

**Minutes**  
**WARRICK COUNTY AREA BOARD OF ZONING APPEALS**  
Regular meeting to be held in the Commissioners Meeting Room,  
Third Floor, Historic Courthouse,  
Boonville, Indiana  
July 24, 2023 at 6:00 P.M.

**PLEDGE OF ALLEGIANCE:**

**MEMBERS PRESENT:** Terry Dayvolt, Chairman, Doris Horn, Mike Moesner, Paul Keller, Mike Winge, Jeff Valiant and Jeff Willis.

Members absent

Also present was Morrie Doll, Attorney, Molly Barnhill, Executive Director, Kim Kaiser, staff.

**MINUTES:** Upon a motion made by Doris Horn and seconded by Mike Winge the Minutes of the last regular meeting held July 24, 2023 were approved as circulated.

Chairman Dayvolt stated it looks like we have six Special Uses tonight and two Variances. He asked before we start I would appreciate if everybody would silence their cell phones. He said when your name is called please come to the podium, sign in and state your name. He said after that we will have a staff report and we will review your variance or special use.

**SPECIAL USES:**

**BZA-SU-23-18**

**APPLICANT & OWNER:** Miles Property Development LLC by Tambi Miles, Mgr.

**PREMISIS AFFECTED:** Property located on the south side of New Harmony Road approximately 450' east of the intersection formed by New Harmony Road and Zoar Church Road. Campbell Twp. 8-5-9 10311 *New Harmony Road*

**NATURE OF THE CASE:** Applicant requests a Special Use, SU-1, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow: an amendment to BZA-SU-15-06 to enlarge a commercial recreation area including, but not limited to primitive camping, shower house, concessions, event rentals, and RV campsites in an "A" Agricultural Zoning District. *Advertised in The Standard August 17, 2023.*

Tambi Miles and Keith Miles, managers were present.

Chairman Dayvolt asked for a staff report.

Mrs. Barnhill stated their notice to adjacent properties we have all of the green cards. She said the existing land use is a campground. She stated the surrounding zoning and land use in all directions is Agricultural with some homes and mostly vacant ground. She added there is no floodplain. She stated they have an existing drive on New Harmony Road. She said their statement says *The proposed use will be for RV and primitive camping, event rentals, concessions, amending existing*

*SU to include add'l land purchases.* She stated they are growing so they had to amend their special use to match.

Chairman Dayvolt asked is there anything to add to the staff report.

Tambi Miles replied no, I don't. She said we are good if you have any questions I am happy to answer them.

Chairman Dayvolt asked for questions by the Board.

Mike Moesner asked are the RV sites electric.

Tambi Miles responded they are full hookup.

Mike Moesner said full hookup.

Tambi Miles said full hookup so they have electric, sewer, and water.

Mike Moesner replied okay.

Mike Winge asked what is your capacity there now.

Tambi Miles replied right now we have 59 full hookup sites, we have 2 electric sites, and we were doing tenting but we are kind of just doing it on a select basis because of the event center that we have going up here this year.

Mike Winge asked your septic and all of that has went through the County and everything she has...

Mrs. Barnhill responded yeah.

Mike Winge said for the additions and what they would be bringing up here for campers and so forth.

Mrs. Barnhill responded yeah, everything.

Tambi Miles replied yes, we started out with a presby system phase one and that got us to about 50% capacity and then just last...was it last year Keith that we did phase two...two years at the end of 2021 we did phase two, which covered the expansion of the current presby system to accommodate all of those sites.

Mrs. Barnhill asked and that was with the State right.

Tambi Miles replied yes, State approved through Indianapolis.

Mike Moesner asked how many sites total will you have.

Tambi Miles responded 59 full hookups, 2 electric, and then we have some tent sites but they use the shower house. She stated we have a shower house to accommodate them.

Mike Winge asked what kind of an average do you have on the tent sites of people on your tent sites.

Tambi Miles stated it is kind of hit and miss. She said we only have five tent sites and I would say weekend...it is mostly just weekend use and it is usually during holidays where they might be fully occupied otherwise it could be just one camper per weekend. She stated since we have done the pavilion, which is where our events are going to be held, which is right next to the shower house, we are kind of just doing tenting based on a request type basis.

Mike Winge asked do the people mostly just stay there in that area that are up there in the camp site or do they go out. He said I live up in that area and it is a lot of wooded areas and a lot of people up there with me. He stated I have run into people with backpacks up on our property is the reason I am kind of curious about that.

Tambi Miles responded okay, okay.

Mike Winge stated it is an activity that they have there or do you have much problem with people going out from there like hiking. He asked like people just going out hiking.

Tambi Miles stated we have everything like the Frog Follies you know we have people that stay in the park for that. She said a lot of people like to do the fishing so they stay for the Bluegrass Fish and Wildlife areas so they are close to that. She added they do hike, they do bicycle...it is usually all the biggest events. She stated the biggest one here lately was the Deaconess Sport Center off of Green River Road the softball teams have their tournaments and we get a lot of people coming in for those. She said so yeah it is kind of a little bit of everything.

Doris Horn asked do you have long term.

Tambi Miles responded we have monthly's. She stated we accommodate like contractors or nurses that are working in the area on a monthly basis.

Mike Moesner asked if people want to find your place how is it listed as far as...

Tambi Miles stated it is listed under Miles Landing and you can find us on Google and we also have a website [www.mileslanding.online](http://www.mileslanding.online) She added and then we have a software system that does all of our reservations for us they can go out there and book their own reservations.

Doris Horn asked do you have a dump station also for the campers.

Tambi Miles replied yes, we do.

Attorney Doll asked it says on the staff report that you are adding additional land.

Tambi Miles replied we purchased additional property right now there is really nothing happening on it right now other than we are trying to clear it, so a lot of it is just going to be green space. She added we are expanding the parking lot to accommodate for the pavilion and event center.

Attorney Doll asked how many acres did you buy.

Tambi Miles replied total right now we have 38 acres.

Attorney Doll said original plus the addition.

Tambi Miles responded 12 original plus the addition for 38.

Attorney Doll asked on the additional land that you have purchased what is your ultimate use of that intended to be.

Tambi Miles said right now the one lot that we bought it is kind of like a strip between the RV sites that we have and then where we are going to have the pavilion and the parking lot. She said so right now we don't have any short term goals for that property.

Attorney Doll asked will the pavilion and parking lot be on this additional acreage.

Tambi Miles stated the pavilion is on the original 12 acres that we purchased. She said the original 12 acres that we purchased was the entrance to the old Bluegrass Campground and it included the gatehouse and shower house already and there was already a foundation concrete pad that was intended for like a store and some other building for events. She added so we used that to build the pavilion so it is on the existing 12 acres that we purchased back in 2018.

Attorney Doll said so you are asking the Board tonight to approve the special use for all 38 acres.

Tambi Miles replied we want to incorporate all of the additional property that we purchased after the original 12 because we will eventually be expanding them to do other types of events. She said we also are looking to expand our events to do not just do like weddings and birthday parties, family reunions, and that kind of stuff but also to incorporate some other type of public community type events like the food trucks and music....

Mike Winge said Morrie shouldn't that have to... I mean they are approved with the field beds or whatever they are doing for up to the amount that they have and if we incorporate all of that ...

Attorney Doll responded no, that is why I am asking...

