

Shelby County Board of Zoning Appeals
Meeting Minutes
April 8, 2025

Members Present:

Kevin Carson
Terry Knudson
Dave Klene
Jim Douglas
Megan Hart

Members Absent:

None

Staff Present:

Desiree Calderella – Planning Director
Jody Butts – Attorney

Call to Order and Roll Call:

Dave Klene 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 March 11, 2025. Jim Douglas seconded the motion. The minutes were approved 5-0.

Old Business:

BZA 25-05 – SPEEDWAY SOLAR, LLC: DEVELOPMENT STANDARDS VARIANCE & VACATION OF STIPULATION OF SPECIAL EXCEPTION APPROVAL – Variance of Development Standards of UDO Amendment 2018-07 Section SES-01 Commercial Solar Energy Systems to eliminate the landscape buffer requirement for a portion of a commercial solar energy system facility and vacation of Stipulation #4 of Special Exception Approval BZA 19-01 to eliminate the additional landscape buffer requirement for a portion of a commercial solar energy system facility.

This case as **WITHDRAWN** by the petitioner prior to the meeting.

New Business:

BZA 25-06 – CHAD MUCKERHEIDE: SPECIAL EXCEPTION & DEVELOPMENT STANDARDS VARIANCE – To allow a Type 2 Home Business

(agricultural fuel trailer dealer) in the RE (Residential Estate) District and a Type 2 Home Business conducted within an accessory structure [UDO Sec. 5.34]. Located at 610 S 250 W, Shelbyville, Addison Township.

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

Chad Muckerheide indicated that he needs zoning approval to obtain a dealer's license. He explained that he finishes-out trailers and then sells the trailers. He indicated that he expects to work on four trailers per month and that he would store all trailers in the existing barn.

The Board opened the hearing for public comment.

Kathy Durbin, who lives at 597 S PR 230 W, asked for a description of a fuel trailer. She asked if the variance would allow for other types of business.

Tim Schacht, who lives at 684 S 250 W, indicated that the existing barn can accommodate the business, that the business would provide an asset to the farming community, and that the business would generate minimal traffic.

Susan Taylor, who lives at 445 S PR 230 W, asked if the variance would transfer with sale of the property.

Fred Holder, who lives at 598 S PR 230 W, asked for additional details regarding business operations and asked how the business would benefit the area. He expressed concern that other businesses had negatively impacted the residential neighborhood.

The Board closed the public comment portion of the hearing.

Chad Muckerheide explained that a fuel trailer stores diesel fuel for use in agricultural fields. He indicated that he would not store fuel in trailers on the property. He indicated that the business would generate three to four vehicle trips per month and that customers would typically visit by appointment. He indicated that the business would have no lighting, outdoor storage, or signage. He indicated he would store trailers in the barn but may occasionally store a trailer outdoors for a limited time.

Desiree Calderella clarified that the recommended stipulations would require that the business comply with the Statement of Intent submitted by the petitioner with the variance application.

Terry Knudson made a motion to vote on the petition with stipulations and Jim Douglas seconded the motion. The petition was **APPROVED 5-0 with stipulations.**

- 1. Operation of the business shall comply with Section 5.34 HB-02: Type 2 Home Business Standards of the Unified Development Ordinance, other than Sections 5.34 D 1.**
- 2. Business operations shall be limited to the Statement of Intent and Site Plan submitted with the variance application.**

Kevin Carson made a motion to adopt the Findings of Fact indicated in the Staff Report and Terry Knudson seconded the motion. The Findings of Fact indicated in the Staff Report were adopted 5-0.

BZA 25-07 – HORVATH COMMUNICATIONS / PYRAMID NETWORK SERVICES, LLC: USE & DEVELOPMENT STANDARDS VARIANCES – To allow for a cellular telecommunications facility in the A1 (Conservation Agricultural) District, utilities outside of the security fence [UDO Sec. 5.80 C 7], and motion sensor lighting on ground utilities [UDO Sec. 5.80 C 9]. Located at 8253 W 1150 S, Edinburgh, Jackson Township.

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

Jeff Haley with Pyramid Network Services, LLC provided an overview of the project.

The Board opened the hearing for public comment.

Steven Benson, who lives at 11689 S Scott Dr, expressed concern that not all neighbors received notice and about safety hazards related to the project that would impact adjacent residential properties. He asked if the variance would allow for future construction of additional towers on the property.

Mike Maya, who lives on Allison Lane, expressed concern with impact to property values and impact to air traffic. He asked if the petitioner intends to increase the height of the tower and if the FFA had approved the project.

Christina Dean, who lives at 11704 S 825 W, asked why the petitioner could not locate the tower further away for the residential neighborhood. She expressed concern with noise pollution, impact to property values, hazard to aircraft, aesthetics, and fire hazards related to the project.

