

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

Members Present:

Kevin Carson
Jim Douglas
Rachael Ackley
Doug Warnecke
Dave Klene

Members Absent:

None

Staff Present:

Desiree Calderella – Planning Director
Mark McNeely – 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.

Election of Officers:

Doug Warnecke made a motion to maintain the current slate of officers. Jim Douglas seconded that motion. Doug Warnecke made a motion to close officer nominations. Rachel Ackley seconded that motion. The Board unanimously approved to maintain the current slate of officers: Kevin Carson – President; Doug Warnecke – Vice President; Jim Douglas – Secretary.

Approval of Minutes

Doug Warnecke made a motion to approve the minutes from December 10, 2019. Rachel Ackley seconded the motion. The minutes were approved 5-0.

Old Business

None.

New Business:

BZA 20-01 – CHARLES HENSON: DEVELOPMENT STANDARDS VARIANCES – To allow for a gravel driveway (pavement required) [UDO Section 5.20 C]; gravel parking and maneuvering areas (pavement required) [UDO Section 5.60 A]; lack of interior lot landscaping (ten deciduous trees required) [UDO Section 5.47 A 3]; lack

of landscape buffer yards (23 trees along the south property line and 19 trees along the west property line required) [UDO Section 6.49]. Located at 8522 N 850 W, Fairland.

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

John Ross represented the petitioner. He indicated that the project would improve property values.

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

Q: Doug Warnecke – How does the petitioner plan to use the property?

A: Mr. Ross – Construct a building to use for storage of equipment.

Q: Kevin Carson – Will there be repair of commercial equipment?

A: Mr. Ross – Only repair of equipment that the petitioner owns.

Q: Jim Douglas – How many trucks does the petitioner own?

A: Mr. Ross – Nine. Not many more would fit in the building.

Doug Warnecke made a motion to vote on the variance. Rachael Ackley 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 20-03 – ALEXANDER SUITS: DEVELOPMENT STANDARDS VARIANCE – To legally establish an accessory structure utilized for human occupancy [UDO Section 5.04]. Located at 10550 N 600 W, Fountaintown.

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

Alexander Suits indicated that the property had included the second dwelling unit when he purchased the property.

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

Q: Kevin Carson – There was no previous variance granted for the second dwelling, correct?

A: Desiree Calderella – Correct. Building permits and septic permits were issued but no variance approval was found on file.

Q: Doug Warnecke – What do you use the dwelling for?

A: Mr. Suits – It has a sink and stove. Use for guests.

Q: Dave Klene – The house and barn have separate septic systems, correct?

A: Mr. Suits – Yes.

Q: Kevin Carson – Are you planning to split the property?

A: Mr. Suits – We are selling it as one parcel.

Kevin Carson and Doug Warnecke indicated that the Board typically does not approve variances for second dwellings without a stipulation that the petitioner remove the second dwelling when no longer needed. Doug Warnecke indicated that unlike previous variance approvals for second dwellings, this approval would correct a previous permitting error. Desiree Calderella indicated that she recommended approval of the variance due to the large size of the property in relation to other nearby residential properties.

A neighbor sitting in the audience stated that the second dwelling had not caused any problems in the neighborhood.

Q: Jim Douglas – Can the property be subdivided?

A: Desiree Calderella – Yes, into three lots.

Doug Warnecke and Kevin Carson reiterated that approval of the variance would correct a previous permitting error.

Doug Warnecke made a motion to vote on the variance. Rachael Ackley 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:

Patrick Black Violation

Desiree Calderella stated that Mr. Black had not responded to two emails ordering him to appear at a BZA hearing. The Board agreed that Ms. Calderella should issue fines daily, starting immediately. They agreed that the fine amount should match the fine indicated in her initial violation letter.

Flood Violations

Desiree Calderella explained that DNR had audited the department files and found several permits issued incorrectly. She stated that several structures issued permits will likely sit below the Flood Protection Grade (FPG). She stated that the Board would need to grant variances to allow these structures below the FPG, or that the property owners would need to remove, elevate, or add second floors to the structures. The Board discussed the possibility of granting variances for agricultural buildings. Desiree Calderella emphasized the importance of allowing water to pass through any building granted a variance. The Board has a general discussion regarding flood maps, flood insurance, and floodplain regulatory requirements.

Appeal for Judicial Review – Nigh vs Shelby County BZA (regarding approval of the Speedway Solar case)

Mark McNeely stated that Mr. Nigh had appealed the Judge’s decision to dismiss the Indiana State Court of Appeals.

Shelbyville petition for Extra-Territorial Jurisdiction for property planned for a new residential development.

Mark McNeely stated that Bob Adams had sued the County Commissioners regarding their approval to grant planning jurisdiction to the City of Shelbyville.

Adjournment:

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

President Date

Secretary Date