Mike Winge replied yeah.

Attorney Doll asked we don't really know... you have listed a variety of uses camping, event rentals, primitive camping, event rentals, concessions but we don't really know how you are going to use this new acreage do we.

Tambi Miles replied it is going to be.... Go ahead. She said this is my husband Keith and he is basically the manager over the campground.

Chairman Dayvolt stated you are going to have to step up to the microphone and sign in and state his name please.

Tambi Miles stated when we did the septic expansion we did it in that consideration to accommodate for...

Keith Miles stated so, for a little bit more detail we have purchased the other land and we planned on leaving some green space and at some point in the future we may expand and add more RV sites, but you are correct sir we do need to expand our septic capacity so there are no future plans to do that until we go back to the State, which is a two year process at minimum and then because of our financial needs and stuff like that we are now focusing on paying stuff off so it will be at least a couple of years before we consider expansion and when we do we will have to go back to the State and increase the size of our septic field to accommodate the stuff that she was talking about.

Attorney Doll said you can do many of these things now on your property. He said it is approved now correct.

Tambi & Keith Miles said yes.

Attorney Doll asked what are you adding as a purpose a use purpose of your property tonight. He asked what are you adding that is new.

Keith Miles replied nothing new.

Mrs. Barnhill stated nothing is new it is just additional ground.

Attorney Doll stated but we don't know how they are going to use the additional ground and we don't have septic or sewer capacity approved....

Mike Winge stated that should have to come back up here separate from all of this.

Attorney Doll said I guess I am wondering why, not to be flippant but why are you here tonight. He said you can't really tell us ...

Keith Miles stated we purchased the RV sites.

Attorney Doll responded yes.

Keith Miles stated and we had that approved for the septic...

Attorney Doll said yes.

Keith Miles said but it is not zoned special use for that portion. He said we thought it was because it was already built it was already that way and so because that is a part of it we need to incorporate that into...

Attorney Doll stated so the RV area of your original plan...

Keith Miles stated the special use was not included.

Attorney Doll replied okay. He said so you need that.

Keith Miles responded yes, we definitely need that.

Attorney Doll said okay, but I really don't understand about adding...and I know one stop shopping you're here you would like to get it all done at one point in time I get that but we really don't know...I mean to the Board and I don't have a vote but you really don't know the use exactly and you don't have the infrastructure exactly proposed or approved for the additional new land. He stated I get we ought to bring this into conformity. He said the RV site area needs to be added to the special use that was... He asked when was the previous special use granted...He asked do you know, Molly.

Mrs. Barnhill said uhmmm 2015.

Tambi Miles said 2015.

Mrs. Barnhill stated and the verbiage from this special use came right off that application, which is where I got it.

Attorney Doll stated well it is up to the Board. He said the Board can approve...

Mrs. Barnhill stated yeah, that is where that came from.

Mike Winge stated I am just saying that is so vague on the rest of the property. He added I mean you have to have the utilities and everything in before... I mean I understand that they are going to expand at a certain time but we can't just include the whole thing because they could be using that and not even have the facilities for it.

Mrs. Barnhill stated they can't build anything because they would have to come in and get permits.

Mike Winge said that is just to build right.

Tambi Miles stated if we build anything else or expand the RV sites we would have to probably, most likely expand the septic system, which would have to be done first.

Keith Miles stated and any future construction would require your approval anyway if we do an RV site. He added say we want to put 20 more sites in we would have to come back to the Board and say we are getting ready we would need a permit for all of that and of course we would have

to present proof to the Health Board that we septic capacity for that and the State has approved it and they have approved it, so it is a long process and we just want to get the land and most importantly the RV sites incorporated into the special use that was previously there.

Mike Winge stated well I don't think that should be a problem we can just incorporate it and leave the rest of it sitting until they can decide what they are going to do.

Attorney Doll stated it is up to the Board.

Mrs. Barnhill asked do you mean amend the area that they are wanting to use.

Chairman Dayvolt stated you have to go to the State before you can do anything with the...

Unintelligible too many people talking

Mike Winge stated they may have to have wider entrances or all kind of other things we can't come up with here.

Chairman Dayvolt stated they can't do anything there without having the State approval for an RV park or a mobile home park.

Keith Miles responded that is correct.

Chairman Dayvolt stated that is just plain and simple.

Mrs. Barnhill responded yeah.

Chairman Dayvolt stated it is not up to us to give them approval for that.

Mike Winge stated that is the part they already have.

Chairman Dayvolt said they have that for the ...

Mrs. Barnhill stated all of these RV's are new.

Mike Winge stated that is what I am talking about. He said that should be the only thing that should be worried about.

Chairman Dayvolt said the other land...

Mike Winge stated the other land shouldn't even be included.

Chairman Dayvolt sated they can't do anything with it.

Mike Winge asked did I misunderstand something. He asked or did it say any and all.

Tambi Miles asked what if we want to do two things.

Mike Winge asked is that not limited to...see they are wanting the whole thing in there if I am reading it right...commercial recreation area, including but not limited too it is the not limited too part that bothers me.

Keith Miles stated we would want the rest of it but from our part of view we couldn't move forward or make plans to do that unless we have the special use so there is no point in going to the septic people and saying we need a bigger septic system and we can't get this site approved by you folks to do that in the first place. He added so all of the other approvals are after the State says we can do it, we can approve it, so all of that would have to come back to this Board.

Tambi Miles stated this is to just get all of the property under the same heading of the special use. She said it is all a part of the campground.

Keith Miles stated initially when the previous owner had the ground it was all zoned special use and she corrected us and said it went back to agriculture so we have been piece-mealing it together because our finances were debt adverse is what our banker says so we have been buying smaller sections of it but initially the whole thing was special use 200 or 500 tent sites in the plans and all of that good stuff.

Attorney Doll said so...

Keith Miles stated we are just piece-mealing it together now.

Attorney Doll asked was the 7.28 acres, which is parcel one is that where the RV sites are at.

Keith Miles stated I think they are indicated in the drawing I don't....RV sites...

Tambi Miles said 7.28 that is the green space.

Keith Miles said that is the green space, yes.

Tambi Miles said so it sits next to the RV sites.

Attorney Doll responded okay. He said so the RV sites are not that space it is space adjacent.

Tambi Miles responded yes, the first kind of band.

Attorney Doll asked is that all of the RV sites...

Keith Miles responded yes.

Attorney Doll asked that you currently have is in that space.

Tambi & Keith Miles responded yes.



Attorney Doll asked and it has a...was it part of a minor subdivision... 8.16 acres.

Mrs. Barnhill replied yes, they have been piecing it out.

Attorney Doll replied right.

Mrs. Barnhill said buy it in additional pieces and they have been doing it with a minor.

Attorney Doll asked if the Board wants to bring this into conformity they should approve at least the 8.16 acres for special use.... special use 1 right.

Mrs. Barnhill said yeah.

Attorney Doll said SU-1. He added I don't know how the Board feels about the unimproved ground...

Mike Winge asked well am I just reading that language wrong there, Morrie but not limited to primitive camping. He asked so if the whole thing is in there....

Attorney Doll said I think if you give them the special use they can begin to use all of the ground now. He said they may not be able to have septic systems on it etcetera but they can use all of it as special use as of tonight.

