

MINUTES OF THE
JEFFERSONVILLE BOARD OF ZONING APPEALS
June 29, 2021

Call to Order

Chairman Mike McCutcheon calls to order the Board of Zoning Appeals meeting. It is Tuesday, June 29th. It is 7:07 PM in the City Council Chambers, Jeffersonville City Hall, 500 Quartermaster Ct., Jeffersonville, Indiana. The meeting was primarily held in person and was also streamed online via the Zoom web platform, YouTube, and the City website.

Roll Call

Members present were Mike McCutcheon, Rodger Clarke, and Duard Avery. Member David Stinson was not present at the time of roll call. Member Chris Fox was absent. Also present were Chad Reischl, Planning & Zoning Director; Les Merkley, Planning & Zoning Attorney; and Shelby Walsh, Secretary.

Approval of Minutes for Meeting

Approval of the minutes from May 25, 2021. Mr. Clarke made a motion to approve the May 25, 2021 minutes, seconded by Duard Avery. Motion passed 3-0.

Approval of Findings of Fact

Approval of the Findings of Fact. Mr. Clarke made a motion to adopt the Findings of Fact for the May 25, 2021 docket items, seconded by Mr. Avery. Motion passed 3-0.

Oath

Les Merkley administered the oath. He then asked when you speak, please state your name and acknowledge you took the oath.

Approval of Docket

Mike McCutcheon asked for approval of the docket.

David Stinson joined the meeting through Zoom at 7:10 PM. He is able to join through audio but is unable to turn on video. Board member David Stinson and this audio was broadcast through the City Council Chamber.

Mr. Clarke made a motion to approve the docket. Mr. Avery seconded the motion. Roll call vote. Motion passed 4-0.

Board Discussion

BZA-20-13 Administrative Appeal

Speedway, LLC filed an Administrative Appeal regarding the Planning and Zoning staff decision that a Special Exception is required for the use of a gas station at this property, 1701 Veterans Parkway. This was originally on the docket in January 2020. The BZA held a public hearing on

May 25, 2021 and voted to take the docket item under advisement and requested all interested parties submit their Findings of Facts. The Docket Number is BZA-20-13.

Les Merkely stated this was taken under advisement at the last meeting when evidence and a public hearing was held. This is an administrative appeal as the Planning and zoning department determined that Speedway is required to obtain a Special Exception at 1701 Veterans Parkway. Speedway had the opportunity to appeal that and they have done so. We are hearing that request tonight. There are three findings submitted, as well as Les Merkely has created a condensed version of facts, which is on file with the Planning office. He reiterates that this is not a public hearing.

David Stinson was able to be present through both audio and through Zoom video as well at 7:13 PM.

Mr. McCutcheon asked for board comment.

Mr. Clarke stated that several stations have opened without Special Exception over the years and he does not see how we can require this gas station to obtain a Special Exception without it being selective enforcement.

Mr. Avery stated that they should follow the full mediation of the Plan Commission.

Mr. Stinson stated he has no additional comments.

Les Merkely stated this will be a roll call vote and a vote to adopt findings.

Mr. Clarke made a motion to reverse staff decision regarding BZA-20-13 and to adopt written findings of facts in completion. Mr. Avery seconded the motion.

Move forward with roll call vote. The Planning Department decision is reversed, 4-0.

Public Hearing Docket

OLD BUSINESS

None

NEW BUSINESS

BZA-21-36 Use Variance

Bruce Meadows filed a Use Variance application for the property at 410 E Park Place. The property is zoned R3 (Residential). The proposed use is to utilize the existing carriage house as an Accessory Dwelling Unit. The Docket Number is BZA-21-36.

Bruce Meadows stated he was present and had taken the oath. His daughter is the homeowner and a registered nurse. She has given consent to turn her detached carriage house into a residential area for himself and his wife, the homeowner's parents. The full residence will all be on one floor and will serve his wife who has mobility issues.

Chad Reischl provided staff opinion and stated this will certainly be more welcome in the planned UDO and staff is okay with this. This is a request that staff has seen more of recently and expects to see more in the future.

