

Shelby County Board of Zoning Appeals
Meeting Minutes
June 11, 2024

Members Present:

Kevin Carson
Terry Knudson
Dave Klene
Megan Hart

Members Absent:

Jim Douglas

Staff Present:

Desiree Calderella – Planning Director
Jason Clark – Board Attorney

Call to Order and Roll Call:

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

Approval of Minutes:

Approval of the minutes was continued to the next regular meeting of the BZA.

Old Business:

BZA 24-17 – GLEN R LOSEY: FINDINGS OF FACT

Kevin Carson made a motion to adopt the Findings of Fact indicated in the June 11, 2024, meeting materials and Terry Knudson seconded the motion. The Findings of Fact indicated in the meeting materials were adopted 5-0.

New Business:

BZA 24-23 – NATHAN D STICKFORD / SOS HAULING LLC: USE & DEVELOPMENT STANDARDS VARIANCES - To allow for a construction and hauling business in the RE (Residential Estate) District and outdoor storage of equipment, machinery, and aggregate (only permitted in the I2 (High Intensity Industrial) and HI (High Impact) Districts) [UDO Sec. 5.54 A], use of a dumpster (not permitted in single-family residential districts) [UDO Sec. 5.56 A], and a commercial sign [UDO Sec. 5.73 & 5.75]. Located at 4842 N Brandywine Rd, Shelbyville, Brandywine Township.

Desiree Calderella read the petition into the record and stated that Staff recommends denial, however, recommends stipulations if the Board chooses to approve the variance.

Nathan Stickford indicated that he plans to relocate his business to the property. He explained that the property has an existing entrance off Michigan Rd, that the business would use a dumpster for basic trash, that he plans to construct a two-foot dirt perimeter wall around the parking area to mitigate impacts associated with the floodplain, that he plans to pave the parking area and dumpster pad, and that he plans to install landscaping or a fence along Brandywine Rd to limit noise. He explained that the interstate would generate more noise than his trucks. He indicated that he or his son would live in the residence on the property. He indicated that several businesses exist along the I-74 corridor. He explained that trucks would leave the property in the morning and return in the afternoon, otherwise, the business would generate little traffic. He indicated that he would keep one or two piles of stone on the property.

The Board opened the hearing for public comment.

Rick Schultz, who lives at 5738 N Brandywine Rd, expressed concern with alteration to the agricultural/residential character of the area and the potential impacts of construction of a parking lot in a floodplain.

Tammy Outwood, whose father lives on Brandywine Rd, expressed concern with alteration to the rural character of the area and impact to the value of surrounding residential properties.

Janet Schultz, who lives at 5738 N Brandywine Rd., expressed concern with noise and impact to the value of surrounding residential properties. She indicated that the business could locate on property in the nearby Pleasant View industrial area.

Paul Sanders, who lives at 4967 N Brandywine Rd, indicated that the business conflicts with the current zoning of the property and that trucks using Brandywine Rd. would pose a hazard.

Steve Woolman, who lives at 4857 N Brandywine Rd, objected to dump trucks and the proposed sign.

The Board closed the public comment portion of the hearing.

Nathan Stickford explained that the nearby casino has raised surrounding property values, therefore, his business should not impact property values. He indicated that construction of an asphalt parking lot in the floodplain does not differ from laying of asphalt on County roads in the floodplain. He explained that chemicals used on agricultural fields in the floodplain pose a greater environmental hazard than would storage of trucks in the floodplain. He indicated that the business would not generate much more trash than a

typical household. He indicated that a previous property owner had also used the property for commercial purposes. He explained that other businesses along the I-74 corridor generate more traffic than would his proposed business. He explained that the property has close access to I-74, therefore, trucks from the business would not use many County roads. He indicated that the business currently employs twenty-four people. He emphasized that he owns a small, local business.

Terry Knudson asked why the petitioner had chosen the property.

