

The **Noblesville Board of Zoning Appeals** met on Monday, December 5, 2022. Members in attendance were as follows:

Mike Field .....Chairman  
 Dave Burtner .....Vice-Chairman  
 Dan Mac Innis .....Citizen Member  
 James Hanlon .....Citizen Member  
 Lauren Wahl .....Citizen Member

Others in attendance included Senior Planner Denise Aschleman, Development Services Manager Joyceann Yelton, Associate Planner Rina Neeley, and Attorney Jonathan Hughes.

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

### APPROVAL OF MINUTES

Motion by Mr. Burtner, seconded by Mrs. Wahl, to approve the November 7, 2022 meeting minutes as presented.

AYE: Burtner, Wahl, Field, Mac Innis. ABSTAIN: Hanlon. The motion carries 4-0-1.

### APPROVAL OF FINDINGS OF FACT

Motion by Mr. Burtner, seconded by Ms. Wahl to approve the November 7, 2022 Findings of Fact for BZNA-0182-2022 at 8802 E 206<sup>th</sup> Street as presented.

AYE: Burtner, Wahl, Field, Mac Innis. ABSTAIN: Hanlon. The motion carries 4-0-1.

### NEW BUSINESS

#### 1. BZNA-0212-2022 / BZNA-0213-2022

<b>Location:</b>	12896 E 166 <sup>th</sup> Street
<b>Applicant:</b>	North East Side Taildraggers (Robert Berry) (applicant)
<b>Description:</b>	a) UDO § 8.B.3.B and Appendix C – Variance of Use to permit the operation of a private club for remote control airplanes on a property that is zoned R2 (Low to Moderate Density Single Family Residential). b) UDO § 10.0.4.D.1 – Variance of Development Standards to permit the installation of a parking lot that is not paved or curbed.
<b>Staff Contact:</b>	Denise Aschleman

Ms. Denise Aschleman states that this project is interesting because it is not normal for the Board to see petitions that are portions of a [larger] parcel. She shows the Board Exhibit 2 and explains that the area outlined in blue is the portion of the property to be discussed in association with the variance requests. She states that the property is located at the northeast corner of 166<sup>th</sup> Street and Boden Road that is currently an agricultural field. She states that the property is owned by IMI Real Estate and that IMI has a pretty substantial facility at the next intersection, on northwest corner of SR-38 and Boden Road. She states that the property is zoned R2 and was annexed at the time that Beazer brought forth a project that was primarily located where Finch Creek Park is located, however this property has remained a farm field since annexation. She states that the properties to the west, north and east are all within Hamilton County's Planning and Zoning jurisdiction. She continues that the property to the north carries an M-3 classification and the properties to the west and east carry an A-2(S) zoning designation, which is an agricultural zone district for them. Ms. Aschleman states that the applicant for this petition is the North East Side Taildraggers, a non-profit club with members that fly small radio-controlled model airplanes within a confined area. She states that the model airplanes can be battery or operated by liquid fuel, but the liquid fuel planes can only carry approximately twenty ounces of alcohol-based fuel. She states that the club is currently operating on a portion of the property at Fire Station 77, but the City has notified the applicant that the ground where the use is currently located is needed for another user and their lease is being terminated. She states that this caused them to start looking for new locations earlier this year and resulted in discussions with this property owner about the subject property. She states that they are a seasonal business or club, generally operating from March or April through November. She states that they have closed down for the season and all their

stuff is being stored at the fire station at a location that is out of the way. She states that this use is unique in that there is not an actual use in the use chart that this can fit in, so regardless of location, the applicant will need an approved Land Use Variance from the Board. She states that the applicant is in talks with the property owner to lease 5 acres of the overall 40-acre property. She states that the proposed use will be along 166<sup>th</sup> Street and consists of about three main parts. She states that the runway for the planes is a geotextile material that looks like asphalt on an aerial photograph, but is just a black fabric that allows water to penetrate through the material. She states that they will have a pilot's area that has work benches for model plane repair as needed. She continues that they are proposing to install a parking area. She states that there is a small carport-like structure proposed to provide shelter if they need it. She states that they are also going to install a porta-potty. She states that the land owner is in negotiation with them [the applicant], but their goal is to keep these improvements for this club as temporary in nature as possible. She states that they are currently discussing whether the proposed parking area will be gravel or mulch and that asphalt and concrete are clearly too permanent of an improvement. She states that the second variance is to allow the temporary parking area to be mulch or gravel. She states that during weekdays there are typically less than 10 members visit the club and on an average weekend day, there will be between 10 and 20 members onsite. She states that they are affiliated with a facility in Muncie, but a number of the club members are in attendance to answer specific questions. She states that one of the specific conditions of the variance is that it would be valid for this specific applicant [North East Side Taildraggers] and use [the operation of a private club for remote control airplanes] only. She states that [the variances] would expire after the termination of the lease, whether it was on their end or that of the property owner. She states that another [specific] condition was added to screen the porta-potty. She states that it cannot be screened by a building, tree or anything else since the property is a flat farm field and there is nothing to shield it. She states that Staff recommends approval of this request with the four specific conditions.

