

PLAINFIELD BOARD OF ZONING APPEALS

February 24, 2022

6:00 p.m.

Mr. Monnett: I'll call to order our Plainfield Board of Zoning appeals meeting for February 24, 2022.

ROLL CALL/DETERMINATION OF QUORUM

Mr. Monnett: I'll ask our Board Secretary to have a roll call for determination of a quorum.

Mr. Klinger: Ms. Giesting – here

Mr. Philip – here

Mr. Cavanaugh – here

Mr. Monnett – here

And Mr. Clay let us know he would not be able to attend.

PLEDGE OF ALLEGIANCE

Mr. Monnett: Would you all please rise for the Pledge of Allegiance.

APPROVAL OF MINUTES

Mr. Monnett: I will now entertain a motion for approval and/or amendments to our meeting of January 20, 2022.

Mr. Philip: I move we approve the minutes as submitted.

Ms. Giesting: I'll second.

Mr. Monnett: We have a motion and a second. All in favor say aye.

(All ayes)

Mr. Monnett: Thank you

OATH OF TESTIMONY

Mr. Monnett: Public Hearings are designed to allow public input regarding the subject matter. The proceedings are recorded for public record purposes; please come to the podium, located in the front of the room, give your name and address and make your presentation. Following your presentation, please print your name and address on the speakers' sheet; that will correctly official record reflects your name and address. I'll ask Mr. Daniel if he will administer the Oath of Testimony, please.

Mr. Daniel: Anybody expecting to testify tonight, please stand and raise your right hand.

(Mr. Daniel administers the Oath of Testimony)

Mr. Daniel: Thank you

PETITIONS FOR PUBLIC HEARING

Mr. Monnett: Our first petition tonight should be BZA-21-124-A.

Mr. Berg: Mr. President, we were informed by the engineering firm representing the applicant that they did not send out the notices, as per the rules of procedure.

Mr. Monnett: And can we please verify that this is the second time, correct?

Mr. Berg: The previous month, they sent them out incorrectly. This month, they just failed to do so.

Mr. Monnett: Thank you. I will open it up to our board for some discussion and some guidance.

(inaudible)

Mr. Monnett: I don't either.

(inaudible)

Mr. Monnett: Right.

Mr. Cavanaugh: So, if we do not continue, then their next option is to reapply?

Mr. (?): Correct

Mr. Monnett: I don't have a problem – does that present a problem for staff? Mr. Whaley?

Mr. Whaley: If you provide guidance as such, what we can do is withhold re-docketing these petitions until they've filled the notice requirements. The only reason they were on the agenda is because they were continued from last month.

Mr. Cavanaugh: I think I'd move or suggest that we table this until they've met the application requirements.

(inaudible)

Mr. Cavanaugh: I move that we table this petition until the petitioner meets all the application requirements.

Mr. Philip: Second

Mr. Monnett: We have a second. All in favor say aye.

(All ayes)

Mr. Monnett: Thank you Kevin. Our next petition...

(inaudible)

Mr. Monnett: Oh, sorry. So, Mr. Whaley will read BZA-22-009.

Mr. Whaley: I'll try to fill in for Terry as much as possible here, until we can get him online.

Mr. Monnett: Thank you.

Mr. Whaley: As you already indicated, this is BZA-22-009 – 3 Cords Wedding Facility. This is a request for a Development Standards Variance to Article 4.3: Home Occupation section of the ordinance. Basically, what this petition involves is, we have a private property owner who owns residential property on Township Line Road who has, in the past, posted a couple of wedding receptions at this location for family members. They approached staff with the concept of doing this as basically a temporary use as a business at their home. They had initially requested to apply for a use variance but upon looking at the findings of fact required to demonstrate the hardships for that variance, we advised the applicant to pursue the home occupation. This process isn't necessarily one that gives a lot of guidance in the variance for this type of a use; it's fairly unique, so we tried to take this approach of the home occupation route. As Terry indicated in the staff report, there are several different items which this temporary use would not satisfy in that home

