

CITY OF SHELBYVILLE

Bryant P. Niehoff
Director



Adam M. Rude
Deputy Director

BOARD OF ZONING APPEALS

Board of Zoning Appeals

Meeting Agenda: November 13th, 2018

Location: Common Council Chambers

- The Board of Zoning Appeals will conduct a pre-meeting - 6:30 p.m.
- Call to Order – 7:00 pm
- Roll Call
- Approval of Minutes
 1. September 11th, 2018
- Old Business:
 1. None
- New Business
 1. **BZA 2018-19: Shawn Hollar 846 Main Street, DSV**
A request for approval for one development standards variance from the Height Standards
 2. **BZA 2018-20: Charles West, 661 Brentwood Drive, DSV**
A request for approval for one development standards variance from the setback Standards for a Driveway
 3. **BZA 2018-21: Donald and Amy Richey, 102 S West Street, DSV**
A request for approval for two development standards variances from the Side yard Setback Standards and the Separation from another Structure Standards.
- Discussion
- Adjournment

CITY OF SHELBYVILLE

Bryant P. Niehoff
Director



Adam M. Rude
Deputy Director

BOARD OF ZONING APPEALS

MEETING DATE: 11/13/2018

Case #:	BZA 2018-19: Shawn Hollar, DSV			
Petitioner's Name:	Shawn Hollar			
Owner's Name:	Same			
Petitioner's Representative:	Same			
Address of Property:	846 Main Street,			
Subject Property Zoning Classification:	R1 – Single Family Residential			
Comprehensive Future Land use:	Single-family High Density Residential			
	North	East	South	West
Surrounding Properties' Zoning Classifications:	R1 – Single Family Residential	PK – Parks and Open Space	RM – Multiple-Family Residential	R1 – Single Family Residential
Surrounding Properties' Comprehensive Future Land Use	Single-Family High Density Residential	Parks and Open Space	Single-Family High Density Residential	Single-Family High Density Residential
History:	This property owner has been working with the planning staff for about a month to bring the plans for this property into compliance with the standards prescribed in the UDO. The petition being heard today is the one standards that the applicant was not able to satisfy.			
Vicinity Map:				
Action Requested:	Approval of one development standards variance from UDO 5.23 (A) the height standards of an accessory structure.			

1. In the BG – Business General zoning district the maximum permitted height of an accessory structure is 15 feet in height.
2. The applicant is proposing a garage that is 21 feet in height at its highest point, 6 feet taller than the maximum height prescribed in the Unified Development Ordinance.

Variance From UDO 5.23 (A) Height Standards For An Accessory Structure

Finding of Fact #1 – That the approval of the Development Standards Variance will not be injurious to the public health, safety, morals and general welfare of the community.

The applicant provided the following response to Findings of Fact #1: "My garage wouldn't affect the public health, safety, or general welfare because it sits off the road."

The planning staff has determined that the requested development standards variances from the Height Standards should not be injurious to the public health, safety, morals, or general welfare due to the proposed structures considerable setback from any adjoining property or public right-of-way. The proposed garage is being shown 45 feet away from the nearest public right-of-way, providing more-than-adequate separation from the public realm.

Finding #1 has been satisfied by the petitioner

Finding of Fact #2 – That 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 applicant provided the following response to Findings of Fact #2: "I think it will increase the value of the property, I have a privacy fence up and its 10' away from the surrounding property."

The planning staff has determined that the requested development standards variance from the height standards should not have a substantially adverse affect on the use and value of the surrounding properties. The property owner has shown on the submitted plans that the proposed garage will be setback more from neighboring properties than what is required in the Unified Development Ordinance (4 feet) providing more separation from any neighboring property owners.

Finding #2 has been satisfied by the petitioner

Finding of Fact #3 – That 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 applicant provided the following response to Findings of Fact #3: "I can't put my truck in the garage and have to work on it outside. I want to work on my boat inside, out of the weather. When it rains or snows it limits me from doing stuff and I spend most of my time in the garage to stay out of my wife's way."

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. Through conversations between the applicant and the planning staff, the applicant communicated the fact that a garage that is the height prescribed in the Unified Development Ordinance would be too short for the truck he already owns.

Finding #3 has been satisfied by the petitioner

STAFF RECOMMENDATION: APPROVAL

CITY OF SHELBYVILLE

Bryant P. Niehoff
Director



Adam M. Rude
Deputy Director

BOARD OF ZONING APPEALS

MEETING DATE: 11/13/2018

Case #:	BZA 2018-20: Charles West, 661 Brentwood Drive; DSV			
Petitioner's Name:	Charles West			
Owner's Name:	Same			
Petitioner's Representative:	Same			
Address of Property:	661 Brentwood Drive			
Subject Property Zoning Classification:	R1 – Single Family Residential			
Comprehensive Future Land use:	Single-family Low Density Residential			
	North	East	South	West
Surrounding Properties' Zoning Classifications:	R1 – Single Family Residential	R1 – Single Family Residential	R1 – Single Family Residential	R1 – Single Family Residential
Surrounding Properties' Comprehensive Future Land Use	Single-Family Low Density Residential	Single-Family Low Density Residential	Single-Family Low Density Residential	Single-Family Low Density Residential
History:	This property owner has recently constructed a new home on this lot, and during the final inspection it was discovered that the driveway had been poured too close to the nearby property line.			
Vicinity Map:				
Action Requested:	Approval of one development standards variance from UDO 5.14 (D) the setback standards for driveways from side property lines.			

