

Shelby County
Board of Zoning Appeals

January 14, 2020 at 7:00 PM

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MEETING AGENDA

Shelby County Board of Zoning Appeals
January 14, 2020, 7:00 P.M.

CALL TO ORDER

ROLL CALL

ELECTION OF OFFICERS FOR 2020

APPROVAL OF MINUTES

Minutes from the December 10, 2019 meeting.

OLD BUSINESS

None.

NEW BUSINESS

BZA 20-01 – CHARLES HENSON: DEVELOPMENT STANDARDS VARIANCES

BZA 20-02 – GERALD MCMULLEN: USE & DEVELOPMENT STANDARDS
VARIANCES -WITHDRAWN BY PETITIONER

BZA 20-03 – ALEXANDER SUITS: DEVELOPMENT STANDARDS

VARIANCE DISCUSSION

Violation Updates

ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for
Tuesday, February 11, 2020 at 7:00 PM.

Summary of Cases

BZA 20-01 – CHARLES HENSON

REQUEST: Variances of Development Standards to allow for:

1. A gravel driveway (pavement required). [UDO Section 5.20 C]
2. Gravel parking and maneuvering areas (pavement required). [UDO Section 5.60 A]
3. Lack of interior lot landscaping (ten deciduous trees required). [UDO Section 5.47 A 3]
4. Lack of landscape buffer yards (23 trees along the south property line and 19 trees along the west property line required). [UDO Section 6.49]

LOCATION: Moral Township at 8522 N 850 W, Fairland

STAFF RECOMMENDATION: APPROVAL primarily because:

- The property has access to the public road through an easement. Therefore, any dust generated by the movement of vehicles on the property would not impact the public road.
- The development will generate little traffic. Therefore, lack of defined parking areas should not compromise traffic safety.
- Surrounding industrial properties have gravel driveways, parking, and maneuvering areas and lack landscaping. Therefore, the property would not conflict with the character of the area.
- The property would not impact adjoining vacant properties due to lack of landscape buffers.

BZA 20-03 – CHARLES HENSON

REQUEST: Variance of Development Standards to legally establish an accessory structure utilized for human occupancy. [UDO Section 5.04].

LOCATION: Moral Township at 10550 N 600 W, Fountaintown

STAFF RECOMMENDATION: APPROVAL primarily because the property includes substantially more acreage than nearby residential properties. Therefore, existence of two dwellings on the property would not alter the character of the area.

Staff Report

CASE NUMBER: BZA 20-01
CASE NAME: CHARLES HENSON – DEVELOPMENT STANDARDS VARAINCES

CASE SUMMARY

REQUEST: Variances of Development Standards to allow for:

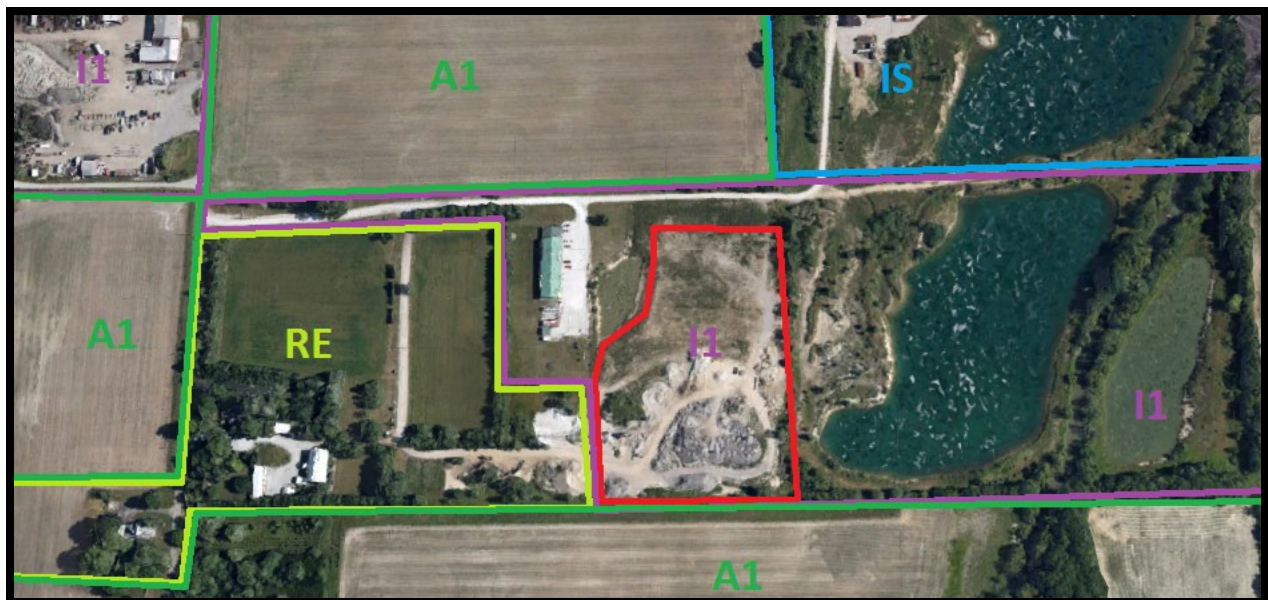
1. A gravel driveway (pavement required). [UDO Section 5.20 C]
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3. Lack of interior lot landscaping (ten deciduous trees required). [UDO Section 5.47 A 3]
4. Lack of landscape buffer yards (23 trees along the south property line and 19 trees along the west property line required). [UDO Section 6.49]

