

**CITY OF FISHERS
BOARD OF ZONING APPEALS
MINUTES
FISHERS Municipal Center - Nickel Plate Conference Room
December 18, 2024**

The Board of Zoning Appeals convened at 6:00 p.m.

A roll call was taken. Members present: Jeffrey Silvey, Howard Stevenson, Steve Ferrucci. Tom Grinslade was not present. Greg Lannan was not available on the Teams call.

Others present: Ross Hilleary, Scott Frissell from Kreig DeVault, Kay Prange, Christy Cashin, Kevin Martin, Mark Leach, Mindy Westrick Brown, Hatem Mekky, Saimir Qalliu, Adel Mack, Shaker Pashid, Shineen Kanatr, Eric Gleissner, Matthew Branz, Eric Gleissner, Gary Warstler.

Mr. Ferrucci confirmed quorum and called the meeting to order.

Mr. Ferrucci asked for a Motion for the approval of the previous minutes. He abstained from the vote so the 11-20-24 Minutes will be carried over to the January 2025 BZA meeting.

Mr. Ferrucci explained to the Petitioners that there were only 3 Board members out of 5 at this meeting and as a result, any Board decision would need to be unanimous. The Petitioners were given the option to come back next month. All Petitioners chose to move forward at this meeting.

Public Hearings:

Macs Convenience Stores LLC Variance

Parcels: 15-10-35-00-00-017.001

Address: 11601 Allisonville Road

Case: VA-24-16

Request: Consideration of a Development Standards Variance from Section 6.17.6. E. Ground Signs Located on Lots with Non-Residential Uses. to allow digital changeable copy on two (2) monument signs and Section 6.17.7.E. Awning & Canopy Signs to allow digital changeable copy on the fuel station canopy. **CONTINUED FROM JULY, AUGUST, AND OCTOBER**

Petitioner: Karen Dodge (karen.dodge@municipalresolutions.com)

Planner: Ross Hilleary (hillearyr@fishers.in.us)

Ross Hilleary presented the Staff Report. The Petitioner is not in the audience. This has been continued from July, August, and October. The Petitioner has asked for digital copy on the sign and canopy as a result of the land needed for the roundabout at 116th and Allisonville Road. Elevations were reviewed. We are in litigation for ROW improvements with the party that the Petitioner represents. Staff recommends DENIAL. Mr. Ferrucci added that in 6 months they can resubmit if substantially different.

Mr. Ferrucci opened the Public Hearing. Seeing no one available to speak about this topic, he closed the Public Hearing.

There was no Committee discussion. Mr. Ferrucci asked for a Motion. Mr. Silvey made a Motion to DENY, seconded by Mr. Stevenson. The Motion to DENY was approved, 3-0.

Eman School Variance

Parcels: 15-11-31-00-06-001.000

Address: 12115 Visionary Way

Case: VA-24-24

Request: Consideration of a Land Use Variance from Section 4.2.3 I-69-OL Interstate-69 Overlay District of the City's Unified Development Ordinance (UDO); to allow an Institutional Use within the overlay.

Petitioner: Andrew Horton (regulatory@schmidt-arch.com)

Planner: Kevin Martín (martinke@fishers.in.us)

Kevin Martín presented the Eman School Variance. The Eman School is operated by the Al-Huda Foundation. This is a land use variance. Their location is in the Tech Center within the I-69 Overlay District. School use (NFP) is not allowed in this TC Zoning. The variance seeks to establish institutional use within the I-69 Overlay District. There are phases of development. They have worked with Fishers Engineering on the traffic circulation plan. The Plan and the building footprint were presented and reviewed. Hatem Mekky, Director of Engineering, presented that as the phases increase, the stacking will increase on the North and East side. Traffic will be directed to minimize left turns. Staff recommends approval with all 7 conditions.

Mindy Westrick Brown and Mark Leach of Faegre Drinker have agreed to conditions 1-6 previously and to condition #7 today. (see below). The one-way traffic pattern communication to parents will be strong. School will start in August 2025.

Mr. Ferrucci opened the Public Hearing. Seeing not one from the Public to speak for the variance. He closed the Public Hearing.

