

**Shelby County Board of Zoning Appeals
Meeting Minutes
November 1, 2022**

Members Present:

Terry Knudson
Dave Klene
Jordan Caldwell
Jim Douglas
Kevin Carson

Members Absent:

None.

Staff Present:

Desiree Calderella – Planning Director
Jason Clark – Board Attorney

Call to Order and Roll Call:

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

Approval of Minutes:

Dave Klene made a motion to approve the minutes from October 11, 2022. Jordan Caldwell seconded the motion. The minutes were approved 5-0.

Old Business:

BZA 22-31 – PANJAB GROUP, INC.: USE & DEVELOPMENT STANDARDS VARIANCES – To allow for outdoor storage of trucks and trailers in the I1 (Low Intensity Industrial) District, use of an existing barn encroaching over the 30-foot front setback line [UDO Sec. 2.34], use of an existing gravel driveway and installation of a new partially graveled driveway [UDO Sec. 5.20 C], less than 45-foot separation between driveways [UDO Sec. 5.20 A 2 b], and use of existing gravel parking area for employee parking [UDO Sec. 5.60 A]. Located at 6925 S Carroll Rd, Indianapolis, Moral Township.

This petition was CONTINUED by request of the petitioner.

BZA 22-27 – BRUCE METZGER: DEVELOPMENT STANDARDS VARIANCES – To allow a dwelling unit within a 640 sq. ft. accessory structure [UDO Sec. 5.04 D] and the total square footage of all accessory structures on the lot to exceed 50% the square footage of the footprint of the residence [UDO Sec. 5.07 F 1]. Located at

11174 N 460 W, New Palestine, Moral Township.

Jordan Caldwell made a motion to approve the Negative Findings of Fact and Kevin Carson seconded the motion. The Findings were **APPROVED 5-0**.

The Board adopted the following Findings of Fact:

1. The approval will be injurious to the public health, safety, and general welfare of the community because County building code protects the public health, safety, and general welfare. The proposed dwelling unit would not comply with County building code because it would not sit on a permanent foundation.
2. The use and value of the area adjacent to the property included in the variance will be affected in a substantially adverse manner because use of a temporary structure not intended to sit on permanent foundation as a dwelling unit would conflict with the character of the neighborhood, thereby reducing the use and value of adjacent properties.
3. The strict application of the terms of the Shelby County Unified Development Ordinance will not result in a practical difficulty in the use of the property because the UDO allows for construction of an addition to the existing dwelling for the petitioner's mother without approval of a variance.

New Business:

BZA 22-42 – ERIC ROBERTSON: USE & DEVELOPMENT STANDARDS VARIANCES – To allow for placement of a manufactured home in the R1 (Single-Family Residential) District [UDO Sec. 2.13] less than 1,600 sq. ft. [UDO Sec. 2.14] and for an accessory structure exceeding 50% the square footage of the footprint of the residence [UDO Sec. 5.07 F 1]. Located at 11292 S 200 W, Flat Rock, Washington Township.

Desiree Calderella read the petition into the record and stated that Staff recommends approval.

Eric Robertson indicated that he planned to place a pre-owned manufactured home on the property. He explained that nobody would build a fancy home near the stone quarry and that placement of the manufactured home would provide a use for the lot. He indicated that his son may live in the home.

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

Jordan Caldwell made a motion to vote on the petition and Kevin Carson seconded the motion. The petition was **APPROVED 5-0**.

The Board adopted the following Findings of Fact:

Use Variance

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.

Development Standards Variance

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.

BZA 22-40 – JAMES KUWAMOTO: DEVELOPMENT STANDARDS VARIANCES – To allow for a 1,200 sq. ft. pole barn exceeding 50% the square footage of the footprint of the residence [UDO Sec. 5.07 F 1], in the front yard [UDO Sec. 5.04 C], and not matching the color of the house and not having a concrete floor [UDO Sec 5.07 D]. Located at 305 W Washington St, Waldron, Liberty Township.

Desiree Calderella read the petition into the record and stated that Staff recommends approval with a stipulation.

James Kuwamoto indicated that he planned to store personal tools and an antique car in the structure. He explained that he had chosen red exterior walls and blue trim because he desired a patriotic theme.

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

Jim Douglas indicated that a red barn would ‘stand out like a sore thumb’ in downtown Waldron.

Kevin Carson indicated that the petitioner has requested variances for size and to build a pole structure, therefore the structure should have neutral-colored exterior walls.

Q: Dave Klene – Could you live with a light blue building? Light blue would be consistent with a patriotic theme.

A: James Kuwamoto – Yes.

Kevin Carson made a motion to vote on the petition with a stipulation and Jordan Caldwell seconded the motion. The petition was **APPROVED 5-0** with a **stipulation:**

- 1. The exterior walls of the pole barn shall be light blue or grey in color.**

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.

BZA 22-41 – STEPHANIE & STUART SHULER: USE VARIANCE – To allow for recreational use as the primary use of property in the A1 (Conservation Agricultural) District [UDO Sec. 2.03]. Located west of and adjoining 296 E 1100 N, Fountaintown, Van Buren Township.

Desiree Calderella read the petition into the record and stated that Staff recommends approval with a stipulation.

Stuart Shuler explained that they had purchased the property in July and that their realtor had told them they could use the property for recreational purposes.

Stephanie Shuler indicated that they have no intention of changing the wood line or the land, other than removal of overgrowth and to create paths for ATVs. She explained that the property would remain quiet between October and May when they would not hunt or camp on the property.

