

**Shelby County Board of Zoning Appeals**  
**Meeting Minutes**  
**December 14, 2021**

**Members Present:**

Kevin Carson  
Dave Klene – via Zoom  
Jim Douglas  
Doug Warnecke  
Rachael Ackley

**Members Absent:**

None

**Staff Present:**

Desiree Calderella – Planning Director  
Jody Butts – 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.

**Approval of Minutes**

Jim Douglas made a motion to approve the minutes from November 2, 2021. Dave Klene seconded the motion. The minutes were approved 3-0, with Doug Warnecke and Rachael Ackley abstaining.

**Old Business:**

**BZA 21-36 – EDWARD MARLOW: DEVELOPMENT STANDARDS VARIANCE – To legally established a 2,560 sq. ft. barn and to allow for a 960 sq. ft. addition (the total square footage of all accessory structures on a lot cannot exceed 50% the square footage of the footprint of the residence) [UDO Section 5.07 F 1]. Located at 6509 N London Rd, Fairland, Moral Township.**

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

Edward Marlow stated that he planned to house chickens in the addition. He explained that family members own the properties to the north and south of his property, and that they have no issue with approval of the variance.

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

the public comment portion of the hearing.

Q: Doug Warnecke – Will the exterior materials of the addition match the existing barn?

A: Edward Marlow – Yes.

Q: Doug Warnecke – Is the barn visible from the road?

A: Edward Marlow – No.

Doug Warnecke made a motion to vote on the petition and Jim Douglas 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 21-34 – RICHARD CONOVER: DEVELOPMENT STANDARDS VARIANCES – To allow for an accessory structure in the front yard [UDO Section 5.04 C] and five (5) feet from the right-of-way of S Riley Hwy (minimum 35-foot setback required). [UDO Section 2.14]. Located at 413 E Edgewood Dr, Shelbyville, Addison Township.**

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

Richard Conover stated that he planned to store a boat, truck, and other garage items in the structure.

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

Q: Rachael Ackley – What type of exterior materials do you plan to use?

A: Richard Conover – Grey metal with white trim to match the house. It will have a metal roof.

Q: Jim Douglas – Do you plan to install a new driveway?

A: Richard Conover – Yes, a gravel driveway straight to Edgewood Dr.

Q: Rachael Ackley – Will the front building line of the structure be even with the front building line of the house?

A: Richard Conover – Yes.

Q: Doug Warnecke– Will the building be taller than the house?

A: Richard Conover – Maybe, but the building will be under 20 feet.

Doug Warnecke made a motion to vote on the petition and Rachael Ackley seconded the motion. The petition was **APPROVED 3-2**, with Kevin Carson and Jim Douglas casting the dissenting votes.

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.

**New Business:**

**BZA 21-40 – KIMBERLY JONES: DEVELOPMENT STANDARDS VARIANCE – To allow for a 1,440 sq. ft. barn exceeding 50% the square footage of the footprint of the residence [UDO Section 5.07 F 1]. Located at 6933 N 325 W, Fairland, Moral Township.**

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

Ryan Jones represented the petitioner. He stated that the building would include a two-car garage and workshop.

The Board opened the hearing for public comment.

Linda Castor, who owns property at 6821 N 325 W, expressed concerns with drainage and the long-term use of the structure. She stated she had spoken to the petitioner about the variance.

The Board closed the public comment portion of the hearing.

Ryan Jones explained that the owner of the farm ground to the west had agreed to correct any drainage issues that may arise.

Q: Doug Warnecke – Why do you need to build a structure of the proposed size?

A: Ryan Jones – The house does not include an attached garage. Would like enough space to park two vehicles and to have a workshop.

Q: Doug Warnecke– Do you have any plans to change the use of the structure in the future?

A: Ryan Jones – No, the structure will have no plumbing. The existing septic system cannot accommodate plumbing in the garage. The structure will not be used for a business.

Q: Doug Warnecke – Will the structure sit on a concrete pad?

A: Ryan Jones – Yes, it will have a concrete floor.

Q: Doug Warnecke– Do you plan to remove the existing shed on the property?

A: Ryan Jones – Yes.

Doug Warnecke made a motion to vote on the petition and 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 21-39 – UNITED ENERGY: DEVELOPMENT STANDARDS VARIANCES – To allow for more than two primary signs, to allow for replacement of two ground signs with new ground signs each having an area of 80 sq. ft. (maximum area of 45 sq. ft. permitted) and a height of 8-feet (maximum height of 6-feet permitted), to legally establish an existing pole sign having an area of 70 sq. ft. (maximum area of 45 sq. ft. permitted) and a height of 12.5-feet (maximum height of 6-feet permitted), and to legally establish an existing electronic message center pole sign having an area of 50 sq. ft. (maximum area of 45 sq. ft. permitted), a height of 12-feet (maximum height of 6-feet permitted), and animated components (not permitted). [UDO Section 5.75]. Located at 11650 N Cooperative Dr, Fountaintown, Van Buren Township.**

Desiree Calderella read the petition into the record and stated that Staff recommends denial of the variance to allow a sign with animated components, but approval of all other variance requests.

Scott Elpers, with Custom Sign & Engineering, Inc, represented the petitioner. He stated that all signs subject to the variance application have existed on the property for over ten years. He explained that United Energy planned to move the fuel price signs off the gas pump canopy and onto the ground signs to improve visibility of the fuel prices.

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

Q: Doug Warnecke – Will construction of the proposed roundabout at SR 9 and US 52 alter the placement of the signs.

