

**MINUTES OF THE  
BOARD OF ZONING APPEALS  
PUBLIC MEETING  
October 25, 2021**

**I. CALL TO ORDER**

The Board of Zoning Appeals Public Meeting was called to order by Chairman Tom Kouros at 6:05 P.M. at the Schererville Town Hall, 10 E. Joliet St.

A. Pledge of Allegiance

The Pledge of Allegiance was recited.

B. Roll Call

Roll Call was taken with the following members present: Chairman Tom Kouros, Vice-Chairman William Jarvis, and Mr. Michael Davis. Absent were Secretary Rick Calinski and Mr. Eric Kundich. Staff present: Town Manager Robert Volkmann, Director of Operations James Gorman, Planning Coordinator/Office Manager Denise Sulek, Recording Secretary Norma Hollingsworth Rico, Attorney Alfredo Estrada, and Councilman Caleb Johnson.

C. Approve Minutes of the Board of Zoning Appeals Meeting of September 27, 2021

Mr. Michael Davis made a motion to approve the Board of Zoning Appeals minutes of September 27, 2021 which was seconded by Mr. William Jarvis and carried 3-0.

**I. PUBLIC ACTION AND PUBLIC HEARINGS**

A. B.Z.A. Case #21-10-21 1675 U.S. 41 – (Proposed: Drive-thru)

General Location: 1675 U.S. 41 – Resubd. of Lots 4 & 5 of the Crossroads, Lot B,  
Ex. W'LY. Pt

Petitioner(s): Schererville Retail Management, L.L.C. Jordan Chapman/Heather  
Henika

Request: Variance of Use as required by Ordinance No. 1797, Title XVI, Section 5,  
Paragraph C (3)

Purpose: To allow a drive-thru lane within the U.S. 41 Commercial Corridor Overlay  
District

Chairman Kouros confirmed with Attorney Estrada that the Proofs of Publication were in order. Mr. Jordan Chapman with Schererville Retail Management located at 30200 Telegraph Rd., Suite 205, Bingham Farms, MI. represented the Petitioners. Mr. Chapman said that he was representing Mr. Reid Cooksey from Stonefield Engineering located at 607 Shelby St. Suite 200, Detroit, Mi.

Mr. Chapman stated that they were looking to renovate the existing site located at 1675 U.S. 41. Mr. Chapman explained that they would be demolishing the old building and constructing a new 6099 S.F. multi-tenant building with a 2289 S.F. drive-thru restaurant. Mr. Chapman pointed out that while the Overlay District does not allow drive-thrus, this use is in the nature of adjacent use of the Dunkin Donuts, as well as the Popeye's, Arby's, and a White Castle all within this region. Mr. Chapman said that they believe they are going bring a premium product to the area, and that they are looking forward to working with the town and taking steps to making this development possible.

Chairman Kouros asked if they were prepared to announce the tenants. Mr. Chapman replied that it would be a large box coffee user. Chairman Kouros asked if the location was currently the Baker's Square Restaurant. Mr. Chapman said it was; and that they will demolish the old building and put up one building with multiple tenants, and one drive-thru user, and commercial retail for the rest of the building. Chairman Kouros asked how many tenants. Mr. Chapman replied two tenants right now. Chairman Kouros then asked if the proposed use was for a strictly drive-thru or if it was a restaurant. Mr. Chapman replied that they will have indoor use as well; and that it is a restaurant with a

drive-thru for a national coffee tenant. Chairman Kouros asked about the second tenant. Mr. Chapman replied that there has been no discussion on the second tenant, but that it would be retail. Chairman Kouros confirmed with Mr. Chapman that the drive-thru was strictly for the restaurant.

Mr. Davis asked if the drive-thru was planned for the service road, or if it would be coming in off of Route 41. Mr. Chapman replied that their site does not have access off of 41, and that they are not proposing any new access on 41. Mr. Chapman added that their site will be exclusively accessed by the access drive; and that they are proposing cross-access with the Five Guys next door which will assist in the site circulation for all vehicular traffic in this area; and reiterated that no new access off of Route 41 is being proposed.

Chairman Kouros asked if they would be announcing who the tenant is. Mr. Chapman replied that they are not; and added that they are in the final stages of finalizing that deal; and that the tenant does not want them to announce it. Chairman Kouros said that if it is a major coffee user without saying who it is, a concern certainly would be at peak times of the morning; and that Dunkin Donuts alone already has a situation going on. Mr. Chapman replied that they have significantly more staffing than Dunkin Donuts. Mr. Chapman also stated that they know that the Dunkin Donuts access abuts the access drive, where theirs will feed from the front of their site; and that they will have fourteen stacking spaces on their site where Dunkin only carries about seven or eight, as well as an additional area on their site that will not allow stacking onto the service drive.

