

**Shelby County Board of Zoning Appeals
Meeting Minutes
December 10, 2019**

Members Present:

Kevin Carson
Jim Douglas
Rachael Ackley
Doug Warnecke
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 October 8, 2019. Rachel Ackley seconded the motion. The minutes were approved 5-0.

Old Business

None.

New Business:

BZA 19-31 – VIKING PROPERTY & LAND (TERRY KNUDSON): USE VARIANCE – To legally establish a two-family dwelling in the A2 District [Section 2.05]. Located at 10132 N 150 E, Morristown.

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

Gregg Graham represented the petitioner and gave an overview of the request. He explained that an evicted tenant of the property filed the complaint and presented a judgement granted to the petitioner against the tenant (see case file, Exhibit 2). He indicated that the petitioner purchased the property in its current condition and did not

know that the previous owner had not obtained proper permits and approvals for two units in the home. He indicated that the petitioner currently leases the property to one family and the lease agreement only allows one family to occupy the home (see case file, Exhibit 1). He asked the Board to approve the variance with a condition that only one family may occupy the home.

Terry Knudson indicated that he owns all adjacent properties and that the use would not prove a nuisance.

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

Q: Dave Klene – Does the septic system support the home in its current condition?

A: Mr. Graham – It has for several years.

Q: Doug Warnecke – How many entrances?

A: Mr. Graham – One primary entrance and one entrance through the garage.

Desiree Calderella explained that the ordinance defines a dwelling by its physical design rather than the relationship of the occupants.

Doug Warnecke made a motion to vote on the variance with a stipulation. Rachel Ackley seconded the motion. The petition was **APPROVED 5-0** with a stipulation:

1. The dwelling shall only be used and occupied as a personal residence for a tenant and immediate family members of the tenant.

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.

BZA 19-32 – SHEILA SMITH: DEVELOPMENT STANDARDS VARIANCES – To allow for four (4) horses on a 5-acre lot (minimum lot area of 6-acres required) [Section 5.42 A 1]; in a pasture area less than 8-acres (minimum of two (2) fenced acres of pasture area per horse required) [Section 5.42 A 3 & 5.42 A 4]. Located at 3256 E German Rd, Shelbyville.

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

Brandie Brown, who owns the horses, represented the petitioner. She gave an overview of the request and indicated that she would prefer that the horse pasture have access to the barn behind the house.

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

Kevin Carson stated that placement of the pasture fence at least 20-feet from the property line adjacent to the buildings on the adjoining lot would adequately protect the neighbor from any nuisance associated with the horses.

Q: Doug Warnecke – Do you intend to eventually only keep two horses on the property?

A: Ms. Brown – Yes.

Jim Douglas stated that he had concerns about the keeping of horses on property in an area used for residential purposes and possible muddy conditions resulting from over-pasturing.

Q: Doug Warnecke – How many fenced acres do you plan to have on the property?

A: Ms. Brown – About 4.5 acres.

Doug Warnecke made a motion to vote on the variance with stipulations. Rachael Ackley seconded the motion. The petition was **APPROVED 4-1** with stipulations, with Jim Douglas casting the dissenting vote.

- 1. A maximum of two horses may be kept on the property after the current horses owned by the petitioner are no longer kept on the property.**
- 2. The fence for the pasture area must be at least 20-feet from the west property line adjacent to the buildings on the adjoining lot.**

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 19-33 – CASSANDRA CAMP: DEVELOPMENT STANDARDS
VARIANCES – To allow the first 10-feet directly in front of a new single-family**

home's garage to be gravel (pavement required) [Section 5.18 C]; No trees on a lot including a new single-family home (at least five deciduous trees required) [Section 5.45 A 3]. Located at 10726 S 275 E, Flat Rock.

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

Cassandra Camp indicated that she may pave the driveway in the future, however believed trees could interfere with underground utilities and farming of the land.

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

Jim Douglas made a motion to vote on the variance. Rachael Ackley 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, 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 19-34 – C-TECH, INC: DEVELOPMENT STANDARDS VARIANCES – To allow for expansion of a stone parking lot (entire parking lot must be paved if expanded more than one time) [Section 5.60 B]; Stone loading berths (paved loading berths required) [Section 5.51 A 2]. Located at 5300 W 100 N, Boggstown.

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

David Wheeler represented the petitioner. He explained that they would like to maintain the existing stone parking lot.

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

Kevin Carson stated that C-Tech is a good neighbor, that dust from the company's current parking lot does not accumulate on the road, and that paving the parking lot would result in excessive maintenance due to the company's large trucks and equipment.

Doug Warnecke made a motion to vote on the variance. Rachael Ackley 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, 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 19-35 – DOUGLAS E BROWN: DEVELOPMENT STANDARDS VARIANCES – To allow for a lot approximately 80-feet wide and having approximately 80-feet of road frontage and a lot approximately 45-feet wide and having approximately 45-feet of road frontage (160-foot minimum lot width a road frontage required) [Section 2.12]. Located at 8020 S 600 W, Edinburgh.

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

Douglas E Brown and neighbor, Lewis Palmeto, gave an overview of the request and explained that they had requested a variance to rearrange lot lines between their properties to allow Mr. Palmeto's property to have direct access to the public road for the purpose of installing a separate driveway.

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

Q: Jim Douglas – What problem exists with using the existing driveway easement on Mr. Brown's property?

A: Mr. Palmeto – My property may be more desirable to future buyers if it includes a separate driveway.

Doug Warnecke made a motion to vote on the variance. Rachael Ackley 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, 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 19-36 – G. TODD & J. RYAN MARSHALL: DEVELOPMENT STANDARDS

VARIANCE – To allow for a grain dryer 8-feet from the edge of pavement of E 675 N (minimum 50-foot setback from the proposed right-of-way or 75-foot setback from center of road required) [Section 2.12]. Located at 4970 E 675 N, Shelbyville.

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

Gregg Graham represented the petitioner and gave an overview of the request.

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

Kevin Carson suggested that the petitioners should petition the Commissioners to vacate the road. Vacation of the road would eliminate the setback issue.

Q: Dave Klene – Could the road ever be extended?

A: Mr. Marshall – Its unlikely. The road previously connected to another nearby county road and was abandoned.

Dave Klene made a motion to vote on the variance. Doug Warnecke 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, 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.

2020 BZA MEETING CALENDAR

The calendar was **APPROVED**.

Discussion:

Patrick Black Violation

Desiree Calderella stated that Mr. Black had requested that the BZA grant relief from the current agreement that he remove three vehicles per month. The BZA was not willing to amend the agreement and ordered Mr. Black to appear at the January or February BZA meeting to discuss his violation case.

Tammy Shortridge Violation

