

BOARD OF ZONING APPEALS
MEETING MINUTES
May 12, 2020

Kris Schwickrath: Good evening, everyone. Before I call to order the Board of Zoning Appeals meeting, I'd like to explain first how tonight's meeting will go. As you can see, we have three board members here who have masks on. We've been asked to do that and we do have two members of the media sitting in the public area. They are six feet apart. We do have a quorum so we can conduct our meeting tonight. Also, for the public, we are utilizing Facebook Live to stream this meeting with the public and we will be utilizing the comment section online to take comments and questions during the meeting. So this is a hybridized meeting for us. It's a little new. There will be a few delays but we and our petitioners are both meeting remotely with us, just so everyone's aware. We have two petitions tonight. We will be monitoring the comment section on Facebook so you can submit comments and questions through that platform. Please expect some delays that will seem awkward since the applicants are also working remotely as I said. The discussion will not flow as smoothly as in an actual meeting. So we thank you for your patience. We have two cases tonight and you've already explained to them on muting(?). I don't need to read all this?

Adam Rude: Yeah.

Schwickrath: Okay and so once all petitions are heard, we will hear any updates from the planning staff and I think at this time, oh one more comment. Excuse me, this video 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. And with that, we'll begin the meeting officially and with a roll call please.

Rude: Yes. Mr. Lisher - here, Mr. Lewis - here, Ms. Schwickrath - here. And we'll show that Mr. Clark and Mr. Cassidy are both absent tonight.

Schwickrath: Okay. Prior to this evening we have the approval of minutes from our April meeting. I'll entertain a motion.

Wade Lewis: Move to approve.

Jim Lisher: Second.

Schwickrath: All in favor, signify by saying, "Aye".

In Unison: Aye.

Schwickrath: Opposed same sign.

No reply.

Schwickrath: Okay thank you, the minutes are approved. We have no items under Old Business and so we'll move to our first item under New Business.

Rude: Okay, first item tonight under New Business is BZA 2020-07. These are development standards variances for the Shelby County probation building. The petitioner's name tonight is Chuck Cotterman. The owner's name is Shelby County Board of Commissioners. The address of the property is 20 W. Polk Street and the zoning classification is business general. The request tonight is three development standards variances, two from the architectural standards for some facade standards or some facade requirements and one from the density and intensity standards to allow an increase over the prescribed 85%.

Schwickrath: Okay.

Rude: And with that, let me get us switched over to see Chuck.

*****The first part of the meeting was not included in the recording that was originally transcribed. It was added later and there was a glitch in the recording of the first part of BZA 2020-07A.**

Adam Rude: Now we're live. I don't know if you wanna wait. We were down for a few.

Kris Schwickrath: Apparently we were down for a few minutes so I'm going to wait about a minute to see if anyone has a question. Thank you for being patient.

Rude: Kris, we only have 4 people watching and one of them is me.

Schwickrath: Move on?

Rude: Yeah.

Schwickrath: Okay. So we seem to have no questions from the public coming in through Facebook we will I will close questions on this item. We'll try to move it a little faster and so at this time, I think we're ready to move to a motion.

Jim Lisher: I'd move to approve BZA 2020-07A variance from UDO (?) dealing with facade pursuant to and adoption of the Findings of Fact presented by staff.

Wade Lewis: Second.

Schwickrath: Thank you. Please cast your ballot then for BZA 2020-07A.

Rude: This is for BZA 2020-07A. Mr. Lewis - yes, Mr. Lisher - yes, Ms. Schwickrath - yes.

Schwickrath: Okay. Moving on to same but letter B.

Rude: And this is for BZA 2020-07B. It's the within the same section of the code the architectural standards and it's just for another facade on the building that wasn't meeting that requirement. Again, just trying to mimic the county annex building.

Schwickrath: Sure. Okay, thank you. Any questions from the board?

Jim Lisher: I do. Mr. (?), how many stories is this building going to be?

(?): 2 stories.

Lisher: That's what I thought. Now the annex building, which you've alluded to has windows on both the first and second levels, correct?

(?): That's correct.

Lisher: And your you cite security as a concern as to the reason why on the east and west side you're asking no windows?

(?): That's right.

Lisher: So I assume that's based upon foot traffic perhaps. But I guess having been a government employee in a building having windows is beneficial so I guess I don't understand the need, security wise for there not to be windows on the second floor. I can understand the first floor perhaps but the second one kinda escapes me.