STAFF RECOMMENDATION: APPROVAL primarily because:

- The property has access to the public road through an easement. Therefore, any dust generated by the movement of vehicles on the property would not impact the public road.
- The development will generate little traffic. Therefore, lack of defined parking areas should not compromise traffic safety.
- Surrounding industrial properties have gravel driveways, parking, and maneuvering areas and lack landscaping. Therefore, the property would not conflict with the character of the area.
- The property would not impact adjoining vacant properties due to lack of landscape buffers.

PROPERTY DESCRIPTION

Moral Township at 8522 N 850 W, Fairland



Property Size: 6.3198 acres.

Zoning Classification: II (Low Intensity Industrial) – Per the UDO, the district is established for low intensity industrial uses, light manufacturing facilities and business parks. When making decisions, the BZA should be sensitive to the potential for light pollution, noise pollution, loading berth placement, pedestrian safety, and vehicular safety.

Comprehensive Plan Future Land Use: Industrial - The purpose of this category is to provide for a full range of light and heavy industrial uses. Types of uses include manufacturing, processing, distribution and storage. The designation should accommodate a variety of industrial establishments which:

- Employ high environmental quality standards
- May function as an integral part of an overall development area
- Require large tracts of land because of their nature and function
- Have minimal impacts on adjacent uses.

PURPOSE OF UDO REQUIREMENTS

Paved driveways and parking areas eliminate potential nuisances such as dust and noise caused by the movement of vehicles on gravel or dirt parking areas. Paved parking areas can also have defined parking spaces and drive aisles, allowing for safe and efficient movement of vehicles.

Lot planting requirements serve to enhance aesthetic quality and maintain visual character among multiple developments, generally in suburban or urban areas.

Landscape buffering mitigates noise, sound, and light nuisances from higher intensity uses on lower intensity uses on adjoining properties.

CASE DESCRIPTION

- The petitioner plans to construct a 56'X47' (2632 sq ft) building on the property for storage and repair of dump trucks and other equipment used in relation to his construction business. The building will not have indoor plumbing.
- An existing gravel drive would provide access to the building. The petitioner proposes to expand this drive to allow for additional parking and maneuvering area.
- The property has little vegetative cover.
- A gravel drive provides access to the property through an easement on an adjoining property. The adjacent fire department training facility and electrical contractor utilize the same gravel driveway.
- The county building inspector, surveyor, drainage board representative, and health department have reviewed and approved a site plan for the development.
- In March of 2019 the Plan Commission reviewed and approved subdivision of the property from a 16.40-acre parent tract and approved a rezoning of the property to II.

STAFF ANALYSIS OF FINDING OF FACTS – DEVELOPMENT STANDARDS VARIANCE

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

Staff Analysis: The property sits over 1,000 feet from the public road and has access to the public road through an easement. Therefore, the visual character of the property would not impact the general public and any dust generated by the movement of vehicles on the property would not impact the public road.

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: Surrounding industrial properties have gravel driveways, parking, and maneuvering areas and lack landscaping. Therefore, the property would not conflict with the character of the area. The property would not impact adjoining vacant properties due to lack of landscape buffers.

State Requirement: The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in use of the property.