1. In all residential zoning districts, a driveway must be setback at least 3 feet from the side property lines, unless there is a shared driveway agreement in place to have a shared drive between two properties.
2. The applicant is proposing a setback that is 16 inches off of the side property line.

Variance From UDO 5.14 (D) Driveway Setback Standards

Finding of Fact #1 – That the approval of the Development Standards Variance will not be injurious to the public health, safety, morals and general welfare of the community.

The applicant provided the following response to Findings of Fact #1: "This request will only affect the property owners use and 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 development standards variances from the driveway setback standards should not be injurious to the public health, safety, morals, and general welfare of the community. The requested variance would still require some amount of separation from the neighboring property.

Finding #1 has been satisfied by the petitioner

Finding of Fact #2 – That 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 applicant provided the following response to Findings of Fact #2: "The property owner has built a new home which with this variance only increases the value of adjacent properties and does not affect the use and value of adjacent properties."

The planning staff has determined that the requested development standards variance from the driveway setback standards would not have a substantially adverse impact on the use or value of the neighboring properties. The applicant will still be providing enough of a separation from the adjoining property to prevent a negative impact on that adjoining property.

Finding #2 has been satisfied by the petitioner

Finding of Fact #3 – That 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 applicant provided the following response to Findings of Fact #3: "This lot was narrow at only 78 feet, so the home built was one of the few available by our builder TK Construction. We were just barely able to meet the setbacks of 10' on each side given the home is 56 feet wide. The additional concrete in question provides sufficient space for safe access when using the garage service door."

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. Due to the narrow nature of the lot, it makes it difficult to provide adequate access to the side of the house while also providing the prescribed three feet of setback for the driveway.

Finding #3 has been satisfied by the petitioner.

STAFF RECOMMENDATION: APPROVAL

CITY OF SHELBYVILLE

Bryant P. Niehoff
Director



Adam M. Rude
Deputy Director

BOARD OF ZONING APPEALS

MEETING DATE: 11/13/2018

Case #:	BZA 2018-21: Donald and Amy Richey, 102 South West Street; DSV			
Petitioner's Name:	Donal and Amy Richey			
Owner's Name:	Same			
Petitioner's Representative:	Same			
Address of Property:	102 South West Street			
Subject Property Zoning Classification:	R1 – Single Family Residential			
Comprehensive Future Land use:	Single-family High Density Residential			
	North	East	South	West
Surrounding Properties' Zoning Classifications:	R1 – Single Family Residential	R1 – Single Family Residential	R1 – Single Family Residential	R1 – Single Family Residential
Surrounding Properties' Comprehensive Future Land Use	Central Business District	Central Business District	Single-Family High Density Residential	Single-Family High Density Residential
History:	No relevant history on this property.			
Vicinity Map:				
Action Requested:	Approval of two development standards variances from UDO 5.55 (G) Side Yard Setback and UDO 5.03 (C)(1) Accessory Structure Setback from other Structures			

1. In all residential zoning districts, there is a rear yard setback for accessory structures of 4' from the rear property line. UDO 5.55 (F)
2. The applicant is proposing to reduce this setback from 4' to 3' to allow the placement of a carport.
3. In all residential zoning districts, accessory structure must be located a minimum of 5 feet from another structure.
4. The applicant is requesting to place a carport 0 feet from an existing carport and 2 feet from the existing shed on the property.

BZA 2018-21.A: Variance From UDO 5.55 (F) Side Yard Setback

Finding of Fact #1 – That the approval of the Development Standards Variance will not be injurious to the public health, safety, morals and general welfare of the community.

The applicant provided the following response to Findings of Fact #1: "Placement of the carport 3 feet from the rear yard setback instead of the required 4 feet rear yard setback will not be harmful to the public health, safety, or general welfare of the City of Shelbyville. There is an existing carport directly beside the desired location for the new carport at the same setback that has never been a safety issue."

The planning staff has determined that the requested development standards variances from the side yard setback standards should not be injurious to the public health, safety, morals, or general welfare. There is an existing carport that is placed 3 feet from this public alley, and historically hasn't caused a hazard to the public health, safety, morals, or general welfare.

Finding #1 has been satisfied by the petitioner

Finding of Fact #2 – That 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 applicant provided the following response to Findings of Fact #2: "This variance request will not affect the use or value of neighboring properties. There is an existing carport directly beside the desired location for the new carport at the same setback and has never caused problems for the adjacent properties."

The planning staff has determined that the requested development standards variance from the side yard setback standards should not have a substantially adverse impact on the use or value of the neighboring properties. On the subject property, there is already a carport located at the requested setback, there would be additional impact on neighboring properties to allow a similar setback for this proposed carport.

Finding #2 has been satisfied by the petitioner

Finding of Fact #3 – That 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 applicant provided the following response to Findings of Fact #3: "Due to the size of our property, the only location for a carport would be this location. If we attempted to move the carport back another foot to accommodate the setback required, it would be past our fence and also not line up correctly with the existing carport."

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. Due to the smaller size of this lot, it is much more difficult to place a carport, while preserving open space on the property.

