

**Shelby County Board of Zoning Appeals
Meeting Minutes
November 14, 2023**

Members Present:

Dave Klene
Terry Knudson
Jim Douglas
Kevin Carson
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 October 10, 2023. Terry Knudson seconded the motion. The minutes were approved 5-0.

Old Business:

None.

New Business:

BZA 23-39 – GABE & ELYZABETH BULMER: USE & DEVELOPMENT STANDARDS VARIANCES – To allow for placement of a mobile home in the RE (Residential Estate) District, a lot with 40-feet of road frontage (minimum 160-foot of road frontage required) [UDO Sec 2.12], a 40-foot-wide lot (minimum 160-foot lot width required) [UDO Sec 2.12], for a 1,140 sq. ft. mobile home (minimum dwelling size of 1,600 sq. ft. required) [UDO Sec 2.12], a residential driveway within 10-feet of the property line [UDO 5.18 D], and lack of a paved parking pad [UDO Sec 5.60 A]. Located at 8256 W 725 S, Edinburgh, Jackson Township.

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

Gabe Bulmer stated that he planned to place a mobile home on the property.

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

The Board asked questions regarding the design of the structure. The Board considered allowing the mobile home on a temporary basis.

Q: Dave Klene – Would you consider occupying the mobile home on a temporary basis?

A: Gabe Bulmer – Would need ten to fifteen years.

Kevin Carson indicated that the Board had previously only approved mobile homes on a temporary basis.

Gabe Bulmer indicated that he planned to reside in the mobile home until the time that he could afford to build a permanent single-family home.

Q: Dave Klene – Have you considered a manufactured home?

A: Gabe Bulmer – It would cost more money.

Dave Klene indicated that approval would set a precedent for approval of mobile homes intended for permanent occupancy.

Nick Hartman indicated that the property includes wooded area and is not located near residential properties, which would support approval of the variance.

Terry Knudson referred to the difference in aesthetics between a traditional mobile home and a manufactured home.

Elyzabeth Bulmer presented a photo of the proposed mobile home to the Board. She indicated that the mobile home would not have an axle or wheels.

Q: Dave Klene – Would you be opposed to putting this on a foundation?

A: Gabe Bulmer – No.

Dave Klene and Nick Hartman indicated that the mobile home shown in the presented photo resembled a manufactured home and that they would not oppose the variance if the petitioner placed the mobile home on a permanent foundation. Nick Hartman also noted that the mobile home would not be visible from the road.

Nick Hartman made a motion to vote on the petition with a stipulation and Dave Klene

seconded the motion. The petition was **APPROVED 4-1**, with Kevin Carson casting the dissenting vote, with a **stipulation**:

1. The mobile home shall be placed on a permanent foundation.

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.

BZA 23-41 – JAMES TRACY & SHERYL LYNNE VANNOY: SPECIAL EXCEPTION – To allow a Type 3 Home Business (small trucking company) in the A1 (Conservation Agricultural) District. Located at 6179 W 900 N, Fountaintown, Moral Township.

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

Jacob S Brattain with McNeely Law LLP represented the petitioner. He indicated that the petitioner has operated the business from the property since 1997. He summarized the business operations. He explained that the goal of prohibiting Type 3 Businesses in the A1 District relates to preservation of farmland, and that the business does not use any agricultural land. He indicated that the petitioner agrees to Staff's recommended stipulations.

The Board opened the hearing for public comment.

Joy Douglas, who owns property at 6082 W 900 N, asked for the definition of a Type 3 Home Business. He indicated that the business has grown and expressed concern with

noise, vibrations, and dust from operation of trucks. She indicated that the area should remain agricultural.

Desiree Calderella summarized the Type 3 Home Business standards.

Larry Roberts, who owns property at 9102 N 600 W, indicated that he does not oppose the variance request, however, asked the Board to impose a stipulation that would prevent engine braking.

Tom Smith, who lives at 6256 W 900 N, expressed concern about noise and dust from trucks.