Chairman Kouros said without saying who the tenant is, and that if they already have one of these in Schererville as does Dyer and many other municipalities, there are some times where those cars stack way more than fourteen back; and asked if they were prepared to accommodate that without going onto the service road between there and Walmart. Mr. Chapman replied that is correct, yes; and added that they have fourteen in the designated drive-thru lane plus the additional drive-aisle on their site, and that they are eleven spaces over parked on their site per the Zoning Ordinance which would allow additional stacking that would potentially block some of these spaces; but that they have the additional parking to accommodate the additional potential stacking within the drive aisles.

Chairman Kouros asked if the position of the drive-thru was on the south side of the building. Mr. Chapman replied that is correct. Chairman Kouros said that one would go around to the south side of the building to place their order and then leave from the south side. Mr. Chapman said no, and said that you start from the south side and work your way around three sides of the building, then you pick up your order on the north side. Chairman Kouros asked if the second tenant will be kind of blocked there as far as parking goes at certain times because of the drive-thru. Mr. Chapman replied that there is parking in front of the building and across the drive aisle that wouldn't be affected by the drive-thru. Mr. Chapman said if you look at the plan coming in off of the access drive, there are eight spaces, and then you make a hook-turn into the drive-thru area where there would be an additional nineteen spaces across the drive that abuts U.S. 41, and then there are spaces that directly the building.

Chairman Kouros said that he wonders if they are discussing a major coffee shop in Schererville, how unfair it is to the other tenants when the coffee shop's people are going so far around and that no one is able to access the other tenant. Mr. Chapman said that is always a discussion point when you are bringing in some of these large tenants like this; but again, they have a certain requirement they wouldn't come into a municipality or look at a site if that site didn't facilitate their needs. Mr. Chapman added that they don't want to be a nuisance to a community, they want to be an economic and vibrant part of the community; and that they only look at sites that they firmly believe don't negatively impact a community. Mr. Chapman reiterated that they have fourteen cars that are in the designated drive aisle, and that they can most likely accommodate an additional seven or eight before we even approach the access drive and a site like this can allow more than twenty cars through at a time without stacking more than that

Mr. Davis said that Mr. Chapman stated that one would come in off the south side of the building, place their order, come around and exit on the north side. Mr. Chapman said that is correct. Mr. Davis said that initially there will be no second tenant in that north building. Mr. Chapman stated that the north tenant will be the drive-thru user, and that the south tenant will be a retail user. Mr. Chapman said what he was trying to articulate is that there are eight spaces that directly front the entrance to the drive-thru; and that if you look at how the site circulation is coming off of the access drive, that is where the

additional stacking would take place, it would be blocking those eight spaces which don't have great access to either the retail or the restaurant tenant; whereas there are six spaces directly up front and nineteen across the drive aisle which would be much more desirable for actual patrons to park and to enter both buildings. Mr. Chapman added that while they have those eight spaces there, they see those eight spaces as primarily employee parking and parking for people that aren't going to be in and out trying to drive through some additional stacked cars, just because they are so far away from both users.

Mr. Davis asked if it would be a combination of coming inside and drive-thru. Mr. Chapman replied that is correct; and added that it will be a quick operation, and that they do not anticipate people staying for very long. Mr. Chapman said that because the tenant's operation is efficient enough they anticipate that fourteen cars should not be stacked for very long; and they say that they "turn and burn".

Mr. Davis said to the Chairman's point that at times they may get backed up in the mornings and at some point the tenant in the other building may be blocked, and asked what type of mechanisms have they put in place to make sure that the traffic flow is fluid in a certain direction, and that somebody is not coming in on one side as opposed to the other business and people are coming in as individuals go through the drive-thru and come around the building, and there could be possible accidents. Mr. Chapman replied that this is where it is key that they are providing cross-access with the Five Guys parcel so they share access between both parcels which allows for the stresses of leaving the drive-thru, and you don't have to immediately go back south to fight the people parking, and they can exit through the Five Guys lot. Mr. Chapman said if you look at peak times for both their potential tenant for the drive-thru and any retail tenant, their peak times are not similar. Mr. Chapman said that they are talking peak times of early morning hours for that drive-thru and the retail will not be open; and Five Guys is not open in early morning either. Mr. Chapman said that they see this as an opportunity where they are providing cross-access with adjacent tenants in the north where they are not going to be at peak or even open at the times where this tenant will have their peak traffic; and that the rest of the day they don't anticipate having that high level of volume where it will impact the retail tenant or the Five Guys; and that is where the impetus was to provide that cross-access so they didn't have this one point of entry and exit onto our site.

