

Shelby County Board of Zoning Appeals
Meeting Minutes
June 13, 2023

Members Present:

Kevin Carson
Terry Knudson
Dave Klene
Jim Douglas
Nick Hartman

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 May 9, 2023. Terry Knudson seconded the motion. The minutes were approved 5-0.

Old Business:

BZA 23-04 – DOUGLAS C HUNT: USE & DEVELOPMENT STANDARDS VARIANCES – To allow for an automobile-oriented business (automobile salvage and repair) in the I2 (High Intensity Industrial) District. Also, to allow use of the existing gravel driveway (hard surface required) [UDO Sec. 5.20 C], use of existing gravel parking and maneuvering areas (hard surface required) [UDO Sec. 5.60 A], lack of dedicated ADA parking spaces [UDO Sec. 5.60 F 1], use of existing parking area encroaching more than 50% into the front yard setback [UDO Sec. 5.63 A 1 a], and unscreened outdoor storage of vehicles and equipment (6-foot-tall privacy fence and landscaping between outdoor storage area and street required) [UDO Sec. 5.59 A]. Located at 1796 W Washington Ave, Shelbyville, Addison Township.

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

approval with a stipulation.

Douglas Hunt explained that he had resolved the property ownership issue referenced at the last BZA hearing. He indicated that his personal use of the property involved trucks with heavy loads which would render asphaltting the site impractical. He indicated that he would work on the property full-time when he retires from the City. He indicated that he had not considered ADA parking spaces because customers do not visit the site. He explained that his tenant would agree to install a fence and limit the number of inoperable vehicles on-site to fifty. He indicated that he personally also has vehicles on site.

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

Kevin Carson indicated that he had counted forty-six vehicles on-site. He indicated that he would prefer less vehicles stored on-site.

Q: Jim Douglas – Does your tenant have employees?

A: Douglas Hunt – I see one regular employee.

The Board discussed the appropriate number of vehicles to allow on-site. The Board agreed that allowing forty vehicles total would further limit the number of vehicles the tenant could keep on site while allowing Mr. Hunt to also keep a few of his personal vehicles on-site.

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

- 1. No more than forty (40) vehicles (including inoperable, operable, employee, visitor, and personal vehicles) shall be present outdoors on site at any one time. The definition of vehicle shall be any passenger vehicle, truck, tractor, tractor-trailer, truck-trailer, trailer, boat, recreational vehicle, semitrailer, or any other vehicle propelled or drawn by mechanical power.**

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 Variances:

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.

New Business:

BZA 23-24 – WALDRON GENERAL: DEVELOPMENT STANDARDS VARIANCE – To allow for a projecting sign in the VM (Village Mixed Use) District [UDO Sec. 5.74]. Located at 110 W Washington St, Waldron, Liberty Township.

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

Mistie Nigh with ASA Signs represented the petitioner. She explained that the petitioner plans to install a basic sign which should not pose an eyesore to the public.

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 Dave Klene 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.

BZA 23-22 – MARK LEE: DEVELOPMENT STANDARDS VARIANCES – To allow three (3) single-family lots to utilize a single private driveway (maximum of two single-family lots permitted) [UDO Sec. 5.17 C 2] and one new lot without frontage on a public road (minimum 50-feet of road frontage required) [UDO Sec. 2.14]. Located at 5815 W PR 874 S, Edinburgh, Jackson Township.

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

Mark Lee explained that his son planned to build a house on the proposed new lot. He

indicated that he agreed with Staff's recommended stipulations.

Rebecca Lee was present.

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

The Board discussed a previous similar variance approved for Mark Farnsley which allowed three lots to use a private driveway and included similar stipulations as the stipulations proposed by Staff for this case.

Mark Lee indicated that he currently shares maintenance costs of the driveway with the other homeowner who uses the driveway and that he has had no issues with passing cars on the driveway.

Jim Douglas expressed concern that future owners of the properties using the driveway may not agree on maintenance of the driveway.

Kevin Carson questioned if the Board could require an easement agreement outlining maintenance costs for the driveway.