Staff Analysis: A strict application of the ordinance would impose stricter development standards on the property than surrounding industrial properties.

APPLICANT/OWNER INFORMATION

Applicant: Blitz Builders, Inc.
115 Parthenia Ave.
Brownsburgh, IN 46112

Owner: Charles Henson
5250 E Minnesota St.
Indianapolis, IN 46203

**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: BLITZ BUILDERS, INC.

Case #: _____

Location: 8520 N. 850 W.

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.
Due to the rural nature of the community, utilizing the existing landscaping, and continuing the use of gravel, in lieu of paving, will not pose any health, safety, or welfare concerns to the community.

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.
Access to the area is via a gravel lane, and the individual driveways and parking areas are gravel, and the existing vegetation, the terrain, and the gravel lane act as buffers between properties. Owing to the existing conditions, allowing this property variance, would not negatively affect the value of adj. properties.

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.
Complying with the zoning ordinances, which would require paving a relatively long driveway, and would require the creation of large buffer zones, would cause undue hardship on the landowner.

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:

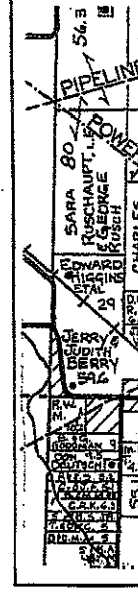
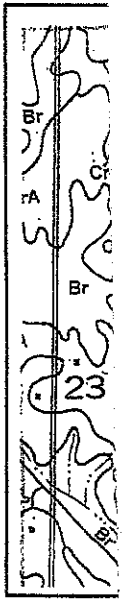
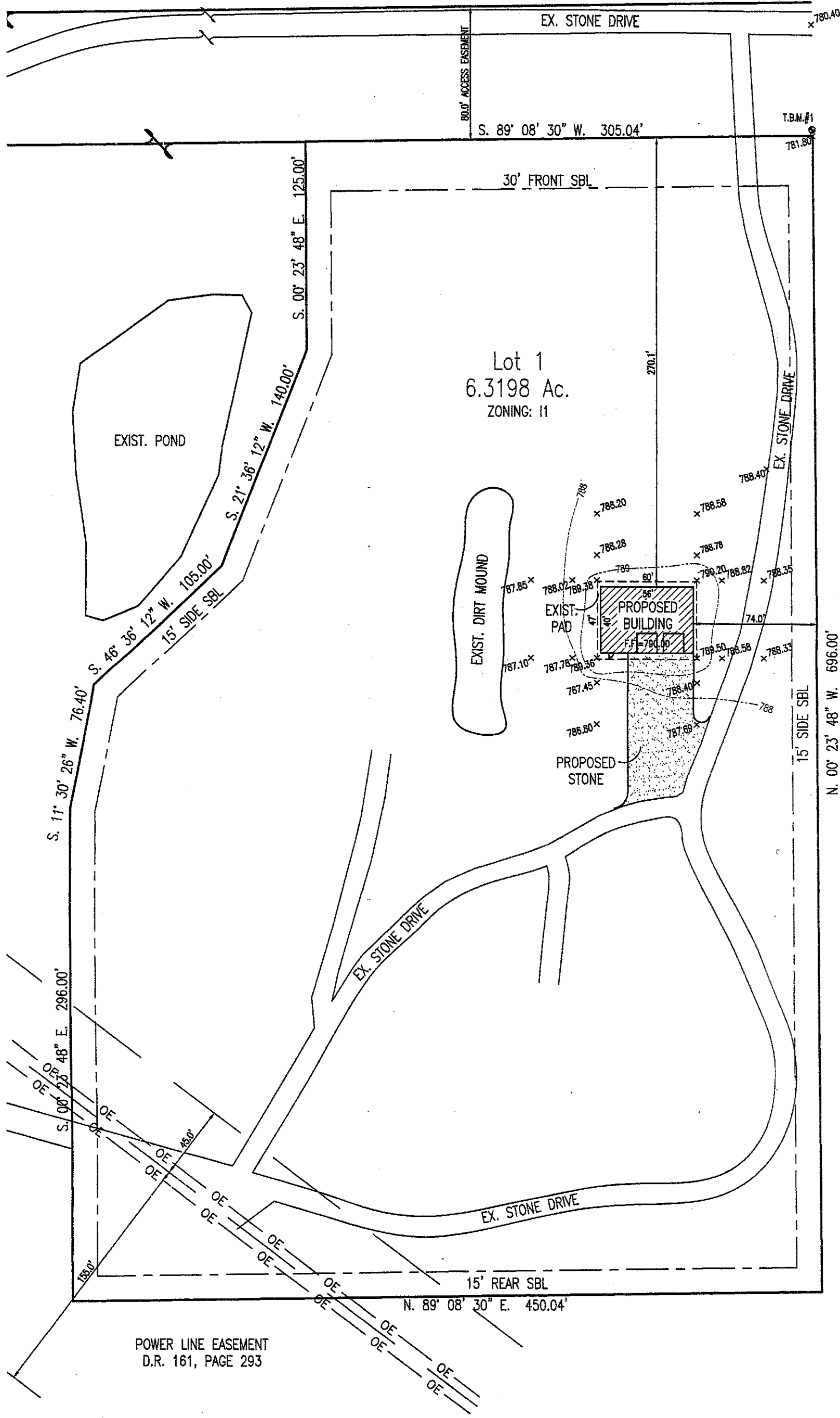
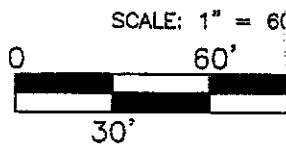
General Welfare: How does the request do no harm to the overall community of Shelby County? (ex. pollution, customer safety, road network safety, building code compliance, etc.)

