

**Shelby County
Board of Zoning Appeals**

March 11, 2025, at 7:00 PM

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MEETING AGENDA

Shelby County Board of Zoning Appeals March 11, 2025, 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the February 11, 2025 meeting.

OLD BUSINESS

None.

NEW BUSINESS

BZA 25-03 – EARSEL SMITH: DEVELOPMENT STANDARDS VARIANCES. Located at 7837 E Blue Ridge Rd, Shelbyville, Liberty Township.

BZA 25-04 – DEREK WAY: DEVELOPMENT STANDARDS VARIANCE. Located at 6765 W Forest Brook Dr, Fountaintown, Moral Township.

BZA 25-05 – SPEEDWAY SOLAR, LLC: DEVELOPMENT STANDARDS VARIANCE & VACATION OF STIPULATION OF SPECIAL EXCEPTION APPROVAL. Located at 6631 E 700 N, Shelbyville, Hanover & Union Townships.

DISCUSSION

V24-17 – ANTHONY & EMMA JEAN STEWART: ZONING VIOLATION. Located at 657 N 350 W, Shelbyville, Brandywine Township.

ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, **April 8, 2025, at 7:00 PM.**

Property Details

Location: 7837 E Blue Ridge Rd,
 Shelbyville, Liberty Township.

Property Size: 2.52-acres.

Current Land Use: Single-Family
 Residential.

Zoning Classification:

VR (Village Residential)

Intent: This district is established for existing residential uses in small unincorporated towns and villages.

Development Standards: Flexible development standards to accommodate existing developments

Future Land Use per Comp Plan

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.

Surrounding Development

	Zoning	Land Use
North	VR	Single-Family Residential
South	A1	Cropland
East	VR	Single-Family Residential
West	VR	Single-Family Residential

Staff Report

Case Number: BZA 25-03
Case Name: Earsel Smith – Development Standards Variances

Request

Variances of Development Standards to allow for a 1,536 sq. ft. pole barn:

1. In the front yard;
2. Resulting in the total area of all accessory structures on the property exceeding half the size of the footprint of the house.

Code Requirement

UDO Section 5.04 C: Placement: A permitted accessory structure shall not be placed in the front yard of any lot, unless placed 350 feet or greater from the front property line.

UDO Section 5.07 F 1: Maximum Size: The total square footage of all enclosed accessory structures on a lot adjoining one or more lots in the RE, R1, R2, VR, M1, M2, MP, VM, IS, C1, C2, I1, I2, or HI Districts shall not exceed fifty percent (50%) of the footprint of the primary structure.

Purpose of Requirements: Limiting the placement and size of residential accessory structures ensures that the residence remains the visual focal point of the property and discourages use of residential accessory buildings for commercial activities utilizing large trucks, large machinery, and/or large equipment.

Property Map



Case Description

- The petitioner plans to construct a 32'x48' (1,536 sq. ft.) pole barn.
- The barn would sit either directly north of the house or to the south of the house, dependent on cost to run electricity to either location.
- The property currently includes a single-family residence and detached garage.
- The square footage of the pole barn plus the square footage of the existing detached garage would equal approximately the square footage of the footprint of the house. The property tax card provides the square footage of the house and detached garage for the square footage calculation.

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. The public would not have access to the structure.

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 not alter the character of the area. Houses between the property and Blue Ridge Rd. and existing trees would screen the barn from view from Blue Ridge Rd. The larger size of the property, relative to adjacent properties, can accommodate a larger accessory structure without detracting from the residence as the visual focal point of the 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: Most properties in the County consistent with the size of the subject property have the RE zoning designation. The UDO allows accessory structures up to two-times the square footage of the footprint of the house in the RE District. The proposed barn complies with this requirement.

Staff Recommendation

Staff recommends **APPROVAL** primarily because the barn would not alter the character of the area.

Applicant/Owner Information

Applicant:	Earsel Smith 7837 E Blue Ridge Rd Shelbyville, IN 46176	Owner:	Earsel & Kelly Smith
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**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: Earsel Smith

Case #: _____

Location: 7837 E. Blue Ridge Rd., Shelbyville, IN 46176

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.

NO

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.

NO

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

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.)



7837 E Blue Ridge Rd

Imagery Date: 10/3/2022

39°31'06.99" N

Property Details

Location: 6765 W Forest Brook Dr,
Fountaintown, Moral Township.
Forest Brook Estates Lot 53.

Property Size: 0.41-acres.

Current Land Use: Single-Family
Residential.

Zoning Classification:

VR (Village Residential)

Intent: This district is established for existing residential uses in small unincorporated towns and villages.

Development Standards: Flexible development standards to accommodate existing developments.

Future Land Use per Comp Plan Commercial

The purpose of this category is to provide a full range of commercial, retail, office and service uses for residents, businesses, and visitors. This category includes commercial activities with direct contact with customers ranging from neighborhood convenience stores to regionally oriented specialty stores.

Surrounding Development

	Zoning	Land Use
North	VR	Single-Family Residential
South	VR	Single-Family Residential
East	VR	Single-Family Residential
West	VR	Single-Family Residential

Staff Report

Case Number: BZA 25-04
Case Name: Derek Way – Development Standards Variance

Request

Variance of Development Standards to legally establish a gravel driveway.

Code Requirement

UDO Section 5.19 C: Materials: Driveways shall consist of asphalt, concrete or other non-porous material approved by the Zoning Administrator. The Zoning Administrator may waive this requirement for property adjoining another property having a gravel driveway.

Purpose of Requirements: Requiring paved driveways for properties in the R1 District protects the character of residential subdivisions and limits migration of dust onto subdivision streets.