Mr. Davis asked if the coffee business will be open all day. Mr. Chapman replied that they will be open all day, but if you look at peak hours, we are talking before work and things like that when the commercial business isn't open and the Five Guys itself doesn't open until lunchtime. Mr. Chapman said if you look at any coffee user, whether it is Dunkin to the south, they are not seeing any type of volumes that we are discussing now in the morning. Mr. Davis said that there is a little coffee shop on Route 30 west of the Lincoln Ridge strip mall that he thought wouldn't last; but that he sees people there even in the evenings. Mr. Chapman said they can anticipate having customers, but that they don't anticipate that type of volume in the evenings for fourteen stacking spaces; and that it is more of a morning commute traffic that they are talking about. Mr. Chapman added that fourteen spaces is a significant amount of stacking spaces, and that any shop in this corridor doesn't have anything close to fourteen stacking spaces. Mr. Davis asked if they have talked to Five Guys. Mr. Chapman said that they couldn't have had the cross-access without the communication with them; and that Five Guys sees this as an opportunity because of how their site circulation works and an opportunity for easier exits coming through their site in off-peak hours and visa/versa.

Chairman Kouros said that there are two back entrances for this property. Mr. Chapman replied yes. Chairman Kouros said that Mr. Chapman is saying that on the south side you come in and then the first part with the arrow on it starts the drive-thru. Mr. Chapman replied that there are fourteen cars depicted on their plan. Chairman Kouros said that he can come through the north or come through the south, but that his initial point is on the south side of where the arrow is. Mr. Chapman replied correct; and that they anticipate just based on the entry into the shopping center, that the majority of the cars will be coming in through that full movement south entrance; and that the northern entrance onto their site is just a one-way in. Mr. Chapman said if you look at how accessing their site from both U.S. 30 and U.S. 41, most people will likely come in closer to the Walmart and drive through the access drive that way. Mr. Chapman added that in talking with their traffic engineers, they anticipate the majority of the traffic coming in from the south; but you cannot enter the drive-thru except for that one car depicted with the one arrow. Chairman Kouros said that cars are coming through and cars are coming from the north entrance and cars coming from the south entrance would be a situation right there, and then whoever is first. Mr. Chapman said that no traffic pattern is perfect, but we are talking about fourteen stacking spaces which is significantly higher than anyone else we

see; and that entrance into our drive-thru is far enough away from anybody else's site and far enough away from the access drive that we don't anticipate it affecting anybody else; and the peak times we are talking about for a potential bottle-neck or any issues entering that one point our retail user will not even be open.

Chairman Kouros asked if there were a second one of these coffee users in Schererville right now; and if so, would the first one close. Chairman Kouros asked Attorney Estrada if that were an acceptable question. Attorney Estrada advised that it was acceptable; but Mr. Chapman may or may not answer. Mr. Chapman said he wasn't sure how to answer, and that he wasn't sure what anyone else's property will do or not do. Chairman Kouros then asked if his tenant is an individually owned franchised locations; and if they are, is there a relationship with a second one that is in Schererville already. Mr. Cooksey replied that they are not individual franchises and that it would be a corporate store. Chairman Kouros asked if the corporation would be responsible for their location and a second one if it were in Schererville. Mr. Cooksey replied that he cannot speak to another one being in Schererville, but that their own tenant is a corporate store.

Mr. Davis said he is aware that Mr. Chapman said that with their service road they can handle it and the plan they have can handle the traffic flow, but there is a lot of traffic already in that particular corridor early in the morning because there is a competitor to the south. Mr. Davis asked if there had been a discussion amongst them about traffic being a major concern and the safety aspect. Mr. Davis said the other day he was travelling through there and that someone was coming out of one of the businesses and didn't even look and almost ran right into his car. Mr. Davis said that the safety aspects are concerning to him. Mr. Chapman said that they have had that discussion with Dunkin in particular but that they have looked at the perspective of traffic and use standpoint with their in-house traffic engineers. Mr. Chapman said that Dunkin's entrance is all the way to the south and not adjacent to their entrance; and that Dunkin also has direct access to Highway 41; and that they do not anticipate any conflict between people entering the Dunkin site from Highway 41 or coming through from Route 30 having to come through the site, they would stay closer to the Arby's and Popeye's on that part of the access drive to come in, whereas they anticipate most of their traffic coming in from the north or traversing the site a different way. Mr. Chapman added that how the Dunkin site is oriented with direct access onto the major drive, they do not anticipate having any conflicts with their traffic at peak hours. Chairman Kouros said he knows that we are only talking about peak hours of about an hour or two hours per day, but if people are coming in from behind the gas station, they are turning in at the gas station going to Dunkin which is already a bottle-neck right now, he has to concur with Mr. Davis that now you are adding another bottle-neck not less than 10'. Mr. Chapman said it is 200'. Chairman Kouros said 200' and then possibly another bottle-neck. Chairman Kouros said that Mr. Chapman will say that some of those cars will be coming to their site and that it will all balance out; but that there is a definite bottle-neck in that area in the morning, and that people are not there for coffee at all. Chairman Kouros added that it is all sorts of congestion there. Mr. Chapman said that he understands that, and that they drove to the site before they came to the meeting, and that there are multiple ways to get through the Walmart parking lot and such to get towards their site; and that they feel that most of their users can identify an area of possible concern with the gas station and Dunkin and get around the traffic as opposed to the Dunkin which is kind of close to that hard corner and they need to use that part of the access drive that is behind the Arby's and Popeye's.

