Back to the BZA:

Klapper needed clarification on the owner of adjacent properties.

Throckmorton moved to deny AA-35-22. Ballard seconded. Motion carried 5:0— this petition is denied.

Meeting adjourned at 10:08 pm.