Jason Clark explained that the Board should not require an agreement that would require other landowners to enter into the agreement.

Rebecca Lee stated that they have an easement agreement in writing with the current homeowner who shares the driveway and that they can provide the agreement.

Kevin Carson recommended that the Board vote on the petition with Staff's recommended stipulations with an additional stipulation requiring that the petitioner submit the existing easement agreement of record.

Q: Dave Klene – You said your son was buying this lot, would you have the same easement agreement with him?

A: Mark Lee – Yes.

Jim Douglas expressed concern with potential disagreements between future property owners regarding maintenance of a gravel driveway. He indicated that the building of three houses should necessitate upgrading the driveway to a paved road.

Q: Jim Douglas – Do you know the cost to improve that?

A: Mark Lee – About \$125 a square foot. Talking about a million.

Rebecca Lee assured the Board that they will maintain the gravel driveway.

Q: Jim Douglas – For drives put in as private lanes, what specifications were outlined for those plans? Recent drives.

A: Desiree Calderella – There aren't any specifications. It just has to be 11-foot wide.

Mark Lee stated that the driveway is 15-foot wide. He indicated that the cost of paving the driveway would prohibit development of the lot.

Terry Knudson indicated that the cost of paving the driveway seems reasonable if split between three lots.

Kevin Carson referenced the difficulty posed to emergency vehicles with turning around in narrower driveways.

Nick Hartman indicated that the petitioner's driveway exceeded the width and is less than the length of the driveway approved for the Farnsley property.

Rebecca Lee indicated that they planned to asphalt the driveway in the future.

Mark Lee clarified that he had quoted a cost of \$25 a square foot to asphalt the driveway, not \$125.

Nick Hartman made a motion to vote on the petition with Staff's stipulations and an additional stipulation requiring that the petitioner submit the existing easement agreement of record, and Kevin Carson seconded the motion. The petition was **DENIED 3-2**, with Kevin Carson & Nick Hartman voting to approve with stipulations. The findings of fact were continued to the next meeting.

BZA 23-23 – MIKE & LAURA BURTON: DEVELOPMENT STANDARDS VARIANCES – To allow five (5) single-family lots to utilize a single private driveway (maximum of two single-family lots permitted) [UDO Sec. 5.17 C 2] and one new lot without frontage on a public road (minimum 160-feet of road frontage required) [UDO Sec. 2.12]. Located south of and adjoining 7354 S Edinburgh Rd, Edinburgh, Jackson Township.

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

Mike Burton explained that he planned to split the property into three lots to establish building sites for himself and his wife and each of his two sons. He indicated that the property currently includes an asphalt driveway with an easement for the two homesites that currently utilize the driveway. He indicated that the driveway would cross the creek and that he planned to install two, 48" culverts to allow for proper drainage. He indicated that he had written support of the variance request from the owners of the two homesites that currently utilize the driveway.

The Board opened the hearing for public comment.

James Wheatley, who owns property at 7354 S Edinburgh Rd, expressed concern that the property may not have enough width to accommodate the driveway, that flooding may impact use of the driveway, with difficulty posed to emergency vehicles in accessing the homes from the driveway, and with the intentions of a future property owner if the petitioner sells the property.

Kip Featherston, who owns property at 7445 S Edinburgh Rd, expressed concern with development of the property worsening flooding conditions in the area.

Ron Swift, who owns property at 7416 S Edinburgh Rd, expressed concern with runoff on the existing driveway and indicated that he would like to find a solution to that problem, however, would support the Burtons moving back into the neighborhood.

The Board closed the public comment portion of the hearing.

Mike Burton indicated that he could not upgrade the existing culvert under the driveway because it does not lie in the easement. He indicated that the driveway floods rarely, and when it does it only blocks access for about an hour. He referenced the desirability of building on a wooded lot.

Kevin Carson expressed concern that the major subdivision process would not apply to the subdivision of the property. He expressed concern with the width of the driveway, that the driveway lies in a low area, and with three additional houses utilizing the same driveway. He indicated that paving the driveway would save future costs of maintenance of a gravel driveway.

Terry Knudson expressed concern with the driveway crossing a creek.

