

Shelby County Board of Zoning Appeals
Meeting Minutes
August 10, 2021

Members Present:

Kevin Carson
Dave Klene
Doug Warnecke
Jim Douglas

Members Absent:

Rachel Ackley

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

Doug Warnecke made a motion to approve the minutes from July 13, 2021. Dave Klene seconded the motion. The minutes were approved 4-0.

New Business:

BZA 21-28 – BROWNING INVESTMENTS: DEVELOPMENT STANDARDS VARIANCE – To allow the following size parameters for building signage: Front Elevation: No more than 20% of the area of the building façade, Side Elevation: No more than 15% of the area of the building façade with each side calculated separately, Rear Elevation: No more than 10% of the area of the building façade, No limit on the number of signs on a given façade as long as the aggregate signage area does not exceed the limits established above on a given facade [UDO Section 5.75 A 2]. Located at 9175 N Frontage Rd, Fairland, Moral Township.

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

Chris King represented the petitioner. He explained that the request reflected the standards applied to signage for other projects in the area and that the signage would be consistent with signage on large-scale industrial buildings in the region.

Matt Brauer and Terry Hebert with Browning Investments were also present.

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

Doug Warnecke made a motion to vote on the petition and Dave Klene seconded the motion. The petition was **APPROVED 4-0**.

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 21-25 – FAITH BAPTIST CHURCH: DEVELOPMENT STANDARDS VARIANCE – To delay paving of a church parking lot for two years after completion of the project [UDO Section 5.60 A]. Located at 2795 E US 52, Morristown, Hanover Township.

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

Wayne Scott, pastor for Faith Baptist Church, explained that the church would prefer to not acquire a loan to fund paving of the parking lot.

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

Q: Doug Warnecke – Did you include paving in your budget for the project?

A: Wayne Scott – Yes, however the price of materials has increased.

Q: Jim Douglas – Would you agree to apply a dust suppressant to the parking lot?

A: Wayne Scott – Yes.

Q: Dave Klene – Do you expect the majority of traffic on Sunday?

A: Wayne Scott – Yes.

Q: Doug Warnecke – Would you agree to a one-year delay?

A: Wayne Scott – Yes, but a two-year delay would provide more than enough time to save the money.

Jim Douglas made a motion to vote on the petition with a stipulation and Dave Klene seconded the motion. The petition was **APPROVED 4-0** with a **stipulation**:

1. A dust suppressant shall be applied to the parking lot one time per year.

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.

Old Business

BZA 21-24 – CHARLES WILLIAMS & KAYLEIGH KEENER: USE & DEVELOPMENT STANDARDS VARIANCES – To allow for an event venue in the RE (Residential Estate) District [UDO Section 2.11]. Also, to allow for two primary structures [UDO Section 2.12], grass parking area [UDO Section 5.60 A], and a small commercial sign [UDO Section 5.73]. Located at 3615 W 1200 N, New Palestine, Moral Township.

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

Kayleigh Keener asked to modify stipulation #6 to state: Devices used to project sound outdoors shall be operated for no longer than two (2) hours per day and operated no later than 8 PM. She stated that outdoor noise would include light background noise for ceremonies and would not include a DJ.

She stated that the maximum capacity would be approximately 200 guests, however this capacity could change pending a capacity determination by the Fire Marshal. She stated surveys indicated an average attendance of 130 people for this type of venue.

She stated traffic would fluctuate, typically with few trips before 2PM, the most trips between 2PM and 4PM, and intermittently exiting the property between 7PM and 11PM. She stated most events would occur on Saturdays.

She explained that the surrounding area includes three successful event barns. Two of these barns have sold out for the 2022 season, one has 50% availability.

The Board opened the hearing for public comment.

Kathy Collins, who owns property at 1938 W 600 S, New Palestine, expressed concerns about headlights from vehicles exiting the venue posing a nuisance to properties on the

north side of the road, traffic safety, noise, and the service of alcohol. She asked questions regarding the ownership of the property and days of operation.

Todd Spegal, who farms the adjacent property to the west, expressed concerns about potential conflicts between agricultural and commercial uses.

Matt LeMasters explained that he farms property adjoining an existing event venue and has had conflicts with the owner of the event venue.

Paul Marsh, whose family owns land immediately west of the property, expressed concerns about potential conflicts between agricultural and commercial uses. He explained that his research showed that the area did not lack event venues or available dates to rent these venues. He explained that the barn also exceeds the size of barns at these other venues, therefore could hold a larger number of people. He stated that all adjacent neighbors are unhappy about the project.

