

Shelby County  
Board of Zoning Appeals

March 10, 2020 at 7:00 PM

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# MEETING AGENDA

Shelby County Board of Zoning Appeals  
March 10, 2020, 7:00 P.M.

## CALL TO ORDER

## ROLL CALL

## APPROVAL OF MINUTES

Minutes from the January 14, 2020 meeting.

## OLD BUSINESS

None.

## NEW BUSINESS

**BZA 20-02 – GERALD MCMULLEN: USE & DEVELOPMENT STANDARDS VARIANCES.** Located at 4091 W 1100 N, New Palestine.

**BZA 20-04 – MARK A JONES: DEVELOPMENT STANDARDS VARIANCES.** Located at 8696 W 250 S, Franklin.

**BZA 20-05 – MEGAN THIXTON: DEVELOPMENT STANDARDS VARIANCE.** Located at 4922 W Boggstown Rd, Shelbyville.

**BZA 20-06 – KEVIN L SMITH: DEVELOPMENT STANDARDS VARIANCE.** Located at 8835 W Range Rd & 8755 W Range Rd, Needham.

## DISCUSSION

Patrick Black Zoning Violation

## ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, April 14, 2020 at 7:00 PM.

# Summary of Cases

## *BZA 20-02 – GERALD MCMULLEN*

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**REQUESTS:** Variance of Use to allow for a temporary manufactured home in the R1 (Single-Family Residential) District. [UDO Section 2.13]

**Variances of Development Standards to:**

1. Permit more than one primary structure (existing single-family home and proposed manufactured home) on a lot in the R1 District. [UDO Section 2.13]
2. Waive roofline architectural standards for a new home. [UDO Section 5.11 B]
3. Allow for a new home without a two-car attached garage. [UDO Section 5.11 D 1]
4. Allow gravel driveway (impervious surface required for new driveways). [UDO Section 5.19 C]

**LOCATION:** 4091 W 1100 N, New Palestine

**STAFF RECOMMENDATION:** APPROVAL primarily because:

- Approval would allow for a temporary independent dwelling unit large enough to accommodate both the petitioner's son and his son's family while they assist in the future healthcare needs of the petitioner and upkeep of the property.
- The petitioner has agreed to upgrade the existing septic system to accommodate the manufactured home.
- The closest neighboring residence sits over 600-feet from the property line. Placement of the manufactured home would not impact this residence or surrounding cropland.

**Recommended Stipulation:** The manufactured home shall be removed from the property when no longer needed by the petitioner's son and his son's family while they assist in the future healthcare needs of the petitioner and upkeep of the property.

## *BZA 20-04 – MARK A JONES*

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**REQUESTS:** Variances of Development Standards to allow for a new single-family residence:

1. Having a floor area of 1,288 sq. ft. (minimum 1,600 sq. ft. dwelling size required) [UDO Section 2.14].
2. Without a two-car, attached garage [UDO Section 5.11 D 1].
3. Less than 25-feet from the delineated boundary of a floodplain [UDO Section 5.68 H 1 f].

**LOCATION:** 8696 W Shelby 250 S, Franklin

**STAFF RECOMMENDATION:** APPROVAL because:

- The proposed house would replace a dilapidated house of approximately the same size without an attached garage.
- The floodplain limits the developable portion of the lot.

## ***BZA 20-05 – MEGAN THIXTON***

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**REQUEST:** Variance of Development Standards to allow for a Type 2 Home Business (tattoo studio) conducted within an accessory structure (only permitted entirely within the residence).

**LOCATION:** 4922 W Boggstown Rd, Shelbyville

**STAFF RECOMMENDATION:** APPROVAL primarily because operation of a home business in a relatively small (400 sq ft) accessory structure would limit the intensity of the business use and therefore mitigate any potential adverse impacts on the surrounding area.

**Recommended Stipulations:**

1. The variance shall only apply to the proposed tattoo studio use.
2. The exterior of the accessory structure shall not be altered from its current condition.
3. The petitioner shall obtain all applicable approvals from the Shelby County Health Department and Indiana State Department of Health prior to operation of the business.

## ***BZA 20-05 – KEVIN L SMITH***

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**REQUEST:** Variance of Development Standards to allow for installation of a residential driveway over a property line.

**LOCATION:** 8835 & 8755 W Range Rd, Needham

**STAFF RECOMMENDATION:** APPROVAL primarily because the property owners have agreed to installation of the driveway over their property lines.

**Recommended Stipulation:** The petitioner shall record a shared access easement for the proposed driveway prior to obtaining a building permit.

## Staff Report

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CASE NUMBER: BZA 20-02  
CASE NAME: GERALD MCMULLEN – USE & DEVELOPMENT STANDARDS  
VARIANCES

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### ***CASE SUMMARY***

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**REQUESTS:** Variance of Use to allow for a temporary manufactured home in the R1 (Single-Family Residential) District. [UDO Section 2.13]

Variances of Development Standards to:

1. Permit more than one primary structure (existing single-family home and proposed manufactured home) on a lot in the R1 District. [UDO Section 2.13]
2. Waive roofline architectural standards for a new home. [UDO Section 5.11 B]
3. Allow for a new home without a two-car attached garage. [UDO Section 5.11 D 1]
4. Allow gravel driveway (impervious surface required for new driveways). [UDO Section 5.19 C]

**STAFF RECOMMENDATION:** APPROVAL primarily because:

- Approval would allow for a temporary independent dwelling unit large enough to accommodate both the petitioner's son and his son's family while they assist in the future healthcare needs of the petitioner and upkeep of the property.
- The petitioner has agreed to upgrade the existing septic system to accommodate the manufactured home.
- The closest neighboring residence sits over 600-feet from the property line. Placement of the manufactured home would not impact this residence or surrounding cropland.

**Recommended Stipulation:** The manufactured home shall be removed from the property when no longer needed by the petitioner's son and his son's family while they assist in the future healthcare needs of the petitioner and upkeep of the property.

