

BOARD OF ZONING APPEALS
MEETING MINUTES
April 14, 2020

Kris Schwickrath: Good evening, everyone. This is the call to the order for the April meeting of the Board of Zoning Appeals. So this is my first time doing a public meeting. I'll do my best. So welcome everyone. We'll start with our roll call.

Adam Rude: Yes. Ms. Schwickrath - here, Mr. Clark - here, Mr. Lisher - here, Mr. Cassidy - here and Mr. Lewis - here.

Jim Lisher: He was there.

Schwickrath: He is. His microphone's muted. So Wade, go down to the middle of the screen and unmute. On the left hand side there's a circle.....got it.

Wade Lewis: Here.

Rude: There you go. Thank you.

Schwickrath: Thank you.

Rude: And we'll also show for the record that Mr. Clark, Mr. Lisher, Mr. Cassidy and Mr. Lewis are all present virtually and Ms. Schwickrath is present in the room.

Schwickrath: Thank you. So now we will move to approval of the minutes for March, 2020 and if you didn't have a chance to look at them online, just to remind you that was when Paul Dillow came here so I did review them and I have no additions or any criticism. So I'll entertain a motion to approve the minutes from the March meeting.

Lisher: I'd move to approve.

Schwickrath: Mr. Lisher. Someone second?

Doug Cassidy: Second.

Schwickrath: We'll give that to Mr. Cassidy and then we'll take a roll call on that.

Rude: Yes, Ms. Schwickrath - yes, Mr. Clark - yes, Mr. Lisher - here, Mr. Cassidy - here and Mr. Lewis - yes.

Schwickrath: Okay the minutes are approved. Thank you. On our agenda there are no items under Old Business so before we move to New Business, I would like to read a script so everyone that's here tonight, we do have two members of the public here and also on Facebook Live understands how we will proceed. I'll try to go through this expeditiously just because we are in a new situation. First of all, I wanna thank all board members for being flexible. We met yesterday just to test everything. Thank you for that extra time. And also to continue to conduct the city's business. But more importantly, we want to thank the public for joining us online rather than in person. All city departments, wards and commissions are taking this health emergency very seriously and following precautions recommended by federal, state and local health officials including the practice of social distancing which is why we've elected to meet in this setting tonight. We are utilizing Facebook Live to stream this meeting live with the public and we will be utilizing the comment section online to take comments and questions during the meeting. We have quickly adapted to accommodate for as much public input as possible knowing that the typical in-person format is not feasible right now. We have received a letter from one of the properties about our first petition tonight and we've invited comments to be submitted through email and phone as well. All of the comments received previously will be read into the record when considering each case during a public commentary time. And if you want to submit comments tonight through email, please send these to arude@cityofshelbyvillein.com. If we receive those in time, we will read them into the record. Again, we will be monitoring the comment section on Facebook so you can submit comments and questions through that platform as well. Please expect some delays that will seem awkward. Since the applicants are also working remotely, the discussion will not flow as smoothly as in an actual meeting. We'll do our best. Thank you for your patience in advance. The structure of the meeting this evening will be as follows. We've already done a roll call and before we move to New Business we will hear each case one at a time. There are two tonight. We will ask planning staff to introduce the case. The petitioner will then unmute their microphone and explain their request or add anything further. We will allow then each board member a few minutes to ask any questions to the petitioner. Once all board members have had a chance to ask the questions, we will enter the public hearing portion of the meeting. This is when comments and questions from the public will be read into the record. All of these comments will be considered by the board members when they are making a final decision before we vote. We know there will be a slight delay caused by the live streaming so we will leave the public hearing open for about 90 seconds to allow for people to submit comments on each petition. Once all comments have been received, we will allow the petitioner to respond and answer any questions that might have come up during the public meeting. We will then allow all board members to ask questions one final time to the petitioner. After all questions have been asked and answered, we will move to a motion on the petition and a final vote. We will repeat this process for all items so though we have two petitions tonight, each one has multiple parts to be voted on and we ask that you wait for us to open the public hearing portion before posing your questions online. Once all petitions are heard, we will hear any updates from the planning staff, then we will conclude the meeting. That was a lot to read but we'll go through this step by step. This video by the way will be available after the meeting on the city's Facebook page but any comments posted after tonight's meeting will not be considered by the

board as all decisions tonight are final. Again, we'd like to thank you for being flexible and joining us in a virtual meeting. With that, we will begin the meeting now moving on to New Business. Okay so Mr. Rude will read the petition and we'll proceed from there.

Rude: The first item under New Business tonight is BZA 2020-05 James Ford development standards variances. The petitioner's name again is James Ford. He is also the property owner and is representing himself this evening. The address of the property is 312 Sunset Drive here in Shelbyville. The subject property zoning classification is R1, single family residential with a comprehensive future land use of single family residential. The request tonight is two development standards variances. The first that we will hear is setback standards for an accessory structure and the second has to do with the separation between structures. So a little bit of back story on this petition - a few months ago, I believe it was over the winter, this garage burnt down and the property owner essentially is just asking to rebuild on the same footprint that they had previously. But when the garage was previously built, it there were smaller setbacks than there are today so they're asking for a side yard setback of 3' instead of the 5' that is prescribed and a separation of 4 ½' instead of the 5' that's prescribed.

Schwickrath: Mr. Ford, would you like to add anything further to what Adam Rude just read?

James Ford: Not at this time. The only thing, well I guess maybe the only thing I would want to add would be that the original garage 364 square feet was built in 1973. In 1999, we added an additional 112 square feet or 8 additional feet in depth to accommodate a boat. If we're allowed to rebuild, we will rebuilt at the original 364 square feet.

Schwickrath: Okay. Anything further?

Ford: No.

Schwickrath: Okay, thank you. That is helpful. So now I'll open this to questions from the board starting with Mr. Cassidy.

Cassidy: I have no questions right now. He's just putting back what he had so okay.

Schwickrath: Okay. Yes, thank you. That's fine. Mr. Clark?

Clark: Yes I have one question, Mr. Ford. Would you consider a stipulation on these variances to include a condition that you would build any wall facing another structure as a fire rating with a higher rating fire retardant?

Schwickrath: Mr. Clark....

Ford: Yeah. That would not be an issue.

Schwickrath: Okay.

Ford: The only thing well, okay are you calling facing another structure or house? 'Cause an adjoining property line, there is no structure. Well within the 5' limit.

