MINUTES OF THE PUBLIC MEETING
OF THE CITY OF ANGOLA BOARD OF ZONING APPEALS
HELD ON ARIL 24, 2022

The Board of Zoning Appeals held their regularly scheduled meeting on Monday, April 24, 2023 at 5:00 p.m., the minutes are recorded and prepared by the Department of Economic Development and Planning staff.

Chairman Brant Moore called the public meeting to order at 5:00 p.m. in the Angola Council Chambers at City Hall.

Present members: Brant Moore, Phil Roe, Michael Sutter, and Howard McKeever. Absent Members: Susan Ralston. Also present at the meeting: Director Jennifer Barclay, Attorney Kim Shoup, and Planner Brett Steele. Quorum was confirmed.

Chairman Moore asked for approval of meeting minutes. Member Sutter made a motion to approve minutes for the March 27, 2023 meeting. Member Roe seconded the motion. All other members present approved, none opposed.

Chairman Moore reviewed the meeting rules and procedures.

Chairman Moore moved to the next item on the agenda – New Business – 2765 W Maumee St.

Director Barclay presented the first case as Bills Towing Parking Lot expansion for a development standards variance. The applicant/owner is Little Shooter LLC, Ashley McClanahan. The property is located at 2765 W. Maumee St with the current zoning of C2: Medium to Large General Commercial District. The applicant is requesting relief from Section 18.92 General Commercial Development Standards;(H) Maximum Lot Coverage and Section 18.176 General Parking Standards; (D)(1) Materials. The hearing date is Monday, April 24, 2023. Legal Notice of the Public Hearing appeared in The Herald Republican on April 14, 2023. Six (6) property owners within 300-ft of the project were sent notice by Certificate of Mailing on April 6, 2023. The property is not within a floodplain.

Director Barclay continued stating Bills Professional Towing new location, 2765 W Maumee Street, was platted in September 2021. The property includes Lot 5 of 4.265-acres. 'Block A' completely encompasses the property. Additionally, a large legal drain is situated to the east side of the development.

In March 2021, Director Barclay stated the development received development standard variances to exceed the maximum fence height, fence material and additionally to allow stone/gravel parking surface within the storage area. In reviewing the meeting minutes the applicant, Ken Wilson stated landscape screening would be in place for the fence – this has not materialized. Mr. Wilson also noted all drainage would go to the planned drainage areas.

In April 2021, this board approved a 20,000-sf facility with associated storage yard, parking, landscaping, lighting, and drainage was noted by Director Barclay.

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Director Barclay mentioned in September 2022, staff was made aware that a construction parking area that was not included in the original plans, and constructed of millings, would not be removed. Staff required the County surveyor to grant approval for the parking area to remain since it was located in a legal drain and on the developer's property. Additionally, staff required an easement between the property owners.

In the winter of 2022, Director Barclay indicated staff noticed that millings had been brought onsite and spread on the west end of the front parking area. When contacting Mr. McClanahan, he stated the area would just be a turnaround area for vehicles. Staff determined this type of improvement required development plan approval and development standard variances.

Director Barclay mentioned the applicant is proposing a 9,910-sf parking area directly west of the current customer (front) parking lot. This area would be for parking and turning around larger vehicles and trailers. No landscaping or lighting is being proposed as part of this project.

Director Barclay displayed three site photos to the members to reflect how the area looks today. Captured in the first two images, it was noted that some millings have been brought in and spread out in the proposed area. The final image captured the landscaping put in place for the front yard landscape plan during the original development.

Director Barclay broke down the applicable zoning code provisions to board members. The maximum lot coverage per section 18.92 mentions it to be 75%. It was noted that current lot coverage was at 130,680-sf or 70.3% and proposed lot coverage was 140,590-ft or 75.6%. As for parking materials, Director Barclay mentioned per section 18.176 materials for all off-street parking shall utilize a paved surface of concrete, asphalt, brick pavers, porous concrete, or the like. Gravel, stone, rock, dirt, sand, or grass shall not be permitted as parking surfaces. The proposed material for extending the parking lot is asphalt millings. The material is dark, closely resembling asphalt.

Director Barclay mentioned that plan review comments have been received back to her department, however, they have yet to be reviewed. Some important comments pertaining to drainage need to be addressed.

Director Barclay mentioned that to today's date there have been no public input from the public notices being sent.

