

**SHELBYVILLE BOARD OF ZONING APPEALS  
MEETING MINUTES  
October 11, 2022**

Chris Clark: The October 11, 2022 Board of Zoning Appeals meeting will come to order. Mr. Secretary, would you please read the role?

Allan Henderson: Ms. Terrell - present, Mr. Cassidy - here, Mr. Clark - here, Mr. Bradburn - here.

Clark: So our first order of business is to take care of the approval of minutes from the September 20, 2022 meeting. I'll accept a motion.

Vince Bradburn: So moved.

Doug Cassidy: Second.

Clark: All in favor of accepting the minutes, signify by saying, "Aye".

In Unison: Aye.

Clark: Opposed, same sign.

No reply.

Clark: Minutes are approved. Now we have no Old Business to deal with so Mr. Secretary, would you bring us up to speed on New Business?

Henderson: Yes. We have four petitions on the agenda tonight. The first three petitions deal with sidewalks in Foxridge. Those are all the same petition. They're requesting to not (?) a sidewalk (?) the homes get built....(inaudible)....individual lots. I can read these individually and then (?) address them altogether but we'll have to vote on each one separately.

Clark: Okay.

Henderson: Now the first petition is from Daniel and Donna Kendall at 306 Foxridge Court. The current zoning classification is single family residential. The (?) land use is single family residential. The request tonight is approval of one development standards variance from UDO 5.57 sidewalk standard to not install the required sidewalk when a primary structure is constructed. In addition to the Kendalls, we have two petitions from the Blue River Career Program. Those are at 307 Foxridge Court and 309 Foxridge Court respectively. Again, the current zoning is single family residential. The future (?) comprehensive plan is single family

residential and they are requesting the same development standard variance from UDO 5.57 sidewalk standards to not install a sidewalk when a primary structure is built.

Clark: Okay, thank you. If the petitioners are here, would you mind if we combined your coming to the podium and speaking to us about your project? Please approach the podium and speak your name for the record.

Daniel Bramell: My name's Daniel Bramell and I represent Blue River Career Programs. I am the construction teacher out there and we do have the two lots there.

Clark: Okay.

Daniel Kendall: This is my wife, Donna. I'm Daniel. We're the Kendalls. We're building at 306 Foxridge Court. One of the reasons why we like that area is because we didn't, getting older, we didn't wanna have the responsibility having to clean a sidewalk and so it would be fruitless for us to build one....(inaudible)....in the whole neighborhood. So that wouldn't make a lot of sense. So and I got some drawings if you need to look at 'em but.....

Henderson: Inaudible comment.

Kendall: Oh yeah and there's other reasons I think was mentioned on that too. Pretty happy about that. I wish it would develop a little quicker but....(inaudible)....and backing out, trying to reselling 'em, whatever....(inaudible).....

Clark: Does anybody have anything further to add to the project that....

Bramell: No, I just I know current code says you have to place a sidewalk. I've been involved with Habitat last couple of years and we had to install some sidewalks 'cause it's new construction in an existing neighborhood and you know I understand that but....

Clark: Okay so then we'll start with some questions from the board; Mr. Bradburn?

Bradburn: I don't have any questions. Yeah a similar project came before this board out at the same neighborhood and yeah so I don't have any questions for you other than congratulations on your new purchase and look forward to seeing what the kids put up out there.

Clark: Alrighty; Mr. Cassidy?

Cassidy: Just a statement that you understand that if we do approve and if somebody else puts in a sidewalk, that you have to go back in and put in sidewalks.

Kendall: Yeah well a lot of the neighbors are.....

Cassidy: Probably aren't going to. We get that, but....

Kendall: ....(inaudible)....about that and pretty certain that nobody out there wants 'em.

Cassidy: We didn't think so either but we just have to.....

Kendall: Yeah no I understand what.....(Inaudible)....

Cassidy: Okay that's my only comment.

Kendall: Inaudible comment.

Cassidy: Thank you.

Clark: Miss Terrell?