Mike Winge stated I guess the concern I have is if they have primitive camping if they have 15, 20, 40, or 50 of them the facility they have is for what they've got there because of the RV's and everything else. He said so, they would have to have someplace for bathroom facilities or whatever. He asked is it going to overload the system is what I am saying. He said if they just get into a bunch of primitive camping.

Attorney Doll stated well, you've got a shower house now.

Keith Miles replied yes, sir.

Attorney Doll asked and I take it you have some kind of public restrooms.

Keith Miles responded yes, sir a shower house and restroom.

Mike Winge said but they are limited to how many campsites they have for the RV's.

Attorney Doll stated their design...well those two attributes the shower house and the public restrooms were they designed for a specific number or tenants or users of your property.

Keith Miles stated x amount of gallons per day and the engineer's all figured that out and they gave it to the State. He said when we gave them the description we told them what we were doing. He said we have 60 RV sites, we have 5 tent sites, a cabin, small event center, another bathroom, and a guard house so they included all of that and put a little buffer in there.

Attorney Doll asked when you develop the added acreage you just bought you will have to expand the capacity....

Keith Miles said yes, sir.

Attorney Doll asked of the shower house and...

Keith Miles replied no, sir because it was designed initially for like 500 some sites.

Attorney Doll replied oh, okay.

Keith Miles said it was...

Attorney Doll said but of the restrooms.

Keith Miles said the same thing with the restrooms.

Mike Winge asked would they not have that at the Health Department. He asked would Aaron not have that.

Attorney Doll replied I don't know. He said he should.

Mike Winge said they will give you numbers on the system. He stated that is probably what we will have to put something on there to make sure that the system will handle.

Mrs. Barnhill stated if they get their State approval it gets approved.

Attorney Doll asked do you currently have reservations for RV campsites exceeding your capacity.

Keith Miles replied no, we do not. He said we only have what you see built is 59 RV sites. He stated that is all that is built and the expense of expanding we just can't afford it right now as far as that goes. He said we are just buying the land first to give us some time to recover and then we will be back to the State if we need to expand... He said we will go back with the same parameters.

Attorney Doll replied okay.

Keith Miles stated if we want to add 20 more sites we need a septic system that will do this, this, this, and this and they will design it...

Attorney Doll asked so, you want desperately for the RV sites to be legal.

Keith Miles responded yes.

Attorney Doll asked to be within the special use.

Keith Miles said yes, sir.

Attorney Doll asked and that is the 8.16 acres.

Tambi Miles replied correct.

Attorney Doll asked and that was in document 2018R-004606.

Tambi Miles said yes.

Attorney Doll asked you bought that 8 acres separate from anything else, right.

Keith Miles said yes, about 2-3 years ago.

Attorney Doll said okay.

Mike Winge asked 8 point what.

Attorney Doll responded it is on the drawing, Mike 8.16 acres. He said and there is a reference to the Newmaster Minor Subdivision. He said to bring it into legal conformity you ought to include that into the SU-1, but I don't know if you feel, and it is up to the Board, whether you can approve the extra acres. He said I understand they are asking for that in the application, but until you know the use, capacity, and the septic system, and etcetera I don't know that you have enough information to do that.

Chairman Dayvolt asked Morrie, what does the State require for primitive camping.

Mike Winge stated right now you are giving a blanket to be...

Attorney Doll stated what you are thinking Terry is to approve it but limit it to primitive.

Chairman Dayvolt replied no, they can't do anything with the ground but if we state it as being a campground, being used as a campground, they can't do anything with it until they go to the State to get their approval for their septic, their water, their electric, and the whole schmear. He said it doesn't matter whether it is primitive or RV.

Keith Miles said that is correct.

Attorney Doll said you're and I respect that but you are also approving it for an event rental center, concessions...

Mike Winge stated it will be used.

Chairman Dayvolt asked they already have that though don't they.

Mike Winge stated no, not the new acreage.

Attorney Doll stated not on the new acreage.

Tambi Miles stated we already have it on the first 12 acres. She said we got that before we started anything.

Attorney Doll stated I am only speaking of the additional acreage recently bought.

Chairman Dayvolt asked are there any plans for an event center or anything like that on the additional acreage.

Keith Miles responded no, sir.

Mrs. Barnhill stated that was on the original piece and that has already been approved. She said also if this is just blank piece of ground we wouldn't be asking for septic at that point in time. She said we would say it is subject to.

Attorney Doll said no, but you are not doing a blank piece.

Mrs. Barnhill stated it would be subject to right.

Attorney Doll said well, you could do it subject to.

Chairman Dayvolt said there you go.

Mike Winge said it's like you are getting ahead of the thing, the whole thing is all I am saying.

Mrs. Barnhill said that is how we would have done it.

Doris Horn stated I can understand where he would buy this property because at Lynnville Park if we have property to buy just for future use we would do it. She added but then we would have to go in front of the State to get everything in order to put a campsite in the electrical, the water, the sewer, and make sure you got a dump station and you know all of this stuff, but I can understand where you would buy that parcel because maybe in five years from now someone else is going to come in here and take it. She said I understand that.

Keith Miles responded yes, that is correct. He said our reasoning also is when Newmaster bought it all he had got it approved for the whole thing to be apart and we mistakenly assumed that it was still a special use and so she sent us a letter. He said we came in and talked and discussed and she corrected us on that part of so we are here to make it all legal now and incorporate the special use. He said for us for future development I was thinking though that we would have to get approvals on the ground first before we would even decide to proceed with expansion because there is no point in saying hey we want to build a campground and you guys say no you can't because we are not going to zone special use. He asked all of the approvals are going to happen if we should decide to expand would they have to happen first before we would be back to the Board for that approval.

After ascertaining there were no questions by the Board or anyone for or against, Chairman Dayvolt called for a motion.

I, Jeff Valiant, make a motion finding of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to the property being in compliance at all times with the applicable zoning Ordinances of Warrick County.
2. Subject to all public utility easements and facilities in place.
3. Subject to any required Improvement Location Permits being obtained.
4. Subject to any required Building Permits being obtained.
5. Subject to any required permits from the Health Department.

Mike Winge asked what do you do with a blanket.

Chairman Dayvolt stated I have a motion...

Jeff Valiant stated they will get their permitting...

Chairman Dayvolt said by Mr. Valiant and a second by Mr. Moesner any more questions by the Board. He said you're up.

Mike Winge asked what.

Chairman Dayvolt asked do you have any more questions.

Mike Winge responded no, I just think this is a blanket. He said I think that should be more important than getting ahead of...

Jeff Valiant said getting ahead...you are still just approving the ground. He said they are going to have to go get all of the approvals when...

Mike Winge stated I understand what you are saying, but...

Jeff Valiant said it will still come back to the same thing.

Mike Winge said I understand what you are saying, but primitive camping can lead all different directions I'm just telling you.

Jeff Valiant stated unless this is a site there is no camping on it period, right now there is nothing.

Mike Winge replied right.

Jeff Valiant said right. He said but if they are going to do anything in the future they are going to need a special use.

Mike Winge responded I understand that.

Jeff Valiant said and then they are going to get all of their permits from the State or am I incorrect on this.

Chairman Dayvolt replied no, you are right.

Mike Winge asked normally wouldn't you go through the State first to be approved and then come to the Board. He asked isn't that the normal process.

