



# BOARD OF ZONING APPEALS STAFF REPORT

**To:** Members of the Board of Zoning Appeals

**From:** Sergio Mendoza, Planning Director

**Meeting Date:** October 10, 2023

**Agenda Item:** BZA Docket No. 23-011

**Application Type:** Developmental Standards Variance

**Hearing:** Preliminary

**Summary:** Attorney Scott Yahne representing Three Floyds is seeking variances for three development standards: an increased setback for a Principal Building; screened parking areas, parking islands, pedestrian walkways and landscaping; and specified private lighting types

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**Applicant:** Attorney Scott Yahne representing Three Floyds

**Property Address:** 9750 Indiana Parkway

**Current Zoning:** CD-4B - General Urban - B Character District

**Adjacent Zoning:** North: CD-4B - General Urban - B Character District  
South: SD-4A General Urban-A Character District  
East: CD-4B - General Urban - B Character District  
West: CD-3.R2 - Neighborhood - 60' Lot One Family Residence District

**Action Requested:** Review of Developmental Standards Variance

**Additional Actions Required:** Public Hearing

**Staff Recommendation:** Motion for a Public Hearing on November 14, 2023

**Exhibit A Attachments:**

1. Narrative Statement from Attorney Scott Yahne, pages 26, 30
2. Site Plan, pages 7,8
3. Project illustrations, pages 9 - 22
4. Findings of Fact, pages 33 - 42
5. Draft Legal Notice Documents, pages 23 - 25

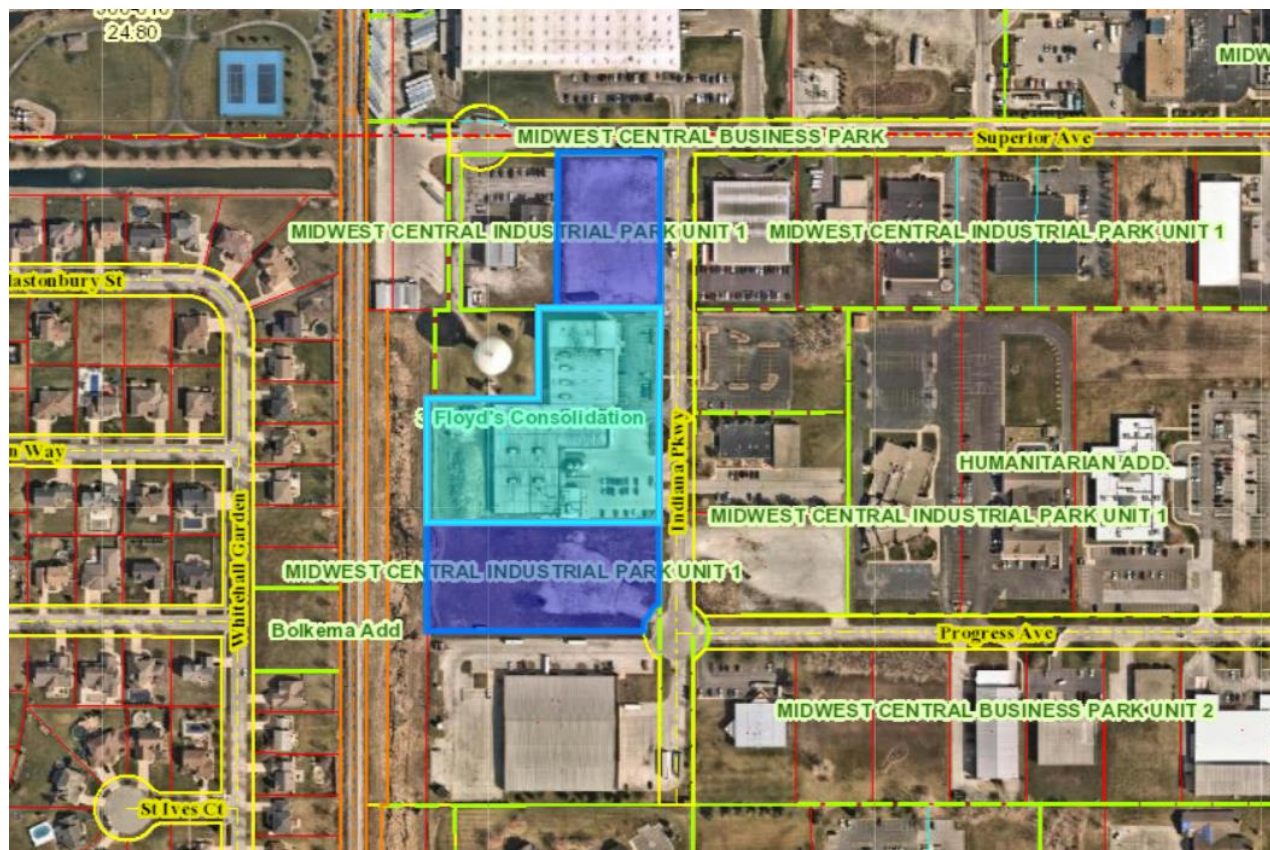


Figure 1 Subject Property.