The Board opened the hearing for public comment.

Gerald Scott, who owns property on the east side of SR 9, asked if the petitioners intended to allow the public to ride ATVs on the property.

Shelley McCracken Rania, who lives at 296 E 1100 N, asked how zoning approval would negate FEMA rules. She indicated that FEMA does not allow storage of equipment, including ATVs, and creation of trails in the floodplain. She expressed concern that change to the subject property could increase flooding on her property.

Paul Rania, who lives as 296 W 1100 N, stated for the record his concern that use of the property could impact flooding on his property.

The Board closed the public comment portion of the hearing.

Stephanie Shuler explained that they use the ATVs to drive across the creek and that only family would ride ATVs on the property.

Q: Kevin Carson – Would you stipulate to not rent this out (for ATVs or hunting)?

A: Stephanie Shuler – Yes.

The Shulers explained that water would need to reach a very high level to flood outside of the high creek bank and that they have only seen signs of flooding near the bridge at the south end of the property. The explained that they would only hunt on the north side of the creek and mostly with crossbows rather than guns.

Kevin Carson made a motion to vote on the petition with stipulations and Jordan Caldwell seconded the motion. The petition was **APPROVED 5-0** with **stipulations:**

- 1. Recreational use of the property shall be limited to the uses included on the site plan submitted with the variance application and hunting shall not be permitted south of Brandywine Creek.**
- 2. The property shall not be used for commercial purposes, including public ATV riding or leased out for hunting.**

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.

BZA 22-45 – JOSHUA KAUFMAN: DEVELOPMENT STANDARDS VARIANCES – To waive the street landscaping requirement along SR 244 [UDO Sec. 5.44 A 2], to waive the lot interior landscaping requirement [UDO Sec. 5.47 A 3], and to waive the buffer yard landscaping requirement [UDO Sec. 5.49]. Located at 4324 E SR 244, Shelbyville, Liberty Township.

Desiree Calderella read the petition into the record and stated that Staff recommends denial of the first two variances and approval of the third variance with a stipulation.

Eric Glasco represented the petitioner. He provided an overview of the proposed development. He indicated that the petitioner does not oppose Staff's recommendation regarding the landscape buffer. He explained that the required trees along SR 244 may inhibit view for trucks using the entrance driveways. He indicated that development of

the lot would improve the aesthetics of the site overall. He indicated that the petitioner plans to preserve the existing trees on site.

Mark Black, the business manager of the trailer sales operation, was present.

The Board opened the hearing for public comment.

Paul Carroll, with Wooton Hoy, LLC, represented the Roman Catholic Archdiocese who owns property at 4218 E Michigan Rd. He indicated that his client opposes a reduction in the landscaping requirements along SR 244 and summarized his letter previously submitted to the Board (see case file).

The Board closed the public comment portion of the hearing.

Eric Glasco explained that the cemetery abuts the portion of the property proposed for the entrances, and a practical difficulty exists in planting trees near the entrances. He indicated that the east property line near the cemetery would include a landscape buffer. He explained that the trees along SR 244 would impact visibility of the trailers for sale and pose a traffic safety issue near the entrance to the site.

Dave Klene indicated that existing trees on the site could count toward required trees. He indicated that they would not need to plant many additional trees to meet the landscaping requirements.

The Board discussed the details of the landscaping requirements included in the UDO.

Q: Dave Klene – Would you be opposed to planting three trees and keeping the existing trees?

A: Eric Glasco – I don't think we would be opposed to that.

Jordan Caldwell made a motion to vote on the petition with stipulations and Dave Klene seconded the motion. The petition was **APPROVED 5-0** with **stipulations**:

- 1. Existing trees shall be preserved on site where possible.**
- 2. Three trees shall be installed along SR 244.**
- 3. Landscape Buffer Yard 'B' shall be installed along the west property line between the right-of-way line of SR 244 and a point 250-feet from the right-of-way line of SR 244.**
- 4. Any future structural development or outdoor storage of trailers that occurs north of the installed landscaping buffer will render the variance void.**

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.

BZA 22-43 – SUNBEAM I-74, LLC / I-74 LOGESTICS PARK: DEVELOPMENT STANDARDS VARIANCE – To allow non-residential driveways to exceed a maximum overall width of forty-two (42) feet [UDO Sec 5.20 B 1]. Located generally south of McGregor Road and north of the CSX Railroad, Moral Township.

Desiree Calderella read the petition into the record and stated that Staff recommends approval.

Chris King represented the petitioner. He provided an overview of the petition and indicated that they have requested the variance to provide for safe turning movements for trucks.

Jamie Christman and Justin Furr with Sunbeam I-74, LLC were present.

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

Kevin Carson made a motion to vote on the petition and Jordan Caldwell seconded the motion. The petition was **APPROVED 5-0**.

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.

SPEEDWAY SOLAR LLC: Approval of form of decommissioning surety bond, per the Decommissioning Plan approved by the BZA as a stipulation of case BZA 19-01 – Speedway Solar LLC, approved on March 12, 2019.

Jason Clark provided an overview of terms of the bond form.

Pete Endres with Speedway Solar was present via Zoom.

Dave Klene made a motion to approve the form of the bond and Terry Knudson seconded the motion. The form of the bond was **APPROVED 5-0**.

Discussion

None.

Adjournment:

With no further business to come before the Board, Jordan Caldwell moved to adjourn, and Dave Klene seconded the motion. The meeting was adjourned.

President	Date
Jim Douglas	

Secretary	Date
Kevin Carson	