Public comments opened. Chad Reischl stated he had a letter in opposition of the docket item. This letter is available in the Planning and Zoning office. The letter is from: Dale Barnett and robin Barnett at 406 E Park Place. Mr. Barnett stated he had taken the oath. They are residents in Sellersburg but they own this property. They are opposed due to the house sitting on the alley. They do not wish to see the future use turned into multiple apartments and the alley filled with parked cars. These lots are too small for additional housing as they are long and narrow. He believes this dwelling will be an overuse of the property.

Robin Barnett stated she had taken the oath and stated this house has a basement and hopes that the basement will be used for additional housing space for the family, not converting the garage. Her concern is safety for her grandchildren as they live at this property and play across the alley. She would like to know the original guideline for this neighborhood and would like to see this home follow the single-family use.

Dale Barnett stated there are other homes along this alley and worries a precedent will be set that they can be turned into apartments or additional housing.

Chad Reischl stated there is a letter from Mike Ponsford in opposition of the request. The letter is on file with the Planning office.

No further comment. Public comment closed.

Mr. Meadows stated they are not changing the size of the existing structure and they are only going to improve it. There will be only one bedroom. There is an existing parking space on the property and no parking would be needed along the alley. They are a small family and will not be a burden on the alley or neighborhood.

Board comments opened.

Mr. Clarke questioned how do we check to ensure once the family that moves into a "mother in law suite" leaves, how do we ensure it does not become rental property?

Chad Reishl answered that there is not a lot to check whether the tenant of the property is a family member or just someone renting. The legality of checking that would be difficult. But he believes that if the homeowner lives on the property they will care whether or not they have a considerate renter.

Mr. McCutcheon asked for a motion to move to findings. Mr. Avery made a motion to move to findings. Mr. Clarke seconded the motion.

The Board of Zoning Appeals of the City of Jeffersonville, having heard the application for the variance described above, and all opposition from parties claiming to be adversely affected thereby, does now enter the following findings:

1. The variance of use 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 will not be adversely be affected.
3. The need for the use variance does result from conditions unusual or peculiar to the subject property itself.
4. The strict application of the terms of the Jeffersonville Zoning Ordinance would result in an unnecessary hardship in the use of the property.
5. The approval of the variance would not contradict the goals and objectives of the Comprehensive Plan.

Based on the findings described above, the Board does now approve this application. So ordered this 29th day of June, 2021.

BZA-21-37 Development Standards Variance

Jason Honesty & Brian Zentz with Exeter Hilton Land, LLC filed a Development Standards Variance application for the property at 101 Jacobs Way. The variance request is to expand parking spaces. The property is zoned IR (River Ridge). The Docket Number is BZA-21-37.

Alan Applegate with Applegate, Fifer, and Pulliam at 428 Meigs Avenue stated he was present and had taken the oath. Both Jason Honesty and Brian Zentz are also present and have taken the oath. The variance request is to expand the parking to 570 spaces. The Zoning Ordinance has a table that has a minimum number of parking spaces and also requires that the parking maximum does not exceed 25% of that. This is speculative building of 570,000 square feet. There is an interested party that is asking for this number of spaces for this use which is not currently disclosed. Alan Applegate stated that Tom Vittitow with River Ridge has approved these number of spaces and River Ridge often has much stricter requirements. The parking is on the exterior of all four sides. It has several access points onto River Ridge's private roads including Jacobs Way onto the East End Bridge and Hilton Way. The roads are state of the art out in River Ridge and could support these additional parking spaces. It is not out of the ordinary for an industrial park or building this size to have this number of parking spaces. These parking spaces are for vehicles, not trucks or loading. This would prevent off-site parking which is not permitted within River Ridge. Alan Applegate states that the access points and road conditions will not be a safety issue; River Ridge's approval shows that they do not feel it will negatively impact neighboring properties; and he states that because the nature of the property prevents the building from clearly following the parking table as the number of employees is unknown, but the size of the building would easily allow multiple uses to meet these parking requirements once the use is known. He believes that this causes a practical difficulty as it does not allow much parking clarity for speculative spaces.