## PROJECT BRIEFING

Attorney Scott Yahne, representing Floyds Concerns or “Three Floyds,” (*see figure 1*) is seeking variances to build-out the existing Three Floyds Taproom with exterior use space. The proposed build-out will incorporate an open garden space known as a “Biergarten” – which is an outdoor area in which beer and food are served and is commonly attached to brewery, beer hall, pub, or restaurant that originated in southern Germany.

The proposed taproom expansion will offer open and inviting spaces for patrons inside to enjoy the expanded outdoor landscaped event space. Extensive landscaping, building features, tasteful signage, and lighting is proposed for the facility. The petitioner is seeking relief from certain development standards to help advance this project. A Developmental Standards Variance Application has been filed to increase the 20' maximum building setback to the current maximum of 148', and essentially reducing the taproom entrance from the right-of-way property line from approximately 155' to 115' (*see figure*

2).; and eliminate screened parking areas, parking islands, pedestrian walkways and landscaping within the first lot layer due to existing parking and pedestrian walkways and extensive proposed landscape system (see figure 3).,and; use of existing modern right-angle design off-road lighting head fixture to match the existing lighting fixtures than the required historic colonial, acorn, or coach design lighting head fixture (see figure 4

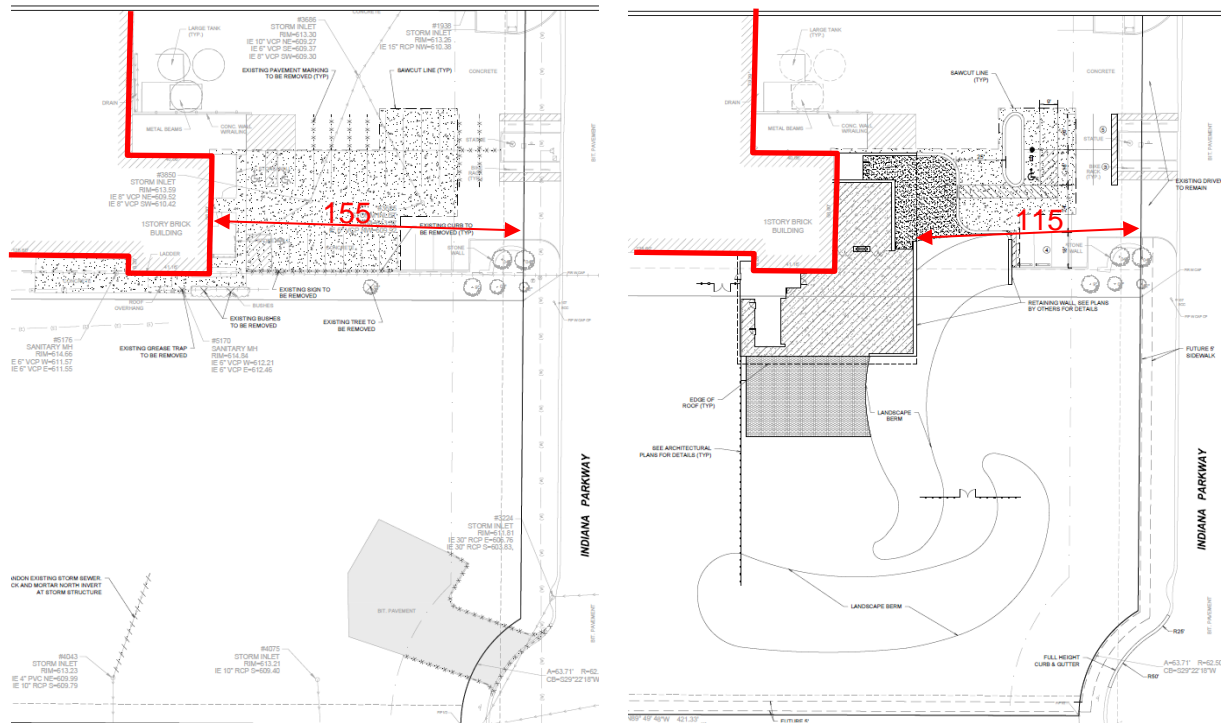


Figure 2 Setback Request.