Jeff Valiant stated we have it subject to all permits being obtained. He said we have it right there in...

Chairman Dayvolt stated it's just like the people that want to have the gun sales out of their house. He said they have to come to us first before the ATF....

Attorney Doll stated that is a Federal requirement.

Chairman Dayvolt replied yeah.

Attorney Doll stated that is a Federal requirement for guns, for gun license...

Mike Winge stated that is totally different.

Chairman Dayvolt stated they have State requirements.

Attorney Doll said FDA or ah ATF...

Mike Winge stated ATF requirements.

Attorney Doll stated ATF requires that Terry.

Mike Winge responded yeah.

Chairman Dayvolt stated I have a motion by Mr. Valiant and a second by Mr. Moesner all in favor.

Multiple Board members voted yes.

Chairman Dayvolt said all opposed.

Mike Winge voted nay.

The motion carried 6-1.

Tambi Miles said thank you.

Keith Miles said thank you very much.

**BZA-SU-23-19**

**APPLICANT & OWNER:** Samuel Lee & JoAnn Hart

**PREMISIS AFFECTED:** Property located on the east side of Bell Road approximately 279' north of the intersection formed by Bell Road and Copper Creek Drive. Ohio TWP 34-6-9 5144  
*Bell Road*

**NATURE OF THE CASE:** Applicant requests a Special Use, SU 12, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow: a 10.5'x11' square foot home office to be used for bookkeeping. All in an "A" Agricultural Zoning District. *Advertised in The Standard August 17, 2023.*

Samuel Lee and JoAnn Hart were present. Dirk Stahl, Counsel for the Hart's, was also present.

Chairman Dayvolt asked for a staff report.

Mrs. Barnhill stated on the notice to adjacent properties we have all of the green cards except for two, but we do have the white pay receipts and they were mailed correctly. She said the existing land use is a single-family dwelling with an unattached accessory. She stated the surrounding zoning and land use to the south and east are zoned "R-1A" One-Family Dwelling Zoning District with single-family dwellings. She added to the north is zoned "A" Agricultural Zoning District with single-family dwellings and to the west is "A" being Copper Creek Section A with single-family dwellings. She stated there is no floodplain. She said they have an existing drive on Bell Road. She said their statement in the application says they need this *Bookwork for the business.*

Chairman Dayvolt asked do you have anything to add.

JoAnn Hart stated no, that is what we are here for.

Chairman Dayvolt asked any questions by the Board.

JoAnn Hart said other than you know it is a business we have no traffic coming in and we have no employees, customers, or whatever you might call it.

Chairman Dayvolt asked so there would be no signage.

JoAnn Hart responded oh lord, no.

Samuel Hart stated the only thing we have is a telephone and a computer.

JoAnn Hart stated it is around the back of the house so really nobody even sees where the office is from the road or anything because it is around to the back of the house.

Chairman Dayvolt asked so employees do not come to the premises.

JoAnn Hart stated we have no employees. She said it is just Sam and I.

Mrs. Barnhill stated this is a trucking company right and she does the paperwork for the trucking.

JoAnn Hart replied right.

Chairman Dayvolt asked and this is your business.

JoAnn Hart replied yes, sir.

Chairman Dayvolt asked questions. He said seeing none is there anybody here for or against this project.

Mike Winge stated we've got one.

Chairman Dayvolt said step forward sir.

Bruce Arbeiter stated I own the property north of Sam and JoAnn and due to everything that has led up to this event I vote no for the business. He said that is how I feel. He asked do I need to sign in here.

Chairman Dayvolt responded yes, sir.

Bruce Arbeiter asked any questions for me.

Attorney Doll said what did you mean by everything that led up to...

Chairman Dayvolt responded yeah.

Attorney Doll stated you didn't explain.



Bruce Arbeiter said Sam built this building that literally goes from one edge of my property to the south property and he has been moving trucks and stuff in and out. He stated I think it was very unfair to us as neighbors and we didn't have much say so before so I don't care if he has a business in his house but we have no say so. He said so I am voicing my say so now with this approval.

Mrs. Barnhill stated this is one that stems from a complaint that was filed that the APC closed subject to getting the special use for the home office.

Mike Winge asked what was the complaint on being to close or...

Mrs. Barnhill stated the complaint was on the trucking, the semi's, the large semi...

Attorney Doll stated car hauler.

Mrs. Barnhill continued on the property. She said they were in this new big building and keep it in that building if it was ever on the property. She said the...

Attorney Doll injected semi.

Mrs. Barnhill continued the semi itself.

Mike Winge asked was he zoned for all of that and everything.

Mrs. Barnhill stated it is agricultural. She continued they closed that complaint but she still has the home office so to bring it fully in compliance they filed a special use.

Bruce Arbeiter said I'm sorry Sam, but that is just how I feel about it.

JoAnn Hart asked can we come back up there.

Chairman Dayvolt replied yes, sir I mean yes, ma'am. He added sorry about that.

JoAnn Hart stated it was stated that we have trucks with an s on the end coming in and out, but we only have Sam's semi. She said the last time we were up here...even actually before we came up here the last time...we agreed that we would not bring the trailer home only the tractor, I guess is what you would call it. She stated we were okay for that. She asked what was the other committee called.

Mrs. Barnhill replied Area Plan Commission.

JoAnn Hart stated the Area Plan Commission okayed us to do all of that, so all of that part has been cleared up as far as the barn. She stated we are here tonight only tonight for the home office. She said everything was approved for the barn part so what he is complaining about has already been approved by Warrick County. She stated right now up here we are only here for the office. She said nobody even knows I'm in there.

After ascertaining there were no more questions from the Board and no remonstrators for or against, Chairman Dayvolt called for a motion.

I, Mike Winge, make a motion finding of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
2. Subject to no identifying or business sign being erected or placed on any site for which the SU 12 has been granted by the Board of Zoning Appeals.
3. Except for the shipment and receipt of goods, products or items necessary for the SU 12, the use shall not be visible from the exterior of the premises and no retail sales.
4. No person or persons may be employed in the SU 12 home occupations at site other than the resident (residents) of the site for which the SU 12 has been granted.
5. Subject to the Special Use not being altered to become any other use nor expanded than that which was approved by the Board of Zoning Appeals.

The motion was seconded by Doris Horn and unanimously approved.

Mrs. Barnhill stated I will have the approval ready by Wednesday if you want to come and pick it up.

**BZA-SU-23-21**

**APPLICANT & OWNER:** Chad Bennett as Trustee of Ohio Township

**PREMISIS AFFECTED:** Property located on the west side of Libbert Road approximately 0' north of the intersection formed by Libbert Road and Vann Road. Ohio TWP 21-6-9 3455 *Libbert Road*

**NATURE OF THE CASE:** Applicant requests a Special Use, SU 11, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow: Public recreational facilities in "A" Agriculture and "C-4" General Commercial Zoned District. . *Advertised in The Standard August 17, 2023.*

Jim Morley Jr., MORLEY, Project Engineer, and Chad Bennett, Ohio Township Trustee, were present.

Chairman Dayvolt called for a staff report.

