

The Noblesville Board of Zoning Appeals met on Monday, May 6, 2019. Members in attendance were as follows:

- Dave Burtner..... Citizen Member (Plan Commission appointee)
- Mike Field..... Chairman (Mayoral appointee)
- James Hanlon ..... Citizen Member (Common Council appointee)
- Brian McNulty ..... Citizen Member (Mayoral appointee)
- Dan Mac Innis ..... (to be sworn in this evening)

Others in attendance included: Assistant Planning Director Caleb Gutshall, Associate Planner Rina Neeley, Senior Planner David Hirschle, City Attorney Mike Howard, and members of the general public.

Chairman Field calls the meeting to order at 6:00 p.m.

**SWEARING IN OF 2019 BZA APPOINTMENTS**

Mr. Howard conducts the swearing-in of Mr. Mac Innis.

**APPROVAL OF MINUTES**

Motion by Mr. Burtner, seconded by Mr. McNulty to approve the April 1, 2019 Minutes as presented. AYE: Burtner, Hanlon, McNulty, Field. ABSTAIN: Mr. Mac Innis. Motion carries 4-0-1.

**APPROVAL OF FINDINGS OF FACT**

Motion by Mr. Burtner, seconded by Mr. McNulty to approve the April 1, 2019 Findings of Fact as presented. AYE: Burtner, Hanlon, McNulty, Field. ABSTAIN: Mr. Mac Innis. Motion carries 4-0-1.

**NEW BUSINESS**

**1. BZNA-0040-2019 / BZNA-0056-2019**

- Location:** 10400 Pleasant Street
- Applicant:** Eye 4 Group (Kristen Dobbs) (applicant)
- Description:**
  - a) UDO § 11.C.1.F.7.b – Variance of Development Standards to permit the use of cabinet signs for wall signs instead of individually mounted channel letters.
  - b) UDO § 11.C.1.F.3.c.1 – Variance of Development Standards to permit an increase in the amount of wall signs allowed for an internally accessed multi-tenant building within an Integrated Development.

Ms. Rina Neely, of the Noblesville Department of Planning and Development, describes the property as being 4.4 acres on the north side of Pleasant Street, 1800 feet west of Union Chapel Road, and having industrial and commercial uses to the west and south, agricultural use to the north, and undeveloped industrial land to the east. She states that the property is zoned I-1/PD and is located in the Pleasant Street Commercial Park.

Ms. Neely describes the first requested variance as being from UDO Section 11.C.1.E.7.a to permit the use of cabinet signs for wall signs instead of individually mounted channel letters, and the second variance as being from UDO Section 11.C.1.E.3 to permit an increase in the amount of wall signs allowed for an internally accessed multi-tenant building within an Integrated Development. She starts by describing the second of these variances, and points out that, in order to understand the request, it is important to understand that the UDO defines "Multi-Tenant Building, Internally Accessed" as "A single building occupied by two or more tenants in [which] individual building entrances are accessed internally through a single exterior access point or limited exterior access points." She relates that the allowed number of wall signs is different for an internally-accessed multi-tenant building in an Integrated Development than it is for an externally accessed multi-tenant building in an Integrated Development. She states that if each individual tenant had an exterior entrance to their business rather than a single entrance for all tenants, each tenant would be allowed one wall sign per street frontage. She states a building in an Integrated Development that features one external entrance leading to internal individual business entrances is allowed one wall sign per street frontage identifying that building, in this case, Midland Building East. She states that the building currently exhibits three wall signs due to several errors, including a misrepresentation that the building was an externally-accessed building and involving City Planning staff not realizing that the building was actually an internally-accessed building.

Mr. Field asks if the petitioner is asking for a sign for every tenant. Ms. Neeley states that this is correct.

Mr. Hanlon asks if the three signs that exist are currently in violation. Ms. Neely responds that they were issued permits by the City, so it would be "our error." She states that two of the signs are for businesses that have an internal business entrance. Mr. Hanlon asks if the building is eligible for a pole sign. Ms. Neely responds that it is not, but it is eligible to install a ground sign which advertises all of the businesses in the development.