Schwickrath: I think what Mr. Clark is....

Clark: I believe I noticed some damage to your building to your home.

Ford: Yes.

Clark: Possibly due to the fire that destroyed the original structure and I was just hoping that you would take some precautions against that in the future.

Ford: Will do, yeah. We can definitely do that.

Schwickrath: Yeah some kind of a firewall I think is what he's asking for.

Ford: Well some of this building, the garage we're going to have to have approved building materials from Indiana Department of Natural Resources and FEMA because we live in a flood zone.

Schwickrath: Okay.

Ford: Which may be consistent with the fire protection let's say but we will you know have fire protection also if needed.

Clark: Thank you.

Schwickath: Thank you. It's a good question. Anything further? Mr. Clark, anything?

Inaudible reply.

Schwickrath: No? Okay. So we'll move on to Mr. Lewis.

Lewis: No questions.

Schwickrath: Okay. Thank you. Mr. Lisher?

Lisher: I have no questions and I'm sorry for your loss, Mr. Ford.

Ford: Thank you.

Schwickrath: From me, just quickly I did not wanna just walk up your driveway so it was hard for me to (?) the whole layout. Is the garage attached to your house or is it separate and you just drive up to it like your neighbor's?

Ford: It's separated from the house. It's a detached garage approximately 4' 5" from the house, from the side of the house.

Schwickrath: Okay that's what I thought. Okay I just wanted to make sure I understood the situation since we did not get a plan but I know you have more to do and you'll be working with the staff on that. So I have no further questions. Anyone else from the board? Anything come to mind that we need to address at this time before I open this to public commentary?

No reply.

Schwickrath: Looks like no so we'll open this up now to public commentary. I know we have at least a letter to read tonight, I believe?

Rude: Yes. So I'll start with the letter and we'll wait for some of the possible Facebook comments to come in. This letter is dated April 3, 2020 and was mailed into our office. It states on the matter of Jim Ford's request for variance permit to rebuild on the property at 312 Sunset Drive in Shelbyville, Indiana we live at 313 Sunset Drive directly across from Jim Ford and we don't have any objections at all. Sincerely it's signed Danny E. and Bonita J. Dixon. That's the only letter we received.

Schwickrath: Okay. That's the only letter we have received and we'll wait to see if there's any more public commentary online. Thank you for reading that.....(inaudible)...

Rude: Yeah we haven't had anything come in this whole video so far.

Schwickrath: Okay.

Rude: We do have 20 people watching, so....

Schwickrath: Oh.

Lewis: Alright.

Schwickrath:(inaudible)....we actually are timing this for 90 seconds....(inaudible)...

Rude: We're about 20 seconds away. One individual just posted a Shane Zoe Quick says we live on Sunset Drive and have no problem with it

Schwickrath: Okay. Thank you. Mr. Ford, you have nice neighbors who are supporting your redevelopment here of your garage. Okay, thank you.

Rude: Okay. That's time.

Schwickrath: Is that it?

Rude: Yep.

Schwickrath: Okay so I'm going to end public commentary and I think the board is ready to move to a motion. This will be our first one. There are two attached to this petition this evening. This first one is to allow for a zero side yard setback. No wait, am I right?

Rude: Yeah.

Schwickrath: Is that right?

Rude: Yes.

Schwickrath: (?) okay.

Lisher: This'll be designated as 05A?

Rude: Yes, it will, yep.

Schwickrath: This is 05A, correct. Is anyone ready to make a motion?

Cassidy: I'll make a motion to approve the requested development standard variance to allow zero side setback according with the plans provided to this board.

Schwickrath: Okay and there is a motion.

Lisher: Second.

Schwickrath: Okay Mr. Lisher, you seconded it. So we will now say our approval or not or denial orally.

Rude: So for BZA 2020-05A, a motion for approval: Ms. Scwhickrath - yes, Mr. Clark - yes, Mr. Lisher - yes, Mr. Cassidy - yes and Mr. Lewis - yes.

Schwickrath: So the motion is approved and we have one more tonight. Adam will read the details of that.

Rude: This, let me pull up on my screen. This second variance also from Mr. Ford, is to do with separation between an accessory structure and a primary structure. So that separation is typically 5' but as Mr. Ford had said, his garage was originally built back in I believe the 60s before that requirement was in place and he'd like to rebuild on that same footprint.

Schwickrath: Thank you. Mr. Ford, do you want to add anything further to that?

Ford: No, I do not.

Schwickrath: Okay. So then I'll just take questions from the board. I'll start again with Mr. Cassidy. Any questions about the second one?

Cassidy: No questions.

Schwickrath: Okay, thank you. Mr. Clark? Mr. Clark, your microphone is off. Any questions?

Clark: Yes, sorry for the delay. I have no questions.

Schwickrath: Okay. Mr. Lewis?

Lewis: No questions.

Schwickrath: Okay. Mr. Lisher?

Lisher: No questions.

Schwickrath: And I also have no questions so I'll close (?) from the board at this time and open up to public commentary. It is a 90 second time frame as well again.

No reply.

Rude: About 40 seconds left.

Schwickrath: Okay.

Rude: About 15 seconds.

Schwickrath: Okay that's 90 seconds. Do we have any comments from the public?

Rude: Nothing. Yep, nothing through Facebook or email.

Schwickrath: Okay so I'll close public commentary at this time and we have a second request to vote on tonight and that is for the reduced accessory dwelling separation.

Lisher: Yes Madame Chairman, I would move to approve the development standard variance from UDO 5.03 C1 pursuant to the staff's recommendations and Findings of Facts.

Schwickrath: Thank you. Mr. Lisher has....

Lewis: Second.

Clark: I'll second.

Schwickrath: Okay, Mr. Clark gets the second. We'll orally cast our ballots or votes, excuse me for BZA 05B.

Rude: Votes for BZA 2020-05B, a motion to approve: Ms. Schwickrath - yes, Mr. Clark - yes, Mr. Lisher - yes, Mr. Cassidy - yes, Mr. Lewis - yes.

Schwickrath: So the motions are approved. Mr. Ford, thank you and best wishes with your project.

Ford: Okay I'd like to thank the members.

Schwickrath: Sure. Thank you. This is what we do. Thanks for your patience.

Rude: There we go.

Schwickrath: Okay we have one more petition tonight which has four parts to it and we will (?) with when you're ready.

Rude: Yep.

Schwickrath: Okay, sure.

