

Shelby County  
Board of Zoning Appeals

February 12, 2019 at 7:00 PM

# Table of Contents

Agenda.....	3
<b>BZA 19-04 Wendy Curry - Use &amp; Development Standards Variances.....</b>	<b>4</b>
Staff Report.....	4
Statement of Intent .....	10
Letter from Petitioner.....	11
Petitioner's Findings of Fact.....	13
Area & Zoning Map.....	14
Site Plan .....	15
Representation of Pavilion and Tent.....	16
<b>BZA 19-05 James Clapp - Development Standards Variances.....</b>	<b>17</b>
Staff Report.....	17
Petitioner's Findings of Fact.....	20
Area & Zoning Map.....	21

# MEETING AGENDA

Shelby County Board of Zoning Appeals  
February 12, 2019, 7:00 P.M.

## CALL TO ORDER

## ROLL CALL

## APPROVAL OF MINUTES

Minutes from the January 8, 2019 meeting.

## OLD BUSINESS

None.

## NEW BUSINESS

**BZA 19-04 – WENDY CURRY: USE & DEVELOPMENT STANDARDS VARIANCES**  
– To allow for an outdoor wedding venue in the RE (Residential Estate) District. Also, to allow for a wedding venue and single-family residence on the same lot (one primary structure per lot permitted), unpaved parking areas (paved parking areas required in the RE District), and lack of identified accessible parking spaces (signs and striping of handicap spaces required). The property is located in Brandywine Township at the address 4980 W Range Rd, Shelbyville.

**BZA 19-05 – KENNETH DEROLT: DEVELOPMENT STANDARDS VARIANCES** – To allow for creation of a single-family residential lot with no road frontage (minimum of 50-feet of road frontage required in the A2 District) and construction of a single-family residence closer than 40-feet from the property line. The property is located in Addison Township at the address 3060 E German Rd, Shelbyville.

## DISCUSSION

None.

## ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, March 12, 2019 at 7:00 PM at Shelbyville High School.

# Staff Report

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CASE NUMBER: BZA 19-04  
CASE NAME: WENDY CURRY – USE & DEVELOPMENT STANDARDS VARIANCES

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## PROPERTY DESCRIPTION

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Location: Brandywine Township at the address 4980 W Range Rd, Shelbyville.

Property Size: 2.84 acres.

Property Improvements: Single-family dwelling, pole barn, gazebo, and two sheds.

Surrounding Development: Cropland. The closest residential property is located over 600-feet from the subject property.

Zoning Classification: RE (Estate Residential) – Per the UDO, intended uses include residential estates and hobby farming. Intended development includes low density single-family detached dwellings on large lots. The development standards of the district promote low-impact development in harmony with a natural setting.

### Comprehensive Plan Future Land Use: Agriculture

- Use - Traditional farming practices as well as accessory residential and other agriculture related uses occur within this designation. Existing residential lots containing single-family housing units could also have agricultural related uses, such as stables and small-scale non-commercial food production and limited livestock production. Activities characterized as agritourism (farm trails, farmers' markets, and roadside stands) will find a home within this designation. This land use category is intended to preserve the existing rural character of the area.
- Infrastructure - Any development in these areas must be capable of being adequately served by well, septic or other appropriate waste treatment systems. County roads provide access for residents and also for public safety services such as police and fire. These County roads may also carry slow-moving, wide farm equipment between fields.
- Design Features - Facilities in agricultural areas should promote the rural character, whether using traditional construction and materials or employing modern agricultural technologies.

## VARIANCE REQUESTS

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Variance of Use – to allow for an outdoor wedding venue in the RE (Residential Estate) District.

Variances of Development Standards to allow for:

1. A wedding venue and single-family residence on the same lot (one primary structure per lot permitted).
2. Unpaved parking areas (paved parking areas required in the RE District).
3. Lack of identified accessible parking spaces (signs and striping of handicap spaces required).