Ms. Neely indicates that Staff has offered a compromise, since the building is unique in having both internal-access and external-access doors for tenants. She states that the two second-story wall signs would be allowed to remain, and six additional wall signs would be allowed above first-story windows. She adds that staff has recommended that a directory sign be placed inside the east lobby.

Ms. Neely continues, describing the first-mentioned variance as being requested because the building owner is worried about damage to the building that may occur due to frequent change-out of channel letter signs upon tenant turnover, whereas a cabinet sign would alleviate this concern where panel inserts could simply be changed. She mentions that the petitioner has been advised that individual channel letters mounted in a raceway could use a similar mounting system as a cabinet sign. She indicates that there is a cabinet sign located on the property to the west, but permit research does not reveal that a permit was issued for the sign. She states that the petitioner had revised the sign plans to propose raceway-mounted, illuminated, acrylic letters, but this would be considered a decorative backer instead of a raceway. She adds that individual channel letters mounted on a decorative backer are prohibited by the UDO. She points out that the three existing signs on the building are all comprised of individually-mounted channel letters.

Ms. Neely concludes by stating that the increase in number of signs for the building would be appropriate due to the unique design of the building, and Staff has offered an Exhibit that shows the proposed sign locations and maximum size suggestions. Regarding the issue of the cabinet sign request, she suggests that a variance approval may set precedent for approval of these types of signs, which are prohibited by the UDO. She provides Staff's recommendation for the approval of the variance seeking an increase in the number of wall signs, with conditions as listed in the Staff Report, and the denial of the variance seeking utilization of cabinet signs.

Mr. Brad Roudebush, 1616 Sheridan Road, owner of the building, responds to Mr. Field's question as to whether Staff accurately represented the situation by confirming that she did. Upon prompting by Mr. Field for added information, Mr. Roudebush responds that the look of the cabinet signs would provide a "cleaner look."

Mr. Field asks for comment from the public. No one steps forward to speak.

Mr. Field provides his opinion that allowing an increase in the number of wall signs is appropriate, but points out that the City has taken a "hard stand" on box or cabinet signs in the past.

Mr. Hanlon asks whether, if the Board denies the variance seeking cabinet signs, the petitioner would have to "re-apply for the signage." Mr. Gutshall responds that the petitioner would, but that the City would waive the fees "for the other signage;" that since the petitioner has already applied once, the City would consider it a revised application.

Mr. Field calls for separate motions.

Mr. Field asks as to the best way to identify each of the variances. Ms. Neely responds that BZNA-0040-2019 is the variance seeking box or cabinet signs, and BZNA-0056-2019 is the variance seeking an increase in the number of signs.

Mr. Howard clarifies that the existing building signs on the second story are individual channel letters and they are permitted, and one of the variances seeks a determination as to whether any future building signs would be allowed to be box or cabinet signs.

**Motion by Mr. McNulty to deny Variance BZNA-0040-2019 based on the following Findings of Fact:**

- The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- The strict application of the terms of the zoning ordinance will NOT constitute an unnecessary hardship if applied to the property for which the variance is sought.

Seconded by Mr. Burtner. AYE: Burtner, Hanlon, McNulty, Field, Mac Innis. Motion carries 5-0-0.

**Motion by Mr. McNulty to approve Variance of Development Standards application BZNA-0056-2019 based upon the following Findings of Fact:**

- The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.