Property Map



Case Description

- The petitioner has installed a gravel driveway from Forest Brook Dr. along the east property line to provide access to a new carport.
- In May of 2024, the Planning Director received a complaint regarding construction of the carport and installation of the driveway without permits. The petitioner retroactively applied for a permit for the carport. At that time, the petitioner intended to remove the gravel driveway.
- In January of 2025, the Planning Director received another complaint about the driveway. The Planning Director notified the petitioner of the violation, and the petitioner promptly contacted the Planning Director to explain that he decided to keep the gravel driveway for access to the carport.
- Most of the homesites in Forest Brook Estates have paved driveways. However, the subject property currently includes a gravel driveway and five homesites directly north of the subject property on Timberlane Dr. also have gravel driveways.
- The driveway would require a driveway access permit from the Highway Department.

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: Gravel driveways do not pose any type of health or safety hazard to 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 gravel driveway does not conflict with the existing gravel driveway on the property or other homesites with gravel driveways in 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: A strict application of the ordinance would not allow for a gravel driveway on the property consistent with other gravel driveways in the neighborhood. Many older subdivisions in rural areas include homesites with gravel driveways.

Staff Recommendation

Staff recommends **APPROVAL** primarily because a strict application of the ordinance would not allow for a gravel driveway on the property consistent with other gravel driveways in the neighborhood.

Applicant/Owner Information

Applicant:	Derek Way 6765 W Forest Brook Dr Fountaintown, 46130	Owner:	Same
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**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: _____

Case #: _____

Location: _____

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.

No

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.

No

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

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.)

Property Details

Location: 6631 E 700 N, Shelbyville, Hanover & Union Townships.

Property Size: +/- 1,300-acres.

Current Land Use: Commercial Solar Energy Facility (under construction) & Agriculture.

Zoning Classification:

A1 (Conservation Agricultural) & A2 (Agricultural)

A1 Intent: This district is established for the protection of agricultural areas and buildings associated with agricultural production.

A2 Intent: This district is established for general agricultural areas and buildings associated with agricultural production.

Development Standards: Enact development standards to maximize protection of common agricultural practices.

BZA: Protect the integrity of land and operations within A1 & A2 District.

Future Land Use per Comp Plan

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.

Surrounding Development

Landscape buffer areas adjacent to residential homesites on property zoned A2 (Agriculture), RE (Residential Estate), or R1 (Single-Family Residential)

Staff Report

Case Number: BZA 25-05

Case Name: Speedway Solar, LLC – Development Standards Variance & Vacation of Stipulation of Special Exception Approval

Request

Variance of Development Standards of UDO Amendment 2018-07 Section SES-01 Commercial Solar Energy Systems to eliminate the landscape buffer requirement for a portion of a commercial solar energy system facility.

Vacation of Stipulation #4 of Special Exception Approval BZA 19-01 to eliminate the additional landscape buffer requirement for a portion of a commercial solar energy system facility.

Code Requirement

UDO Amendment 2018-07 Section SES-01 Commercial Solar Energy Systems Landscape Buffer: Any CSES shall be required to meet the landscape standards as listed in Shelby County U.D.O. 5.49 LA-07: Buffer Yard Landscaping Standards. All CSES installations shall require a minimum of a Buffer Yard “A” where the subject parcel abuts a parcel with an equal or lower intensive zoning category than the subject parcel. This shall not apply to CSES property abutting land zoned A1.

Stipulation #4 of Special Exception Approval BZA 19-01: The Applicant's landscape plan shall consist of two categories:

