

Shelby County Board of Zoning Appeals
Meeting Minutes
June 11, 2019

Members Present:

Doug Warnecke
Jim Douglas
Kevin Carson
Dave Klene

Members Absent:

None

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

Doug Warnecke made a motion to approve the minutes from May 14, 2019. Jim Douglas seconded the motion. The minutes were approved 4-0.

Old Business

None

New Business:

BZA 19-15 – STEPHEN BLAIR: USE & DEVELOPMENT STANDARDS VARIANCE – To allow for the use of a recreational vehicle (and possibly a future manufactured home) as primary living quarters in a VR (Village Residential) District and to allow for a fence exceeding 3-feet in height in a VR District.

Desiree Calderella read the petition into the record and indicated that Staff recommends denial of the use variance and dismissal of the development standards variance.

Jerry Lux, attorney for the petitioner, described the location of the property, indicated that the property had access from 875 S, and indicated that the petitioner had found a suitable location to install a mound septic system. He stated that as a condition of approval of the variance, the petitioner would agree to approval from the Health Department of the septic system. He argued that the RV would enhance the area and positively impact property

values. He argued that the proposal would not interfere with the Comprehensive Plan because the RV would complement the existing development of the area and would diversify housing stock.

Mr. Lux also presented fifteen exhibits (see case file).

Mr. Lux stated that the petitioner is withdrawing the development standards variance request.

The Board opened the hearing for public comment.

Krista Duvall, who lives at 3225 E 875 S, Waldron, had concerns about flooding, electric lines, the closing of a road across the property, and that installation of a septic system would not leave enough room for the development of a future house. She indicated that approval of the variance would set a precedent and that the board should follow the ordinance and deny the variance.

Chris Vorhies, who lives at 8742 S 310 E, Flat Rock, had concerns about the effectiveness of a septic system and that approval of the variance would hurt his property value and set a precedent. He indicated he would not oppose a stick-built house.

Jesse Eads, who owns lots to the south on S 310 E, had concerns about approval of the variance setting a precedent. He indicated that he would not oppose improvement of the property or temporary occupancy of an RV with the intent to build a house.

Mark Eads, who lives at 8756 S 310 E, Waldron, indicated that the subject property did not include an easement/public pathway.

Harry Hoff, who lives at 3353 E 875 S, Waldron indicated that the subject property did not include an easement/public pathway.

Ms. Kune, who owns lots to the south on S 310 E, had concerns about the use of a road easement across the property, the effectiveness of a mound septic system, and approval of the variance setting a precedent. She indicated that she would not oppose a cabin with a traditional septic system and that she does not live in her RV.

The Board closed the public comment portion of the hearing.

Stephen Blair explained that he purchased the property to have a shorter commute to work, as a place for his grandchildren to experience nature, and for an eight-year living arrangement before his retirement. He indicated that he would allow the neighbors to use the pathway across his property. He explained that a mound septic system would adequately serve his wastewater needs. He argued that the RV would exceed the quality of the homes in the area, would improve property values, that he could replace the RV if it deteriorated, and the popularity of semi-permanent housing.

The Board discussed the existence of a legal easement across the property.

Q: Dave Klene – Would you stipulate to construct a permanent structure at a future date.

A: Mr. Blair – No.

Doug Warnecke made a motion to vote on the use variance. Jim Douglas seconded the motion. The petition was **DENIED 4-0**.

Staff stated that they would prepare findings of fact for approval by the Board at the next BZA meeting.

BZA 19-16 – JERRY & JOYCE INGLE: DEVELOPMENT STANDARDS VARIANCE – to allow for an accessory structure (barn) prior to a primary structure (single-family residence) (accessory structures not permitted prior to primary structures in residential districts).

Desiree Calderella read the petition into the record and indicated that Staff recommends approval with a stipulation.

Jerry Ingle indicated that he planned to use the structure to store tools and materials.

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

Jerry Ingle indicated that they planned to construct the house as soon as they finished the barn.

Doug Warnecke made a motion to vote on the variance with a stipulation. Kevin Carson seconded the motion. The petition was **approved 4-0** with a stipulation:

A single-family residence shall be constructed on the property and receive a certificate of occupancy by June 11, 2021.

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 19-17 – JAMES R & SUE A KIRSCHBAUM: DEVELOPMENT STANDARDS VARIANCE – to allow for an accessory structure (pole barn) prior to a primary structure (single-family residence) (accessory structures not permitted prior to primary structures in residential districts).

Desiree Calderella read the petition into the record and indicated that Staff recommends approval with a stipulation.

James Kirschbaum indicated that he planned to use the barn for storage and that it would fit with the barns in the area.

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

Mr. Kirschbaum indicated that his daughter planned to build a house on the adjoining property to the south but that he did not plan to build a house on the subject property.

Q: Doug Warnecke – Do you live near the property?

A: Mr. Kirschbaum – No.

Desiree Calderella stated that she misunderstood the intent of the petition and thought that the petitioner planned to build a house on the property. However, staff would still recommend approval because the barn would have the appearance of an accessory structure related to one of the two houses located between the property and the road.

Q: Kevin Carson – You do not plan to use the structure for commercial purposes?

A: Mr. Kirschbaum – Correct.

Q: Kevin Carson – Did you send out notice?

A: Mr. Kirschbaum – Yes.

Kevin Carson stated that the location of the barn would allow enough room on the property for future construction of a house. He stated that no neighbors had come to the meeting to protest the variance.

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

The Board adopted the following findings of fact:

4. The approval will not be injurious to the public health, safety, and general welfare of the community.
5. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
6. 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 19-18 – STEVEN D & CYNTHIA L BEST: USE VARIANCE – to allow for temporary occupancy of an RV prior to construction of a new single-family dwelling.

Desiree Calderella read the petition into the record and indicated that Staff recommends approval with a stipulation.

Steven Best indicated that he had purchased a 5th-wheel camper that they planned to live in until they constructed their house.

Cindy Best stated that they had already sold their previous house and have nowhere to live.

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

Q: Doug Warnecke – Do you plan to construct the house immediately?

A: Ms. Best– Yes, hopefully by July.

Mr. Best indicated they would have a 550-gallon temporary septic tank.

Q: Doug Warnecke – Did the Health Department approve the septic tank.

A: Ms. Best– Yes.

Jim Douglas stated that the previous owner of the property had placed a camper on the property.

The Bests indicated that they had no issue with approval of the variance expiring in one year.

Doug Warnecke made a motion to vote on the variance stipulations. Dave Klene seconded the motion. The petition was **approved 4-0** with stipulations:

Occupancy of the RV shall only be permitted during construction of the house and shall only be occupied until June 11, 2020 (one year from the date of approval of the variance).

Health Department approval of temporary waste disposal facilities.

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.