**With the following specific conditions:**

1. The building shall be considered an externally accessed multi-tenant building for the purposes of sign regulations.
2. The building shall have a maximum of two (2) wall signs located above the second floor windows on the south elevation. The total sum of both wall signs shall not exceed 276 square feet.
3. The building shall also have a maximum of six (6) wall signs located above the first floor windows on the south elevation. These signs are intended to identify tenants within the building. Each sign shall not exceed 56 square feet. Each sign shall not exceed 5 feet in height.
4. The building shall have a directory wall sign not to exceed eight (8) square feet at each entrance to the interior lobby at the east side of the building.
5. All signs on the premises shall comply with Article 11 Signs of the Unified Development Ordinance in regard to sign type and permitted materials. No cabinet signs shall be permitted unless the UDO has been updated to allow cabinet signs as a permitted wall sign for externally accessed multi-tenant buildings.
6. The Applicant shall sign the Acknowledgement of Variance document prepared by the Planning and Development Department Staff within 60 days of this approval. Staff will then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.
7. Any alterations to the approved building plan or site plan, other than those required by the Board of Zoning Appeals (BZA), shall be submitted to the Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

**Mr. Hanlon seconds. AYE: Burtner, Hanlon, McNulty, Field, Mac Innis. Motion carries 5-0-0.**

**2. BZNA-0047-2019; BZNA-0048-2019; BZNA-0057-2019; BZNA-0058-2019**

- Location:** 222 Waterfront Court
- Applicant:** Waterfront 222, LLC (property owner)
- Description:**
- a) UDO § 8.B.6.E (Table 8.B) – Variance of Development Standards to allow an increase in maximum building height;
  - b) UDO § 8.B.6.E (Table 8.B) – Variance of Development Standards to allow a decrease in the minimum lot area per dwelling unit;
  - c) UDO § 8.B.6.E (Table 8.B) – Variance of Development Standards to allow a decrease in the minimum lot width;
  - d) UDO § 8.B.6.E (Table 8.B) – Variance of Development Standards to allow a decrease in the minimum rear setback.

a)

Mr. David Hirschle, of the Noblesville Department of Planning and Development, describes the site as being located just southeast of the intersection of Little Chicago Road and East 211<sup>th</sup> Street. He indicates that the site is accessed by Harbour Town Drive off of Little Chicago Road, and is part of the property originally approved for construction of the Harbour Town Apartments complex. He points out that the acreage involved is interior to the original Harbour Town approval; in other words, the site's boundaries do not have the minimum required frontage on a public road, a problem remedied by approval of a 2018 variance acknowledging access from Little Chicago Road.

Mr. Hirschle states that the site was occupied from the 1970s until around 2006 by 8 of the 20 apartment buildings of Harbour Town Apartments. He relates that around 2006 the property owner planned to redevelop the entirety of the Harbour Town Apartments property into Harbour Town Condominiums by demolishing all 20 buildings (204 apartment units) and constructing six new buildings housing 345 units and that, as part of those plans, the owner approached the BZA in 2006 for five variances, three of which were approved and two of which were withdrawn. He describes the first variance that resulted in a reduction of required front yard setbacks along Little Chicago Road and then-named Carrigan Road, now East 211<sup>th</sup> Street, and adds that, as part of the approvals, the Board imposed a condition that the petitioner commit to dedicate half rights-of-way of 40 feet and 30 feet along Little Chicago Road and Carrigan Road, respectively, if the City requests those half rights-of-way in the future. He informs the Board that these commitments have been recorded.

Mr. Hirschle describes a second 2006 variance that approved an increase in maximum building height from 45 feet to 65 feet, allowing for first-floor parking with living units above. He states that the petitioner sought this variance for only the interior buildings, meaning that the existing Villas at Morse Lake building was built to meet the maximum 45-foot height for the R-5 district. He points out to the Board that these 2006 variances have no relevance to tonight's hearing, meaning that, although variances were granted in 2006, the Board is not obligated to grant similar variances for this site this evening.

Mr. Hirschle describes the third 2006 variance as approving a reduction in required lot size per dwelling unit from 3000 square feet to 2400 square feet.

Mr. Hirschle states that the 2008 financial crisis apparently put an end to the Harbourtown Condominiums plan, but not before the existing Villas at Morse Lake was built and several acres to the east were cleared of apartment buildings.