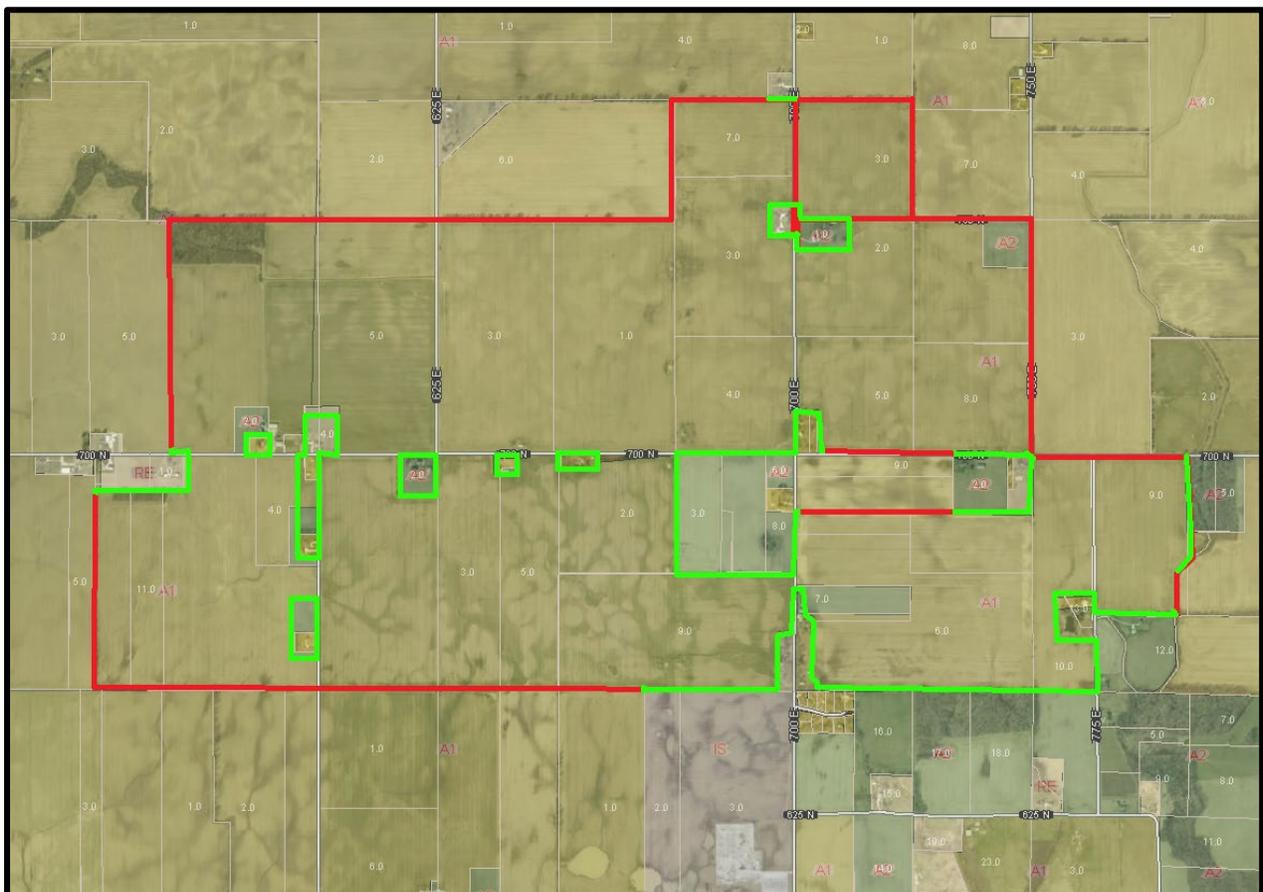
- a. Landscape Buffer C: The majority of the parcels included in the Project are zoned A1 or A2. Where the Project parcel being developed is adjacent to land zoned as A2 or a more intense land use, under the Ordinance, the Petitioner would install a minimum of Buffer Yard A, which requires one (1) canopy tree and one (1) ornamental or evergreen tree every seventy (70) feet of contiguous boundary with an adjacent lot. Landscape Buffer A would result in only two (2) total trees planted every 100 feet of contiguous boundary with an adjacent lot. However, Petitioner voluntarily commits to implementing Landscape Buffer C as the Project minimum for these parcels, unless otherwise waived or agreed to by the adjacent landowner; provided that Petitioner will install at minimum Buffer Yard A for these parcels. Landscape Buffer C requires one (1) canopy tree every forty-five (45) feet of contiguous boundary with an adjacent lot and two (2) ornamental or evergreen

trees every fifty (50) feet of contiguous boundary with an adjacent lot. The voluntary use of Landscape Buffer C as the Project minimum (where Buffer Yard A would otherwise be required) results in the planting of six (6) total trees every 100 feet representing an at least 300% increase in the total number of trees planted in the landscape buffer.

- b. Landscape Buffer C+: A small number of the parcels included in the Project are adjacent to non-participating parcels on which residences are located. Most of these adjacent, non-participating parcels are in an A2 zoning district, and would be subject to Landscape Buffer A (described above) under Shelby County's Unified Development Ordinance. The site plan submitted as part of this application voluntarily applies Landscape Buffer C+ to these parcels. Petitioner shall implement this voluntary Landscape Buffer C+ for these adjacent, non-participating parcels on which residences are located, unless otherwise waived or agreed to by the non, participating landowner. Landscape Buffer C+ does not exist in Shelby County's Unified Development Ordinance and was voluntarily created specifically for this project. Landscape Buffer C+ will consist of one (1) canopy tree every forty-five (45) feet of contiguous boundary with an adjacent lot and one (1) ornamental or evergreen tree every 18 feet of contiguous boundary with an adjacent lot. Landscape Buffer C+ results in the planting of two (2) canopy trees and five (5) to six (6) ornamental or evergreen trees, or eight (8) trees total, every 100 feet. The voluntary creation and use of Landscape Buffer C+ represents a 4000/o increase in the total number of trees planted over Landscape Buffer A.

Purpose of UDO Requirement: The intent of the Landscaping Standards is to ensure the protection of the health, safety, and welfare of the residents of the County by requiring a reasonable amount of plant materials to enhance the visual quality of developments, maintain community character, define the edges of streets for vehicular safety and flow, minimize storm runoff, and improve air quality.

Property Map



Case Description

2018 Commercial Solar Energy System (CSES) Ordinance & Variance Summary

- In 2018, the County adopted its initial CSES Ordinance. This ordinance applies to the Speedway Solar project.
- The ordinance allowed for CSES facilities by Special Exception approval from the BZA and applied specific development standards to approved CSES facilities.
- The ordinance included a landscaping standard that required installation of landscape buffer “A” adjacent to the property lines of all properties not participating in the CSES project, other than properties zoned A1 (Conservation Agricultural).
- Landscape Buffer “A” requires one (1) canopy tree and one (1) ornamental or evergreen tree per 70-feet, within 20-feet of the non-participating property line.
- The development standards variance seeks to waive this landscaping standard for the properties included in this variance application.
- The Speedway Solar project area also includes properties south of the properties included in this variance application. The variance does not apply to these properties.