Nathan Stickford explained that he is familiar with the property and that the property has convenient access to the interstate. He indicated that the business has outgrown its current location.

Dave Klene asked about Staff's recommended stipulation regarding elevating the outdoor storage area above the floodplain.

Desiree Calderella indicated that the petitioner would need to raise the entire area three to four feet.

Steve Shephard, who grew up on the property, indicated that the house on the property has not flooded.

Dave Klene asked if building the gravel up to the elevation of the existing pole barn and berming the property would suffice to mitigate floodplain issues.

Desiree Calderella explained that the Comprehensive Plan recommends Parks and Open Space for the property due to the presence of the floodplain, therefore, the Board should take potential impacts to the floodplain into consideration when making a decision on a use variance for any use other than parks and open space. She explained that contamination from parked and stored vehicles could pose an impact to the floodplain.

The Board has a discussion regarding the flow of floodwaters over the property.

Kevin Carson asked how many trucks the petitioner owns.

Nathan Stickford stated that he owns twenty-one trucks and miscellaneous equipment.

Terry Knudson asked if the petitioner agreed to the stipulations.

Nathan Stickford indicated that he agreed to the stipulations, other than elevating the outdoor storage area. He indicated that he would agree to elevate the outdoor storage area to the elevation of the barn.

The petitioner and Board discussed landscaping options.

Megan Hart asked if the petitioner intended to use more of the property for commercial purposes other than proposed on Site Plan submitted with the variance application.

Nathan Stickford indicated no, and that he planned to use the remaining portion of the property for residential and agricultural purposes.

Terry Knudson made a motion to vote on the petition with stipulations and Megan Hart seconded the motion. The petition was **APPROVED 3-1**, with Kevin Carson casting the dissenting vote, with **stipulations**.

- 1. The use shall be limited to the Statement of Intent submitted with the variance application and site development shall be limited to the Site Plan submitted with the variance application.**
- 2. The property shall comply with all Screening of Industrial Outdoor Storage and Landscaping Standards applicable to the I2 (High Intensity Industrial) District prior to use of the property for a trucking and hauling business. Specifically:**
 - a. When adjacent to a public street, outdoor storage of vehicles, equipment, product, supplies, materials, waste or scrap, pallets, and the like shall be effectively screened on all sides with a minimum six (6) foot privacy or security fence, at least ten (10) feet from the property line. The ten (10) foot area immediately outside the fence shall be landscaped with trees (one per fifty (50) lineal feet of fence) and shrubs (one per thirty (30) lineal feet of fence).**
- 3. Required landscaping along Brandywine Rd. and Michigan Rd. shall be placed on top of a 2-foot tall berm.**
- 4. Outdoor storage areas shall be elevated 1-foot above existing grade.**
- 5. Ingress and egress shall only be permitted from Michigan Rd.**

Megan Hart made a motion to continue the Findings of Fact to the next meeting and Terry Knudson seconded the motion. The Findings of Fact were continued 4-0.

BZA 24-22 – LUKE SCHONFELD / BARNYARD PARTY PALS: USE & DEVELOPMENT STANDARDS VARIANCES - To allow for agritourism, specifically a petting zoo, in the RE (Residential Estate) District and keeping of exotic animals, excluding USDA designated dangerous animals [UDO Sec. 5.42], occasional keeping of more than one farm animal unit per two fenced acres [UDO Sec. 5.42 A 3], two small commercial signs [UDO Sec. 5.73 & 5.74], gravel parking and maneuvering areas [UDO Sec. 5.60 A], and lack of designated ADA parking

spaces [UDO Sec. 5.60 F]. Located at 8437 N 25 W, Fountaintown, Van Buren Township.

Desiree Calderella read the petition into the record and stated that Staff recommends approval to allow for the keeping of exotic animals and denial of the other variances, however, recommends stipulations if the Board chooses to approve the variances.

Luke Schonfeld explained that he has raised animals on the property since his childhood and started the business as a teenager. He indicated that 90% of his business involves off-site activities and 10% of his business involves on-site events.