Mr. Hirschle references the 2018 frontage variance mentioned earlier and reiterates that the subject site gains access from Little Chicago Road through an easement agreement between the owners of the subject site and Condominium Owner's Association of the Villas on Morse Lake, Inc.

Mr. Field asks if this project is related at all to the remaining Harbourtown Apartments adjacent and to the east. Mr. Hirschle states that it is not. Mr. Howard asks as to same or different ownership of the subject site and the eastward adjacent site. Mr. Hirschle states that ownership is different. Mr. Field asks if this is a separate, free-standing situation, not related to the apartments. Mr. Hirschle responds that this is correct.

Mr. Hirschle states that the proposed development is broken into eight Blocks and that the petitioner proposes to develop the 6.76 acres in question as a mixed residential community consisting of attached single-family cottages, waterfront townhomes, and multi-family buildings. He adds that the R-5 zoning district calls for the predominant housing types to be townhouses and garden apartments.

Mr. Hirschle states that he will list the four variances sought this evening, and then go into detail about each. He lists the variances as follows: (1) An increase in maximum building height, with buildings proposed to exceed the 45-foot height limit being located on one or more of Blocks 6, 7, and 8, with a proposed maximum height of 65 feet; (2) A reduction in the minimum square footage of property per dwelling unit from 3000 to 2400; (3) A decrease in the minimum lot width, with Blocks 1, 2, 3, and 6 proposing platted lot (or Block) widths below the UDO requirement of a minimum lot width of 150 feet as measured at the building setback line; and (4) A decrease in the minimum rear setback, with Blocks 1 and 2 showing rear yard setbacks of 15 feet rather than the required rear setback for primary structures in the R-5 district of 20 feet.

Mr. Hirschle refers to the Housing Analysis completed for the City of Noblesville in 2016 by Greenstreet, Ltd. He states that this study recommends less detached single-family residential construction and more attached single-family construction to accommodate increasingly common households such as single-parent, empty nesters, and singles waiting longer to marry. He adds that it recommends a mix of product types within a single development to satisfy multiple market segments. He states that the Noblesville Comprehensive Plan recommends "Higher-Density Residential" for the subject property and calls for the City to "provide diverse housing options."

Mr. Hirschle goes into detail for Variance 1, stating that the increase in building height is proposed to allow for the provision of parking on the first floor of buildings, under the residential units. He explains that siting parking within the building footprint alleviates the need to provide paved surfaces elsewhere on the property, which has the effect of allowing for more greenspace throughout the site. He emphasizes that the Variance application itself does not specify the Blocks for which this variance is sought. He strongly recommends that the Board not grant a blanket variance for a height increase, but specify to which Block or Blocks the Variance is to apply. He illustrates, with the petitioner's proposed Open Space Map, that granting a blanket height variance for the entire site could possibly have a much greater impact than an increased height for a single building.

Mr. Hanlon asks who will ultimately make the decision as to which buildings the Variance applies to, if it's not a blanket Variance. Mr. Hirschle responds that the Board will. He states that the Board could add it as a condition of approval. Mr. Field observes that the Board is being asked to decide how tall the petitioner can build his buildings. Mr. Hirschle responds that this is not quite accurate, that the petitioner, when he speaks, will indicate proposed building heights more precisely, but the Board can limit the Variance to one or more Blocks. Mr. Hanlon asks if the Board can make that determination this evening. Mr. Hirschle responds that it can.

For Variance 2, Mr. Hirschle states that the figure of 6.76 acres for the subject property, given by the City's GIS system, results in 2726.5 square feet of property area for each of the proposed 108 dwelling units. He states that the petitioner, however, seeks approval for the lowering of the square footage per dwelling unit to 2400, not 2726.5. He states that Staff cannot support this Variance request in its current form, but would support a Variance seeking a reduction of the 3000-square-foot minimum to 2726 square feet of property area per dwelling unit.

