

**Shelby County Board of Zoning Appeals
Meeting Minutes
August 8, 2023**

Members Present:

Dave Klene
Nick Hartman
Terry Knudson
Jim Douglas

Members Absent:

Kevin Carson

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 July 11, 2023. Terry Knudson seconded the motion. The minutes were approved 4-0.

Old Business:

None.

New Business:

BZA 23-27 – DONNA L GRIFFEY: DEVELOPMENT STANDARDS VARIANCES – To allow a new single-family residence oriented greater than ten degrees (10) from the public street to which the building gains access [UDO Sec. 5.11 A] and with a one-car, attached garage (two-car attached garage required) [UDO Sec. 5.11 D 1]. Located at 8289 S 500 W, Edinburgh, Jackson Township.

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

Donna Griffey explained that the house would face the easement rather than the road due to the topography of the land. She indicated that she planned to construct a small house with a two-car attached garage.

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

Dave Klene made a motion to vote on the petition and Terry Knudson 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 23-29 – ANNETTE & JIM PRATHER: DEVELOPMENT STANDARDS VARIANCES – To legally establish an existing 640 sq. ft. shed in the front yard [UDO Sec. 5.04 C], resulting in the total square footage of all accessory structures on the property exceeding ½ the square footage of the footprint of the residence [UDO Sec. 5.07 F 1], and without a perimeter foundation [UDO Sec. 5.07 E]. Located at 8562 S Pleasure Valley Rd, Waldron, Nobel Township.

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

Jim Prather indicated that he had obtained all required permits for his previous property, that he had the impression that the County would not require a permit for placement of structures on properties along a private road, that the shed allowed him to store items previously stored outside indoors, that he had to place the shed near the road due to encroachment of the neighbor's septic system into the rear yard, that the County did not receive a complaint regarding the shed for seven months, that he has continuously improved the aesthetics of his property, that all properties on Pleasure Valley Dr. have structures near the street due to the slope in the rear yards, and that at least ten properties on Pleasure Valley Dr. have accessory structures in front of the residence.

Mr. Prather indicated that his home includes second and third stories which would warrant grant of a variance for a larger accessory structure, that many other properties on the street have accessory structures in the front yard which would warrant grant of a variance to allow the shed in the front yard, and that the shed has runners and a wood floor rather than a foundation which would warrant grant of a variance from the perimeter foundation requirement.

The Board opened the hearing for public comment.

Larry Johnson, who owns property at 8570 S Pleasure Valley Rd, spoke about the encroachment of his septic system onto the petitioner's property, indicated that he had not filed a complaint about the shed, and expressed concern with runoff from the shed onto his property.

Q: Nick Hartman – Do you find that (the shed) an issue getting in and out of your driveway?

A: Larry Johnson – I was willing to make a tradeoff, I was willing to go in where I used to come out. It's a horseshoe.

Blake Newkirk, who lives in Bengal, indicated that the petitioner technically owns the neighbor's driveway.

The Board closed the public comment portion of the hearing.

Jim Prather and the Board discussed the issues related to encroachment of the neighbor's house, driveway, and septic system onto Mr. Prather's property.

Jim Douglas indicated that runoff from the shed could impact the neighboring property during a flood event.

Q: Nick Hartman – Does it have to be 10-feet off the property line?

A: Desiree Calderella – In a previously built subdivision it just has to be consistent with everybody else, and in this case people have built over the property line.

Dave Klene indicated that the shed would only impact the neighbor to the south (Mr. Johnson) and that Mr. Johnson did not file a complaint about the shed. Also, no one else had attended the meeting to file a complaint.

Jim Prather and Larry Johnson spoke about the survey work on Mr. Prather's property.

Dave Klene made a motion to vote on the petition and Nick Hartman 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 23-30 – JERRY W ROBINSON: SPECIAL EXCPETION & DEVELOPMENT STANDARDS VARIANCES – To legally establish a Type 3 Home Business (mechanical repair) in the RE (Residential Estate) District and to allow unscreened outdoor storage of a minimal amount of equipment related to the home business [UDO Sec. 5.35 E 4 b]. Located at 566 W Mill Rd, Shelbyville, Marion Township.

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

Jerry Robinson indicated that he has conducted small machine mechanical work on the property for twenty years. He explained that he had begun working on the property when he needed to remain at home to care for his elderly parents. He indicated that someone had filed a complaint regarding the vehicles on the property and that the Code Compliance Officer told him that he would need to obtain zoning for the business. He indicated that he had removed 30,000 lbs. of scrap metal and that he would keep the property maintained.

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 agree to the stipulations?

A: Jerry Robinson – Yes.

Q: Dave Klene – How long will it take for you to clean the property?

A: Jerry Robinson – Three months.

Q: Nick Hartman – The property looks a lot different now?

A: Jerry Robinson – Yes, it piled up while I was taking care of my parents.

Dave Klene made a motion to vote on the petition with stipulations, and Nick Hartman seconded the motion. The petition was **APPROVED 4-0** with **stipulations**:

- 1. Operation of the business shall comply with Section 5.35 HB-03: Type 3 Home Business Standards of the Unified Development Ordinance, other than Section 5.35 E 4 b.**
- 2. The business shall only be operated by the property owner and shall not have any additional employees.**
- 3. Outdoor storage of products, materials, supplies, waste, scrap, or the like shall only be permitted north of the barn in an area not to exceed 1,000 sq. ft. as shown on the map below:**



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

V23-02 – DONALD M PITZER: ZONING VIOLATION - A fence in the front yard on property in the VR (Village Residential) District exceeding three (3) feet in height [UDO Sec. 5.23 F]. Located at 7398 W 700 N, Fairland, Moral Township.

Desiree Calderella read the case into the record. She indicated that the property owner's daughter-in-law had contacted her and agreed to remove the lattice fence within two weeks.

Melissa Higdon, who lives at 7358 W 700 N and filed the complaint, spoke about the history of the violation case and the conflict between her and Mr. Pitzer.

The property owner was not present.

Jim Douglas suggested that the Board grant a two-week extension for removal of the lattice fence. And then if the fence is not removed by August 15th, the Board would institute a retroactive \$10 per day fine starting on August 8th and continuing daily until removal of the fence.

Dave Klene made a motion to institute the recommendation of Jim Douglas and Terry Knudson seconded the motion. The motion was approved 4-0.

Discussion

None.

Adjournment:

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

President	Date
Jim Douglas	

Secretary	Date
Kevin Carson	