

**Shelby County Board of Zoning Appeals**  
**Meeting Minutes**  
**March 8, 2022**

**Members Present:**

Kevin Carson  
Terry Knudson  
Dave Klene  
Jordan Caldwell

**Members Absent:**

Jim Douglas

**Staff Present:**

Desiree Calderella – Planning Director  
Jody Butts – 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.

**Election of Officers:**

Kevin Carson nominated Jim Douglas for President. Dave Klene seconded the nomination. The Board unanimously elected Jim Douglas as President.

Kevin Carson nominated Dave Klene for Vice President. Jordan Caldwell seconded the nomination. The Board unanimously elected Dave Klene as Vice President.

Dave Klene nominated Kevin Carson for Secretary. Jordan Caldwell seconded the nomination. The Board unanimously elected Kevin Carson as Secretary.

**Approval of Minutes:**

Dave Klene made a motion to approve the minutes from February 8, 2022. Terry Knudson seconded the motion. The minutes were approved 4-0.

**Old Business:**

None.

**New Business:**

**BZA 22-07 – JOSIE JONES: DEVELOPMENT STANDARDS VARIANCE – To allow for a 4,160 sq. ft. accessory structure exceeding 50% the square footage of the**

**footprint of the residence [UDO Sec. 5.07 F 1]. Located at 2467 S 125 E, Shelbyville, Shelby Township.**

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

Shane Jones represented the petitioner. He indicated that he planned to store a camper, trailer, vehicles, and other personal items in the structure.

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

Q: Kevin Carson – Will the structure have the same character as the house?

A: Shane Jones – Yes, and we have made improvements to the property.

Q: Terry Knudson – Will the structure be heated?

A: Shane Jones – No.

Desiree Calderella indicated that neighboring property owners had voiced support for the petition.

Dave Klene made a motion to vote on the petition and Jordan Caldwell seconded the motion. The petition was **APPROVED 4-0**.

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.

**BZA 22-10 – DOLLAR GENERAL: SPECIAL EXCEPTION & DEVELOPMENT STANDARDS VARIANCES – To allow a Type 3 Medium Intensity Retail establishment in the VM (Village Mixed Use District), a ground sign having an area of 50 sq. ft. and a height of 9 ft., and a wall sign having an area of 150 sq. ft. [UDO Sec. 5.73]. Located west of and adjoining 3075 W Old SR 252, Flat Rock, Washington Township.**

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

Will McDonough with Paul Primavera & Associates represented the petitioner. He provided an overview of the petition. He indicated that Dollar General plans to install its

smallest standard ground sign.

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

Q: Dave Klene – Do you have any problem with Staff’s proposed stipulation?

A: Will McDonough – No.

Jordan Caldwell made a motion to vote on the petition with a stipulation and Terry Knudson seconded the motion. The petition was **APPROVED 4-0** with a **stipulation:**

- 1. Landscape Buffer Yard “C” as identified in the Unified Development Ordinance shall be installed along the property line adjoining property in the VR District.**

The Board adopted the following findings of fact:

1. The proposed special exception is consistent with the purpose of the zoning district and the Shelby County Comprehensive Plan.
  2. The proposed special exception will not be injurious to the public health, safety, morals and general welfare of the community.
  3. The proposed special exception is in harmony with all adjacent land uses.
  4. The proposed special exception will not alter the character of the district.
  5. The proposed special exception will not substantially impact property value in an adverse manner.
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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 22-06 – RICHARD N SMITH: DEVELOPMENT STANDARDS VARIANCES – To allow for a 1,600 sq. ft. accessory structure in a Special Flood Hazard Area below the Flood Protection Grade (FPG) [UDO Sec. 5.20 E 2 b], in a Special Flood Hazard Area on a lot over one-half acre [UDO Sec. 5.20 F 4 d], and in the front yard [UDO Sec. 5.04 C]. Located at 4310 S Sugar Creek Rd, Franklin, Hendricks Township.**

Desiree Calderella read the petition into the record and stated that Staff recommends denial. She also recommended stipulations to approval if the Board chose to approve the request.

Richard Smith indicated that he plans to use the structure as a shop to work on trucks and machinery for his son and that he plans to heat the structure in the future.

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

Q: Jordan Caldwell – Why not build the structure in the non-flood zone?

A: Richard N Smith – The property was not in a flood zone at the time of purchase of the property. The house and septic system sit on higher ground, but the remaining portion of the property is in the flood zone.

Q: Terry Knudson – Why do you want to build a structure in a flood zone?

A: Richard N Smith – The property has only had water in the flood area once since purchase of the property.

Q: Terry Knudson – How did the property become placed in a flood zone?