Mr. Field asks if there is a representative from the club that would like to step forward to speak.

Mr. Bob Berry, \_\_\_\_, comes forward to speak. He states that he is President of the North East Side Taildraggers or NEST, like bird's nest, for short. He states that there a couple of things that he would like to address that are pertinent to the club. He states that safety is paramount to what they do. He states that [they have planes with] gas and electric motors with turning props so they want to be safe with all that they do. He states that they have all of their members take the Trust test administered in conjunction with the FAA and the FCC that talks about safety issues that need to be adhered to. He states that all aircraft needs to be flown line of sight and a ceiling of 450 feet per FAA guidelines. He states that their aircraft systems are on a spread-spectrum system that constantly changes frequency hundreds of times per millisecond so that there is never a chance of an aircraft bleeding over and breaching the signal. He states that there is also fail-safe technology built into an aircraft. He continues that if they did lose signal due to a battery failure, the plane would go into a small circle and land with hopefully not too much damage. Mr. Berry states that they have a club-designated safety officer whose job it is to enforce safety rules and regulations, provide safety training and administer disciplinary actions as required. He states that he is aware of noise concerns and that they have noise abatement. He states that the club mainly flies electric planes which are extremely quiet. He adds that there are a handful of members that fly nitro or gas-powered planes. He states that out of fifty members, there is an average of three planes per member or a total of 150 planes. He states that less than a handful of planes are nitro or gas-powered. He states that the gas-powered planes [sound similar to] a typical residential weed eater or leaf blower. He states [the club] carries insurance through AMA [Academy of Model Aeronautics], their sanctioning group out of Muncie and the national headquarters. He states that club has insurance through them with their charter and each club member has individual insurance included in their membership with the AMA. He states that the club does public outreach including educational opportunities with children like STEM programs, display and flight demonstrations for disadvantaged children, participation in several Conner Prairie events, the EAA fly-ins at Noblesville Airport, Wings Over Indy in Zionsville and partnerships with the Indianapolis Aero Club and Hobby Town USA in Castleton.

Mr. Hanlon asks if they are limited to the flight area that is the same as the property.

Mr. Berry answers that there would be some overflying to the north over the agricultural farmland. He states that the runway has been oriented so that there would be no overflying of any pedestrian, vehicle or residential areas.

Mr. Hanlon asks if there is more than one individual flying at any one time.

Mr. Berry answers that they typically had three or four individuals flying at a time, but that they normally have one to two individuals flying at one time.

Mr. Hanlon states that he is unfamiliar with the hobby and asks if they have had problems with [multiple individuals flying at one time].

Mr. Berry states that if they are familiar with full-scale airplanes, it is a see and be seen situation where they are announcing their intentions when they are flying in uncontrolled air space. He states that communication is paramount to what they are doing. He states that if there is more than one member flying on the flight line, they are constantly announcing their intentions, whether they are taking off, landing, an in-flight emergency, on the runway, etc.

Mr. Hanlon asks if they put on shows there.

Mr. Berry answers that they do fun flies. He states that they had in the past they had a fun fly fundraiser for the City of Noblesville Fire Department where they gave [money to the Fire Department's] Christmas Fund.

Mr. Hanlon asks if they get a pretty good crowd.

Mr. Berry answers yes they do from time to time. He states that they also have a free learn to fly day that they advertise locally. He states that they buddy box [a club member and experienced pilot] with an individual who has never flown before. He states that both people have a controller [to the model airplane. He states that the pilot in command has control of the aircraft and they can push a button that gives [the guest] control of the aircraft in the air, but [the pilot] can take control back at any time. He states that it is a big event.

Mr. Hanlon asks if visitors are limited to a particular area.

Mr. Berry states that all public are to be behind the barrier or fence by the flight line and work benches. He states that they always fly on the outside of the field and they are not allowed to breach the line.

Ms. Wahl asks if the use would be for all UAVs [ ] or just specifically airplanes.