Kevin Carson indicated that the narrow portion of the lot may not accommodate a 50-foot-wide access easement.

Desiree Calderella verified that the easement would need to cross the adjacent lot.

Kevin Carson indicated that the desirability of the proposed homesites would warrant a paved driveway.

Q: Jim Douglas – How are your feelings about that?

A: Mike Burton – If that's what it takes to get it done, I have connections in the asphalt business.

The Board, Mr. Burton, and Mr. Swift discussed the drainage issues in the area.

Kevin Carson made a motion to vote on the petition with Staff's stipulations and an additional stipulation requiring that the petitioner pave the driveway, and the Board seconded the motion. The petition was **APPROVED 5-0** with **stipulations**:

1. **No more than five (5) single-family lots shall utilize the driveway.**
2. **The shared portion of the driveway shall be at least fifteen (15) feet wide and shall be paved.**
3. **Prior to issuance of a Certificate of Occupancy for any new home:**
 - a. **A 50-foot-wide access and utility easement covering the shared portion of the driveway shall be recorded and provided to the Plan Commission office.**
 - b. **The driveway shall be identified as PR 740 S, and all existing and new properties utilizing the driveway shall be assigned PR 740 S 911 addresses. A sign identifying the road shall be installed at the entrance to Edinburgh Rd.**
 - c. **An 8' x50' paved pull-off shall be installed between Edinburgh Rd. and the entrance to 7416 S Edinburgh RD.**

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.

V23-03 – FRANK JR. & LAUREN A. WOODS: ZONING VIOLATION - Evidence of operation of an automobile-oriented business on property in the RE (Residential Estate) District, including outdoor storage of multiple vehicles and trailers. Located at 4842 N Brandywine Rd, Shelbyville, Brandywine Township.

Desiree Calderella provided an overview of the zoning violation.

Frank Jr. & Lauren A. Woods were present and spoke to the violation.

The Board agreed that the property no longer violated the provisions of the Unified Development Ordinance.

Kevin Carson made a motion to close the violation with no fines due. **The Board voted unanimously to close the violation with no fines due.**

ADOPTION OF BZA RULES OF PROCEDURE

Desiree Calderella indicated that the Rules reflect the Rules adopted by the Plan Commission.

Kevin Carson made a motion to approve the BZA Rules of Procedure and Nick Hartman seconded the motion. The Rules of Procedure were **APPROVED 5-0**.

Discussion

Hearing Officer Cases

BZA 23-17 – SCI FAIRLAND LLC: DEVELOPMENT STANDARDS VARIANCES. Located at 385 W Carey St, Fairland, Brandywine Township.

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on May 24, 2023.

BZA 23-18 – JASON ROWE: DEVELOPMENT STANDARDS VARIANCE. Located at 456 W 1000 S, Flat Rock, Washington Township.

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on May 24, 2023.

BZA 23-19 – SHELBY COUNTY BOARD OF COMMISSIONERS: DEVELOPMENT STANDARDS VARIANCE. Located at 1304 N Michigan Rd, Shelbyville, Addison Township.

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on May 24, 2023.

BZA 23-20 – HELANA AGRI: DEVELOPMENT STANDARDS VARIANCE. Located at 2668 S 275 W, Shelbyville, Shelby Township.

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on June 6, 2023.

BZA 23-21 – BRADLEY MCCARTY: DEVELOPMENT STANDARDS VARIANCE. Located at 7516 W Old SR 252, Edinburgh, Jackson Township.

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on May 30, 2023.

Zoning Violations

Pitzer - 7398 W 700 N, Fairland

Desiree Calderella asked the Board if they would like her to persue this violation related to a fence in the front yard exceeding the maximum height requirement. The Board directed her to send the property owner a letter informing him that they would hear the case at the next BZA meeting.

H Farms LLC – 5590 W 1100 N, Fountaintown

Desiree Calderella stated that she had inspected the property and did not see any boats from the road, and therefore had closed the case with no fines due.

Adjournment:

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

President	Date
Jim Douglas	

Secretary	Date
Kevin Carson	