### **PROPERTY DESCRIPTION**

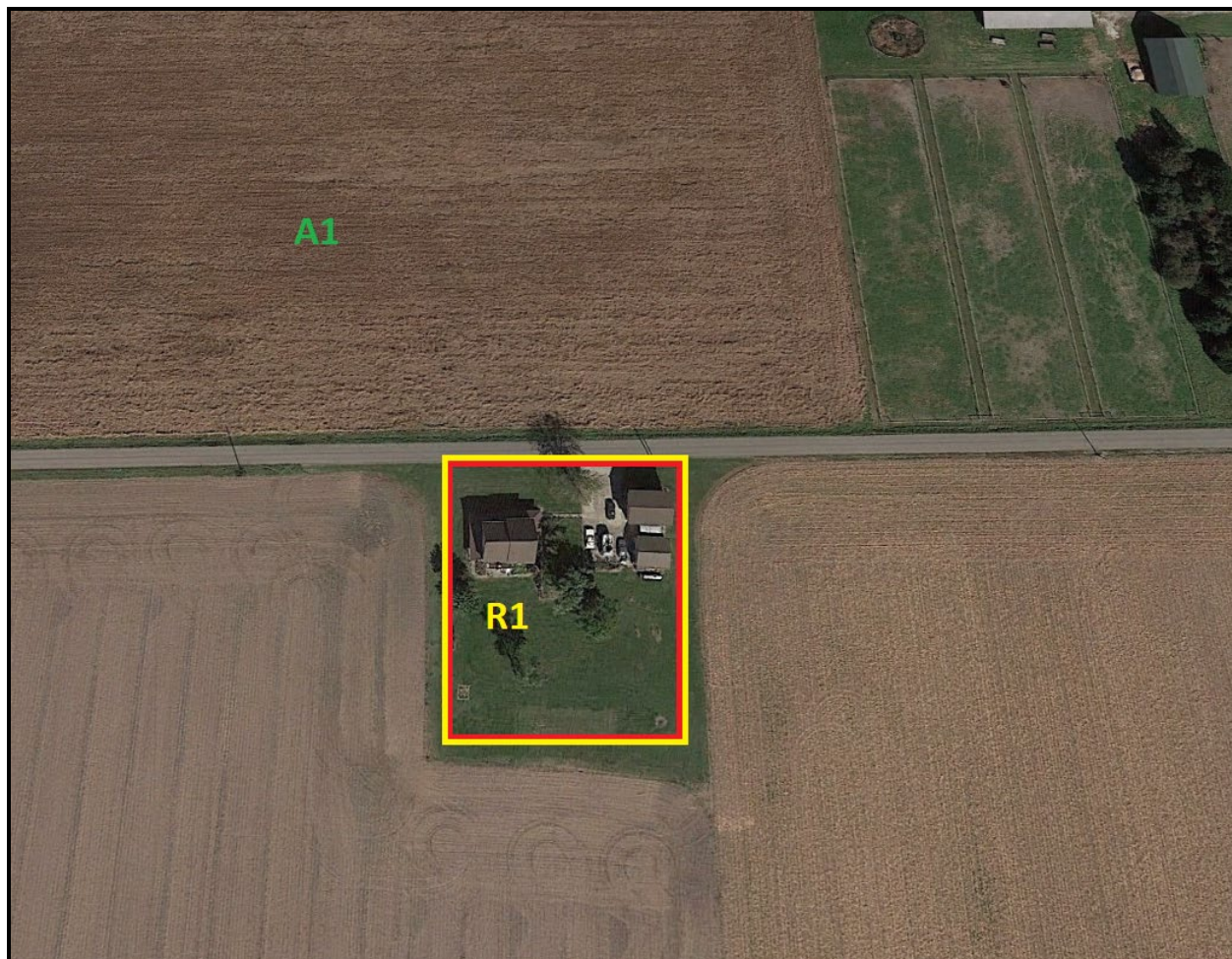
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Property Size: 1 acre.

Zoning Classification: R1 (Single-Family Residential) – 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: Agriculture - The purpose of this category is to provide for traditional agricultural practices (such as crop production and livestock grazing) and modern agricultural practices (such as agricultural research facilities and CAFOs). Rural home sites may also occur within this category; however, the emphasis should remain on agriculture. New residential subdivisions that remove prime farmland from production should be discouraged. The residential density of this category should be one lot for every five acres.

4091 W 1100 N, New Palestine



#### PURPOSE OF UDO REQUIREMENTS

The aesthetic characteristics of manufactured homes differ from the aesthetic characteristics of modular and stick-built single-family homes. Therefore, prohibiting manufactured homes in single-family residential districts serves to protect the character of neighborhoods and surrounding property values.

Permitting no more than one primary structure per lot maintains the intended development intensity of the R1 zoning district.

Homes having pitched roofs, eave overhangs, and a two-car attached garage generally exceed the size, aesthetic quality, and value of homes without these features. These architectural requirements encourage the development of quality homes that enhance visual character, quality of life, and property values throughout the County.

Paved driveways enhance aesthetic quality and maintain visual character among multiple homes, generally in suburban or urban areas.

CASE DESCRIPTION

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- The petitioner plans to place a 28' X 68' manufactured home on the property.
- The petitioner has a progressive illness. The petitioner's son and his family would live in the manufactured home to assist in the future healthcare needs of the petitioner and upkeep of the property.
- Use variances expire at the time the property changes ownership. Therefore, the future owner of the property would be required to remove the manufactured home or obtain a new variance.
- Cropland surrounds the property and the closest home sits over 600-feet from the property line.
- The property includes a detached garage with second floor living area.
- The petitioner plans to extend the current gravel driveway to provide access to the manufactured home.
- The County Health Department will require installation of one additional finger to the existing septic system to service the manufactured home.
- The Plan Commission & Building Inspector Office will require an Improvement Location Permit, Building Permit, Plumbing Permit, and Electrical Permit to place the manufactured home on the property.
- The UDO only permits installation of manufactured homes in mobile home or manufactured home parks. Modular homes and stick-built homes are permitted in the R1 District. Mobile homes, manufactured homes, and modular homes are constructed, in part, off-site, however building code classifies each dwelling as a different type of construction. Primary differences include:

	Mobile Home	Manufacture Home	Modular Home
Certification	Federal Manufactured Housing Construction and Safety Standards Law	Federal Mobile Home Construction and Safety Standards	State & local residential building code
Dimensions	At least 8-feet in width	Minimum of 23-feet in width for 60% of length	Any dimension
Size	Any size	Over 950 sq. ft.	Typically, larger than mobile and manufactured homes
Foundation	May be tied with perimeter skirting	Must be on a permanent foundation in accordance with state & local residential building code	Must be on a permanent foundation in accordance with one- & two-family building code



**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 manufactured home would not generate traffic in greater volume than typical in a rural areas and would not generate noise, vibration, smoke, odors, dust, heat, glare, or electrical disturbances. The Health Department would require modification to the existing septic system to accommodate waste from the manufactured home.

**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 manufactured home would not impact the use of surrounding property for agricultural purposes.

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

Staff Analysis: The size of the property does not allow for subdivision of the property into two lots in compliance with the minimum lot size requirements of the ordinance.

**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 an independent dwelling unit large enough to accommodate both the petitioner's son and his son's family while they assist in the future healthcare needs of the petitioner and upkeep of the property.

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

Staff Analysis: Approval would not impact future agricultural use of the area as recommended by the Comprehensive Plan.

**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 manufactured home would not generate traffic in greater volume than typical in a rural areas and would not generate noise, vibration, smoke, odors, dust, heat, glare, or electrical disturbances. The Health Department would require modification to the existing septic system to accommodate waste from the manufactured home.

**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: Placement of a manufactured home on the property not in compliance with residential development standards would not impact the use of surrounding property for agricultural purposes.