(?): Okay that's a good point. The offices on the west side have they have glazing in them and the office and the spaces on the east side, if I remember correctly, they are meeting rooms and some (?) spaces that don't need windows. So that's....(inaudible)...row of the community corrections building.

Lisher: My concern isn't so much what it looks upon as it is having as we enjoy here light coming in, natural light coming in through windows versus having to rely on overheads and just the ambience that it gives to those occupying that area. So that's my concerns on....and again, I don't have a problem with level one, but I don't quite understand the need to do away with completely windows east and west on level two.

(?): Well you know what? You bring up good points. You bring up good points but....

Lisher: That's all I had.

(?):I believe we can put in windows on the particularly on the east side. We can look at that. I believe we've got a break room and we've got a stair on the east side and a meeting room. You know what? I think we did have some offices into the (?) on that side also. So I mean... (inaudible)...So you know what? You've brought up a good point that I need to look back into. So ...(inaudible)...

Lisher: So I would just ask that you consider that strongly.

(?): Inaudible comment.

Lisher: On the other hand, I don't wanna delay the project any longer.

(?): Yeah.....(inaudible)....

Schwickrath: Yeah.

Rude: Yeah we can work with Chuck to figure out where it makes sense just from a logistical standpoint.

Lisher: Okay.

Schwickrath: Yeah, thank you for your willingness to do that. I think Mr. Lisher brings up an excellent point, so thank you.

(?): He does.

Schwickrath: Yeah. I mean just for the just normal operations and he's right, natural lighting and we all feel better. We know how strange this world is. It's a little strange to be sitting here with a mask is, so right. Okay.

(?): Inaudible comment.

Schwickrath: Thank you. Yeah. Mr. Lewis, anything?

Lewis: I would just to, so that, the second floor is on the east side is going to overlook the existing building?

Schwickrath: Yep.

(?): Yeah the east....I'm almost sure the....(inaudible)....windows on the....well the west side (inaudible)...had windows.

Lewis: Okay.

(?): The probation side.

Lewis: Okay.

(?): The west side is the on the second floor is the Purdue Extension site.

Schwickrath: I don't have a floor plan in front of me or a building plan. Is how much space is there, okay we're looking at it right now. How much space between the two buildings? There, thank you. That helps.

(?): There is 8' between the corrections building and the probation. I'd call it 8. I think there's 7' on the west side.

Schwickrath: Okay.

Lisher: ...(inaudible)...2'.

Schwickrath: Okay. That helps; thank you.

(?): The wall on the west side is one hour fire wall.

Schwickrath: Okay, yes. Okay.

(?): We're that close.

Schwickrath: Okay I have no further questions. Unless anyone else does?

Lisher: No, I don't have any questions.

Schwickrath: Okay thank you again and I'll close questions from the board and open this to the public. We'll have....

(?):(inaudible)...we will look at that.

Schwickrath: Thank you.

(?): Yeah.

Schwickrath: Are you timing a minute? Okay, that's fine.

Rude: Inaudible reply.

Schwickrath: Just for the delay. Okay, public commentary is now closed and I think we are ready to move to a motion with some with a slight change to the language.

Lisher: I would move to approve the variance BZA 2020-07B being a variance from UDO 5.08(?) oops, sorry. Yes,....

Rude: Yeah that's correct.

Schwickrath: That's correct.

Lisher:with the provision that the applicant strongly consider windows on the second floor east side of the building.

Lewis: Second.

Schwickrath: Okay please cast your ballot then for BZA 2020-07B.

(?): Okay, thank you.

Rude: For BZA 2020-07B, Mr. Lewis - yes, Mr. Lisher - yes, Ms. Schwickrath - yes.

Schwickrath: Okay.

Rude: Motion carries.

Schwickrath: So the motion is approved. We have one more then to consider tonight, a density and intensity standards.

Rude: Yes, the last item tonight is from UDO 5.11 which is the density and intensity standards. This at most it has to do with the amount of the property that can be covered with hard surfaces. The maximum for this specific district they're in 85% but the proposal's for 87% of the lot.

Schwickrath: Thank you. Mr. (?), do you wish to add anything further to what Adam just said?

(?): This is the (?) coverage?

Schwickrath: Yes.

(?): Yes. Uh, no.

Schwickrath: Okay, thank you. I'll take questions from the board.

Lewis: No questions.

Schwickrath: Mr. Lewis, no?

Lisher: No questions.

Schwickrath: Mr. Lisher? Okay. And at this time, we do not have any kind of landscaping or anything? That's a I know that's not part of this tonight, but

Rude: They're meeting those standards.