Permitting only one primary structure and use per lot controls density and promotes orderly development. Paved parking areas eliminate the potential nuisances of 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.

#### CASE DESCRIPTION

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- The petitioner currently resides on the subject property and also plans to use the property for an outdoor wedding venue (see statement of intent on following pages for more information).
- The petitioner indicated that they expect to host three or four weddings during the first year of operation.
- Comments from County Departments
  - Building Inspector
    - The petitioner should contact the State Division of Fire & Building Safety to ensure that the Bridal Suite complies with any applicable state commercial building codes.
    - Construction of an open-air pavilion would require a State Design Release and commercial building permit.
  - Health Department Comments
    - The wedding tent should not be placed over the septic system.
    - The Health Department has no regulations regarding the use of porta potties, however construction of any future bathrooms would require an upgrade of the septic system to commercial standards.

#### STAFF ANALYSIS OF FINDING OF FACTS - USE VARIANCE

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

Staff Analysis: The proposed use would not generate traffic in excess of typical traffic in the area on a regular basis. The use would not pose any perceivable nuisance to the general public. The State should review any structures on the property used for commercial purposes.

**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 proposed use would not impact the continued use of adjacent property for crop production. Any noise generated by the use would likely not pose a nuisance to the closest residential property.

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

Staff Analysis: The location of the property in an area with little residential development allows for a low-intensity commercial use that would not pose a nuisance to residential properties.

**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 for a low-intensity commercial use that the property can support, and which would not pose a nuisance to adjacent property.

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

Staff Analysis: The proposed agricultural land is intended to preserve the existing agricultural character of the area. The use of tents or a pavilion, rather than large-scale commercial buildings, for weddings would not deviate from the agricultural character of the area. The proposed use can be adequately served by well, septic, and county roads.

#### STAFF ANALYSIS OF FINDING OF FACTS – DEVELOPMENT STANDARDS VARIANCE

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

Staff Analysis: The operation of a low-intensity commercial use on a residential property would not impact the general public. Paving and striping of parking areas would alter the rural character of the surrounding area.

**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 operation of a low-intensity commercial use on a residential property would not impact adjoining property. Paving and striping of parking areas would alter the rural character of the surrounding 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 alter the aesthetics of the property and would therefore negatively impact the continued use and enjoyment of the property for residential purposes.

#### STAFF RECOMMENDATION

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Staff recommends approval subject to compliance with the Statement of Intent and general consistency with the Site Plan submitted with the Board of Zoning Appeals Application and the following conditions:

1. The petitioner shall contact the State Division of Fire & Building Safety and if required, bring the bridal suite into compliance with any applicable building codes prior to hosting weddings.
2. A State Design Release and commercial building permit shall be obtained for the open-air pavilion prior to construction.
3. The wedding tent shall not be placed over the septic system.
4. The septic system shall be upgraded to commercial standards prior to construction of any permanent bathrooms related to the wedding venue.

#### APPLICANT/OWNER INFORMATION

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Applicant: Wendy Curry

SHELBY COUNTY PLAN COMMISSION  
SHELBY COUNTY, INDIANA  
25 W POLK STREET  
SHELBYVILLE, IN 46176

STAFF REPORT  
19-04  
FEBRUARY 12, 2019  
PAGE 4 OF 6

4980 W Range Rd.  
Shelbyville, IN 46176

Owner: Same



Standing at the middle of the property looking northeast. Area proposed for the wedding arch.



Standing at the middle of the property looking southeast.





Standing at the middle of the property looking southwest.



Proposed handicap parking area.

**STATEMENT OF INTENT (ONLY REQUIRED FOR VARIANCE OF USE & SPECIAL EXCEPTION)**

Please answer the following questions (when applicable) pertaining to your request. If approved, the use would be limited to the information provided and expansion of the use would require new approval from the Board. The Board may also approve the use conditional on one or more amendments to the statement of intent.

1. Summary of Proposed Use and/or Business Activity: Wedding and Reception Venue  
with the use of a rented 40x60 wedding tent. May in the future erect an open 40x60 shelter.
  