occupation section, so the applicant is requesting the variance from those sections. They are going to explain their business in more detail, and they can go through those when they come up for their presentation. They also did provide a list of voluntary commitments which are noted on the screen, that will basically limit the business operations. If you decide to approve the request for Development Standards Variance, the applicant has offered to supply conditions to where they would basically come back within a year, so this would give them an opportunity to give a test run, if you will, of this unique use of this property. And then that way you can reassess and determine if additional conditions need to be placed on the property with the approval. As Terry indicated in his report, this site is located between two flood plain areas which would limit future development of any surrounding properties. So, that's one specific condition of the site that we wanted to call attention to, because we do think that that lends favor to, you know, obviously providing an isolated use from nearby residential. It's going to maintain that separation because that property to the west is fairly limited to the type of development that can be there. At this point we'll turn it over to the applicant to explain their business and open it up to questions for the public hearing.

Mr. Monnett: Thank you Kevin. If the applicant would like to come forward, please. If you want to please state your name and address first, thank you.

Ms. Faulkner: My name is Christy Faulkner, 8285 East County Road 300 South, here in Plainfield. It's actually my property. This is Beth Lewis.

Ms. Lewis: Beth Lewis, 4676 Tattersall Drive, Plainfield.

Ms. Faulkner. And she's my partner, we're working on this together. Thank you, folks, for having us, we really appreciate it. Our reason for being here is for that variance of the Development Standards Article 4.3, Home Occupation. With this variance Beth and I will provide a service to Plainfield and the surrounding community for an outdoor wedding venue. It will be on a very limited basis. We are both married, we are both new grandmas, and eight weekends is all we really want to do. It will be from possibly May, because you can't depend on the weather, but June, July August, and maybe that first weekend in September, very limited. How this all came about is my oldest son, Lee and I's son, married a little gal from Kokomo and she is from a huge family; 525 people on the guest list. There's nothing in Hendricks County unless you go out to Danville and the barn and things like this. Courtney, my daughter-in-law, had 85 (inaudible); we don't have 85 close friends and family. So, the kids asked about the property. This is after RSVPs and everything, this is 435 chairs, the wedding was just (inaudible). The tent, it is temporary; (inaudible) will usually come in on Thursday night, after I've cut the yard, and put it up for us. Restrooms were hidden behind that. And by Monday morning, they came in and took it down. There's our guy – it was lovely because with the cornfield, (inaudible) and them putting in the cornfield, I mean, we were so secluded. So yeah, that's 425 people back there. This was our second little wedding. This was only 270. The problem we find too, is like the wedding barns and stuff are 250-300 at the most, so there was just nothing out there for us. There's our backyard. It worked really well. Jessica decided to do hers different, so it could be very unique. And it was, it

was just a lovely night. And then they put their tent up (inaudible). No (inaudible), we do (inaudible) just in case (inaudible). (inaudible) this is how we did our parking – there we go, that is our parking. Over there you'll see where there is 100 plus parking spots. You'll see up here there's an 18'x11', those are for handicapped. It worked so well, we could even get a lift going, not a problem there. Up the center, off (inaudible) four lanes, we brought them in and into my drive (inaudible) folks and it worked very well. The (inaudible) had, and we did this for theirs too, (inaudible). And it did, it just worked very well – 300 – with your guests typically leaving and dwindling it never was crowded. The drive is (inaudible) too because of the two homes being back there. So, with all that, what we (inaudible) on this is it's unique; there's nothing around like it. We're one road off of U.S. 40, off of Township; it's just a very convenient and lovely (inaudible) but – this is our heaven back there – it's private, it's a residence and we will keep it that way. Also, this is very, very temporary (inaudible). We will be a limited (inaudible), there will be no signage, we won't advertise, we're going to be (inaudible), word of mouth, and maybe a bridal show or whatever, if we need to, but we value our privacy. So, our business, very limited, (inaudible). So, in closing, what Beth and I worked on when we were presenting all this, talking with Terry and staff, is we have established some things for (inaudible). Limited calendar, as I said, 12-hour rental, Saturday 12-hour day. Friday night, we give you a little bit on Thursday if they need their rehearsal, and then an 8-hour, or however they want to slice it up, but 12 hours is all we're offering. We will facilitate the sendoff at 9:30 p.m. All of our kids are married, no wedding needs to go past 9:30 p.m. We will facilitate to get the couple out, family can clean up or whatever, 10:30 p.m. give them hugs and get them out the door, that's what our goal is. And then we're very (inaudible), come back if you needed to review, talk about things (inaudible). We would ask that it be after our first full season. With it being basically March, we may or may not have a couple weddings this year, but after next year.