Rude: Okay second item under New Business and the last item under New Business tonight is BZA 2020-06 Gina Karnes development standards variances. Let me pull up the petition. The petitioner's name tonight is Gina Karnes who is also the owner of the property and the petitioner's own representative. The address of the property is both 9 and 11 N. Miller Street here in Shelbyville. Subject property zoning classification is R1 single family residential as well as the comprehensive plan future land use is single family residential. The request tonight is for four development standards variances all from UDO 5.24 which is the home occupation standards. The four variances are from the business activities section, the owner/operation section, the employee section and the business area section. So briefly, just to introduce the petition, everyone; Miss Karnes is looking to operate the subject property is currently a duplex and in the past it's been a rental, both halves. Miss Karnes is looking to turn one of the halves

into a boutique to sell clothing items. Currently the way that the home occupation standards are written, they're written to operate a non-retail store out of a single family residential so maybe an office or you know a travel agency or something along those lines that you could operate out of just a room in your home. So a lot of those standards limit the square footage of an occupancy that can be used for the business activity, the amount of customer interaction that can happen and it also limits who can operate the business and who can run a business out of their home. So the four variances or the four sections that Miss Karnes is asking for variances from, the first is business activity. The standards currently say only 25% of business activity can be face to face customer interaction. All the rest has to be mail order, telephone, internet sales that go out through the postal service and with her business model, some of those sales would happen online, through the phone, some of those things but a majority of them would be in person interactions with customers. The second variance tonight, well, do we wanna go through all of them or just....

Schwickrath: We'll do them individually.

Rude: Okay. So....

Schwickrath: I think that'll be better.

Rude: So that's the first variance that we're gonna hear comments on. There's three more that we'll get into but that is the first one that has to do with the business activity and the percent of face to face interaction of customers then.

Schwickrath: I know I wanna take about things as a whole project, but we will keep it to each item. Miss Karnes, if you wanna speak now just to that particular part of it and then give us a little bit more introduction as to what you're thinking, that'd be great.

Gina Karnes: So the property I have owned for 15 years I believe now and we lived in it for 12 of those years. Well wait a minute, that might not be right. I don't know. We lived there a long time and then we bought the house next door to it. We have had trouble renting out the smaller side. It's just not as you know it's a one bedroom, one bath and just a small galley kitchen so in the past our renting, needless to say, has not been what we'd like for it to be. We've had people destructing property and (?). We're tired of it. So I'm looking at retiring probably in the next, I don't know. With virtual learning, it might be sooner than I thought. But I you know within the next few years, probably three to four, maybe five pushing it. And so I was trying to use that property to help me to come up with a side income and it's such a (?) property within Shelby County for years. It's a very old property. I was told that in the 1800s it was a coal(?) house at one point. I don't know that to be true. I haven't researched it. But I just feel like it would add to the neighborhood. I will be doing improvements, having it painted, having a new driveway put in, just trying to spruce it up so I think it will really improve the property of the adjoining neighbors. And so that's what I'm planning on doing and just, it will be a small retail shop. I'll

only be on first Fridays, weekends. Probably in the summer a couple of nights during the week but then when I go back to school, I probably won't do that. I'll just be the weekends.

Schwickrath: Okay, thank you. That gives us a little bit more context. I'll now open this up to questions from the board. I guess I'll just continue as I have been. Board members, I'll just start with Mr. Cassidy. Do you have anything first?

Cassidy: Which side of the house Gina, is that on?

Karnes: It would be the north side of the house.

Cassidy: Okay.

Karnes: It's the smallest side.

Cassidy: Okay. That's all I really have.

Schwickrath: Okay, thank you. Mr. Clark?

Clark: I have no questions.

Schwickrath: No questions? Okay, thank you.

Clark: Thank you.

Schwickrath: Mr. Lewis?

Lewis: I have a few questions. Do you expect more parking to be in the back? Is there gonna be parking in the back of the house?

Karnes: I'm sorry; is there parking in the back?

Schwickrath: Yes, that's...

Lewis: Yes.

Karnes: Yes, there's parking in the back. Probably enough for 5 cars.

Lewis: Okay. It just seems like that street, there's cars parked on that street you know it's relatively, it seems a little congested right there. My concern would be the traffic.

Karnes: There's a large, it's a large lot.

Lewis: Yeah. That's all I have for now.

Schwickrath: Okay. Thank you. Mr. Lisher? Mr. Lisher, your microphone is off. It's okay, I can see it. There you are.

Lisher: Okay. Miss Karnes, a bunch of my concern has to do with the parking. St. Mary Street is a very narrow street (?) others in our city, taking Washington Street or Broadway and so forth. And I (?) give a little history to this for the board and the public. We in past have required and there is requirements in our ordinances dealing with the number of parking spots for any retail business, whether it's home or otherwise. We have approved in the past, maybe or maybe not ... (inaudible)... Pink Poppy Boutique and.... (inaudible)... that has ample parking from the old Inlow Clinic. Way back when, Jim Robison was an attorney and had 45 W. Mechanic(?) is now gonna be converted to a residence. That's the reason why there was parking in the back required there. Further and more recently, was Jason Karmire Law Office purchase on W. Mechanic Street and was requirement (?) in parking the alley behind before it was approved to become a home business, a law office and so forth. So my concern is I looked at the property. I looked at the parking from the back but quite frankly, it's very convoluted for anybody, any customer trying to find where to come in to the back to find where to park for this particular place. Now if there's a condition that says no(?) parking in the rear only, that might solve some of the problem but there are not enough places on St. Mary Street for (?) as well as residents to use and that is my objection.

Karnes: The property's not on St. Mary Street.

Schwickrath: Yeah it, so Jim, it's the access would be if we're talking about the back end of it would be on Franklin Street, West Franklin Street.

Lisher: Conrey, I think is the back.

Schwickrath: Fine, no I think we knew what you meant but you're right, it's not on St. Mary but still.... (inaudible)... So I didn't mean to interject there but I don't know if that helps a little bit.

Lisher: No, I understand. It's Conrey. You'd have to go all the way to Conrey, come back, come up an alley, go past the back yards of some places to get there. There's another way, a smaller street on the other side, on the north side that you could cut in through the alley but that's very convoluted for anybody trying to figure out how to get that way to the location of the shop. So I assume she wants to have business. She wants to have customers, so I'm just concerned that it's gonna ... (inaudible)... and impact the residents neighboring her.

