

CITY OF SHELBYVILLE

Bryant P. Niehoff
Director



Adam Rude
Deputy Director

PLAN COMMISSION

Board of Zoning Appeals

Meeting Agenda: June 13th, 2017

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. May 10th, 2017
- Old Business:
 1. None
- New Business
 1. BZA 2017-05 603 Colescott Street Gas Pumps DSV
A request for three development standards variances at 603 Colescott Street
- Discussion
- Adjournment

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MEETING DATE: June 13th, 2017

Case #:	BZA 2016-5			
Petitioner's Name:	K&B, LLC Saini Khatra			
Owner's Name:	K&B, LLC			
Petitioner's Representative:	Saini Khatra			
Address of Property:	603 Colescott Shelbyville, IN			
Subject Property Zoning Classification:	Single-Family High Density Residential			
Comprehensive Future Land use:	Business General			
	North	East	South	West
Surrounding Properties' Zoning Classifications:	R1 – Single Family Residential	BG – Business General	R1 – Single 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 is the former site of Anderson Auto Care. Throughout its history, the property has been a gas station, auto repair shop, and car sales lot. In early-to mid-2016 the property was bought by K & B Partners and converted into a neighborhood convenience store. In late 2016 and early 2017 a petition to rezone this property from BN (Business Neighborhood) to BG (Business General) was heard and approved by City Council.			
Vicinity Map:				
Action Requested:	Approval of three development standards variances, Two (2) from UDO 5.55 Setback Standards, and one (1) from UDO 5.52 Non-Residential Parking Standards (Stacking Lanes for Gas Stations)			

1. In the BG – Business General zoning district the front-yard setbacks from an arterial street, as defined by the City of Shelbyville Thoroughfares Plan, is fifty (50) feet. (UDO 5.55 and UDO 2.22)
2. For each gas pump on a site, the Unified Development Ordinance prescribes that two (2) stacking spaces should be provided. (UDO 5.52 (A)(4))
- 3.

Variance From UDO 5.55 Setback Standards (Front Yard Setback from Colescott Street)

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.

Applicant did not provide a response for Finding Of Fact #1 at time of submittal; 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 planning staff has determined that the requested development standards variances from the Setback Standards could potentially be injurious to the public health and safety by allowing the canopy structure to be erected too close to the entrances from Colescott Street. This could potentially place vehicles and pedestrians so close to the entrances off of Colescott Street that it could cause collisions between both vehicles and pedestrians on the site. If the site plan is modified and/or the circulation is addressed the concerns could be mitigated.

Finding #2 could be satisfied by the petitioner with additional information

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;

Applicant did not provide a response to Finding Of Fact #2 at time of submittal; 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 planning staff has determined that the requested variances from the Setback Standards from Colescott Street should not have a substantially adverse effect on the value or use of the area adjacent to the subject property. The planning staff does not see where the use and value of the surrounding properties will be affected in a substantial adverse manner by the installation of a gas canopy.

Finding #1 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;

Applicant did not provide a response to Finding Of Fact #3 at time of submittal; 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 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 limitations of the lot size and placement of pre-existing structures on the property, it would not be practical for the petitioner to meet the setbacks prescribed in the ordinance.

Finding #3 has been satisfied by the petitioner

STAFF RECOMMENDATION: APPROVAL WITH THE FOLLOWING CONDITIONS:

- 1. STAFF REVIEW AND APPROVAL OF A MODIFIED SITE PLAN THAT ADJUSTS THE CANOPY LOCATION AND/OR CURB CUT LOCATIONS TO ALLEVIATE THE CIRCULATION CONCERNS ADDRESSED IN THE STAFF REPORT.**

Variance From UDO 5.55 Setback Standards (Front Yard Setback from Miller Street)

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;

Applicant did not provide a response for 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 planning staff has determined that the requested development standards variances from the Setback Standards could potentially be injurious to the public health and safety by allowing the canopy structure to be erected too close to the entrances from Miller Street. This could potentially place vehicles and pedestrians so close to the entrances off of Miller Street that it could cause collisions between both vehicles and pedestrians on the site. If the site plan is modified and/or the circulation is addressed the concerns could be mitigated.

Finding #1 could be 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;

Applicant did not provide a response to 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 planning staff has determined that the requested variances from the Setback Standards from Miller Street should not have a substantially adverse effect on the value or use of the area adjacent to the subject property. The planning staff does not see where the use and value of the surrounding properties will be affected in a substantial adverse manner by the installation of a gas canopy.

Finding #2 could be satisfied by the petitioner with additional information

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;

Applicant did not provide a response 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 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 limitations of the lot size and placement of pre-existing structures on the property, it would not be practical for the petitioner to meet the setbacks prescribed in the ordinance.

Finding #3 has been satisfied by the petitioner

STAFF RECOMMENDATION: APPROVAL WITH THE FOLLOWING CONDITIONS:

- 1. STAFF REVIEW AND APPROVAL OF A MODIFIED SITE PLAN THAT ADJUSTS THE CANOPY LOCATION AND/OR CURB CUT LOCATIONS TO ALLEVIATE THE CIRCULATION CONCERNS ADDRESSED IN THE STAFF REPORT.**

Variance From UDO 5.52 Non-Residential Parking Standards (Stacking Spaces at a Gas Pump)

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 Finding Of Fact #1 "The installation of gasoline pumps will have limited impact on the traffic since it is a very low traffic area. The setbacks requested not restrict visibility from the street and will provide a service that the immediate area currently does not have. Granting of Variance will not impact the site of the area."

