

**Shelby County Board of Zoning Appeals
Meeting Minutes
December 12, 2023**

Members Present:

Dave Klene
Terry Knudson
Jim Douglas
Kevin Carson

Members Absent:

Nick Hartman

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:

Kevin Carson made a motion to approve the minutes from November 14, 2023. Terry Knudson seconded the motion. The minutes were approved 4-0.

Old Business:

None.

New Business:

BZA 23-44 – JOEL NEUENSCHWANDER: DEVELOPMENT STANDARDS VARIANCES – To allow for a reduction in the required 750-foot property line setback requirement for structures in the A3 (Intense Agricultural) District [UDO Sec. 2.08]. Located at 11903 S SR 9, Flat Rock, Washington Township.

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

Joel Neuenschwander explained that the zoning of the property allows animals, that he

plans to add onto the house, and that he plans to possibly add a locker for meat processing onto an existing building.

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

Jim Douglas indicated that Mr. Neuenschwander runs a neat operation and keeps the property maintained.

Kevin Carson informed Mr. Neuenschwander that the variance request only pertains to setbacks and does not allow for unpermitted use of the property.

Kevin Carson made a motion to vote on the petition with a stipulation and Dave Klene seconded the motion. The petition was **APPROVED 5-0** with a **stipulation**:

- 1. All structures shall comply with the minimum setback requirement for the A1 District, specifically:**
 - a. Minimum Front Yard Setback - 50 feet**
 - b. Minimum Side Yard Setback**
 - i. 40 feet for primary structure**
 - ii. 10 feet for accessory structure**
 - c. Minimum Rear Yard Setback**
 - i. 40 feet for primary structure**
 - ii. 10 feet for accessory structure**

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 23-45 – BRIAN & JOANNE KLUNK: DEVELOPMENT STANDARDS VARIANCE – To legally establish a fence exceeding 5-feet in height in the front yard [UDO Sec. 2.23 F 1]. Located at 5943 S SR 9, Shelbyville, Shelby Township.

Desiree Calderella read the petition into the record and stated that Staff recommends denial and recommends a stipulation if the Board chooses to approve the variance.

Brian Klunk explained that the fence would contain his two dogs, and toys and sports equipment used by his grandchildren. He indicated that he agreed to the Staff recommended stipulation. He explained that the bottom of the fence sits two feet below the grade of pavement of SR 9 and one foot below the grade of pavement of CR 600 S.

Joanne Klunk explained that the fence would keep the view of the road screened from the dogs to reduce stress to the dogs.

The Board opened the hearing for public comment.

Mike Vanderbur, who lives at 544 E 600 S, opposed the variance. He explained that the property sits at a blind corner, that CR 600 S has a relatively high volume of traffic for a county road and is a school bus route, that the fence blocks the view of traffic from the driveway on property to the west, and that the petitioner could construct a fence in their rear yard.

Charlene Rudicel, who lives at 544 E 600 S, explained that the fence hinders view of traffic on SR 9 when turning from CR 600 S onto SR 9.

Ronald Kissell, who lives at 5768 S SR 9, indicated that the fence impairs visibility along the roadways.

The Board closed the public comment portion of the hearing.

Brian Klunk explained that the roads peak at the corner which impairs visibility and that vehicles speed, however, that the fence does not aggravate these existing issues. He explained that he had built the fence at a 45-degree angle at the corner so as not to impair roadway visibility. He showed the Board on the map his plans for fencing on the other portions of the property.

Joanne Klunk emphasized that the bottom of the fence sits below the grade of the road.

Kevin Carson indicated that the dogs could play within a fenced area in the rear yard.

Dave Klene indicated that the neighbors have concerns about safety.

Terry Knudson made a motion to vote on the petition and Dave Klene seconded the motion. The petition was **DENIED 5-0**.

Terry Knudson made a motion to adopt the Findings of Fact listed in the Staff Report and Dave Klene seconded the motion. The Board adopted the following Findings of Fact:

1. A fence in the right-of-way exceeding the height requirement would likely hinder the visibility of traffic traveling south on SR 9 from vehicles making a left turn from CR 600 S onto SR 9.
2. A fence exceeding the height requirement projecting in front of the front façade of the adjacent residential property to the west would impact the viewshed from the front yard of this property.

3. A strict application of the ordinance would prohibit construction of a fence compliant with the fence height standards for side yards in an area of the property that functions as a side yard.

The Board granted the petitioner 60 days to bring the property into compliance.

BZA 23-46 – REX OLDS: DEVELOPMENT STANDARDS VARIANCE – To allow for a 1,440 sq. ft. barn exceeding 50% the square footage of the footprint of the residence [UDO Sec. 5.07 F 1]. Located at 482 E Edgewood Dr, Shelbyville, Addison Township.

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

Rex Olds indicated that he plans to use the barn as a recreational area for his children. He indicated that he plans to insulate the building and install electrical facilities.

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

Dave Klene indicated that no one had attended the hearing to oppose the petition.

Dave Klene made a motion to vote on the petition and Terry Knudson 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

V23-14 – DANNY & MARIA RIGDON: ZONING VIOLATION. Update on progress to correct violation. Located At 5879 N PR 660 W, Fairland, Brandywine Township.

Danny Rigdon explained that he had consulted with an engineer from Burke Engineering and that the engineer advised that he fill in the basement. He indicated that he has requested quotes to fill in the basement.

Hearing Officer Cases

**BZA 23-42 – CHAD CHRISTIAN: DEVELOPMENT STANDARDS
VARIANCES. Located at 4789 S SR 9, Shelbyville, Shelby Township.**

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on November 28, 2023.

**BZA 23-43 – JOSHUA CORD: DEVELOPMENT STANDARDS
VARIANCE. Located at 4629 S SR 9, Shelbyville, Shelby Township.**

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on November 28, 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	