Schwickrath: Mrs. Karnes, you can respond to that if you have

Karnes: Okay so my cousin owns Pink House Antiques downtown and her business is in a house and she doesn't have any parking. She has parking adjacent both sides to her building.

At my rental, if you go in the back there is ample parking. I don't foresee me being that busy. I mean I know I'm gonna have customers. I'm also gonna be doing online business as well. So I can't and it's gonna be a small shop. I'm not gonna be able to have that many people in there at a time anyway. I just and I know that the parking there, there's a rental unit on the corner of Washington and Miller and that's a huge apartment building and they don't have parking. They use off-street parking. They're not asked to create any kind of parking for that unit. I believe it's a five unit property. So I think between the back and the fact that I won't have it rented out, when I had it rented out before, my renters had anywhere between two and three cars that were parking on the street. I'm not going to have that. So I don't really think it's going to be that big of an issue. When I do open up, I do plan to have a sign that parking in back is available so I think I will be fine.

Lisher: Well my response would be Ma'am, the examples you give involve residences versus retail businesses and that's our ordinances speak of parking for retail business. That's all the questions I have.

Schwickrath: Yeah, thank you. No, that's these are good points because it's an unusual setup. The back of it, I've walked it. I live close by and I've walked it and I wonder if you are, do you have, are both of the units rented?

Karnes: No.

Schwickrath: Did you say no? I'm sorry.

Karnes: No.

Schwickrath: Okay. Just one of them is? So you have, in your estimation, how much space do you have in back to accommodate cars? It's just kind of a wide open, it's a strange arrangement. It's (?).

Karnes: Yeah I think, I would say that my husband was talking about making parking spaces back there. We use the garage. The renters don't use the garage. That's ours. And the gentleman that lives on the other side, he doesn't have a vehicle right now. He's not, he doesn't have a vehicle. But we maintain the back yard. The back of the property, that's ours. And I would say there is enough I guess I would think for at least five cars to park right there. We have a utility trailer there right now and another trailer and we'll be moving those is this gets approved.

Schwickrath: Okay I yeah I did notice those in front of the garage space. Okay

Rude: You'd left off with Jim.

Schwickrath: Did I leave someone off? Yeah okay and I guess I'm asking my question because I just wanted to understand what you had in mind for this as far as the parking goes. It's just a difficult place in general and we have, the other thing is we have a lot of rentals and so two cars and I think we all understand the situation. It's not what it was when that house was built over a hundred years ago. We get that. I think it could go by the way. So I have no further questions about this first part, this first part of the petition, a request for variances. So at this time, unless a board member has another question, we will move to public commentary.

Rude: If I may.....

Schwickrath: Yes, please. Adam's gonna add something.

Rude: Yes. A few, I believe both Chris and Jim had emailed us prior and asked about this parking question so just to help with the clear things up just a little bit I think, hopefully. We looked at the parking standards. If this were any of our commercial zoning districts, we looked at what those standards would be and it's one parking space for every 250 square foot of retail area and based off of the square footage of that portion of the building, it would be about three to four spaces is what we would require if this were zoned commercial or it were in some other part of the city and it were new development. That's the standard. So when you're thinking about the you know the level of parking that would be required, that's about what the standard would call for somewhere else.

Schwickrath: Thank you. That is helpful. Any further questions from the board at this time?

Lewis: I've got a it's not a question.

Schwickrath: Comment? That's fine.

Lewis: Comment; you know the other thing other than the parking issue that I'm concerned with is you know we're saying that it's close to downtown shops and to me, it seems like a you know strictly a residential area other than the shops obviously farther east closer to the circle. I like the shop local vibe and it's towns where they're converting some of these older homes into retail shops that are you know maybe five or six in a block but this seems like unless you were going to do something like that in that particular area, it would just stick out in a residential area by itself. So that's all I have.

Schwickrath: Thank you. Although I'm reminded of in the past it was a more natural thing for these shops to be located along a city street. And you're right, I think we're moving back toward that possibly. I don't know. This may be the first one. Thank you for that comment. Anyone else?

No reply.

Schwickrath: Then I'll close questions from the board and open this to public commentary. We have two members of the public seated in the chamber tonight. Do you wish to speak on this one?

Inaudible reply.

Schwickrath: Okay so I'm going to ask before we do any comments from online that you come forward to the microphone and state your name for the record please. Thank you.

Kendra Ledford: Hello. I'm Kendra Ledford.

John Ledford: And John Ledford.

K. Ledford: You want me to go ahead?

Schwickrath: You may go (?).

K. Ledford: Okay so we are actually the neighbors that are adjacent to the north of the building and our concern is parking because the drive that she's talking back on the back of the house is actually shared drive. That is our parking as well. Actually we've got some pictures as well. Most of the drive that comes up that you drive, we actually if you look at the property line, we own most of that. We actually bought the property from Ms. Karnes. Prior to she actually lived in the house first and we bought that house from her. There's already a problem with the parking on the front part of the house because we share. On the street parking, there is one, two, at least four or five houses with the one that has the unit of five to six.

Schwickrath: Sure.

K. Ledford: So everybody shares that as well so half the time when I come home I can barely park out front and we have our three cars in the back. So our problem is that and then also with privacy issues just because we have children that like to play outside. So if we have people coming and going on top of her tenants that are on the other side, they do have company as well. So if they park back out there or they park on the street, so I mean that's just kind of what our issue is with that.

J. Ledford: And there's, if you went back there, you realize there's no real clear division.

Schwickrath: Not at all.

J. Ledford: We understand with the tenants that live there what side's which. If it were to just open up to commercial parking, it'd be very confusing of.....

K. Ledford: Yes.

J. Ledford:who can park where and what spaces are okay to park in and what spaces are not.

K. Ledford: And we don't really wanna have that problem either where we're having to go outside and be like uh, you're in our drive or you know.

J. Ledford: This is our side or that's your side.

K. Ledford: And right now, there's no even clear division with fence right now because we don't even have a full fence because they have the fence before because they owned both properties where it was lined up to the garage so they took half of that fence down so we don't even have a clear divide between the fence. So we would actually have to have a fence put up to divide so we actually got an estimate on that and that would cost us around \$2400 to have a fence put up that we don't really have at this time.

Schwickrath: But and do you think that a fence would actually make the difference in.....