Chairman Kouros opened the matter to the floor. There being no questions or comments from the floor, the matter was returned to the Board. Mr. Jarvis asked if there would be "enter only" signage where they enter their site on the north side by Walmart. Mr. Chapman replied yes and that it is a one-way in, and that once they get into the two-way drive towards the end of the drive-thru, there is a "stop" or "do not enter" sign. Mr. Jarvis asked if their design was to get a clear arrow to show that. Mr. Chapman replied yes and added that there will be clear signage for all of their entrances and accesses. Mr. Jarvis asked Staff if their parking regulations were still being met. Mr. Volkmann replied yes.

Mr. Jarvis asked if the restaurant with the major chain coffee had an entrance facing 41 as well. Mr. Chapman replied that is correct. Mr. Jarvis asked Attorney Estrada if the Board had the authority to place a condition that they can review who the second user will be upon any approvals of this, because this area is so busy and he doesn't know what the future brings. Attorney Estrada said that the question is whether you can place the condition to bring them back to review the second user. Mr. Jarvis said correct. Attorney Estrada replied that this Board has the ability to attach reasonable conditions; and that he

believes what Mr. Jarvis is headed for are concerns raised earlier being made heavier based on the effect of the second user. Mr. Jarvis said that if you get too many users in there, and that he can assume who the coffee user is, there will be too much congestion. Attorney Estrada said he thinks that is a reasonable condition. Mr. Jarvis said other than that, he feels the layout is great because their stacking is far superior to what is going on far north at Main and 41; and that this works a lot better than that down there. Mr. Jarvis said he doesn't know if corporate is planning to keep them both, but that they will probably get this one open and see how it affects the other, but that they will just have to wait and see on that. Mr. Jarvis said over all, he thinks that the plan works.

There being no other questions, Chairman Kouros asked for a Course of Action. Mr. Davis made a motion for a favorable recommendation to the Town Council of B.Z.A. Case #21-10-21 pursuant to all State, Federal, and Local Regulations with the stipulation that once the new tenant on the south side of the building is determined, this be brought back to this Board for review. Mr. Jarvis said that he would second the motion with discussion. Mr. Jarvis said that he doesn't feel that this will be injurious to the public health, safety or welfare of the Town of Schererville; and that he can see that there is a definite hardship being a coffee shop and needing a drive-thru, and that all restaurants in today's world with COVID need that; and that the area adjacent will not be affected on property values or movement.

Chairman Kouros asked Mr. Cooksey if there were a time frame. Mr. Cooksey replied that their goal is to start construction early next year and that it typically takes about ninety days to deliver to their tenant; and then they have ten to twelve weeks to build out.

Chairman Kouros said that they have a motion by Mr. Davis seconded by Mr. Jarvis and asked for a vote. Attorney Estrada said that there is a condition that upon knowledge of the second tenant that information be brought before the B.Z.A. and asked if the Petitioners agreed to that condition. Mr. Chapman said that they take his opinion very seriously; but that their only question is if that were more in the purview of the Planning Commission as opposed to the B.Z.A. Attorney Estrada replied no as they are in front of the B.Z.A. and that they are allowed to put conditions on their approval. Mr. Chapman said that they accept. The vote carried 3-0 for a favorable recommendation.

## **II. COMMISSION BUSINESS**

### **A. Findings of Fact:**

1. B.Z.A. Case #21-8-15 730 Kathleen Dr. – Leigh E. & Betty Bauman  
Petitioner(s): Tron Solar, L.L.C. – Lester Gray  
Developmental Variance required by Ordinance No. 1797, Title XVII, Section 22, Paragraph C (1) – To allow several roof-mounted solar panels to be installed facing front yard (East) and (South) side yard (Required to be facing rear yard only)  
DENIED (5-0)  
Mr. Jarvis made a motion to approve which was seconded by Mr. Davis and carried 3-0.

## **III. ADJOURNED**

There being no further business, the meeting adjourned at 6:37 P.M.