The planning staff has determined that the requested development standards variances from the Non-Residential Parking Standards should not be injurious to the public health, safety, morals, and general welfare. Due to the size of the lot, requiring the number of stacking spaces prescribed in the Unified Development Ordinance could cause circulation concerns and become a risk to public safety.

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 Finding Of Fact #2 "The site has historically been a gas station with auto service. We are simply adding the pumps and canopy which bring the use to

historic levels. Adjacent properties should not be impacted as the use will be a use that has historically been there."

The planning staff has determined that the requested variances from the Non-Residential Parking Standards shouldn't have a substantially adverse effect on the value or use of the area adjacent to the subject property. The approval of this requested development standards variance should only have an effect on elevating a possible circulation problem on the site.

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 Finding Of Fact #3 *"The current business model is such that without gasoline the owners will operate a marginally profitable business. With the additional income from motor fuel and the improved traffic the owners should reach profit levels which allow them to further improve the location and add additional items for sale which the neighborhood desires. The location will not sell a lot of gasoline and therefore the stacking requirement most likely is not needed. We will have 4 fueling positions and room for 2 or 3 cars to wait for an open pump. We do not anticipate this being a problem."*

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 economic in nature. Due to the subject lot's small size and the pre-existing structure on the lot that limits site design, the requirement of two stacking spaces per pumping station is a practical difficulty that is unique to this property.

Finding #3 has been satisfied by the petitioner

STAFF RECOMMENDATION: APPROVAL

**BOARD OF ZONING APPEALS
MEETING MINUTES
June 13, 2017**

Kris Schwickrath: Okay, thank you. Good evening, everyone. The June 12....

Bryant Niehoff: 13th.

Schwickrath:13th, oh it is the 13th. I apologize. The June 13th meeting, 2017 meeting of the Board of Zoning Appeals is now called to order and we'll begin with a roll call please.

Niehoff: Mrs. Case – present, Ms. Schwickrath - here, Mr. James – here. And just a note, Mr. Lisher, Mr. Clark and Mr. Cassidy are absent.

Schwickrath: Yes, thank you and that was found out today kind of late.....

Niehoff: Yes.

Schwickrath:only because of their condition and we wish them well.

Niehoff: Absolutely.

Schwickrath: Next on our agenda is the approval of minutes from May 10, 2017. I'll entertain a motion to approve them as printed.

Terry James: I move that those be approved as presented.

Beth Case: I second.

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

In Unison: Aye.

Schwickrath: Approved. Okay I don't think anyone objected. Yes, alright moving on then tonight we have no items under Old Business and we do have one item under New Business. So go ahead, Bryant. You may....

Niehoff: This is case number BZA 2016-5. The petitioner's name is K & P, LLC Sunny Katra. Am I saying that correctly?

(?): Yeah.

Niehoff: Thank you. The owner's name is K & P, LLC. The petitioner's representative is Sunny Katra. The address of the property is 603 Colescott Shelbyville, IN. The subject property zoning classification is single family high density residential. The comprehensive future land use is business general. Excuse me, the subject property zoning classification is business general. My apologies there. And some brief history on the property; the property is the former site of Anderson Auto Care. Throughout this history, the property's been a gas station, auto repair shop and car sales lots. In late 2016 and early 2017, a petition to rezone this property was heard and that was approved from BN, business neighborhood to BG, business general. And that was approved by City Council. The action requested this evening is approval of 3 development standards variances, 2 from UDO 5.55 setback standards and 1 from UDO 5.52 non-residential parking standards.

Schwickrath: Okay, thank you. Mr. Katra, you are welcome to come to the podium and please state your name for the record.

(?): Hi. My name is (?).

Schwickrath: Oh we're not saying your name right, are we? Siney, okay I'm sorry.

Saini:(inaudible).....is my partner, my brother.

Schwickrath: Oh I'm sorry.

Saini: Yeah that's fine, ma'am.

Schwickrath: Okay that's what we have in front of us.

Saini: It's okay, ma'am.

Schwickrath: Forgive us. Thank you.

Saini: No problem.

Schwickrath: Could I ask you to spell your last name so we have that for our record? Thank you.

Saini: Yeah. My uh s-a-i-ni.

Schwickrath: Thank you.

Saini: You're welcome. Thank you.

Scwhickrath: We have quite a few questions to ask you and I would like you thought to just to give us your perspective on the project and what you envision.

Saini: My vision is to sell the neighborhood, ma'am. When I started this, I just open up a small convenience store because I didn't see anything nearby in that surroundings when I buy the property to open up. And by help of the neighbors they want me to go ahead and if I can bring up the gas over there it become more convenient to the all the neighborhood because there's nothing in that side of the town and they need to go all across to the town for the gas and all stuff. So I said okay. And I start my process with the help of Mr. Bryant, the planning division. I ask step by step everything how it goes so I can follow all the rules and regulation without doing anything knowing by the city thing. And now I'm up to that level where I can (?) and make a this convenience store as a gas station. So I just wanna put up a two pumps, not more than that which sells them within that normal gas. No more things where people can get more convenient thing like everything they're getting in my store except the gas.

Schwickrath: Yes.

Saini: So now they want me to put the gas so it's easy for them. That's what my vision is.

Schwickrath: And it really does make sense because there are no food or convenience stores on that side of town although we are getting a Dollar General.

Saini: To be very honest, ma'am, when I started this project, I have no idea to put a gas in it. I just moved from New York last year.

Schwickrath: Yes.

Saini: And I was just looking for something for my family and myself.

Schwickrath: Sure.

