

**Shelby County Board of Zoning Appeals
Meeting Minutes
October 11, 2022**

Members Present:

Terry Knudson
Dave Klene
Jordan Caldwell
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 September 13, 2022. Jordan Caldwell seconded the motion. The minutes were approved 4-0.

Old Business:

BZA 22-31 – PANJAB GROUP, INC.: USE & DEVELOPMENT STANDARDS VARIANCES – To allow for outdoor storage of trucks and trailers in the I1 (Low Intensity Industrial) District, use of an existing barn encroaching over the 30-foot front setback line [UDO Sec. 2.34], use of an existing gravel driveway and installation of a new partially graveled driveway [UDO Sec. 5.20 C], less than 45-foot separation between driveways [UDO Sec. 5.20 A 2 b], and use of existing gravel parking area for employee parking [UDO Sec. 5.60 A]. Located at 6925 S Carroll Rd, Indianapolis, Moral Township.

This petition was CONTINUED by request of the petitioner.

BZA 22-35 – WILLIAM LEE & CAROL JEAN RITCHIE: SPECIAL EXCEPTION & DEVELOPMENT STANDARDS VARIANCES – To allow a Type 3 Medium Intensity Retail establishment in the VM (Village Mixed Use) District and for a commercial ground sign and commercial wall signs in the VM District [UDO Sec. 5.73]. Located at 385 W Carey St, Fairland, Brandywine Township.

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

Kyle Blanck with Civil & Environmental Consultants, Inc. and Jeffrey Eicher with Pritzke & Davis Lawyers represented the petitioner. The provided a summary of the petition and stated that the petitioner would uphold the stipulations.

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

Q: Jordan Caldwell – Did you review the letter submitted by Fairland?

A: Kyle Blanck – Yes.

Q: Jim Douglas – When do you plan to start construction?

A: Kyle Blanck – After winter.

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

- 1. Use of the property for a pawn shop, quick cash/check cashing, and/or for retail generating its primary source of revenue from liquor sales shall be prohibited.**
- 2. minimum six (6) foot tall opaque fence and six (6) evergreen trees shall be installed along the entire length of the east property line. This landscaping shall be added in addition to the landscaping requirements indicated in the UDO.**

The Board adopted the following findings of fact:

Special Exception

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.

Development Standards Variance

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 22-38 – ALICIA BARR: DEVELOPMENT STANDARDS VARIANCES – To allow for a Type 2 Home Bussiness (Real Estate Office) on property where the operator of the bussiness does not reside [UDO Sec. 5.34 B 1] and exceeding 25% of the square footage of the residential structure [UDO Sec. 5.34 D 1 b]. Located at 6679 N 400 W, Fairland, Moral Township.

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

Alicia Barr provided a history of the property and overview of the request.

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 with a stipulation and Jordan Caldwell seconded the motion. The petition was **APPROVED 4-0** with a **stipulation:**

- 1. The home bussiness shall be limited to a real estate office or other office use.**

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 22-37 – BOBBY G BOLTON: USE & DEVELOPMENT STANDARDS VARIANCES – To allow for placement of a manufactured home in the R1 (Single-Family Residential) District [UDO Sec. 2.13], less than 1,600 sq. ft. [UDO Sec. 2.14], and with the front façade not facing the road to which the home gains access [UDO Sec. 5.11 A]. Located at 8668 S 250 E, Flat Rock, Nobel Township.

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

Chad Bolton, the petitioner's son who lives at 8708 S 250 E, explained that they purchased the property because he would like his father to live near his residence. He indicated that they had completed preliminary due diligence.

Bobby Bolton was present.

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

Q: Dave Klene – How big of a place do you want to have?

A: Chad Bolton – Small double-wide, two-bedroom, one-bath. About 1,700 sq. ft.

Q: Jim Douglas – Would this be a new unit?

A: Chad Bolton – A new unit or a good used unit. It will have a permanent foundation.

Jim Douglas expressed concern with approval allowing for different types of non-traditional dwellings.

Desiree Calderella clarified that the variance would only allow for a manufactured home.