Cindy Bundy, who owns property at 2282 W 600 S, New Palestine, expressed concerns with noise, traffic, service of alcohol, and property values.

Tim Renshaw, who owns property at 2256 W 600 S, New Palestine, asked who owned the subject property.

Larry Ellis, who owns property at 2524 W 600 S, New Palestine, confirmed that most of the Board members had viewed the site and had knowledge of the petition in opposition to the variance signed by the neighbors (see case file). He referenced the Comprehensive Plan and explained that the event venue would conflict with the Plan's agricultural land use recommendation. He explained that he expected to live near agricultural uses when moving to his property but did not expect to live near commercial uses. He provided an overview of the concerns listed in the petition in opposition to the variance signed by the neighbors. He expressed concerns with potential toxic drainage from the property flowing toward the homes on the north side of the road and the narrow road and driveway impacting traffic safety. He explained that he had had conversations with Taylor Williams and had suggested increasing the setback from the road for all event venue activities to 380-feet, restricting parking to the rear of the property, and installing an entrance at the west side of the property across from a vacated easement to limit headlights from impact the homes on the north side of the road.

Gabriella Hunter, who owns property at 2548 W 600 S, New Palestine, explained that the event venue would conflict with the rural character of the area and that she is opposed to an event venue that can operate every day of the week.

The Board closed the public comment portion of the hearing.

Taylor Williams stated that sale of the property is pending. He stated they plan to add another driveway. He explained that the 540-foot setback of the barn from the road, insulation of the barn, and planned landscaping would help reduce the impact of noise.

He stated that only companies with an alcohol service license would provide alcohol. He explained that two events would cover operation costs and that they also planned to reside at the property. He explained that the barn would include areas not designated as event space, therefore the barn would have a similar capacity limit as nearby event venues utilizing smaller barns. He stated that the planned property improvements would not decrease the value of surrounding properties. He explained that new development in the area has already increase traffic. He indicated that the rear yard should have enough area to accommodate parking but factors such as the septic system could place limitations on parking in the rear yard. He indicated that they would not ask surrounding farmers to alter farming practices to accommodate the event venue.

Q: Dave Klene – Would you ask a farmer to not farm due to an event?

A: Kayleigh Keener – No, and we would inform clients that farming activities may occur on adjoining properties prior to scheduling an event.

Q: Kevin Carson – Would you agree to limit events to 200 people?

A: Kayleigh Keener – Yes.

Doug Warnecke indicated that the nature of the business and farming activities do conflict, that traffic would be staggard, and that long-term neighbors would have concern with a change in use of the property, regardless of the intensity of the use.

Q: Kevin Carson – Would you agree to add another entrance at the west side of the property?

A: Taylor Williams – Yes.

Q: Jim Douglas – Would you purchase the property if the Board denies the variance?

A: Taylor Williams – Unsure.

The Board agreed to vote of the petition with an amendment to Staff's recommended stipulations. The amendment included:

- Amendment to Stipulation #6 to state: Devices used to project sound outdoors shall be operated for no longer than two (2) hours per day and operated no later than 8PM
- Addition of Stipulation #10: Events shall be limited to 200 people.
- Addition of Stipulation #11: A driveway shall be added to the west side of the property. The driveway shall be paved a minimum of 25-feet from the center of W 1200 N.

Doug Warnecke made a motion to vote on the petition with stipulations. Dave Klene seconded the motion. Doug Warnecke & Dave Klene voted to approve the petition with stipulations and Kevin Carson & Jim Douglas voted to deny the petition. The petition was automatically **CONTINUED** due to lack of majority vote.

Discussion

BZA 21-26 – HENRY A & PENELOPE K BRINEGAR: DEVELOPMENT STANDARDS VARIANCES – To allow for a new single-family dwelling exceeding 35-feet in height [UDO Section 2.12], with the front facade oriented greater than 10-degrees from parallel to N PR 725 E [UDO Section 5.11 A], and constructed behind an existing accessory structure [UDO Section 5.04 C]. Located at 5800 N PR 725 E, Manilla, Union Township.

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on August 9, 2021.

BZA 21-27 – BLUE RIVER ESTATES MHP LLC: DEVELOPMENT STANDARDS VARIANCE – To allow a ground sign having an area of 40 sq. ft. and a height of 97-inches [UDO Sec. 5.73]. Located at 8901 W Del Char South Dr, Edinburgh, Jackson Township.

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on August 9, 2021.

Adjournment:

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

President	Date
Kevin Carson	

Secretary	Date
Dave Klene	