Mrs. Barnhill said we have all the green cards except one from a Donna Hartke but we do have the white pay receipt and one did come back as undeliverable to a Palario. She said the existing land use is a fire station and event area. She said the surrounding zoning and land use is to the north, east, and west are zoned "A" Agricultural with single-family dwellings, a lift station, an electric substation, and or vacant property with some farm fields. She said there is some AE floodplain on this property and they have an existing drives on Libbert Rd. She said their application states: *Ohio Township is proposing to use our existing property from our fire station project into a destination community park for the citizens of Warrick County.* She added the application would be in order.

Chairman Dayvolt asked anything to add Mr. Morley.

Jim Morley Jr. said sure, there is always something to add.

The Board laughed.

Jim Morley Jr. said so if you look at the pretty picture, on the right hand side you will see a kind of grayed out area, that is the existing fire station and then the big lake is an existing lake that was dug as part of the Fire Department project and so the park will kind of fill around the lake and it is basically all the green stuff that goes with it. He added so it is going to be awesome.

Chairman Dayvolt said so it is going to be a soccer field, and pickle ball courts, and basketball courts, and volleyball...

Jim Morley Jr. said it is going to be a little bit of everything. He said so yeah, this is the conceptual plan that we are working from so we are in the design process now but yes, it is going to be very nice and will be great to have something in that part of the County.

Mrs. Barnhill said Jim, the area that is in the floodplain, is some of that higher than what is actually indicated than what the FEMA map has or what is the plan with that.

Jim Morley Jr. said yeah, so any area that is in the floodplain would have to be, well any area that has a building on it will have to be built 2' above the Base Flood Elevation and meet the Flood Protection Grade. He added which is the same thing we do at a lot of places. He said which is what we do at a lot of places, for instance, if you all are familiar with the hotels at Grimm Road and SR 66 those were in the floodplain so we had to fill that area up to build the hotels, build Starbucks there, build Wal-Mart. He said all those areas were in the floodplain and they had to fill that area up to be at the flood protection grade for the buildings. He said the other lot, the open space so to speak, there isn't a legal requirement on how high you fill that, there is only a legal requirement on the building, however it will get some fill underneath it just so it would be less frequent that it would go under water. He said most likely it would get filled up to around the Base Flood Elevation but we are not that far into it yet. He said but the buildings themselves definitely have to, that is a local ordinance that we have to take care of. He added which literally everything from Wal-Mart on the east end to the hotel at Grimm Road and 66 basically everything in between there has had fill brought in and the buildings built on top of it.

Mike Winge asked so how often do you get flooding there on that property where you are going to do all that.

Jim Morley Jr. said well the intent would be that you would raise it up so it doesn't flood.

Mike Winge said yeah, but you said you were only looking at the building.

Jim Morley Jr. said I said the buildings are required by code but the other part would get raised some also.

Mike Winge said okay.

Jim Morley Jr. said because what you don't want is your really nice park area to get flooded every time it rains but the buildings are required by code.

Chairman Dayvolt asked it is already elevated isn't it.

Jim Morley Jr. said parts in the front already are but there will be some parts in the back that need elevated too. He added it will be a mix which is all pretty common in this area you know parking lots are lower than buildings and you know, I mean there all different elevations in there.

Chairman Dayvolt asked are there any safety barriers around that lake.

Jim Morley Jr. said currently there is not, I think the intention is that they will be able to fish and things from that lake so the lake would be left open, just like Friedman Parks lake is available to fish from the bank.

Chairman Dayvolt said but you have facilities close to that lake that you are proposing that holds families. He said right down the road at the apartments down at Grimm Road, there was a baby that went into that lake down there and drowned.

Jim Morley Jr. said yeah, I am aware of that, yeah. He added the intent was to not have a fence around it and that it would be available for people to fish in but we can look at that as we get deeper into it.

Chairman Dayvolt said that would be my only concern.

Paul Keller said the lake is already there.

Jim Morley Jr. said yes, the lake is already there.

Chairman Dayvolt said yeah and when you build all this you are going to have children there.

Mike Winge said why don't you put a fence around it with a high latch that adults have to reach and little kids could not reach or something.

Chairman Dayvolt said it could still be used for fishing but you know, I would just, of course I have grandkids, and no one wants to see a child drown.

Jim Morley Jr. said nor us, I promise. He said as we get into it deeper I mean that is one thing that they can take a look at.

Chairman Valiant asked any more questions by the Board, any remonstrators for or against this project.

Caryn Selby, 3922 Libbert Road property owner, was present.

Caryn Selby said hi, I own two lots across the east side of Libbert Road, well I own one and we are actually under contract for the other lot now. She said I am for this project, we recently moved here with 3 young children from Ohio and just prior to us moving here the town that we moved from had a parks initiative and they wanted every home to be able to walk to a park and that was right before we moved COVID hit and I kind of saw the benefits of having parks in a community so I just wanted to come and see how everything was coming along and voice my support.

Chairman Dayvolt said thank you.

Jeff Valiant said we don't get a whole lot of that that was nice.

The Board laughed.

Chairman Dayvolt said that was nice for a change.

Caryn Selby said this is my first time, I didn't know it was supposed to be negative.

Jeff Valiant said pardon my shocked face up here.

The Board laughed again.

Chairman Dayvolt said well we are thankful that you are a part of Warrick County.

Caryn Selby said thank you.

Chairman Dayvolt asked any more questions by the Board, if not I will entertain a motion.

I, Doris Horn, make a motion finding of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
2. Subject to all public utility easements and facilities in place.

Paul Keller seconded the motion and it carried unanimously.

Jim Morley Jr. said thanks everybody.

Mrs. Barnhill said okay, we will have this approval ready Wednesday.

**BZA-SU-23-22**

**APPLICANT & OWNER:** Michelle Ann Williams

**PREMISIS AFFECTED:** Property located on the north side of Gardner Road approximately 100' west of the intersection formed by Gardner Road and Forrest Hills Drive, lot number 6, N part lot 5, & N part lot 7 in Paradise Estates Subdivision. Boon TWP 6-6-8 5866 Gardner Road

**NATURE OF THE CASE:** Applicant requests a Special Use, SU 30, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow: a

(SU 30) bed and breakfast in an “A” Agriculture Zoned District. *Advertised in The Standard August 17, 2023.*

Michelle Ann Williams, Owner, was present.

Chairman Dayvolt asked for a staff report.

Mrs. Barnhill said we have all the white pay receipts from the adjacent property owners. She said the existing land use is a single-family dwelling and unattached accessory. She said for the surrounding zoning and land use; to the north, east, and west are zoned “A” Agricultural with single-family dwellings and to the south is zoned “R-1A” with single-family dwellings and the Forest Hills Subdivision Part 1. She added there is no floodplain and there is an existing drive onto Gardner Road. She continued her statement in the application says, *I’ve been told that a bed and breakfast in Warrick County would be an attractive addition to the community. My vision for the bed and breakfast is to provide a place in the county for people to relax and take a break from the hustle and bustle of life. Chandler is a beautiful and serene location, in close proximity to city amenities. Indiana is on the route for many destinations, and a bed and breakfast here would encourage visitors to experience everything this area has to offer.* She said the application would be in order.

Chairman Dayvolt asked do you have anything to add.

Michelle Ann Williams said no, thank you.

Chairman Dayvolt asked any questions by the Board.

Chairman Dayvolt asked how many beds are you going to have in here Ms. Williams.

Michelle Ann Williams responded I have 3 bedrooms for people to stay in.

