



# BOARD OF ZONING APPEALS STAFF REPORT

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

**From:** Sergio Mendoza, Planning Director

**Meeting Date:** November 14, 2023

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

**Application Type:** Developmental Standards Variance

**Hearing:** Public Hearing

**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:** Approve Variances

**Additional Actions Required:** Findings of Fact

**Staff Recommendation:** Approve

**Exhibit A Attachments:** 1. Variance Application and supporting documents, Exhibit A (pg 8).

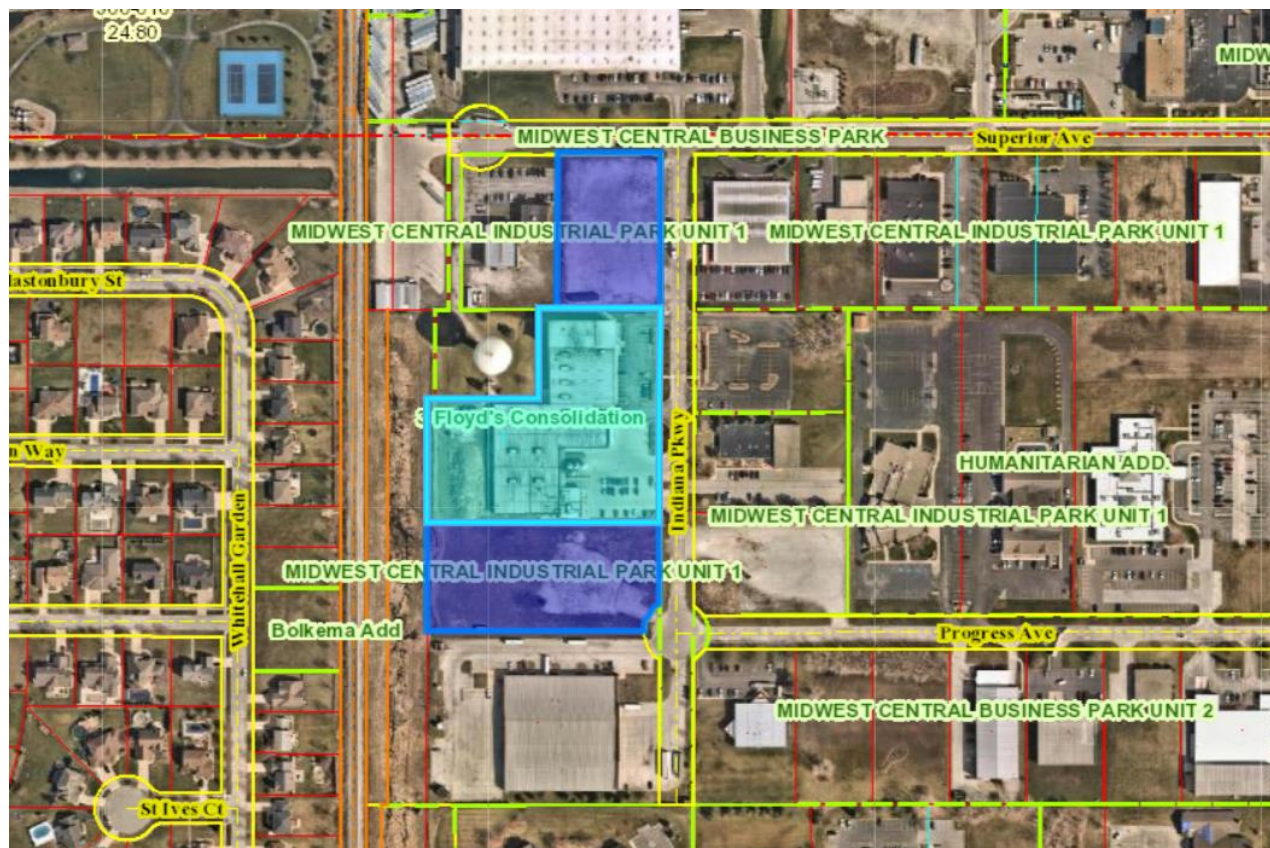


Figure 1 Subject Property.

