

Shelby County Board of Zoning Appeals
Meeting Minutes
March 9, 2021

Members Present:

Kevin Carson
Jim Douglas
Dave Klene
Rachael Ackley*

Members Absent:

Doug Warnecke

Staff Present:

Desiree Calderella – Planning Director
Mark McNeely – Board Attorney

Call to Order and Roll Call:

Kevin Carson called the meeting to order at 7:00 pm in Room 208 A at the Court House Annex, Shelbyville.

Approval of Minutes

Dave Klene made a motion to approve the minutes from February 9, 2021. Jim Douglas seconded the motion. The minutes were approved 4-0.

Old Business

BZA 21-02 – NORTHWEST CONSOLIDATED SCHOOL DISTRICT OF SHELBY COUNTY: DEVELOPMENT STANDARDS VARIANCES – To allow for expansion of a bus parking lot having two entrances having a separation of less than 45-feet [UDO Section 5.20 A 2 b]; entrances exceeding a width of 30-feet [UDO Section 5.20 B 2]; parking lot area located less than 17.5-feet from the right-of-way of W 600 N [UDO Section 5.63 A 1 a]. Located at 4740 W 600 N, Fairland, Moral Township.

Desiree Calderella read the petition into the record and stated that Staff provides no recommendation.

Roger Kottlowski, the project engineer, represented the petitioner. He explained that the new parking lot design would eliminate the need to stack buses within the lot and allow for safer traffic conditions. He outlined the technical aspects of the parking lot design.

The Board opened the hearing for public comment. None was heard. The Board closed the public comment portion of the hearing.

Rachel Ackley expressed support for the project and stated that the plans would alleviate traffic congestion on 600 N.

Dave Klene also expressed support for the project.

Jim Douglas made a motion to vote on the variance. Dave Klene seconded the motion. The petition was **APPROVED 4-0**.

The Board adopted the following findings of fact:

1. The approval will not be injurious to the public health, safety, 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 Shelby County Unified Development Ordinance will result in a practical difficulty in the use of the property.

New Business:

BZA 21-06 – JOHN R. & SANDRA SCUDDER: DEVELOPMENT STANDARDS VARIANCE – To allow for a new single-family dwelling setback 44.5-feet from the proposed right-of-way of 400 N (minimum 60-foot setback required) [UDO Section 2.06]. Located at 2405 E 400 N, Shelbyville, Marion Township.

Desiree Calderella read the petition into the record and stated that Staff recommends approval.

Jeff Powell represented the petitioner. He provided an overview of the petition.

The Board opened the hearing for public comment. None was heard. The Board closed the public comment portion of the hearing.

Dave Klene noted that the new house would sit further from the road than the previous house located on the property.

Kevin Carson made a motion to vote on the variance. Dave Klene seconded the motion. The petition was **APPROVED 4-0**.

The Board adopted the following findings of fact:

1. The approval will not be injurious to the public health, safety, 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 Shelby County Unified Development Ordinance will result in a practical difficulty in the use of the property.

BZA 21-04 – NANCY ESTERS: USE & DEVELOPMENT STANDARDS VARIANCES – To legally establish use of the property for indoor and outdoor storage of traffic control equipment in the VM (Village Mixed Use) District. Also, to allow for a new accessory structure in the front yard [UDO Section 5.04 C]. Located at 108 E Carey St, Fairland, Brandywine Township.

Desiree Calderella read the petition into the record and stated that Staff recommends approval.

Gregg Graham represented the petitioner. He explained that the surrounding area includes commercial uses and that a high fence surrounds the property, therefore the proposed commercial building would be consistent with the neighborhood.

The Board opened the hearing for public comment. None was heard. The Board closed the public comment portion of the hearing.

Kevin Carson indicated that the surrounding area includes commercial uses and that the business has existed on the property for many years.

Kevin Carson made a motion to vote on the variance. Dave Klene seconded the motion. The petition was **APPROVED 4-0**.