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.)

T.B.M.#1= NORTHEAST PROPERTY CORNER. ELEV.=781.80

NOTE: FINISH GRADE AROUND BUILDING SHOWN AT A SLOPE OF 6" IN THE FIRST 10' FROM BUILDING AS PER STATE CODE.



POWER LINE EASEMENT
D.R. 161, PAGE 293

Staff Report

CASE NUMBER: BZA 20-03
CASE NAME: ALEXANDER SUITES - DEVELOPMENT STANDARDS VARAINCE

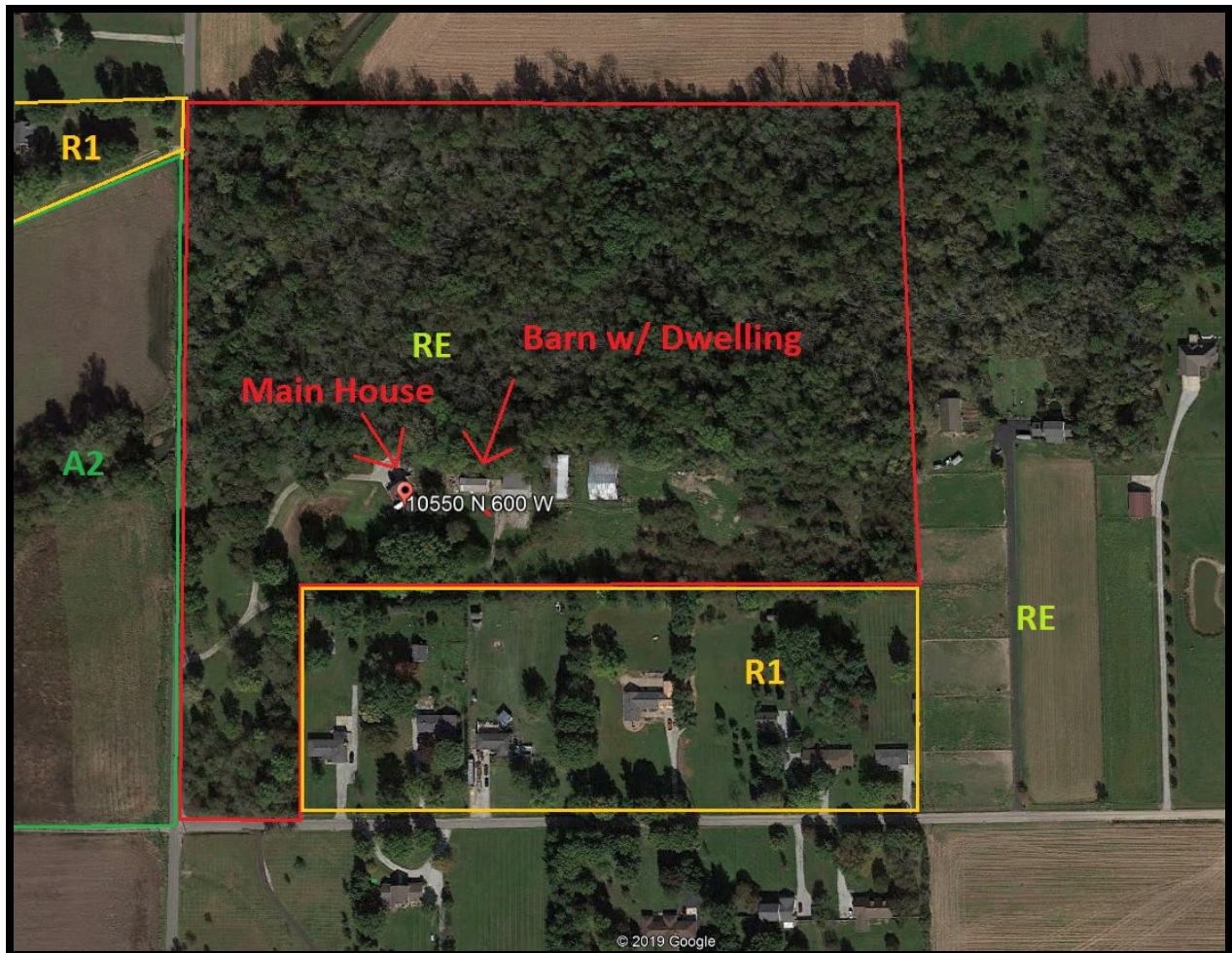
CASE SUMMARY

REQUEST: Variance of Development Standards to legally establish an accessory structure utilized for human occupancy. [UDO Section 5.04].

STAFF RECOMMENDATION: APPROVAL primarily because the property includes substantially more acreage than nearby residential properties. Therefore, existence of two dwellings on the property would not alter the character of the area.

PROPERTY DESCRIPTION

Moral Township at 10550 N 600 W, Fountaintown



Property Size: 29.83 acres.

Zoning Classification: RE (Residential Estate) – Per the UDO, the district is established for single-family detached, medium to large sized homes on medium to large sized lots. Development standards promote low-impact development in harmony with a natural setting.

Comprehensive Plan Future Land Use: Suburban Residential - This purpose of this category is for the transition of land use from agricultural and estate residential uses to low to medium-density, single-family residential subdivisions as water and sewer facilities become available.

PURPOSE OF UDO REQUIREMENT

Prohibiting occupancy of accessory structures maintains the zoning district's intended residential density among properties.

CASE DESCRIPTION

- The property currently includes a single-family residence and a 1,224 sq ft barn which includes a dwelling unit.
- Staff found a 1994 building permit allowing for a remodel of the barn into a dwelling and a 1995 building permit allowing for construction of the main house. However, staff did not find a variance approval to allow for two dwellings on the property. Likely the permit applicant and Plan Commission office had a verbal agreement that the applicant remove the dwelling from the barn after construction of the house or the Plan Commission office issued the permit in error.