A: Kevin Carson – FEMA has increased the area in the flood zone on the flood maps to obtain funding for properties damaged by frequent flooding in coastal areas.

Q: Terry Knudson – Are you opposed to placing the structure in the front yard outside of the floodplain?

A: Richard N Smith – The front yard does not have any area available for placement of the structure.

Kevin Carson discussed Staff's recommended stipulations.

Q: Kevin Carson – You do not plan to use the structure for business purposes, correct?

A: Richard N Smith – My son plans to refurbish dump trucks that he owns in the structure.

Desiree Calderella stated that if his son plans to repair trucks that he owns in the structure, then the petitioner would not need a variance to operate a business.

Q: Jordan Caldwell – How would the variance effect the County flood insurance?

A: Desiree Calderella – If the County grants too many variances that do not strictly adhere to the criteria for variance approval all property owners in the County could lose their federally backed flood insurance.

Q: Terry Knudson – What is the criteria for variance approval?

A: Desiree Calderella – The Board must consider several factors when deciding whether to approve a variance, but primarily the findings of fact listed in the Staff Report.

Q: Dave Klene – How high would he need to raise the structure?

A: Desiree Calderella – Approximately 3-feet.

Kevin Carson stated that it has not been uncommon for the Board to grant variances from elevation requirements for structures in the floodplain.

Kevin Carson stated that placement of the structure in the front yard would either encroach upon the septic system or block the view of traffic.

Q: Jordan Caldwell – Are you going to set the barn at the same elevation as the house?

A: Richard N Smith – No, it will be lower.

Q: Terry Knudson – Are you building the structure on a pad?

A: Richard N Smith – No, just on a concrete floor.

Q: Kevin Carson – Has there been flooding in the farm field adjoining the property?

A: Richard N Smith – It has some water.

Desiree Calderella indicated that the property has adequate area outside the floodplain north of the septic system for placement of the structure.

Richard Smith indicated that he did not want the structure near the curve in the road.

Desiree Calderella explained that denial of the variance would not prohibit placement of the structure in the floodplain, however the ordinance would require elevation of the structure.

Q: Terry Knudson – Why would you not elevate the structure?

A: Richard N Smith – Don't see the need in elevating a shop building.

Jordan Caldwell expressed concerns regarding the setting of a precedent for approval of variances for structures in the floodplain and possible impacts to County flood insurance.

Q: Jordan Caldwell – How many variances has the County approved for structures in the floodplain?

A: Kevin Carson – Less than one a year.

A: Desiree Calderella – None while I have worked for the County.

Kevin Carson asked Justin Parker, who lives in the neighborhood, to speak to flooding in the area.

Justin Parker explained that he had never seen water near the buildings on the property. He indicated that placement of the building near the road would pose a hinderance to traffic visibility. He indicated that he supported approval of the variance and that the petitioner has a well maintained the property.

Kevin Carson explained he has also not seen water near the buildings on the property. He explained that he does not have a problem approving the variance because the property owner would assume any risk and would notify any future owner of the property of the approved variance.

Q: Terry Knudson – Why are you opposed to elevating the structure?

A: Richard N Smith – Money. Its a shop, not a house, don't see the need to elevate the structure. There is not water there.

Q: Dave Klene – Could you move the structure closer to the area not in the floodplain to reduce the height needed to elevate the structure?

A: Richard N Smith – I don't know.

Justin Parker indicated that the flood maps placed the property in the floodplain after the petitioner purchased the property, thereby posing an inconvenience to the petitioner.

Kevin Carson made a motion to vote on the petition with Staff's recommended stipulations and Dave Klene seconded the motion. Kevin Carson & Terry Knudson voted to approve the petition with stipulations and Jordan Caldwell and Dave Klene voted to deny the petition. The petition was automatically **CONTINUED** due to lack of majority vote.

**BZA 22-09 – FRANK WOODS, JR.: SPECIAL EXCEPTION & DEVELOPMENT STANDARDS VARIANCE – To allow a Type 3 Home Business (automobile repair) in the RE (Residential Estate District) and to allow outdoor storage of items related to the home business within an enclosed fenced area exceeding 1,000 sq. ft., within the front yard setback, and located forward the accessory structure used for the home business [UDO Sec. 5.35 E 4 b]. Located at 4842 N Brandywine Rd, Shelbyville, Brandywine Township.**

Desiree Calderella read the petition into the record and stated that Staff recommends denial. She also recommended stipulations to approval if the Board chose to approve the request.