Schwickrath: They're meeting the standards?

Rude: Yes.

Schwickrath: Okay, just to mention; thank you.

Rude: Yes and that's already been to Tech Review.

Schwickrath: Okay, okay.

Rude: It'll be going to Plan Commission later this month.

Schwickrath: Very good. Okay, thank you. I have no questions. Alright so we will open this up to the public in case someone has a question. It'll take about a minute. Thank you for timing that.

Rude: Yeah, of course.

Schwickrath: I could do it with my old style watch. Okay public commentary is now closed hearing no comments. And we will move to a vote by the board or a motion first.

Lewis: I'll make a motion to approve the requested density and intensity standards variance from UDO 5.11 A1 in accordance with the plans provided to this board pursuant to the Findings of Fact presented in the staff's report.

Lisher: Second.

Schwickrath: Second. Okay so please cast your ballot then for 2020-07C. Thank you.

(?): Inaudible comment.

Schwickrath: Not yet. Well....

(?): Okay.

Rude: This is for BZA 2020-07C. Mr. Lewis - yes, Mr. Lisher - yes, Ms. Schwickrath - yes.

Schwickrath: So yes, it's approved.

(?): Very good. Thank you.

Schwickrath: Thank you for your time.

(?): You bet. Thank you for everything, Adam.

Rude: Inaudible comment.

(?): Inaudible comment.

Schwickrath: We have one more item under New Business tonight.

Rude: Yes. The second and last item tonight under New Business is BZA 2020-08 the Kennedy Park telecommunication tower. The petitioner's name tonight is AT&T Mobility. The City of Shelbyville is the property owner. The petitioner's representative I believe tonight, sorry tonight the representative is Brian Ramirez and the approximate address of the property is 745 E. Franklin Street. It's Kennedy park. The current zoning is PK, parks and open space and the request tonight is approval of one special exception use to allow for a new telecommunication tower located within Kennedy Park. I'm gonna quickly run through. We've done special exceptions before. I don't know how many (?) done it telecommunication tower because there's some other decision criteria and development standards. We walked through all of them in the staff report so I'm gonna hit some of the high points just to talk about some of the things that are considered during this.

Schwickrath: Thank you.

Rude: So one of the points that we had brought up and I included a copy of an email and letter to all of you today, we have a provision requesting notice of co-location. This, our requirement states that they have to reach out to other towers and ask to co-locate ahead of time and be refused that. Since that time, there has been a change in Indiana Code and that's what's referenced in the email here where an engineer just has to provide a letter specifying why co-location is not possible and that's what the letter you all have seen is. So when we wrote the staff reports, we were asking for that condition that they meet that co-location requirement. That is not a requirement anymore and we're not recommending that condition anymore. Going

down, the next section on page two is buffering. They just, at this point they haven't shown any landscaping buffer plan. We're just asking for the condition that they submit that plan showing that they're meeting the buffer requirements. In the ordinance, it describes what those requirements are. We just need that plan submitted to us.

Lisher: May I ask a question?

Schwickrath: Have you finished?

Rude: Just....

Lisher: Inaudible comment.

Schwickrath: Or did you wanna ask a question about that?

Lisher: Inaudible reply.

Rude: Go ahead.

Schwickrath: Okay.

Lisher: So that leaves us then with the staff's recommendation with one condition?

Rude: Yes.

Lisher: Very good.

Rude: Yes, just that landscaping buffer one.

Schwickrath: Okay.

Rude: Running through some of the other points, there's some setback requirements. They've received, because they're using, it's called monopole tower. It's one singular pole and it's designed to in the case of an accident, it collapses, in a word, those kinds of things. They received a 20% reduction in setbacks because that's a, in our eyes, a less intrusive tower to erect rather than one with three or four legs to it. What you see along the interstate is one of those larger towers. So we go through that on page 3. And then the rest of the staff report are the typical Findings of Fact and decision criteria for any special exception. So general welfare, character, compatibility, Comprehensive Plan and I think that's it.

Schwickrath: No thank you. It's, we appreciate that. You're right, we don't do telecommunications exceptions very often. Okay. Okay, so I wanna make sure that I can pronounce your last name. Is it how it looks? Mr. Kyle?

(?):(inaudible)...can try or I can say it.

Schwickrath: Is it (?).

(?): That's(inaudible)...

Schwickrath: Tavis, okay no, no that's good. I have a last name Schwickrath. I get it. Okay, so Tavis (?) yeah okay. Got it. Okay please you are well please state your name for the record and then you can explain or give further explain what Adam already set up for us.