2019 Special Exception Approval & Vacation of Stipulation Summary

- In 2019, the BZA granted approval of a Special Exception to allow for development of the Speedway Solar project.
- The approval includes a stipulation which requires a more restrictive landscape buffer standard than required by the 2019 CSES ordinance. Speedway Solar voluntarily proposed and consented to this stipulation.
- The stipulation requires landscape buffer “C” adjacent to non-participating properties not in the A1 District and landscape buffer “C+” adjacent to non-participating properties including homes. The stipulation includes an option for non-participating properties to waive the more restrictive landscape buffer requirement.
- Landscape Buffer “C” requires one (1) canopy tree per 45-feet within 25-feet of the non-participating property line and one (1) ornamental or evergreen tree per 50-feet within 15-feet of the non-participating property line. Landscape Buffer “C+” requires additional ornamental or evergreen trees, specifically one (1) per 18-feet.
- The vacation of stipulation seeks to waive this landscaping standard for the properties included in the variance application.
- The Speedway Solar project area also includes properties south of the properties included in this variance application. The vacation of stipulation does not apply to these properties.

Considerations

- Approval of the requests would eliminate the landscaping buffers shown in green on the Property Map included in

this Staff Report.

- Ranger Power, LLC originally owned the Speedway Solar project and conducted the pre-construction site preparation, design, and planning work. Ranger Power obtained the Special Exception approval and voluntarily proposed and consented to the landscaping stipulation. In 2023, Ranger Power sold the project to DESRI. DESRI submitted the application for variance and vacation of stipulation.
- Construction of the Speedway Solar project began in 2024. DESRI anticipates completion of construction in 2025.
- DESRI leases the land included in the Speedway Solar project. The underlying landowners have requested waiver of the landscaping requirements.
- DESRI has not submitted any documentation showing that the non-participating property owners adjacent to the required landscaping buffers have agreed to waive the landscaping requirement.
- DESRI has included the following information in the variance application as the need for a waiver of the landscaping requirements:
 - Limiting the vegetative buffer zones is a direct request of the (participating) property owners. The property owners do not want the trees. Potential overspray from chemical application on crops may cause the trees to die and become an eyesore or become a hazard to the community at large.
 - Failure to gain approval to reduce the vegetative buffer areas will cause the adjacent property to be significantly less productive as crop land due to the shading caused by the trees once they reach maturity.
 - Farming around the vegetative buffer areas will be difficult in several perspectives. The land has traditionally been farmed, farmers will now physically have to till, plant, spray and harvest around the obstacle. Additionally, new machine control files will need to be mapped to control GPS farm equipment.
- In 2024, the County adopted a revised CSES Ordinance. This ordinance increases the number of trees required in landscaping buffers from the 2018 ordinance requirements, however, allows any non-participating property owner to reduce or waive the landscaping requirement along their property lines.
- Both the 2018 and 2024 CSES Ordinances require the owner of any CSES facility to maintain and replace any dead plantings in required landscaping buffers.

Staff Analysis of Findings of Fact

Development Standards Variance

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

Staff Analysis: The 2018 CSES ordinance requires landscaping buffers to protect adjacent non-participating properties from the visual impacts of a CSES facility, thereby limiting the visual impact of a CSES facility to the rural

character of the area. Therefore, approval of the variance would negatively impact the general welfare of the residents of non-participating properties.

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 2018 CSES ordinance requires landscaping buffers to protect adjacent non-participating properties from the visual impacts of a CSES facility, thereby limiting the visual impact of a CSES facility to the rural character of the area. Therefore, approval of the variance would negatively impact the use and value of non-participating properties.

3. 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 2018 CSES ordinance requires landscape buffers as part of a CSES facility. A strict application of the ordinance would not prevent crop production on areas of the property not occupied by CSES facility components or impacted by required landscaping.

Vacation of Stipulation

Staff Analysis: Speedway Solar and the participating property owners consented to submittal of the original Special Exception application, which included a voluntary provision for increased landscape buffers. Conditions of the property and surrounding area have not changed since approval of the Special Exception application which would warrant vacation of the stipulation.

Staff Recommendation

DENIAL primarily because the original owner of Speedway Solar and the participating property owners consented to submittal of the original Special Exception application allowing for construction of the facility, which included a voluntary provision for increased landscape buffers. Additionally, a strict application of the ordinance would not prevent crop production on areas of the property not occupied by CSES facility components or impacted by required landscaping.

Note - The 2024 CSES Ordinance allows any non-participating property owner to reduce or waive the landscaping requirement along their property lines by filing written consent with the Shelby County Recorder. The petitioner could obtain these waivers from any agreeable property owners and resubmit the variance and vacation of stipulation application for the applicable properties. Staff would recommended approval to reduce or waive landscaping along the property lines of any non-participating property with a recorded waiver.

Applicant/Owner Information

Applicant:	Speedway Solar, LLC 575 Fifth Ave 23rd Floor New York, NY 10017	Property Owners:	Arlene Bangel Freeman Living Trust 6179 E US 52 Morristown, IN 46161
Attorney:	Bose McKinney & Evans LLP 111 Monument Circle Suite 2700 Indianapolis, IN 46204		Larry C & Rhonda L Smith Trust 11292 N 600 E Morristown, IN 46161

Project Primoris Renewable Energy
Engineer: 3800 Lewiston Street Suite 300
 Aurora, CO 80011

LCM Farms Partnership
6264 N 500 E
Shelbyville, IN 46176

Michael J Smith Revocable Living Trust
& Kari Smith Revocable Living Trust
6198 N 500 E
Shelbyville, IN 46176

Osborn Family Trust
4944 S CO RD 240 W
Greensburg, IN 47204

Red Glass Farm, LLC
9550 Chickasaw Rd.
Fairland, IN 46126

Ronald & Charlene Shinglton
5998 E 700 N
Shelbyville, IN 46176

Shelby County Plan Commission

25 West Polk Street, Room 201

Shelbyville, Indiana 46176

(317) 392-6338

Planning Director

Desiree Calderella

April 10, 2019

Peter Endres - Speedway Solar, LLC
20 Jay Street #900
Brooklyn, NY 11201

RE: BZA 19-01.