Chairman Dayvolt said 3 bedrooms, okay. He asked what about parking

Michelle Ann Williams replied I have parking for at least 12, I have oodles of parking.

Chairman Dayvolt said okay. He asked questions by the Board. He asked anyone here for or against this project, seeing none any other questions by the Board. Chairman called for a motion.

I, Mike Moesner, make a motion finding of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.

3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
2. Subject to the person and or owner operating the bed and breakfast being a resident of the premises.
3. Subject to the allowance of one sign with a maximum size limit of 25 square feet to be located not less than 25' from the road right-of-way.
4. Subject to any requirements from the Health Department.

The motion was seconded by Doris Horn and carried unanimously.

Doris Horn said good luck.

Michelle Ann Williams said thank you.

Mrs. Barnhill said we will have it ready Wednesday if you would like to come pick the approval up.

**BZA-SU-23-23**

**APPLICANT:** Angie Messel

**OWNER:** Jeffrey Messel

**PREMISIS AFFECTED:** Property located on the west side of Kenwood Drive approximately 250' south of the intersection formed by Kenwood Drive and Woodland Drive, Lot number 596 in South Broadview No 5 Section D Amended Subdivision. Ohio TWP 35-6-9 5555 Kenwood Drive.

Angie and Jeffrey Messel, applicant and owner, were present.

Chairman Dayvolt called for a staff report.

Mrs. Barnhill asked did you read the nature of case.

Attorney Doll said no.



Chairman Dayvolt said maybe I didn't.

Mrs. Barnhill asked would you like for me to.

Chairman Dayvolt said yeah, go ahead.

**NATURE OF THE CASE:** Applicant requests a Special Use, SU 27, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow: a child care center, which has no more than twelve (12) children not related to the provider in a single-family dwelling in an "R-1A" One Family Dwelling Zoned District. . *Advertised in The Standard August 17, 2023.*

Mrs. Barnhill continued with the staff report. She said for their notices to the adjacent property, we have all but two green cards but do have the white pay receipt showing they were mailed correctly. She said the existing use is a single-family dwelling with an inground pool. She said the surrounding zoning in land use in all directions are zoned "R-1A" One-family Dwelling with single-family dwellings. She said there is no floodplain and the existing drive on Kenwood Drive. She said the applicant's statement says, *To provide a safe and loving environment to children while parents are working. Child care services.* She said so their application is in order.

Chairman Dayvolt asked do you have anything to add to our staff report.

Angie Messel said I just want to add that the pool does have a separate gate that fences it off and it locks.

Chairman Dayvolt asked it is completely closed off.

Angie Messel said yes, it is completely separated from the play area, it is closed off. She added I also have a security system that notifies me if anything goes into the pool area.

Chairman Dayvolt asked but it is locked with deadlocks.

Angie Messel said well it is no...

Attorney Doll said no, latches.

Angie Messel said yeah, it just kind of latches.

Chairman Dayvolt said okay.

Mike Winge asked but you can see if somebody enters it.

Angie Messel said I am sorry.

Mike Winge rephrased you are notified if somebody goes in there.

Angie Messel said yes, the speaker will play inside the home and it also will notify my home.

Doris Horn asked how many kids will you have in this daycare.

Angie Messel said the license will allow... it depends on the age, the license will allow for 12 children but that is only if they are 3 and above and then if they are under the age of 3 if will move down to 10 children with no more than 3 under the age of 16 months.

Mike Moesner asked how many people will be involved with that then.

Angie Messel said it is just me.

Terry Dayvolt said hmm, you will be busy.

Angie Messel said yes.

Terry Dayvolt asked do you have any children.

Angie Messel said I have 3 children, I have 8 year old twin boys which are who prepared me for this and I have a 14 year old daughter.

Paul Keller asked have you applied for a license yet.

Angie Messel said I have not; I have to do this first. She added this is a part of the process for my state license and I have operated under the guidelines of an unlicensed daycare for 4 years.

Paul Keller asked how many children does that allow you to have.

Angie Messel said 5.

Paul Keller repeated 5.

Mike Moesner asked is it like you have 3 kids then that allows you to have 2 more, or how does that work.

Angie Messel responded that is just the allowed amount if you are unlicensed, is 5 children in your care that are not related to you.

Mike Moesner said oh, so you can 5 in addition to the 3 then which you do right now.

Angie Messel said correct.

Mike Moesner said okay.

Terry Dayvolt asked so does that mean you can have 3 in addition to the 12 that you are looking at.

Angie Messel said yes, that would be correct. She said if I had 12 children 3 years or older in my daycare then my children only come into play if they were like after school children. She added these are just the guidelines that the state has set.

Terry Dayvolt said okay.

Doris Horn asked what are your hours for something like this.

Angie Messel said 8 to 4:30.

Mike Winge said it is kind of like that park, state first.

Chairman Dayvolt asked anymore questions from the Board. He asked anyone here for or against this project, seeing none anymore questions by the Board. Chairman Dayvolt called for a motion.

I, Jeff Valiant, make a motion finding of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.
7. The USE is a permitted use in this zoning with the special use approval.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
2. Subject to the rules and regulations of the Warrick County Health Department and all state and federal regulations.
3. Subject to any building permits from the Warrick County Building Department.

4. Subject to no signage
5. Subject to no more than twelve (12) children not related to the provided.

Mike Winge seconded the motion and it carried unanimously.

Jim Morley Jr., MORLEY, came to the podium. He said before you read Jordan's, he has at a School Board meeting and is hoping he can be moved to the end of the agenda.

Terry Dayvolt said I am sorry, what.

Jim Morley Jr. said Jordan is on some kind of school meeting, he is on the School Board and he is at a school meeting and he wanted to know if he could be moved to the end of the agenda.

Mrs. Barnhill said so the next one on the agenda is BZA-SU-23-24 by Oakland Holdings and the owner is not here.

Terry Dayvolt said Jordan Aigner is not here.

Mrs. Barnhill said right.

Chairman Dayvolt asked what are the Board's thoughts on this.

Jeff Valiant said I will make the motion to hold on BZA-SU-23-24.

Paul Keller said I will second it.

Attorney Doll said to move it to the end of the meeting.

Jeff Valiant said to move it to the end, now if he isn't here by the end of the meeting I am sorry.

Jim Morley Jr. said I have been constantly texting with him so... there has been like a countdown going on.

The Board laughed.

Attorney Doll said okay, so that is delayed.

Mrs. Barnhill agreed yes.

Chairman Dayvolt called for a vote to move BZA-SU-23-24 to the end of the agenda and it carried unanimously.

**VARAINCES:**

**BZA-V-23-20**

**APPLICANT & OWNER:** Ortez Ayala, LLC by Melvin Ortez, Member

**PREMISIS AFFECTED:** Property located on the north side of High Pointe Drive approximately 0' east of the intersection formed by Bell Road and High Pointe Drive. Ohio TWP Lot number 1 in High Pointe Centre North Section 3 PUD and Lot 1 in High Pointe Centre North Section 5 PUD Ohio 22-6-9 8480 *High Pointe Drive*

**NATURE OF THE CASE:** Applicant requests a Variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for: the construction of a 4,000 square foot covered patio addition to the existing covered patio attached to the Fiesta Acapulco Mexican Restaurant and a new emergency exit pedestrian bridge (required by the Building Code). The covered patio and the bridge will be in the Lake Maintenance and Storm Detention Easement, in a "C-4/ PUD" General Commercial Planned Unit Development Zoned District. *Advertised in The Standard August 17, 2023.*

Jim Morley Jr., MORLEY, Project Engineer was present.