Kyle Messentarets(?): Sure. Thank you for....my name is Kyle Messentarets(?). I'm an attorney at (?) (?) Greenbaum in Indianapolis. I am joined, I believe on the line, by Brian (?) with (?)....(inaudible)....we are a(inaudible)...appreciate the thorough nature of that report.... (inaudible)...with respect co-location. The(inaudible)....very thorough. We've been working with the city to create an area that in part will allow AT&T....(inaudible)...specifically in these times that we're in right now we can understand the importance of a robust telecommunications network. Places like municipal parks and golf courses....(inaudible)...great place for telecommunications....(inaudible)....lightning rod on the top....(inaudible)....and that it needs....(inaudible)....proposed site is acceptable. So no other locations will provide this same standard as the current location. Now there was one ... (inaudible)...we had inquired if that would be possible but that does interfere with another location that AT&T presently has in the area so that's why the current location in Kennedy park would be the best location. Adam mentioned(inaudible)....landscape plan. I have a question for the board or staff....(inaudible)...question but we are (?) some alternative fencing perhaps some fencing that would have a green tone to it, sort of blend into the landscape of baseball fields, the basketball court. I believe there's a tennis court nearby. So I just wanted to open that dialogue perhaps outside of this meeting, seek as an alternative to the landscaping requirements given in the landscaping and I'm sure AT&T would be willing to find a happy medium. Otherwise again, the (?) in the staff report and we just ask that our Findings of Fact that we submitted with the petition would be....(inaudible)....for the record and of course we'll open up to any questions that the board might have but you know respectfully request approval of our petitions and thank you for your time.

Schwickrath: Okay thank you. We're take questions from the board. Wanna start, Mr. Lewis? Do you have anything?

Lewis: I don't really have anything on this. You know just the buffering. It'll be interesting to see what that looks like and make sure that's safe with their you know a lot of kids.

Rude: Uh huh.

Lewis: And you know aesthetically pleasing as well. That's all I have.

Schwickrath: Okay, thank you.

Lisher: It's not so much a question as I guess an observation.

Schwickrath: Can you hear him?

Messentartes: Inaudible comment.

Schwickrath: Okay.

Lisher: It's not so much of a question as it is an observation. It would've been helpful if we had a diagram of what in the world this typically looks like and the height.

Schwickrath: We have not received a diagram. Right, you're right.

Lisher: It's hard to try and envision this and since it's a special use is what I'm getting at.

Rude: Let me pull that for you, Jim.

Schwickrath: Okay so Adam is gonna pull something up for us. There'll be just a little delay. I think this would help too if, we have two writers from the different media outlets and I think the public would like to know since there's a trail going through there and that park is actually heavily used, which I'm sure you're aware of. And while you're pulling that up I my little map here with the star, I have a question about....it looked to me where that asphalt is newly laid, is that where it's going to be located or is it next to that?

Rude: So here is....

Schwickrath: I see it. Okay.

Rude:a set of plans. You can see the ball diamond and the fence line.

Schwickrath: Yes.

Rude: This tower will actually replace one of the....

Lisher: Inaudible comment.

Schwickrath: Yeah, yeah. You're right.

Rude: It'll replace one of the light poles that's there.

Schwickrath: Yes.

Rude: And they'll reattach the lights to the tower. And then obviously just a small security fence around the tower. Here's the tennis courts and basketball courts for reference. So it won't affect any of those facilities that are there. It'll just replace....(inaudible)...

Schwickrath: Okay, that's helpful. Thanks, Jim for asking 'cause I think that's right. We needed to see this.

Rude: And see, here's this.

Several people talking at once; no one is clearly audible.

Rude: I thought we had sent this out.

Lisher: Yeah it's similar in design to what was put near the sheriff's department, uh the county there by the courthouse and the jail.

Schwickrath: Yes.

Rude: Yes. That pole's also a monopole design.

Lisher: I'm having to guess what it looks like.

Schwickrath: Yeah no that's a good comparison.

Rude: And the rest of that goes....(inaudible)....

Schwickrath: And that has no landscaping, correct?

Rude: The one at the sheriff's department? No.

Schwickrath: Sheriff's department does not have landscaping so that gives you an idea.

Lisher: No, there's no, but it's part of a parking lot. There's some kind of building.