Figure 3 Screening and Landscape Plan.






LIGHTING TYPE	CD-3	CD-3 R.1	CD-3 R.2	CD-3 R.3	CD-4. R.4	CD-4.A, CD-4.B
<b>HEAD/LUMINAIRE TYPES</b>						
Cobra Head						
	NP	NR	NR	NR	NR	NP
Off-Road Head						
	NP	NR	NR	NR	NR	NP
Colonial Head						
	P	NR	NR	NR	NR	P
Coach Head						
	P	NR	NR	NR	NR	P
Acorn Head						
	P	NR	NR	NR	NR	P



Figure 4 Proposed Light Fixture.

1005 Ridge Road • Munster, IN 46321 • (219) 836-8810 • Police/Fire Emergencies 911

Police Non-Emergency (219) 836-6600 • Fire Non-Emergency (219) 836-6960

[www.munster.org](http://www.munster.org)

The Munster Character Based Zoning codes from which the petition is seeking variances from are:

**Table 26-6.405. A-7 Setbacks – Principal Building (MZC pg. 125)**

*“0 ft. min, 20 ft. max; the max. setback may be increased by the amount necessary to provide a passenger drop off area where there is no on-street parking and the Principal Use of the Lot is Hotel or Medical.”*

**Section 26-6.405. O. 1. h. vii. I. and II. Landscaping and Design of Parking Area or Parking Lot. (MZC pg. 251)**

*“Any Parking Area or Parking Lot having ten (10) or more parking spaces shall conform to the following: 1) Parking Areas and Parking Lots shall contain at least one landscape island for every ten (10) parking spaces. Parking Lots with more than one landscape island shall have such islands distributed throughout the Parking Lot. 2) Interior parking rows shall be terminated at both ends with landscape islands.”*

*“Any Parking Area or Parking Lot in the First or Second Lot Layer shall be Screened from view in accordance with the following:*

*The Parking Area or Parking Lot shall be Screened from the public right-of-way with a perimeter planting strip a minimum of 7 feet in width from front to back planted adjacent to the public right-of-way containing all of the following...” [hedge, shade tree, ornamental tree]*

**Section 26-6.405. Q. 3. b. Illumination. (MZC pg. 263)**

*Illumination at all Lot Lines shall meet the standard of Table 26-6.405.Q-2 (Private Lighting Standards).*

## VARIANCE STANDARDS

The variance process is established to provide relief to a property owner when, due to unique circumstances, compliance with the zoning code imposes a hardship or practical difficulty on a property owner. The BZA is under no obligation to grant a variance. It is the petitioner's responsibility to prove a hardship or practical difficulty. The BZA should ask the petition to address the criteria listed below.

**Section 26-6.804. I. Deviation from Standards & Requirements** (pg 392) of the Munster Zoning Code states that the basis for a variance is as follows:

g. General Standards.

A Variance may be granted only if the Decision-Making Authority has made the following determinations for such Variance:

- i. the practical difficulties or unnecessary hardships that would be incurred by strict application of the Use or Development standard, as applicable, are unique and not shared by all properties in the vicinity and are not self-imposed;
- ii. such Variance is the minimum Variance that will relieve such practical difficulties or unnecessary hardships, as applicable;
- iii. such Variance is in the spirit of the general purposes and intent of this Article as stated in Division 1; and
- iv. such Variance is so designed as to provide reasonable consideration to, among other things, the character of the neighborhood, District, or Civic Zone, the conservation of property values in the vicinity, and the guidance of Development in accordance with the Comprehensive Plan.

h. Specific to Development standards Variances:

A Variance from Development Standards may be approved or approved with conditions only if:

- i. it will not be injurious to the public health, safety, morals, and general welfare of the community;
- ii. 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
- iii. the strict application of the Development standards will result in practical difficulties in the use of the property.

**STAFF FINDINGS and RECOMMENDATION**

The applicant has completed all application requirements and providing supporting documentation for staff to offer for public review and is prepared to assist the petitioner in the public hearing process.

**MOTION**

The Board of Zoning Appeals may wish to consider one of the following motions:

1. *Motion to set BZA 23-011 for a November 14, 2023 Public Hearing*

# EXHIBIT A

42 page application and supporting documents