**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 not allow for a temporary independent dwelling unit to accommodate both the petitioner's son and his son's family while they assist in the future healthcare needs of the petitioner and upkeep of the property.

APPLICANT/OWNER INFORMATION

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**Applicant:** Gerald McMullen  
4091 W 1100 N  
New Palestine, IN 46163

**Owner:** Gerald & Marcia McMullen



View of property from W 1100 N





View of property from W 1050 N



View of property from N 400 W

**USE VARIANCE  
FINDINGS OF FACT**

Applicant: Gerald McMullen

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

Location: 4091 W. HOO N-

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.

No harm would be caused. There is farm fields  
on all sides of my lot

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.

There would be no reduction in values to adjacent  
property. This would not affect farm field values

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 purpose of putting the manufactured home there  
is to have my adult son and his wife + son to live  
there and help me in the future due to terminal illness.

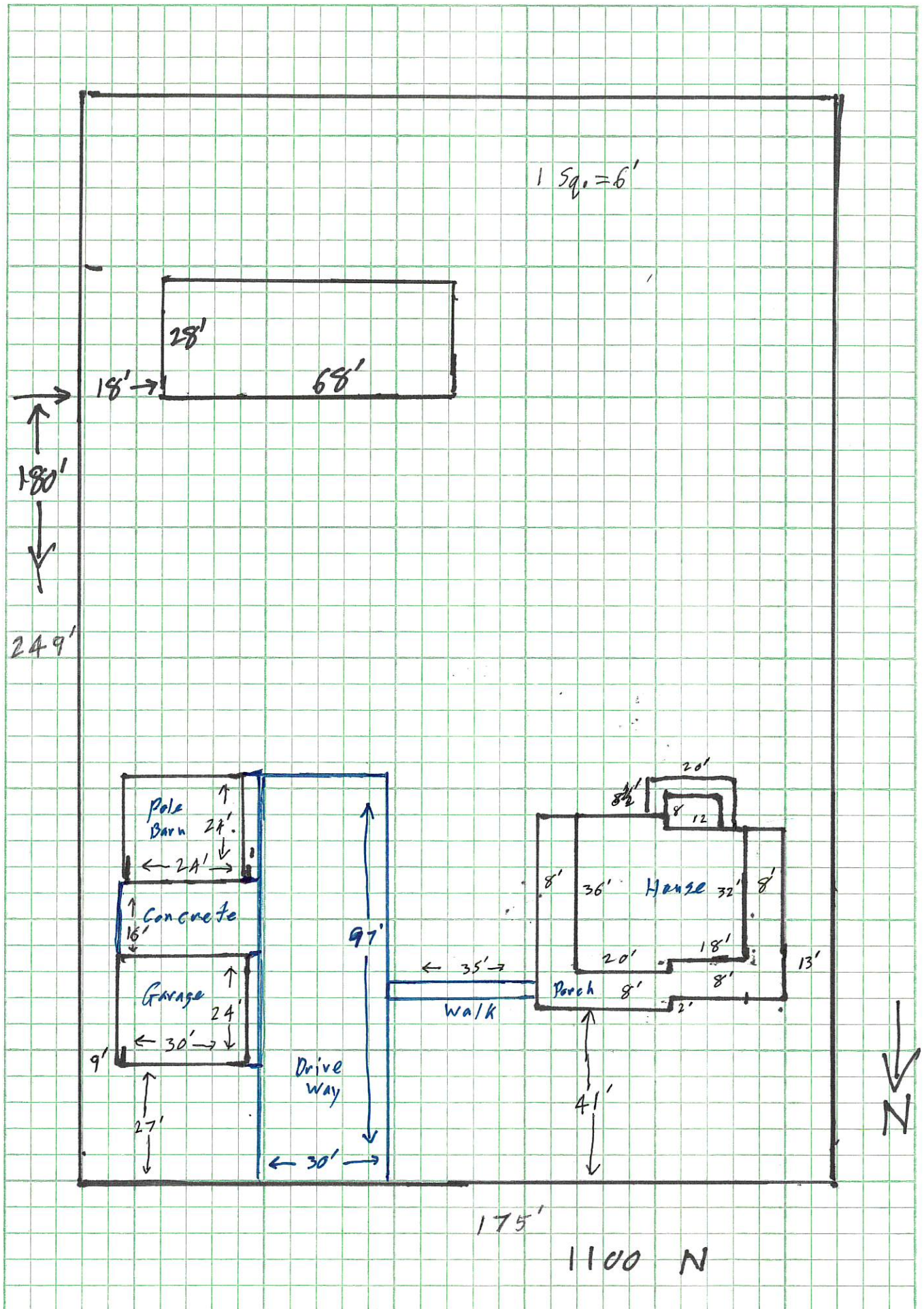
4. **Unnecessary Hardship:** The strict application of the terms of the Shelby County Zoning Ordinance will constitute an unnecessary hardship as they are applied to the property for which the variance is sought.

I would be without physical help as my illness  
progresses.

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

Putting a manufactured home on a 1 acre lot with an  
existing home garage and pole barn.