2. Days & Hours of Operation: Saturdays 9am - 10pm  
(150)
  
3. Maximum Number of Customers per Day/Week/Month: 150 or less per event.  
In the future possibly up to 200 or less per event.
  
4. Type and Frequency of Deliveries: ~~Ø~~ Catering services. No on-site food preparation.
  
5. Description of any Outdoor Storage: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
6. Description, Size, and Placement of any Signage: ~~Ø~~
  
7. Description of Waste Disposal: Portable Potty Rental  
May use bathrooms in detached garage in the future.
  
8. Existing and/or Proposed Building and Site Improvements Pertaining to Proposed Use (ex. parking lot, landscaping, commercial upgrades to building, etc.):  
Paved area in front of barn for handicap spaces. Will not have defined spaces but will have a sign  
designating the area as reserved for handicap parking.

My name is Wendy Curry. I previously worked in Oncology for 14 years, from 2010 to 2014. My job was hard yet gratifying. What I loved and miss the most is being around people and trying my best to put a smile on their face during a most difficult time. I retired because the private practice physician I worked for decided to merge with a local hospital which ultimately would've affected my income, hours and a 14 year built up vacation time. I after much thinking decided not to merge and retired. I then decided to start a horse racing business and after 5 years with no significant return and countless hours traveling decided to retire this career. I wanted a business I could run from home because I love and enjoy my property so much and wanted to share that love with others. At the end of 2018 I decided after several family weddings that really didn't go quite well at other venues that a wedding venue of my own would be the perfect solution. I want to be able to work from home and be able to put a smile on someone's face again this time in a more positive way. This wedding venue would give me the opportunity to interact with people again and to earn money in the process. We take great pride in our home and property and would love to share that with others. There is a significant gratitude in knowing that by maintaining your property you give back not only to yourself but to your community as well. This Wedding venue would not only give myself the people interaction I desire but will also give me an

opportunity to make someone's special day the best, most memorable day of their life. The Wedding venue would also give me the opportunity to have a business and work from my home. I have already invested time and money on remodeling my 300 square foot barn for a bridal suite and constructed a fire pit swing area. The improvements will only enhance the property. We did this without knowing a special variance was needed to have a wedding tent venue on our property. Thank you for your time.



**USE VARIANCE  
FINDINGS OF FACT**

Applicant: Wendy Curry  
Case #: 19-04  
Location: 4980 W Rorge 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 Use 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.

This is an outdoor wedding venue. I live in a rural area with my nearest neighbor being app. 1/4 mile from my home in either direction.

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.

All property surrounding my property is farm land currently being used for farming corn/soy beans. No smoking or burning candles allowed on property. Property well maintained.

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.

The location of the property is not in close proximity of neighbors. Property and features on property will not impact anyone or anything in a negative way.

4. **Unnecessary Hardship:** The strict application of the terms of the Shelby County Zoning Ordinance will constitute an unnecessary hardship as they are applied to the property for which the variance is sought.

Wanting to start my own business at home on my own property. Extra income would help for personal and to improve property.

5. **Comprehensive Plan:** The granting of the variance does not interfere substantially with the Comprehensive Plan.

Current property is our primary residence and will continue to be with or without on-site business.

# Area & Zoning Map



- OP Open Space and Parks
- A1 Conservation Agricultural
- A2 Agricultural
- A3 Intense Agricultural
- A4 Agricultural Commercial
- RE Residential Estate
- R1 Single-Family Residential
- R2 Single-Family Residential
- VR Village Residential
- M1 Multiple-Family Residential
- M2 Multiple-Family Residential
- MP Manufactured Home Park
- VM Village Mixed Use
- IS Institutional
- C1 Neighborhood Commercial
- C2 Highway Commercial
- I1 Low Intensity Industrial
- I2 High Intensity Industrial
- HI High Impact

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## Staff Report

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CASE NUMBER: BZA 19-05  
CASE NAME: JAMES CLAPP – DEVELOPMENT STANDARDS VARIANCES

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### PROPERTY DESCRIPTION

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Location: Addison Township at the address 3060 E German Rd.