Schwickrath: Correct. It's part of a parking lot. So since this will be incorporated into the park, I can see your point. Are you perhaps thinking to avoid the endless rows of arbor vitae? You know the tree I'm talking about? That's constantly used, right? It's a form, it's a cedar. It's kind of a hybrid cedar. It is native actually but they're everywhere. So I would be willing to help with that part at a later time with the actual buffer, the buffer yard. So yeah thank you for being open to that instead of....

Messentartes: You're welcome and I would just....(inaudible)....in case Brian had any comments. It does look like Brian(inaudible).....if you had any specific comments about that(inaudible)....with AT&T.

Schwickrath: Mr. Ramirez, if you would like to state your name for the record and add any comments, this would be a good time to do it. You're welcome to.

No audible reply.

Schwickrath: Is he still muted?

Rude: He is, yes.

Schwickrath: It's in the....well he probably knows what he's doing. Bottom of your screen on the left in the middle.

Lisher: So I guess in summary this would be a triangular based tower, a wider base....

Messentartes:(inaudible)....lattice structure...(inaudible)...sort of common place for (inaudible)...understand technology's(inaudible)....but I think it will have a an aesthetic (inaudible)....meet for the landscaping buffer.

Lisher: Have you seen the tower that is our radio station off Morristown Road near Rafferty? The green trim that's

Schwickrath: We're a small town. You're in Indianapolis. It's okay.

Messentartes: Yes, I can't say I have.

Schwickrath: No worries.

Messentartes: Inaudible comment.

Schwickrath: It's meant....we might ask you not to think too creatively on that. It's meant to look like a tree. It doesn't so no flights of fancy. We'll work with the landscaping. Thank you, Mr. Lisher. I forgot. Okay do you think Mr. Ramirez is going to say anything or is it hard to say?

Rude: It's still muted.

Schwickrath: Okay, alright so we'll....

Messentartes: However I think it did look like he's....(inaudible)...

Schwickrath: Okay okay, so we're good. So I think....

Messentartes: I think we're okay for this evening and hopefully I've been able to answer your questions though.

Schwickrath: Well thank you. It's been clear. Anything further before I open this to public commentary?

No reply.

Schwickrath: Okay so I close questions from the board at this time and we'll open this now to public commentary giving people a minute to send in a comment through Facebook Live.

Rude: Kris, can I get you to sign? There's three sheets there.

Schwickrath: Yep.

Rude: I need you to sign all three.

Schwickrath: Sure.

Rude: Okay, thank you.

Schwickrath: And you'll also need this. Do you need this one? Looks official. Okay. Although my notes are in there. It's okay. Just keep it.

Rude: Okay.

Schwickrath: Yep.

Rude: I'll look and see. That might be, we might have our own copy.

Schwickrath: Okay, that's fine. Okay a minute has passed and I take it we have no comments?

Inaudible reply.

Schwickrath: Okay, thank you. So we are now ready to move to a motion, public commentary being closed of course.

Lisher: I'd move to approve a special exception use for a telecommunications facility pursuant to UDO 5.67-C with provisions Findings of Facts set forth by the staff with the deletion of

number one condition since it's not appropriate and with condition that the revised plans be submitted subject to planning staff(inaudible)...

Schwickrath: OKay, thank you.

Lewis: I'll second.

Schwickrath: Okay please cast your ballots then for BZA 2020-08. Thank you.

Rude: This is for BZA 2020-08. Mr. Lewis - yes, Mr. Lisher - yes, Ms. Schwickrath - yes. Motion carries.

Schwickrath: Okay, thank you very much.

Messentartes: Thank you very much. Everyone stay safe. Thank you.

Schwickrath: You too. So before we end, just a quick update about be revisions to the landscaping code that's or ordinance. That will affect us but we're, that's still in a bit of a holding pattern. We could not have a meeting back in April, I think it was. So any projections? Maybe when things open up?

Rude: Yeah so towards the end of the last week of this month the Plan Commission is meeting. We previously went through a revision on or writing some solar energy standards for the city. We're gonna take that to the Plan Commission, start that adoption and then probably first of June, we're gonna start the same process for landscaping standards. We have an initial rough draft of what this looked like and we've all talked about that a number of times here and the Plan Commission as well has done that.

Lisher: Do you have a tree commission or something?

Schwickrath: No, but I can talk.....when we adjourn, I can talk to you about that.

Rude: Yeah. Not yet.

Schwickrath: Okay?

Rude: That's all we have, yes.

Schwickrath: That's all you have? Okay, thank you. So now we can adjourn.

Lisher: I'd move to adjourn.

Lewis: Second.

Schwickrath: Okay.b