Mr. Monnett: Could you go back to the slide of the parking please?

Ms. Faulkner: Yes

Mr. Monnett: Now, what is the – where does the Plainfield Bible Church come into play?

Ms. Faulkner: Absolutely, we have gotten a letter, and I've got letters for all of this, they have said that we can use their parking lot. If they have a conflict, we've got the north parking lot and it was 100 plus parking spots there. And what we would do, that would be in our rental policy, if that were to happen then we would shuttle. So, it would be (inaudible) grabbing folks and come on over. Because I don't want to (inaudible), it's bumpy enough when I cut it.

Ms. Giesting: So, the images that I've seen, and I drove by there, you are kind of secluded back there, so when you talk about neighbors, you mentioned music and how it would impact the community – where is the nearest neighborhood?

Ms. Faulkner: The Settlement is across the way. The neighborhood is then across the Monon Trail and on over Magnolia Street (?) (inaudible).

Ms. Giesting: Is it over by Kroger?

Ms. Faulkner: We have a letter from the Ross's, there next door, and of course the front is Grandma Geri, Geri Duncan, we call her Grandma Geri. She's up that way, really on the (inaudible), and they're all fine with it. Geri was going to be here tonight (inaudible). And I can repeat, everything will be finished by 9:30.

Ms. Lewis: Yes, 9:30 we're going to facilitate the sendoff.

Mr. Monnett: If this is approved, and right before your first event, you're okay with showing your agreement with the parking, with the church...?

Ms. Faulkner: I have all that with us.

Mr. Monnett: Oh, okay.

Ms. Faulkner: I've got all that with us, I did not know if we (inaudible). We've got our (inaudible), and then we've got our – and I've got copies of that too, and (inaudible), so yeah.

Mr. Monnett: Can we have a copy of that, please?

Ms. Faulkner: Sure

Mr. Monnett: Thank you

Mr. Klinger: And Vandalia Trail runs (inaudible) in that spot. The closest home on Hemlock Lane, that Magnolia Drive area, is probably about 500 feet, roughly. But like I said, it's crossing the trail and it's pretty heavily wooded.

Ms. Giesting: Okay

Mr. Cavanaugh: I have a quick question, kind of an operational thing. For the two large groups that you had so far, where did all those people stay?

Ms. Faulkner: That was interesting, they – Courtney's family came from Kokomo and a lot of them did stay here in Plainfield. Which was lovely there at I-70, they just dropped down and came on in. We're so close off of S.R. 267 to U.S. 40, and there they were at Dan Jones.

Mr. Cavanaugh: You know, if you have large events with that many attendees, some people could commute back and forth depending on where they're coming from, but some people are going to stay.

Ms. Faulkner: Absolutely

Mr. Cavanaugh: And then you have the, whether it's the bridal party or the groom, that party, do you have dressing areas? How is that accommodated?

Ms. Faulkner: We have not. That was something we were thinking – for the men, for my son's, we had a tent designated for the fellas with a fan and whatnot in there. Guys don't mind getting dressed in a backyard. At that time Courtney had a home up above the Settlement, so she got dressed and them came flying in in her dad's Durango.