The Board opened the hearing for public comment.

Mike Jarvis, who lives at 8363 N 25 W, expressed concern with noise from visitors and animals, security, infringement upon the privacy of his property, increased traffic, the keeping of trash on the subject property, the potential of visitors feeding animals on his property, the small size of the subject property related to the number of animals, care of the animals, animals escaping onto his property and the road, and the future ability to sell his property. He asked about plans for disposal of dead animals, if the petitioner has vaccinated and registered his animals, and if the exotic animals carry disease that could spread to his family or farm animals. He indicated that DNR and Animal Control have visited the property after receiving complaints.

Megan Platt, President of Shelby County Farm Bureau and representing the Farm Bureau, read a statement of support (see case file). Also, as an agricultural educator, she outlined the benefits that the business has provided to agricultural education in the community.

Wyatt Schonfeld, who lives on the subject property, indicated that the animals make the same level of noise typically made by animals in rural areas. He explained that customers would not visit the property on a regular basis. He indicated that the Jarvises grandchildren feed animals on the subject property over the fence. He explained that the petitioner's USDA license requires vaccination of all animals and does not allow the animals to travel out-of-state where they may acquire diseases. He explained that some animals may appear thin due to their unique body type.

Camille Thobe spoke about her positive experience working with Barnyard Party Pals for her supervised agricultural experience for FFA. She outlined how the business has allowed for her personal growth and has provided an agricultural educational opportunity for the community.

Camern Jarvis, who lives at 8363 N 25 W, expressed concern that operation of the business prior to obtaining zoning approval limited her ability to provide input on the business proposal. She indicated that she has no concern with the mobile aspect of the business, however, has concerns with on-site visitors and the continued expansion of the

business operation. She indicated that the business infringes upon the privacy of her property.

Rachel Ackley, Executive Director of the Shelby County Tourism and Visitors Bureau, explained that she verified that the petitioner had proper licensing for his animals and interacts well with the public before contracting with him for Tourism and Visitors Bureau events. She indicated that the petitioner had responded promptly to the zoning citation issued against his property and will work to address any concerns of the Board. She emphasized the importance of agritourism in Shelby County.

Melissa Bontour, with Silly Safaris, indicated that the petitioner works for her business part-time. She indicated that the petitioner has all proper animal licensing, cares for the health of his animals, provides animal educational opportunities, runs a well-managed on-site business operation, and will work to address any concerns raised by the Board.

Amazon John, with Silly Safaris, submitted a letter of support to the Board (see case file). He spoke about the quality of the business operation and importance of agritourism in Shelby County.

Frank Schonfeld, the petitioner's father, indicated that he and the petitioner will work to address any concerns raised by the Board.

Theresa Ray, a Board member of the Central Indiana Cage Bird Club, emphasized that the petitioner cares for the health of his animals and explained that on-site activities would constitute a small portion of the business and should not disturb the neighbors on a daily basis.

Therea Young, a Shelby County resident, emphasized the importance of the educational aspect of the petitioner's business.

The Board closed the public comment portion of the hearing.

Luke Schonfeld explained that he has USDA and DNR licenses and insurance. He indicated that he works with DNR on endangered bird rehabilitation. He explained that the County Comprehensive Plan recommends tourism development and the retention and attraction of residents. He provided the Board with USDA information and several letters of support (see case file). He explained that he has always kept animals on the property and therefore did not realize he could not operate his business in the RE District. He indicated that he hauls trash to the dump when he cleans the property. He indicated that he would like the ability for customers to visit the property in case customers cannot accept animals at their location. He indicated that he would not keep dangerous animals on the property, including lions, tigers, bears, apes, and elephants. He explained that he would prefer to keep additional animals than permitted on the property because animals perform better in groups. He stated that typically the property would only have more

animals than permitted the week before and the week after a mobile animal show.