Dave Klene indicated that the home would comply with the required setbacks from the property line.

Dave Klene made a motion to vote on the petition and Jordan Caldwell seconded the motion. The petition was **APPROVED 4-0**.

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 Variance

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 22-36 – RONNIE GEHRICH: DEVELOPMENT STANDARDS VARIANCES – To allow for conversion of a barn into a single-family residence located nineteen (19) feet from the front property line (minimum 35-foot setback required) [UDO Sec. 2.14], with the front façade not facing the road to which the home gains access [UDO Sec. 5.11 A], and utilizing a gravel driveway [UDO Sec. 5.19 C]. Located at 5701 N Brandywine Rd, Shelbyville, Brandywine Township.

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

Ronnie Gehrich explained that he planned to move from Pleasant View to the subject property.

The Board opened the hearing for public comment.

Tammy Scroggins, who owns property at 5780 N Brandywine Rd, expressed support for the petition and indicated that the neighbors she had spoken with also support the petition.

The Board closed the public comment portion of the hearing.

Q: Jordan Caldwell – What is currently in the barn?

A: Ronnie Gehrich – A concrete floor and a loft.

Tammy Scroggins outlined the history of the property. She indicated that the barn and house to the south originally sat on the same lot. The property owner then sold the house and kept the barn, and eventually sold both properties. The property owner to the east built their house when the barn already existed on the property. She indicated that the owner of the house to the east supports the petition.

Q: Jim Douglas – What do you plan to do to the barn?

A: Ronnie Gehrich – Half will be a garage and half will be a home. Three bedroom and two bath.

Q: Jim Douglas – There is septic there now?

A: Ronnie Gehrich – We have everything approved for installation of the septic system.

Dave Klene made a motion to vote on the petition and Jordan Caldwell 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.

SPEEDWAY SOLAR LLC: Request to retain Stantec Consulting Services Inc. to provide the estimate of the net removal cost of an approved Commercial Solar

Facility, per the Decommissioning Plan approved by the BZA as a stipulation of case BZA 19-01 – Speedway Solar LLC, approved on March 12, 2019.

Desiree Calderella provided an overview of the request. She indicated that the board would review the form of decommissioning bond at their November meeting.

Pete Endres with Speedway Solar and JoAnne Blank with Stantec were present via Zoom.

Jim Douglas asked for information regarding the timeline of the project.

Pete Endres explained that Speedway Solar plans to begin construction of the project in 2023 and plans to bring the project online by the end of 2024. He also provided an overview of the request.

Jim Douglas asked where Stantec is located.

JoAnne Blank explained that Stantec is an international company and that she personally works from Wisconsin.

Jordan Caldwell asked if Stantec has worked on projects in Indiana.

JoAnne Blank indicated that she has worked on eight decommissioning plans for solar development in seven different Counties in Indiana.

Blake Newkirk asked if any of Stantec's projects have been decommissioned and if Stantec finances solar projects.

JoAnne Blank explained that no utility scale solar projects have been decommissioned because utility scale solar is a new technology. She stated that Stantec does not finance solar projects.

Terry Knudson asked how Stantec stands out from its competitors.

JoAnne Blank explained that Stantec has worked on thousands of solar projects and employs several types of engineers that understand the life of a project from beginning to end. She indicated that Stantec uses RS Means construction data to determine their estimates. He indicated that Stantec's decommissioning plans address all project components.

Jason Abel expressed concern that none of the projects Stantec has worked on have been decommissioned and about approval of a company chosen by the developer.

JoAnne Blank explained that Stantec has experience working with developers and

governmental agencies. She stated that Stantec does not decide costs by asking the developer what their costs would be, but instead uses their experience in construction, engineering, management, and development.

Jason Abel asked how many developers versus governmental agencies commission Stantec, about the experience Stantec has with decommissioning solar facilities, and about the size of projects subject to Stantec's decommissioning plans.