Finding #3 has been satisfied by the petitioner

STAFF RECOMMENDATION: APPROVAL

BZA 2018-21.B: Variance From UDO 5.03 (C)(1) Setback from another Structure

Finding of Fact #1 – That the approval of the Development Standards Variance will not be injurious to the public health, safety, morals and general welfare of the community.

The applicant provided the following response to Findings of Fact #1: "Placement of the carport at closer than the required 5 feet setback from another structure will not be harmful to the public health, safety or general welfare of the City of Shelbyville. This is an existing carport that is less than the 5 feet setback from the primary structure and has never caused any issues."

The planning staff has determined that the requested development standards variances from the accessory structure separation standards would not be injurious to the public health, safety, morals, or general welfare of the community. This requested reduction in separation between two accessory structures (the existing shed and the proposed carport) would only have an impact on the subject property and shouldn't affect the community as a whole.

Finding #1 has been satisfied by the petitioner

Finding of Fact #2 – That 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 applicant provided the following response to Findings of Fact #2: "This variance request will not affect the use or value of neighboring properties. The distance between our accessory structures will have no affect on the adjacent properties."

The planning staff has determined that the requested development standards variance from the accessory structure separation standards would not have a substantially adverse impact on the use or value of the neighboring properties. Any impacts that are to come from this requested variance would be contained on the subject property and would be in relation to the structures that are involved.

Finding #2 has been satisfied by the petitioner

Finding of Fact #3 – That 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 applicant provided the following response to Findings of Fact #3: "Due to the size of the property, the only location for a carport would be this location"

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. Due to the narrow nature of the lot, a new carport could not be placed along the alley with the standards that are prescribed in the Unified Development Ordinance.

Finding #3 has been satisfied by the petitioner

STAFF RECOMMENDATION: APPROVAL

**SHELBYVILLE BOARD OF ZONING APPEALS
MEETING MINUTES
November 13, 2018**

Kris Schwickrath: Good evening, everyone. The November 13, 2018 meeting of the Board of Zoning Appeals is now called to order. We'll begin with a roll call please.

Bryant Niehoff: Yes. Mr. Lisher - here, Mr. Clark - here, Ms. Schwickrath - here, Mr. Lewis - here and Mr. Cassidy - here.

Schwickrath: Thank you. Prior to this evening's meeting, we have the minutes from September, not having business last month and just for the record, there was some problems with recording last month, but we have captured here the essence of all of our votes. So I will entertain a motion to approve the minutes as stated.

Jim Lisher: I would so move.

Wade Lewis: Second.

Schwickrath: Okay, all in favor, please signify by saying, "Aye".

In Unison: Aye.

Schwickrath: Opposed, same sign.

No reply.

Schwickrath: Thank you. The minutes from September are approved. We have no items under Old Business this evening, so we have three petitions and we'll go in the order in which they were received so we'll start with Mr. Hollar and go ahead, Bryant you can read that.

Niehoff: Absolutely. Yeah so this is BZA 2018-19. The petitioner's name is Shawn Hollar, the owner as well and the address of the subject property is 846 Main Street. The subject property's zoning classification is R1, single family residential and the action requested this evening is approval of one development standards variance from UDO 5.23A, the height standards for an accessory structure.

Schwickrath: Thank you. Mr. Hollar, please come forward. State your name for the record and then tell us about your project.

Shawn Hollar: Shawn Ivan Hollar. I wanna build a garage where I can house my boat and get my truck in but I need the height on the ceiling for my a-frames to lift my boat up and that's the reason why I wanna go with 14' walls instead of 8.

Schwickrath: Okay. So at this point we had some questions, the board members, we'd like to ask you....

Hollar: Okay.

Schwickrath:before we make a determination so I'll start with Mr. Cassidy.

Doug Cassidy: Is the building going like looks like along the fence line under a tree in this area? Is that where....

Hollar: It's going, my house is this way and my garage is going this way. It's going the long way on the back parcel next to the fence.

Cassidy: Okay. Are these other buildings gonna be removed or how you gonna get....

Hollar: The one is gonna be taken to my daughter's house. She just bought a house and they're gonna move it over there. And the other one, my wife's gonna make a craft place because she's killing me with her stuff in the house. I mean the glue and stuff she uses affects my breathing so I'm gonna convert the one into a crafting(?). And then the big one, my kid wants to store his runabout cars and work on his runabout cars in the garage so they can race.

Cassidy: Okay, thank you. That's all I have.

Schwickrath: Thank you. Mr. Lewis?

Lewis: How would, would you access it from the alley or from Glenn Avenue?

Hollar: It's gonna be Glenn Avenue where the shed is. It's gonna come in right where that shed is. Gonna have access to it right there. There is not gonna be no comin' off Main Street or the alleyway.

Lewis: Thank you. That's all I got.

Schwickrath: Thank you. Mr. Clark?

Chris Clark: I have no questions at this time. Thank you.

Schwickrath: Mr. Lisher?

Lisher: I'm still confused where this is gonna be. If the staff people wouldn't mind, let him have this and look at it and have him draw on it for me so I better understand the location so I know what questions to ask if that's alright.

Schwickrath: Sure.

Lisher: And I'll share that with (?).

Schwickrath: Thank you. We'd like to know.

Lisher: I heard you talk and you were pointing, but I couldn't see any of that down here.

Cassidy: Sorry.

Lisher: No, it's not your fault. He's the applicant.