Property Size: Approximately 5.5 acres.

Property Improvements: Vacant.

Surrounding Development: Single-Family residences on lots between 1/2-acre and 5-acres.

Zoning Classification: A2 (Agricultural) – Per the UDO, the Board of Zoning Appeals should consider the protection of the integrity of land and operations within the district when making decisions.

Comprehensive Plan Future Land Use: Agriculture / Parks, Open Space, & Conservation

- Agriculture - Traditional farming practices as well as accessory residential and other agriculture related uses occur within this designation. This land use category is intended to preserve the existing rural character of the area, while limiting the occurrence of future development on, and subdivision of, natural areas and agricultural land.
- Parks, Open Space & Conservation – Conservation areas that protect environmentally sensitive features such as rivers, woodlands and wetlands from encroachment by new development.

### VARIANCE REQUESTS

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Variances of Development Standards to allow for:

1. Creation of a single-family residential lot with no road frontage (minimum of 50-feet of road frontage required in the A2 District).
2. Construction of a single-family residence closer than 40-feet from the property line.

The road frontage requirement allows for guaranteed access to property in the case that obtaining or retaining an access easement proves problematic. The 40-foot setback requirement allows for open space, provides for privacy between properties, and reduces the likelihood of accidentally building over a property line.

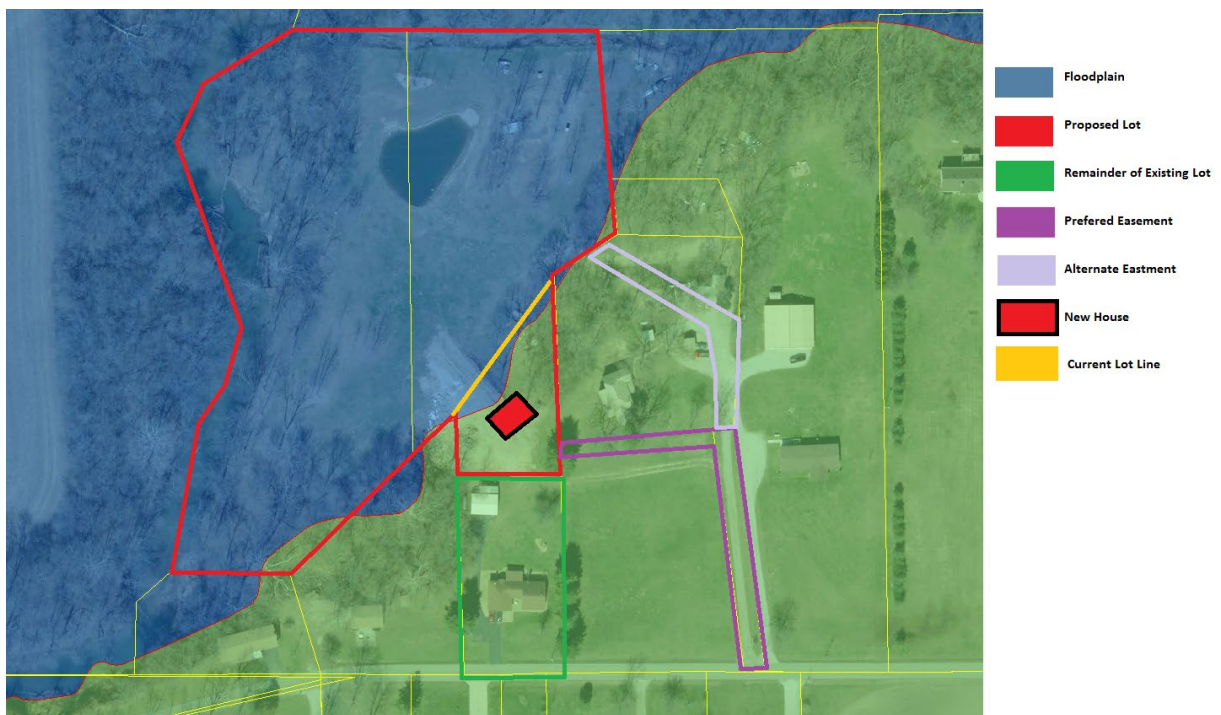
### CASE DESCRIPTION

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- The petitioner requests to create the lot to allow a family member to construct a single-family residence behind the petitioner's current residence.
- The petitioner stated that the new lot would remain under his ownership. He also indicated that he does not plan to sell the lot in the future.
- The petitioner currently owns two lots (1.13 acres and 5.31 acres). The larger lot lies almost completely within a floodplain and therefore is designated as Parks, Open Space, & Conservation per

the Comprehensive Plan. The smaller lot includes the petitioner's residence. The creation of the new lot would involve movement of a property between the two lots as shown below.

- The petitioner stated that he plans to obtain an access easement to the new lot from the neighbor to the west.
