

Shelby County Board of Zoning Appeals

February 11, 2025, at 7:00 PM

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MEETING AGENDA

Shelby County Board of Zoning Appeals

February 11, 2025, 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the January 14, 2025 meeting.

OLD BUSINESS

None.

NEW BUSINESS

V24-22 – KAREN P BARLOW IRREVOCABLE TRUST: ZONING VIOLATION. Located at 2084 E Old Rushville Rd, Shelbyville, Addison Township.

DISCUSSION

None.

ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, **March 11, 2025, at 7:00 PM.**

Zoning Violation

Case Number: V24-22

Property Owner: Karen P Barlow Irrevocable Trust

Location: 2084 E Old Rushville Rd, Shelbyville, Addison Township

Violation

Lease of a structure for temporary lodging in the RE (Residential Estate) District.

Section 2.11 - RE District Intent, Permitted Uses, and Special Exception Uses

1. Residential Permitted Uses: dwelling single-family detached, fair housing facility (small)

The UDO only permits detached single-family dwellings and fair housing facilities as residential uses in the RE District. The UDO defines a single-family dwelling as *a detached residential dwelling unit designed to be occupied by one (1) family*. The UDO defines a family as *an individual, or two (2) or more persons related by blood, marriage, or adoption, or a group of not more than three (3) persons, not related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit*.

The property owner does not limit lease of the structure to no more than three (3) persons, not related by blood, marriage or adoption, therefore, use of the property does not qualify as a residential use and Staff has deemed use of the property in violation of the UDO. Use of the property in this manner would require approval of a zoning variance.

Additionally, *Section 1.20 Unlisted Land Uses* states: *any land use not listed in either the permitted use or special exception use column of a particular zoning district, shall be prohibited in that particular zoning district.*

Indiana Code (IC-1-24-9) allows local governments to require a zoning variance for non-owner-occupied short-term rental property in a residential zoning district. However, local governments may not enforce their zoning regulations in a manner that has the effect of prohibiting or unreasonably restricting short-term rental of property.

Case Information

- The property owner currently operates a short-term rental on the property. The Airbnb listing site advertises the rental as able to accommodate 16 or more overnight guests and for use as event space.
- The attorney for the property owner indicated that the property owner had previously spoken with the Planning Director, and that she indicated at that time that the County regulated short-term rentals as dwelling units. The Planning Director does not recall the specific details of this conversation, and the property owner does not have this determination in writing. Enforcement of zoning regulations is complaint based, and the County has not previously received a complaint regarding the operation of any short-term rentals.
- In December of 2024, the Planning Director received a complaint about the operation of a short-term rental on the subject property and Staff issued the property owner a violation letter.
- In January of 2024, the attorney for the property owner contacted the Planning Director. The Planning Director explained that the property owner would need to apply for a variance or cease use of the property as a short-term rental. However, she indicated that she would consult with the County Commissioners for further direction.

- The County Commissioners expressed concern with the large number of people that this short-term rental can accommodate, particularly with the adequacy of the structure, facilities, and septic system to service large parties
- of guests. They also supported an ordinance amendment regulating short-term rentals as a long-term solution and leniency with regard to regulating existing short-term rentals.
- The Planning Director has begun working on an ordinance amendment to address short-term rentals. The amendment will likely limit the number of guests that can occupy a short-term rental and ensure adequate utilities. The Planning Director anticipates final adoption of the ordinance amendment in late March of 2025, and no later than late April of 2025.

Request

The property owner requests a stay on enforcement action, including any fines, until the County adopts an ordinance regulating short-term rentals.

The Planning Director has determined that an illegal use of the property exists, therefore, the use of the property for a short-term rental would not be 'grandfathered' from future ordinance requirements. However, compliance with the future ordinance would remedy the violation. If the use does not comply with the future ordinance requirements, the property owner would have the option to seek a development standards variance.

The Planning Director does not object to the petitioner's request unless additional information arises at the meeting showing that temporary use of the property for a short-term rental poses a significant nuisance to adjacent properties.

Note that the property owner does not agree with the Planning Director's determination that a violation currently exists.