JoAnne Blank explained that developers usually commission Stantec, however government agencies have reviewed and approved Stantec's decommissioning plans. She explained that no utility scale solar project has been decommissioned to date, however solar project decommissioning has similar aspects as decommissioning of other types of projects. She indicated that project size does not factor significantly into the components of decommissioning a project.

Jim Douglas asked if the decommissioning plan would apply to the whole project, or to individual properties.

JoAnne Blank indicated that decommissioning plans generally apply to the whole project.

Zanda Stead asked what surety the company could offer to protect the County.

Lisa Wojihoski-Schaler asked which entity bares the cost of the decommissioning. She asked about the timeframe for decommissioning a project. She asked what type of surety the company could provide that the decommissioning plan will work as intended. She asked if the County had a requirement to receive bids from other companies to provide the cost estimate.

Pete Endres addressed how the surety bond would protect the County. He indicated that the County would further review the decommissioning plan during the Technical Review Process. He indicated that Stantec would determine the cost estimate but would not decommission the project. He indicated that Stantec would complete their work within thirty to forty-five days, followed by review time. He indicated that decommissioning plans typically budget 12 to 18 months to fully decommission a project.

Jordan Caldwell explained that Speedway Solar would pay Stantec directly and therefore the County does not accept bids.

Rachael Barlow asked if the bond would transfer to a future project owner.

Peter Endres explained that the bond would list the County as the beneficiary, and the beneficiary would not change if project ownership changed.

Rachael Barlow asked if Speedway Solar had addressed damage done by their equipment

to the County roads.

Pete Endres explained that he had consulted with the Highway engineer and that Speedway will repair the road after they obtain a cost estimate.

Rachael Barlow asked if Stantec uses a computer module or sample plot to determine the decommissioning plan and cost estimates. She expressed concern with using a computer module rather than considering actual applications.

JoAnne Blank explained that Stantec uses RS Means and provided a summary of the information used to determine costs.

Rachael Barlow asked about the reverse process for the compaction that occurs during installation of the solar farm.

JoAnne Blank explained that typically only road construction results in soil compaction and provided a summary of the decompaction process.

Jeff Clark asked which party would cover the cost of decommissioning if the decommissioning cost exceeded the estimate, asked why the County has not considered multiple companies to determine the cost estimate, and asked for details on the reclamation plan.

Pete Endres indicated that the decommissioning plan approved by the BZA includes details regarding reclamation and that Ms. Blank can provide additional information. He indicated that a cost estimate prepared by a qualified engineer updated every five years should not deviate significantly from the actual decommissioning cost.

Terry Knudson made a motion to vote on the request and Dave Klene seconded the motion. The request was **APPROVED 4-0**.

**V21-08 – JOHN H & CYNTHIA S DEMARTINO: ZONING VIOLATION.
Located at 2027 W Washington Ave, Addison Township.**

Martha Showers, with Showers Legal, represented the DeMartinos. She indicated that the DeMartinos had removed all but one vehicle, however, had not removed all their business equipment. She indicated that the difficulty of finding a space to rent to store the equipment as well as the time they would need to take off work to move the equipment imposes a hardship on the DeMartinos. She asked for an extension to November 1st to bring the property into compliance.

John DeMartino was present.

She also requested future discussions regarding the legality of storing a rollback trailer on the property and previous emails indicating that the property had come into compliance.

Dave Klene indicated that the DeMartinis should have enough time to remove the remaining items before the previously established deadline.

Desiree Calderella explained that in her interpretation, the UDO does not allow for the storage of a commercial vehicle on residential property due to the prohibition of commercial vehicles in association with a home business in residential zoning districts.

Terry Knudson and Jordan Caldwell expressed concern with extending the deadline due to previous extensions granted by the planning department to bring the property into compliance.

Jim Douglas suggested that the Board not grant an extension, however that the Planning Director could visit the property as she has time and report back to the Board.

Desiree Calderella stated that she would visit the property the next Tuesday and provide the Board with photographs.

The Board took **NO ACTION** on the request.

Discussion

None.

Adjournment:

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

_____ President	_____ Date
Jim Douglas	

_____ Secretary	_____ Date
Kevin Carson	