# Staff Report

CASE NUMBER: BZA 20-04  
CASE NAME: MARK A JONES – DEVELOPMENT STANDARDS VARIANCES

## ***CASE SUMMARY***

**REQUESTS:** Variances of Development Standards to allow for a new single-family residence:

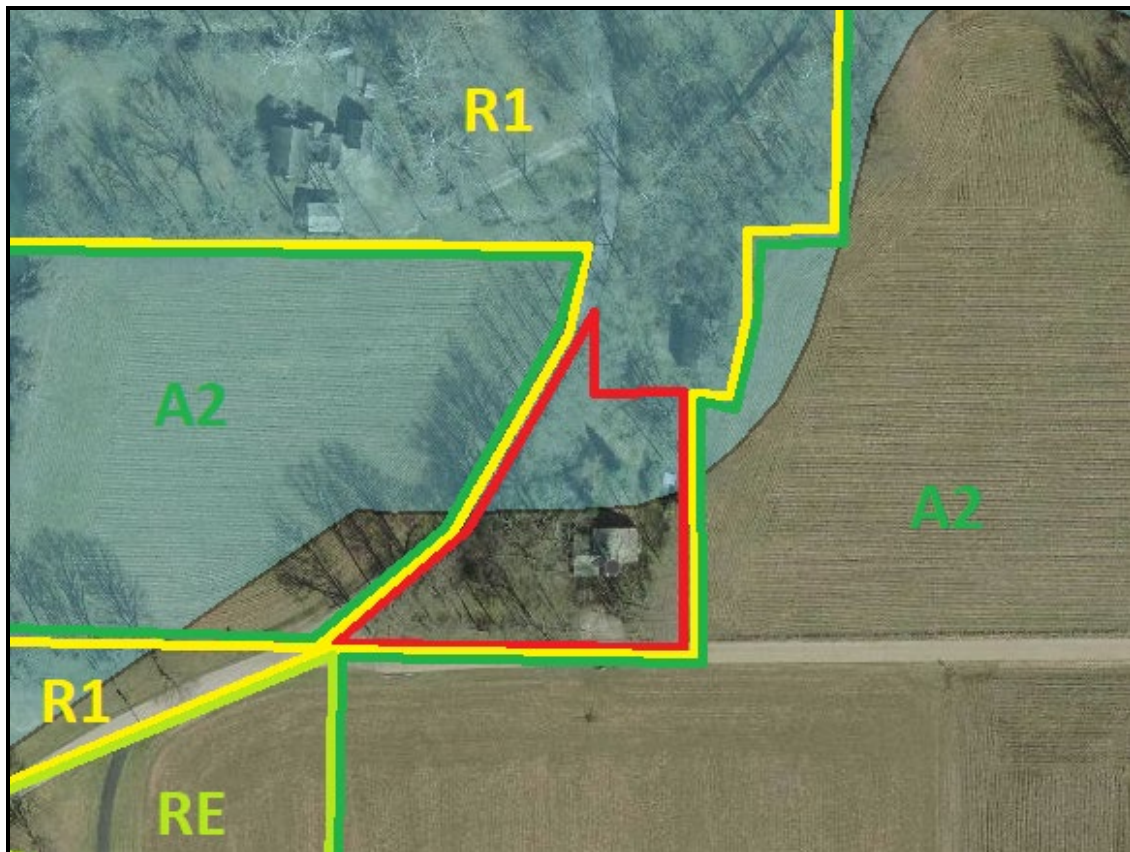
1. Having a floor area of 1,288 sq. ft. (minimum 1,600 sq. ft. dwelling size required) [UDO Section 2.14].
2. Without a two-car, attached garage [UDO Section 5.11 D 1].
3. Less than 25-feet from the delineated boundary of a floodplain [UDO Section 5.68 H 1 f].

**STAFF RECOMMENDATION:** APPROVAL because:

- The proposed house would replace a dilapidated house of approximately the same size without an attached garage.
- The floodplain limits the developable portion of the lot.

## **PROPERTY DESCRIPTION**

8696 W Shelby 250 S, Franklin



Property Size: 0.75 acres.

Zoning Classification: R1 (Single-Family Residential) – 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: Agriculture - The purpose of this category is to provide for traditional agricultural practices (such as crop production and livestock grazing) and modern agricultural practices (such as agricultural research facilities and CAFOs). Rural home sites may also occur within this category; however, the emphasis should remain on agriculture. New residential subdivisions that remove prime farmland from production should be discouraged. The residential density of this category should be one lot for every five acres.

#### PURPOSE OF UDO REQUIREMENTS

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Homes having a minimum floor area of 1,600 sq. ft. and a two-car attached garage generally include higher quality architectural elements than smaller homes without an attached garage. Therefore, these requirements serve to enhance visual character, quality of life, and property values throughout the County.

The required setback from a delineated floodplain encourages placement of structure outside of saturated areas and protects structures from potential flooding.

#### CASE DESCRIPTION

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- The petitioner plans to demolish the existing house and construct a new three-bedroom, two-bathroom house in the same location.
- The existing house appears to have several cosmetic and structural deficiencies.
- A detached garage on the adjoining property to the north owned by the petitioner would serve as a garage for the new house.
- The petitioner plans to install a septic system west of the new house.
- Approximately one-fourth acre at the rear of the property lies within a 100-year delineated flood fringe area (Zone A as indicated on Panel 18145C0175C of the Federal Emergency Management Area (FEMA) Flood Insurance Rate Maps (FIRM)). The UDO permits construction in flood fringe areas with restrictions regarding structure elevation and construction provisions for flood hazard reduction.
- A detailed floodplain study provided by the Indiana Department of Natural Resources (IDNR) removes over half of the flood hazard area from the rear of the property. However, the ordinance setback requirement applies to the floodplain indicated on the effective FIRM map.
- The petitioner has not determined the exact distance between the effective delineated floodplain and the new house; however, the house will likely sit closer than 25-feet to the floodplain.

- Existing vegetation screens much of the property from both adjoining 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 proposed house would replace a dilapidated house of approximately the same size without an attached garage. Therefore, approval of the variance would improve the community.

**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 house would replace a dilapidated house of approximately the same size without an attached garage. Therefore, approval of the variance would improve the use and value of adjacent property.

**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: The floodplain limits the developable portion of the lot, therefore limiting the size and placement of the proposed house.

**APPLICANT/OWNER INFORMATION**

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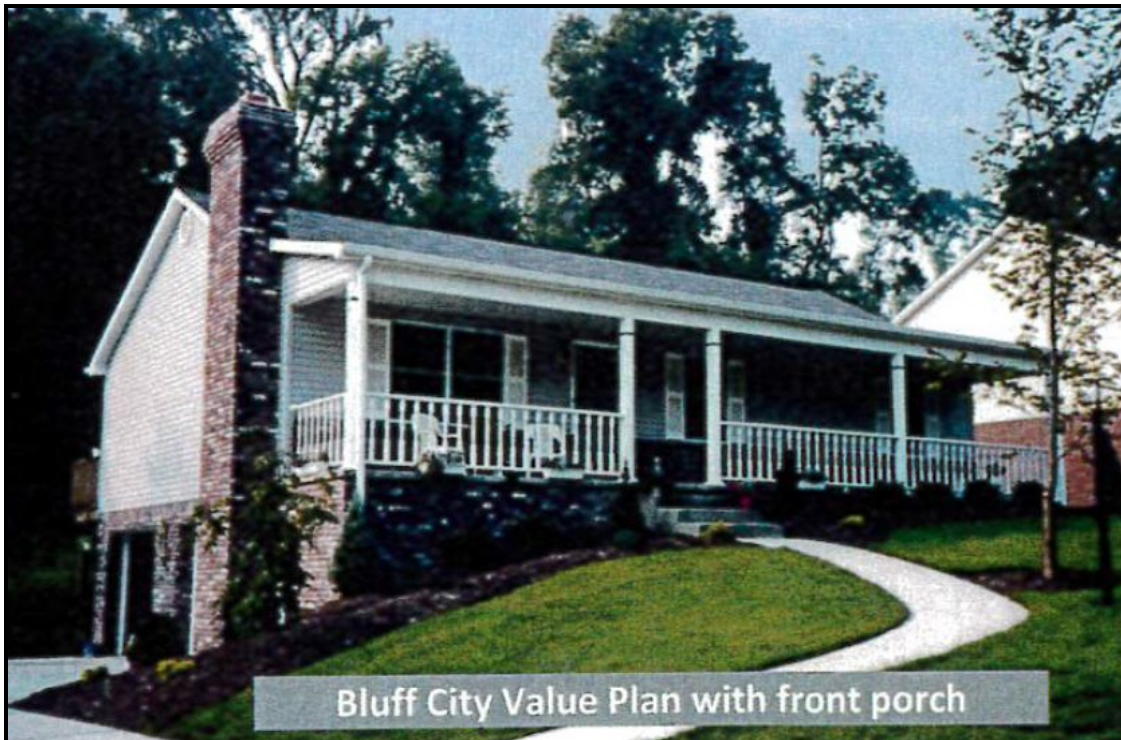
Applicant: Mark A Jones  
5929 E Greensburg Rd.  
Franklin, IN 46131

Owner: Same





Existing House



Proposed House (without garage on lower floor).

