

Shelby County Board of Zoning Appeals
Meeting Minutes
April 13, 2021

Members Present:

Kevin Carson
Jim Douglas
Dave Klene

Members Absent:

Doug Warnecke
Rachel Ackley

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.

Approval of Minutes

Jim Douglas made a motion to approve the minutes from March 9, 2021. Dave Klene seconded the motion. The minutes were approved 3-0.

Old Business

None.

New Business:

BZA 21-07 – DENNIS CHANEY: DEVELOPMENT STANDARDS VARIANCE – To allow for construction of a 2,240 sq. ft. addition to a pole barn (the total area of all accessory structures on a lot cannot exceed 2X the footprint of the house in the RE (Residential Estate) District) [UDO Section 5.06 D]. Located at 3114 E German Rd, Shelbyville, Addison Township.

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

Dennis Chaney explained that he planned to add 40 feet to the back of the existing barn to use for storage.

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

Q: Dave Klene – Do you plan to run utilities to the barn?

A: Dennis Chaney – No.

Dave Klene made a motion to vote on the variance. Jim Douglas seconded the motion. The petition was **APPROVED 3-0**.

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 21-08 – FAITH BAPTIST CHURCH: DEVELOPMENT STANDARDS VARIANCES – To allow eighteen (18) street trees (27 trees required) [UDO Section 5.44 A 1]; zero (0) interior lot trees (10 trees required) [UDO Section 5.47 A 3]; five (5) trees and twenty-two (22) shrubs within the parking lot area (20 trees and 63 shrubs required) [UDO 5.48]; eighteen (18) trees along the east property line (36 trees required), twelve (12) trees along the west property line (24 trees required), eighteen (18) trees along the south property line (36 trees required) [UDO Section 5.49]. Located at 2795 E US 52, Morristown, Hanover Township.

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

A representative for the petition did not appear.

Dave Klene made a motion to continue the petition to May 11, 2021. Jim Douglas seconded the motion. The petition was continued to May 11, 2021.

BZA 21-10 – GUY NICHOLSON: DEVELOPMENT STANDARDS VARIANCES – To allow for construction of a 960 sq. ft. pole structure four (4) feet from the front property line (minimum 35-foot front setback required) [UDO Section 2.14]; in the front yard [UDO Section 5.04 C]; greater than 50% the square footage of the footprint of the house [UDO Section 5.07 F 1]. Located at 2806 S Rosewood Dr, Shelbyville, Shelby Township.

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

Guy Nicholson explained that location of the structure in the rear yard would require installation of a new driveway. He indicated that he planned to use the structure for storage of a trailer, lawn equipment, etc.

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

Q: Kevin Carson – Have you discussed your building plans with your neighbors?

A: Guy Nicholson – Yes, they expressed no issues.

Q: Jim Douglas – What exterior materials do you plan to use?

A: Guy Nicholson – Metal pole barn built by an Amish company.

Dave Klene stated that if neighbors had a concern with the variance, they would have attended the BZA meeting.

Jim Douglas made a motion to vote on the variance. Dave Klene seconded the motion. The petition was **APPROVED 3-0**.

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 21-11 – SCOTT MULLINS & CYNTHIA GASTEL: DEVELOPMENT STANDARDS VARIANCES – To legally establish the keeping of more than five (5) horses per acre [UDO Section K-07 A 2]; use of less than 1-acre of pasture area per horse [UDO Section K-07 A 5]; a stable located less than 150-feet from the nearest residence and less than 40-feet from the property line [UDO Section K-07 A 4]. Located at 8531 N 700 W, Fairland, Moral Township.

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

Scott Mullins indicated that he plans to continue using the property as used historically, for the keeping of horses.

The Board opened the hearing for public comment.

Kenny Rieman expressed concerns with the keeping of horses outside in the mud and rain and with the burning of manure effecting the health of the horses and causing a nuisance

to neighboring property. He explained that IDEM had sent the petitioners a letter ordering them to cease burning on the property, however the petitioners have continued to burn manure.

Q: Dave Klene – Would you oppose the variance if the petitioners stopped burning manure?

A: Kenny Rieman – Yes, would still oppose because the petitioners keep the horses outside in the mud and rain.

Scott Mullins explained that they only burn lawn waste and wet hay. He stated that the horses do not stay outside during the snow or rain. He explained that the horses race at Indiana Grand.

Desiree Calderella explained that evergreen trees would help screen the area lacking groundcover from the road.

Q: Kevin Carson – Has the Moral Township Fire Department inquired about the burning of materials on the property?

A: Scott Mullins – No. IDEM visited the property and determined that the burning of natural materials did not violate any laws.

Kevin Carson suggested removal of wet excess hay rather than burning the hay.

Q: Jim Douglas – Would you agree to a stipulation that prevents burning on the property?

A: Scott Mullins – I would agree to no mass-burning on the property.

Q: Dave Klene – Are you agreeable to planting evergreen trees?

A: Scott Mullins – Yes.

Dave Klene made a motion to vote on the variance with stipulations. Jim Douglas seconded the motion. The petition was **APPROVED 3-0** with **stipulations**:

- 1. No more than twenty-one (21) horses shall be kept on the property at any one time.**
- 2. Animal waste shall be stored in a dumpster on the south side of the horse barn and stored waste shall be completely removed from the property a minimum of every twenty-one (21) days.**
- 3. At least eight (8) evenly spaced evergreen trees shall be installed along the inside of the fence adjacent to N 700 W. The trees shall be installed by August 13, 2021 and maintained until use of the property conforms to the provisions of the Unified Development Ordinance.**
- 4. Burning of bedding and hay shall be prohibited.**

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:

None.

Adjournment:

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

President	Date
Kevin Carson	

Secretary	Date
Dave Klene	