Mr. Endres,

On March 12th, 2019 the Shelby County Board of Zoning Appeals approved special exception and variance petitions BZA 19-01, pertaining to several parcels north of E 500 N, south of E 850 N, and between N 500 E and N 980 W.

The special exception approval allows for the development of a 199-megawatt Commercial Solar Energy System (CSES), covering approximately 1,800-acres and having a panel area of approximately 1,014 acres in an A1 (Conservation Agricultural) District and A2 (Agricultural) District.

The development standards variance approvals allow for construction of the facility to begin no more than four years from the date of special exception approval and to allow the CSES to exceed the maximum lot coverage of 15% of the lot area.

The approval is subject to the following conditions:

1. Petitioner expressly agrees to comply with the terms of the Decommissioning Plan Agreement as executed by it and submitted to the case file, except for the changes stipulated by the BZA (see conditions 10 & 11).
2. No solar panel shall be located closer than either (a) 150 feet from a nonparticipating property line, or (b) 300 feet from a non-participating residence.
3. No solar panel shall be located closer than 100 feet from a public road.
4. The Applicant's landscape plan shall consist of two categories:
 - a. **Landscape Buffer C:** The majority of the parcels included in the Project are zoned A1 or A2. Where the Project parcel being developed is adjacent to land zoned as A2 or a more intense land use, under the Ordinance, the Petitioner would install a minimum of Buffer Yard A, which requires one (1) canopy tree and one (1) ornamental or

Shelby County Plan Commission

25 West Polk Street, Room 201

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Planning Director

Desiree Calderella

evergreen tree every seventy (70) feet of contiguous boundary with an adjacent lot. Landscape Buffer A would result in only two (2) total trees planted every 100 feet of contiguous boundary with an adjacent lot. However, Petitioner voluntarily commits to implementing Landscape Buffer C as the Project minimum for these parcels, unless otherwise waived or agreed to by the adjacent landowner; provided that Petitioner will install at minimum Buffer Yard A for these parcels. Landscape Buffer C requires one (1) canopy tree every forty-five (45) feet of contiguous boundary with an adjacent lot and two (2) ornamental or evergreen trees every fifty (50) feet of contiguous boundary with an adjacent lot. The voluntary use of Landscape Buffer C as the Project minimum (where Buffer Yard A would otherwise be required) results in the planting of six (6) total trees every 100 feet, representing an at least 300% increase in the total number of trees planted in the landscape buffer.

- b. **Landscape Buffer C+:** A small number of the parcels included in the Project are adjacent to non-participating parcels on which residences are located. Most of these adjacent, non-participating parcels are in an A2 zoning district, and would be subject to Landscape Buffer A (described above) under Shelby County's Unified Development Ordinance. The site plan submitted as part of this application voluntarily applies Landscape Buffer C+ to these parcels. Petitioner shall implement this voluntary Landscape Buffer C+ for these adjacent, non-participating parcels on which residences are located, unless otherwise waived or agreed to by the non-participating landowner. Landscape Buffer C+ does not exist in Shelby County's Unified Development Ordinance and was voluntarily created specifically for this project. Landscape Buffer C+ will consist of one (1) canopy tree every forty-five (45) feet of contiguous boundary with an adjacent lot and one (1) ornamental or evergreen tree every 18 feet of contiguous boundary with an adjacent lot. Landscape Buffer C+ results in the planting of two (2) canopy trees and five (5) to six (6) ornamental or evergreen trees, or eight (8) trees total, every 100 feet. The voluntary creation and use of Landscape Buffer C+ represents a 400% increase in the total number of trees planted over Landscape Buffer A.
5. Petitioner shall comply with Indiana Code requirements regarding legal drains except as otherwise approved by the County Drainage Board and any other necessary bodies.
 6. Petitioner shall provide (i) exact array and equipment specifications; and (ii) specific landscape plan to the Zoning Administrator prior to the TAC meeting.
 7. Petitioner shall not construct any additional phases or expand the Speedway Solar project in Shelby County.

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25 West Polk Street, Room 201

Shelbyville, Indiana 46176

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Planning Director

Desiree Calderella

8. Petitioner shall repair County roads damaged during construction or operations pursuant to the direction of the County Highway Superintendent.
9. No solar panel shall be located on land zoned in a Residential Estate (RE) district.
10. The Decommissioning Plan Agreement shall be amended to require that the Petitioner submit only a surety bond for the net removal cost of the Project, and not a letter of credit.
11. The term "BZA" as used in Sections 8.4(b) and (c) shall be deleted and the words "County Commissioners" shall be substituted.
12. The Petitioner shall post a surety bond for the repair of any damaged drainage facilities on adjacent properties caused directly by the Project. The surety bond amount shall be established by an independent engineer (at the cost of the Petitioner) based on an assessment and evaluation of the potential damages to adjacent property drainage facilities and approved by the Drainage Board. The surety bond will be to the benefit of the County Commissioners. The Commissioners shall determine and adjudicate whether claims brought by an adjacent property owner for damages to drainage facilities were directly caused by the Project based on substantial evidence. Any repairs shall be to the reasonable satisfaction of the Drainage Board.

If you have any questions relative to this land use petition, please contact this office.

Sincerely,



Desiree Calderella, AICP
Planning Director
Shelby County Plan Commission

cc: Mary E. Solada – Bingham Greenebaum Doll LLP
2700 Market Tower – 10 West Market St.
Indianapolis, IN 46204

DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT

Applicant: Speedway Solar, LLC

Case #: _____

Location: . E 700 N Shelbyville, IN 46176 (73-04-30-400-001.000-007, 73-04-30-400-002.000-007)

The Shelby County Board of Zoning Appeals must determine that the following criteria have been met 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.