Larry Kinman, who lives at 11686 S 825 W, indicated that he has listed his house for sale and that two potential buyers decided not to put in offers due to the project. He expressed concern about safety hazards related to the project.

Ivan Brentin expressed concern that lack of lighting would cause a flight hazard.

The Board closed the public comment portion of the hearing.

Jeff Haley explained that the US Telecommunications Act prohibits local denial of telecommunications facilities due to health and safety concerns because the facility would comply with the health and safety guidelines of the Telecommunications Act. He indicated that the FFA had approved the project, and that Camp Atterbury had involvement in the FFA approval process. He indicated that no evidence exists that telecommunications facilities either increase or decrease surrounding property values. He indicated that the FFA does not require lighting on towers under a height of 200 feet and that County ordinance prohibits lighting on towers. He indicated that there are no plans to extend the height of the tower. He explained that the facility would not serve the coverage gap if relocated more than two miles in any direction.

Terry Knudson asked if Starlink would eliminate the need for cell phone towers.

Jeff Haley explained that Starlink only serves very remote areas.

Jim Douglas asked why some homes in the area did not receive notice of the variance.

Desiree Calderella explained that the required 660-foot notification radius did not include every home in the adjacent neighborhood.

Megan Hart asked for clarification regarding the possible increase to the project footprint for additional carriers.

Jeff Haley explained that the proposed 100'x100' lease area includes enough area to accommodate equipment for additional carriers and that the facility would extend fencing and landscaping around any future equipment.

Desiree Calderella explained that use variances only permit the specific use requested and would not allow the petitioner to construct additional towers or expand the lease area in a manner inconsistent with the submitted site plan.

Megan Hart clarified that the Telecommunications Act does not allow the Board to deny the variance based on health and safety impacts or appearance.

Desiree Calderella verified that the UDO does not allow for placement of a light on top of the tower in order to prevent light nuisance. She stated that the FFA would have the expertise to determine if the tower requires safety lighting.

The Board discussed the service gap area and the proximity of other cellular towers.

Terry Knudson made a motion to vote on the petition and Megan Hart seconded the motion. The petition was **APPROVED 5-0**.

Kevin Carson made a motion to adopt the Findings of Fact indicated in the Staff Report and Terry Knudson seconded the motion. The Findings of Fact indicated in the Staff Report were adopted 5-0.

BZA 25-08 – KEVIN RICE: DEVELOPMENT STANDARDS VARIANCES – To allow for replacement of a barn with a 3,456 sq. ft. pole barn resulting in five (5) accessory structures on the property [UDO Sec. 5.06 C] and the total area of all accessory structures on the property exceeding 2X the footprint of the house [UDO Sec. 5.06 D]. Located at 5539 W 900 S, Edinburgh, Jackson Township.

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

Kevin Rice indicated that the new barn would replace a previously existing barn.

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

Jim Douglas asked about the proposed use for the barn.

Kevin Rice indicated that he plans to use the barn for storage.

Kevin Carson made a motion to vote on the petition and Terry Knudson seconded the motion. The petition was **APPROVED 5-0**.

Kevin Carson made a motion to adopt the Findings of Fact indicated in the Staff Report and Terry Knudson seconded the motion. The Findings of Fact indicated in the Staff Report were adopted 5-0.

BZA 25-09 – MELISSA FLEEK: DEVELOPMENT STANDARDS VARIANCES – To allow for reconstruction of a home with a new home encroaching into the 35-foot front yard setback and proposed right-of-way of CR 400 W [UDO Sec. 2.14] and with a front-loading garage greater than 8-feet forward of the main living area of the home [UDO Sec. 5.11 D 2]. Located at 9276 N 400 W, Fountaintown, Moral Township.

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

Nathan Beyers, the petitioner's husband, explained that a house fire had resulted in total loss of the previous house. He discussed the issues with reconstruction of the house due to placement of the property into a floodplain by DNR in 2022. He explained that they plan to construct the new house on the same footprint as the previous house, and that the existing driveway had served a front-loading garage on the previous house.

Melissa Fleek Beyers was present.

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

Desiree Calderella discussed her rationale for recommending denial as outlined in the Staff Report.

Megan Hart asked how far the garage would project past the front of the house.

Nathan Beyers stated that it would project two feet in front of the porch and twelve feet in front of the main living area of the house.

Melissa Fleek Beyers explained that the conditions of the property restrict maneuvering a vehicle into a side loading garage.

Kevin Carson asked if the petitioner would elevate the house.

Nathan Beyers explained that they plan to continue discussions with DNR regarding the required elevation of the house.

Kevin Carson stated that the house would be better than the house that was there before.

Kevin Carson made a motion to vote on the petition and Megan Hart seconded the motion. The petition was **APPROVED 5-0**.

Kevin Carson made a motion to continue the Findings of Fact until the next meeting and Terry Knudson seconded the motion. The Findings of Fact were continued.

Discussion

None.

Adjournment:

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