

**Shelby County
Board of Zoning Appeals**

January 10, 2023 at 7:00 PM

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MEETING AGENDA

Shelby County Board of Zoning Appeals January 10, 2023, 7:00 P.M.

CALL TO ORDER

ROLL CALL

ELECTION OF OFFICERS

APPROVAL OF MINUTES

Minutes from the December 6, 2022 meeting.

BUSINESS CONTINUED TO FEBRUARY 14, 2023

BZA 22-52 – FARNSLEY FAMILY FARM LLC: DEVELOPMENT STANDARDS VARIANCE. Located at 7092 E Short Blue Rd, Shelbyville, Union Township.

OLD BUSINESS

None.

NEW BUSINESS

BZA 23-01 – MIKE WILSON: USE VARIANCE. Located at 3853 N Morristown Rd, Shelbyville, Marion Township.

V22-10 – BALDEV S VIRK: ZONING VIOLATION. Located at 7165 W Old ST RD 252, Edinburgh, Jackson Township.

DISCUSSION

APPROVED HEARING OFFICER CASES

BZA 22-39 – DEWAYNE YOCKEY: DEVELOPMENT STANDARDS VARIANCES. Located at 9166 N 625 E, Morristown, Hanover Township. *Approved October 11, 2022.*

BZA 22-44 – WILLIAM FIELDS: DEVELOPMENT STANDARDS VARIANCE. Located at 10889 S 350 E, Flat Rock, Nobel Township. *Approved November 1, 2022.*

BZA 22-46 – TYLER TILLISON: DEVELOPMENT STANDARDS VARIANCE. Located at 2429 E 1000 N, Morristown, Van Buren Township. *Approved November 15, 2022.*

BZA 22-48 – DWIGHT & AMANDA GRIMES: DEVELOPMENT STANDARDS VARIANCE. Located at 575 W 600 N, Shelbyville, Marion Township. *Approved November 15, 2022.*

BZA 22-49 – CHARLES W BURNLEY: DEVELOPMENT STANDARDS VARIANCE. Located at 4464 W PR 790 S, Shelbyville, Jackson Township. *Approved November 15, 2022.*

BZA 22-55 – WARREN & VALERIE MCDONALD: DEVELOPMENT STANDARDS VARIANCE. Located at 198 W Gosch Rd, Shelbyville, Washington Township. *Approved December 20, 2022.*

BZA 22-47 – JOHN R & DEBBIE PILE: DEVELOPMENT STANDARDS VARIANCE. Located at 5245 S Smithland Rd, Shelbyville, Hendricks Township. *Withdrawn by Petitioner.*

ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, **February 14, 2023 at 7:00 PM.**

Property Details

Location: 3853 N Morrystown Rd,
Shelbyville, Marion Township.

Property Size: 2-acres.

Current Land Use: Vacant.

Zoning Classification:

RE (Residential Estate)

Intent: This district is established for single-family detached dwellings in a rural or country setting.

Future Land Use per Comp Plan Parks, Open Space, & Conservation

The purpose of this category is to provide for passive and active recreational activities, permanent preservation of significant natural areas, and preservation of natural features within clustered developments. This category applies to public and private lands.

	Zoning	Land Use
North	RE	Residential Storage
South	RE	Estate Residential
East	A1	Cropland
West	RE	Woodland