Andrea Terrell: No questions from me. Nice homes going up out there.

Clark: And I have no questions either so I guess we'll close questions from the board and open it to the public if anyone out in the public cares to speak to this petition.

No reply.

Clark: Seeing no one, we'll close public comment.and I guess we're ready for a motion. We will have to do each one individually so we'll work on BZA 2022-15 first.

Kendall: Would it be okay if we sat down?

Clark: Sure.

Bradburn: Like to make a motions to approve the requested development standard variance from UDO 5.57 to install to not, key word, to not install a sidewalk during the construction of a single family residence at 306 Foxridge Court pursuant to the condition in the Findings of Fact presented in the planning staff's report.

Cassidy: Second.

Clark: Motion and a second; please cast your vote for BZA 2022-15. And now, we can speak to BZA 2022.....

Henderson: I need to read these first.

Clark: Wanna read those first? Okay.

Henderson: BZA 2022-15: Mr. Bradburn - yes, Mr. Clark - yes, Miss Terrell - yes, Mr. Cassidy - yes. Motion passes.

Clark: Now we'll move on to a motion for BZA 2022-16.

Cassidy: I'll make a motion to approve the requested development standard not to install sidewalk at 307 Foxridge with the one condition if anybody puts in somebody puts in a sidewalk, everybody has to put 'em in.

Bradburn: Second.

Clark: And a second. Please cast your vote for BZA 2022-16.

Henderson: BZA 2022-16: Miss Terrell - yes, Mr. Cassidy - yes, Mr. Bradburn - yes and Mr. Clark - yes.

Clark: So now we'll go ahead and move for a motion on BZA 2022-17.

Terrell: I'd like to make a motion to approve the requested development standard variance from UDO 5.57 to not install a sidewalk during construction of a single family residence at 309 Foxridge Court pursuant to the condition of Findings of the Facts presented tonight. If anyone else builds a sidewalk, then they'll have to build sidewalks.

Cassidy: Second.

Clark: Motion and a second. Cast your vote for BZA 2022-17.

Henderson: BZA 2022-17: Miss Terrell - yes, Mr. Cassidy - yes, Mr. Bradburn - yes, Mr. Clark - yes. Motion passes.

Clark: Thank you. Good luck with your projects. We hope that.....

Kendall: Yeah. It's moving a lot slower than I thought it would but.....(inaudible)...

Clark: Thank you.

Kendall: Thanks a lot. We appreciate it.

Clark: And we have one more on the agenda.

Henderson: The last item on the agenda is a request by Mike and Krista Bowlby at 986 E. Morris Avenue for two development standard variance. The property is zoned single family commercial. The Comprehensive Land Use calls for commercial along Morris Avenue corridor.

Their request is for two variances. One from UDO 5.02 general accessory use standards to increase the square footage of an accessory dwelling unit. And one from UDO 5.03 general accessory structure standards to increase the number of permitted accessory structures.

Clark: Alright, thank you. If the petitioner would please approach the podium and state your name for the record.

Krista Bowlby: Krista Bowlby.

Mike Bowlby: Mike Bowlby.

Clark: Please tell us about your project.