Saini: And I feel like small convenience store is (?) and for me to sell my family. But then, everybody wants more and I got a very good response from the neighbors and they like my store. They like everything and they push me hard to put a gas over there. And then they told me that previously like in '80s it was a gas station. I was not even aware of it that it was a gas station over there.

Schwickrath: Yes.

Saini: That's why I(inaudible).....for okay if it was a gas station, then hopefully I can put some pumps over there.

Schwickrath: I have a few questions for you before we begin asking or each one of us. Let me start that again. Each one of us will ask you questions and I will begin with a few things that I just wanted to know more about. So what are your hours of operation?

Saini: Right now my hours of operations are from 5:30 a.m. to 10:00 p.m.

Schwickrath: Do you see that possibly changing to 24 hours a day?

Saini: No, not 24 hours, ma'am.

Schwickrath: Okay. Is more of your, the traffic coming through there foot traffic?

Saini: Yes, foot traffic and road traffic both.

Schwickrath: How many parking spaces? I counted 2 handicap. Am I right?

Saini: No, 1 handicap, ma'am.

Schwickrath: 1 handicap, okay. Are there 7 or 8?

Saini: Yes, ma'am, there are 7.

Schwickrath: And where does....I don't know how many employees you have in there at a time.

Saini: Right now, ma'am I have two employees.

Schwickrath: So do they do you have a vehicle? Are they parked there too? Where do employees park?

Saini: Yeah ma'am. They park in the back side of the building. They have a big parking lot there in the side and it's amp(?) space for customers over there.

Schwickrath: Are you talking about the gravel portion? Is that where they park?

Saini: No. No, no, no, not gravel. The other side.

Schwickrath: Oh the real back of the building?

Saini: Yeah. It's towards the Miller Street.

Schwickrath: Oh, okay okay. Alright, thank you. Okay the restroom, I know this is an old building. The door to the restroom that's outside, is that functional or do you....

Saini: Yes, ma'am. It's behind the building. I have two restroom when I buy this property so the backside door. I uses the back side as a restroom and it's functional. It's working.

Schwickrath: Okay I was just.....I didn't know if that was kind of a leftover from the past or

Saini: No, ma'am. It's working. It's functional.

Schwickrath: Okay. Do you have a key? Do people have to get a key for that?

Saini: Yes, ma'am. People use (?) key from me and now these days to be honest, I give a little bit to a customer. I see the customer who are good. I feel like I can handle with the keys.

Schwickrath: Sure.

Saini: Otherwise, I say no public restroom. But I have a restroom. I can see the person what kind of a person it is, good, then old age that I can give it to them. Because you know how the town is, I have a lot of mess happen in my restroom when I open up the store.

Schwickrath: Sure. I....

Saini: People usually borrow the key and they do a lot of stuff inside, so I stop you know.....

Schwickrath: Yes, controlling that a little bit.

Saini:controlling that thing.

Schwickrath: The reason why I'm asking these seemingly irrelevant questions is I just wanna understand the use of the building.....

Saini: Yes.

Schwickrath:a little bit more and how many people are coming through there because it was, it hasn't been used for maybe a year after the auto repair went out. So....

Saini: Ma'am, my daily footstep for the customer is around 350-400.

Schwickrath: That many people?

Saini: 300-400 people daily.

Schwickrath: Well I think I should've bought that. No, I'm kidding.

Saini: That is something that makes me survive in this business, ma'am.

Schwickrath: Okay. The I'm not gonna bring up the dumpster I don't think. Well that's for another time. I was going to ask about the dumpster, but I think that we don't need to bring that up today. Okay so let's turn more directly now to what I saw happening today and the discussion that really needs to happen with the site itself.

Saini: Uh huh.

Schwickrath: So I live on West Hendricks Street and I drove over and I took Colescott. I was in the left hand lane and I did this all deliberately to see how all of that would flow. What I saw bothered me the most and this is what happened. So I don't know....I don't think we can simply control all of this with signage, but we really need to think this thing through. So I don't wanna rush this. So I'm in the left hand land or I'm watching someone in the left.....actually, I take that back. I watch someone in the left hand lane on Colescott make a left hand turn and then immediately go right into your property. Someone was exiting the property at the same time at that spot. It's simply too close. So we need to think carefully about where those curb cuts are going to be. I actually proceeded on Colescott farther west and then turned in one....you have two entrances there.

Saini: Right.

Schwickrath: So I turned in that way. And I felt, for the most part, we might even have to consider putting in a lane, a center lane where people can although or to turn into it. I don't even know if that's possible.

Niehoff: Are you talking on Colescott?

Schwickrath: But that's a state road.

Niehoff: Yeah that's a state highway, yeah.

Schwickrath: Right so we're limited with our tools here. Yeah, okay. I just wanted to bring that up before we look at each of these points. Anything else that just as a general thing before we hit each one of these variances, his requests?

James: I don't have.

Schwickrath: Anything?

No reply.

Schwickrath: No? Okay, alright. So then let's turn to the first one.

Niehoff: So yes the first requested variance is 2017-5(A) and that is for the setback off of Colescott Street.

Schwickrath: Right.

Niehoff: Do you want me to read all three of those?

Schwickrath: No, I don't think you need to. There's a lot of words on the page here. I just, I think if we canlet's see here.....make the point that this first Finding of Fact could be satisfied, but it is not at this time and so can you speak to that? Why we cannot....

Saini: Ma'am, to be very honest, this all whole thing is new to me.

Schwickrath: Yes.

Saini: I'm learning lot of things.

Schwickrath: Sure.

