

**Shelby County Board of Zoning Appeals**  
**Meeting Minutes**  
**August 13, 2019**

**Members Present:**

Doug Warnecke  
Kevin Carson  
Dave Klene  
Rachael Ackley

**Members Absent:**

Jim Douglas

**Staff Present:**

Desiree Calderella – Planning Director  
Mark McNeely – Board Attorney

**Call to Order and Roll Call:**

Kevin Carson called the meeting to order at 7:00 pm in Room 208 A at the Court House Annex, Shelbyville.

**Approval of Minutes**

Doug Warnecke made a motion to approve the minutes from July 9, 2019. Rachael Ackley seconded the motion. The minutes were approved 4-0.

**Old Business**

**BZA 19-21 – GARY & JANE LARKEY: USE VARIANCE – To allow for an Event Venue in the A1 (Conservation Agricultural) District. The property is located at 8609 W 1200 N, New Palestine.**

Desiree Calderella read the petition into the record and indicated that Staff recommends approval with two stipulations indicated in the staff report.

Jane Larkey explained that the venue had worked well for her daughter's wedding. She indicated that the venue would utilize temporary trailer bathrooms cleaned regularly. She stated that she had contacted the State Building Division and State Department of Health and would comply with all regulations and codes. She explained that wineries, apple orchards, and a golf course already exist in the area.

The Board opened the hearing for public comment. There was none. The Board closed the public comment portion of the hearing.

Q: Doug Warnecke – Do you have any issue with Staff's recommended stipulations.

A: Ms. Larkey – No.

Q: Rachael Ackley – Do you anticipate any problems with event parking on wet ground after rain.

A: Ms. Larkey – No issues when she hosted her daughter’s wedding at the venue.

Doug Warnecke made a motion to vote on variance with stipulations. Rachael Ackley seconded the motion. The petition was **APPROVED 4-0** with a stipulations:

- 1. A State Design Release shall be obtained and any improvements to the barn required by the State shall be completed prior to use of the building for a public event venue.**
- 2. Written approval from the State Health Department shall be obtained and any improvements to the property required by the State shall be completed prior to use of the property for public events.**

The Board adopted the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
3. The need for the variance arises from some condition peculiar to the property involved
4. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which variance is sought.
5. The approval does not interfere substantially with the Comprehensive Plan.

**New Business:**

**BZA 19-24 – DEWELL KIRBY JR.: DEVELOPMENT STANDARDS VARIANCE – To allow for a gravel driveway (paved driveways required for all new dwellings in the R1 (Single-Family Residential) District).**

The petitioner was not present. Doug Warnecke made a motion to table the petition until the next meeting. Dave Klene seconded the motion. The motion was approved 4-0.

**BZA 19-25 – ALAN L. FISHER: DEVELOPMENT STANDARDS VARIANCE – To allow for two horses in a pasturage area of one-half acre (maximum of one horse per two pasturage acres permitted in the A2 District).**

Desiree Calderella read the petition into the record and indicated that Staff recommends approval with one stipulation indicated in the staff report.

Courtney Fisher, daughter of Alan Fisher, indicated that she and her father have had horses on the property for 17 years, that they use a round-built feeder and feed the horses regularly, that they have complied with Health Department requirements, and that the pasture area includes an electrical fence and locked gate.

Alan Fisher indicated that the horses produce little odor but maybe slightly more this year due to the rain. He stated that the horses have never escaped the fenced area.

The Board opened the hearing for public comment.

Cindy Clonch, who resides at 7096 W 700 N, indicated that she found no issue with the horses when she first moved to her property, however the Fishers no longer clean the pasture area. She expressed concern for the health of the horses. She indicated that IDEM would not approve of the pasture area. She asked for a copy of the Fisher's liability insurance. She stated that the Fishers have been in violation of the County ordinance for at least 17 years.

Kenneth Clonch, who resides at 7096 W 700 N, explained that manure odor has a negative impact on his property because his property is located downwind of the horses and because his house sits less than 200-feet from the pasture area. He indicated that the Fishers' property surrounds his property and therefore odor has a higher impact on his property than other properties in the surrounding area. He indicated that the Fishers had not complied with Health Department requirements.

Kenneth Clonch presented exhibits to the Board (see case file).

Michael and Jonita Miller, who reside at 7234 W 700 N, indicated that their property adjoins the Fisher property and that they have not observed any problems with the horses since moving to the area in 2002.

Theresa Wasson, who resides at 7187 W 700 N, indicated that other properties in the area include horses, that the neighborhood experiences typical odors found in the country, and that she has observed no problems with the horses.

Q: Dave Klene – How do you clean the manure?

A: Mr. Fisher – Manure is moved to the field on an as-needed basis.

A: Ms. Fisher – Have rented a skid-steer to completely clean floor of shelter.

Q: Doug Warnecke – Why not expand the fenced area?

A: Mr. Fisher & Ms. Fisher – The property is currently farmed by their mother/grandmother.

Doug Warnecke made a motion to vote on the variance with stipulations. Dave Klene seconded the motion. The petition was **APPROVED 4-0** with stipulations:

1. All accumulated manure shall be stored at the northwest corner of the fenced pasture area or spread on crop fields.
2. The property shall not include more than two horses, unless the property comes into compliance with all standards related to pastured farm animals indicated in the Unified Development Ordinance.

The Board adopted the following findings of fact:

1. The approval will not be injurious to the public health, safety, and general welfare of the community.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
3. The strict application of the terms of the Shelby County Unified Development Ordinance will result in a practical difficulty in the use of the property.

**Discussion:**

**Hearing Officer**

Desiree Calderella summarized a proposal for establishing a hearing officer to hear non-controversial variance cases. The Board was agreeable to the proposal. Desiree Calderella said would place the proposal on the next Plan Commission agenda.

**Adjournment:**

With no further business to come before the Board, Doug Warnecke moved to adjourn, and Rachael Ackley seconded the motion. The meeting was adjourned.

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President

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Date

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Secretary

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