K. Bowlby: He's got a cough, so I'll talk. About 5 years ago we moved my elderly parents and my disabled sister(?) to Shelbyville so when my parents passed, my sister's about 55 years old when my parents passed that she would get used to this community. Now she's been here for 5 years. She knows people here. She goes to Shares, etc. so they built a house in Clearview which I found is a little more cumbersome 'cause we're on the other side of town whenever they need anything. In the meantime my father's passed away. My mom is no longer able to take care of my sister and now what do I do? She needs constant care. She can't cook for herself. Like I said, she is developmentally disabled so I'm the main caregiver. So we have been at our place for about 40, well 40 years. We've owned the property. It's a family farm. We have 2 ½ acres there and so we're trying to think, how are we gonna incorporate Leah, my sister to come over here so I can keep an eye on her and we have nobody else. I'm it to take care of her. So and we know she, there's been incidents that she cannot stay by herself. We've looked at different homes for her. It doesn't work. There's not room in those. It's just not a good fit for her. We've also had an agency that has worked with them and we've hired people to come in and do respite. We can't keep, I mean Leah is, she's easy. We just people aren't working. So now what do we, we've had circumstances where we don't have a back up person for that so we need her closer. So to put her in our own house where there is an upstairs with bedrooms and she cannot do stairs and it doesn't give us our privacy and she's my sister and her her privacy. So we have a pole barn that we do have a little party room in that's got a kitchen and a living room. Not many parties, but a bathroom and there's no bedroom. And plus, we have a wood shop right there that's dust and it's fumes, etc. all the time so there's an upstairs but she can't do stairs. So we're kind of we were kind of at a loss what to do with her. I mean we've been thinking over this. We've tried to add on. We think how do we add on one of these to build an apartment. There is nowhere to add on to our house without getting in the driveway, getting in the road or (?) of the pole barn because of utilities where they're placed because that would (?) the more ideal situation. So what we're asking is that we .....(inaudible)....another structure which would be north of our existing two car garage and east of our pole barn to build her an apartment and we're looking at a maximum of about 64 x 64. I know that sounds big but we thought hey, if we build this if we're approved to build this, we need somewhere to store some extra stuff laying out in the yard just to clean up the place a little bit so it's not laying out. So that's why we're proposing that. We would use the utilities from the existing pole barn just to

go right over. The ideal part about it is if you've not been to our property, we have a couple hundred trees around it. You can't see much of or anything so the neighbors behind this existing this structure we'd like to build is just an open lot. It's an open field that kinds of extends from somebody on around. There's nobody around that can see it. You might be able to see the roof line from the road over the top of our two car garage but maybe not. So we figure it's an easy access 'cause when Shares picks her up, it'll be a good place, good drop off place and she'll have her own private residence and I will need to cook and take care of of her every day. But yet we want our you know we want our privacy too. She's financially (?) able to take care of this property and we just need to have the care for her otherwise I don't know what we're gonna do. So.....

Clark: Right.

M. Bowlby: Her brother lives in eastern Tennessee and her sister lives in Kentucky. Both of them are still working and have no time for.....

K. Bowlby: Yeah and my mom is it's not gonna go much longer. It's uh yeah so we're kind of desperate at this point.

Clark: Okay so I'll start with questions from the board; Miss Terrell?

Terrell: No questions.

Clark: Mr. Cassidy?

Cassidy: Within 64 x 64 about 4100 square foot how much on the inside is gonna be the apartment you're.....

Inaudible comment.

Cassidy: About half of it? That's 2000 square feet or less than that?

K. Bowlby: ....(inaudible).....No right at half.

M. Bowlby: About half.

K. Bowlby: Right split in the middle. So we'd like to put a second bedroom in there just in case there is somebody that we can put in that would need if I leave you know we could get somebody in to spend the night with here. So.....

Cassidy: Okay. That's all I, just trying to figure out .....

M. Bowlby: We're gonna try to make it as efficient as we can so it doesn't cost us that much and make a pole building and we foam insulated our barn and it doesn't take much to heat or cool it so we're gonna try to do the same thing.

K. Bowlby: I mean it would be nice. It's not gonna just be a you know, it'll be a nice looking building.

M. Bowlby: It won't be a shack.

K. Bowlby: It won't be a shack, yeah.

Cassidy: Thank you.

Clark: Mr. Bradburn?

Bradburn: Yeah no I just wanna commend you on your commitment to your family and certainly don't wanna stand in the way for sure of you being able to like I said, your commitment to your family is commendable. Yeah I think the square footage of the dwelling space was the only one of the question that we had for you and you were thinking about half of that then, is that right?

K. Bowlby: Yes. It would go right down the center of it, yeah.

Bradburn: Gotcha. Thanks.

Clark: Alrighty. I have no questions so if there aren't any other questions from the board, I will close comment from the board and open comment to the public. Anybody from the public wish to speak?

(?): Yeah.