Dave Klene asked how many animals the petitioner seeks to keep on the property.

Luke Schonfeld stated that his USDA license allows up to 50 mammals and 50 birds.

The Board asked questions regarding the existing animals and animal enclosures on the property.

Luke Schonfeld described the types of animals he currently keeps on the property and the types of enclosures required for each type of animal. He also described the use of each building and area shown on the site plan submitted with the variance application.

Dave Klene asked how many customers the petitioner anticipated over the course of a year.

Luke Schonfeld explained that it would depend on demand, but as an example 270 vehicles visited the property over the course of two days for a Christmas event.

Terry Knudson asked if the property had infrastructure to support that volume of customers.

Luke Schonfeld explained that those customers visited the property during designated time slots and that the existing parking area accommodated all customer vehicles.

Megan Hart asked if the petitioner would agree to a stipulation that the business would offer services by appointment only.

Luke Schonfeld agreed to this stipulation.

Megan Hart asked how many animals exceeded the maximum animal limit.

Luke Schonfeld explained that County code would only allow him to keep 6 of his current 26 animals on the property. He explained that many of the animals do not require pasture area.

Megan Hart asked if the USDA considers property size when issuing licenses to keep animals. She indicated that the Board could rely on the expertise of the USDA if the Board places a limit on the number of animals.

Luke Schonfeld explained that the USDA does take the size of the property into consideration and would allow him to keep up to 100 animals on the property.

The Board discussed rezoning of the property to A2 as an use approval method.

Kevin Carson suggested a limit of 50 animals and indicated that if the business grows beyond that capacity the petitioner should relocate to a large property with improved transportation access.

Megan Hart made a motion to vote on the petition with stipulations and Kevin Carson seconded the motion. The **use variance** was **APPROVED 3-1**, with Dave Klene casting the dissenting vote. The **development standards variance to allow for the keeping of exotic animals, excluding USDA designated dangerous animals**, was **APPROVED 4-0**. The **remaining development standards variances** were **APPROVED 3-1**, with Dave Klene casing the dissenting vote. The approvals included **stipulations**:

- 1. The agritourism use shall be limited to the Statement of Intent submitted with the variance application and site development shall be limited to the Site Plan submitted with the variance application.**
- 2. The total number of all animals kept on the property at any one time shall not exceed fifty (50) animals.**
- 3. All development and animals shall be kept at least 30-feet from the south property line.**

Kevin Carson made a motion to continue the Findings of Fact to the next meeting and Megan Hart seconded the motion. The Findings of Fact were continued 4-0.

BZA 24-20 – LEWIS L PALMETER: DEVELOPMENT STANDARDS VARIANCES - To allow for two new residential driveways located less than 60-feet apart [UDO Sec. 5.18 A 2] and not aligned with an existing driveway on the opposite side of a collector road [UDO Sec. 5.17 E]. Located at 8014 S 600 W, Edinburgh, Jackson Township.

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

Lewis L Palmetter explained how he plans to reconfigure lot lines to provide road frontage for each of his landlocked lots to provide separate driveways for each lot.

The Board opened the hearing for public comment.

Doug Brown, owner of property located at 8020 S 600 W, asked the Board to designate a completion date for installation of the new driveways.

The Board closed the public comment portion of the hearing.

Lewis L Palmetter summarized the history of the issues associated with use of the shared

driveway on Mr. Brown's property to access his properties.

Kevin Carson explained that the Board does not have the legal authority to require the petitioner to vacate use of the existing driveway on Mr. Brown's property, however, could establish a deadline for installation of the new driveways

Lewis L Palmetter indicated that while he felt forced by Mr. Brown's request, he would agree to a deadline for installation of the first driveway.

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

- 1. One driveway shall be installed no later than 12 months after a survey is recorded establishing the lot lines as shown on the Site Plan submitted with the variance application.**

Kevin Carson made a motion to adopt the Findings of Fact indicated in the Staff Report and Megan Hart seconded the motion. The Findings of Fact indicated in the Staff Report were adopted 4-0.