In Committee discussion, Mr. Stevenson confirmed that Engineering is OK with the agreements made. Engineering is OK. Mr. Silvey agreed to minimize the left turns. Right turns are faster and safer.

Mr. Ferrucci asked if traffic needs to be tweaked, can conditions 4 and 7 be adjusted. Yes, they can be adjusted and Police Officers can be present.

Mr. Ferrucci asked for a Motion. Mr. Stevenson made a Motion to approve with the 7 conditions listed *, seconded by Mr. Silvey. The Motion was approved, 3-0.

*

1. **The Approval Letter and related documentation be recorded on the property with the Hamilton County Recorder's Office.**
2. **A minimum six (6) foot setback shall be maintained from the most western portion of the existing building for the future realignment of Visionary Way.**
3. **Any building expansion, architecture and site layout, shall require approval by the Nickel Plate Review Committee.**
4. **During Phase 1, Eman Schools may use Visionary Way as its ingress to use the existing entrance at the SW corner of the building for drop-offs and pick-ups. If at any point during Phase 1, traffic issues arise or a new development comes to the north of Eman Schools, the City shall provide Eman Schools a 30-day notice to completely self-contain drop-off to the eastern roadway and relocate the pick-up and drop-off to the north or eastern side of the building.**
5. **For Phase 1A and beyond, the eastern roadway shall serve the ingress and the egress of the school while Visionary Way, and its potential redesign, shall serve Launch Fishers along with the future development north of the school.**
6. **To avoid future conflicts with AM and PM rush hours, the school schedule shall be adjusted to start at 8:30 am and end at 3:30 pm.**
7. **All drop-off and pick-up traffic from Technology Way and Visionary Way shall be directed to turn right onto Technology Drive. Ingress traffic shall turn right onto the eastern portion of Technology Drive. All egress traffic shall turn right onto the western portion of Technology Drive. If traffic issues arise, the city shall require police officers during pick-up and drop-off hours, at the intersections of Visionary Way and Technology Drive and the intersection of the eastern drive and Technology Drive.**

Bent Grass Marketplace Variance

Parcels: 15-11-19-00-67-001.000

Address: 13682 Bent Grass Lane

Case: VA-24-26

Request: Consideration of a Development Standard Variance from Section 5.4.8.D.2.b of the City's Unified Development Ordinance (UDO) to allow a drive-up window, exterior menu board, and speakers, associated with a restaurant or coffee house, within 400 feet of any building zoned or used for residential purposes.

Petitioner: Mark Leach (mark.leach@faegredrinker.com)

Planner: Christy Cashin (cashinc@fishers.in.us)

Mark Leach, along with Eric Gleissner and Gary Warstler presented the commercial development for approximately 8 tenants, which includes one drive-thru with menu board and speakers. The variance asks for 125 ft. distance from the neighbors, the UDO requires 400 feet. Plantings will be over and above the UDO requirements. Mindy Westrick Brown presented a study that she conducted in the field at a Panera Bread location that is similar. She could not hear the sound over the traffic noise. The balconies do not face it.

Sue Anthony Follmar, Regional Vice-President of Regency Windsor Management, sent a letter to the board opposing the close location of the speaker boxes. Steve Ferrucci noted receiving the letter and that the Board does not treat apartment residents any different than homeowners. Staff has no recommendation.

Mr. Ferrucci opened the Public Hearing.

Matthew Branz (9446 Ashlake Ln.) – agrees with the landlord. 400 feet vs 125 feet is adverse. The Argument belongs in front of City Council and Plan Commission to change the UDO. There are ways to develop that don't require drive through.

Seeing no other member of the Public to speak on this topic, Mr. Ferrucci closed the Public Hearing.

Mr. Ferrucci asked for a Motion. Mr. Silvey made a Motion to DENY the variance request, seconded by Mr. Stevenson. The Motion to DENY ended up with a 2-1 vote, resulting in an automatic continuance.

Adjournment As there was no other business, the meeting was adjourned at 6:40 p.m.

Respectfully Submitted by:

Kay Prange, Recording Secretary