

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

Members Present:

Dave Klene
Nick Hartman
Terry Knudson
Jim Douglas
Kevin Carson

Members Absent:

None

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:

Dave Klene made a motion to approve the minutes from August 8, 2023. Terry Knudson seconded the motion. The minutes were approved 4-0, with Kevin Carson abstaining.

Old Business:

None.

New Business:

BZA 23-32 – MT. GILEAD BAPTIST CHURCH: DEVELOPMENT STANDARDS VARIANCES – To allow for a ground sign having a height of 7.6-feet (maximum 6-foot height permitted) [UDO Sec 5.74 B 4 b] and animated components (not permitted) [UDO Sec. 5.73 E 1 c]. Located at 4449 S Smithland Rd, Shelbyville, Hendricks Township.

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

Don Parker, a member of the church, represented the petitioner. He stated that the petitioner agreed to the stipulations.

The Board opened the hearing for public comment.

Robert Diecman, who owns property at 4442 S Cemetery Rd, opposed the request. He indicated that he moved to the country, that a lighted sign would keep him awake at night, and that the church could communicate by other means. He explained that a previous Board had adopted an ordinance prohibiting animated signs, the sign would cause light pollution, and the sign would pose a traffic hazard.

The Board closed the public comment portion of the hearing.

Q: Nick Hartman – How far off the road?

A: Don Parker – 35 feet.

Q: Terry Knudson – Is that stipulated in any way?

A: Desiree Calderella – The sign meets the setback requirement.

Jim Douglas indicated that the Board has a history of approving animated signs for churches and schools.

Q: Kevin Carson – Are you acceptable to only turning the sign on from 7AM to 9PM?

A: Don Parker – I have no problem with that.

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

- 1. The content of the sign shall change no more than once every thirty seconds and shall transition by an instant change/slideshow effect. The sign shall not include motion picture capabilities.**
- 2. The sign shall include a sensor or other device that automatically determines the ambient illumination and be programmed to automatically dim according to ambient light conditions.**
- 3. The EMC portion of the sign shall be turned off between 9 PM and 7 AM.**
- 4. The brightness level for any digital display shall be calibrated for less than 0.2-foot candles above ambient light levels, as measured at the right-of-way line.**

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 23-34 – MARC HALATA: USE VARIANCE – To allow for private recreational use as the primary use of property in the A2 (Agricultural) District. Located west of the County line on the south side of CR 700 N, located along Cotton Run, Hanover Township.

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

Marc Halata explained that he plans to camp and hunt on the property. He indicated that the property cannot accommodate any use other than recreation, that the property has no agricultural value, that shooting has historically occurred on the property, and that he will not use the property for commercial purposes. He explained that he will shoot safely and will construct ten-foot berms to ensure rounds do not exit the property.

Mr. Halata submitted a letter of support from Larry Smith, the adjacent landowner to the west (see case file).

Mr. Halata submitted a real estate listing showing the pending sale of nearby property owned by the neighbor he believes filed the zoning complaint against him (see case file).

The Board opened the hearing for public comment.

Brian Byrnes, who owns the adjacent wooded property to the east, indicated that he does not oppose the request. He explained that he had spoken to the petitioner and believes that the petitioner will work with him to address a few of his concerns.

The Board closed the public comment portion of the hearing.

Dave Klene indicated that ten-foot berms would exceed the height needed for safe shooting.

Kevin Carson expressed concern that use of the property for excessive hunting or hunting at night may pose a nuisance to the surrounding area.

Marc Halata explained that he would conduct limited coyote hunting at night and would use gun suppressors.

Desiree Calderella explained that the County does not have any other ordinance limiting

hunting, and that if a neighbor filed a complaint the County Sheriff would inspect the site to ensure that shooting occurs in a safe manner.

Dave Klene made a motion to vote on the petition and Nick Hartman 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, morals, 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 need for the variance arises from some condition peculiar to the property involved.
4. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which variance is sought.
5. The approval does not interfere substantially with the Comprehensive Plan.

Discussion

Zoning Violations

Pitzer - 7398 W 700 N, Fairland

Desiree Calderella informed the Board that the property owner had lowered the height of the fence and therefore had corrected the violation.

Hearing Officer Cases

BZA 23-28 – DAVID & SANDRA RUSH: DEVELOPMENT STANDARDS VARIANCE. Located at 1453 S 500 W, Shelbyville, Hendricks Township.

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on August 8, 2023.

BZA 23-31 – FOUNTAINTOWN CHRISTIAN CHURCH: DEVELOPMENT STANDARDS VARIANCE. Located at 797 W Brookville Rd, Fountaintown, Van Buren Township.

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on August 8, 2023.

BZA 23-33 – MICHAEL DILLON: DEVELOPMENT STANDARDS VARIANCE. Located at 4058 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 August 17, 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	