Schwickrath: This is (?). Even if it's on the side. I mean you can be on the side of the (?) and that would actually help.

(?): Inaudible comment.

Schwickrath: Okay. At the end? Sure. Thank you.

Hollar: Where I put the like the criss crosses....(inaudible)...and the concrete pad and then when I put the arrows is how I'm gonna get to the (?).

Lisher: You wanna put a line like this so we know where you plan your entrance from Glenn Avenue and then a box or something where you're gonna put the building at.

Hollar: This the building and this is the concrete pad that I gotta have. And right here is where all this is gravel. This is where I'm gonna access it right through here.

Lisher: Okay. So it's alright now I get a better idea, Mr. Hollar. So it's....

Hollar:(inaudible)....that shed because my two sisters died and I had to have a place to put all their stuff.

Lisher: So it's closer to the at least the one existing to the north, that one I had figured. It's not really under the tree.

Hollar: No I have no trees.

Lisher: But it looked like a tree.

Hollar: That's not me. That's the neighbor's trees that's getting ready to fall over. Hopefully, it'll fall on their house and not mine.

Laughter.

Hollar: I've been after him for years. It's ash trees and they're dead. They need to be, but they don't wanna take care of their trees, so....

Schwickrath: That's a different story. Yeah, you're right.

Lisher: So I guess now I have a better understanding of that and you plan on using and if we made a stipulation that the entrance would be on Glenn Avenue, that would be alright with you?

Hollar: Yeah that'smy wife's not gonna let me cut those bushes down. She's already told me that.

Lisher: Okay.

Schwickrath: Okay so I just wanna make sure that I'm clear. The shed will be removed?

Hollar: Yeah it's gonna be moved to my daughter's house.

Schwickrath: And the fencing obviously will have to be removed as well.

Hollar: Yeah.

Schwickrath: The fence....

Hollar: The fence by Glenn Avenue side is gonna be taken down.

Schwickrath: Okay. Okay I just wanted to make sure I had the number of buildings because what I wanna avoid is that this ends up looking like a compound.

Hollar: Oh no, it no that ain't gonna happen.

Schwickrath: Right.

Hollar: My wife's not gonna let that happen.

Schwickrath: And will this new arrangement then enable you....there are a lot of cars there too. I'm just asking. This is not part of tonight's petition.

Hollar: Kids. Yeah kids.

Schwickrath: Okay. You have a family.

Hollar: I got like 8 kids and friends and that I can't keep up with 'em.

Schwickrath: Yes, a lot of moving parts. Okay, thank you. And the material of the building of your new structure? Is it going to....

Hollar: Is what?

Schwickrath: What's the, can you describe what materials you're gonna use?

Hollar: It's gonna be concrete floor and then it's gonna be 2 x 6 walls and then I'm gonna have wrapping on and then steel side and steel roofing.

Schwickrath: Sure and that's not I mean that's....I'm just asking for the record. That's all. Thank you.

Hollar: Alright.

Schwickrath: Anything further from the board?

No reply.

Schwickrath: Well then I close questions from the board and anyone from the public who wishes to make a comment or ask a question on behalf of this petition is welcome to do so at this time.

No reply.

Schwickrath: Okay no movement on that, so I'll close public comment and if the board feels ready to move to a motion, it seems like we.....yes?

Cassidy: Pretty impressed that you went to your neighbors and asked if you could build this building 'cause most people don't. That you went and got signatures and....

Hollar: I take care of all the neighbors. The those the apartment building is the is all old ladies. They all the time needing help, so I take care of them and they and I'm pretty good with 'em. I used to have a garden back there and give everybody fruits and vegetables, but I don't have time to do that no more.

Schwickrath: Yeah thank you. I observed too. Just wanted to comment on that. Thanks.

Cassidy: I'd like to make a motion to approve the requested Development Standard Variance from UDO 5.23 to increase the maximum height permitted for an accessory structure pursuant to the Finding of the Facts.

Schwickrath: Okay there's a motion.

Clark: I'll second.

Schwickrath: Okay, seconded; please cast your ballot then for BZA 2018-19.

Niehoff: This is for BZA 2018-19. Mr. Lewis - yes, Mr. Cassidy - yes, Mr. Lisher - yes, Mr. Clark - yes and Miss Schwickrath - yes.

Schwickrath: Motion is approved. Good luck with your project.

Hollar: Alright am I free to go?

Schwickrath: You are free to go.

Hollar: Alright, thanks.

Schwickrath: Yes, you do. Thank you. Okay the second item on tonight's agenda is Mr. & Mrs. West, Brentwood Drive.

Niehoff: Yes, this is BZA 2018-20. The petitioner's name is Charles West and the address of the property is 661 Brentwood Drive. The subject property's zoning classification is R1 single family residential and the action requested this evening is approval of one development standards variance from UDO 5.14D, the setback standards for driveways from the side property line.

Schwickrath: Okay thank you. Mr. West, please state your name for the record and tell us about this project.

