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

The Board of Zoning Appeals held their regularly scheduled meeting on Monday, July 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, Susan Ralston, and Howard McKeever. 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 June 26, 2023 meeting. Member McKeever 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 – 500 block E. Harcourt Rd.

Planner Steele presented the first case as Sheets Family Park for a land use variance. The applicant is JPR and the owner is YMCA of Steuben County, Sarah Funkhouser. The property is located at 500 block of E Harcourt Rd with the current zoning of IS: Institutional District. The applicant is requesting relief from Section 18.76.020 Institutional District, Permitted Uses. The hearing date is Monday, July 24, 2023. Legal Notice of the Public Hearing appeared in The Herald Republican on July 14, 2023. Thirty-one (31) property owners within 300-ft of the project were sent notice by Certificate of Mailing on July 11, 2023. The property is not within a floodplain. Staff recommended approval.

Planner Steele continued stating The property consists of 4.12-acres just east of the existing YMCA of Steuben County campus. The YMCA of Steuben County, in conjunction with Charles Sheets, had the vision of creating Sheets Family Park. This development is to include an inclusive playground, splash pad, pickleball courts, pavilion, public restrooms, and community gathering space. This type of development is not permitted within the C1 zoning district, and a determination was made for the parcel to be zoned IS: Institutional District to accommodate many of the key components included in this type of development.

Planner Steele mentioned at the July 10th Plan Commission meeting a rezoning request was forwarded with favorable recommendation to Common Council to change from C1 to IS. The rezoning request passed its first reading by the Common Council at the July 17th council meeting.

Planner Steele stated the Institutional District provides several accommodating standards for the petitioner, however, doesn't include the permitted use of a sports complex (outdoor) to incorporate the

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pickleball courts. At this time, the land use variance is the only expected variance needed for this project.

Planner Steele then presented the conceptual plan as the site plans to sit in the future and immediately provided board members with site images as one would see moving counterclockwise around the vacant lot, starting in the SE corner from William St at pedestrian cross walk.

Planner Steele then broke down the contextual zoning and land use surrounding this property. As mentioned, the property is zoned IS. To the north consist of the Project Help and Nolan Meadows, to the south being R1 residential, Institutional districts encompassing Assembly of God and YMCA, to the East consuming The Fountains and Herrington Heights subdivisions and lastly the west consisting of YMCA, Commercial restaurants and businesses, and Village Green Apartment Complex.

Planner Steele stated the comprehensive plan, future land use map supports this project with the following principles. Principle 1, Objective 1.5: Strongly encourage redevelopment of under-utilized, vacant, or abandoned structures and lots; Principle 4, Objective 4.10: Add a city park on the north side of the city to serve existing and proposed residential areas on the north side; and Principle 5, Objective 5.7: Increase efforts to attract and retain businesses and residents.

As of the meeting date, no public input has been received as a result of the legal notices noted Planner Steele.

Planner Steele finished by stating in conclusion, staff is supportive of the request. The development of this property is a valuable addition to the community by providing a much-needed inclusive public amenity for families with children of all ages. Furthermore, the addition of a park on the north side of city limits further improves the quality of life of the community and the rapidly growing residential neighborhoods close by. It should be noted that a development plan for the splash pad will appear on the agenda for the August 14th Plan Commission scheduled meeting. Also, as previously noted Angola Common Council approved the 1st reading of the rezoning of the property.

Chairman Moore stated this variance is essentially for the pickleball courts. Planner Steele stated yes.

Chairman Moore opened the floor to petitioner. Joshua Barkley, JPR in Fort Wayne, approached the stand with his colleague Nathan Deig and YMCA of Steuben County Sarah Funkhouser. Mr. Barkley stated they are extremely excited to bring this project to town.

Member Sutter inquired if this facility would be open to the public without a YMCA membership. Ms. Funkhouser advised that it is going to be a free amenity to the public. Member Sutter followed up by inquiring how long the park will be open. Ms. Funkhouser stated that the park will fall under the Angola Parks and Recreation umbrella of operation. Ms. Funkhouser stated that with a park like this being a first for the community, they're currently working out operational times for each season.

Member Ralston inquired as to who will perform all the maintenance of the park. Ms. Funkhouser stated that the Angola Parks Department will maintain the park and it will be a partnership as to where

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the funding will come from. Ms. Funkhouser stated that they have been funding for an endowment for the park, so a lot of the upkeep will come from that in the future.