Director Barclay finished by stating in conclusion, staff has some reservations regarding this project. The property is highly visible and along the gateway into our community. Staff have been disappointed to see large trailers and semi's parked in the already approved milling parking area to the west of the development. This is something Mr. McClanahan promised would only be on a temporary basis – this has not always been the case. Additionally, staff is having difficulty finding the 'hardship' in this proposal. If this board would approve the request, staff encourages making the following condition that in the area to the north of the of the milling parking area, 5-evergreens evenly spaced, installed at 3" DBH between existing deciduous trees and proposed milling area within 2-months of Angola Plan Commission development plan approval.

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Chairman Moore questioned a comment made on the first couple pages of the staff report that Director Barclay made a comment about a landscape screening never being completed from the previous development plan. Director Barclay stated that from what she was able to obtain from the past plans and meeting minutes, that landscaping was to be installed directly along the fence and that has yet to happen. The staff's recommendation for this case includes landscaping, however just to the north of the expanded lot. The ultimately goal is to buffer that parking lot expansion.

Member Sutter inquired if there was a reason that the landscaping was not completed. Director Barclay mentioned that she was not serving as the Director for the original project, it was more likely the requirement was missed in the transition. Director Barclay stated she is unsure if the final plans even reflected such request for landscaping.

Chairman Moore opened the floor to petitioner Wilburn "Bill" McClanahan, owner of Bills Professional Towing. Mr. McClanahan wanted to mention to the board that everything that was presented in the original development plan has been completed and within a timely fashion. The original plans called for landscaping along the roadside fence however a fence netting was installed on the fence which was approved by the former director. Mr. McClanahan mentioned that this whole project began with Vivian Likes(former director) and he told her at that time he wanted to expand the lot in the future, but at that time it was unable to be included because they had surpassed their budget of three million dollars. Mr. McClanahan advised that he had informed Director Barclay of the same information prior to this meeting. Mr. McClanahan stressed that they do everything they can to make sure the property looks nice and will continue to make it look nice well into the future, for example mowing clear to the roadway in the right-a-way. Mr. McClanahan also referenced the parking area to the east and that they arranged an agreement with the owner Ken Wilson, both parties were in favor of the agreement. Mr. McClanahan continued by stating the material to be used is not millings, however slag from a steel mill. Mr. McClanahan's original plan was only to go halfway down the northern fence, to the west for the placement of this temporary parking area, until funds become available to asphalt the area.

Mr. McClanahan went on to say that his business has expanded in staff, going from 28 employees to 38 currently, in less than a year. Mr. McClanahan stressed that the proposed area is for employee overflow parking or short-term truck and trailer parking, nothing is to be left overnight. Chairman Moore mentioned that his first question on this project was concerns of its main use and Mr. McClanahan verified that nothing will be left overnight, and all wrecked vehicles will be placed in proper areas out of sight by passing traffic. Chairman Moore mentioned that he remembered the original case and how nothing was to be left out front per statements by Mr. McClanahan at that time. Mr. McClanahan stressed again his intentions were to not spread the millings all the way down the fence area and to make sure the area looks nice, not like a junk yard. Mr. McClanahan mentioned he could put signs and barricades up but that would look trashy, there is simply nowhere for people to turn around when not knowing exactly where to go upon entering the parking area north of the building. Mr. McClanahan mentioned he picked Angola because he really likes Angola compared to other communities.

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Chairman Moore inquired if Mr. McClanahan had a problem with the landscaping proposed by staff. Mr. McClanahan advised he did, and it pertained to the 3-inch DBH request of tree size, referencing the pricing being approximately $3,000 per tree. Mr. McClanahan mentioned that pine trees will overtake the area, possibly harming the trees he just currently planted. All this information was presented to him by his arborist out of Bronson, Michigan. Chairman Moore asked Director Barclay to explain what she is requesting when it comes to the landscaping. Director Barclay stated to have evergreens evenly spaced between the existing trees, but not in line with, eliminating the possibility of harming the existing trees. Mr. McClanahan mentioned he again didn't want to spend that amount of money for that size of tree, and he had $14,000 in the existing landscaping, this would be an additional $15,000.

Member Roe wanted confirmation that trucks wouldn't be sitting in the proposed area overnight, Mr. McClanahan confirmed that was correct.

