

CITY OF SHELBYVILLE

Adam M. Rude  
Director



Allan Henderson  
Deputy Director

BOARD OF ZONING APPEALS

MEETING DATE: 11/10/2020

<b>Case #:</b>	BZA 2020-15: 1416 South Miller Avenue, DSV			
<b>Petitioner's Name:</b>	Shelby County Players, Inc.			
<b>Owner's Name:</b>	Shelby County Players, Inc.			
<b>Petitioner's Representative:</b>	Cindy Leahy, Managing Director			
<b>Address of Property:</b>	1416 South Miller Avenue			
<b>Subject Property Zoning Classification:</b>	BG, Business General			
<b>Comprehensive Future Land use:</b>	Institutional			
	<b>North</b>	<b>East</b>	<b>South</b>	<b>West</b>
<b>Surrounding Properties' Zoning Classifications:</b>	BG – Business General	IS – Institutional	IS – Institutional	IL – Light Industrial
<b>Surrounding Properties' Comprehensive Future Land Use</b>	Single Family Residential	Single Family Residential	Institutional	Institutional
<b>History:</b>	This property is located in a strip mall on South Miller Avenue. It was formerly used as a bowling alley and is adjacent to several vacant properties including the Western Supermarket and adjacent to the Apostolic Tabernacle Church.			
<b>Vicinity Map:</b>				
<b>Action Requested:</b>	Approval of one development standards variance from UDO 5.03 AS-02: General Accessory Structure Standards, (E) Shipping Containers			

1. The petitioner is currently using a shipping container for on-site storage while they undertake a capital funds campaign to rehabilitate the building into a rehearsal and community theater space. Currently, the shipping container is storing theater seats that were donated to the Shelby County Players, Inc. by another theater that closed its doors. 5.03 General Accessory Structure Standards, Section (E) states “In no instance shall a shipping container be used as an accessory structure in any district (such as for storage, shelters for pets, etc.).

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***BZA 2020-15.A Variance from UDO 5.03(E), General Accessory Structure Standards***

Finding of Fact #1 – Explain why granting the request for a development standard variance will not be harmful to the public health, safety and general welfare of the City of Shelbyville.

*Applicant provided the following response to Finding of Fact #1: “The shipping container is temporary and will be removed when the seats are installed next year. It is always closed and locked with a heavy duty padlock. The container is new and in perfect condition. The exterior color matches the building and is not an eyesore; in fact most people who park in front of the building do not even notice that it is there.”*

The planning staff has determined that the requested variance from the accessory structure standards should not be injurious to the public health, safety, morals, or general welfare of the community. The planning staff believes that since the shipping container is in good condition, is fully secure and resembles the primary materials and color of the building it does not pose any health or safety concerns.

*Finding #1 has been satisfied by the petitioner*

Finding of Fact #2 – Explain why the development standard variance request will not affect the use and value of adjacent properties.

*Applicant provided the following response to Finding of Fact #2: “The container is located on our property on an asphalt pad. It is 100 yards from the adjacent church parking lot, separated by grass and a retention pond.”*

The planning staff has determined that the requested variance from the accessory structure standards should not have a substantially adverse affect on the use and value of the adjacent areas. The surrounding properties are all zoned BG – Business General. While external storage is allowed in the Business General district and Planning Staff does not want to see surrounding businesses use shipping containers for storage, the proposed temporary nature of the Shelby County Players, Inc. use of the shipping container for storage will not affect the use and value of adjacent properties.

*Finding #2 has been satisfied by the petitioner*

Finding of Fact #3 – Please state the difficulties that will be faced if the project is not granted the requested development standard variance. The practical difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.

*Applicant provided the following response to Finding of Fact #3: “Relocating the theatre seats and the shipping container will take a lot of volunteer labor hours as well as cost related to renting a location to store the container and contracting a service to relocate the container and then move it back when we are ready to install the seats.”*

The planning staff has determined that the strict application of the terms of the ordinance will result in a practical difficulty in the use of the property, because the petitioner is currently remodeling the interior of the structure and are faced with construction and equipment storage constraints.

*Finding #3 has been satisfied by the petitioner*

**BZA 2020-15: STAFF RECOMMENDATION: APPROVAL WITH THE FOLLOWING CONDITION:**

- 1. The shipping container be allowed for storage for a period of one-year starting on the date of BZA approval.**
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**FINDINGS OF FACT BY THE SHELBYVILLE BOARD OF ZONING APPEALS**

**Staff Prepared**

Motion:

(I) would like to make a motion to approve the requested development standard variance from UDO 5.03(E) to allow for a shipping container to be used for temporary storage in accordance with the plans provided to this board, pursuant to the findings of fact presented in the planning staff's report.

- 1.  The approval of the Development Standards Variance **will not** be injurious to the public health, safety, morals and general welfare of the community.
- The approval of the Development Standards Variance **will** 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 subject property seeking a Development Standards Variance **will not** be affected in a substantially adverse manner.
- The use and value of the area adjacent to the subject property seeking a Development Standards Variance **will** be affected in a substantially adverse manner.
- 3.  The strict application of the terms of the ordinance **will** result in practical difficulties in the use of the property. The practical difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.
- The strict application of the terms of the ordinance **will not** result in practical difficulties in the use of the property. The practical difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.

Additional conditions imposed by the Board of Zoning Appeals:

- 1.
- 2.
- 3.

Shelbyville Board of Zoning Appeals

By: \_\_\_\_\_

Chairperson

Attest: \_\_\_\_\_

Secretary