**DEVELOPMENT STANDARDS VARIANCE  
FINDINGS OF FACT**

Applicant: Mark A. Jones

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

Location: 8696 W. 250 Franklin IN. 46131

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.

Do not want to install a mandatory 2 car attached garage as there is already an adequate 1000' sq ft, detached garage on property. Have spoken to neighbors and have no objections.

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.

Have spoken to neighbors and have heard no objections to this plan.

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.

my lot is long and narrow which is why prior owners put the car garage where it is.

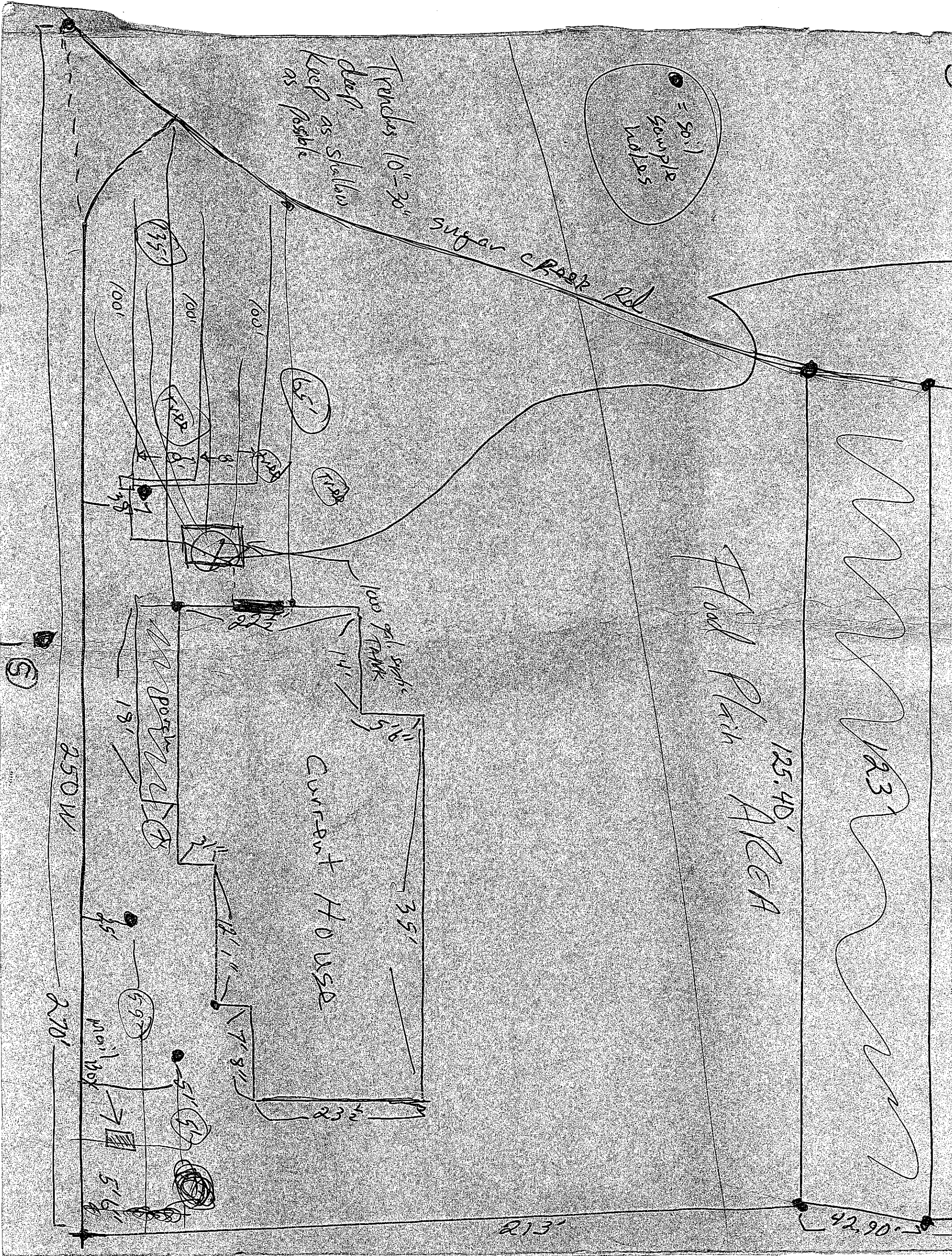
The Board of Zoning Appeals may review the applicant's findings of fact to assist with their decision-making process. Please see below for general guidance related to completing the findings of fact:

**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.)







# Staff Report

CASE NUMBER: BZA 20-05  
CASE NAME: MEGAN THIXTON – DEVELOPMENT STANDARDS VARAINCE

## CASE SUMMARY

REQUEST: Variance of Development Standards to allow for a Type 2 Home Business (tattoo studio) conducted within an accessory structure (only permitted entirely within the residence).

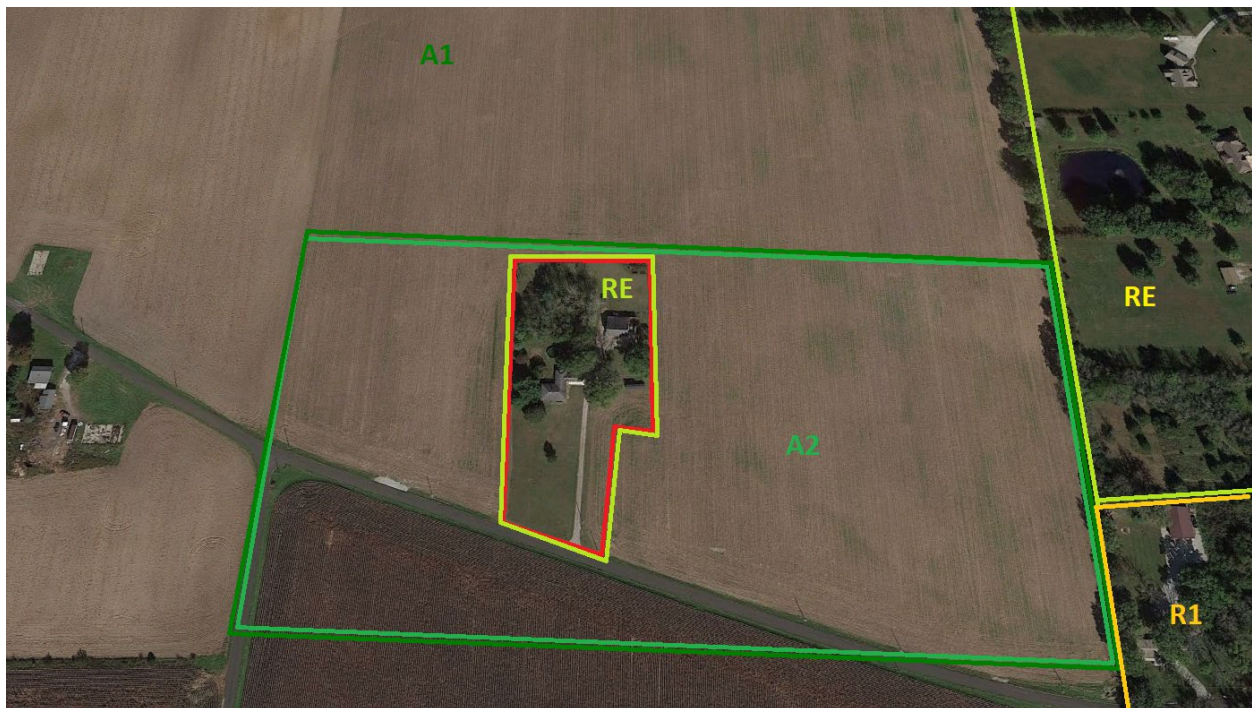
STAFF RECOMMENDATION: APPROVAL primarily because operation of a home business in a relatively small (400 sq ft) accessory structure would limit the intensity of the business use and therefore mitigate any potential adverse impacts on the surrounding area.