Ms. Lewis: We've talked about different things, possibly having (inaudible) for the ladies, or partnering with a hotel that might offer a dressing area.

Mr. Cavanaugh: That's an operational thing I think and (inaudible) this but if you've already been able to do that, I think there's ways to work that out.

Ms. Faulkner: Oh yeah.

Mr. Cavanaugh: Thank you

Ms. Faulkner: Thank you.

Mr. Cavanaugh: I don't have any more questions.

Mr. Monnett: Thank you ladies.

Ms. Faulkner: Thank you

Mr. Monnett: If there's anybody in the audience who would like to speak for or against this petition, you may come forward now.

(Brief pause)

Mr. Monnett: Seeing none, I'll close it to the public and I'll open it to our board for some further discussion or a possible motion.

Mr. Cavanaugh: I think this is kind of a unique request, it hits a spot where we don't have a clear description on how to deal with this, so I think that the direction that we've taken is good and the application is certainly well thought out. I think that she thought out how to conduct this business pretty well. I don't have any concerns about the operation or working parts of that and I'd be prepared to make a motion.

Mr. Monnett: I would like to add though, it's a unique property and I think that lends greatly for this.

Mr. (?): My personal opinion as well.

Mr. Monnett: Ready Kevin?

Ms. Giesting: (microphone not on) (inaudible) look forward to next year (inaudible).

Mr. Monnett: Sure

Ms. Giesting: (microphone not on) so that we can make sure (inaudible).

Mr. Monnett: Yeah

Ms. Giesting: (microphone not on) (inaudible)

Mr. (?): (microphone not on) I will say Kevin, since you mentioned next year. I did notice that the review is for the fall of 2023 (inaudible).

Mr. Philip: Yeah, they were asking for a full year. They haven't started yet so they're not going to have a full slate of events for this summer, so they were asking for that review to happen in fall of 23', after they've had a full season. So, it is next year, but it's a year and a half from now.

Mr. Cavanaugh: Right. Yes, and I think that's a worthwhile review because you'll learn more things as you go along, I'm sure. With that, I'm going to move that the Board of Zoning Appeals approve BZA-22-009, as filed by Christy and Lee Faulkner, requesting a Variance to the Development Standards of Article 4.3 Home Occupation Required Conditions – on prescribed temporary basis, to allow an outdoor wedding event activity as a Home Occupation at 8285 Township Line Road. If approved subject to the following conditions:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
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;
3. The strict application of the terms of the zoning ordinance will result in practical difficulties if applied to the property for which the variance is sought;

And that such approval shall be subject to the following condition(s):

1. Voluntary Commitments be provided by the applicant to include:
 - a. Limited calendar, 8 weekends starting in May to September.
 - b. No signage or advertising on the property.
 - c. No alcohol on the premise policy.
 - d. Wedding party contract will include the following:
 - i. 12-hour window for set-up to clean-up.
 - ii. 9:30 PM facilitated sendoff of bride and groom.
 - iii. Wedding party clean-up and gone by 10:30 P.M.

Mr. Jones: Oh, great. Sorry about that, I do not know what is going on here.

(Brief pause)

Mr. Berg: You're on, Terry.