Member McKeever inquired too if the courts will have fencing around them being within close proximity of the roadway. Mr. Barkley stated that all pickleball courts will have 10-ft perimeter fencing, in addition to programmable lighting. Member McKeever inquired if the lighting will be programmed for the late evening to respect the neighbors. Mr. Barkley stated that it will have to be manually activated for evening use. Mr. Deig mentioned that they will be working closely with the Angola Parks Department to adequately address the proper times per season. Director Barclay did reference that during the Development Plan process, staff look at the lighting to make sure standards are being met.

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 Land 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 the complex will be enclosed to ensure safety for all users and will not create any noise or pollution to the community. Additionally, the Sheet Family Park entrance is located off a state highway which is constructed to withstand a higher demand for traffic if that shall arise. 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 the use complements the surrounding existing uses and character of the area. The Angola Comprehensive Plan states the need of parks on the north side of the city for the rapidly growing neighborhoods with new families of all ages. Additionally, development standards will be met to assure no negative impact to neighboring property owners. All members present agreed.

3. That the need for the use variance arises from some condition peculiar to the property involved because rezoning the property to where the desired permitted use is granted would not comply with numerous development standards outlined in the UDO. Additionally, the property is more than accommodating for the sought use mirror the petitioners large parcel to the west. All members present agreed.

4. The strict application of the terms of the ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because a sports complex (Outdoor) will complement both the character and development pattern of the area. All members present agreed.

5. The approval does not interfere substantially with the Angola Comprehensive Plan because the Sheets Family Park promotes the community image, growth and form while embracing effective, safe transportation routes. Additionally, incorporates objectives within Principle 1, Principle 4 and Principle 5. All members present agreed.

Chairman Moore asked for a motion. **Member Roe made a motion to approve Land Variances for sports complex (outdoor). Member Moore 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 – 805 S. Washington St

Chairman Moore recused himself from this case. Member McKeever presented the introduction.

Planner Steele presented the next case as Hendry Park Elementary School Monument Sign seeking a development standard variance. The applicant is Commercial Sign Inc and owner is MSD of Steuben County. The property is located at 805 S Washington St with the current zoning of IS: Institutional District. The applicant is requesting relief from Section 18.180.010(H) – sign illumination. The hearing date is Monday, July 24, 2023. Legal Notice of the Public Hearing appeared in The Herald Republican on July 14, 2023. Seventy-eight (78) property owners within 300-ft of the project were sent notice by Certificate of Mailing on July 14, 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 recommended approval.

Planner Steele continued that MSD of Steuben County desires to update the monument sign at Hendry Park Elementary School. Hendry Park Elementary School proposes to replace an existing internally lit manual message sign with an electronic message sign. The school will have the ability to automatically schedule and dim the proposed electronic message sign as daylight diminishes as per the sign illumination sign standards to avoid any invasive light transmission upon the residential neighborhood during nighttime hours it shall be 500-nits.

Planner Steele stated that in order to move forward with this project, the petitioner requests a variance from the Development Sign Standards for sign illumination specifically the distance requirement of electronic message centers being placed within close proximity of residential dwellings. The new sign will remain in the same location as the previous, placing it approximately 118-ft from existing residential dwelling units. The code for sign illumination is 300-ft from a residential dwelling unit for an illuminated sign.

Planner Steele stated the petitioner's electronic message center complies with all setbacks required with code. Hendry Park Elementary School resides along Washington Street which is classified as a local street which presents a 60-ft right-of-way, 30-ft from center of roadway. Measuring from middle of roadway to current sign is approximately 60-ft, providing ample space to accommodate the 30-ft right-of-way and 10-ft setback requirements. Design features meet the maximum height of 6-ft and changeable copy ratio of 80 percent per sign.

Planner Steele then spoke about the variance required for this project and referencing the UDO verbiage. Planner Steele presented the board with an image of the existing sign as it displays today.

Planner Steele then referenced two site images as the current sign sits today and view from the roadway looking north. The last image reflected the sign and it providing a right-of-way line and required 10-ft setback line.

Planner Steele then broke down the contextual zoning and land use surrounding this property. As mentioned, the property is zoned IS. To the north consist of traditional residential, large IS properties:

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sheriff department and Cameron Hospital, to the south being medium density residential (Reddington Heights), to the East consuming Circle Hill Cemetery and Angola Park and Recreation, and lastly the west consisting of traditional residential (Henry's Second Addition).