Charles West: Charles E. West. As you can see from the photos I sent you, I've already poured the concrete driveway actually and the pad on the side. I take responsibility like I say for pouring that. What happened was my concrete guy that was gonna do the concrete backed out at the last minute and I needed concrete done so I called a friend, Frank Poe and he could actually do it the very next day because he was between jobs. So he came out and framed it all up on a Thursday and was gonna pour Friday morning and Friday morning my wife informed me, I think she had talked to the inspector and she said, you know there's a three foot setback and I'm like, on the drive? And she said yeah. And I was like, I'd build stuff over in Greenwood and they have a similar only there's is 30" instead of 36", but theirs is worded that as long as the

concrete or the drive whatever, doesn't detour water or natural flow of water, you can go to within inches of the property line, so I made the call to have Frank go ahead and pour it and then I would do this after the fact 'cause I was afraid I wasn't gonna get concrete. And TK Homes actually has you be responsible for certain things and one of the things I was responsible for was the concrete and the seeding and grading of the yard. Needed to get it done quickly, so he went ahead and poured it. We're 16" from the property line instead of 36" so I'm 20" onto it for about a 30' section. Just makes access for me, especially I've got bad knees to get in and out of my service door on the side. If that's all one flat piece of concrete where the trash cans go and I can actually pull an extra vehicle. We have three vehicles and only two drivers and if you put it behind the garage, then you've gotta jockey vehicles to get in and out of the garage all the time. So and the lady right next door that would be affected the most by it, she's fine with it. She thought it looked great and has no issues with it at all.

Schwickrath: Do you know her name? Excuse me.

(?): Inaudible reply.

Schwickrath: Eisgruber(?)?

(?): Inaudible reply.

West: Kathy is her first name. Last name is Eisgruber, I believe.

Schwickrath: I think it's Eisgruber. Okay just wanted to state that. Thank you.

West: Yeah she had no issues with it at all and though it looked fine. And like I say, it doesn't, it is 16" from the property line, but we went ahead and poured it and then when he come to do the final inspection, obviously he pointed it out so we filed for the variance and that's why we're here this evening.

Schwickrath: Sure, okay. Yeah I mean these things happen. We've discussed how to avoid this from the front end, but so it's that's why we're here tonight.

West: Well and that's the thing. You don't know. You know I'm pretty familiar with building codes 'cause I have a degree from college in building, in architecture and construction but you don't know the various local ordinances and stuff that aren't part of the code. You know just like we, I found out that I had to have a 6" sewer instead of a 4" whereas Johnson County, everything's 4" but so certain things come up with local ordinances that you aren't aware of until the fact, so....

Schwickrath: That's right. Okay thank you. We'll start with you.

Lewis: No questions.

Schwickrath: No questions. Mr. Clark?

Clark: No questions.

Schwickrath: Mr. Lisher?

Lisher: Inaudible comment.

Schwickrath: We're back to you.

Lisher: Mr. West?

West: Yes, sir?

Lisher: Our difficulty we run into is people, and you're not the only one, who have done projects and then find out later after having done the project, to now have to come before us to ask for a variance. Puts us in an awkward position, but fortunately for you, you don't have Mrs. Eisgruber's written consent, unlike the fellow before. I did speak with her and she did not have any complaints or any concerns in regards to the encroachment so to speak 'cause that is awful close to her fence line.

West: I was gonna say I did talk to her and she asked if I needed her to come tonight and I told her unless she....

Lisher: You're fortunate in that respect in my opinion....

West: Yes.

Lisher:because if she, if the homeowner or property owner had not been in favor, then we'd be in a different situation. So....

West: Sure. Understood.

Lisher:that's all I have.

Schwickrath: Thank you. Mr. Cassidy?

Cassidy: No questions.

(?): Inaudible comment.

Schwickrath: Go ahead.

Clark: Since you've had experience with the other building and construction, is there anything that you might be able to help us with as far as to get people to check this out before it's done? Is there, do you have any ideas that would

West: No, I mean it really, had it not come up at such a late notice, I mean had I not needed to pour concrete that next day, I would've went in and went ahead and applied for the variance ahead of time once it come to my attention and like I say, it didn't come to my attention until late in the project. My wife had actually, I think she was there one day when the inspector was there and he told her. But no, I don't know as there's a good way. Like I say, I think Greenwood ran into this for years and then so they just changed it to be because the only issue usually with concrete and like that in a drive being that close is if it flows the water over onto your neighbor. And so in an effort over there to keep from having an issue all these variances, their wording in their ordinance is it's a 30" setback, like I say, but as long as there's no I think it reads any natural, if it doesn't disrupt the natural flow of water by detouring it onto someone else, then you can go right up to within four or five inches of the property line and not get a variance. So they just worded their ordinance a little differently.

Schwickrath: Let me ask a question first and then you.....no, that's fine. I mean I understand. I guess the thing that came to mind just now and I wasn't out there long enough this evening or this afternoon when I did pass by. The only real thing there too is the utilities and so I mean there's no utility line back there (?) between those two properties.

(?): Inaudible comment.

Schwickrath: Right.

(?): Inaudible comment.

West: There's nothing over the top at all.

Schwickrath: Right. It's not just another thing that....

West: Duke pushed the line in, the electric line they pushed it in, so it's all buried.

Schwickrath: Right.

West: There's nothing over top at all. There's no gas to that site. It's total electric, so it's just electric, sewer and water. And sewer and water ran under the road. We had to run those under the road to get 'em to our side of the road.

Schwickrath: Sure, okay. Thank you. I just wanted to...(inaudible)...

West: But yeah there's nothing overhead or anything like that.

Schwickrath: Did you wanna say something?