The Board adopted the following findings of fact:

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 need for the variance arises from some condition peculiar to the property involved
4. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which variance is sought.
5. The approval does not interfere substantially with the Comprehensive Plan

BZA 21-05 – FIVE BELOW, INC: DEVELOPMENT STANDARDS VARIANCES – Section 2.34 (maximum structure height); Section 5.17 C. 4 (qualifications for a driveway); Section 5.20 B. 1 (driveway width); Section 5.29 (non-residential fence and wall standards); Section 5.51 A. 1. A. (loading berths location); Section 5.75 (commercial, industrial, and high impact signs); Section 2.34 (minimum lot width). Located at 12050 East McGregor Road, Indianapolis, Moral Township.

Desiree Calderella read the petition into the record and stated that Staff recommends approval of all variances with two stipulations.

Peter DePrez with Brown, DePrez & Johnson Law Firm and Chris King with Runnebohm Construction represented the petitioner.

Peter DePrez provided an overview of the company's operations and explained how the project would benefit the community. He indicated that the I1 zoning district permits the proposed use and that the petitioner has only requested variances of development standards. He indicated that approval of the variances would improve the design and safety of the project. He stated that the petitioner agrees with the stipulations recommended by Staff.

Chris King outlined the information provided in the statement of intent submitted with the variance application. Additionally, he explained that only a small portion of the building would exceed the maximum height requirement and that nearby Blue Star Ready-Mix would have taller building. He indicated that the proposed signage would comply with the sign face area standards for the City of Shelbyville and City of Indianapolis, however the building would have additional signs per each facade than permitted by these ordinances. He explained that the length of the building necessitates additional signage for ease of identification and for directional purposes.

The Board opened the hearing for public comment.

George Jennings, who resides at 12105 McGregor Rd, expressed concerns about noise, light, security, drainage, waste disposal, traffic, and trespassing. He stated he is opposed to the project.

David Fagel, who resides at 6925 S Carroll Rd, expressed concerns about drainage. He asked if the existing water main could handle fire suppression needs of the facility, if the company must hire a percentage of Shelby County residents because the County approved a tax abatement, if the County could place restrictions on lighting, and if the County could restrict hours of operation. He also asked about the history of the zoning of the property and public notification requirements.

Kevin Carson explained that the County had approved a rezoning of the property from agricultural to allow for a proposed Harley Davidson plant several years prior. The development never materialized, but the County subsequently designated the property for industrial development when updating the zoning maps and Comprehensive Plan. He explained that neighbors should have received notice of the initial rezoning.

Frank Adams, who owns property at 7451 Acton Rd, asked if properties along McGregor Rd could connect to the new sewer line.

Doug Canfield, who resides at 7444 S Carroll Rd, expressed concerns about drainage and precedents set by approval of the variances. He asked how much of the building would exceed the height requirement, why staff recommended approval to allow the company to maintain the access as a driveway rather than a public street, and for a description of landscape buffer C.

Nancy Boaz, who resides at 7548 S Carroll Rd, expressed concerns about drainage, noise from trucks, pollution, impacts to wildlife, lighting, signage, and widening and maintenance of McGregor Rd. She asked if the County could restrict hours of operation and require noise barriers.

Stephen Kappas with the Franklin Township Civic League expressed concern about lack of notice and communication with neighbors, lack of a sewer system, pollution, lighting, and drainage.

Desiree Calderella verified that the petitioner had submitted their affidavit of notice.

George Ruschhaupt, representing Ruschhaupt Family Farms located on the south side of McGregor Rd, expressed support for the project.

Richard Stead, who owns property at 4444 S 600 W, asked if the petitioner could turn the building to eliminate some of the concerns expressed by the neighbors.

Kevin Carson stated that Moral Township had hired Robbie Stonebraker to oversee fire protection issues associated with the project.

The Board closed the public comment portion of the hearing.

Chris King explained that American Structurepoint had completed a traffic study using the proposed truck count of 41 trucks per day in 2022 to 88 trucks per day in 2027. The study determined that a right turn lane into the facility is not needed, however the company plans to install a right turn lane.

Chris King explained the County drainage requirements and how the petitioner plans to comply with those requirements. He stated that the project would improve drainage in the area. He stated that the Army Core of Engineers and IDEM will review various portions of the drainage plans and that the County will require applicable approvals from those agencies prior to issuing permits.