Limiting the vegetative buffer zones is a direct request of the property owner. The property owner does not want the trees. Potential overspray from chemical application on crops may cause the trees to die and become an eyesore or become a hazard to the community at large.

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.

Failure to gain approval to reduce the vegetative buffer areas will cause the adjacent property to be significantly less productive as crop land due to the shading caused by the trees once they reach maturity.

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

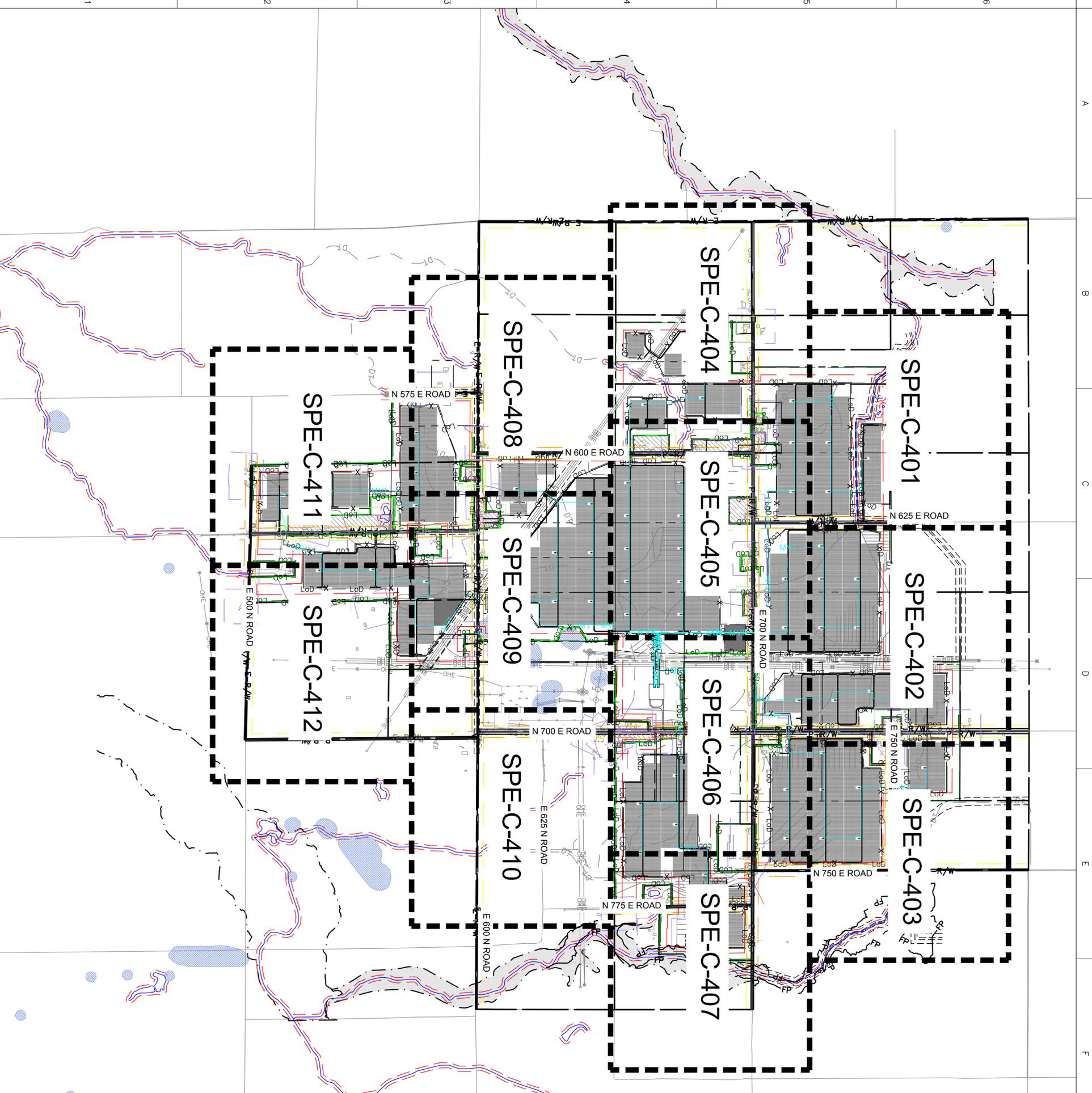
Farming around the vegetative buffer areas will be difficult in several perspectives. The land has traditionally been farmed, farmers will now physically have to till, plant, spray and harvest around the obstacle. Additionally, new machine control files will need to be mapped to control GPS farm equipment.

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.)

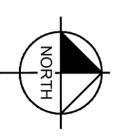


LEGEND

- PROJECT BOUNDARY
- SECTION LINE
- EASEMENT LINE
- PROPERTY LINE SETBACK
- FENCE SETBACK
- NON PARTICIPATING SETBACK
- RESIDENTIAL SETBACK
- RIGHT-OF-WAY SETBACK
- ROAD SETBACK
- PROPERTY LINE
- EXISTING RIGHT-OF-WAY LINE (TO BE VACATED)
- E-R/W
- E-R/W
- P-R/W
- EXISTING RIGHT-OF-WAY-LINE
- EXISTING WETLAND/STREAM
- WET LAND/STREAM BUFFER
- EXISTING OVERHEAD POWER LINE
- EXISTING GASLINE
- EXISTING GAS
- EXISTING FENCE
- EXISTING DRAIN TILE
- PROPOSED DRAIN TILE (BY OTHERS)
- PROPOSED SECURITY FENCE
- PROPOSED AGGREGATE ACCESS ROAD
- APPROXIMATE LIMIT OF DISTURBANCE
- PROPOSED MW ROUTING
- FEMA ZONE A
- INDR 100-YR FLOOD PLAIN
- FP
- FP
- DT
- DT
- OHE
- OHE
- GAS
- GAS
- OHE
- OHE
- P-R/W
- E-R/W
- E-R/W
- EXISTING RIGHT-OF-WAY-LINE
- EXISTING WETLAND/STREAM
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- FP
- FP
- DT
- DT
- OHE
- OHE
- GAS
- GAS
- OHE
- OHE