Inaudible reply.

Schwickrath: Just please state your name for the record. Yeah at the microphone.

Linda West: Linda West and I'm Charles' wife. The one thing you asked if there was any suggestions on how to keep people informed ahead of time. This may or may not be done, but when contractors come in to file for permits, is there a checklist that they're given?

Schwickrath: There is.

Clark: There is.

Schwickrath: It's pretty extensive and a lot of disclaimers according to Bryant and Adam (?) but it's yeah I won't say it's a frontier town, but.....

West: That could've been part of the issue because TK

Schwickrath:(inaudible)...or overlooked. Yeah.

West: TK had built in Shelby County before, but they've never built in the City of Shelbyville and I think ours was the first house and then they're doing one now for....

Schwickrath: Okay.

L. West: In Countryside.

C. West:in Countryside is the other one and it's about finished too. But I think that's the first two homes they've actually built in the city limits 'cause they build on your lot and most of your lots are that they build on in Shelby County are in the county. So I think this is the first permit they've pulled for the city actually.

Schwickrath: Different ordinances, yeah. Sure.

C. West: So maybe they just weren't familiar with it or didn't look at it close enough.

Schwickrath: Okay and that happens. Yeah, alright. Thank you.

Clark: Thank you.

Niehoff: Yeah there is language on the application and the permit that basically this structure, you know the site improvements all of that has to be built exactly as approved on the plans. If there are any changes to the plans, those must first be approved by the Planning Department, so stuff like that, but you know as Ms. Schwickrath mentioned, we've had stuff, there's all kinds of legal language that are on permits and documents. I understand how it could be looked over, but definitely good practice that they(inaudible)....

Schwickrath: We're learning too.

Niehoff: Yeah.

Schwickrath: Yeah we wanna smooth the process but things can be overlooked either deliberately or unintentionally, so thank you. Any more questions from the board at this time?

No reply.

Schwickrath: I'll close questions from the board and open this to public comment if anyone wishes to speak on this particular petition or ask a question.

No reply.

Schwickrath: Okay hearing none, seeing no movement, I close questions from the public and I think it seems to me we're ready to make a motion, so I will entertain a motion for this application.

Clark: I'd like to make a motion to approve the requested development standard variance from UDO 5.14D to decrease the minimum side yard setback for a driveway to 16" pursuant to the Findings of Fact presented in the planning staff's report.

Schwickrath: Okay there's a motion. Thank you.

Lisher: Second.

Schwickrath: Okay seconded. Please cast your ballot then for BZA 2018-20. I think I signed mine. Yeah, go ahead.

Niehoff: This is for BZA 2018-20. Mr. Cassidy - yes, Mr. Lewis - yes, Ms. Schwickrath - yes, Mr. Lisher - yes and Mr. Clark - yes.

Schwickrath: Okay so the motion is approved. Thank you for coming in.

West: Thank you for your time.

Schwickrath: It's a nice little house.

West: We appreciate it. Thank you.

L. West: Thank you. We like it.

Schwickrath: Yeah it's a nice neighborhood too. So best wishes. Thank you. Okay and we have one more item under New Business this evening, Mr. & Mrs. Richey.

Niehoff: Yes, we do. Yes, this is BZA 2018-21. The petitioner's name are Donald and Amy Richey. The address of the property is 102 S. West Street. The subject property zoning classification is R1, single family residential and the action requested this evening is approval of two development standard variances from UDO, the first one being UDO 5.55G, side yard setbacks and UDO 5.03C1 accessory structure setback from other structures.

Schwickrath: Okay thank you. So I don't know if both of you or okay.....please state your name for the record and I'd pull that microphone down.

Amy Richey: Hi, I'm Any Richey. We live at 102 S. West Street and we are looking to put a carport up and the I don't know if you're doing each variance separate or

Schwickrath: Each one, yes we'll go separately. So the first one.

Richey: I don't know if you want me to address one before the other.

Schwickrath: One at a time. Thank you. Yes.

Richey: Okay. So the I'll do the rear setback I guess is what I put first and we're just it I think the setback requires is it 4' that it requires? And ours is gonna be at right around 3' and it's gonna match an existing carport that's already there that doesn't cause any problems with us getting in or out and there just really isn't much other room for us to go in there.

Schwickrath: Okay so this is about the setback?

Richey: Uh huh.

Schwickrath: Thank you. Alright we'll take questions from the board.

Richey: Okay.

Schwickrath: Start with Mr. Clark.

Clark: I don't have any questions right now. Thank you.

Richey: Okay.

Schwickrath: Thank you. I can come back. Mr. Lisher, back to you.

Lisher: No questions.

Schwickrath: Okay. Mr. Cassidy?

Cassidy: I have no questions.

Schwickrath: Mr. Lewis?

Lewis: I have none.

Schwickrath: Alright. I do.

Richey: Okay.

Schwickrath: Just to make sure I understand it and I need to make this comment because I don't know how long you've lived at this house, but I've noticed a big change in the yard 'cause I live in the neighborhood and I walk through there all the time. It looks very nice; thank you.

Richey: Well thank you.

Schwickrath: Those are nice old homes.

Richey: Yes, we've been there six years now.

Schwickrath: The carport that's there in the rear yard has been there.

Richey: Yes it was there when we moved in so I don't know how long it's been there, but it's been there over six years.

