

**Shelby County Board of Zoning Appeals  
Meeting Minutes  
September 13, 2022**

**Members Present:**

Kevin Carson  
Terry Knudson  
Dave Klene  
Jordan Caldwell  
Jim Douglas

**Members Absent:**

**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:**

Kevin Carson made a motion to approve the minutes from August 9, 2022. Jordan Caldwell seconded the motion. The minutes were approved 5-0.

**Old Business:**

**BZA 22-31 – PANJAB GROUP, INC.: USE & DEVELOPMENT STANDARDS VARIANCES – To allow for outdoor storage of trucks and trailers in the I1 (Low Intensity Industrial) District, use of an existing barn encroaching over the 30-foot front setback line [UDO Sec. 2.34], use of an existing gravel driveway and installation of a new partially graveled driveway [UDO Sec. 5.20 C], less than 45-foot separation between driveways [UDO Sec. 5.20 A 2 b], and use of existing gravel parking area for employee parking [UDO Sec. 5.60 A]. Located at 6925 S Carroll Rd, Indianapolis, Moral Township.**

This petition was CONTINUED by request of the petitioner.

**New Business:**

**BZA 22-35 – WILLIAM LEE & CAROL JEAN RITCHIE: SPECIAL EXCEPTION & DEVELOPMENT STANDARDS VARIANCES – To allow a Type 3 Medium Intensity Retail establishment in the VM (Village Mixed Use) District and**

**for a commercial ground sign and commercial wall signs in the VM District [UDO Sec. 5.73]. Located at 385 W Carey St, Fairland, Brandywine Township.**

This petition was **CONTINUED** due to error in legal notice.

**V22-10 – BALDEV S VIRK: ZONING VIOLATION. Located at 7165 W Old ST RD 252, Edinburgh, Jackson Township.**

This petition was **CONTINUED** due to cooperation of the property owner.

**BZA 22-27 – BRUCE METZGER: DEVELOPMENT STANDARDS VARIANCES – To allow a dwelling unit within a 640 sq. ft. accessory structure [UDO Sec. 5.04 D] and the total square footage of all accessory structures on the lot to exceed 50% the square footage of the footprint of the residence [UDO Sec. 5.07 F 1]. Located at 11174 N 460 W, New Palestine, Moral Township.**

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

Bruce Metzger explained that his mother would like to move to his property to live near family.

The Board opened the hearing for public comment.

Don Phelps, who lives at 11159 N Shelby 460 W, indicated that the lots in the addition are intended for one residential structure.

Dotty Fedeler, who lives at 11134 N 460 W, expressed concern with drainage and with approval of the variance setting a precedent for allowing more than one residence per lot.

Jim Fedeler, who lives at 11134 N 460 W, asked about the proposed size of the structure.

Steve Boling, who lives at 11220 N 460 W asked if the structure would sit on a permanent foundation and about the design of the septic system.

The Board closed the public comment portion of the hearing.

Bruce Metzger explained that he planned to install a new septic system in the rear yard to accommodate the number of bedrooms in both the existing house and new structure.

Q: Jordan Caldwell – Is the new building going to have a permanent foundation?

A: Bruce Metzger – Only if it must by code.

Q: Jordan Caldwell – Is someone coming in to construct it on-site?

A: Bruce Metzger – It would be like the Amish shed currently on the property. Would get the largest one that they make and bring it up to residential code.

Q: Dave Klene – Where does your drainage go?

A: Bruce Metzger – There is not standing water anywhere on the property and the person who did the soil tests said the lot drained well enough for a new septic system.

Q: Jim Douglas – Is it possible to get a permit for what he wants to do? A portable building and make it into a residence?

A: Desiree Calderella – He would have to prove that the building is up to code to the building inspector.

Terry Knudson expressed concern about the precedent set by approving a portable building as a residence.

Q: Dave Klene – Are you agreeable to the stipulations?

A: Bruce Metzger – Yes.

Q: Jim Douglas – Is there an alternative of accommodating your mother in your house?

A: Bruce Metzger – We are already doubling up bedrooms and my mother smokes. She cannot live the life she wants to live in our house.

Q: Terry Knudson – What's the plan for the building after your mom passes?