Saini: And my architect, he's on his way, Mr. Warren James. He just stuck in traffic and he's told me that he will be here within another ten to fifteen minutes because he has his own presentation for the radius and how we are going to do it and he's gonna explain it everything.

Schwickrath: Where is he coming from?

Saini: He's coming from Lafayette so he's on 74 right now and he says he'll be here within another five to ten minutes. When I just coming upstairs, he just called me up. He says his GPS shows him that he'll be here by 7:00 or 7:15, so he might be here at any moment. Because he knows everything. To be honest, I don't want to say anything which I don't know.

Schwickrath: I've never had this happen before in the years that I've been sitting on the Board of Zoning Appeals.

Saini: I know. I'm I really embarrassed with this thing because like I was waiting for him outside and he said, hey man, I'm on my way. I'm so sorry. I say I don't know what to do.

Schwickrath: No, these things happen; I understand that. But he seems to be the person that we need.

Saini: Yeah he's the one who knows it. He's the one who's the right person to answer all the questions and because of radius thing, I don't know much about it and I don't wanna give anything which is not relevant and I don't know. If you'll give me five minutes, I can just give him a call.

Schwickrath: Well that's what I'm thinking. I think we should set a time limit on it and I you know, I'm willing to wait about ten minutes, I think.

Saini: I appreciate it, Ma'am. I can just give, give me five minutes. I can go and check with him.

Schwickrath: We can pause for ten minutes.

Niehoff: That's fair.

Schwickrath: Tony, are you okay with this? I know you're going to speak during the public session, but....

Inaudible reply.

Schwickrath: Okay. Is that alright?

Inaudible reply.

Schwickrath: Okay.

Saini: Thank you, Ma'am.

Schwickrath: That's fine.

Saini: I appreciate it.

Niehoff: If you all wish, you can vote to take a recess if you want.

Schwickrath: Yes.

Niehoff: That's entirely up to you.

Schwickrath: Take a recess?

James: Obviously.

Schwickrath: Okay. I don't think we have a choice. We'll help you out.

Saini: Thank you.

Schwickrath: Did you know the architect was coming?

Niehoff: I would suggest, if I may, just taking a formal vote on the recess.

Schwickrath: Oh, on the recess? I've done that before.

Niehoff: Yeah I'm sorry.

James: I move that we take a short recess here, ten minutes.

Case: I second.

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

In Unison: Aye.

Schwickrath: Oh, he just arrived.

Saini: Yeah.

James: Ten minutes are up.

Schwickrath: Okay, the ten minutes are now up.

Niehoff: Inaudible comment.

Schwickrath: Lisa's going to wonder what's happening to us. It's the summer heat. Good evening. We were just at a point in our discussion where we could go no further until you arrived, so if you would please step forward to the podium. Do you need water though first or a restroom?

(?): No I'm fine.

Schwickrath: If you would state your name for the record.

Warren Johnson: Sure. Warren Johnson. First of all, I apologize. I had on my calendar 7:30 and I apologize.

Schwickrath: Sure, that's fine. That happens. So we were discussing or beginning the discussion of the first request, the variance setback standards from Colescott Street.

Johnson: Yes.

Schwickrath: And if you can tell us more because we have not much to work with here.

Johnson: Okay. The problem with the site is the fact that it was a very small location to begin with. The station, the main building is there. It's been there for years and that really can't be moved or economically worked with. Then it's a matter of what do we do with the site to get it to the position of being profitable and the addition of gasoline for the community out there. There's just nothing out there. And there's been a lot of requests from customers of Saini to add gasoline. So we worked about how do we get that done in the most feasible manner possible and so we limited the pumps to two and we positioned them where we thought would be the best possible location on the site. It's hard to work with and if we moved the thing back from the setback from Colescott, we'd be to the south of the existing building which isn't gonna work. So from that standpoint, we don't have an option. If we can't get a variance for the setback, we can't do the project, period. And I understand the position of the city and your job as planning commission to do what's best long-term for the city and the development of the area, but this is kind of where we are. We have limited the width of the canopy as much as we can to still provide some cover for people in case of bad weather and it'll be in such a position it won't obstruct visibility. It'll be up in the air high enough that people driving will be able to see the intersection. So it shouldn't create an safety issues from that standpoint. So the setback is what it is. We have to get the variance or we simply can't do it.

Schwickrath: We understand. I mean we want something to be there based on what we've been given. The difficulty that I have is something I explained before you walked in and I don't mean to be redundant. I think that the really important point here is the fact that that is one of the busiest intersections in this city. Every school bus in our town, in Shelbyville goes through there.

Johnson: Okay.

Schwickrath: And so I mean every one of them. They'll turn.....just I don't know if you're aware of that.

Johnson: No, I'm not aware of that.

Schwickrath: Yes.

Johnson: I absolutely apologize.

Schwickrath: No, no, no, that's fine. It's just that it what I would recommend at this time, and I know you've driven all the way from Lafayette, is that I think we really I need more time for this. I think that.....this thing scares me. What I saw today when one person, there was one vehicle turning in, making a left hand turn from Colescott and then making that quick jog to get in there turning on the right and someone was exiting the property at the same time. The potential for a collision is high and I that's to me, that's unacceptable. So the we need the curb cuts need to be thought out and how the flow of traffic is going to work.

Johnson: Maybe one of the solutions might be to make the, and I hope my directions are right, the far west one, the one furthest from the intersection.

Schwickrath: Yes.

Johnson: Make that a right hand turn only and to get traffic in that way from Colescott. The staff offered a suggestion of removing the other curb cut on Colescott.

Schwickrath: Right.