K. Ledford: I mean it may with the yard, but I'm still not sure about the parking. And then our other question is like whenever people are parking back there it's all gravel. That drives up all that gravel which it really has since we've been there, almost it'll be two years in October. The gravel's almost half gone so we've gotta either put new gravel down on our side but like I said, when we share that one drive like how does that work?

Schwickrath: I have to tell you that I've never seen that before the way that situation has just been left....

K. Ledford: Yeah.

Schwickrath:alone.

J. Ledford: There's an easement there.

Schwickrath: Okay, that too. I noticed....(inaudible)...cables loosely hanging and it just seems a neglected (?).

K. Ledford: Yes. Yeah and that cable's what happened from the storm the other night.

J. Ledford: And you're very right, that alley alone is very clustered. One time I drove through there and I counted 32 cars just parked in the alley alone.

Schwickrath: Yeah.

J. Ledford: It's crowded to say the least.

Schwickrath: Crowded is the word. I know and it, largely too because Shelbyville has such a really an interesting alleyway system....(inaudible)....

K. Ledford: Uh huh.

J. Ledford: And then there's also another business in that alley, the car shop there which are regularly taking up the alley space too.

Schwickrath: Hmmm, that's something interesting. Thank you.

J. Ledford: You're welcome.

Schwickrath: At this point, Gina Karnes can respond to that to this, can't she?

Rude: Um....

Schwickrath: Or do we wanna finish public commentary?

Rude: Let me make sure we don't have.....

Schwickrath: We're gonna check to see if we have other public comments. Just stay there. Thank you.

Rude: No, nothing through email. Nothing through Facebook so no other comments.

Schwickrath: Okay there are no other comments so Ms. Karnes, if you want to respond to the neighbors here, you're welcome to do so now just so (?) maybe understand a little bit more of what you have in mind.

Karnes: The house that, okay so the rental property, the driveway, that property bought that easement. So where that drive comes up, the easement goes to the property that the rental because that was they bought purchased that easement to build a garage. So as far as the gravel and the drive itself, which is the (?) shared drive, I'm gonna be taking care of that going up to the property. It has been in not great shape but I've been waiting to see what I was going to do with the property, if I was gonna sell it or if I was going to try to start this business.....(inaudible)....quite some time. As far as the parking spaces with the square footage, it would be no different, I mean I....the gentleman that lives on the big side, I've told him that when I open the business on the weekends, there's to be nobody parking back there. No one's to be coming back there. I'm only like I said, gonna be open on Saturday and Sunday and maybe a first Friday every you know.....

Schwickrath: Once a month.

Karnes: Yeah once a month, yeah and then maybe like I said a few evenings during the week. It's not like it's gonna be a full blown retail shop open Monday through Friday or even Saturday and Sunday. The Pink Poppy's open every day. It's not going to be like that. So

Schwickrath:(inaudible)....planning on (?) fence and improving the drive itself?

Karnes: Yes. Yeah, yeah.

Schwickrath: You also indicated earlier that you wanted to make improvement to the actual building, am I correct?

Karnes: We'll be painting it. Yes, I'm gonna be painting. We've already had a few windows put in. We're gonna be putting lighting out back and doing some landscaping, some more landscaping. So it'll, we want it to look very nice.

Schwickrath: Does the fact that she's going, she's planning on putting in a fence....

K. Ledford: Well my question, well the other thing I was thinking is just the sheer drive in general. So if she wants to do this on the weekends, if we have people over on the weekends, how does that go? Then we all are crowding into that area because we're not gonna have enough parking on the front. Definitely she's saying she's gonna have her tenant (?) park out front. If they have guests, they'll have to park out front.

Schwickrath: Sure. This is the hardest part of our job is these kinds of projections and I understand the practical questions that you're asking. The other thing, I walk in your neighborhood. I live on West Hendricks Street.

K. Ledford: Uh huh.

Schwickrath: So this happens too where people get bumped to perhaps they may have to park on a different street that's close by.

K. Ledford: Yeah.

Schwickrath: I don't think that that's necessarily you know a real difficulty. I just, I think from what she's saying, what I'm thinking of is that the volume is not gonna be the(inaudible)....

K. Ledford: Uh huh.

Schwickrath: What is this gonna look like?

K. Ledford: Right.

Schwickrath: So I'm not dismissing your

K. Ledford: No, no, no.

Schwickrath:concerns at all.

Rude: And if I may, I think there is a valid concern here and it might be helpful now that we're hearing from you know both sides in the concerns and some response from Ms. Karnes, it might be helpful to if nothing else put signage up in that back lot for you know reserved for whatever your guys' address is for a few spaces on that whole north side and then reserved for you know 9 and 11 N. Miller on the southern half because looking at a picture, here it is. You know the whole lot is spread across both parcels so it's hard for if a customer's coming back for them to not wanna swing into that. So if nothing else, I think that could help the scenario. Just keeping people out of your half and in that southern portion of it.

J. Ledford: I guess I wanna know one thing that so during business hours, a tenant and a tenant's guest will not be allowed to park out back?

Karnes: No.

J. Ledford: That'll further crowd that front street which is already.....

Schwickrath: I guess I missed that. So that's the plan is that during business hours, you have to be expressed the tenants will be bumped, the tenant is that the 9 N. Miller?

K. Ledford: Yeah.

Karnes: 9, uh huh.

K. Ledford: And we have neighbors next door that have children, babies. That means that they can't park in front of their house and they had to park on the opposite street, are they gonna have to carry their children all the way to their house? I mean it just it puts I mean it's a big strain on that front of that house anyway and then I'm wondering about later on down the future if we decide to sell our house, is that gonna bring down the cost of our house or is it gonna make it harder to sell our house because we have no parking or we're sharing parking with a business?

Schwickrath: I have sat on this board many years and there are several houses in town that simply do not have, they only have on-street parking.

K. Ledford: Yeah.

Schwickrath: It's just and we'll.....

K. Ledford: So we didn't buy the house with on-street parking though. We bought the house with private parking and also Gina lived in our house. If she wanted a business at that time when she lived there, she did not do that 'cause she owned both properties at that time.

Schwickrath: Sure.

K. Ledford: So I'm saying I think she realizes it's probably not a great idea because I'm pretty sure when she owned the other property, she didn't allow the tenants to even park in the back. They parked on the front street. So they didn't wanna share their, so I guess that's where I'm like it's just not very, I don't know. It's not private. It's not nice to have that many people in your back yard.