Mrs. Barnhill said and I see the owner, Melvin Ortez, is here.

Terry Dayvolt asked where is he.

Jim Morley Jr. he's the shady guy in the back row.

Mrs. Barnhill said okay. She continued with the staff report. She said for the return receipts, we have all of the green cards except one for one from Newburgh Commons LLC, but we do have the white pay receipt showing it was mailed correctly. She said the existing land use is Fiesta Acapulco Mexican Restaurant. She said for the surrounding zoning and land use; to the south and west are zoned "C-4" General Commercial with commercial businesses, to the east is zoned "C-4/PUD" with a commercial business, and to the north is zoned "C-4" with a use and development commitment. She said there is no floodplain and they have an existing drive on High Pointe Drive. She said there was a Variance (BZA-V-22-20) approved on June 27, 2022 for a 4,000 square foot patio addition and pedestrian bridge, but a permit was never issued and that variance expired. She added so, they had to refile and do this again.

Jim Morley Jr. said stupid COVID.

Mrs. Barnhill said okay, so Phil Baxter, Warrick County Surveyor, signed off that the Drainage Board approval is still in place and okay. She continued their statement in the application states, *The applicant is requesting a variance to construct a 4,000 square foot covered patio attached to Fiesta Acapulco Mexican Restaurant and a new emergency exit pedestrian bridge (required by the Building Code). The covered patio and the bridge will be in the Lake Maintenance and Storm Detention Easement, in a C-4 PUD Zoning District.*

Jim Morley Jr. said so this is the same thing that was done last time. He said they went ahead and they started clearing trees but they never actually pulled their building permit and that is what would have triggered this working however because we didn't get the building permit pulled or

get the other 6 month extension, it voided and so I am back today to take care of... to basically file for the same thing that was approved previously. He said so this is the same thing you all saw, I literally have been saving this on my desktop, I just had to hit print again.

Attorney Doll asked why is this necessary, you have to give us a reason.

Jim Morley Jr. said oh, it is necessary because Melvin does a killer business on Saturday's with \$1.99 margaritas.

The Board laughed.

Attorney Doll said well and it is the only place...

Jim Morley Jr. said it is, and as you can see...

Attorney Doll said so this is the last time we are going to see Melvin.

Jim Morley Jr. said well no promises, but basically everything between here (referring to map) is easements and the only thing that is outside of easements are the parking lot and building already and so it is the only place he has to grow. He said and if you see he has built parking lots across the ditch on the other side and he built a parking lot over here and so this is the only non-built space he has left.

Attorney Doll asked does Melvin own the detail building.

Jim Morley Jr. said yes.

Attorney Doll said and he just rents it out to...

Jim Morley Jr. said yes.

Attorney Doll said okay.

Paul Keller said your bridge is going to come off right here.

Jim Morley Jr. said yeah, so the emergency exit bridge comes to this back parking lot.

Mike Winge said so it will come off this blue part right here.

Jim Morley Jr. said yeah, Building Code requires a second means of egress and so we will have a bridge go across the ditch there that will count as their second means of egress.

Attorney Doll said so such condition that makes this variance necessary is the public easements, the existence of the two lakes, and this is the only place the patio could go.

Jim Morley Jr. said the only place left to go.

Attorney Doll said okay.

Jim Morley Jr. said and for the record, we do not take any detention away from the lakes. He said the patio is up on stilts so as the lakes come up we don't take any detention volume away from the lakes and that was all approved by the Drainage Board also.

Attorney Doll said it was.

Paul Keller asked and egress will be through the front door.

Jim Morley Jr. said the main egress will be through the front door of the restaurant but if there is an emergency there is an alternate route out.

Attorney Doll said egress, not ingress.

Jim Morley Jr. said yeah, right. He said the ingress is through the front door, the emergency egress is... there will be a second way out that goes over the bridge in the back. He added and that was all approved by Drainage Board also.

Jeff Valiant asked do you have a timeline on this.

Jim Morley Jr. said well within 6 months I can guarantee you.

The Board laughed.

Jim Morley Jr. said they do have a contractor selected and so yeah... it is sooner than later.

Chairman Dayvolt asked any more questions by the Board. He asked any remonstrators for or against this project, seeing none he called for a motion.

I, Paul Keller, make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so

limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is:

Attorney Doll said well you need it to add additional seating because of this properties unusual shape and the existence of two lakes this is the only place on the real estate where this could be added.

4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
  - a. Subject to an Improvement Location Permit being obtained.
  - b. Subject to a Building Permit being obtained.
  - c. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
  - d. Subject to all utility easement and facilities in place.



- e. Subject to all conditions of BZA-V-08-21, BZA-V-08-30, BZA-V-11-26, BZA-V-12-25, BZA-V-17-11, BZA-V-20-16, BZA-V-21-33 and BZA-V-22-20.
- f. Subject to the new Hold Harmless.
- g. Subject to their approval with the Drainage Board.

Mike Winge seconded the motion and it carried unanimously.

**BZA-V-23-25**

**APPLICANT & OWNER:** Yu & Jieying Liu Zhou

**PREMISES AFFECTED:** Property located on the north side of Pebble Creek Drive approximately 133' west of the intersection formed by Pebble Creek Drive and Pebble Creek Drive. Ohio TWP (22-6-9) Lot No 44 in Pebble Creek Sub. 8730 Pebble Creek Drive

**NATURE OF CASE:** Applicant requests a variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be amended to allow a SFD 4' into the 25' rear BSL in a "R-2B" Multiple Family Apartments District. *Advertised in The Standard August 17, 2023.*

Jieying Liu Zhou, owner, was present.

Chairman Dayvolt called for a staff report.

Mrs. Barnhill said we have all of the white pay receipts. She said the existing land use is vacant but they are building a house right now. She said for the surrounding zoning and land use; all directions are "R-2B" Multiple Family Apartment District with Single-Family Dwellings or vacant. She said there is no floodplain and they have an existing on Pebble Creek Drive. She said the applicant's statement says, *There was a drain easement at the original site plan, the drain was just on the corner of the house.* She continued so what has happened is we issued a permit in June of this year and they are asking to amend the plot plan on this permit because there was a drain in the front, correct.

Jieying Liu Zhou said right, in front of the house there is a lake and there is a drain that is like a V-shape so with the drain there the water will go to the lake. He said that is how the... they said there is an easement so there so the water can go to the lake.

Mrs. Barnhill added so they are not in any drainage easements, they are only in the rear building setback line by moving the house to stay away from that structure.

Attorney Doll said well I am confused... is it in an easement or in a setback.

Chairman Dayvolt said me too.

Mrs. Barnhill said the variance is to move the house into the rear building setback line and they moved the house because there is a drainage structure originally too close in the front so they just moved it back on the site.

Attorney Doll said so where you are asking to move the house it will not be in the easement.