- Positioning of the new house closer than 40-feet to the property line would likely result in the house encroaching into the floodplain.
- Per the UDO, the lot cannot be 'grandfathered' due to the following provision:  
Lots in Combination: If a legal nonconforming lot is owned by the same person as the adjacent lot, and the owner uses both lots in combination for a duration of more than five (5) years, the legal nonconforming lot shall lose its legal nonconforming status; provided the two (2) or more lots in combination would constitute a single conforming lot.



#### 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:** Construction of a new residence would require a building permit and the structure must comply with all building codes before passing a final inspection. The new residence would be inconspicuous when viewed from 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: The construction of a single-family residence would not conflict with the density of existing residential development in the surrounding area. Existing residences in the adjacent area vary in distance from the public road. The petitioner owns the adjoining property effected by the deviation from the setback requirement.

**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: Approval of the variance would not bring the existing lot further out of compliance with the road frontage requirements. The location of the petitioner's existing house does not leave enough room to provide frontage to the new lot. The floodplain limits the placement of the new residence, requiring a deviation from the setback requirements.

#### STAFF RECOMMENDATION

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Staff recommends **approval** subject to general consistency with the site plan submitted with the board of zoning appeals application and the following condition:

1. The petitioner shall provide proof of an access easement prior to construction of the new residence.

#### APPLICANT/OWNER INFORMATION

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Applicant: James Clapp  
3060 E German Rd.  
Shelbyville, IN 46176

Owner: Same



Looking west on E German Rd – proposed location of house

DEVELOPMENT STANDARDS VARIANCE \*  
FINDINGS OF FACT

Applicant: JAMES CLAPP

Case #: \_\_\_\_\_

Location: 3060 E. GERMAN Rd Shelbyville In

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 home would not cause any noise or health problems to other owners