For Variance 3, Mr. Hirschle suggests that the UDO figure of a minimum of 150 feet of lot width most likely envisioned multi-family buildings on platted lots. He observes that with row

townhomes and similar attached single-family residences, however, the 150-foot minimum becomes less convincing and somewhat arbitrary. He states that some Blocks are proposed to have widths below 150 feet, but only because there are to be fewer attached units in these Blocks, resulting in a lower linear distance of building face. He states that Staff can support this Variance request.

For Variance 4, Mr. Hirschle recounts the UDO requirement of a rear setback of 20 feet and the petitioner's proposed setback of 15 feet for Blocks 1 and 2. He states that Staff recommends denial of this variance at present, but understands that the petitioner will provide more detailed reasoning for this when asked to speak, at which point Staff's recommendation may change.

Mr. Hirschle summarizes Staff's recommendations as approval of Variances 1, 2, and 3, with conditions as listed in the Staff Report. He asks to read the condition for the benefit of the audience members. He gives a shortened version of the conditions as follows: 1) The requested height variance is to apply to only one Block; 2) The decrease in minimum lot area per dwelling unit is to a figure of two thousand seven hundred twenty-six (2726) square feet; 3) The petitioner is to provide a map of the existing trees on-site and indicate which trees with a caliper of six (6) inches or greater are to be retained; 4) The Applicant is to sign the Acknowledgement of Variance document prepared by the Planning and Development Department Staff within 60 days of this approval; and 5) Any alterations to the site's approved land uses or site plan shall be submitted for re-review by the Board.

Mr. Tim Ochs, an attorney with Ice Miller, LLP, with offices at One American Square, Suite 2900, Indianapolis, Indiana, clarifies that the request for the height variance will be only for Block 8, as the balance of the site is proposed as far less dense and parking does not present a problem. Mr. Field asks if two-car garages would be typical for each of the attached single-family townhouse units. Mr. Ochs confirms this. He states also that the height variance limit to just Block 8 is appropriate because this Block is the closest to the multi-family buildings to the east. In response to the question of how many parking spaces will be located under the building on Block 8, Mr. Randy Green, 222 Waterfront Court, Noblesville, Indiana, developer of the site, states that sixty (60) parking spaces will be established under the residences and, with the retention of the parking spaces that exist on the site today, there will be an average of 1.5 parking spaces per unit, based on the one-bedroom/two-bedroom balance. He adds that space exists near the current clubhouse to add additional surface parking, if needed. Mr. Hanlon asks how many units are proposed for the entire site. Mr. Ochs provides this figure as one hundred eight (108).

Mr. Ochs moves on to Variance 2, being the amount of property square footage per dwelling unit. He states that the petitioner is in agreement to reduce the property square footage per dwelling unit to just 2726 rather than the 2400 initially requested, which will necessarily limit the number of units to 108.

Moving to Variance 4 (rear setback reduction for Blocks 1 and 2), Mr. Ochs states that the site design might be quite a bit different if the site was vacant ground, but the previous developer installed streets, storm and sanitary sewer lines, and water lines, the placement of which impose site constraints on any new design. Mr. Field asks why the petitioner did not approach the Plan Commission for a rezoning. Mr. Howard informs the Board that the proposed use fits under the

R-5 zoning classification. Mr. Ochs adds that the petitioner did not want to change the character of the area, and the housing product being offered fits with recommendations of both the Housing Study mentioned earlier and with the City's Comprehensive Plan.

Mr. Field asks why the rear setbacks for Blocks 1 and 2 are proposed as 15 feet instead of the required 20 feet. Mr. Ochs responds that directly north of the site are two self-storage buildings and a shopping center, and he adds that the market is not thought to be able to support anything other than a single-story housing type on these two Blocks because a two-story product would provide views of the back of the retail building. He states that trying to fit the single-story model and its proposed covered patio areas between the self-storage buildings and the existing street constructed by the previous developer becomes exceedingly difficult without a five-foot variance.