BZA 24-24 – SPENCER ANDREWS: SPECIAL EXCEPTION & DEVELOPMENT STANDARDS VARIANCES - To allow a Type 2 Home Business (small-scale trailer rehab and sales) in the RE (Residential Estate) District which is conducted outside of the home [UDO Sec. 5.34 D 1 a], including outdoor storage of trailers [UDO Sec. 5.34 D 1 c], and having a 3 sq. ft. business sign [UDO Sec. 5.34 D 6]. Located at 10352 N 400 W, Fountaintown, Moral Township.

Desiree Calderella read the petition into the record and stated that Staff recommends denial, however, recommends stipulations if the Board chooses to approve the variance.

Elizabeth Laney, owner of the subject property, represented the petitioner. She explained that she maintains the property in good condition and has agreed to let the petitioner store no more than four trailers on the property behind the existing barn. She explained that the neighboring properties do not have a view of the area behind the barn. She explained that the petitioner intends to place a nonobtrusive sign visible from the street on the barn to identify the business. She indicated that customers would visit the property by appointment only. She explained that the petitioner will relocate the business to a commercial property if the business expands.

Spencer Andrews indicated that the business sign would sit over 200-feet from the road, that he would not store semi-trailers on the property, that he would not store automobile parts on the property, and that several other home businesses exist in the area. He indicated he would operate a less intense commercial activity than the SOS Hauling service that the Board had approved. He reiterated several points presented by the

property owner.

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

Dave Klene asked the petitioner to define the type of trailer he intends to keep on the property.

Spencer Andrews and Elizabeth Laney explained that the petitioner would acquire pull-behind-type enclosed trailers which he will repair or restore for resale. They indicated that in the future he may also rent trailers for off-site use.

Megan Hart asked if the petitioner would agree to a stipulation that limits the number of trailers kept on the property and if the petitioner agrees to the stipulations recommended by Staff.

Spencer Andrews said, if necessary, he would agree to a limit on the number of trailers. He indicated that he would not agree to erect a fence around the trailers.

Desiree Calderella indicated that a stipulation limiting outdoor storage to two or four trailers stored out-of-view behind the barn would serve the same purpose as the fence.

Terry Knudson made a motion to vote on the petition with stipulations and Kevin Carson seconded the motion. The petition was **APPROVED 4-0** with **stipulations**.

- 1. Operation of the business shall comply with Section 5.34 HB-02: Type 2 Home Business Standards of the Unified Development Ordinance, other than Sections 5.34 D 1 a, 5.34 D 1 c, and 5.34 D 6.**
- 2. Business operations shall be limited to the Statement of Intent and Site Plan submitted with the variance application.**
- 3. No more than four (4) trailers shall be stored outdoors, and all trailers stored outdoors shall be located in the rear yard behind the existing barn.**

Megan Hart made a motion to continue the Findings of Fact to the next meeting and Terry Knudson seconded the motion. The Findings of Fact were continued 4-0.

Discussion

BZA 24-23 – NATHAN D STICKFORD / SOS HAULING LLC

Desiree Calderella asked for clarification as to the reasoning for the Board's decision regarding approval of the variance. She explained that the current property owner had

applied for a variance to use the property for a less intense automobile-oriented use, which the Board had turned down.

Kevin Carson explained that the current property owner had operated the automobile business in violation prior to seeking a variance and had not agreed to stipulations imposed by the Board.

Terry Knudson concurred with Kevin Carson's statement. He added that the hauling and construction business would create jobs, that traffic generated by the use would have convenient access to the interstate without using many County roads, and that the floodplain limits development of the property for anything other than parking area.

Adjournment:

With no further business to come before the Board, Megan Hart moved to adjourn, and Kevin Carson seconded the motion. The meeting was adjourned.

President	Date
Jim Douglas	

Secretary	Date
Kevin Carson	