Mr. Jones: Okay, okay. Very good. This next item, BZA-22-010 for Good Oil. You can see here that the property is located in the southwest corner of Main and Moon Road. It used to be known as the Phillips 66 site. Their request this evening is for canopy signage. Since that particular development was approved in 2012/2013 the ordinance has changed and the new section, Article 4.18A.9.c no longer allows signage to be placed on fueling station canopies. The second request this evening is for the canopy lighting itself. The canopy – there's really not an ordinance that prohibits the illumination of canopies. However, the lighting section of the zoning ordinance does not allow the light filament, or the light bulb, if you will, to be visible from any adjacent roadway. It would require it to be screened or shielded in some fashion. This request this evening, as we'll get into in a moment, they're requesting a bulb, a tube to go around the perimeter of the outside of the canopy. This particular site, you can see it in the upper left-hand corner there, that's an overhead view of the canopy itself, they have it identified clockwise as A, B, C, D, for the sides, A being the northernmost side which faces the intersection of Main and Moon. I think the next slide might give a little bit better – this shows, on the left there, as you can see, those are photos of the site as it was known as Phillips 66, and it gives a little bit better representation of the bar, the green bar that is wanting to be placed around that perimeter, you can see it there in the top visual. The second one shows it, and then the fourth at the bottom shows that bar as well. It also identifies where the location that they're desiring to place what's known as the "Helios", or the actual sign itself, the logo sign. The next slide, you can see is a little bit better visual of what was approved, what is virtually there now. This is looking north and west as if you were on Moon Road, the one side they would identify as site C; that long band would be side B, and side B is the location where the Phillips 66 logo was originally placed. And then the next slide, you can see that this is looking from the intersection south and west. You can see a little bit better, the side that they call B, that would be facing Moon Road. You can see the 66 logo, and then there is nothing facing directly to the north. There is nothing being proposed along the west elevation of that canopy. I would point out at this time that there were at least some flood lights that were on that west portion of the canopy, that staff has indicated need to be removed because they've never been approved, were never part of the approval and they would not be allowed anyway. So, regardless of what happens this evening, those need to be removed as soon as possible. Also, you can see here the pylon sign. This was approved as an integrated center initially, with a development plan. Integrated centers are allowed pylon signs or a pole sign. As it can be seen here, they did in fact take advantage of that particular portion of the sign ordinance. One of the things, as you may recall in the staff report, part of the reason for allowing pylon signs with an integrated center is to alleviate the need, if you will, for a lot of signage. As you can see

in this instance, that particular pylon sign provides a lot of visibility for the site itself. It provides a lot of information, it gives the prices that are there; it could also give the name of another tenant in that location, if there were one. To date, there has not been a tenant in that location. Part of the reason for the allowance of the pylon sign in the first place was that this was to be an integrated center. As far as I know, since the building has been occupied in 2014, there has not been another tenant in that location. So, it kind of asks a lot of questions, when they're asking for additional signage, and not kind of going through with the second tenant, which would allow for that pylon sign in the first place. The other thing that has sort of been kind of a question is that when we look at this site – initially the Phillips 66 badge or logo was allowed on the canopy, the ordinance allowed it at that time. Since that time, the ordinance changed, and it has legal nonconforming status. So, when that particular logo was removed it lost its nonconforming status. In the narrative the applicant has said something to the effect that this is simply a replacement of the existing signage. Staff would contend that this is no longer a matter of replacement because it was removed; it can't be placed back. So, it's not a matter of replacement. The second point on the whole replacement idea is the fact that, if you remember, when you look at the photos of the site, there's only one side of that canopy where they ever had a canopy sign, and that's on the side facing east, Moon Road. There are no logos on either side of it, and there is no exterior lighting to that canopy. So, I wrestle with the idea of this actually being "replacement" issue. Another item, and it may be a small item, but in the findings of fact – the staff report refers to the findings of fact that will be, were initially submitted were from the Use Variance section of the request. Since that time the applicant has resubmitted findings for the Development Standards, which is what the request was initially. However, still have the same questions to some extent, that was in the staff report, as it reflects the findings within the variance for Development Standards: will the strict application in terms of this ordinance result in practical difficulties in the use of the property? And the answer to that is, the rebranding of the sign will not cause any unnecessary hardship. I really don't know how to address that statement, other than it appears as though strict application of the terms of the ordinance does not propose any unnecessary hardships. I'll leave that to the applicant to maybe explain but that was just something that caught my eye as we reviewed this particular request. And again, it may not be that much of an issue, but we did want to bring that to the board's attention. With that, I believe the applicant probably is present. If you have any other questions, I'm available.

Mr. Monnett: Thank you Terry. If the applicant would like to come forward, please.