Chad Reischl agrees with Alan Applegate that the parking table does not fit this speculative building. He stated a variance was needed as the employee number is still unknown and the building is not expanding but parking is and the variance will just allow clarity. Staff is generally okay with the request.

Public comments opened. No public comment. Public comments closed.

Mr. Clarke asked about the development plan that was approved in 2019 because he thought its build was imminent and now it is not being built at all.

Alan Applegate answered that lot sizes have changed as well as that additional buildings have been constructed on these other lots. The increased number of parking spaces should not be in scale any different than the neighboring parcel.

Mr. Clarke made a motion to move to vote on all findings together. Mr. Avery seconded the motion.

The Board of Zoning Appeals of the City of Jeffersonville, having heard the application for variance described above, and all opposition from parties claiming to be adversely affected thereby, does now enter the following findings:

1. The variance of the development standards 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 strict application of the terms of the Zoning Ordinance will result in a practical difficulty. This situation shall not be self-imposed, nor be based on a perceived reduction of or restriction of economic gain.

Based on the findings described above, the Board does now approves this application. So ordered this 29th day of June, 2021.

BZA-21-38 Development Standards Variance

Curt Hargrove with Gray Industrial Realty VI, LLC applied for a Development Standards Variance application for 325 Lewman Way. The proposed development is an industrial warehouse / distribution center. Variances are required for the parking distribution and entrance width. The property is zoned IR (River Ridge). The Docket Number is BZA-21-38.

Marc Hildenbrand with HWC Engineering at 303 Scribner Drive in New Albany stated he was present and had taken the oath. He is representing the developer. This is a speculative warehouse / distribution center building, approximately 260,000 square feet. The developer is the Gray Realty group who have done several other developments within River Ridge in this same section. While the tenant is unknown, the shape and size of the building these variances are required for maximum development.

This lot size makes it difficult to do other types of development in the industrial area. They would like to do one side for parking as well as one side for trucks / loading docks. The eastern side, Lewman Court, a cul-de-sac, will have parking in the front. In the future they also plan to put parking along Lewman Way as well. Parking location and the entrance width are the two variances they are requesting. This will not be a safety concern as it is just like the other developments with parking and entrance and there have been no concerns. All neighbors are the Gray Realty developer group and they do not feel like it will negatively impact their neighboring properties. The size and shape of this building does encourage additional variances.

Chad Reischl stated these two variances are common in River Ridge and not a concern, as well as it has been approved by River Ridge Development Authority.

Open public comment. No public comment. Close public comment.

Opened for board comments/questions. No board comment.

Mr. Clarke motioned to move forward with both variances. Mr. Avery seconded the motion.

The Board of Zoning Appeals of the City of Jeffersonville, having heard the application for variance described above, and all opposition from parties claiming to be adversely affected thereby, does now enter the following findings:

4. The variance of the development standards will not be injurious to the public health, safety, morals, 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 Zoning Ordinance will result in a practical difficulty. This situation shall not be self-imposed, nor be based on a perceived reduction of or restriction of economic gain.

Based on the findings described above, the Board does now approve this application. So ordered this 29th day of June, 2021.

BZA-21-39 Development Standards Variance

Michele George filed a Development Standards Variance application for 1927 Utica Pike. The applicant requests to build a detached garage on the property. The variances requested are for the height of the accessory structure and to expand existing gravel. The property is zoned R1 (Residential). The Docket Number is BZA-21-39.

George Heuser, at 1927 Utica Pike stated he was present and had taken the oath. He is representing his wife the homeowner and is also a resident at the property. He would like to build a storage garage at the rear of his property that will be for boat storage, vehicle storage, as well as a hobby shop, and a front covered area. He believes the main concern is likely the gravel. They have made many improvements to this home as well as ensuring it reflects its original character. This existing gravel drive is long and narrow and to pave the rear, he would need to pave the original driveway as well. This property is adjacent to the rear of Mockingbird Drive on the side closest to the drive and along Joy Drive at the rear. There is a tree buffer between the yard and Mockingbird Drive. This gravel will only be seen from the road.

Chad Reishl stated this driveway is not much of a concern as this will not be seen from the road.