Clark: Please step forward to the podium. Speak your name for the record.

Steven Brown: My name's Steven Tobias Brown. This is my wife, Carol. She lived there, she's lived in this house long....

Carol Brown: Since '82.

S. Brown: And I just I got with her and I've not been living in the house for 6 years. And my problems with this is he's already built a great big barn back there, man cave, whatever you wanna call it. I thought we thought this was gonna when we first when he first did that. We thought it was just a man cave. And then he's got this great big building back there. Okay? When he did that, the way the property goes in this area, all the water comes to our house. So when he starts puttin' structures up, there's no ground to absorb that water and we have actually

had to put things in the on the back side of our house to keep water from coming in our house because there's so much water coming down off that property.

Clark: If the petitioners wanna sit down, they can.

Brown: Okay and I don't wanna sound like a real horse's patootie but 'cause I understand that they wanna do somethin' nice for their family but it I don't fee like our lives should be infringed upon because they want to do that. He already, they it was very interesting, they made a thing about the trees all the way around the property, the trees that they can't maintain. My wife's extremely allergic to poison ivy. I have to go out once a month and weed whack all the way down through there because he's got poison ivy all up in his pine trees and it comes over to our property. He doesn't maintain his property. And you know what I'm saying is true. You know, if you can't maintain what you got, why are you trying to get more? I mean and he says we can't see it. We can see it perfectly fine. Whether the trees are there or not, we can see it. And I like I said, I'm already tired of dealing with the water problems and he puts another structure up there, it's just gonna make our, it's gonna make our situation even worse.

(?): Okay.

Brown: And is there anything else that you want to bring up? I mean 'cause I don't wanna sound like a really a bad person 'cause I find it noble that you wanna take care of your family. You know I had to go down to Florida for an extended amount of time to take care of my dad because he had to be taken care of. And if I could've got him to come up to Indiana, I would've probably would have tried to add on to my house. You know adding onto the house probably isn't a big issue. I mean I don't see where they gotta....if they get rid of that big 'ole brush pile they got out there, they probably got all kinds of room to expand on their house. I mean I'm waiting for him to light it up. He's got a brush pile back there about 20' tall I think. Well it's probably about (?).

Clark: Alright well I'm gonna cut you short right there but so....(inaudible)....from the board here to if there are questions.

Bradburn: Yeah, I have a few. So and I certainly appreciate your comments and your concerns and maintenance of the existing property is obviously not necessarily a subject that this board can remedy on.

S. Brown: Oh, I get that.

Bradburn: So that one's not necessarily we can factor in as we're making our decision here on this particular variance. The drainage as well.....

Clark: Actually, drainage.....(inaudible)....

Brown: That it? Drainage should definitely be.



Bradburn: It's did you want.....go ahead. You wanna speak to....

Henderson: I was just gonna say that on accessory structures we don't require any sort of a drainage study or drainage report. There are not necessarily.....(inaudible).

Clark: Okay. So one thing I would ask about the drainage situation, have you ever spoken about that to anyone else in the city (?)?

S. Brown: You know we try to live our lives simply, okay? We you know we got neighbors all the way around us. We don't really try to get involved in other people's situations and we don't involve other people in our situations, you know. We've dealt with the water. I put the proper things in to stop the water at this point you know because I know it was slowly getting worse, slowly getting worse. I mean when we go on vacation and we have a torrential rain and our kitchen is a foot and a half inside of water. You know you've gotta prepare for that and I did that. So no, I didn't worry about that but the thing about it is I'm tired of putting money in to keeping water out of my house because of structures going up. I'm just, this is what I've, I mean I don't know any other nice way of putting it. And 'cause we don't wanna cause him any problems and even though he doesn't maintain the back side of his property where he's supposed to maintain it, yep I still go back there and I've not said one word to him about it you know? I just go back there and I clean it. You know I'm not trying to to, I'm just trying to save myself some aggravation.

Clark: Okay, thank you. Were there any other questions?

Cassidy: .....(inaudible)....