Staff Report

Case Number: BZA 23-01

Case Name: Mike Wilson – Use Variance

Request

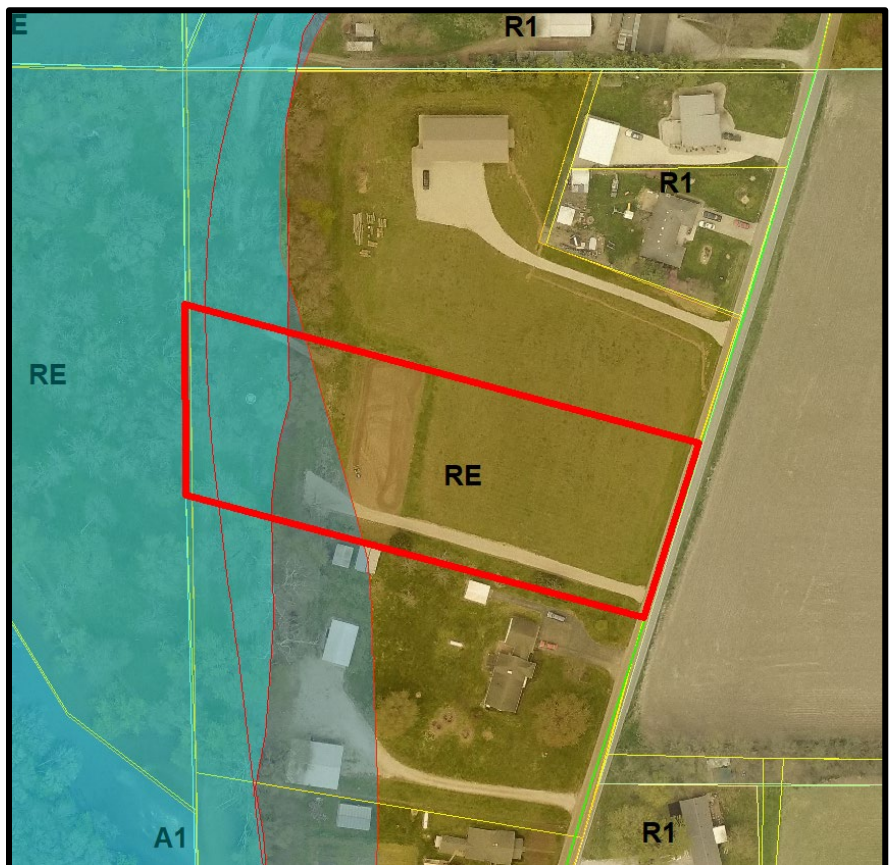
Variance of Use to allow for construction of a pole barn to use for storage of residential items as the primary use of property in the RE (Residential Estate) District.

Code Requirement

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

Purpose of Requirement: Prohibiting construction of storage structures without a single-family home protects the character of residential neighborhoods and discourages use of a structure for activities that would generally pose a nuisance to a home located on the lot.

Property Map



Case Description

- The petitioner intends to construct a pole barn to use for storage of personal items not related to any commercial activity.
- The petitioner proposes to construct the barn approximately 200-feet from the road along an existing driveway. The petitioner indicated that the barn would sit at the top of a ridge and not within the designated Flood Hazard Area that covers the rear portion of the property.
- The petitioner indicated that he does not have any immediate plans to construct a dwelling on the property.
- On June 11, 2019, the Board approved a variance to allow for construction of a barn without future plans for construction of a dwelling on the adjoining property to the north. The Board should not consider past variance approvals as legally precedential, however, the Board may consider the character of adjacent properties when deciding on variance approval.

Staff Analysis of Findings of Fact

1. State Requirement: The approval will not be injurious to the public health, safety, morals, and general welfare of the community.

Staff Analysis: Construction of the barn would require a building permit and the structure must comply with all building codes before passing a final inspection. Use of the barn for storage of personal items would not impact the public.

2. State Requirement: The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

Staff Analysis: The barn would sit approximately 200-feet from the road and behind all residences located on adjacent properties. The adjacent property to the north also includes a barn without a house. Therefore, approval of the variance would not impact the character of the area.

3. State Requirement: The need for the variance arises from some condition peculiar to the property involved.

Staff Analysis: The property adjoins a property that also includes a barn without a house.

4. State Requirement: 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.

Staff Analysis: A strict application of the ordinance would not allow use of property in a residential zoning district for storage of residential items.

5. State Requirement: The approval does not interfere substantially with the Comprehensive Plan.

Staff Analysis: The barn would not sit within the designated Flood Hazard Area recommended for parks, open space, and conservation by the Comprehensive Plan.

Staff Recommendation

APPROVAL primarily because construction of a barn without a house at the rear of the property would not impact the character of the area.

Applicant/Owner Information

Applicant:	Mike Wilson 202 Rolling Ridge Road Shelbyville, IN 46176	Owner:	Mike & Jennifer Wilson
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**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: Mike Wilson

Case #: _____

Location: 3853 N. Morris Town Rd.

The Shelby County Board of Zoning Appeals must determine that the following criteria have been met in order to approve an application for a Development Standards Variance. Using the lines provided, please explain how your request meets each of these criteria.

1. **General Welfare:** The approval will not be injurious to the public health, safety, and general welfare of the community.

Building a Pole Barn just for storage on the back of my property. Should not have any health or safety concerns.

2. **Adjacent Property:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

In far enough off of property lines, no other properties should be affected

3. **Practical Difficulty:** The strict application of the terms of the Shelby County Zoning Ordinance will result in a practical difficulty in the use of the property.

Use to be a Hay field, wanting to build a Pole Barn for storage. No septic system needed.