Mr. Berry answers that it would apply to all UAVs including fixed wing, helicopters, drones, etc. He states that their members fly civilian scale, military scale, sport, 3-D and gliders. He states that they want to encourage all sorts of flight.

Mr. Field opens the public hearing. Seeing no one wishing to speak, Mr. Field closes the public hearing.

**Motion by Ms. Wahl, second by Mr. Burtner to approve application BZNA-0212-2022 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 to the area adjacent to the property will not be affected in a substantially adverse manner;
- The need for the variance does arise from some condition peculiar to the property involved;
- The strict zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought;
- The approval does not interfere substantially with the comprehensive plan adopted by the Noblesville Plan Commission and Council;

**And application BZNA-0213-2022 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 does constitute an unnecessary hardship if applied to the property for which the variance is sought.

**With the following specific conditions:**

1. This approval is valid for this applicant (Northeast Side Taildraggers) and this specific use only.
2. The Applicant shall screen the porta-potty from view of the street.

3. 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.
4. 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.

**AYE: Wahl, Burtner, Mac Innis, Field, Hanlon. The motion carries 5-0.**

## **2. BZNA-0215-2022 / BZNA-0216-2022 / BZNA-0227-2022 / BZNA-0228-2022**

<b>Location:</b>	3222 Cicero Road
<b>Applicant:</b>	Church Church Hittle + Antrim (Andrew Wert) (applicant)
<b>Description:</b>	<ol style="list-style-type: none"> <li>a) UDO § 10.4.D.1 – Variance of Development Standards to waive curbing and paving requirements for a parking lot.</li> <li>b) UDO § 8.D.1.F.2 – Variance of Development Standards to modify screening standards for outdoor storage in the I-1 (Light Industrial) zoning district (solid, opaque fence or wall required; landscape screening requested);</li> <li>c) UDO § 8.D.1.F.1 &amp; Table 8.D – Variance of Development Standards to reduce the minimum side yard setback for outdoor storage within the I-1 (Light Industrial) zoning district (20 feet required; 8 feet requested); and</li> <li>d) UDO § 8.D.1.F.3 – Variance of Development Standards to permit outdoor storage in front of the rear line of the principal building within the I-1 (Light Industrial) zoning district.</li> </ol>
<b>Staff Contact:</b>	Rina Neeley

Ms. Rina Neeley states that the property is at 3222 Cicero Road. She states that the project is on a 110-acre property, most of which is farmland. She states that the Board recently approved a residential use on an I-1 zoned property with an existing unfinished house. She states that the property is on Cicero Road approximately 1200 feet north of 206<sup>th</sup> Street. She states that the surrounding zones and uses are RMH or a residential mobile home park to the north, and I-1 and R-1 used as farm land to the north, south, east and west. She shows Exhibit 2 the aerial photo. She states that this project is to permit outdoor storage in association with a contractor's office for Powers Septic. She states that the storage area is north of the existing residence. She states that it appears that the storage area was established in 2021 around the same time as the variance for the single family residential use was going to [the Board of Zoning Appeals] hearing. She states that the first variance is a waiver for curbing and paving requirements for a parking lot. She states that the storage area would be considered a parking lot because it is used for the storage of company vehicles and heavy equipment. She states that the applicant has requested the use of gravel to reduce maintenance issues associated with heavy equipment. She states that the trucks that they use can weigh up to 80,000 pounds or 4 tons when fully loaded. She shows the Board photos of the company trucks. Ms. Neeley states that [the second variance request] is the use of landscape screening for the outdoor storage yard. She reminds the Board that outdoor storage yards in the I-1 zone are required to be screened with a 7-foot opaque wall or fence as discussed in recent cases. She states that the applicant believes that landscape screening would [be a better] fit with the rural agricultural character of the neighborhood. She states that [landscape screening] would be acceptable to staff [should it be approved by the Board], however Staff requests the installation of a fence or screening along the north side, between the storage yard and the mobile home park.

Mr. Field asks if landscape screening would be acceptable to Staff in this location.

Ms. Neeley answers that it would be acceptable, however there is only 8 feet between the storage area and the property line and she is not sure if there would be enough room for the proposed trees.

Mr. Field states that [the applicant or property owner] address that [in the future].

