

Shelby County Board of Zoning Appeals
Meeting Minutes
July 14, 2020

Members Present:

Dave Klene
Rachael Ackley
Jim Douglas

Members Absent:

Doug Warnecke
Kevin Carson

Staff Present:

Desiree Calderella – Planning Director
Mark McNeely – 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

Rachael Ackley made a motion to approve the minutes from June 9, 2020. Dave Klene seconded the motion. The minutes were approved 3-0.

Withdrawn Cases:

BZA 20-15 – DANIEL MILLER & DEAN GARWOOD – To allow for a commercial salt storage and delivery operation in the RE (Residential Estate) District. Also, to allow for three accessory structures: barn & two silos (maximum of two accessory structures permitted) [Section 5.06 C]; Silos having a maximum height of 45-feet (maximum height of 20-feet permitted) [Section 2.12]; Less than the required number of parking spaces [Table PK-A]; Gravel parking/maneuvering area (pavement required) [Section 5.60 A]. Located at 8565 N 600 W, Fountaintown, Moral Township.

This case was withdrawn by the petitioner on June 29, 2020.

BZA 20-19 – RONALD METCALF: DEVELOPMENT STANDARDS VARIANCE – To allow for a dwelling unit within an accessory structure [Section 5.04 D]. Located at 9066 N 700 E, Morristown, Hanover Township.

This case was withdrawn by the petitioner on July 9, 2020.

Old Business:

None.

New Business:

BZA 20-20 – MICHAEL HENSEL: USE & DEVELOPMENT STANDARDS VARIANCES – To allow for a Type 3 Home Business (storage and maintenance of equipment related to a masonry business) in an R1 (Single-Family Residential) District. Also, to allow for construction of a 3,200 sq. ft. pole barn (accessory structures may not exceed 50% the square footage of the footprint of the residence in the R1 District) [Section 5.07 F] and a new gravel driveway (hard surface required for new driveways in the R1 District) [Section 5.19 C]. Located at 11882 N 200 W, Fountaintown, Van Buren Township.

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

Michael Hensel explained that he planned to store his business equipment in the new pole barn to prevent theft of his equipment from a rental property. He indicated that his wife may move her home office into the pole barn and that he would not store or maintain equipment outdoors.

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

Q: Rachel Ackley – You do not plan to have signage, correct?

A: Michael Hensel – Correct.

Dave Klene explained that other properties in the area have gravel driveways and therefore a gravel driveway would not conflict with the character of the area.

Rachel Ackley made a motion to vote on the variance. Dave Klene seconded the motion. The petition was **APPROVED 3-0**.

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:

Proposed Ordinance Amendment – Accessory Dwelling Units

Desiree Calderella gave a brief overview of the proposed ordinance amendment. Dave Klene stated that he would like the ordinance to limit each property to one accessory dwelling unit. The Board would like the ordinance to allow for occupation of accessory units by family members and to discourage rental units.

Hearing Officer Cases

BZA 20-16 – HERTA LEWIS: DEVELOPMENT STANDARDS VARIANCE – To establish an existing single-family residence on a 1.381-acre lot (minimum lot area of 2-acre required) [Section 2.12]. Located at 219 S Conger St, Saint Paul, Nobel Township.

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on June 22, 2020.

BZA 20-17 – SCOTT & ANDREW SUMERFORD: DEVELOPMENT STANDARDS VARIANCE – To establish an existing single-family residence on a lot having a lot width of 25-feet and having 25-feet of road frontage (minimum 160-foot width and road frontage required) [Section 2.12]. Located at 5492 W Range Rd, Shelbyville, Sugar Creek Township.

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on July 7, 2020.

BZA 20-18 – CALLIE & JORDAN HEWITT: DEVELOPMENT STANDARDS VARIANCE – To allow for a pole barn projecting into the front yard [Section 5.04 C]. Located at 817 W 1080 N, Fountaintown, Van Buren Township.

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on July 14, 2020.

Patrick Black Violation

Desiree Calderella provided the Board with the March 2020 BZA decision letter sent to Mr. Black, the March 2020 meeting minutes, an email from Mr. Black sent on July 13, 2020 providing the status of his efforts to bring the property into compliance, and photographs comparing the condition of the property on July 14, 2020 to the condition of the property in 2019 (see documents in case file). She stated that in her opinion the property appeared worse than in had in 2019.

Q: Dave Klene – When did this violation begin?

A: Desiree Calderella – Over 10 years ago.

Dave Klene stated that he thought Mr. Black should be fined the full amount.

Q: Jim Douglas – Could we still rescind the fine if he begins to make progress?

A: Desiree Calderella – Once it attaches as a lien the fine cannot be rescinded.

Dave Klene and Rachel Ackley indicated that they did not expect to see progress if the Board allowed him more time to correct the violation.

Desiree Calderella stated that Mr. Black told her he would have nine vehicles removed by the end of July.

Jim Douglas expressed concern that Mr. Black may divert his attention to fighting the County rather than correcting the violation if the County imposes a fine.

Dave Klene stated that the law still applies to a property owner willing to take Court action against the County.

The Board indicated that being furloughed during COVID should have given Mr. Black more time to bring the property into compliance.

Desiree Calderella stated that in the past Mr. Black has only started to make any progress when issued a fine.

Mark McNeely stated that Mr. Black has definitely violated the ordinance. He explained that the Board has the option to wait until next month to make a decision to have all members present.

Dave Klene stated that the Board's job is to enforce the ordinance. Rachel Ackley agreed.

Jim Douglas expressed concern that the Board has enforced the ordinance in relation to Mr. Black's property because they had received a complaint, however other properties in the County remain in violation.

Desiree Calderella stated that she has told Mr. Black that his property is unique due to the view of his property from the Interstate.

Q: Desiree Calderella – Legally, can we send him the bill for \$7,500 at this point.

A: Mark McNeely – Yes.

Q: Desiree Calderella – Legally, do we need the full board to vote to institute the fine.

A: Mark McNeely – The current three-member board can vote to institute the fine.

The Board indicated that they did not expect to see progress if they allowed Mr. Black more time to correct the violation.