Johnson: The difficulty with that is if we do that, then we have no way to get a gasoline transport in there to make the delivery of gasoline. And that would also create the traffic hazard, I think, on the side street for people exiting the location. They'd have to go across 2 lanes of traffic.

Schwickrath: Yeah.

Johnson: Make a left hand turn real short and then get into the traffic flow and that's gonna be a problem. I guess what I can offer is this is we don't view this as a high volume location. I've been in the gasoline business my entire life and we have locations and I've seen locations that do 20,000 gallons a month and I've seen locations do 300,000 gallons a month. This location would be in the probably the 25-30,000 gallon range which if you look at it from a daily basis, it's a 1000 gallons a day. You take 10 gallons per car and average fill up is 100 cars a day, which isn't that much. I don't think this is gonna be high-volume location because it's gonna be a neighborhood store. And as far as the school buses, I totally understand the concern for that. I can tell you, I got almost hit today by a person pulling out of a Walmart parking lot, you know.

Schwickrath: Sure.

Johnson: And it happens and you know there are some idiot drivers out there, excuse my French, but I think we can make it work. And I also wanna say that you, as a consumer, when you're out driving around from a (?) standpoint, if you get to a place you wanna go to and you can't see your way in or out easily, you aren't gonna go. So if the location's busy, if people are busy, you're not gonna go in there. If the pumps have got, if the pumps are full, you're not gonna sit in the street and wait for it to open up. So I think for the concern of the staff was traffic backing up onto the street and causing a big line. That would only happen if we were selling gas for 99¢ a gallon and that's not gonna happen. So I think from that standpoint, I understand your concerns, but I really don't think it'll be a major problem. I really don't.

Schwickrath: That's possible. It's just hard for me. I actually do disagree with....the stacking part I'm not as bothered by. What I'm bothered by are the entrances, the curb cuts and in my opinion right now, I cannot vote for what is in front of me and say yes to this.

Johnson: The other thing I'd like to make a comment was when we install these gasoline pumps, it'll force the customers or the customer that trade there, instead of parking in front of the building on Colescott, they will park on the side because the front of the building will be blocked. So we will basically be forcing people back around the side of the building. They'll park there, come in and do their business, come out, get in their car and they'll probably exit either on the curb cut nearest Colescott or on the side street. And I think a lot of the concerns you have now with people parking in front of the building because there's no room. There's just no room there to people that drive in, park and then other cars to get in and it's it is a problem. But I think with the addition of the island, you eliminate that issue and you'll force people to park on the side of the building which I think will alleviate a lot of the problems on Colescott.

Schwickrath: What do you think?

Niehoff: I think that that could be suitable. I'd like to take a look at it further. I don't know if that was initially brought up in our conversation. It may have, but....

Johnson: No, I think it was, Brian.

Niehoff: Okay so we can take a look at that, certainly.

Schwickrath: So this is where, what my thinking is and I will not speak for the other members of the board. I don't wanna rush this because I think it's too complicated a site to say tonight. I don't have enough information on a few of these items.

Johnson: Okay.

Schwickrath: And so I actually would I'm gonna suggest that we table this, but I do want the other board members to ask you questions. So this is more of a general discussion. I know we're kind of....but this one's complicated and I just it's too much. There's too much traffic there and I'm no longer in a position where I'm willing to make assumptions. I know that we have to think things through, but I you know it may end up being 200 cars a day and I we can't predict the time of day people will be coming in and out of there, so I'm not I can't I'll have to think about it differently. I live here.

Johnson: Right.

Schwickrath: And so and if I allow something like that to happen knowing that if we had stepped back and just thought a few things through and made that, you know we could clean this up. I'm not saying we don't wanna do it. I just don't wanna do it this way.

Johnson: Maybe one of the things we could do is designate the area in front of the convenience store currently as a no parking zone. Don't allow parking there. Just put signs up, please park on the side of the building, to keep that part open and we'll force people.

Schwickrath: Sure. That's another consideration, but I don't wanna be here for 3 hours trying to figure all....

Johnson: I understand.

Schwickrath: You understand what I'm saying.

Johnson: I do.

Schwickrath: All of those points that we really need to think through. I just think we need more time, being honest with you.

Johnson: Okay.

Schwickrath: I don't know. Mr. James, if you.....

James: My only comments, that area up there is rather confusing. The state highway has a lot of truck traffic as well as automobiles. Miller Street, as she suggested, had bus traffic plus automobiles, so it's a complicated area there as far as how we get the traffic flow going. I am a lifelong resident of Shelbyville. I remember that as an original gas station, but as I told everyone at our pre-meeting, that was in the days when there was a gas station on every corner and traffic wasn't nearly as severe as it is today. So that's a real problem for me and if we do this, I want it done correctly. I strongly support an independent business man coming into our community. Believe me, I appreciate the fact that he's taken an empty lot and converted it into something that's profitable for him and the city and our task is to make that dream for him come true, but it has to be within the safety element of what we think is best for our citizens. So I think to rush into it might be a mistake in the long run. I don't want to 2 or 3 years from now look back on this and say oh thank myself for creating a mess for my fellow community members. So I believe we do need to sit down and reassess the entire situation. Turn it over to our planning staff and our engineer and to you, Mr. Johnson to analyze this and see if you can come up with a what would be a workable solution so that we can all think we've done the right thing, the best thing for our community. So that's where I would stand at this point and I would probably agree that it would be best to take a look at this and assess it in more depth.

