

**Shelby County Board of Zoning Appeals
Meeting Minutes
May 11, 2021**

Members Present:

Kevin Carson
Jim Douglas
Dave Klene
Doug Warnecke
Rachel Ackley

Members Absent:

None

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.

Approval of Minutes

Dave Klene made a motion to approve the minutes from April 13, 2021. Rachael Ackley seconded the motion. The minutes were approved 4-0, with Doug Warnecke abstaining.

New Business:

BZA 21-13 – LAURA NEWBY: DEVELOPMENT STANDARDS VARIANCE – To allow for a dwelling unit within an accessory structure [UDO Section 5.04 D]. Located at 6894 W SR 44, Shelbyville, Hendricks Township.

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

A representative for the petition did not appear.

Dave Klene made a motion to continue the petition to June 8, 2021. Doug Warnecke seconded the motion. The petition was continued to June 8, 2021.

BZA 21-15 – JEFFERY LEGEAR: DEVELOPMENT STANDARDS VARIANCE – To allow for an accessory structure in the front yard [UDO Section 5.04 C]. Located at 9536 N Louann Dr, Fairland, Moral Township.

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

Jeffery Legear stated that the garage would extend 10-feet past the front of the house. He explained that the septic system is in the front yard, that an abandoned septic system is in the rear yard, and that a low-lying area and well are in the side yard. He stated that Graber Post Buildings would build the garage and that the garage would have a metal ribbed roof.

The Board opened the hearing for public comment.

Paul Young, who lives in Pleasant Acres, asked for clarification regarding the proposed location of the garage and the proposed use of the garage.

Jeffery Legear stated that he planned to use the garage for storage of bicycles and vehicles and would not operate a business from the garage.

Paul Young referenced the subdivision covenants which regulate exterior materials and an established 50-foot setback line from the road. He explained that the subdivision does not have an HOA to enforce the covenants. Therefore, several buildings in the neighborhood violate the covenants.

Jeffery Legear stated that the garage would sit approximately 45-feet from the road.

The Board closed the public comment portion of the hearing.

Paul Young explained that several properties in the neighborhood include detached garages.

Q: Dave Klene – Do agree with Staff’s recommended stipulations?

A: Jeffery Legear – Yes.

Desiree Calderella clarified that matching exterior materials would include vinyl siding, a metal roof, and colors that match the house.

Kevin Carson indicated that the garage would not stand out because it would only encroach 10-feet in front of the house rather than siting entirely in the front yard.

Doug Warnecke made a motion to vote on the variance with stipulations. Jim Douglas seconded the motion. The petition was **APPROVED 5-0** with stipulations:

- 1. The materials used on the facade of the detached garage shall match the materials used on the residence.**
- 2. The height of the detached garage shall not exceed the height of the residence.**

3. The petitioner shall submit building elevations of the detached garage for approval by the Planning Director prior to obtaining a building permit.

4. The garage shall not be used for a business.

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.

Old Business

BZA 21-08 – FAITH BAPTIST CHURCH: DEVELOPMENT STANDARDS VARIANCES – To allow eighteen (18) street trees (27 trees required) [UDO Section 5.44 A 1]; zero (0) interior lot trees (10 trees required) [UDO Section 5.47 A 3]; five (5) trees and twenty-two (22) shrubs within the parking lot area (20 trees and 63 shrubs required) [UDO 5.48]; eighteen (18) trees along the east property line (36 trees required), twelve (12) trees along the west property line (24 trees required), eighteen (18) trees along the south property line (36 trees required) [UDO Section 5.49]. Located at 2795 E US 52, Morristown, Hanover Township.

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

Wayne Scott, Pastor of Faith Baptist Church, represented the petitioner. He requested that in lieu of landscaping that that Board allow the Church to plant pine trees along the property lines of lots in Blue River Trails if requested by the owner of the lot.

Desiree Calderella explained that the variance application included a request for landscaping in compliance with the submitted landscape plan, not to waive all landscaping requirements.

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

Kevin Carson stated that several neighbors had attended the meeting with concerns about the petition the previous month, however these people had not attended this month's meeting.

Desiree Calderella verified that she had announced the date of this month's meeting at the meeting the previous month.

Q: Doug Warnecke – Why do you not want to plant more trees?

A: Wayne Scott – The church had previously removed trees under the power lines along the property line.

Q: Doug Warnecke – Is there space between the building and power lines to plant trees?

A: Wayne Scott – Yes. However, the church would rather not plant the trees due to cost and a verbal agreement with the Blue River Trails HOA to plant pine trees along the property lines of lots if requested by the lot owner.

Doug Warnecke indicated that the church should plant trees along property lines even if not requested by the adjacent property owner because the UDO requires trees along all property lines.

Kevin Carson explained that the County has required other non-residential properties to install landscaping.

Q: Dave Klene – Are you opposed to the landscape plan submitted with the variance application?

A: Wayne Scott – I am not opposed to the landscape plan.

Kevin Carson expressed concern that several of the neighbors had expressed concern at the last meeting with the agreement between the Blue River Trails HOA and the church regarding landscaping.

Desiree Calderella suggested that the Board approve the variance subject to the landscape plan submitted with the variance application, and if the church and neighbors come to an alternate agreement reducing the landscaping requirements, then the church can ask the Board to amend the variance.

Dave Klene made a motion to vote on the variance subject to the landscape plan as submitted. Doug Warnecke 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.

Discussion:

V20-12 Cory Family Trust Zoning Violation - 10897 N 150 E, Morristown

Desiree Calderella provided an overview of the history of the zoning violation. Wally Cory (property owner) & Hector Sanchez (purchaser of property on contract) were present.

Hector Sanchez explained that he resided at an apartment off-site and provided records of his lease payments to the apartment complex. He explained that he had requested delivery of mail to the property to avoid losing his mail while traveling. He explained that his children use the children's toys while staying with him at the property after school before returning to their apartment.

Desiree Calderella explained that the neighbors had concerns regarding maintenance of the property. She explained that the property did not necessarily violate the UDO regarding property maintenance, but that the property may violate the Code Compliance Board's ordinance. She stated that she had suggested that the neighbors contact the Code Compliance Board.

Hector Sanchez stated that the barn had no restroom facilities. He explained that he washes clothes after working with the horses and dries the clothes outside. He explained that he does not stay in the campers while stored at the property but uses the campers when traveling with the horses. He stated that a friend had parked an additional camper on the property, but that they removed the camper after they received complaints.

Q: Doug Warnecke – How many horses do you have on the property and how large is the property.

A: Hector Sanchez – 10 horses on 5-acres.

Desiree Calderella stated that the keeping of 10 horses on 5-acres in the A2 District does not violate the maximum number of horses requirement of the UDO.

Kevin Carson explained that many agricultural operations have on-site mailboxes.

After reviewing the evidence presented the Board determined that no person resides at the property and therefore the **property does not violate the provisions of the UDO.**

Adjournment:

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

President
Kevin Carson

Date

Secretary
Dave Klene

Date