Mr. Schram: There is some paperwork here, some additional paperwork – after we read the staff report, in terms of like lighting (inaudible) maybe answer those questions (inaudible).

Mr. Monnett: Sure. If you want to state your name and address, please.

Mr. Schram: My name is Justin Schram, I'm with Schram Law Group, that's 118 North Monticello Street, Winamac, Indiana. First, I want to thank you guys for your time. Normally I'm sitting on that side of the table, so it's kind of a novel experience for me. And also, I want to thank Eric and Terry, especially Terry, they were a lot of help leading up to this presentation. He helped us a lot through the developmental standards and the correct findings of fact that we had to enter for your guys' consideration. So, it's fairly self-explanatory. Though Terry is right, calling it a simple replacement probably isn't the correct term; it is an upgrade and that's the way we view it. Converting from a Phillips 66 to a BP – about every 10 years with fuel contracts, what you do is you reassess what the various rebates and incentives are, whether it's Conoco, Marathon, BP. So, it's been about 10 years since it was approved for a Phillips 66. What we generally do, and what the fuel supplier does is they look at different markets and determine what kind of offerings specific to a particular product, BP for example, is or is not in the area. That coupled with additional rebates or incentives that are passed along to the dealer, kind of leads us to what decision we should try to (inaudible). So, I represent Good Oil Company, we supply the site. We are what you would call a jobber, we wholesale, but we do assist a lot of our dealers with rebranding processes. A lot of them haven't really been through this process before. You know, one of the struggles here is obviously – I know 10 years ago when there was the preliminary ask for branding, at that time the dealer had talked about having a tenant in the building; that has not happened. To be honest, I don't know why that did not happen, I don't want to sit here and try to make an excuse for him. I do know, and I can say, that it is still something that he is looking at, but I don't want to stand here and make you any promises that I don't have the answers to. When we look at an area, I know that we had to send out about twenty legal notices, four came back residential and they were located to the west of the building, which is why – part of the thing we look at is light pollution. You now, we want to make sure that light is shining in an area that is already light visible, which is why we chose to go with the Helios signs. The light on the Helios signs, the Helios signs tends to draw your attention a little bit more because it's a constant LED cluster right there, so we kept them to the northeast and the southern side because to our understanding, the residential property was located southwest and northwest. It does, and you'll see from the lightbar exhibit that I gave you, it produces 415 (inaudible) per square, which typically, just as a basis of comparison, I don't pretend to be an electrician, your computer monitors and your daily usage things run 250 to about 400 – I would say that screen behind you is probably a little closer to 150, (inaudible) monitor is probably a little closer to 400. So, that's what we're talking about in terms of luminosity of the branding. One additional thing that we want to do, that we were going to do, to be quite frank, is the awnings on the building aren't just going to stay red, they're going to be painted black. Regardless of whether or not the lightbar and the Helios are approved; it's a little bit more conducive to that green color, we don't want red with green, it doesn't look attractive to the site. If it's not attractive, people don't want to pull into the site. If I'm pulling into a gas station, I want to see (inaudible) presentation, it makes me believe it's a good gas station. So, you know, that's an additional thing that we are going to