Mr. Ochs states that all of the trees on the property will be "marked," and the petitioner commits to replacing at a 2-to-1 ratio any trees that are removed. He states that only trees that need to be removed will be removed, and for every one that is taken out, two will be planted, and the caliper of these will be two inches at the time of planting.

Mr. Hanlon asks if the petitioner is aware that Staff is recommending denial of Variance 4 (rear setback reduction). Mr. Ochs responds, but speaks about Variance 1 (height variance) by mistake.

Mr. Howard suggests that the petitioner give the Board and the public some idea of the housing products that are proposed to be located on each of the Blocks. Mr. Ochs refers to a building elevation drawing and a floor plan of the buildings proposed for Blocks 1 and 2 and states that the anticipated cost of these units would be from \$275,000 to \$375,000. He shows renderings of the three-bedroom townhouses proposed for Blocks 4 and 5 and states that, like the buildings on Blocks 1 and 2, each unit would have a two-car garage. Mr. Hanlon asks how many stories the building on Block 8 is proposed to be. Mr. Ochs responds that, on top of the parking, there would be four stories.

Mr. Burtner states that he is not comfortable with establishing parking on Harbourtown Drive and asks that the petitioner confirm that there will be none. Mr. Green confirms that there will be no parking on Harbourtown Drive. Mr. Ochs adds that some private driveways to the residences gain direct access from Harbourtown Drive, but there will be no parallel or other parking on Harbourtown Drive itself. He adds that, for Block 8, there will be 60 parking spaces under the building, but also surface parking in the form of pull-in spaces directly west of the building.

At the request of Mr. Field, Mr. Ochs provides photographs of the type of building proposed for Block 8.

Mr. Field asks why Staff recommends denial of the rear yard setback variance request for Lots 1 and 2. Mr. Hirschle responds that, at the time the staff report was completed, the petitioner had not provided any reasoning as to why the variance was needed. He states that, after hearing the justification, Staff does not now recommend denial of the rear setback variance. Mr. Ochs states, "We would be willing to agree that that setback would only apply if the units were single-story."

Referring to the photographs of the type of building proposed for Block 8, Mr. Ochs states that the original intent for the building was for it to be apartments for rent because it was not thought that the condominium market was robust. He states that there are indications this may be changing, so the Block 8 building may be offered as condominiums for sale or apartments for rent. Mr. Ochs confirms that these units would be 1- and 2-bedroom units. Mr. Green adds that there also may be 2-bedroom units with a study.

Mr. Green explains that the site is a unique site and, while he likes the Villas at Morse building to the west, he is not looking to duplicate that look, preferring something more "coastal" and "marina-like" that will fit in with his intended reconstruction of the docks for lake access. He also states that the intent is to keep the existing clubhouse on the site and "re-doing it." Mr. Hanlon asks when groundbreaking would begin if approvals are granted. Mr. Green responds that the ranches could be started in late July 2019.

Mr. Field asks for public comment. Mr. Bill Ernst of Charter Commercial Realty Group, 1089 3<sup>rd</sup> Avenue SW, Carmel, Indiana, property management company for Harbourtown Center and Harbourtown Self-Store immediately adjacent to the north, states that it will be "wonderful" to see the property developed as proposed this evening. He recalls that there were 110 units on the vacant portion of this property at one time. He states his concern that the fencing on the property between the self-storage units and this site is in bad shape. He adds that during previous construction on the site, the entrance off of Little Chicago Road was damaged, and he asks that this not be allowed to happen again, as this entrance also serves as the western entrance to Harbourtown Center. He adds his opinion that the Villas at Morse Lake "were probably built wrong," overlooking Little Chicago Road, being the "wrong time in the market," and being too-high-priced for the area. He mentions that there is a perpetual easement for Harbourtown Drive, and also that "there's a niche in this property that we had an easement agreement back in the '60s and '70s when it was all built, that that parking area would not be disturbed." He reiterates his support for the project.