Ms. Neeley states they have proposed [landscape screening of] arborvitae, which can grow up to 15-30 feet tall, as well as red jade crab apple, a deciduous tree that can grow to 12-15 feet tall. She states that the last two variance requests are in regard to the location of the outdoor storage area. She states that there is a required side yard setback of 20 feet between I-1 and a residential use, but this property only has 8 feet. She shows the Board photos of the site included in Exhibit 5 and points out how close the storage area is located to the overhead power lines, which are on the property line. She states that the other variance request is to allow the storage yard to be located in front of the rear line of the primary building. She states that [in this case] the primary building is the single family residence. She states that she believes this standard was created to have the storage yard [located behind [a building like] a contractor's office. She states that in this case the contractor's office is the actual land and they do not have a structure because everything is done on their customers' properties. She states that they are requesting that the storage yard be allowed in front of the rear line of the home because they are utilizing an existing concrete pad from a barn that was demolished approximately 14 years ago. She states that the location of the storage area utilizes an existing driveway [off of Cicero Road that has been historically] used for farm access. She states that Staff recommends approval based on the findings of fact and specific conditions listed in the staff report.

Mr. Andrew Wert, Land Use Professional from Church Church Hittle + Antrim, 2 N 9<sup>th</sup> Street in Noblesville, states that he is appearing on behalf of his client, Powers Septic & Sewer. He states that the property owners, Frank and Patricia Powers, and attorney Bruce Boje are in audience. He states that Powers Septic is a family-owned and run business that has been in operation for over 20 years. He states that they specialize in servicing existing septic systems. He states that they are based at 3222 Cicero Road and that they were previously before the Board last year to permit a residence in the I-1 zoning district. He states that during the use variance process, they went over zoning issues on this other part of the property. He states that the UDO identifies a contractor's office with outdoor equipment and material storage as a permitted use in I-1 zoning. He states that in this case, since there is no commercial office building, there are some variances they need for the truck parking area. He states that the four variances, which were thoroughly summarized by Ms. Neeley, relate to the unique circumstances of the site. He states that they are not introducing any changes [to the existing storage area] other than the addition of a landscape buffer. He summarizes a history of the property. He states that the property is 110 plus acres of which 95% is farm ground. He states that the untilled portion, south of Suburban Estates Mobile Home Park, is approximately 5 acres in area and the truck parking area is located between the [mobile home] park and the existing residence. He states that the Powers have owned the property since 2020. He states that there was a commercial building located [in the area of the truck storage area] as recently as 2008. He continues that the existing concrete slab was the foundation of that building. He states that various businesses operated out of that building over the years. He states that the existing drive cut [to the storage yard] has been there since at least 1976 and that it is a separate drive cut from the residence. He states that they believe their hardship to be the location. He states that the parking lot and where the gravel is located is not just out of convenience but also out of respect for residents of the mobile home park, which the Powers family has owned for many years. He states that the parking lot is behind the mobile home park office and moving it to conform to the setback would put it behind existing living units [in the mobile home park]. He states that in terms of the paving waiver, they have 6 tanker trucks that can weigh up to 80,000 pounds. He states that turning and maneuvering these trucks over heavy-duty asphalt can tear up the pavement over a short period of time. He states that in regard to screening, the landscaping proposed will be more effective and attractive over time than a solid fence. He states that Frank and Patty Powers live onsite and the appearance of the property is very important to them. He states that they are in favor of Staff recommendations.

Mr. Hanlon asks if they are constantly dumping stone on [the parking area].

Mr. Wert answers that he does not know the frequently that the stone is replaced.

Mr. Hanlon asks if they installed stone once and everything was covered.

Mr. Frank Powers IV answers from the audience that [they put #4 stone in the area once]. [Most of the answer is unintelligible on the recording].

Mr. Field opens the public hearing. Seeing no one wishing to speak, Mr. Field closes the public hearing.

Attorney Jonathan Hughes asks Mr. Wert if he is okay with specific condition 1 and the 7 foot opaque fence or wall along the north side.

Mr. Wert answers that they are okay with a fence on the north side.

**Motion by Mr. Field, second by Mr. Burtner to approve applications BZNA-0215-2022 / BZNA-0216-2022 / BZNA-0227-2022 / BZNA-0228-2022 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. Install a solid, opaque wall or fence of not less than seven (7) feet in height measured at the highest finished grade along the north side of the outdoor storage area to screen the view from the adjacent mobile home park. A chain link fence or a variation of a chain link fence combination shall not constitute an acceptable screening device to satisfy the requirement.
2. 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.
3. 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.

**AYE: Field, Burtner, Mac Innis, Hanlon, Wahl. The motion carries 5-0.**

## MISCELLANEOUS

## ADJOURNMENT

The meeting is adjourned at 6:37 p.m.

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Mike Field, Chairman

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Caleb P. Gutshall, Secretary