BZA Decision

A few options available to the BZA to address the violation include the following:

1. Grant the petitioner's request
2. Grant the petitioner's request with conditions regarding use of the property, deadline for compliance, etc.
3. Deny the petitioner's request

Shelby County Plan Commission

25 West Polk Street, Room 201
Shelbyville, Indiana 46176
(317) 392-6338

Planning Director
Desiree Calderella, AICP

NOTICE OF ZONING VIOLATION

via certified mail # 7020 1290 002 0297 1130

V24-22

December 12, 2024

Karen P Barlow Irrevocable Trust
2023 E Old Rushville Rd.
Shelbyville, IN 46176

The Shelby County Plan Commission has obtained evidence of a violation of the Shelby County Unified Development Ordinance on property you own at 2084 E Old Rushville Rd, Shelbyville. With this letter, the Shelby County Plan Commission, which is charged with enforcing the ordinance, requests that you correct the violation. The specific terms of the violation are detailed here:

1. **Location of violation:** 2084 E Old Rushville Rd, Shelbyville.
2. **Specific description of violation:** Lease of a structure for temporary lodging in the RE (Residential Estate) District.
3. **Specific portion of zoning ordinance violated:**
 - a. Section 2.11- RE District Intent, Permitted Uses, and Special Exception Uses
 - i. Accessory Permitted Uses: home business (type 1), roadside sales
 - ii. Agricultural Permitted Uses: hobby farming, stable (private)
 - iii. Industrial Permitted Uses: bio-diesel production \leq 5,000 gallons per year
 - iv. Residential Permitted Uses: dwelling single-family detached (used exclusively for residential occupancy), fair housing facility (small)
4. **Options for corrective action:**
 - a. Discontinue lease of structure for temporary lodging.
 - b. File for and obtain a zoning variance from the Shelby County Board of Zoning Appeals.
 - c. Appeal the issuance of this violation to a public hearing of the Shelby County Board of Zoning Appeals.

Corrective action listed above shall be taken by **January 2, 2025**. Failure to take corrective action by January 2, 2025, will result in forwarding of the case to the Board of Zoning Appeals to determine further corrective action, including ongoing additional fines each day up to \$7,500, which if unpaid will attach as a lien to your property. The Plan Commission may employ any other legal remedy permitted by the Unified Development Ordinance.

If merited, I will work with you on a short extension to bring the property into compliance. If you wish to discuss any other aspect of your case, please call me at (317) 392-6338 or email me at dcalderella@co.shelby.in.us.

Sincerely,



Desiree Calderella, AICP
Planning Director
Shelby County Plan Commission



January 16, 2025

Ms. Desiree Calderella
Planning Director
Shelby County Plan Commission
25 West Polk Street, Room 201
Shelbyville, IN 46176

Re: Notice of Zoning Violation – V24-22

Dear Ms. Calderella,

Please be advised that I have been retained by the Karen P. Barlow Irrevocable Trust regarding the above notice received with respect to property located at 2084 E. Old Rushville Road, Shelbyville, Indiana. The notice received asserts a violation may exist with respect to lease of the residence on the property for temporary lodging. As we discussed, Ind. Code §36-1-24 is a series of statutes passed by Indiana and addressing short term rentals. My client does not believe a violation presently exists, and I am unaware of a specific ordinance currently in place regarding short-term occupancy of structures which would result in a violation by my client.

I have discussed with my client the possibility of a stay by the Board of Zoning Appeals in enforcement of the alleged zoning violation pending passage of an ordinance regulating short term rentals, and my client is in agreement. It is my understanding from our conversation that you are in favor of recommending staying enforcement and determination of a violation pending the Shelby County Commissioners enacting an ordinance that would resolve or otherwise provide guidance on the alleged violation. It is my understanding that such an ordinance should be forthcoming in a few months. If the situation changes and it appears the Commissioners are not going to propose or approve a short-term rental ordinance, we would like to be provided with the opportunity at that time to respond to the alleged violation. Please advise whether you agree to recommend to the BZA a stay with respect to enforcement of the alleged violation and waiver of any fines related thereto until such time as the legislative body can meet and determine whether an ordinance should be passed regulating short-term lodging in residential properties. I am happy to attend the BZA meeting to discuss staying enforcement.

Sincerely,

STEPHENSON RIFE, LLP

Eric M. Glasco