Mr. Doug Mehlman, 20971 Shoreline Drive, Unit 306, Noblesville, Indiana, states that he is not in favor of the development as proposed. He states that what was originally proposed was three buildings, including the existing Villas at Morse Lake. He states that when he bought his unit in the Villas at Morse Lake, he anticipated the property to the east to be developed "as R-5, not R-5 plus variances." He relates his understanding that the City of Noblesville is encouraging developments with less density, more greenspace, and particularly no "high-rises." He states that the proposed development does not seem to show the "separation berm" that is required in the R-5 district. He expresses his concern about emergency vehicles and their ability to get into the site and turn around. He expresses his hope that all four variances will be denied, "particularly the one about the Block 8 height," as the building will be right in front of the apartments.

Mr. Jay Gilbert, 20971 Shoreline Drive, Unit 412, Noblesville, Indiana, recounts the history of the redevelopment of the site, and laments that the City of Noblesville has lost out on the tax benefits of the 180 units in the Harbourtown Apartments that were torn down. He states that he understands that the property will eventually be developed, but that the City needs to ensure that it is the right development.

Ms. Tammy Schumm, "20971 Shoreline Court, Apt, 305," Noblesville, Indiana, expresses her alarm that some of the units in the proposed development may be apartments. She mentions the gated nature of the current community and asks the Board members to consider the impact on investment resulting from possible inclusion of apartments in the development. She asks Board members to vote "as if it was your home."

Mr. Ochs states that the existing Villas at Morse Lake is a multi-family building, a single building containing multiple residential units, meaning that, from a land use perspective, the Villas at Morse Lake and the proposed Block 8 building are the same thing. He adds that the developer would consider offering the units in Block 8 as condominium units if the market will bear it. He offers that the risk of the Block 8 building being apartments is greater for the developer than it is for the Villas at Morse Lake condominium owners because the rest of the proposed development will be closer to Block 8 than the Villas at Morse Lake will be.

Mr. McNulty observes that the City of Noblesville has been waiting for something to happen on the site. He offers his opinion that the proposed development is a good fit.

Mr. Hanlon states that it is obvious that six more of the type of building that is already there (Villas at Morse Lake) will not work.

Mr. Field asks for confirmation that Staff has removed its objection to the granting of Variance 4 (rear yard setback for Blocks 1 and 2). Mr. Hirschle replies that this is correct.

**Motion by Mr. McNulty to APPROVE Variance of Development Standards applications BZNA-0047-2019 / BZNA-0048-2019 / BZNA-0057-2019 / BZNA-0058-2019 based upon the following Findings of Fact:**

- **The approval will not be injurious to the public health, safety, morals, and general welfare of the community;**
- **The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and**
- **The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.**

**With the following specific conditions:**

1. The requested height variance is to apply only to Block 8 on the "Preliminary Plans for Harbourwalk," Sheet C3.0, dated March 29, 2019, with the height measuring point following the definition of "Height, Building" in Article 2, Section 2 of the Unified Development Ordinance.
2. The decrease in minimum lot area per dwelling unit is to a figure of two thousand seven hundred twenty-six (2726) square feet.
3. The petitioner is to provide a map of the existing trees on-site and indicate which trees with a caliper of six (6) inches or greater at a Diameter Breast Height of four (4) feet are to be retained.
4. The Applicant is to sign the Acknowledgement of Variance document prepared by the Planning and Development Department Staff within 60 days of this approval. Staff will

then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.

5. Any alterations to the site's approved land uses or site plan, other than those required by the Board of Zoning Appeals, shall be submitted to the Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such changes.

**Mr. Burtner seconds. AYE: Burtner, Hanlon, McNulty, Field, Mac Innis. Motion carries 5-0-0.**

**ADJOURNMENT**

Meeting is adjourned at 7:14 p.m.

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Mike Field, Chairman

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Sarah Reed, Secretary