do to the building, is to black out those awnings. A couple things that we didn't need approval for but is worth talking about: the actual BP sign which goes on the front of the building, which I believe faces north – because it wasn't more than 10% of the area, it didn't need approval – but it's worth throwing out there so that you understand what all goes into the rebranding process. And to be fair, a replacement is probably not a good way to go, we see it as an upgrade. I mean, it's a nice site, it's a good location but when you look at some of the colors, the red is fading a little bit. So, about like every 10-15 year, depending upon the incentives that are passed off to us by the supplier, in this case BP, we look to rebrand the site. So, we like to call it an upgrade, kind of like Terry said. He may not have used the term "upgrade", but it was an additional product that was placed on the site. Again, I've found in being in this position, that gas stations aren't incredibly exciting/attractive things to talk about. You know, it's certainly not a novel concept or novel idea compared to a wedding venue or anything else, but you know, we want to be good stewards of the area. Again, we've constructed this in such a way that we cut down on the light pollution, specific to the residential area. I know there is a stoplight out there already and that's why we didn't have a problem with facing the Helios signs out at the stoplight because there's already some luminosity there at the intersection. Another of Terry's questions, which probably wasn't made clear on the application: how would it cause undue hardship? So, we have to, both my client and any of our dealers, have to adhere to image and operational standards of any supplier. Basically, what they can do is come in and fine us/dock us, really cut the rebate incentives we get as a site if you don't adhere to what their guidelines are. Unfortunately – and I don't like this, that's why it's difficult – dealing with some of these big companies like BP, they say this is how it's got to be; this works everywhere else so we think it should work in Plainfield, Indiana, and of course that's not always the case. At the time we put this in originally, it was a conforming use and now it's nonconforming; things change. And I know the whole purpose of this – I represent a couple of towns in a county in northern Indiana, so always, when I'm sitting on that side of the table, it's general health, safety and welfare, and are things going to be unattractive and a nuisance to the public. So, understanding that your commercial zoning was constructed in such a way that someone's not going to get blinded by monitors of light in residential areas that abut those commercial districts. It's understandable and we try to do what we can to cut down on that, so (inaudible) adjacent residential property (inaudible) commercial district. I know you probably don't want to hear me talk anymore. Whatever I can answer, I'm happy to answer. I appreciate your guys' time and your consideration.

Mr. Cavanaugh: Do you have plans to add other signage to the building then?

Mr. Schram: To the building itself? Not aside from the BP logo (inaudible). Now, if there was another (inaudible) property, if it was noncomplying (inaudible), but it's my understanding that we'd have to approach you again to be able to (inaudible) signage (inaudible) if it was a bakery, (inaudible).

Mr. Cavanaugh: Yeah, but I'm talking about the building proper, not the integrated center sign, but the building itself, the structure.

Mr. Schram: No

Mr. Cavanaugh: You're not planning to put on any signage there?

Mr. Schram: Not aside from the BP sign that (inaudible).

Mr. Philip: He mentioned that it's going to go up, but it doesn't meet the 10% of the square footage, so he doesn't have to ask permission, but there is going to be a BP sign on that.

Mr. Cavanaugh: Okay, thank you. I have no more questions at this time.

(inaudible)

Mr. Schram: Yes

(inaudible)

Mr. Schram: Yes, he's changing from Phillips 66 to BP, (inaudible). The owner's name is Mike (inaudible), and he's been operating here for quite a while. He's got several sites with us up in the Brownsburg area, and (inaudible) as well, and he's a good dealer. You know, one thing that we (inaudible) sometimes (inaudible) these dealers that run down their sites, they don't keep things sightly. (inaudible) the dealers because I've been on this side of the table. Actually, up in Munster a couple of months ago, we had a dealer that had that issue; (inaudible) cosmetically (inaudible). So, this is not that situation. Again, if you can take my word for it, he's a good dealer, he keeps up his site, and this is just for him to take advantage of the rebranding. And we've identified this area specifically as a good market or BP products because we've got a lot of BP products that saturate this area.

Mr. Monnett: Any questions Mr. Philip, comments?

Mr. Philip: No. I will state that this is not a site that has been without issues in the past. We've had a lot of issues, I think, with obscuring the HVAC units on the roof after it was first built, as well as I think we had some issues with (inaudible). So, we've actually had this site before either the Plan Commission or this body, during this time period (inaudible).

Mr. Schram: I appreciate that and if there's things that they are not doing right, we, supplying the site, we want to know so we can say, this is a problem. Even if it's not (inaudible) your good graces.

Ms. Giesting: (inaudible) because there was a lot of verbiage. So, the lights that were on that area that needed to come down, have they come down?

Mr. Schram: I don't believe they have yet, but that is (inaudible). Like you said, it's not (inaudible)...