The Board of Zoning Appeals may review the applicant's findings of fact to assist with their decision-making process. Please see below for general guidance related to completing the findings of fact:

General Welfare: How does the request do no harm to the overall community of Shelby County? (ex. pollution, customer safety, road network safety, building code compliance, etc.)

Adjacent Property: How does the request do no harm to adjoining property and neighborhood? (ex. noise, odor, traffic generation, distance from property lines, appearance of property, etc.)

Practical Difficulty: This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain (ex. of practical difficulty: topography of property, location of septic system, consistency with nearby land uses, historical use of property, etc.)



Side Property line
30 FT off Hill
top of Hill
24 FT off



<p>Shelby Co Zoning Feature Name: re</p>
<p>2019 Flood Maps FLD_ZONE: A</p>
<p>Preliminary Flood Maps Jan 2017 FLD_ZONE: A</p>
<p>Addresses Active: No</p>
<ul style="list-style-type: none"> Bartholomew Townships Edinburg City Limit Decatur County Water Decatur Co Townships Decatur Co Corp Boundaries Hancock Townships Johnson Water Johnson Townships Marion Co Lakes Marion Co Rivers Rush Townships County Boundary Sections Corporate Limits Parcels Water Roads
<ul style="list-style-type: none"> Bartholomew Water Bartholomew Highways Bartholomew Roads Edinburg Roads Decatur County Water Greensburg Roads Decatur Co Roads

Zoning Violation

Case Number: V22-10
Property Owner: Baldev S Virk
Location: 7165 W Old ST RD 252, Edinburgh, Jackson Township

Violation

Use of property for a prohibited home business: Home based trucking-bussiness and outdoor storage of trucks and trailers.

Evidence of Violation

Staff observed semi-trucks parked on the property on several occasions between June and December of 2022.



Staff Photograph – September 7, 2022

Case History

June 2022 – Staff received a complaint regarding use of the property for a trucking bussiness. The complaint cited storage of semi-trucks on the property, frequent ingress and egress of semi-trucks from the property, and traffic safety concerns caused by semi-trucks attempting to back into the property.

June 16, 2022 – Staff sent the property owner a violation letter by certified mail, however the property owner did not sign for the letter.

July 2022 – Staff received two more complaints regarding use of the property for a trucking bussiness.

July 20, 2022 – Staff hand delivered a violation letter to the property (see attached letter).

July 27, 2022 – The property owner contacted Staff and explained that he personally owns the semi-trucks. Staff explained that personal ownership does not exempt storage of semi-trucks from ordinance standards. The property owner agreed to file for a variance by August 3rd to legally establish use of the site for outdoor storage of trucks and for use of the property for trucking related purposes.

August 2022 – Staff received a complaint from the Auburn Hills Homeowners Association regarding use of the property for a trucking business.

August 30, 2022 – Staff hand delivered a letter informing the property owner that Staff had forwarded their case to the BZA to determine further enforcement action. However, the letter also stated that Staff would remove the case from the September BZA agenda if before September 9, 2022 the property owner either applied for a variance or permanently corrected the violation.

September 1, 2022 – Attorney Jeffrey S. Bate contacted Staff on behalf of the property owner and informed Staff that his client intended to file for a variance, therefore Staff removed the violation case from the September BZA agenda.

October 2022 – Staff and Mr. Bate discussed the case and the need for paved parking areas and a traffic study showing that trucks entering and exiting the driveway would not pose a traffic hazard.

November 15, 2022 – Mr. Bate had not filed a variance for his client, therefore Staff contacted Mr. Bate for an update on the case.

November 22, 2022 – Mr. Bate filed for a variance on behalf of his client. Mr. Bate requested that the variance not go before the BZA until completion of the traffic study. Staff and Mr. Bate agreed that his client would store all trucks and trailers at an alternate location pending completion of the traffic study and variance approval (see attached emails).

December 2022 – Staff received a complaint regarding continued storage of semi-trucks on the property. Staff observed semi-trucks and trailers stored on the property on two separate locations.

December 28, 2022- Staff emailed Mr. Bate and the property owner a violation letter informing them of the January BZA hearing on enforcement action due to continued failure to correct the violation (see attached letter).

BZA Decision

Staff requests that the Board provide direction to Staff regarding enforcement action.