### Recommended Stipulations:

1. The variance shall only apply to the proposed tattoo studio use.
2. The exterior of the accessory structure shall not be altered from its current condition.
3. The petitioner shall obtain all applicable approvals from the Shelby County Health Department and Indiana State Department of Health prior to operation of the business.

## PROPERTY DESCRIPTION

Brandywine Township at 4922 W Boggstown Rd, Shelbyville



Property Size: 2.41 acres.

Zoning Classification: RE (Estate Residential) – Per the UDO, the district is established for single-family detached dwellings in a rural or country setting.

Comprehensive Plan Future Land Use: Estate Residential - The purpose of this category is to provide for new rural residential housing opportunities in rural areas not well suited for agriculture. New residential development should have reasonable access to roads and utilities and should not significantly disrupt agricultural activities. The residential density of this category should not exceed one lot for every two acres.

#### PURPOSE OF UDO REQUIREMENTS

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Prohibiting operation of a home business outside of the primary structure discourages home-based business at an intensity that would disrupt use of the primary structure as a dwelling unit. A business that does not disrupt use of the residence on the property would also likely not disrupt the use of neighboring properties for residential purposes. Limiting a home-based business to inside a primary structure also prevents alteration of an accessory structure to accommodate the business, thereby protecting the rural residential character of the neighborhood.

#### CASE DESCRIPTION

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- The petitioner plans to operate a single-artist cosmetic and body art tattooing studio within an existing 400 sq. ft. accessory structure on the property.
- The petitioner plans to provide all services associated with the business and does not plan to have employees.
- The petitioner does not plan to alter the exterior of the accessory structure.
- The State Board of Health does not permit a tattooing facility attached to a residence having a door that opens into living quarters. The petitioner indicated that the residence on the property does not comply with this requirement.
- The petitioner indicated that she plans to install running water in the accessory structure for handwashing facilities, however, does not plan to have a customer bathroom in the accessory structure.
- The County Health Department stated that the accessory structure would be required to have a customer bathroom and a handwashing sink for the worker. The Health Department also stated that if allowed by the State, the bathroom and sink could possibly utilize the existing septic system.
- The UDO permits Type 2 Home Business in the RE District. The petitioner indicated that the business would comply with all other standards for Type 2 Home Business identified in the UDO (see attached Type 2 Home Business Standards).

#### 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: Operation of single-artist cosmetic and body art tattooing studio within a small accessory structure would not generate traffic in greater volume than typical in rural areas and would not generate noise, vibration, smoke, odors, dust, heat, glare, or electrical disturbances.

**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 and exterior of the accessory structure would remain unaltered and therefore not alter the character of the neighborhood.

**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: The State Board of Health does not permit a tattooing facility attached to a residence having a door that opens into living quarters. A strict application of the ordinance therefore does not allow for a tattooing home business on the property in compliance with all other standards applicable to home business identified in the ordinance.

APPLICANT/OWNER INFORMATION

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Applicant: Megan Thixton  
4922 W Boggstown Rd.  
Shelbyville, IN 46176

Owner: Megan Thixton & Heather Harris





Proposed cosmetic and body art tattooing studio

# Home Business Standards (HB)

## 5.34 HB-02: Type 2 Home Business Standards

This Home Business Standards section applies to the following zoning districts:



The following standards apply:

- A. Permits: All Type 2 Home Businesses shall obtain a Land Use Certificate.
- B. Personnel:
  - 1. Residency: The operator of the Type 2 Home Business shall reside in the house.
  - 2. Employees: One employee who does not reside in the house may be employed in the home business.
- C. Operations:
  - 1. Nuisance: The Type 2 Home Business shall not generate offensive noise, vibration, smoke, odors, dust, heat, glare, or electrical disturbances.
  - 2. Traffic: The Type 2 Home Business shall not generate vehicular traffic in greater volumes than would normally be expected in the rural area or neighborhood in which it is located.
  - 3. Customers: The Type 2 Home Business shall not generate customers in greater volumes than would normally be expected in the neighborhood.
  - 4. Hours: The hours of operation of the Type 2 Home Business shall not interfere with the use and enjoyment of adjacent residential properties; and shall be strictly restricted to the hours of 7:00 a.m. to 9:00 p.m. EST.
- D. Design:
  - 1. Primary Structure:
    - a. The Type 2 Home Business shall be conducted entirely within the primary structure.
    - b. The Type 2 Home Business shall not exceed twenty-five percent (25%) of the square footage of the primary structure.
    - c. There shall be no visible evidence of the Type 2 Home Business, including but not limited to alterations to the exterior of the residence which change the character of the residence, exterior displays, or the outdoor storage of materials or equipment used in the home business.
  - 2. Accessory Structure: No accessory structure shall be utilized for any part of the home business.
  - 3. Parking and Loading:
    - a. No off-street parking or loading facilities, other than facilities meeting the requirements of the applicable zoning district, shall be permitted.
    - b. No part of a minimum required yard shall be used for off-street parking or loading purposes.
  - 4. Mechanical Equipment: The Type 2 Home Business shall not require the installation of mechanical equipment other than that which is common in a residential structure.
  - 5. Utility Service: The Type 2 Home Business shall not require the installation of a utility service that is beyond what is common in a residential structure.
  - 6. Signs: One (1) wall sign is permitted on the primary structure and it shall not exceed three (3) square feet in sign area. The wall sign shall be fully located within five (5) feet of either the front door or side door of the primary structure. Materials shall be aesthetically compatible and complementary to the primary structure, specifically to make sure the sign is subtle and consistent with residential and neighborhood character. No special lighting shall be permitted to illuminate the sign.