Schwickrath: Okay so it seems to me and I just wanna make sure that I'm clear with the length of the property and oftentimes these things are arranged between two homeowners.

Richey: Right.

Schwickrath: Especially in older sections of town where so there's a fence right between your neighbor, what is his name?

Richey: The one attached to our fence, is that what you're saying?

Schwickrath: Yes.

Richey: It's Dustin and Crystal.

Schwickrath: His last name?

Richey: I am not sure of their last name. I know it was on the list.

Schwickrath: That's okay.

Richey: I know it was her father who'd lived there for awhile and I think she has moved in now, but....

Schwickrath: Okay so do both of you own, I meant clearly you're talking about your property.

Richey: Yes.

Schwickrath: So they have half and they have no carport, is that right?

Richey: They have no....our carport that is existing is actually right up against our house.

Schwickrath: Yes.

Richey: And the when we put the carport in, the new carport that we're proposing....

Schwickrath: Yes.

Richey:would not be on that property line because the shed, they have a shed and we have a shed and those are kind of on either property line.

Schwickrath: I may have missed that 'cause I meant to(inaudible)...

Richey: No, that's fine. But they are and that neighbor has seen, know what we're doing as far as clearing that and knows our purpose and they're fine with it.

Schwickrath: Okay. Yeah that's fine. Okay that's all that I had. Thank you.

Richey: Uh huh.

Schwickrath: Okay anything further that's come up?

No reply.

Schwickrath: Alright so I will close questions from the board and there's no one from the public, so unless you wish to say something.

Richey: No, I think he's good.

Schwickrath: Alright so public commentary. There's no one here to ask any questions and we can move forward then a motion. (?) secret negotiations. It's the ballot. We need a new ballot.

Richey: Okay. I gotcha.

Schwickrath: Thank you, Adam.

Lisher: Alright, thanks.

Schwickrath: Will this one be A and the second one B?

Inaudible reply.

Schwickrath: Okay. Alright, thank you. Alright, so we'll make a motion please or I'll entertain a motion at this time.

Lewis: I will make a motion to approve the requested development standard variance from UDO 5.55G to decrease the minimum side yard setback from accessory structure to 3' pursuant
.....

Schwickrath: I'm sorry.

Lewis: Am I on the right one?

Schwickrath: Yes.

Lewis: Pursuant to the Findings of Fact.

Schwickrath: Yes, thank you. I didn't mean to interrupt you. Okay there's a motion.

Cassidy: Second.

Schwickrath: Okay so please cast your ballot for BZA 2018-21A. Please add an A to that.

Niehoff: This is for BZA 2018-21A. Mr. Lewis - yes, Mr. Cassidy - yes, Mr. Lisher - yes, Mr. Clark - yes and Ms. Schwickrath - yes.

Schwickrath: Okay thank you. The second item then the development standard variance is?

Niehoff: This is for the setback from another structure.

Schwickrath: On another structure; thank you. I was just trying to find it. Okay go ahead please.

Richey: So the second variance that we're asking for is just the setback from another structure, from another accessory structure. We want the carport to be right beside the other one. It's wouldn't save us anything to have you know a five foot gap in there and we're just really trying to utilize the area that we have so that we can have all of our stuff off-street. So if you have any questions, I'll be glad to answer them.

Schwickrath: Okay, yes, thank you. Alright, questions from the board? Mr. Lisher?

Lisher: I guess my only comment it's my understanding you (?) or found out about this a couple of days before the deadline to submit the applications, is that right?

Richey: Uh huh, yes.

Lisher: And according to the staff, you should be commended on the work you did in the short period of time in order to assemble this information.

Richey: I worked really fast on that.

Schwickrath: No, we thank you.

Lisher: You did a good job, I think. That's all the question or comment I have.

Schwickrath: Thank. Okay, yes, agreed. Mr. Cassidy, anything?

Cassidy: No.

Schwickrath: Mr. Lewis?

Lewis: No questions.

Schwickrath: You clearly have done your work. Thank you. Mr. Clark?

Clark: No.

Schwickrath: No, I have no questions either. Thank you. Okay so I'll close questions from the board and again, there is no one in the public to ask questions, so we can move on to a motion.

Chris Clark: I'd like to make a motion to approve the requested development standard variance from UDO 5.3C1 to decrease the separation from other structures in accordance with the presented plans pursuant to the Findings of Fact presented in the planning staff's report.

Schwickrath: Okay there's a motion.

Cassidy: Second.

Lewis: Second.

Schwickrath: We'll give that to Mr. Cassidy. Please cast your ballot then for 2018-21B.

Niehoff: This is for BZA 2018-21B. Mr. Cassidy - yes, Mr. Lewis - yes, Mr. Lisher - yes, Mr. Clark - yes and Ms. Schwickrath - yes.

Schwickrath: Okay so the motion is approved. Good luck with your project.

Richey: Alright, thank you.

Schwickrath: Thank you. You had something, an item for discussion.

Niehoff: Yes so just wanted to mention because of, I know it was mentioned earlier that it would be nice to have some sort of audio visual equipment here to display plans and staff reports.

Lisher: Is that gonna be your gift before you go?

Niehoff: You know....

Schwickrath: Wow!

Niehoff: You know, not quite but I like where you're heading. You know Adam, who's stepping up to this new position would like to make a great first impression can definitely make it a step in the right direction.