Chris Isom, of Brand & Morelock in Greenfield, represented the petitioner. He indicated that the barn exists on property. He explained that the petitioner owns an off-site auto dealership, and buys cars at auction to sell at his dealership. He explained that the petitioner drives cars he purchases at auction to the property to work on at home. He explained that the Board could approve the Special Exception request and deny the fence request if the Board deems the fence inconsistent with the character of the area. He indicated that the petitioner would likely construct a smaller fenced area behind the structure if the Board approves the Special Exception but denies the fence request. He explained that approval of the Special Exception would not allow the petitioner to store vehicles outside a fence in front of the building. He indicated that noise should not pose an issue due to the proximity of the property to I-74 and the distance of the property from nearby residences. He suggested that the Board add a stipulation to approval that the Board could revoke the approval if the use posed a nuisance. He indicated that the use would not involve handling of an excessive amount of automobile fluids that could pose an environmental hazard. He submitted a letter of support from a neighboring property owner to the Board (see case file).

The Board opened the hearing for public comment.

Steve Woolman, who lives at 4857 N Brandywine Rd, indicated that noise from the property does not pose an issue.

The Board closed the public comment portion of the hearing.

Chris Isom asked that the Board amend Staff's stipulations to allow for delivery of one vehicle per day, however that the petitioner agrees to all other stipulations.

Q: Jordan Caldwell – You don't work on any cars at your off-site car lot?

A: Frank Woods, Jr. – Have a separate auto repair facility. Only bring small jobs home.

Desiree Calderella referenced the UDO requirements regarding the limit on the number of parked vehicles and fence requirements for a Type 3 Home Business.

Desiree Calderella explained that the conflict between the business use and nearby residential uses would not prove as severe if the Board chose to deny the fence variance.

Q: Terry Knudson – Would you be opposed to denial of the fence variance?

A: Frank Woods, Jr. – No, but hoped to construct a fence in front of the building to prevent vehicles from using the property as a turn-a-round area off Michigan Rd and to limit noise from I-74.

Desiree Calderella explained that Staff's recommended stipulations would limit the petitioner to conducting the business as indicated in the petitioner's submitted statement of intent.

Q: Terry Knudson – Do you agree to Staff's recommended stipulations.

A: Frank Woods, Jr. – Yes, other than allowing for delivery of one vehicle per day versus one vehicle per week as indicated in the stipulations.

Q: Jordan Caldwell – What prompted the variance request?

A: Desiree Calderella – The office received a complaint regarding the appearance of the property. The property included about three times as many vehicles as currently on the property.

The Board, Desiree Calderella, and Petitioner discussed the floodplain violation detailed in the Staff Report.

Kevin Carson indicated that the fenced area should not project past the building along both Brandywine & Michigan roads.

Desiree Calderella explained that the ordinance only permits Type 3 home businesses in agricultural zoning districts, which typically include properties in areas isolated from other development. In this case the property sits near other residences and the interstate,

therefore use of the property for a Type 3 home business with or without approval of the fence variance would conflict with the character of the area. However, if the petitioner agrees to install the fence behind the building and complies with the recommended stipulations, then the request is more palatable than the request as initially submitted.

Jordan Caldwell indicated that he viewed the existing use of the property as a commercial business more appropriate in a commercial zoning district.

Kevin Carson made a motion to vote on the Special Exception only with Staff's stipulations and Terry Knudson seconded the motion. The Special Exception was **DENIED 4-0**. The variance was not voted on due to denial of the Special Exception.

The Board adopted the following findings of fact:

1. The UDO establishes the RE District to allow for single-family dwellings and low-impact development in harmony with the natural setting. The UDO states: Allow a special exception use (in the RE District) only when it is compatible with the surrounding residential areas. The proposed use would deviate from the character of surrounding residential uses due to the large enclosed fenced area and due to the delivery of vehicles. The proposed use would also generate noise exceeding noise typically present in a residential area. The Comprehensive Plan designates the property for use as Parks, Open Space, and Conservation due to presence of floodplain on the property and encourages protection of the floodplain from additional development. In the event of a flood, automobile fluids and scrap would contaminate surface water and groundwater.
2. The property is highly visible from the I-74 corridor. Therefore, presence of a use deviating from the character of the area would negatively impact the overall appearance and economic vitality of the County.
3. The proposed use would deviate from the character of surrounding residential uses due to the large enclosed fenced area and due to the delivery of vehicles.
4. The proposed use would deviate from the character of surrounding residential uses due to the large enclosed fenced area and due to the delivery of vehicles.
5. The proposed use could substantially impact property values due to inconsistency with the character of the area and noise impacts.

### **Discussion**

None.

### **Adjournment:**

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



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President	Date
Jim Douglas	

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Secretary	Date
Kevin Carson	