S. Brown: Because if he's gonna do it, maybe you should you know have him put in some kind fo drain system. You know when water comes out of his gutters or whatever, have it going towards Morris Avenue where they've got a drainage ditch that goes down through there. They got all kinds of room for water and it's not going into anybody's house. The water that comes this way, it's coming into my house. I just don't wanna deal with it.

Clark: Okay, thank you. We'll give the petitioner opportunity to speak to this.

M. Bowlby: You all have an aerial view of the map?

Clark: We did.

Several people speaking at once; no one is clearly audible.

M. Bowlby: Take a look at the map. There's a hundred pine trees that go from north center of our property around the west side completely down the west side between our property and this man behind us. There's also a field tile that goes from about where my garden is straight down

to the road to the corner of the property. The water from our downspouts runs out away from the building about ten or twelve feet, whatever the length of those downspout attachments are. It doesn't go west. It doesn't go, if it goes anywhere, it goes south 'cause the property, that barn and the house are on a higher part that runs downhill toward Morris Avenue. So if it runs anywhere, it goes south. The place where we'd like to place this is on the northeast corner of the property. And the part where they live is much higher than it is back there where that building will go. This is the first that I've heard about any drainage problems. So you see where the arrow on the pointer is? See where the arrow.....are you looking at the monitors?

Henderson: Yeah.

M. Bowlby: The arrow where he's placed, that's where we wanna put the building. There's ample room there between the driveway and the property to the east and the property to the north. There's a hundred walnut trees from about the not quite the east edge of the barn but that large, grown up area. Those are there's a hundred walnut trees there. And then if you go to the back fence, there's a hundred pine trees that go all the way around to the west and then it goes south almost to the road. And then there's pine trees in the front too.

Clark: Okay. Are there any questions from the board on this? Has this provoked anymore ....

M. Bowlby: You're welcome to come out and look at it. If you wanna come sometime, just let us know.

Inaudible comment.

Clark: Nothing?

No reply.

Bradburn: Do you know offhand the square footage size of the pole barn, the wood shop that you have?

M. Bowlby: It's 81 x 40.

Bradburn: 81 x 40?

M. Bowlby: Yeah.

Bradburn: Thanks.

M. Bowlby: Half of it, 40 x 40 is wood shop and about 35 x 40 is the family room and then there's a little garden room on the northwest corner that's got her implements. She does some painting out there now but it's supposed to have our garden tools in it. That didn't work out either.

Terrell: I'm sore, what size did you say that current pole barn is?

M. Bowlby: 81 x 40. It could've been 200 x 40. Could've filled it with something.

Several people speaking at once; no one is clearly audible.

M. Bowlby: Go up, go up to the left.

Inaudible question.

M. Bowlby: Yeah.

S. Brown: I don't have any objections as long as it doesn't cause me any more water problems. I don't care what he builds over there.....(inaudible)....I don't care what he does as long as it doesn't affect me. If he wants.....(inaudible).....as long as it doesn't bring water down on me.

Clark: Okay.

K. Bowlby: I don't understand much about water and drainage, all that but we're farther away from the house he's talking about than his neighbors are to him. And I guess I don't understand how the water flows to it. I'll just say that. We're much farther away than his neighbors are on each side of him.

S. Brown: You got to come out and see our property and see how it .....(inaudible)....never know because Richard Clouse lives to the west side of us and his property....(inaudible)....so we got all this water coming into us. I mean I planted a garden there and you can see where that great big bald place is. That's my garden. I actually did that because it stopped the water from puddling in my yard. I mean that's how much water....(inaudible)....when we had grass there, it would....(inaudible)....all the water coming on us, I'd have water that deep in my garden ....(inaudible)....gave the water somewhere to go and if you keep adding more water to that then it's it's just gonna we're back in the same situation where I have nowhere to move this water to.... (inaudible)....we don't have a storm drain in front of our house. When it rains really hard, we have so much rain coming down that Knightstown Road (?) six or seven inches of water. That's my only issue about this. I don't care what.....(inaudible)....I just don't want it causing more water problems for us.

