

CITY OF SHELBYVILLE

Adam M. Rude
Director



Allan Henderson
Deputy Director

BOARD OF ZONING APPEALS

MEETING DATE: 12/12/2023

Case #:	BZA 2023-14: 885 W.T. Conner Way; DSV			
Petitioner's Name:	Indy Tru, LLC			
Owner's Name:	Conagra Development, LLC			
Petitioner's Representative:	Eric Glasco, Stephenson Rife, LLP			
Address of Property:	885 Col. W.T. Conner Way, Shelbyville, IN 46176			
Subject Property Zoning Classification:	IG – General Industrial			
Comprehensive Future Land use:	Heavy/Medium Industrial			
	North	East	South	West
Surrounding Properties' Zoning Classifications:	IL – Light Industrial	BG – Business General	R1 – Single-family Residential (Shelby County)	IL – Light Industrial
Surrounding Properties' Comprehensive Future Land Use	Heavy/Medium Industrial	Heavy/Medium Industrial	Heavy/Medium Industrial	Heavy/Medium Industrial
History:	This land received Site Development Plan and Preliminary Plat approvals in December of 2021 to allow the construction of a new 58,890 sq ft facility for Trinity Metals. This project was only going to utilize 11.89 acres of the roughly 43-acre site, leaving the rest for other future projects. Since that time, this project has not moved forward and the property was recently re-listed for sale, which has brought about the subject project. Previous petitions are: BZA 2021-11, PC 2021-27, and PC 2021-28			
Vicinity Map:				
Action Requested:	A request for two Development Standards Variances, one from UDO 5.15 (C) Non-residential Driveways Standards and one from UDO 5.46(A)(2) Industrial Outdoor Storage Standards.			

Facts of the Case

1. UDO 5.15. Entrance and Drive Standards sets the drive material requirements to asphalt, concrete, etc.
2. The petitioner would like to use gravel as a substitute for asphalt across all of the parking areas on site, with a forty (40) foot deep paved apron providing an entrance to the property and the parking area.

BZA 2023-14. A. Variance From UDO 5.15(C) Non-residential Driveway 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 granting of Indy Tru LLC’s request for a variance of the nonresidential driveway standards will not be harmful to the public health, safety and general welfare of the City of Shelbyville. To the extent the development standards are meant to address aesthetic concerns, the property will be enclosed on all sides by opaque fencing that will prevent the ground inside of the fencing from being visible. To the extent the standard is intended to minimize dust and keep loose gravel and stone from public roadways, petitioner intends to use a crushed stone or gravel with a top layer of asphalt millings and a 40-foot paved apron. The asphalt millings will minimize dust and stone or gravel getting stuck to tires while the apron will further reduce the likelihood any stone or gravel being carried out of the subject parcel onto public roadways”.

The planning staff has determined that the requested development standards variance would not be injurious to the public health, safety, morals, and general welfare of the community. Providing the forty (40) foot apron will serve to keep gravel off of the public streets and out of the rights-of-way.

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: “As addressed above, the area subject of the variance will not be visible from adjacent properties and will not negatively impact adjacent properties in any way. Additionally, the area adjacent to the subject property in the City of Shelbyville is zoned IG (and the area in the county is zoned A1 and A2) and the surrounding businesses are for the most part industrial and will not be negatively impacted by the granting of the requested variances”.

The planning staff has determined that the requested variance will not have a substantially adverse effect on the adjacent area. The proposed gravel parking area with the forty (40) foot apron, screened behind a fence will not be a visual blight to other properties in the area. Several other properties were developed before this standard took affect and utilize gravel for parking and/or storage areas.

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: "Indy Tru LLC will face difficulties if its request for a variance of the nonresidential driveway standards is not approved. The site includes a considerable amount of acreage and requiring paving as opposed to a permeable surface such as is proposed by applicant could have the potential to cause drainage issues on the subject property".

The planning staff has determined that the applicant does have a practical difficulty that is neither self-imposed nor financial in nature. Since the lot is going to be used mainly for truck/trailer parking, the use of gravel along with a forty (40) foot apron is a more environmentally friendly approach that still serves to keep gravel off of the public roadways.

Finding #3 has been satisfied by the petitioner.

STAFF RECOMMENDATION: APPROVAL/ CONDITIONS

1. A paved drive apron, at least forty (40) feet deep, must be installed at all entrances and exits to public streets.

**DEVELOPMENT STANDARDS VARIANCE: BZA 2023-14 (A): 885 Col. W.T. Connor Way; DSV
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 standards variance from UDO 5.15(C) to allow gravel to be used as a material for the site parking area, in accordance with the plans provided to this board and recommended conditions, 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 / Presiding Officer

Attest: _____
Adam M. Rude, Secretary

Facts of the Case

1. UDO 5.46. Outdoor Storage Standards require outdoor storage areas be screened on all sides with a solid fence or wall that is six (6) or eight (8) feet tall.
2. The petitioner would like to only screen three (3) sides of the property because of the potential for expansion and thus the need to remove the solid fence on the western side.

BZA 2023-14. B. Variance from UDO 5.46(A) (2) Industrial Outdoor Storage 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 granting of Indy Tru LLC’s request for a variance as to screening of the subject property will not be harmful to the public health, safety and general welfare of the City of Shelbyville”.

The planning staff has determined that the requested variance from the industrial outdoor storage standards will not be injurious to the public health, safety, morals, or general welfare of the community. The standards that require this solid fence or wall are in place to provide a visual screening of the outdoor storage of the vehicles and other materials on the site, however, to the west of the property is a large farm field that will serve to provide a visual barrier.

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 screening variance, with the stipulation of the Planning Department, will have minimal impact on adjacent properties as it will only apply to the western edge of the subject parcel to allow for removal of the screened fencing for future development. The other three edges of the property will have fencing in compliance with the development standards. Additionally, the area adjacent to the subject property in the City of Shelbyville is zoned IG (and the area in the county is zoned A1 and A2) and the surrounding businesses are for the most part industrial”.

The planning staff has determined that the requested variance from the industrial outdoor storage standards will not have a substantial adverse effect on the use and value of the adjacent areas. The outdoor storage will be screened from all public streets and rights-of-way.

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: “Denial of the variance, which only applies to the western edge of the subject property, will cause additional difficulty with the western expansion of the project for phase 2, which is likely to occur”.

The planning staff has determined that the strict application of the terms of the ordinance will result in a practical difficulty that is neither self-imposed nor based on a perceived reduction of, or restriction on economic gain. The petitioner is anticipating three (3) additional phases of the project and the fence on the western side of the property would only be temporary until those additional phases happen.

Finding #3 has been satisfied by the petitioner.

STAFF RECOMMENDATION: APPROVAL W/ CONDITIONS

1. The western side of the property may have a non-opaque fence installed for a maximum of 3 years from the approval of this variance, or until another phase of the project commences, whichever is sooner.

**DEVELOPMENT STANDARDS VARIANCE: BZA 2023-14 (B): 885 Col. W.T. Connor Way; DSV
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 standards variance from UDO 5.46 (A)(2) to allow for temporary fencing for future expansion in accordance with the plans provided to this board and recommended conditions, 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:

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Shelbyville Board of Zoning Appeals

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Adam M. Rude, Secretary