Case: And I too compliment the fact that you're a small business owner and that you're taking the suggestions from your community that they want gas there. I applaud that. I too was raised here, born and raised here, so we kind of have a reputation in this town of having high gas prices. People drive to Franklin sometimes to get gas. So if he makes his gas honestly 2 or 3

cents cheaper than the Speedways, you're gonna have a lot of traffic, I think. I mean people will, they look for low gas prices. I know you're not gonna sell it for 99¢ a gallon, but....

Johnson: No.

Case:there's a potential there to be very busy. So I too kind of agree to table it until we have a little more....

Johnson: The gasoline business is a very, very, very competitive business.

Case: It really is.

Johnson: People don't put up....lawyers don't post a sign in the front of their door said I charge \$122.50 an hour.

Case: True.

Johnson: And we all talk about gasoline prices. It's funny, people come in and they complain about the gasoline price while they pay \$1.75 for a bottle of water.

Case: I know. So what's that per gallon? I know.

Schwickrath: Your analogy is apt, but

Johnson: And the other analysis is this is that because it's so competitive, there's very, very low margins. I mean today on the street, our break-even point, before any I mean just the raw cost of gasoline is over like \$2.05 a gallon. So you look at that and you go I mean it's crazy. I make more money on a bottle of water than I do 10 gallons of gasoline. So we are not gonna be a discounter. We're not gonna do that.....

Case: Okay.

Johnson:because we don't have the lot size or the facility to do that. If we had a huge lot, then the cost of construction's so high, you just can't afford to do it. So....

Schwickrath: And we recognize this. It's a competitive business and you're also taking a risk by and as Mrs. Case said about you know just simply listening to the neighbors. I don't know how many expressed an interest, but it sounds like quite a few to convince you to go ahead and make a site plan.

Johnson: It's a sizable investment. We're probably looking at a quarter million dollars to do this....

Schwickrath: Right.

Johnson:with all the new EPA regulations and....

Schwickrath: Right, okay.

Johnson:and then all those things you have to do today to protect the environment which you know I we do that we take care of that. We just we don't cut corners. And so we wanna be a good citizen. We wanna get along in the community. We wanna help the community. I mean Saini lives here. He's got a lot of money invested here and he wants to you know, wants to go good.

Schwickrath: Yes.

Johnson: We wanna be, he wants to be a very good neighbor and a good citizen.

Schwickrath: Are you in agreement that this whole site plan needs a little bit more time?

Johnson: No, but....

Schwickrath: No?

Laughter.

Schwickrath: To be direct, okay. Well we think otherwise.

Johnson: I understand.

Schwickrath: As the board members have stated.

Johnson: I'm trying to be facetious. I think I understand your concerns. I think what we need to do is probably go back to staff and sit down with staff and go through and try to address the concerns on traffic flow, address the parking issue, ingress and egress issues and try to come back and present you with a plan that gives you cold comfort in what we propose to do will work and that will be a good addition to the community and support the local community and pay taxes. So if that's agreeable, I would say, we're agreeable.

Schwickrath: So go ahead.

Niehoff: If I may add just a quick question. I know Mr. Johnson, you mentioned the I guess the delivery issue with what was what we had talked about this past week.

Johnson: Right.

Niehoff: The location of the gas tank, the (?) storage tank, could that be relocated on the site?

Johnson: You know it's it'll be very, very difficult basically because of ingress and egress. We talked about you know delivery during the day would be very difficult due to traffic and we would propose that we do the deliveries at night which makes sense. We do that with these type of locations where they're tough to get in and out and traffic problems and so our transport will be in there you know in the middle of the night when you're all asleep, they'll be out delivering gasoline, so it shouldn't be a problem. Because one of the issues is getting into the site, you almost have to back out of the site and so that requires to be done when it's at the very low traffic part of the day and we will commit to do that.

Niehoff: And I don't mean to get into site design and whatnot.

Schwickrath: No.

Niehoff: We can talk about that at a later date.

Schwickrath: It's a highly relevant point.

Niehoff: But it's just something, I know you had mentioned I think the circulation, if I may add....

Schwickrath: Go ahead.

Niehoff: The circulation is certainly an issue with the location of the canopy and I know that's driven by your deliveries and whatnot, a lot of that is.

Johnson: Right. And there's no, there's really no other place to put it on the lot. I mean we could put it on the I'm gonna say on the side street side of the building, but that will require the addition of a new curb cut. Well that, that then doesn't eliminate the problem that you spoke about with people parking in front of the building and the congestion of traffic in front of the store. I really think the best solution is to force our customers to park on the side of the building and exit whenever possible on the side street or on the curb cut closest to the intersection because most people that'll be going there will be coming Colescott I guess to the east, I believe. I'm

Schwickrath: No, it's fine.

Johnson:confusing directions, okay.

Schwickrath: If a person is driving, did you say west? Yeah you're heading that would be heading west. If one is on, well it depends upon where you are on Colescott. I was heading west on Colescott.

Johnson: Okay.

Schwickrath: So there were actually three ways that I could enter.

Johnson: So that so the location was on your left, correct?

Schwickrath: Correct.

Johnson: Okay, yes.

Schwickrath: Okay.

Johnson: And maybe the solution is I mean realistically the solution would be to pull in the first curb cut or the side curb cut and park in the side of the building or go in if the gas pumps are available and pump gasoline and then exit out and make a left hand turn. Now in reality, unless you're on empty, you probably will not do that. You will probably come in from the west heading east which would be our primary traffic flow.

Schwickrath: Right, okay. Okay. I think what I would like to do at this time, unless either one of you wishes to say anything further, is close questions from the board. We have not taken a motion yet. And then we have two letters that we would like to read and Tony Sipes is here. He would also, so I'm going to open this up to the public.