A: Bruce Metzger – If it is temporary, I can sell it, tear it down, or use it as a shed.

Q: Jim Douglas – What is the permitting process?

A: Desiree Calderella – It would go through the same permitting process as a new primary dwelling.

Kevin Carson indicated that the Board has previously considered stick-built secondary dwellings and conversion of existing barns into dwellings, but has not considered a temporary barn used as a dwelling.

Q: Jordan Caldwell – Are you against using a permanent building rather than a portable building?

A: Bruce Metzger – I'm not against that.

Q: Jim Douglas – Adding to your house is not an option?

A: Bruce Metzger – No due to financial costs, but I am willing to look into any possibilities.

Jim Douglas indicated that a permanent building would result in a permanent second residence on the property.

Kevin Carson indicated that the petitioner owned a relatively small lot for a second residence. He indicated that the neighborhood has drainage issues.

Bruce Metzger explained that he would rather install a portable structure for ease of removal at a later date, however, would remove a permanent structure if the code requires a permanent structure.

Q: Kevin Carson – Is your mother currently in ill health, or is she healthy and this is a convenience?

A: Bruce Metzger – She is healthy enough to live on her own, but not healthy enough to take care of a property.

Dave Klene made a motion to vote on the petition with stipulations and Kevin Carson seconded the motion. The petition was **DENIED 4-1**, with Dave Klene casting the vote to approve.

**V21-08 – JOHN H & CYNTHIA S DEMARTINO: ZONING VIOLATION.  
Located at 2027 W Washington Ave, Addison Township.**

Desiree Calderella requested that the BZA review the evidence and determine if the property violates the provisions of the Unified Development Ordinance. If the Board determines a violation exists, she requested that the Board provide direction to Staff regarding enforcement action.

John and Cynthia DeMartino were present.

Ms. DeMartino explained that they work on cars that they own and then sell those cars from their used car lot located at 1207 E SR 44.

Mr. DeMartino explained that he did not request a variance because he works on cars that he owns, not customer cars. He indicated that he had hired a company to complete the required fence. He asked the Board to allow him additional time to complete the fence, and stated that he would keep all cars without plates behind the fence.

Q: Kevin Carson – Do you work on your own personal vehicles, or the vehicles that you own that you plan to sell on the car lot?

A: Cynthia DeMartino – The ones we put on the car lot.

Ms. DeMartino explained that the Planning Director had told her that they could service their own vehicles for the car lot, as long as they stored the vehicles behind a fence.

Kevin Carson explained that servicing vehicles that they plan to sell on their used car lot is an extension of their business.

Desiree Calderella stated that the DeMartinos had never mentioned the used car lot.

Ms. DeMartino indicated that she had told Ms. Calderella that they had four dealer plates, which had given her the impression that they could work on vehicles that they would sell at the used car lot.

Ms. Calderella verified that she had told the DeMartinis that they could only work on personal vehicles.

Jordan Caldwell stated that there is no grey area and that a personal vehicle is a vehicle that you drive to the grocery store, pick up the kids, etc., and drive home and park. Not a vehicle relayed to a used car lot for sale.

Kevin Carson referenced a previously denied variance for a similar business activity on residential property.

Jordan Caldwell referenced the 300+ pictures submitted by a neighboring property owner showing vehicles and tow trucks entering and exiting the property. He also indicated that the petitioners had been given multiple chances to come into compliance.

Blake Newkirk asked for clarification on the history of the violation.

Ms. Calderella outlined the history of the violation.

Kevin Carson indicated that the County pursues zoning violation enforcement on a complaint basis.

Rick Beckner, who lives at 2135 W Washington St, described the impact of the business on his property and expressed concern with reduction of his property value.

Steve Pennington, who lives at 749 S PR 230 W, indicated that the business has grown over time.

Ms. Calderella explained that she had communicated with the property owner through email after sending the first violation letter.

The Board discussed how the petitioner would bring the property into compliance. Ms. Calderella explained that multiple different vehicles in disrepair regularly coming and going from the property would indicate evidence of a business. She explained that in the Residential Estate District a property owner can work on their own personal vehicles, such as a few hobby vehicles that do not regularly change and that are not associated with a business, as long as any inoperable vehicles are stored inside or behind a fence.