Chairman Moore asked what amendment to the landscaping condition would be presented for the change in proposed area. Director Barclay stated it would drop, suggesting the number of trees go to three trees for half the distance or remain five for the full distance.

Chairman Moore opened the public hearing. With no comments from the public, Chairman Moore closed the public hearing. Planner Steele presented the Findings of Fact for Use Variance.

1. The approval of the variance *will not* be injurious to the public health, safety, morals and general welfare of the community because use of pervious material such as millings allows for water to pass through allowing the additional area to be constructed to prevent 95 percent of the parking lot area from ponding. The millings will not be laid in a manner to restrict current drainage infrastructure in the parking lot that flows to the county drain. All members present agreed.
2. The use and value of the area adjacent to the property included in the variance *will not* be affected in a substantially adverse manner because coverage only surpasses the permitted lot coverage by less than one percent and is constructed with material previously approved by this board. Additionally, the extra space will be used more as a turnaround for vehicles on the west end of the main parking lot or short-term parking. Each adjacent use will continue as it exists regardless of a small expansion to parking lot. All members present agreed.
3. The strict application of the terms of the ordinance *will* result in practical difficulties in the use of the property because the nature of the business performed on this property calls for continuous movement of small to large vehicles throughout the entire property, inclining the need to maximize the lot coverage to full potential. All members present agreed.

Chairman Moore asked for a motion. **Member Sutter made a motion to conditionally approve Development Standard Variances for lot coverage and materials used with the following condition of approv**al: 1. In **the area to the north of the milling parking area, three evergreens for 80-ft length or five for entire length to be installed, evenly spaced, at 3" DBH between existing deciduous trees and proposed parking area within two months of Angola Plan Commission approval. Member McKeever seconded the motion. All members present were in favor, none opposed.**

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Chairman Moore moved to the next item on the agenda – 721 Pine Run

Planner Steele presented the next case as front yard fence seeking a development standard variance. The applicant/owner is Michelle Roselle. The property is located at 721 Pine Run with the current zoning of R4: Multiple-Family Residential District. The applicant is requesting relief from Section 18.160.170(C)(1) – fence and wall standards; front yard fence height. The hearing date is Monday, April 24, 2023. Legal Notice of the Public Hearing appeared in The Herald Republican on March 14, 2023. Thirty-one (31) property owners within 300-ft of the project were sent notice by Certificate of Mailing on April 10, 2023. Applicable code is Title 18: Unified Development Ordinance; Indiana Code: Board of Zoning Appeals 36-7-4-900 Series. The property is not located within a floodplain and staff is recommending conditional approval.

Planner Steele continued that the applicant's wish is to install a 6-ft tall privacy fence on her property in Pine Run Subdivision. 721 Pine Run is mid-block of a row of through lots; meaning a lot fronting on two parallel or approximately parallel streets or abutting two streets which do not intersect at the boundaries of the lot.

Planner Steele stated since this property is a through lot, this lot includes two front yards and two side yards. The yard along Todd Dr and Pine Run Dr are considered front yards. Below are the standards for fences in front and side yards.

Planner Steele mentioned the applicant requests to construct a 6-ft tall off-white vinyl fence from her façade facing Todd Dr to the side property lines and to the front property line along Todd Dr. The applicant stated the wish is for privacy and containment of a dog.

Planner Steele then shared with the members some site photos of the property. Planner Steele showed members the front façade facing Pine Run. The next series of images provided street views looking directly north and south, as well as directly at the corners of the property showing the façade facing Todd Dr.

Planner Steele then broke down the contextual zoning and land use surrounding this property. As mentioned, the property is zoned R4. To the north consist of multi-family residential, agricultural, and medium-family residential (Waites Woods/Miller Addition), to the south being multi-family and medium-family residential, to the East consuming medium-family residential and agricultural in the ETJ and lastly the west consisting of multi-family residential and Carlin Park Elementary School.

Planner Steele mentioned the Angola Comprehensive Plan Principle 2 speaks to how to inspire community image, improve community character. Assure a positive aesthetic exists throughout the City of Angola; Objective 2.3: Enforce zoning regulations relating to property maintenance.