J. Ledford: We don't want a commercial business in our back yard.

Schwickrath: Sure.

J. Ledford: To be frank.

Schwickrath: Sure.

Karnes: Can I say something?

Schwickrath: Yes, go ahead.

Karnes: Okay so when I owned that property, that property was landlocked because that easement was purchased by the rental property, the 9 & 11. So that's the reason that, I mean when we owned the property, we had both sides of the property, the whole back yard. That's why the gravel goes into their area. We did take the fence down before they purchased it. So but I live right now at 102 St. Mary Street and I have no parking. I just have street parking and if my space is taken, I just you know, I park where the old hospital is and I walk down to my house. And so you know just because and they have a big lot in the back. I parked in the back. They park in the back. They have several spaces back there. I don't think it's gonna be that they're not gonna have ample parking at all. I think they'll have plenty of parking and I like the fact of what Adam said about designated spaces. If you look at Mr. Lewis' property, which he has spaces, you know it goes by the square footage of what I have. I just, like I said, I don't think I'm gonna have need 10 spaces for parking. And I think I'll have ample parking back there.....(inaudible)...that particular property before they purchased it, it was landlocked. So really if they look back on the deed to the property, it wasn't really labeled as shared drive. That drive was specifically put in for that garage.

Schwickrath: Is it possible for cars to park in front of your garage since you're gonna move the trailers?

Karnes: Oh yeah. Yeah those'll be (?).

Schwickrath: I don't know if that's a possible resolution but if they if it's designated during hours 'cause I think bumping the tenant out seems a little unnecessary and if perhaps.....

Karnes: Well they were never to park back there anyway. We've just been allowing it because it's just one person but they do have friends that come over. But we've already talked to him about that and we told him they're gonna have to park out front.

Schwickrath: Okay, I see.

Karnes: Or along Washington Street where the triangle is. A lot of those homes have big lots and they don't even park there but there's a lot of spaces there every day when I drive by.

Schwickrath: But is parking for the customers in front of the garage, is that a compromise perhaps of some kind?

K. Ledford: Is that the only place they're gonna park is in back or are they also are gonna be up front with the tenants as well?

Schwickrath: I think that is impossible to patrol.

K. Ledford: Right.

Schwickrath: But I also think that it's not going to be for hours and hours or overnight.

J. Ledford: I guess I could see that if there was, what is required, 4 designated spaces on their property? I would not like to have marked out property spaces in my back yard 'cause we're not a commercial. We're just a home. I don't wanna have this is for 15 N. Miller and

Schwickrath: Sure. I would say we just, we make a stipulation to attach that to this property.

J. Ledford: Yeah I would say that would be reasonable and then some sort of....

Schwickrath: That's what I'm proposing.

J. Ledford:if....

Schwickrath: A fence?

J. Ledford: A fence and then some sort of gravel.

Karnes: Gravel, yeah.

Schwickrath: Did you, you heard that?

Karnes: Yeah.

K. Ledford: Right now, because of how much that back area is used more so from the other property than us, it the gravel's almost up. Our cars get filthy, you know.

Schwickrath: Okay.

Karnes: Yeah it needs it desperately.

Schwickrath: Everything back there needs to be looked at. You know it I don't know (inaudible)...have a long list of things, but(inaudible).....

Rude: In that alley?

Schwickrath: Investigate a little further.

Rude: Yep.

Schwickrath: I think we need, this needs some attention.

Karnes: Uh huh.

Rude: Yeah.

Karnes: And can I say one more thing too? I'm sorry to interrupt?

Schwickrath: No, that's fine.

Karnes: They are right. There is a business that runs in that alley and I've been told that there's no legal I don't know the word I wanna say. It's not being run legally I guess is what I wanna say.

Schwickrath: Inaudible comment.

K. Ledford: Yeah 'cause usually it's choppy cars sitting out back there.

J. Ledford: (?) a tow truck backing in cars there regularly.

Schwickrath: We'll turn our attention to this. Yeah we have to look into it.

Rude: Uh huh.

Schwickrath: This is(inaudible)....so thank you.

K. Ledford: Uh huh.

Schwickrath: Is there anything further that you would like to say?

J. Ledford: No.

K. Ledford: I don't think so.

J. Ledford: Appreciate the time.

Schwickrath: But you're most dissatisfied with fact (?) fence in and they will(inaudible)....
Parking in front of the garage?

K. Ledford: I think it will still cause issue somewhat still with parking and all that stuff and maybe stuff further down the way but I think that is a compromise.

J. Ledford: I think it does (?).

K. Ledford: I think it's still gonna cause a lot of congestion, more so than there already is.

Schwickrath: We've done this before too and I think this is an important....(inaudible)....on the table before I think we move on this that we have gone back and putting a year's or six months cap on something to review it. So I think this would definitely call for that and I just it and it really it's more just to understand this is a possibility.

K. Ledford: Okay.

Schwickrath: So or not that it's a possibility but rather excuse me, how is it going?

K. Ledford: Right.

Schwickrath: Because we know that there's an effect but it may not be exactly what we're thinking or assuming right now but it's hard to, we need to make a decision tonight and it's just simply hard then (?). This may go better than we could have ever imagined.

K. Ledford: Right.

Schwickath: And it may change the face of a lot of what we do.

J. Ledford: I also had a question about the variance and is this specific to this business?

Schwickrath: Yes.

J. Ledford: So when this business

Schwickrath: Ceases to exist.

J. Ledford:the variance ceases to

Schwickrath: Right.

K. Ledford: Okay.

Schwickrath: That is correct.

K. Ledford: Okay so that way it wouldn't be like a dog grooming shop in six months?

Schwickrath: That's a very good question and the answer is no.

K. Ledford: Okay.

Karnes: I guess I do have another question too as well. The rental property that's on the corner of Washington and Miller that has the four or five units, I'm not sure. Is there any stipulation that they have to provide parking or is that grandfathered in? I mean.....

Rude: Yeah that was grandfathered in and if you might know a little bit more history of the board but it was not always, there were not always limitations on how many units could be in a property. So as you can see if you look around in certain neighborhoods, a lot of homes were split up into 2, 3, 4, 5 units and it was done legally just because there weren't any regulations for it. Now there are, but those properties that that happened to are grandfathered in. They're considered legal non-conforming.

Schwickrath: That's correct. I can't add any more than that.

J. Ledford: 5 units there so it's clear that that's already overcrowded.

Schwickrath: Yes.