Chad Muckerheide, who owns the adjoining property to the east, expressed concern with reduction of his property value.

Jim Douglas asked the DeMartinis how they would suggest that they bring the property into compliance.

Ms. DeMartino stated that the cars have titled under the business which she has under her name. She explained that they would need to take the cars they can to the car lot and junk the rest of the cars.

Mr. DeMartino indicated that they do not stack cars or store box trucks. He spoke about conflicts between him and his neighbors.

The Board inquired about the fence and number of permitted inoperable vehicles. Ms. Calderella explained that the UDO does not impose a limit on the number of personal inoperable vehicles on a residential property stored behind a fence, however the County nuisance ordinance limits residential properties to one inoperable or unlicensed vehicle.

Ms. Calderella indicated that the email she sent to the DeMartinos in April specifically identified the activity on the property as a business, therefore the DeMartinos should have known that the acidity on the property constituted a violation.

Kevin Carson referenced a variance for a different property that allowed up to three inoperable vehicles and a tow-truck. He indicated that the owner could come back to the Board to request a similar variance after they bring the property into compliance.

Jordan Caldwell made a motion to vote that the property is in violation and Kevin Carson seconded the motion. The motion **PASSED**.

Kevin Carson asked if the DeMartinos were willing to get rid of all the commercial vehicles on the lot.

Ms. DeMartino stated yes.

Jordan Caldwell asked if the DeMartinos were willing to quit running a business from the property.

Ms. DeMartino stated yes.

Kevin Carson asked what timeframe the DeMartinos would need to bring the property into compliance.

Ms. DeMartino asked for six to eight weeks.

Kevin Carson asked if they would agree to bring the property into compliance within thirty days in-lieu of any fines.

Ms. DeMartino stated yes.

The Board indicated that the DeMartinos would need to remove all commercial vehicles from the property, including any commercial vehicles stored behind the fence, and including any vehicles with dealers' plates.

Kevin Carson explained that the DeMartinos could apply for a variance after they bring the property into compliance. He indicated that they could request to have a roll-back truck on the property as part of that variance approval.

Dave Klene indicated that the DeMartinis cannot have a roll-back truck on the property without approval of a variance.

Jordan Caldwell made a motion to grant the DeMartinis thirty days to bring the property into compliance, and if the property is not in compliance within 30-days a \$250 a week fine shall be imposed. Terry Knudson seconded the motion. The motion **PASSED**.

Ms. Calderella asked the Board to verify that compliance means no inoperable vehicles and no roll-back trailer. The Board verified that this was correct.

### **Discussion**

**BZA 22-25 – GREG KELSAY: DEVELOPMENT STANDARDS VARIANCES – To allow new single-family dwelling with the front facade oriented greater than 10 degrees from the road [UDO Sec 5.11 A] and a front-loading greater than 8-feet forward of the main living area [UDO Sec. 5.11 D 2]. Located at 3088 S 125 E, Shelbyville, Shelby Township**

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on June 14, 2022.

**BZA 22-28 – RAMON AREVALO: DEVELOPMENT STANDARDS VARIANCES – To allow a 1,200 sq. ft. pole barn in the front yard [UDO Sec 5.04 C] and exceeding 50% the square footage of the footprint of the residence [UDO Sec. 5.07 D]. Located at 1693 N Michigan Rd, Shelbyville.**

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on August 23, 2022.

**BZA 22-33 – CHRIS COLGLAZIER: DEVELOPMENT STANDARDS VARIANCES – To allow an attached front-loading garage more than 8-feet forward the main living area of a new home [UDO Sec. 5.11 D 2], an existing accessory structure in the front yard [UDO Sec. 5.04 C], and a new driveway less than 60-feet from another driveway [UDO Sec. 5.19 A 2]. Located east of and adjoining 8975 N 150 E, Morristown.**

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on August 23, 2022.

**BZA 22-34 – ALVA KEEHN: DEVELOPMENT STANDARDS VARIANCES – To three accessory structures [UDO Sec 5.06 C]. Located at 8438 W 800 N, Fairland, Moral Township.**

Desiree Calderella explained the details of the case and stated that the Hearing Officer had approved this case on September 8, 2022.

**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.

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President	Date
Jim Douglas	

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Secretary	Date
Kevin Carson	