Jeff Maurice, an acquaintance of the petitioner, spoke to the high quality of the petitioner's business operations.

Sandra Hubal, who owns property at 5860 W 900 N, indicated that the business has continued to grow.

Janet Smith, who lives at 6082 W 900 N, expressed concern with noise and dust from the operation of trucks and with trucks driving into her yard and knocking down her fence. She indicated that the area should remain agricultural.

The Board closed the public comment portion of the hearing.

Jacob S Brattain indicated that the petitioner does not allow truck drivers to engine break, and that the truck driver who used an engine break no longer works for the petitioner's company. He indicated that the petitioner's truck drivers did not knock down the Smith's fence. He explained that the UDO limits expansion of the business and that the petitioner would agree to a stipulation further limiting expansion of the business. He indicated that the petitioner could haul agricultural products without BZA approval.

Q: Jim Douglas – How many trucks?

A: Jacob Brattain – Five dump trucks and three semis.

Q: Jim Douglas – How old are those trucks?

A: James Vannoy – 2002 through 2016.

Q: Nick Hartman – How long have you been running those trucks?

A: James Vannoy – Five to six years.

Q: Nick Hartman – You don't plan on expanding?

A: James Vannoy – Planning on downsizing.

Q: Nick Hartman – So for 25 years you have been running four or more?

A: James Vannoy – Yes.

Q: Jim Douglas – The stipulation with all trucks behind the barn, that’s in compliance?
A: Desiree Calderella – They will need to rearrange some things.

James Vannoy indicated that he would have the outdoor storage area in compliance by the next day.

Kevin Carson suggested that the petitioner stipulate to keeping a maximum of five tri-axels and three semis on the property.

Treca Smith, who lives at 6256 W 900 N, expressed concern about noise from trucks.

Q: Terry Knudson – How big is the farm.

A: Jacob Brattain – If we had been one less acre, we would have been rezoned to A2 in 2008 and would not be here. Type 3 is permitted under A2 zoning.

Kevin Carson made a motion to vote on the petition with stipulations and Terry Knudson seconded the motion. The petition was **APPROVED 5-0** 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.**
- 2. Outdoor storage of trucks and trailers shall only be permitted directly behind the existing 2,800 sq. ft. barn in an area not to exceed 0.2-acres.**
- 3. No more than five tri-axels and three semis shall be kept on the property.**

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.

V23-14 – DANNY & MARIA RIGDON: ZONING VIOLATION – Construction of a single-family home having a basement below the Flood Protection Grade in a Special Flood Hazard Area. Located at 5879 N PR 660 W, Fairland, Brandywine Township.

Desiree Calderella summarized the history of the violation and the Board’s options for enforcement.

Danny Rigdon summarized the history of the violation and indicated that he had signed a contract with Burke Engineering. He explained that engineering firms typically work on larger floodplain management projects and therefore it had taken additional time to convince a firm to sign a contract for a single-family residence. He explained that Burke Engineering can likely determine an alternate design solution to bring the house into compliance other than filling in the basement. He indicated that Burke Engineering would likely provide a plan the week after Thanksgiving. He indicated that the plan would likely include an engineered drain. He explained that he had received quotes to fill in the basement and would promptly fill in the basement if FEMA does not agree to an alternate solution posed by Burke Engineering.

The Board generally agreed that from a financial perspective, the owner has an incentive to resolve the violation in a timely manner.

Desiree Calderella recommended that the property owner provide an update to the Board each month and that the Board decide on enforcement action at a future date dependent on the progress made to address the violation. The Board unanimously approved this course of action.

Discussion

Hearing Officer Cases

**BZA 23-40 – STACIA PING: DEVELOPMENT STANDARDS VARIANCE.
Located at 2405 S PR Phelps Ln, Shelbyville, Shelby Township.**

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on November 2, 2023.

Adjournment:

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

President	Date
Jim Douglas	

Secretary	Date
Kevin Carson	