A: Scott Elpers – United would not need to move the signs unless the State also purchased the area that includes the underground storage tanks.

Doug Warnecke made a motion to vote on all variances included in the petition and Jim Douglas seconded the motion. All variances were **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 21-41 – DEBIE & TIM ENGLAND: DEVELOPMENT STANDARDS VARIANCES – To legally establish an 888 sq. ft. accessory structure in the front yard [UDO Section 5.04 C], in the right-of-way of 1080 N (minimum 35-foot setback required) [UDO Section 2.14], and without a concrete floor and perimeter foundation [UDO Section 5.07 E]. Located at 949 W 1080 N, Fountaintown, Van Buren Township**

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

Tim England stated that he uses the structure to store his 5<sup>th</sup>-wheel camper out of the weather. He stated that he had applied for a building permit.

The Board opened the hearing for public comment.

Tony Whitfield, who owns property at 784 W 1080 N, indicated that he has no issue with the structure and that he does not consider the structure an eyesore.

Callie Hewitt Wickford, who owns property at 817 W 1080 N, explained that the structure could deter future homebuyers from purchasing homes in the neighborhood, that the structure blocks the view of the intersections from her driveway, that the structure resembles the size of homes in the neighborhood, and that the structure is an eyesore to the entire neighborhood.

Theresa Bryant, who owns property at 901 W 1080 N, expressed concerns with the

impact the structure would have on property values, the impact to traffic safety and the safety of her grandchildren when playing in her yard, about the structure casting shadows onto her property, and about storm damage to the structure impacting her property. Anthony Perrymaker, who also lives at 901 W 1080 N, explained that the structure had really upset Theresa Bryant. He expressed concerns with the large size of the structure and impacts to traffic safety.

Tommy George, who lives at 951 W 1080 N, indicated that he has no issue with the structure and that it does not block his view of any intersection.

David Branchfield, who owns property at 800 W 1080 N, asked if the County had a size limit for accessory structures, if the structure would impact property values, and if the County would need to change its rules to allow the structure to remain on the property.

Debbie England explained that the Health Department had provided her a site plan for the wrong property and that she had used this site plan for her permit application. She explained that the structure does not pose a safety hazard because it is anchored to the ground. She indicated that she would enclose the structure if the Board approved the variance. She explained that no other neighbors expressed concerns about the structure blocking their view along the roadway.

Tony Whitfield, who owns property at 784 W 1080 N, indicated that he has no issue with the structure and that the structure does not impact traffic visibility along the roadway. He explained that the petitioner does not have enough area in their backyard for placement of an accessory structure.

Justin Wilcher, who owns property 963 W 1080 N, indicated that he has no issue with the structure and that it does not block traffic visibility along the roadway.

The Board closed the public comment portion of the hearing.

Q: Jim Douglas – Is the structure considered a permanent structure?

A: Desiree Calderella – Yes, the department permits it the same as any other accessory structure because it has three walls.

Tim England stated that Ms. Bryant has a fence that runs to the road and that Ms. Wickford obtained approve to place a barn in her front yard. He explained that he correctly completed the permitting process, but that the process failed him.

Kevin Carson stated that the Planning Department had issued Mr. England a permit based on faulty information. He stated that the site plan submitted by Mr. England did not have accurate dimensions or property boundaries.

Tim England explained that the building does not block views and has not caused any traffic accidents.

The Board discussed the interpretation of a property's front yard and implementing the policy of requiring a site plan drawn on a GIS aerial map at the time of application for a building permit.

Doug Warnecke stated that an even number of people spoke in favor of the petition as spoke in opposition to the petition. He indicated that the petitioner could not place the building anywhere on the property without encroaching into a setback. He stated that the petitioner provided the Plan Commission office with erroneous information regarding placement of the structure and that the office issued the permit under the assumption that the structure complied with all ordinance requirements.

Q: Kevin Carson – How far does the structure encroach over the right-of-way line?

A: Desiree Calderella – Two feet.

The Board discussed future Commissioners' approval to allow the structure in the right-of-way.

Doug Warnecke made a motion to vote on the petition with a stipulation and Jim Douglas seconded the motion. The petition was **APPROVED 3-2**, with Kevin Carson and Jim Douglas casting the dissenting votes, with a **stipulation**:

1. **The Commissioners shall grant final approval to allow the structure in its existing location.**

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**

### **2022 BZA Meeting Calendar**

Doug Warnecke made a motion to approve the meeting calendar and Jim Douglas seconded the motion. The calendar was **APPROVED**.

**BZA 21-38 – KENNETH & BRITTANI WILLOUGHBY: DEVELOPMENT STANDARDS VARIANCE – To allow a front-loading attached garage greater than 8-feet forward of the main living area of a single-family dwelling [UDO Sec. 5.11 D 2]. Located at 4155 W PR 733 S, Shelbyville, Jackson Township**

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on December 2, 2021.

**BZA 21-42 – ALEXA S KARMIRE & JOSH SOUTHWORTH: DEVELOPMENT STANDARDS VARIANCES – To allow a single-family dwelling 30-feet from the proposed ROW (min. 35-foot setback required) and 18.2-feet from the rear property line (min 30-foot setback required) [UDO Sec 2.14]. Located at 6531 W Boggstown Rd, Boggstown, Sugar Creek Township.**

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on December 13, 2021.

**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.

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_____ President	_____ Date
Kevin Carson	

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_____ Secretary	_____ Date
Dave Klene	