Jieying Liu Zhou said no, it is just to move away from the drain. He said so when the concrete contractor did the string and lined up, just the corner just intersected with that drain so the contractor said to just move that whole foundation back, you know, a couple feet to avoid that drain and at that time I was not aware that we need to have 25' in the back so that is why I came here to ask for your help to move the foundation back.

Attorney Doll said so this is a setback encroachment.

Mrs. Barnhill said yes.

Chairman Dayvolt said yes, in the back yard and it was because of the drainage in the front yard.

Mrs. Barnhill said yes.

Attorney Doll said because it has not been the Drainage Board, if it was an encroachment into the drainage easement it would have to go to the Drainage Board.

Chairman Dayvolt said that is why they moved it back.

Attorney Doll said yep.

Chairman Dayvolt asked any other questions by the Board. He asked any remonstrators for or against this project, seeing none he called for a motion.

I, Jeff Valiant, make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the

property in the neighborhood. Such condition is the layout of the lot and the drainage in the corner.

Jeff Valiant asked is that sufficient Morrie.

Attorney Doll said which forces the house to be constructed 4' further back into the rear setback line.

4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
  - a) Subject to amending Improvement Location Permit 2023-251 (20477).
  - b) Subject to the Building Permit on file.
  - c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
  - d) Subject to all utility easement and facilities in place.

Mike Winge seconded the motion and it carried unanimously.

Jieying Liu Zhou said thank you so much.

Mrs. Barnhill said you can come in anytime to get your amended permit.

Jieying Liu Zhou said, okay thank you.

**SPECIAL USE:**

**BZA-SU-23-24**

**APPLICANT & OWNER:** Oakland Holdings LLC by Jordan Aigner, Managing Member

**PREMISIS AFFECTED:** Property located on the east side of Victoria Woods Drive approximately 1,200' northeast of the intersection formed by Victoria Woods Drive and Fairway View Drive, Outlot number 5 in Victoria Woods Section 1 Phase 1 Subdivision. Boon, TWP 17-6-8

**NATURE OF THE CASE:** Applicant requests a Special Use, SU 1, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow: a community building in "C-2" Community Commercial Zoning District. *Advertised in The Standard August 17, 2023.*

Jim Morley Jr., MORLEY, and Jordan Aigner, owner, were present.

Chairman Dayvolt called for a staff report.

Mrs. Barnhill said for the return receipts we have 46 green cards, and 10 white pay receipts showing they were mailed correctly. She said the existing land use; this parcel currently Out Lot 5 in Victoria Woods Section 1 Phase 1, which means is not a buildable lot but they are currently re-platting it to make it a buildable. A primary plat has been filed, known as Victoria Woods Section 1 Phase 4 and I believe that goes to APC next month.

Attorney Doll said condition.

Mrs. Barnhill said yes, I would suggest making that a condition for approval. She said for the surrounding zoning and land use; all directions are zoned "C-2" Community Commercial with a Use & Development Commitment. She said this parcel is in an A floodplain with a Letter of Map Amendment where the building will be located and a portion of the property further from the building is actually in the floodway. She said there access will need to be a commercial drive onto Victoria Woods Drive. She said in their application they say, *This application is to allow the construction of a community building/town hall for Victoria Woods. The building will be approximately 5,100 square feet with a swimming pool, paved parking, and supporting infrastructure. The community building/town hall will be operated by the Owner. The Exhibits attached hereto are a compilation of images designed to capture the intended appearance of the community building/town hall.* She said so the application would be in order.

Jim Morley Jr. said so on the front of what I just passed out, this is all the Victoria Woods area. He said the orange line represents the roads that are out there if you drive out there now and in kind of the pink outline represents the area that we are doing the special use on and if you flip to the back of that piece of paper that is a rendering of what the Town Hall would look like and it will be the Town Hall/Community Center that will have a pool right next to it. He said so in order to build that we will need a special use.

Mrs. Barnhill asked so is this two levels on this proposed structure.

Jim Morley Jr. said well it is actually one and a mezzanine because part of it is a two-story building and part of it is... I am sorry, part of it is a two-story room and part of it is two-stories.

Chairman Dayvolt asked questions by the Board.

Attorney Doll asked who will own this, Jim.

Jim Morley Jr. responded eventually it will be the town.

Attorney Doll said yeah, so the application says it is Oakland Holdings LLC but it is not, it is...

Jim Morley Jr. said well it is right now because Oakland Holdings owns the ground.

Attorney Doll said yeah, it is the applicant but when it is built you are going to deed this to the Town.

Jordan Aigner said presumably, so we are in this weird gray area of Town has been incorporated but the Board will not be established until December so while we don't have Area Plan or a BZA or anything we still need to get a Town Hall and Community Center built for the Town so were coming now to get that project going. He said so I have to be the applicant, I have to be the owner until such time that Board is established and that Board will accept that conditions of sale or gift or whatever we do to the Town. He said so that is where we are, but the only thing I wanted to point out was that it was mentioned that it was a nonbailable lot, and I know we will talk about this at the replat and I know this is a separate issue, but it says on our plat all Outlots including this 9... except for this Outlot 9 are for future development, which this is, except for lake, walking path, recreational structures, such as shelter houses, gazebos, park structures and then it says it will be maintained by HOA and that will be the town. He said so that was contemplated in the plat, it didn't say specifically say community center and it certainly didn't mention Town Hall and so I just wanted to mention that that is on the recorded plat right now.

Chairman Dayvolt asked questions by the Board. He asked before they can do this this has to be approved by Area Plan.

Attorney Doll said the plat, yeah. He added you would make the approval of this special use conditioned upon the approval of the replat. He said so the plat will be approved by the APC and

we won't have to go back to the Commissioner's, unless you are going to rezone it then you will have to.

Mrs. Barnhill said no, this fits in the current zoning.

Attorney Doll said good. He said so the motion should say subject to the approval of the replat.

Jeff Willis asked is it subject to the replat because in the reading it says subject to the primary plat Section 1 Phase 1.

Attorney Doll said well that is a replat, presently it is platted as...

Jim Morley Jr. said yeah, we are replatting an Outlot that has already been a secondary so it is a replat. He added it is a primary replat how about that.

Mrs. Barnhill said it was done as an Outlot which is not buildable so anytime you add building lots to a major sub you have to do a new primary and go back to the Area Plan Commission.

Jeff Willis said right, I just wanted to make sure that that was the wording we should be using.

Chairman Dayvolt asked any other questions by the Board. He asked any remonstrators for or against this project, seeing none he called for a motion.

I, Jeff Willis, make a motion finding of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
2. Subject to all public utility easements and facilities in place.

- 3 Subject to any Improvement Location Permits needed.
- 4 Subject to any Building Permits needed.
- 5 Subject to the primary plat of Victoria Woods Section 1 Phase 4 being approved and recorded.
- 6 Subject to the plot plan on file.

Doris Horn seconded the motion and it carried unanimously.

Jim Morley Jr. said thank you all, I appreciate it.

**ATTORNEY BUSINESS:**

Nothing.

**EXECUTIVE DIRECTOR BUSINESS:**

Nothing.

Chairman Dayvolt called for a motion to adjourn.

Chairman Dayvolt said a motion by Doris Horn and a second by Paul Keller. The motion carried unanimously. The meeting adjourned at 7:28 p.m.

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Terry Dayvolt, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of the said Board at their monthly meeting held August 28, 2023.

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Molly Barnhill, Executive Director