Open public comment. City Councilor Donnie Croft took the oath and spoke in support of this request. He believes the home is very well-kept and the drive is not even very well seen from Utica Pike. No one from his district has spoken against this request. He asks the Board to vote in favor of the request. Close public comment.

Opened for board comments/questions. No board comments. Close board comment.

Mr. Clarke motioned to move forward to findings with both variances. Avery seconded the motion.

The Board of Zoning Appeals of the City of Jeffersonville, having heard the application for variance described above, and all opposition from parties claiming to be adversely affected thereby, does now enter the following findings:

1. The variance of the development standards 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 strict application of the terms of the Zoning Ordinance will result in a practical difficulty. This situation shall not be self-imposed, nor be based on a perceived reduction of or restriction of economic gain.

Based on the findings described above, the Board does now approve this application. So ordered this 29th day of June, 2021.

BZA-21-40 Development Standards Variance

Mindy Johns with Millennium Builders. LLC filed a Development Standards Variance application for 338 Walnut Street. The variance request is regarding the location within the front setback of a raised entrance / patio structure. The property is zoned R3 (Residential). The Docket Number is BZA-21-40.

Victoria Johns with Millennium Builders, LLC stated she was representing the development and has not taken the oath. Mr. Merkley administered the oath for Victoria Johns.

Victoria Johns stated they have a new buyer that is elderly and they preferred a paver structure instead of stairs on the property. She does know the new homeowner intends to put small railings along the side. It is 3' into the front setback. The total size of the structure is 13'x20'. She stated the structure is existing and provided a picture into the record for board members to see. This photo is on file with the Planning and Zoning office.

Chad Reishl stated while this does not meet current zoning code, staff does not find issue with it. It is low to the ground and should not cause an impact. It is also in the downtown area and many properties in the area have front porches / railings within front setbacks.

Open public comment. No public comment. Closed public comment.

Opened for board comments/questions. No board comments. Close board comments.

Mr. Clarke motioned to move forward to findings for the variance. Mr. Stinson seconded the motion.

The Board of Zoning Appeals of the City of Jeffersonville, having heard the application for variance described above, and all opposition from parties claiming to be adversely affected thereby, does now enter the following findings:

4. The variance of the development standards will not be injurious to the public health, safety, morals, 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 Zoning Ordinance will result in a practical difficulty. This situation shall not be self-imposed, nor be based on a perceived reduction of or restriction of economic gain.

Based on the findings described above, the Board does now approve this application. So ordered this 29th day of June, 2021.

BZA-21-41 Development Standards Variance

Jesse Green filed a Development Standards Variance application for 222 Cherokee Drive. The variance request is to build a garage on a property with no primary structure with an additional variance for the size of the structure. The property is zoned R1 (Residential). The Docket Number is BZA-21-41.

Amy Eversole with Applegate, Fifer, Pulliam at 438 Meigs Avenue stated she was representing his property and he took the oath. She is representing the property owner who is not able to be here tonight.

Amy Eversole stated the total square footage of the garage is 1,650 square feet. The homeowner previously built a similar garage at his previous property at 216 Cherokee Drive. The contractor building the garage also lives in this neighborhood and has advised that many garages are of similar size within the neighborhood.

Chad Reischl stated that the variance regarding a primary structure is only temporary.

Open public comment.

Pam Halter at 218 Pawnee Drive stated she had not taken the oath. Les Merkley administered the oath and Pam Halter took it. She stated she has been speaking with local neighbors. Her concerns are with the height and the size. This is a 30' wide structure and the lot is only 90'. She asked about recourse in case the property owner never builds a home as she does not see how a home could be built to be larger than this garage at a lot of this size. She also stated the applicant's previous garage is lovely and brick and fits within the neighborhood feel. She would like to ensure this garage is also built with similar materials and does not turn into a pole barn. Close public comment.

Amy Eversole stated this is just under the maximum height of 18'. She said the garage can sit further back to the rear of the property than other properties as the utility easement has been vacated so there will still be plenty of room to build a home here. She stated the builder has stated the garage will be built with brick. Shelby Walsh stated the builder had also stated to the Planning Office it will be a brick façade.