Planner Steele mentioned the Angola Comprehensive Plan speaks to planning principles in support of a project like this. Principle 1 to manage community form and growth to provide adequate public service, protect property values, and improve quality of life. In addition to principle 2 to inspire community image to improve community character, promote the city's best assets, and celebrate success.

As of the meeting date, no public input has been received as a result of the legal notices noted Planner Steele.

Planner Steele concluded; staff is encouraged to see MSD of Steuben County improve their signage. An electronic message center has many advantages over traditional statis signs and is a convenient way for Hendry Park Elementary to promote the school to the community. The new sign would be more eye-catching and could be used to deliver more timely and informative messages. 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 the 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 opened the floor to petitioner. Diana Chambers, Commercial Sign out of Fort Wayne, was present to speak on behalf of MSD of Steuben County. Ms. Chambers advised that they are just the installers, not the manufacturer of the sign.

Member McKeever inquired as to who does the initial programming. Ms. Chambers mentioned that the unit comes from the factory programmed to specific settings. Ms. Chambers mentioned that a company out of Indianapolis called Awning Innovations programs the unit and will teach MSD of Steuben County how to adjust in the future.

Member Ralston wanted to confirm the placement of the sign if it would be in the same spot as the current. Ms. Chambers advised that is their goal, however, might have to shift it 5-ft to the north not moving any closer to setbacks.

Member McKeever asked if there was any further public comment. Patrick McGinnis, 614 S Washington St, asked if the sign will be lit all night. Member McKeever advised it can be lit but must dim. Mr. McGinnis asked if it was going to be like Carlin Park. Member McKeever and Ms. Chambers advised yes. Mr. McGinnis advised his main two concerns were how late the sign would be lit and how bright. Director Barclay referenced the section of the staff report reflecting what the requirements are per code. Planner Steele advised that the school would have the capabilities to adjust brightness levels in the future. Ms. Chambers mentioned that the school will even have the option to turn the sign off at night.

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

1. The variances will not be injurious to public health, safety, morals and general welfare because the sign will replace the current monument sign and be well outside the right-of-way with additional 17-ft beyond the required 10-ft setback as not to impede pedestrian/traffic vision. The new monument EMC will be installed with programmed settings adjusting lighting output when natural light diminishes. Additionally, the ability to put out more information in a timely manner will actually be beneficial to the Hendry Park Community as well as the surrounding neighborhoods as embraced at other MSD of Steuben County school campuses. All members present agreed.

2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because there is an existing sign already at this location. The new electronic message center sign has software and controllers with the ability to dim the light transmissions when the sun disappears should allow for little to no adverse effects. Additionally, the display will not flash, blink, or flutter lights with different intensity in a quiet manner. All members present agreed.

3. The strict application of the terms of the ordinance will result in practical difficulties in use of the property because continuing to utilize manual message center with very limited capabilities is outdated and somewhat ineffective. The new technological enhanced electronic message center is a proven practical tool for MSD of Steuben to efficiently and effectively communicate important information to the school families and surrounding neighborhood. All members present agreed.

Chairman Moore asked for a motion. **Member Ralston made a motion to approve Development Standard Variances for Sign Illumination within 300-ft of an existing residential dwelling. Member Sutter seconded the motion. All members present were in favor, none opposed.**

Chairman Moore moved to the next item on the agenda – 212 E Mill St

Director Barclay presented the next case as 212 E Mill St Violations seeking an administrative appeal. The applicant/owner is Piatek Business Enterprise Inc, Dave Piatek. The property is located at 212 E Mill St with the current zoning of TR: Traditional Residential District. The hearing date is Monday, July 24, 2023. Legal Notice of the Public Hearing appeared in The Herald Republican on July 14, 2023. Forty-eight (48) property owners within 300-ft of the project were sent notice by Certificate of Mailing on July 11, 2023. The property is not located within a floodplain.

Director Barclay stated that On May 02, 2023 the Economic Development & Planning Department issued a violation. The tenant has made several unpermitted improvements since early 2022. Where the shed is placed today, it appears compliant with setbacks. Additionally, a significant amount of gravel has been brought onto the site to be used as parking. Gravel is not a permitted parking surface. In addition, the parking area is not compliant with setbacks.