- CONSTRUCTION NOTES:**
- 1 7' GAME FENCE PER DETAIL 1 ON SHEET SPE-C-700.
 - 2 AGGREGATE ACCESS ROAD PER DETAIL 3 ON SHEET SPE-C-701, WIDTH PER PLAN.
 - 3 24" ENTRANCE GATE PER DETAIL 3 ON SHEET SPE-C-700.
 - 4 PROPOSED INVERTER PER DETAILS 1 AND 2 ON SHEET SPE-C-701.
 - 5 PROPOSED DRAIN TILE (DESIGN, INSTALLATION, AND PERMITTING TO BE DONE BY OTHERS).
 - 6 INSTALL CMP CULVERT.
 - 7 PROPOSED LOW WATER CROSSING, SEE DETAIL 1, SHEET SPE-C-513.
 - 8 65' TRANSITION FROM 20' ACCESS ROAD TO 12' ACCESS ROAD.

- GENERAL NOTES:**
1. PHOTOVOLTAIC PANELS, INVERTERS, AND INTERCONNECTION EQUIPMENT LOCATIONS SHOWN FOR REFERENCE ONLY. DESIGN AND FINAL LAYOUT PER DRAWINGS BY ELECTRICAL ENGINEER.
 2. DRAIN TILE LOCATIONS SHOWN ARE PRELIMINARY AND WILL NEED ADDITIONAL SITE INVESTIGATION/SURVEY TO CONFIRM LOCATIONS.
 3. EXISTING DRAIN TILE IN CONFLICT WITH PROPOSED DEVELOPMENT WILL BE RELOCATED BY OTHERS.
 4. WILDLIFE CORRIDORS ARE PROVIDED THROUGH BUFFER AREAS BETWEEN FENCE LINES THROUGHOUT THE PROJECT.



GRAPHIC SCALE IN FEET
0 500 1000 2000

<p>FastGrid, LLC 225 E Germann Road Suite 310 Gibbert, AZ 85297</p>		<p>500 E 96TH STREET, SUITE 300 INDIANAPOLIS, IN 46240 PHONE (317) 238-9500 WWW.KIMLEY-HORN.COM</p>		<p>PRIMORIS 3800 LEWISTON ST. SUITE 300 AURORA, CO 80011</p>	
<p>PROJECT NAME: SPEEDWAY SOLAR PV SOLAR POWER GENERATION FACILITY</p>					
<p>PROJECT ADDRESS: N 700 E SHELBY COUNTY INDIANA, USA</p>					
<p>REV DESCRIPTION DATE</p> <p>C ISSUED FOR PERMIT 10/07/22</p> <p>D 60% IFR 12/08/22</p> <p>E 60% IFR 12/21/22</p> <p>F 60% IFR 01/11/23</p> <p>G 80% IFR 02/14/23</p> <p>H ISSUED FOR PERMIT 06/02/23</p> <p>I RESPONSES TO IDEM COMMENTS 10/02/23</p> <p>J ISSUED FOR CONSTRUCTION 11/21/23</p>		<p>PROJECT NAME: SPEEDWAY SOLAR PV SOLAR POWER GENERATION FACILITY</p>			
<p>SEAL: </p>		<p>DATE: 11/21/2023</p>			
<p>PROJECT #: 192330000</p>		<p>DRAWN BY: SG</p>			
<p>CHECKED BY: NL</p>		<p>PROJECT #: 192330000</p>			
<p>SHEET NAME: OVERALL SITE PLAN</p>		<p>DATE: 11/21/2023</p>			
<p>SHEET #: SPE-C-400</p>		<p>REV #: K</p>			

Zoning Violation

Case Number: V24-17
Property Owner: Anthony & Emma Jean Stewart
Location: 657 N 350 W, Shelbyville, Brandywine Township

Potential Violation

Construction of a fence with the structural face facing outward.

Section 5.23 C 1 - Presentation: Fences and walls shall present the non-structural face outward, except when used for containment of pastured animals.

Case History

Prior to November 12, 2024, BZA Meeting

- Staff received a complaint regarding the construction of a fence with the structural face facing outward.
- Staff sent the property owner a violation letter and the property owner promptly contacted the Planning Department.
- The property owner explained that they had added an extension to an existing fence which has its structural face facing outward. Staff explained that the existing fence qualifies as a legal-nonconforming 'grandfathered' structure due to construction of the fence prior to the current UDO, however, the petitioner would need to remove the new portion of the fence or request a variance from the BZA.
- The property owner chose to add paneling to the structural side of the fence as a method to convert the fence into a shadow box design which does not have a structural face. The property owner explained that removal and reconstruction of the fence would pose an economic hardship. The property owner did not inform Staff of their plan to alter the fence until after they had installed the paneling.
- The property owner maintains that conversion of the fence into a shadow box design corrects the violation. The complainant maintains that the fence has a structural face facing outwards with fence paneling attached, which does not correct the violation.