Mr. Clarke motioned to move forward with both variances. Mr. Stinson seconded the motion.

The Board of Zoning Appeals of the City of Jeffersonville, having heard the application for variance described above, and all opposition from parties claiming to be adversely affected thereby, does now enter the following findings:

1. The variance of the development standards 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 strict application of the terms of the Zoning Ordinance will result in a practical difficulty. This situation shall not be self-imposed, nor be based on a perceived reduction of or restriction of economic gain.

Based on the findings described above, the Board does now approve this application. So ordered this 29th day of June, 2021.

BZA-21-42 Development Standards Variance

Michael Lines with Whallon Street Development filed a Development Standards Variance application for 2600 Waters Edge Parkway, between Utica Sellersburg Road and Waters Edge Parkway. The proposed use is self-storage with a number of variance requests. The property is zoned I1 (Industrial). The Docket Number is BZA-21-42.

Chris Long stated he is with Renaissance Design and is representing the applicant, Michael Lines, and has taken the oath. This is a 4.9 acre vacant site between Waters Edge Parkway and Utica Sellersburg Road. The property has utility easements that go diagonally through the middle of the property. He stated that this development is self-storage and the nature of the development as well as the many easements requires variances.

Chad Reischl states the variances requested are for parking projecting into the front setback, no dumpster enclosure, and lot coverage. The side building setbacks and the landscape were covered by the Plan Commission and waivers were approved. He stated a number of

variances are requested and some are typical for this type of development. But staff also feels some of these variances could be addressed with better design. He would like to hear from the developer the reasoning why these variances should be granted.

Chris Long asked for clarification on the parking variance. Chad Reischl responded the three parking spaces along Waters Edge Parkway are fully within the front setback, as well as some along the conditioned buildings.

Chris Long responded these three front spaces are best there because they are right next to the entry kiosk and asked for additional concerns.

Chad Reischl stated there are some concerns with the lot coverage, while lot coverage is typically high in self-storage developments, he says there seems to be unnecessary pavement on the property as well. Chris Long believes the best reason for this additional pavement is for construction and no long-term purpose as he is aware.

Open public comments. No public comments. Close public comments.

Open board comment. Mr. Clarke asked if there was to be a dumpster enclosure could they not add a buffer to hide the dumpster. Chris Long answered that there is an existing buffer of pine trees here and while no additional buffer will be added there is an existing buffer.

Mr. McCutcheon asked for additional comments and a motion if no additional questions.

Mr. Clarke made a motion to move forward with all three findings. Mr. Stinson seconded the motion.

The Board of Zoning Appeals of the City of Jeffersonville, having heard the application for variance described above, and all opposition from parties claiming to be adversely affected thereby, does now enter the following findings:

1. The variance of the development standards 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 strict application of the terms of the Zoning Ordinance will result in a practical difficulty. This situation shall not be self-imposed, nor be based on a perceived reduction of or restriction of economic gain.

Based on the findings described above, the Board does now approve this application. So ordered this 29th day of June, 2021.

BZA-21-43 Use Variance

Wyatt Hall, Inc. filed a Use Variance for 61 Louise Street. The property is zoned R2 (Residential). The applicants request to use the property for the future development of a new Masonic Lodge. The Docket Number is BZA-21-43.

Chris Long with Renaissance Design Group stated he is the representative for Wyatt Hall, Inc, and he took the oath. He stated Alan Wyatt with the group is also present to answer questions.

Chris Long stated the property owner has appeared before the Board before to ask for a use variance that was approved. He stated they are asking for a second use variance at

this property. If approved, a new building will be built for the Masonic Lodge.

Chad Reischl stated that staff feels the Mason's lodge is really not much different than the previous use of the Optimist Club. He thinks it would not be unusual for this area, although with the other recent use variance it will make a unique mix of uses. Staff does not have issue with the use although there are concerns about the number of variances that will be required to make this building come to fruition.

Open public comment. There was one letter of support from a neighbor, which is on record with the Planning office from Ms. Edna Hartlage at 1025 Springdale Drive. No additional public comment. Close public comment.

Open board comment.

Mr. Clarke asked how many times this lodge will be used per month.