**DEVELOPMENT STANDARDS VARIANCE  
FINDINGS OF FACT**

Applicant: MEGAN T. THIXTON  
Case #: \_\_\_\_\_  
Location: 4922 W. BOGGS 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.

THE STUDIO WILL BE 100% CONTAINED WITHIN AN  
EXISTING ACCESSORY STRUCTURE, NOTHING NEW OR DISRUPTIVE  
WILL BE ADDED TO THE PROPERTY

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.

NOTHING NOISE PRODUCING WILL TAKE PLACE AS A RESULT  
OF THIS EXCEPTION. THERE WILL BE NO POLLUTION  
PRODUCED OR REALLY ANY DIFFERENCE NOTICEABLE  
AT THE AFFECTED PROPERTY.

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.

NO RESTRICTIONS OR REDUCTIONS ON ECONOMIC GAIN OF  
THE AREA WILL RESULT. THERE SHALL BE NO  
EXTERNAL EVIDENCE OF THE CURRENT SITUATION  
AT THE STATED PROPERTY

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.)

# Staff Report

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CASE NUMBER: BZA 20-06  
CASE NAME: KEVIN L SMITH - DEVELOPMENT STANDARDS VARIANCE

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## ***CASE SUMMARY***

**REQUEST:** Variance of Development Standards to allow for installation of a residential driveway over a property line.

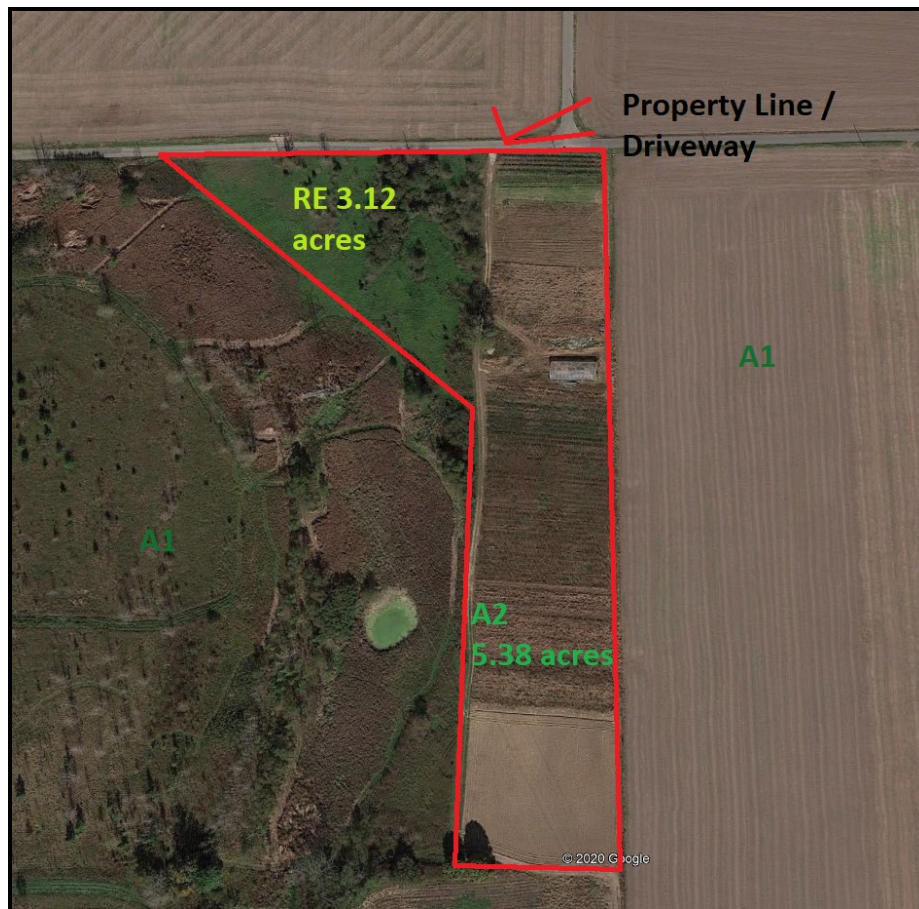
**STAFF RECOMMENDATION:** APPROVAL primarily because the property owners have agreed to installation of the driveway over their property lines.

**Recommended Stipulation:** The petitioner shall record a shared access easement for the proposed driveway prior to obtaining a building permit.

## **PROPERTY DESCRIPTION**

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**8835 & 8755 W Range Rd, Needham**



Property Size:

- 8835 W Range Rd – 3.12
- 8755 W Range Rd – 5.38

Zoning Classification:

- 8835 W Range Rd – 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.
- 8755 W Range Rd – A2 (Agricultural) – Per the UDO, the district is established for general agricultural areas and buildings associated with agricultural production.

Comprehensive Plan Future Land Use: Agriculture - The purpose of this category is to provide for traditional agricultural practices (such as crop production and livestock grazing) and modern agricultural practices (such as agricultural research facilities and CAFOs). Rural home sites may also occur within this category; however, the emphasis should remain on agriculture. New residential subdivisions that remove prime farmland from production should be discouraged. The residential density of this category should be one lot for every five acres.

**PURPOSE OF UDO REQUIREMENTS**

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Regulating the placement of driveways at a minimum distance from the property line mitigates impacts associated with the use of driveways on adjoining property, such as noise and dust.

**CASE DESCRIPTION**

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- The petitioner has submitted a site development plan to construct a 2,256 sq. ft. single-family residence, septic system, and two driveways on the 3.12-acre parcel.
- An existing gravel road cut and dirt farm access pathway extends over the property line between the 3.12-acre parcel and 5.38-acre parcel. The petitioner plans to extend the road cut and culvert and add gravel to the dirt pathway to construct a driveway.
- The petitioner plans to enter the property using the driveway over the dirt path and exit the property using a new driveway constructed on the west side of the property. The petitioner cited visibility issues along Range Rd. as the reason for constructing two driveways.
- Staff visited the property on March 3, 2020. It does appear that a hill on Range Rd would affect visibility if entering the property through the new driveway.
- The owner of the 5.38-acre parcel may construct a house on the property in the future. Approval of this variance would allow him to use the shared driveway constructed over the property line.
- The existing access to the agricultural field does not qualify as a driveway per the UDO. The UDO requires that new single-family residences have access from a gravel driveway. New driveways must comply with the requirements of the UDO.

**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: Installation of a driveway over a property line 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 owners of both properties that include the driveway have signed the variance application and agree to using a shared driveway.

**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 use of any existing road cut and would encourage unsafe use of a new driveway for entering the property.