- Health Department records indicate that the barn and main house shared a permitted septic system until 2005. In 2005 the Health Department issued a permit for a second septic system to serve the barn.
- All permits list the previous property owner as the applicant.
- The petitioner is currently in the process of selling the property. The buyer has requested documentation permitting the second dwelling unit and therefore the petitioner decided to apply for a variance. Development Standards Variances transfer with the property, regardless of ownership.

STAFF ANALYSIS OF FINDING OF FACTS – DEVELOPMENT STANDARDS VARIANCE

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

Staff Analysis: The barn sits on private property over 500 feet from the public road. Therefore, approval would not impact the general public.

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 property includes substantially more acreage than nearby residential properties. Therefore, existence of two dwellings on the property would not alter the character of the area.

State Requirement: The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in use of the property.

Staff Analysis: A strict application of the ordinance would prohibit continuation of a long-standing use of the property.

APPLICANT/OWNER INFORMATION

Applicant:	Alexander Suits 10550 N 600 W Fountaintown, IN 46130	Owner:	Alexander & Hannah Marie Suites
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DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT

Applicant: ALEXANDER SUITS

Case #: _____

Location: 10550 N. 600 W. FOUNTAIN TOWN, IN 46130

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.

THE APPROVAL WILL NOT BE INJURIOUS TO PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE OF THE COMMUNITY.

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.

THE AREA WILL NOT 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.

YES.

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.)