Mr. Wyatt spoke and stated he took the oath. The masons meet twice a month as well as host a pancake breakfast every third Thursday. Mr. Clarke noted they meet infrequently.

Mr. Clarke motioned to move to findings. Mr. Stinson seconded the motion.

The Board of Zoning Appeals of the City of Jeffersonville, having heard the application for the variance described above, and all opposition from parties claiming to be adversely affected thereby, does now enter the following findings:

1. The variance of use 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 will not be adversely be affected.
3. The need for the use variance does result from conditions unusual or peculiar to the subject property itself.
4. The strict application of the terms of the Jeffersonville Zoning Ordinance would result in an unnecessary hardship in the use of the property.
5. The approval of the variance would not contradict the goals and objectives of the Comprehensive Plan.

Based on the findings described above, the Board does now approve this application. So ordered this June 29, 2021.

BZA-21-44 Administrative Appeal

Martin Short filed an Administrative Appeal application for his property at 504 Mohawk Drive. The owner received notice of a violation from Code Enforcement regarding the non-conforming use of a yellow box as an accessory structure in the rear yard. The property is zoned R2 (Residential). The Docket Number is BZA-21-44.

Martin short stated he took the oath and is at 504 Mohawk Drive. He is the homeowner. He purchased this yellow box back in April and has ensured it is out of the easement and away from

the property line. He needs additional space for tools and storage and prefers this to adding onto his garage. He does plan to paint the box but works out of time often and has not had time.

Chad Reischl stated that however this container is classified, as a storage container, or a tractor/trailer primarily used as storage, it is against the Zoning Ordinance. This box was brought to the staff's attention by complaint of a neighbor.

Open public comment. Denise Hall has taken the oath. She lives at 600 Charlestown Avenue. She said her yard buffers his property by 200'. She said this does not appear much different than something you would purchase from a shed/barn seller and is likely stronger. She said the homeowner is a great neighbor and cares for his yard. She believes once the box is painted there will be no reason to complain about.

Chad Reischl states he has two letters regarding the appeal. These are on record in the planning office.

Support: Patricia Miller, 20 Terrace Heights

Oppose: Sandra Smith, 1722 Johnny Drive

Close public comment.

Mr. McCutcheon asked for clarification regarding the complaint. He referenced the photo in the staff report as the view from the neighbor that complained, with the largest view of the yellow box. Mr. Short stated that is her view. Mr. McCutcheon asked the applicant if he would be willing to table to work with the applicant and see whether she is against the box in general, the proximity to the property line, its height, or any type of structure that may be there. He stated that if the Board votes against this tonight, their decision is final.

Chad Reischl asked how far this structure is from the rear property line. Martin Short stated that it is in excess of the minimum rear property line – somewhere between 10 – 12 feet.

Mr. McCutcheon stated he supports this and asked Chad Reischl what type of stipulations they are allowed to require to encourage a buffer area for this neighbor. He brought up ideas of color change and vegetation. He asked other board members the timeline they would like to see.

Mr. Clarke agreed vegetation should be a necessary stipulation.

Mr. Avery made a motion to reverse the administrative decision with the stipulation that the homeowner works with the Planning staff to have some buffer in place that Planning approves within 90 days.

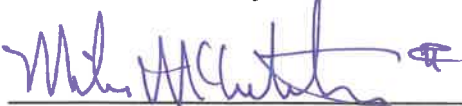
Mr. Clarke seconded the motion. Roll call vote, 4-1 with David Stinson dissenting. Decision reversed.

Director's Comments

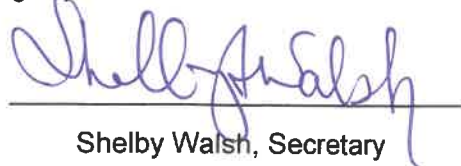
None

Adjournment

Mike McCutcheon asked whether any board members had any additional comments or questions. There being no further business to come before the Board of Zoning Appeals, he asked for a motion to dismiss. Mr. Avery made a motion to adjourn. The meeting adjourned at 8:47 PM.



Mike McCutcheon, Chair



Shelby Walsh, Secretary