Ms. Giesting: Right

Mr. Schram: So, it's going to happen, regardless of if this is passed, they've got to be taken down.

Ms. Giesting: Okay

Mr. Monnett: Questions?

Mr. Philip: Time for a public hearing.

Mr. Monnett: Thank you. If there's anyone here who would like to speak for or against this, please step forward.

(Brief pause)

Mr. Monnett: Seeing none, I will close this to the public and I will open it up to our board for further discussion, maybe leading to a possible motion.

Ms. Giesting: So, the information supplied does adhere to our standards?

Mr. Philip: So, based on my understanding, by ordinance there would be no lighting on the canopy, okay.

Ms. Giesting: Okay

Mr. Philip: And they're basically saying (inaudible) and saying (inaudible) required by BP to do this, and we have to say whether that is a hardship or not. It feels like we've dealt with something similar, a year or two ago (inaudible), that was on the corner across from the headquarters property.

Mr. Berg: Yeah, you did deal with that station, and the mitigating factor in that variance was that they did not have sufficient space to place a pylon or a ground sign.

Mr. Philip: Thank you Eric. So, you know, on the whole, what we design as a town for to do, they're supposed to have some sort of ground sign actually. Since this is approved as an integrated center, but still waiting on the second tenant, (inaudible), now they've actually got a better sign, honest answer. And so again, it becomes, is there hardship from saying, no you ought

to paint that canopy black and leave it alone, which is basically what I heard as being the other option. Am I missing anything Kevin?

Mr. Cavanaugh: I'm in favor of supporting the ordinance. And I think that in the request for the Helios, you know, this is an opportunity to bring a legal nonconforming into legal conforming status as they make a change in appearance. We've done this consistently for those similar applications, whether it be signage or other building conditions, or outright applications for use. So, I think we have an opportunity to, as change happens, to bring places into compliance with the current zoning ordinance. If another site, similar operation or similar signage condition was facing the same conditions, I would be in favor of making the same expectation. This is a chance that the town has to keep developments updated with updated standards. So, for my perspective, I am not in favor of the Helios, and being consistent with that in other areas. So, that's just kind of my viewpoint on that part.

Mr. Philip: Yep, I would agree.

Mr. Monnett: No hardship? I just haven't seen a hardship.

Mr. Philip: Yeah. And Mary, we get this from restaurants, you know, constantly, because they want to rebrand and freshen the brand and all that kind of stuff, and we've got rules about how the signage needs to work and all that kind of thing. (inaudible) up against corporate saying this is how things need to go...

Mr. Monnett: Now what were you saying about corporate? Now, if I went out and painted that the BP colors with no signage, would you think that was a BP station, without any signage or special lighting?

Mr. Cavanaugh: You know, having gone past there for many years now, I think that this building is not going to be impaired by other area development.

Mr. Monnett: Right

Mr. Cavanaugh: The pylon sign gives excellent visibility from U.S. 40. They have options for other building signage, perhaps (inaudible) other site (inaudible) signage. So, I don't see any hardship whatsoever, and we have the opportunity to bring a legal nonconforming into legal conforming status.

Mr. Monnett: Any further discussion? Or I'll accept a motion.

Mr. Philip: I'll swing it; I'm not used to reading the reds.

Mr. Cavanaugh: I'm prepared to make a motion. For number 1, Canopy Signage:

Mr. Jones: I have none. I don't know if Kevin, do you have anything?

Mr. Monnett: Mr. Whaley, old or new business sir?

Mr. Whaley: (microphone not on) I did have one question. (inaudible)

Mr. Klinger: (microphone not on) Yeah, I took that as basically (inaudible).

Mr. Whaley: No additional (inaudible).

ADJOURNMENT

Mr. Philip: I move we adjourn

Mr. Monnett: Motion to adjourn...

Ms. Giesting: Second

Mr. Monnett: Second. All in favor?

(All ayes)

Mr. Monnett: Thank you