Clark: Okay do you have any more to address that?

Bradburn: Where are we? Are we, is the petitioner rebuttal is that where we are?

Clark: Yeah. They have no comment but....

Bradburn: Okay. Alright....

Clark: ...if this has brought any other questions, please....

Bradburn: No.

(?): Inaudible comment.

Bradburn: No.

Clark: So with....

M. Bowlby: Do you have any questions for me I guess? Do you have any questions for me, any other.....

Clark: I was getting ready to ask.

M. Bowlby: Alright, I apologize.

Clark: But I'll close public comment at this point and we will see if this has opened any other questions.

Bradburn: I have no further questions for the petitioner.

Cassidy: None from me.

Clark: So I guess we are either ready for a motion or should (?) discussion.

Bradburn: ....(inaudible)....board comment yeah or discussion.

Clark: We can discuss this, yeah.

Bradburn: Okay.

Clark: Perhaps even table this until we could see a I mean evidence of water flow. No?

Cassidy: I lived on Knightstown Road and I never seen six inches of water standing on Knightstown Road at any place and .....

S. Brown: Inaudible comment.

Cassidy; I lived out there for two years, sir. I lived farther north of that and was on that road three times a day going back and forth to work and I never seen six inches of water standing on Knightstown Road. That's just me. That's my personal, you know I'd turn on Knightstown Road, drive out, crossed the interstate and lived right there. Never saw two inches of, that

much water standing anywhere on Knightstown Road. I'm not saying it doesn't happen. I've never seen it. So that's my only.....I don't know how much water from where he's gonna build that building by the time the water's filtered through those hundred trees there, there isn't gonna be much water left for anything to get to those properties if the water does flow back towards the west. So that's .....

Bradburn: And I tend to agree based on what's in front of us right now. And I certainly empathize with water drainage issues. My parents live south side of town which is a swamp and so I certainly, there's at least once a spring I'm out there with a sump pump so I certainly understand the complications of you know folks living in close proximity and the water coming from all different directions. So I empathize with you but just based on what's in front of us right now and if we're looking at the Findings of Facts that we have to look at for the Board of Zoning Appeals, there's the criteria that I'm looking at is that the approval of the variance (?) injurious to the public health, safety, morals or general welfare of the community and as I have it in front of me, I don't see anything that's going to be injurious to those. The second that we have to do is of course the area adjacent to the subject property is what we're addressing now. Seeking the variance will not be adversely affected and that's kind of guesswork I think is what we're being asked to do at this point and so like I said, based on the evidence in front of me, I don't see necessarily that that will be the case. And then finally that the (?) practical difficulty is not self-imposed and of course I agree with the staff's report on that. So those are my comments.

Clark: So at this point, we'll move to a motion or move to .....

Cassidy: I'll make a motion to approve the requested development standard variance from UDO 5.02 and 5.03 to allow the accessory structure dwelling up to 2000 square foot of the and the additional structure to the house dwelling at 986 E. Morris Avenue pursuant to our reports.

Clark: There's a motion.

Bradburn: Second.

Clark: Please cast your vote for BZA 2022-18.

Henderson: BZA 202218: Miss Terrell - yes, Mr. Cassidy - yes, Mr. Bradburn - yes, Mr. Clark - no. Motion carries.

Clark: Motion carries. Good luck with your project.

M. Bowlby: Thank you, appreciate it.

S. Brown: Thanks for your time, guys.

Several people speaking at once; no one is clearly audible.

Henderson: That was everything on the agenda for petitions. We have one item under Discussion. The November meeting is falling on November 8th which is election day. City Hall will be closed that day so we would like to propose another day for our November meeting.

Clark: And I'm open for the same time on the Wednesday following, the 9th.

Henderson: The 9th? Does that work for everybody.....(inaudible)...

Bradburn: Works for me.

Henderson: So we'll reconvene on November 9th at 6:30.

Clark: Alrighty.

Cassidy: Motion to adjourn.

Terrell: Second.

Meeting adjourned