### 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.

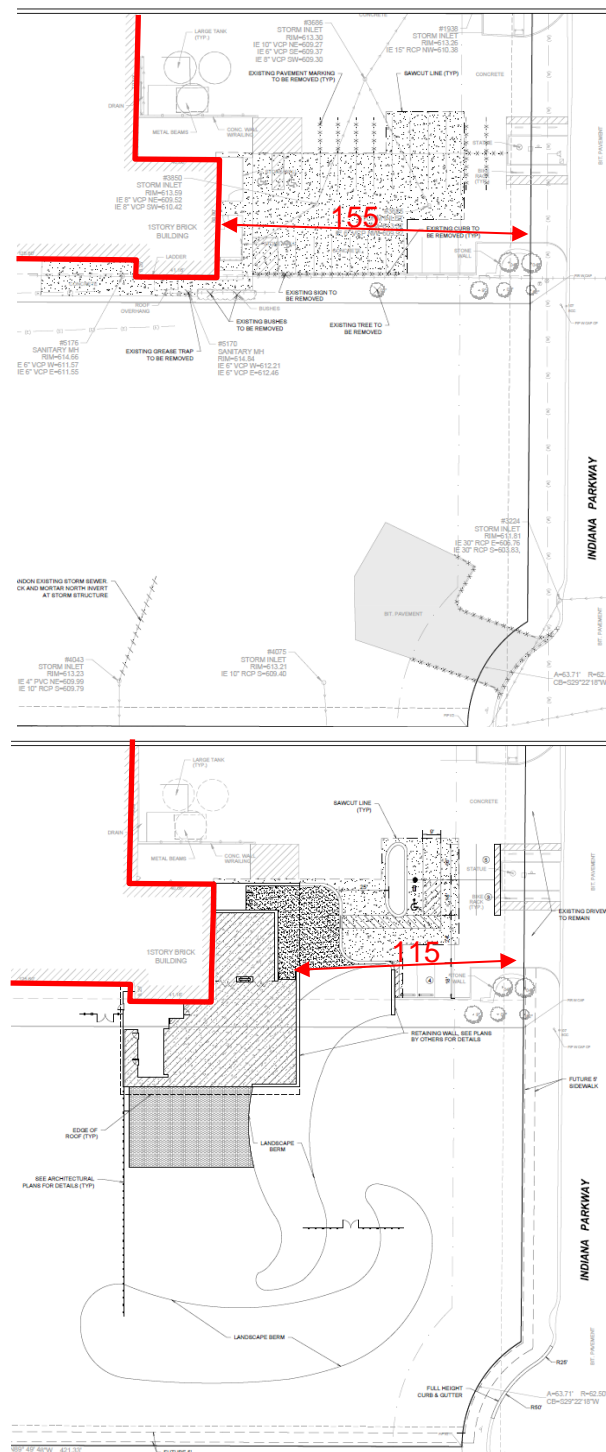


Figure 2 Setback Request.

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

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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
HEAD/LUMINAIRE TYPES						
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.



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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.

**The applicant has addressed these criteria in the attached application.**

**STAFF FINDINGS and RECOMMENDATION**

Compliance with the Munster Character Based Zoning Codes would result in practical difficulties and unnecessary hardships for a business which was established prior to the enacting of the current standards. The continued growth and proposed expansion of 3 Floyds business are unique and not shared by all the properties in the vicinity. This existing land use offers multifaceted levels of expansion which include processing, distribution, retail, on site consumption, and entertainment.

The applicant has provided reasonable consideration to the existing character of the neighborhood and guidance of development in accordance for the expansion of an existing taproom and the addition of outdoor landscaped experience. Relief from certain development standards will aid in advancing the development plan while offering efforts for more compliance that currently existing. The variance filed would increase the 20' maximum building setback by reducing the taproom entrance from the right-of-way property line from approximately 155' to 115' (see figure 2).; the elimination of screened parking areas, parking islands, pedestrian walkways and landscaping within the first lot layer would be allocated to the unique and proposed biergarten space (see figure 3), and; use of existing modern right-angle design off-road lighting head fixture would match the existing modern lighting fixtures maintaining cohesiveness for the previously established lighting plan (see figure 4).

**MOTION**

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

1. *Motion to approve BZA 23-011 to increase the maximum setback of the principal building by reducing the existing setback of 155 feet to approximately 115 feet for an addition to the principal building, and to repurpose and reallocate the landscaping requirement for parking areas/lots in the first lot layer to enhance the proposed biergarten screening and landscaping, and to continue the current light design fixtures, including all discussion and findings.*

# **EXHIBIT A**

42 page application and supporting documents