Planner Steele noted that there had been two inputs into his department pertaining to the public notices being sent. One neighbor advised they would be present for the meeting and other communication was emailed to the department. The email was from residents at 721 Todd Dr, Robert and Brandy German, stating "as residents of 721 Todd Dr, Angola, we are opposed to the request to build a 6 foot tall privacy fence within the yard of 721 Pine Run, Angola. That property's back yard butts up to the street across from our front yards, and therefore, such a fence would be a hideous monstrosity of an

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obstruction in the middle of our block. This would not add, but surely deduct to the aesthetics and value of our neighborhood's property. We do appreciate wanting a fence to protect one's pets and property. As a suggestion, a 4-ft picket fence would be a more appealing alternative."

Planner Steele concluded; staff is supportive of a fence however not a fence that 'will serve as an enclosure'. Staff agrees a through lot is not commonly seen in our community however does not constitute a 'hardship'. A 4-ft tall decorative fence is a compromise that will serve the property owners main purpose for desiring a fence while not disrupting neighborhood character.
Condition of Approval being a 4-ft decorative fence to be constructed in the front yard along Todd Drive.

With no questions for staff, Chairman Moore opened the floor to the petitioner Michelle Roselle. Ms. Roselle stated her main concern was for privacy and then safety of her dog. Ms. Roselle mentioned her dog was a large breed and could easily jump a lower fence, in addition to keeping the dog off the street and away from neighboring children.

Chairman Moore advised her that the board must look at the character of the neighborhood and asked her how she thinks a 6-ft fence wouldn't change the character. Ms. Roselle advised it would definitely change the character, however, the fence would be vinyl and well maintained.

Member Sutter questioned that we are talking about a solid-faced fence, a wall? Ms. Roselle confirmed that was an accurate statement.

Member McKeever asked to confirm that the dog could clear the 4-ft fence and Ms. Roselle confirmed that the dog could indeed jump a fence of that height.

Member Sutter commented on an underground wire fence as a possibility. Ms. Roselle stated that she did not want her dog to be constantly shocked and it doesn't keep other animals from entering her yard.

Chairman Moore asked if there were any other questions, there were none. Chairman Moore asked if there was anyone else present to speak on this specific case.

Charlotte Martin, also known as Dean, resides at 801 Pine Run and strongly opposes the fence. Ms. Martin states she doesn't want to be looking at a fence while enjoying her back patio area. Ms. Martin encouraged an underground fence as well. Ms. Martin contacted a company called DogWatch and inquired if a Labrador could feel a shock, they confirmed that the dog would indeed. Ms. Martin ended with she has been living in her residence for twenty-eight years and has never needed a fence next door.

Chairman Moore gave time to Ms. Roselle to comment back, none was noted.

Alan Edwards, Allen County Fence, took the stand to speak on behalf of Ms. Roselle. Mr. Edwards stated that the project wasn't to upset anybody. Mr. Edwards revisited that the fence would be of good quality.

Chairman Moore asked if anyone else would like to speak, hearing none the public portion was closed.

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Chairman Moore stated that he couldn't get past the fact how a fence would change the area, referencing that he personally would not want to live in that area for that reason. Member Sutter followed stating the requested fence is obtrusive, annoying and a wiring fence could resolve the issue. Member Roe confirmed he has used an underground fence and it worked well.

With no further statements, Chairman Moore asked for finding of fact. Planner Steele presented the finding of fact to members.

1. The variances *WILL* be injurious to public health, safety, morals and general welfare because an enclosed 6-ft tall fence will obstruct views of adjacent properties. Additionally, this would be out of character for the neighborhood. All members present agreed.
2. The use and value of the area adjacent to the property *WILL* be affected in a substantially adverse manner because a 6-ft privacy fence in a front yard includes no aesthetic or improvements to curb appeal providing an increase to neighbor property values. All members present agreed.
3. The strict application of the terms of the ordinance *WILL NOT* result in practical difficulties in use of the property because owning and containing a dog is not unique to this property additionally a 6-ft privacy fence will alter the neighborhood character. All members present agreed.

Chairman Moore asked for a motion. **Member McKeever made a motion to approve 721 Pine Run development standard as presented**. Chairman Moore asked for a second, with no second, all members present opposed by signifying. Chairman Moore confirmed variance had been denied.

With no other business Chairman Moore asked for a motion to adjourn the April 24, 2023 meeting. Member Sutter made a motion to adjourn. Member McKeever seconded the motion. The motion carried unanimously. Meeting adjourned at 5:52 p.m.

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Brant Moore, *Chairman* Date

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Brett Steele, *Secretary* Date

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