Schwickrath: Will smooth the way for him?

Niehoff: Yes, absolutely. But no, just wanted to let you know we did talk with Rob Nolley about that. Just that it was mentioned and honestly and when you all mentioned it, I don't know if it was at the September meeting, well actually it would've been because that's when we had (?). So you know when it was mentioned there, we actually had a meeting with him that following week when we talked about some of the permitting software that's being worked on and he said that yes, that is actually part of the plans to get that. They had talked about and Adam, I've slept since then so correct me if I'm....(inaudible)....something similar to what's in Intelliplex,

right? So they have a large....(inaudible)....it's huge....(inaudible)....that you can hook a computer to. It's got all the outlets and everything. It's got it's own speaker, all of that. So that's really nice to have out at Intelliplex and big enough where everyone can see it in the conference room so (?) it here would definitely work as well. So that's what they talked about. I think he talked about(inaudible)... as well so that the Council or the Plan Commission, BZA or whatever the board may be, doesn't have any(inaudible)...move from their seats and (inaudible)....

Schwickrath: Right.

Niehoff: So that stuff is in the works....(inaudible)....we'll do that as well but I've been told that that's the.....(inaudible)....

(?): Okay.

Niehoff: That's one thing. The next thing, I did just wanna say I guess I'm sure all know, I did submit a letter of resignation when we sent out the packets. I have informed Tom. I spoke with Tom here....(inaudible)....I have accepted another position as the executive director of the Daviess County economic development....(inaudible)....southwestern Indiana so that's Washington is their biggest city there right along the new section of I-69. So my wife is originally from Dubois County which is just a county to the southeast there. So we've been talking about getting down closer to her family. So it's something(inaudible)....I have enjoyed every moment working with everyone here. I've learned so much and I really appreciate all the help and guidance that I have had these past couple of years. Really, I can't say that enough. So yeah it's unfortunate. I hate to leave. I'm looking forward to this next chapter though....(inaudible)....

Schwickrath: We've learned a lot too together from both of you, so it works both ways 'cause this is not an easy task. I mean tonight was a little you know kind of typical.

Niehoff: Yeah.

Schwickrath: But in some ways each time is really, each time we meet is different and so I think we've shown a lot of flexibility and growth and so I appreciate everyone, but you stepped right into a difficult position I would say. You've got a lot going on all at once.

Niehoff:(inaudible)....you know as mentioned....(inaudible)....that Mr. Rude has been appointed by Mayor DeBaun to succeed me so he will be the next planning director and I'm absolutely incredibly happy to see him move into that role....(inaudible)....and I wish you all the best. I think you're going to, under his leadership and your leadership and your help, I think you guys....(inaudible)....and this community is unlike any I've ever seen. It really is. There's so many things great things happening here....(inaudible)....that this community is on the cusp of

something great. I don't what it is yet, but it's on the cusp of something great and potentially ...(inaudible)...with all the staff in here. So sorry....

Schwickrath: No, no congratulations to both of you. Thank you.

Niehoff: Appreciate that.

Schwickrath: Just one quick question; do you have any updates about the Comprehensive Plan?

Niehoff: Yes we do.

Schwickrath: Okay and then we can end with that. Thank you.

Niehoff: Yeah so we actually had our second public meeting November 1st so here a couple of weeks ago. It was at The Strand. I'd say we had about 50 people in attendance. It was a nasty, rainy night so I'm actually pleased that we got those numbers to show up. (?) seeing a brief presentation on the plan and where it's at in development and then after that we had an interactive session for the public to provide some of their thoughts on the focus areas that ...(inaudible)...those being St. Rd. 9 and 74 in that area, exit 109 around the casino that area including (?) Tom Hession Drive....(inaudible)...And then the Miller Avenue commercial corridor. So those are really three of the main focus areas of this plan. So that was great and then (?) also had the opportunity to just sit down and chat with Adam and myself (?). Tom was there....(inaudible)... So it was very successful.

Schwickrath: Good.

Niehoff: So now what we're (?) in the process of integrating some of those comments. We've had (?) recent meeting as well with some....(inaudible)... the Indiana Economic Development Corporation....(inaudible)...was another meeting we had so we're trying to I guess get exposure for this plan to let those agencies know hey, this is what we're thinking and moving forward as a community and just talk with them and see where you know maybe some of our ...(inaudible)...So we got a lot of good information from that and we're incorporating that in the draft as well and we're still doing our internal review. It's a big (?) so it takes time on top of the day to day with what we can do in the office. So we're shuffling along with them and that's where it's at.

Schwickrath: Okay yeah thank you. I appreciate that.

Niehoff: Absolutely. Any questions on that process thus far?

Schwickrath: Anything further?

No reply.

Schwickrath: Motion to adjourn?

Lewis: So Moved.

Schwickrath: So moved by Mr. Lewis. Alright, thank you everyone.

Niehoff: Alright. Who seconded that?

Schwickrath: Which one?

Niehoff: The....

Schwickrath: Motion to adjourn?

Niehoff: Yeah.

Schwickrath: Mr. Lewis.

Niehoff: Okay.

Lisher: He made the motion.

Schwickrath: I did.

Niehoff: Oh you did?

Schwickrath: I made the motion.

Niehoff: Okay, perfect.

Lewis: Oh, second.

Meeting adjourned.