**APPLICANT/OWNER INFORMATION**

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Applicant: Kevin L. Smith  
8025 S Franklin Rd.  
Indianapolis, IN 46259

Owner: 8835 W Range Rd  
Kevin L. Smith  
8025 S Franklin Rd.  
Indianapolis, IN 46259

8755 W Range Rd  
Todd & Kathleen Jameson  
8418 W Shelby 100 N  
Needham, IN 46162



View of hill on Range Road from current dirt pathway



**DEVELOPMENT STANDARDS VARIANCE**  
**STATEMENTS OF FACT**

Applicant: Kevin Smith

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

Location: 9335 W. Range Rd Needham, 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.

There is already a farm lane on the east end of the property. The drive that goes through the property is necessary for safety. Blind spot because of hill is a problem.

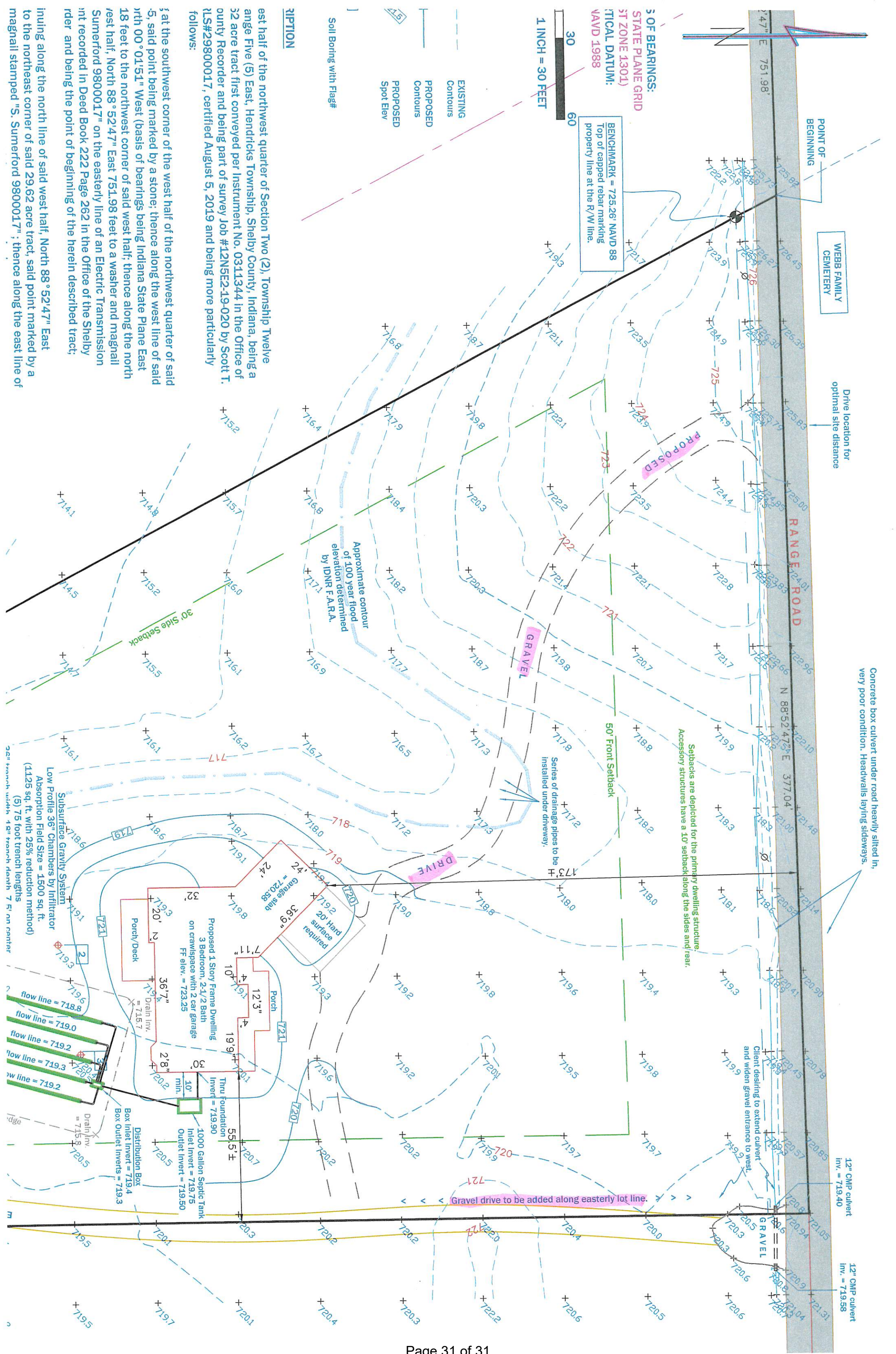
2. **Adjacent Property:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

This will benefit both properties. It is very hard to turn in because the range road is narrow.

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 usable part of the property is very narrow.





STATE BEARINGS:  
STATE PLANE GRID  
ST ZONE 1301)  
NAD 83 DATUM:  
NAVD 1988

BENCHMARK = 725.26' NAVD 88  
Top of capped rebar marking  
property line at the R/W line.

1 INCH = 30 FEET

EXISTING  
Contours  
PROPOSED  
Contours  
PROPOSED  
Spot Elev

Soil Boring with Flag#

RIPTION

est half of the northwest quarter of Section Two (2), Township Twelve  
ange Five (5) East, Hendricks Township, Shelby County, Indiana, being a  
32 acre tract first conveyed per Instrument No. 0311344 in the Office of  
ounty Recorder and being part of survey Job #12N5E2-19-020 by Scott T.  
S#29800017, certified August 5, 2019 and being more particularly  
follows:

at the southwest corner of the west half of the northwest quarter of said  
5, said point being marked by a stone; thence along the west line of said  
rth 00°01'51" West (basis of bearings being Indiana State Plane East  
18 feet to the northwest corner of said west half; thence along the north  
west half, North 88°52'47" East 751.98 feet to a washer and magnail  
Summerford 9800017" on the easterly line of an Electric Transmission  
nt recorded in Deed Book 222 Page 262 in the Office of the Shelby  
rder and being the point of beginning of the herein described tract;

inuing along the north line of said west half, North 88°52'47" East  
to the northeast corner of said 29.62 acre tract, said point marked by a  
magnail stamped "S. Summerford 9800017"; thence along the east line of

Concrete box culvert under road heavily silted in,  
very poor condition. Headwalls laying sideways.

Setbacks are depicted for the primary dwelling structure.  
Accessory structures have a 10' setback along the sides and rear.

Series of drainage pipes to be  
installed under driveway.

Approximate contour  
of 100 year flood  
elevation determined  
by IDNR F.A.R.A.

Subsurface Gravity System  
Low Profile 36" Chambers by Infiltrator  
Absorption Field Size = 1500 sq. ft.  
(1125 sq. ft. with 25% reduction method)  
(5) 75 foot trench lengths  
24" trench width, 12" trench depth, 7' R on center

12" CMP culvert  
Inv. = 719.40

12" CMP culvert  
Inv. = 719.58