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

Hand Delivered

V22-10

July 20, 2022

Baldev S Virk
7165 W Old ST RD 252
Edinburgh, IN 46124

The Shelby County Plan Commission observed a violation of the Shelby County Unified Development Ordinance on property you own at 7165 W Old ST RD 252, Edinburgh. 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:** 7165 W Old ST RD 252, Edinburgh
2. **Specific description of violation:**
 - a. Outdoor storage of non-agricultural semi-trucks and trailers on property in the A2 (Agricultural) District.
3. **Specific portions of zoning ordinance violated:**
 - a. Section 2.05 – A2 District Intent, Permitted Uses, and Special Exception Uses
4. **Options for corrective action:**
 - a. Remove semi-trucks and trailers from the property and discontinue all associated commercial activities. A land use petition seeking to legally establish this use of the property may be filed after correction of the violation.
 - b. 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 **August 3, 2022**. Failure to take corrective action by August 3, 2022 will result in a **fine of \$100**. If corrective action is not taken by August 3, 2022, the Plan Commission will issue ongoing additional **finances 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

Desiree Calderella

From: Desiree Calderella
Sent: Wednesday, November 16, 2022 9:17 AM
To: Jeffrey Bate
Cc: kim medsker
Subject: Re:

X Thank you. I'll drive by at some point next week to confirm the trucks are not parked on site.

Sent from my iPhone

> On Nov 15, 2022, at 12:24 PM, Jeffrey Bate <lawdog11@hotmail.com> wrote:

>

> Desiree:

>

> Thanks for contacting me and giving me a heads up. I am waiting to hear from my clients yet today.

>

X > I explained to them about a paved lot and we have gotten a quote from a traffic study engineering firm but they can't get to it until after the first of the year. I've explained to my clients they need to be parking their trucks down at the local gas station in Edinburg until we can get this straightened up. Thanks.

>

> Jeffrey S Bate

> Bate & Bate

> 505 S Harrison Street

> Shelbyville, Indiana 46176

> 317-392-2597

>

>

> Sent from my iPhone

Desiree Calderella

From: Jeffrey Bate <lawdog11@hotmail.com>
Sent: Wednesday, November 23, 2022 7:59 AM
To: Desiree Calderella; kim medsker
Cc: Baldev Singh
Subject: Baldev Virk

Desiree:

X We would like to get the traffic study done before we come before the board. I will let you know when we get the traffic study so we can be put on the agenda. I have passed along your email advising that he park his trucks elsewhere until this matter is resolved. Thank you for your time.

Jeffrey S Bate
Bate & Bate
505 S Harrison Street
Shelbyville, Indiana 46176
317-392-2597

Sent from my iPhone

Desiree Calderella

From: Desiree Calderella
Sent: Tuesday, December 20, 2022 3:07 PM
To: Jeffrey Bate
Subject: Virk Legal Notice
Attachments: Mail.pdf; 018145parcels.pdf; BZA Aff of Notice.pdf

See attached notice, addresses, and affidavit of notice. Please address and stamp each letter and mail the notice from our office by **December 29th** to meet the 10-day notice deadline. You can also mail the letters by certificate of mailing and email the certificate and affidavit if more convenient.

Also, I drove by the property on the 8th and noticed several semi-trucks parked near the rear of the property. I also received a complaint regarding the trucks. I plan to drive by the property again when I'm out later this week, and if I see the trucks there, I will also need to place the violation on the January BZA agenda to determine additional enforcement action.

Thank you,

Desiree Calderella, AICP

Planning Director

Shelby County Plan Commission / Building Inspector

25 W Polk St. Room 201, Shelbyville, IN 46176

317-392-6338

<http://www.co.shelby.in.us/plan-commission/>

<https://www.co.shelby.in.us/building-inspector/>

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

V22-10

December 28, 2022

Baldev S Virk
7165 W Old ST RD 252
Edinburgh, IN 46124

Mr. Virk,

On November 22, 2022, your attorney filed an application for variance seeking to legally establish operation of a trucking business from property you own at 7165 W Old St Rd 252. Your attorney and I agreed that you would store semi-trucks and operate your business from an alternate location while awaiting completion of a traffic study to submit with the variance application.

In December of 2022, I received a complaint regarding continued operation of the trucking business, and I observed semi-trucks stored on the property on two separate occasions.

Due to continued failure to correct the violation, I have scheduled your violation case **for hearing by the BZA, on Tuesday, January 10, 2023, at 7:00 P.M.** in Conference Room 208A of the Shelby County Courthouse Annex Building, 25 West Polk Street, Shelbyville, Indiana. At this meeting, the BZA will review the evidence of the case and determine further enforcement action, including issuance of fines.

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

Cc: Jeffrey S Bate
Bate & Bate
505 S Harrison Street
Shelbyville, Indiana 46176