Chris King explained that the County and Citizens Energy have not finalized the details regarding the location of the sewer line or the ability for residential users to connect to the line. He verified that the project is not located in the Northwest Sewer District, therefore residents should either contact the County Commissioners or Citizens with questions about the sewer line.

Chris King indicated that the petitioner had contacted Moral Township Fire Department and has started working with the department to address any fire suppression concerns. He stated that the Indiana Department of Homeland Security would review and approve the building plans. He provided an explanation of the required sprinkler system. He explained that the building would need to comply with certain design requirements for insurance purposes.

Chris King stated that the project must comply with the County's lighting standards.

Chris King indicated that approval of the variance to permit the access as a driveway rather than a public street would take the burden off the County for maintenance of the access drive.

Chris King explained that the company does not have many options to alter the design of the building due to the prototype design of the building and constraints of the site.

Chris King identified the areas of the site that would include landscape buffer yards and outlined the ordinance requirements of buffer yard 'A' and buffer yard 'C'.

Chris King identified the high points of the building on the elevation plans and explained that only a small portion building would exceed the height requirement.

Chris King identified the areas of the site that would include fencing. He stated that the fenced areas would sit far from public view and that the ordinance requirements do not account for security fencing for large industrial projects.

Chris King stated that the project would include directional signage to direct truck traffic. He stated that industrial development would likely occur on the east side of Carroll Rd, which may initiate future improvements to the road.

Chris King outlined the estimated hours of operation (see letter attached to minutes).

Chris King provided an overview of the sign plans.

Chris King stated that the petitioner had taken the high-water table into consideration when designing the site, building, and drainage plans. He stated that the petitioner would install drainage tiles. He verified that the project would not increase the amount of water draining onto neighboring property.

Chris King stated that the project would bring public water and sewer opportunities to the area and that the project would not impact surrounding wells or septic systems.

Q: Jim Douglas – Are there any plans for the 14.9-acre lot?

A: Chris King – No definite plans at this time.

Dave Klene made a motion to vote on all seven variances with stipulations. Rachel Ackley seconded the motion. The petition was **APPROVED 4-0** with **stipulations**:

- 1. Landscape Buffer 'C' shall be installed along the property line adjoining I-74 and along the property line fronting the residential properties on Carroll Rd. Landscape Buffer 'A' shall be installed along the remaining property line fronting on Carroll Rd.**

2. **Signage shall conform with the Sign Plan submitted with the Variance Application. However, sign ‘B’ on the face of the building fronting McGregor Rd shall not be installed.**

The Board adopted the following findings of fact:

1. The approval will not be injurious to the public health, safety, 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 Shelby County Unified Development Ordinance will result in a practical difficulty in the use of the property.

Discussion:

None.

Adjournment:

With no further business to come before the Board, Dave Klene moved to adjourn, and Jim Douglas seconded the motion. The meeting was adjourned.

President	Date
Kevin Carson	

Secretary	Date
Dave Klene	

**This meeting was conducted during the COVID-19 public health emergency. As permitted by the Governor’s Executive Order 21-05, Rachel Ackley attended remotely via Zoom and her vote was taken by roll call rather than paper ballot.*

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March 10, 2021

Ms. Desiree Calderella
Planning Director
Shelby County Plan Commission
25 West Polk
Shelbyville, IN 46176

Re: Five Below Variances

Dear Desiree:

As agreed at last night's meeting, Chris King and I provide by this letter the primary shift information we received from Five Below. The information is based upon the best estimates of Five Below and naturally the hours of operation are subject to change based on growth and business decisions related to operation of the facility. The facility will be staffed all hours. The information provided below is for primary shift:

Primary Shift Hours:

Retail

Monday – Friday 6 AM – 2:30 PM

E-Commerce

Monday – Thursday 6 AM – 4:30 PM

Friday – Sunday 6 AM – 6:30 PM

Truck Deliveries:

Day: 75%

Night: 25%

As also noted in the meeting, Five Below bases the estimates on the experiences at its other distribution centers as well as the anticipated use of this site. Due to the nature of Five Below's business as a distribution center, truck delivery and pickup may occur at any time.

Very truly yours,

BROWN, DePREZ & JOHNSON, P.A.

By



Peter G. DePrez

PGD/cm

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