Johnson: Okay.

Schwickrath: Okay? So you can have a seat and this will take a few minutes.

Johnson: Okay.

Schwickrath: Is that right?

James: That's fine.

Schwickrath: Okay alright so at this time, I'm going to close questions from the board and invite any member of the public who wishes to speak about this petition to step forward.

Tony Nicholson: My name is Tony Nicholson.

Schwickrath: Oh Nicholson. Why did I say Sipes? I apologize. I actually do know your name. I apologize. I've been traveling for a week, so sorry about that, Tony.

Nicholson: That's alright. Your conversation here's pretty much what I've been thinking about too. That lot of course is it's a smallest lot that in this town for a gas station. It's less than half of any of the other gas stations here in town.

Schwickrath: Yes.

Nicholson: So I mean it's like less than a quarter acre, so it's very tight. We're selling the property right south of it and of course one of the comments I heard that would not like to see is unloading after closing hours you know, the banging, the carrying on at midnight or whatever time that delivery truck would run with the house, our house and then of course one just west of it. You know people would be sleeping at that time. And they're noisy, I mean they're gonna bang the pipes around and stuff so I don't think that's a good idea to have that kind of delivery that late. Some of my other concerns are the does this go to Tech Review also?

Niehoff: If I may add, they did go to Tech Review prior to this and their remaining approval will, well if they are granted the development standards variances, they would have to obtain site development plan approval from the Plan Commission. So this has already been to Tech Review.

Nicholson: Okay. And then they also need a CDR from the state.

Niehoff: That's correct.

Nicholson: 'Cause they didn't get one the first time and they should have, my opinion.

Niehoff: Okay. Sure. For their renovations?

Nicholson: Yeah. For change of occupancy from a auto repair to a grocery store/retail. It's a change of occupancy which required and also they're not ADA, they don't have the ADA handicap requirements met neither. That's something that you may wanna look at. And like I said, you pretty much discussed what I'm saying as far as this. I mean you get 2 delivery trucks on there, ain't nobody goin' nowhere. They're gonna be stuck on that parking lot 'cause of the way those entrances are. I mean that the coke truck comes in the size of a semi, so for deliveries, just.....another one of my concerns is and you and I talked about this as far as the trash, maybe having a dumpster enclosure 'cause you can see.

Schwickrath: Right.

Nicholson: I mean this thing's runnin' over. And what happens, then mine gets used. For my tenants gets used. They just they fill it up too. So and I'm not saying he fills it up, but people

coming from there use it. I also have the issue of people leaving that lot and just walking into my tenant's yard which they've done. Just use it like a walkway.

Schwickrath: I'm gonna speak briefly on that. So as part of the, because I had brought that up in our pre-meeting as well that there needs to be more of a buffer and a screening for the dumpster. That will be addressed, but if this when this or if this project goes forward. So I think that at this time, it's really not a relevant point, but thank you for bringing it up 'cause it is relevant.

Nicholson: It is, yeah. I mean when they first moved in, I was remodeling that house at that time and even then I was gettin' coke cups, even half full of coke, the big ones and didn't drink it all sitting on my property or sitting on the sidewalk.

Schwickrath: Sure.

Nicholson: They use the boxes in our trash you know, so....

Schwickrath: We need to look at that too. No, absolutely.

Nicholson: Yeah.

Schwickrath: It's a good point.

Nicholson: Yeah they need a buffer there, so yeah those are my main concerns. Like I said, being such a tight lot, they got issues so as you know.

Schwickrath: Yes. Thank you very much and I apologize for my....

Nicholson: That's okay.

Schwickrath: I got in late last night. And I do know your name. Okay, thank you. At this time then you might as well read the two letters that you have received. We're going to read two letters now.

Niehoff: The first letter is from Kent Property Group dated June 9, 2017 addressed to the City of Shelbyville Planning Commission. This letter in regards to the petition by K & B, LLC for the property at 603 Colescott Street to heard June 13, 2017. I will be out of town for the hearing, but wanted to let the commission know my thoughts regarding the issue. I own a few properties in the area, especially the two next door at 615 and 621 Colescott Street. Please do not allow gas pumps to be installed at the petitioner's property for a number of reasons. I have listed a few of them below. One, the lot is not large enough for today's standards for a gas station. Two, ingress and egress with the additional traffic will make the corner traffic even more congested. Three, safety and security of the neighbors and their possessions. Four,

bright lights and noise in a residential neighborhood. Five, additional activity closely located to residential property, especially delinquents and voyeurs. Six, increased and possible overuse of the alley located between petitioner's property and my property. Seven, gasoline smell in a confined residential area. I am assuming the owner/manager of the property feels that the installation of gas pumps will increase their activity in the store. From a business standpoint, I understand. However, that is exactly my point against the installation of the gas pumps. There are a number of locations on that side of town that would better serve as gas stations than the little corner on Colescott and Miller. Thank you for hearing my concern. Respectfully, Jeffery Kent.

Schwickrath: Thank you.

Niehoff: The second correspondence is from David M. Finkel and he asked me, this was in an email format yesterday. Please read on the record. Honorable members of the Board of Zoning Appeals. Tonight I have a school board meeting and am unable to attend your hearing. I would like to comment on the proposed changes to the property catty corner from our building at the corner of Colescott and Miller Street. I am not opposed to the changes. This corner was once a commercial (?) and is slowly coming back as such. I am concerned about the traffic patterns, especially the ability to park cars going to the convenience store and stacking in front of the pumps. I have full confidence in the ability of the Plan Commission staff to make sure those two items are addressed with a positive outcome. I am opposed to any change that will further contribute to the already poor situation(inaudible)....The side of my building is completely lit at night with the LED window lights currently installed. Additional canopy lighting will make the situation even worse. This is still a residential neighborhood. The property due north across Colescott Street is flooded in light throughout the night. This cannot increase and I believe it should not be(inaudible)....Thank you for the opportunity to comment. Sincerely David M. Finkel.