Rude: Uh huh.

Schwickrath: I have the same problem where I live on W. Hendricks Street. People (?) houses and we're no longer allowing that so the hope is that'll just back off from that.....

J. Ledford: That's good.

Schwickrath:and they'll be restored to single residences, yeah.

J. Ledford: Okay.

Schwickrath: Is there anything further?

J. Ledford: I think we're good.

K. Ledford. No.

Schwickrath: Thank you for your comments. It helps us think this through.

K. Ledford: Thank you.

J. Ledford: Thank you. I really appreciate it.

Schwickrath: Have any other comments been made?

Rude: Nothing else has come in online.

Schwickrath: We're just checking online to see if there's any (?).

Rude: Yep, nothing else has come in. If I may, and I guess part of this is conversation to the full board here, but through that conversation with the neighbors here, it sounds like some stipulations or some conditions that we wanna consider are adding fencing to separate the neighbors area from the shared parking, designating those spaces in the back for customer and tenant parking so that there's no confusion and also cleaning up that gravel throughout that whole parking area because it's down to mud at this point.

Karnes: Yeah.

Rude: I guess I'll kick it to the full board to

Schwickrath: Inaudible comment.

Rude: Oh yes, sorry.

Schwickrath: That's alright.

Rude: Yes, yeah.

Schwickrath: Okay since there are no comments online and the neighbors have spoken tonight, I'm going to close public commentary and open this up(inaudible)...There was a lot said there so I'll go back to the board and questions. Any comment you wanna make at this time, who would like to start? Mr. Lewis?

Lewis: No more, no comments.

Schwickrath: Okay. Have your questions or comments from earlier been addressed?

Lisher: Well my comment is that the neighbor brings up basically the point I was bringing up about the problem parking and particularly in the back area. It there's too many questions about land ownership and I mean there's just a lot of questions here. That's the problem I see in the application.

Schwickrath: But Jim you also saw that we reached a bit of compromise with, the (?) is to put up a fence so yes and then the gravel and the city really needs to look at some of that too. I think through the land that time forgot for a long time. Mr. Clark, do you wanna say anything?

Clark: Yes. The map that I have that was in the packet does not show any kind of easement access to that parking area.

Rude: He's froze up.

Schwickrath: Yeah. You just froze, Mr. Clark. The only access is through the alleyway off of Franklin Street.

Rude: Yeah and I guess to that point, what we pulled from on GIS just shows property lines. It doesn't show any easements. If easements exist, and it sounds like from both the neighbors and Ms. Karnes there is an easement, those are recorded and those can be found but they aren't graphically shown on the GIS for us to find and that's where we're pulling from to make your guys' packets. So it sounds like there is an easement. It's not shown on those documents, I guess.

Clark: Okay, thank you.

Schwickrath: Thank you. That's a good explanation. Mr. Cassidy, any further questions?

Cassidy: The (?) we're talking about is that the drive between 404 and 9 Miller or the drive coming in off of Washington Street?

Lisher: There is no drive off Washington Street.

Schwickrath: That's it. Thank you. Right, there's no drive off Washington Street.

Cassidy: ...(inaudible)...Well then that's all. That was my only question.

Schwickrath: Okay, thank you. Do we feel ready to make a motion? So we will have to move on this and depending upon that, the other three will follow. I think we're in a position as Adam has indicated to make some stipulations.

Rude: I'm not sure.

Schwickrath: It sounds like there's either a vacuum or a blender that just started. I don't know if someone's turning on a microphone. That's at least what we're hearing. Okay.

Rude: I can run through these conditions.

Schwickrath: Why don't we do that.

Rude: So then if someone feels inclined to make a motion, they can just reference the conditions I outline. It'll help with the language a little bit 'cause we're not all present in the room.

Schwickrath: Can everyone hear Adam? He said he's going to run through the stipulations or conditions and then so to move, we move on this tonight. That's the plan anyway. So he will go through that and then you can so move that way or deny.

Rude: So the three conditions, and again these are obviously up for discussion but the conditions that were discussed and the conditions that you can reference in making a motion are to add gravel to improve the to better define and improve the parking area, that whole shared parking area. Two, to designate the spaces for the properties so that customers no where to park and where not. And then three is to add fencing to separate the neighbor's private back yard from the shared parking area.

Long silence.

Schwickrath: Are we ready to make a motion?

Long silence.

Karnes: I'm.....

Lisher: I move to deny the request for variance.

Schwickrath: Okay there is a motion on the floor to deny the request. Another option, and we'll hold that. Another option is to continue this. If we wish to do this rather in person, it would be what, next month?

Rude: Yeah. It, yeah if the governor lifts some of those social distancing requirements, it could be next month at the regular meeting.

Lewis: I'd second the motion.

Schwickrath: For denial?

Lewis: Yes.

Schwickrath: Okay.

Rude: Okay. We have a motion and a second for BZA 2020-06. This is a motion to deny so a vote yes would be to deny. A vote no would be for approval. Miss Schwickrath - no, Mr. Clark - no, Mr. Lisher - yes, Mr. Cassidy - yes, Mr. Lewis - yes. Motion carries and that petition is denied.

Schwickrath: So that will not go on to there's no need to go to the other three then, is that right?

Rude: So, let me pull this up. From a procedural standpoint, we've denied the first variance.

Schwickrath: Inaudible comment.

Rude: Yeah the first variance which was for business activity not to exceed, the face to face activity not to exceed 25% of all business activity, there's three more petitions there that have to do with this business. Who can operate it, which employees can work there and how much of the building can be used for it. We can still act on those. Ms. Karnes can withdraw those or we can continue those out but they're all.....

Schwickrath: I just...

Rude: I'm sorry. They're all intertwined there so

Schwickrath: We're not, the board has decided not to allow for this to be the use of this building for business activity, I don't see how the other three, we could move on those. It's not logical.

Rude: Yeah. Just for I mean just for clarity's sake, I would say I would imagine that the rest of these three variances will be denied as well. Either move on them just so we close out those petitions.

Schwickrath: Yes.

Rude: Or if Ms. Karnes wants to withdraw those petitions, she can state that now and then.... Either one of those will just clean up the record, that we don't leave any of these petitions open.

Schwickrath: That's fine. Before you speak Ms. Karnes, let me just say this. There is an appeal process, right?

Rude: Yes.

Schwickrath: So you can tell her about that.

Rude: Yes.

