

**BOARD OF ZONING APPEALS**  
**Thursday, July 27, 2017**  
**5:00 pm**  
**Council Meeting Room, Police Department**  
**Variance Petition- Public Hearing**

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**Members Present:**

Cindy Spears  
Kimberly Cuthbertson  
Tom Hurley  
Jerry Hoffman  
Mike Raper

**Others Present:**

Matt Ray  
Erin Hurley  
David Ferguson, Petitioner  
Jerry Shelton  
Brad & Erynne Gemberling  
Dave Pinney  
Andrew Rossell, Muncie West Partners  
Debbie Linn & Devin Linn  
Carolyn Grieves  
Thomas & Sheila Edmunds  
Sherry Kneip  
Mike Kilgore

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Kimberly Cuthbertson called the meeting to order at 5:00 pm. Members present were Cindy Spears, Tom Hurley, Jerry Hoffman, Mike Raper, and Kimberly Cuthbertson.

Tom Hurley moved to approve the minutes from the July 20, 2017 meeting. Second by Cindy Spears. All members voted aye.

Ferguson:

Matt Ray presented a petition from David and Lisa Ferguson requesting a variance to install a second family dwelling temporarily on their property located at 2881 S. Priest Ford Road, Yorktown. Mr. Ferguson stated that their daughter and son-in-law will move a "tiny house" onto the property and live there while a new master suite is being built onto the main house. Both families will then live in the main house once the addition is completed. The tiny house will be removed once the addition is finished. They plan to start construction in September and hope to have it completed within two years. They will have a temporary electrical drop following specs from I&M and will have temporary water. No sewage service will be required.

There were no comments from the floor either in favor or opposed to the request. Cindy Spears moved to approve the variance request for 30 months from the date of this meeting. Second by Tom Hurley. All members voted aye. Motion passed 5-0. **Variance petition is approved.**

McKibben:

Matt Ray introduced Andrew Rossell of Muncie West Partners who requested several variances for the property located at 5905 W. Kilgore Avenue, Muncie, on behalf of Eddie McKibben. The Planning Commission met last week and recommended that two lots at that location be rezoned to C1 to accommodate a commercial structure. Mr. Rossell stated that they would need variances for building and zoning set-backs for the project to build a general retail store. Due to the shape of the lot it is difficult to lay out a traditional store. The plans submitted call for 36 parking spaces due to Yorktown's zoning requirements, but the tenant really only needs 30 spaces. The planned building is a 9100 square foot prototype with a front entry. The drive-way along Kingston can slide back further from the intersection if need be.

Matt Ray expressed concern about delivery trucks on Kingston Drive and asked why they weren't planning to use the road cut already in place on Kilgore Avenue. Mr. Rossell responded that they don't like to deal with the DOT. They expect to have one semi-truck delivery per week and box truck deliveries several times per week.

Kimberly Cuthbertson stated that she would prefer less parking and additional greenspace for the project. She discussed land banking the additional six parking spaces that are required by ordinance. Matt Ray asked about the requirement that 20% of the parking spaces be to the side or rear of the building. Mr. Rossell responded that they could move seven spaces to the side of the building to comply.

Jerry Hoffman inquired as to the hardship to the owner and also whether this design would be just a metal building or would it be upgraded like some of the other Dollar General stores around. Mr. Rossell responded that the hardship is that to meet all the development guidelines in the zoning ordinance something will have to give to make the project work. The building will be metal with split face block on the front. Architectural upgrades are only installed when the local zoning ordinances require them.

Kimberly Cuthbertson said that the front yard setback reduces the greenspace. There was a discussion about the location and depth of the front parking lot, width of parking spaces, and the width of the parking lot drive. Lighting plans were discussed and Kimberly Cuthbertson asked for better light shields to minimize light bleed. Matt Ray asked about plans for signage. Mr. Rossell stated that signage is up to the tenant. The tenant will either comply with the zoning ordinance or will ask for a variance.

There was a discussion about the landscaping requirements. The plans call for a six foot wooden fence to be installed. Kimberly Cuthbertson stated that there will need to be four more trees installed and 12 more shrubs along the façade. There was further discussion about the front parking set-backs. A 25% reduction is allowed but these plans call for a 45% variance from the standards.

Kimberly Cuthbertson asked for comments in favor of the project. There were no comments. She then asked for comments from those opposed to the project:

Sheila Edmunds, 1418 Kingston Drive:

She is concerned about semi-trucks on Kingston. It is a narrow road and she worries about the increase in truck traffic with the young children that live in the neighborhood. Also she doesn't like the idea of commercial buildings in a residential neighborhood and is worried about an increase in crime.

Devin Linn, 1414 Stockport Drive:

He is concerned that there will be drug use in the parking lot with no exterior lighting in the rear. He also thinks that people will be cutting through their lot to get to the store and is concerned with the width of Kingston being too narrow to allow delivery trucks to make the turn into the parking lot. He has fears that the value of their property will decrease with a commercial building right next door.

Sherry Kneip, 1628 S. Kingston Drive:

She asked why we need two Dollar General stores in town. She is also concerned about crime.

Mike Kilgore, Yorktown:

He asked if the depth of all the commercial lots along Kilgore Avenue were going to change. Kimberly Cuthbertson responded that they are evaluated on a case by case basis.

Comments from the Board:

Mike Raper asked for verification that the property is zoned correctly. Kimberly responded that the Planning Commission voted to recommend to the Town Council to rezone two residential lots to C1, so if it passes the whole property will be zoned correctly at that time. Mike also stated to the audience that something commercial eventually will go in there, even if it is not this project.

Tom Hurley stated that the hardship is created by the developer with the choice of lot and the size of the building. They could change the layout and size of the building or they could buy surrounding property to give them more room. He does not believe a hardship exists.

Cindy Spears said she felt there were too many changes to the standards and that there was no hardship.

Kimberly Cuthbertson asked for a motion in the affirmative. There was no motion. Tom Hurley made a motion to **deny** the variance request. Second by Cindy Spears.

Vote by roll call:

Mike Raper-yes

Jerry Hoffman-yes

Cindy Spears-yes

Tom Hurley-yes

Kimberly Cuthbertson-no

Motion passed 4-1. **Variance petition is denied.**

Meeting adjourned at 6:15 pm.

  
(President)