Schwickrath: Okay. Thank you. He brings up another point about light pollution, but I would imagine the canopy would be turned off at 10:00 at night when the store closes.

Niehoff: I would assume so.

Schwickrath: I would assume, right. Okay. But another point to consider. Alright. Anyone else? Mr. Nicholson?

Nicholson: (?) see if you say my name right.

Schwickrath: See? I did.

Nicholson: I just failed to mention that that is a state highway and that, you know they'll wanna review this curb cuts also and I actually have a contact, Joanne Jones up at Greenfield would be the person that you probably want to get involved on that curb cuts.

Schwickrath: Thank you. That helps.

Niehoff: I can touch base with INDOT regarding that. So, thank you. If I may add....

Schwickrath: Yes, this is the time to do it.

Niehoff:a buffer yard and a buffer yard type 3 is required as a part of the Plan Commission approval. You alluded to that earlier. Just to alleviate any concerns, that was noted in our Tech Review comments. It's still something we're looking for on a revised site plan before that goes to the Plan Commission approval. So that's a buffer yard type three will be required on the south side of the property and to the (?) side of the property which has the potential to be designed as such in our ordinance to alleviate some of those land use conflicts which meet our residential and(inaudible)....zoning change there. So that requires one canopy tree every 45'.....(inaudible)....with the adjacent lots. Ornamental, 2 ornamental or evergreen trees planted every(inaudible)....and the 6' tall opaque fence(inaudible)....25% of the required (?). So sorry that was a lot of information, but that's what we're looking for on both of those.

James: May I ask a question with that while you're discussing that. Oh it was the letter brought up the issue of the Kent properties to the west side. What about a buffer area in that location?

Niehoff: A buffer would be required....

James: So all around that property to separate everything then?

Niehoff: That's correct, yes. Due to the property being rezoned to BG, business general and that adjoining an R1 property to the south and to the west.....(inaudible)....that will require those buffer yards there.

James: And another question, Mr. Nicholson brought out the situation of deliveries made late at night. Is there a restriction that we could enact on that? The business, the hours of business are 'til what, 10:00 p.m. The deliveries would be made prior to that, am I assuming or delivery of fuel, delivery of coke products, whatever?

Niehoff: That could be included as a condition.

Schwickrath: Right.

Niehoff: So yes, that's something we can look at too certainly.

James: I'm just, what I've heard is several concerns with the residential areas and across the street. If we can somehow restrict that so that that is not a problem after 10:00. It comes becomes a quiet neighborhood again. I certainly understand if you live close to that area, you

...I thought there were some valid points made there that obviously we're not dealing with with what we're looking at tonight.

Schwickrath: Right.

James: But since it's been brought up, I just wondered if we could throw that into the equation here.

Schwickrath: Into their discussions.

James: Yes.

Schwickrath: Yeah subsequent discussions.

Niehoff: Absolutely. Yes, we can certainly talk about that with the petitioner.

James: Okay.

Schwickrath: Anything further?

Niehoff: Nothing at this time.

Schwickrath: Okay so I'm going to close commentary from the public and I think we need to then move to probably an oral motion, right for tabling this petition?

James: Well we will table this to our June 11th meeting, is that correct? I'm sorry, July 11 meeting.

Schwickrath: July 11th, okay.

Niehoff: Yes, July 11th.

Schwickrath: Thank you 'cause I didn't know the date.

James: Okay. Are you ready for a motion then?

Schwickrath: Yes, I am.

James: At this time, I'd like to request that we table the contents of this evening's meeting until our next meeting, which will be July 11, 2017.

Schwickrath: There's a motion.

Case: I second the motion.

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

In Unison: Aye.

Schwickrath: Opposed, same sign.

No reply.

Schwickrath: Okay so this has been tabled until next month and that will give you time to address some of these concerns and work with the planning commission staff. And I think we'll have more board members than present, so we'll have a full complement and we can really do this properly. Okay. Thank you.

Johnson: Thank you.

Case: Thank you.

James: Thank you.

Schwickrath: And again, I wanna reiterate what has already been said. We do appreciate and recognize the effort that it takes to really to clean up a major corner and so you're to be thanked for that and applauded, so thank you.

James: Definitely.

Saini: I appreciate it, Ma'am. I have (?). That's why I was just (?) the whole scenario with the help of Mr. Brian and

Schwickrath: Adam.

Saini:Mr. Adam. I don't want to do anything which is against the system or....

Schwickrath: Sure.

Saini:(inaudible)....of my own and then later on trouble comes in. That's why....(inaudible).... Doesn't matter, but I just want to help everyone.....(inaudible)....then I will look somewhere else or something else. But right now, I'm just helping the neighborhood. They want me to do it. It's not my idea to(inaudible)...

Schwickrath: Yes. Okay well thank you. That's well said, but we will work on this.

Saini: Thank you. I appreciate it.

Case: Thank you.

Schwickrath: Thank you.

Saini: Thanks.

Schwickrath: Anything else?

Niehoff: Nothing else.

Schwickrath: Okay, so a you can do it, motion to adjourn.

Case: I move that we adjourn the meeting tonight.

James: Second.

Schwickrath: We are out of here.

Meeting adjourned.