Inaudible mumbling.

Rude: No, you're fine. A petition can be resubmitted to the Board of Zoning Appeals if there's changes to the petition to address the concerns that led to the denial. Then the petition can be resubmitted. (?) I'll follow up. I don't have, I'm sorry I don't have all of my paperwork in front of me. With us working remotely, I've got some of it at home. I believe it's 60 days is what you have to file that but we'll follow up in the morning with that.

Karnes: I have a question.

Schwickrath: Go ahead.

Karnes: Okay so if the property, Mr. Lisher's saying he had questions about easements and those kind of things. I will petition to resubmit or appeal or whatever it's called. So if I bring that paperwork that shows about the easement and what that entails, I was wondering if that would help. The other question is if the property, because if it was, if I own, If I lived in the property, let's say I lived on the big side, then I'd be okay to run the business, right or no?

Rude: So some of the variances that are applied for tonight are in regard to, one of the requirements is to operate a business, a home occupation you have to live in the property. So that would take care of one of the variances. These other variances in regard to customer interaction and the amount of a building that can be used, those would still be required to operate but some of those variances, you're right, wouldn't need to be applied for then.

Karnes: Okay.

Lisher: Would have to be qualified on businesses out of the ordinance.

Karnes: Have to be what?

Schwickrath: Qualified as a business he said.

Lisher: To clarify things, I would move, I would making a motion to deny the other three requests if that's needed to clarify (?) tonight.

Lewis: And I'd second if needed.

Schwickrath: I'm not sure we can do that. We need to check that. I wanna make sure we're procedurally we're doing it properly. We may simply need to go through each one.

Rude: We can hold a public hearing for all three. We need to hold a public hearing for the other three but we can do all three at once and then we can go to a motion.

Schwickrath: What we're discussing here is since we need to move on three others we can lump them together, but I have to open it up to public discussion. Have to do that part properly and then we can vote on each one separately.

Rude: Yeah, yeah. So the three petitions that are left, and they're addressed in your packets, but it's BZA 20-06 B, C & D. B is for the owner/operator that the owner/operator of the business has to live on that has to reside on the property. C is employees. Any employees of the business have to reside on the property. And D is business area. Only 25% of the floor area can be allocated for the business activity.

Schwickrath: Okay so those three we will I will now move to public commentary (?) three requests and then we will vote on them separately. Checking online.

Rude: Yeah. Do you wanna do a whole minute or 30 seconds?

Schwickrath: We'll do a full minute for this.

Long Pause.

Schwickrath: Public commentary is now closed, hearing no responses. So we will move into I'll entertain a motion for 06.B and this one again is to allow an owner/operator.

Rude: Kris, we can lump all three.

Schwickrath: We can lump all three; excuse me.

Rude: Yes.

Schwickrath:(inaudible)....or at all. Sorry about that. Okay so this will be for 06 B, C, D. Jim, would you like to make a motion?

Lisher: Yes. I guess I'm a little confused. If you need to make a motion on each one, so be it but if the first one's denied, then number four's denied.

Schwickrath: Correct. We(inaudible)...

Lisher: 25% is 25% and so it doesn't make any sense B and C to be (?).

Schwickrath: Hold on; the reason for this....

Lisher: ...(inaudible)...motion for B only 06 B to be denied. Let's vote on that and then go to ...(inaudible)....

Schwickrath:(inaudible)...and what Adam just told me we're gonna do B, C & D to finish it out. I thought we had to do each one separately but we do not.....(inaudible)...logical thoughts.

Lisher: Alright.

Schwickrath: Okay. So if we wish to make a motion for BZA 2020-06 B, C & D we can do it all at once.

Lisher: Are you asking for board's questions?

Schwickrath: No we're ready to move to a motion.

Lisher: I, so I didn't hear you.

Schwickrath: We're ready to move to a motion.

Lisher: Okay. I would move to deny 06 as (?).

Schwickrath: B, C & D.

Lisher: B, C & D, yes.

Schwickrath: Got it.

Lisher: Okay.

Schwickrath: We're all learning here. Okay there's a motion on the floor.

Lewis: Second.

Schwickrath: Okay. So we will now do an oral roll call.

Rude: This is for BZA 2020-06 B, C & D a motion for denial. Miss Schwickrath - no, Mr. Clark - no, Mr. Lisher - yes, Mr. Cassidy - yes, Mr. Lewis - yes. Motion carries. All three are denied, all four.

Schwickrath: So Mrs. Karnes, do you have any questions for Adam at this time?

Karnes: I'll just probably talk to you tomorrow if I can.

Rude: Yes. Yeah we'll reach out tomorrow morning and sort through once we have our ordinance in front of us. We'll let you know about the appeals and resubmittal process.

Karnes: Okay. Thank you.

Schwickrath: Okay? Thank you.

Karnes: Uh huh.

Schwickrath: Anything else? Any items for Discussion?

Rude: I will just I'll keep it brief tonight because it's been a lengthy meeting, especially with all the 90 second pauses throughout there. So we're working through some UDO updates - landscaping standards, solar standards, height standards in subdivision. And I had shot out an email to the whole Plan Commission and the BZA and a few of you had reached out saying that you were interested in being involved but as we get further along in that process, I'll be shooting out drafts of all those documents to all of you even if you initially didn't have an interest, I would imagine a lot of you have a lot more free time now so if you wanna give them documents a read and give us any feedback, we'd much appreciate that. But depending on when we can start with the Plan Commission again, we'd like to start sending those amendments through here soon. The biggest of those being landscaping which is probably gonna be in a couple of months as we're just now starting the big update of or the big review of that update. So that's all we've got as a staff.

Schwickrath: Okay, thank you.

Rude: Yeah.

Schwickrath: Thank you, everyone for your participation tonight. I didn't mean to be harsh there at the end. Just I wasn't sure how to proceed if we were in fact allowed to group three variances together, so I think I'm clear on that now, so thank you for your patience.

Lewis: Sure.

Schwickrath: At this time, I think we are ready to adjourn.

Lewis: Motion to adjourn.

Cassidy: Motion to adjourn.

Schwickrath: Okay.

Allan Henderson: Thank you, everyone.

Schwickrath: Thank you.

Lewis: Thank you. Stay safe, everybody. Good to see you.

Cassidy: Have a good evening.

Rude: Take care, everyone.

Lisher: Bye.

Lewis: Bye, bye.

Meeting adjourned.