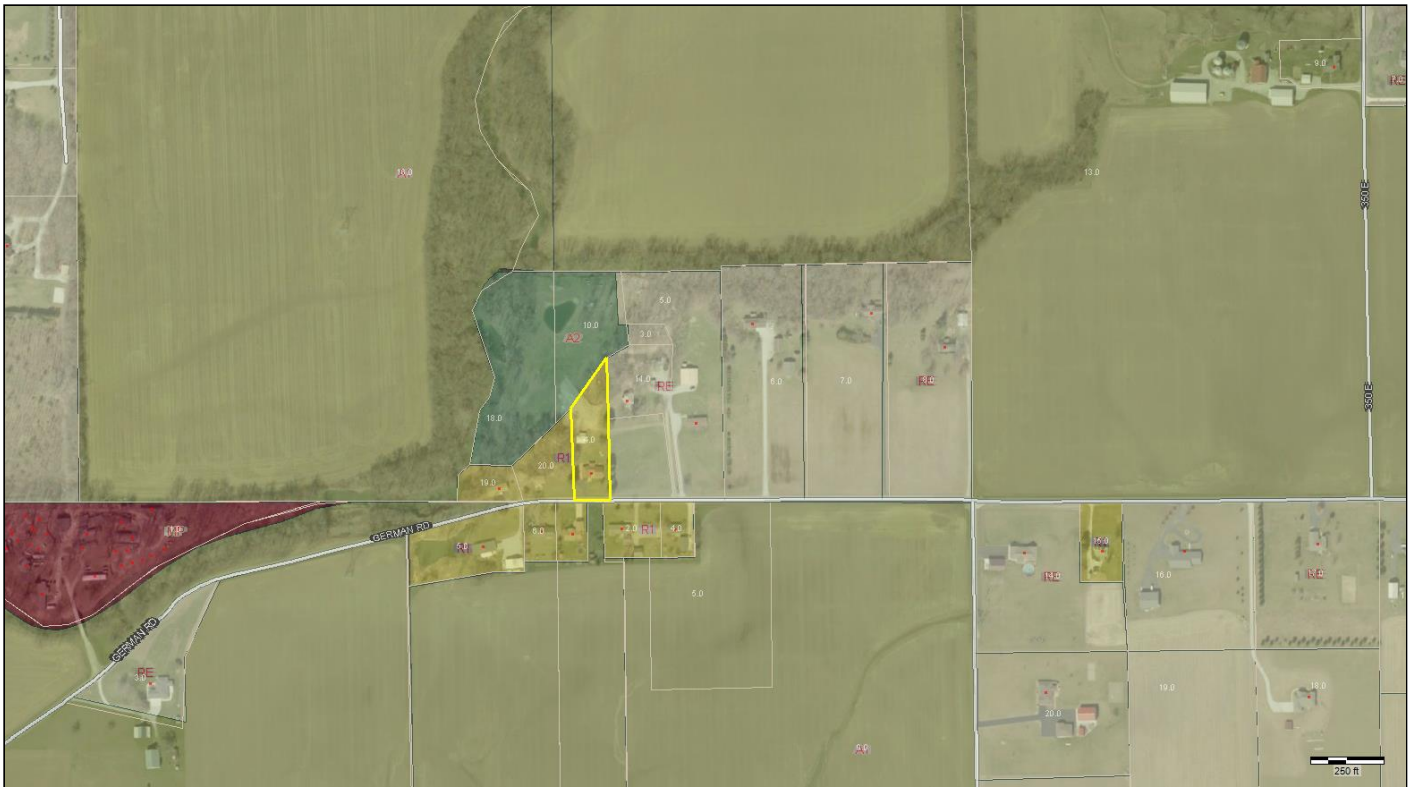
2. **Adjacent Property:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

the home will not be directed at either of the adjacent properties the variance will be approved by both neighbors, AND I will continue to own original property

3. **Practical Difficulty:** The strict application of the terms of the Shelby County Unified Development Ordinance will result in a practical difficulty in the use of the property (this situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain).

I am wanting to build a home for a family member and the location is limited so I will have to build closer to property line.

# Area & Zoning Map



<ul style="list-style-type: none"> <li>OP Open Space and Parks</li> <li>A1 Conservation Agricultural</li> <li>A2 Agricultural</li> <li>A3 Intense Agricultural</li> <li>A4 Agricultural Commercial</li> <li>RE Residential Estate</li> <li>R1 Single-Family Residential</li> <li>R2 Single-Family Residential</li> <li>VR Village Residential</li> <li>M1 Multiple-Family Residential</li> <li>M2 Multiple-Family Residential</li> <li>MP Manufactured Home Park</li> <li>VM Village Mixed Use</li> <li>IS Institutional</li> <li>C1 Neighborhood Commercial</li> <li>C2 Highway Commercial</li> <li>I1 Low Intensity Industrial</li> <li>I2 High Intensity Industrial</li> <li>HI High Impact</li> </ul>	<p>Printed 02/06/2019</p>
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