Director Barclay mentioned Dave Piatek, Piatek Business Enterprise Inc is formally appealing this decision to the City of Angola Board of Zoning Appeals. Our department stands by the decision that an

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improvement location permit is required for the shed, gravel is not a permitting parking surface and trash receptable must be placed behind the front facade.

Director Barclay presented to the board a correspondence synopsis from early June 2022 to present day.

Director Barclay concluded that there has never been any doubt in the staff's mind these violations exist on the property. We are glad to have a property that has long set vacant, is in use however to protect and stabilize the neighborhood requirements must be upheld.

Chairman Moore opened the floor to the petitioner. David Piatek, 307 E Maumee St, started by mentioning that the area was originally stone where they placed stone. Mr. Piatek said he has owned the building for over twenty years and the city advised him that he needed two off-street parking areas. Mr. Piatek mentioned that he gave permission for the renter to professionally place new stone in the area of existing. Mr. Piatek feels that he hasn't done anything wrong but tried to improve the property. Mr. Piatek then presented each board member, city attorney, and Planner Steele with images including a reference sheet to explain each image *(Exhibit A entry).* Mr. Piatek stated he did not do this to be hateful. Mr. Piatek apologized to Director Barclay for not having an additional copy for her. Mr. Piatek then explained each image to the board members.

Chairman Moore mentioned that Mr. Piatek can just seek a variance. Director Barclay mentioned that is correct. Chairman Moore asked Mr. Piatek why he didn't just apply for a variance. Mr. Piatek stated he informed Director Barclay he didn't agree with her decision, and he was informed to file an appeal for the violation letter. Chairman Moore mentioned that he could at this point ask for a variance.

Member Roe made the statement that this was a church before and there was a gravel parking lot area, referencing this as an improvement to the property. Mr. Piatek advised that was correct.

Member McKeever asked if Mr. Piatek expanded the amount of area covered by stone. Mr. Piatek stated that he did not expand any additional coverage area.

Member Sutter stated that there appears to be prevalence of inconsistency and asked if we have an ordinance that is applied across the board. Director Barclay reference to the board to legal non-conforming and legal conforming. Director Barclay mentioned five years ago was the last time she could find this property in use, reflecting a six-month period of a property sitting vacant looses its non-conformance status. City Attorney Kim Shoup advised to speak further on the topic. Attorney Shoup stated that you can have an illegal use and that if that use becomes illegal while you are using it, then you get to still use it. Attorney Shoup stated this allowed cause rules changed while you were using it as such. Attorney Shoup furthered by saying if you have a legal non-conforming use and you stop using it, then the ability to use it lawfully goes away. Attorney Shoup stated the property has not been used for many years terminating any legal non-conforming use the earlier church might have had. Attorney Shoup then referenced Mr. Piatek's images and that there is no knowledge of each individual property and the past history.

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Member Roe stated the church is zoned residential. Director Barclay confirmed yes as of 2008. Member Roe referenced the image of residence on Mill St with a stone driveway that didn't get a variance for it to be placed.

Mr. Piatek said that he feels this violation is selective enforcement. Attorney Shoup stated this board needs to look at what's presented this evening, not what has happened in the past.

Member McKeever inquired about the petitioner needing a variance for the stone and if needed to come back in future for that. Attorney Shoup stated yes, this isn't a variance request rather a violation appeal issued by Director Barclay. Attorney Shoup stated that if the board supports the decision that the petitioner can apply for a variance or present to the local circuit court.

Without any further public comment, Chairman Moore closed that portion of the meeting.

Chairman Moore commented that petitioner can apply for a variance. Member McKeever agreed that it would be an easy way to do it, although after the fact.

Member Roe asked if there would be additional fees for a variance process since the petitioner has paid for this appeal. Director Barclay mentioned she does not have the authority to waive any fees.

Member Roe asked if the petitioner should have been advised the process to either appealing the violation or applying for a variance. Director Barclay stated that Mr. Piatek was provided with that information.

Chairman Moore asked for a motion. **Member Roe made a motion to reverse the decision of the Administrator. Member Sutter seconded the motion. Members Roe, Sutter, and McKeever were in favor. Chairman Moore and Member Ralston opposed.**

With no other business Chairman Moore asked for a motion to adjourn the July 24, 2023 meeting. Member Sutter made a motion to adjourn. Member McKeever seconded the motion. The motion carried unanimously. Meeting adjourned at 5:47 p.m.

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Brant Moore, *Chairman* Date

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Brett Steele, *Secretary* Date

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