November 12, 2024 BZA Meeting

- At their November 12, 2024, meeting, the BZA determined that placement of boards on the structural side of the fence at irregular intervals did not create a shadowbox design and therefore did not resolve the violation. The Board voted to impose a \$500 fine in the event of failure to install a solid face on the side of the fence facing the neighbor's residence by December 1, 2024.

Prior to December 10, 2024 Meeting

- On November 21, 2024, the property owner submitted photographs to the Plan Commission office showing paneling installed creating a solid face on the side of the fence facing the neighbor's residence. However, the existing structural posts extended past the solid face at regular intervals.
- On November 20, 2024, the neighbor filed a complaint with the Plan Commission office that the fence does not comply with the conditions imposed by the Board because the structural posts extend past the solid face of the fence.
- The Planning Director informed the neighbor that she would tend to consider the fence compliant with the decision rendered by the Board because the posts extend past the fence at regular intervals similar to a design feature. However, she offered to bring case before the Board for reconsideration. The neighbor asked that the Board review the case.

December 10, 2024 BZA Meeting

- At their December 10, 2024 meeting, the Board determined that the fence should have a smooth face on the outside matching the existing inside of the fence, with no structural components showing.
- The Board established a deadline of May 1, 2025, to bring the entire fence into compliance.
- The neighbor who filed the complaint attended this meeting and provided testimony. The property owner did not receive the email notification of the meeting and therefore did not attend.

After December 10, 2024 BZA Meeting

- Staff sent the property owner a letter informing them of the decision of the BZA. Due to a mail delay, the property owner did not receive the letter until February of 2025.
- The property owner contacted Staff and disputed the decision of the BZA.

BZA Decision

Staff requests that the BZA review the evidence and determine whether to uphold their determination made at their December 10, 2024 BZA Meeting.

November 12, 2024 Meeting Minutes

V24-11 – ANTHONY & EMMA JEAN STEWART: ZONING VIOLATION.

Located at 657 N 350 W, Shelbyville, Brandywine Township.

Desiree Calderella provided an overview of the history of the zoning violation.

Anthony Stewart explained that his old fence, which had the mechanical side facing outwards, blew down in a storm. He explained that he put the old fence back up and constructed the new portion of the fence to match the old portion of the fence. He asked for a variance to construct the new portion of the fence with the mechanical side facing outwards to match the old portion of the fence or to allow the new fence as a ‘shadow box’ style by placing two-by-fours on the mechanical side of the fence.

Jim Douglas stated that he wouldn’t want to look at the fence as constructed.

Devin Kanouse, who lives at 691 N 350 W, spoke about the poor quality of workmanship and safety issues associated with the fence.

Ed Canals, father of Mr. Kanouse, explained that the bolts in the fence pose a safety hazard.

Jim Douglas asked if the County had any construction standards for fences.

Desiree Calderella explained that County code only regulates materials and the side of the structural face.

Dave Klene asked if Mr. Stewart would agree to install continuous boards on the mechanical side of the fence similar to the inside of the fence.

Mr. Stewart explained that it would take time to acquire funding to afford the boards.

Jim Douglas asked about the purpose of the fence.

Mr. Stewart indicated he installed the fence for privacy.

Megan Hart asked if Mr. Stewart could move the boards from the inside of the fence to the outside of the fence.

Mr. Stewart said he would not move the boards from the inside of the fence to the outside of the fence.

Terry Knudson suggested that the Stewarts and Mr. Kanouse work together to address the issue with the fence.

Jeannie Stewart provided background on their dispute with Mr. Kanouse.

The Board discussed options and decided that the fence would need to have a solid outside face to be in compliance.

The Stewarts agreed to install a solid face on the outside of the fence but indicated that they could not install the panels until the Spring due to cost and winter weather.

Dave Klene suggested a deadline of December 1st to install the solid face on the fence adjacent to Mr. Knouse's residence and a deadline of May 1st to install the solid face on the entire fence.

The Stewarts agreed to these deadlines.

Mr. Kanouse expressed concern about the quality of the fence after installation of the solid face. He explained that the Stewarts had removed the entire old fence therefore the old portion of the fence may not qualify as grandfathered. He stated he would be happy if the Board required the Stewarts to straighten the fence.

Desiree Calderella suggested that the Board implement an automatic fine if the Stewarts do not install the solid face on the fence by the deadlines.

Kevin Carson made a motion to **impose a \$500 fine if a solid face is not installed on the side of the fence facing Mr. Knouse's residence by December 1, 2024.** Terry Knudson seconded the motion. The motion was **approved 5-0.**

December 10, 2024 Meeting Minutes

**V24-11 – ANTHONY & EMMA JEAN STEWART: ZONING VIOLATION.
Located at 657 N 350 W, Shelbyville, Brandywine Township.**

Desiree Calderella provided an overview of the events that had occurred since the previous BZA meeting.

Anthony and Emma Jean Stewart were not present.

Devin Kanouse, who lives at 691 N 350 W, indicated that County code states that fences must have the non-structural side facing outward, however, the posts show on the outside of the Stewart's fence and not on the inside of the fence. He expressed concern with posts projecting far beyond the face of the fence, replacement of a portion of the fence that the Stewarts had indicated already existed, the structural quality of the fence, and visibility around a portion of the fence.

Kevin Carson indicated that the Board had intended the fence to have a smooth face along the outside and any part of the mechanics of the fence belong on the inside of the fence.

Megan Hart agreed with Mr. Carson.

Dave Klene indicated that the Board had advised the Stewarts to install a smooth face on the outside of the fence but did not talk about the posts.

Terry Knudson indicated that Mr. Kanouse and Mr. Stewart should work together to solve the problem.

After discussion, the Board agreed that the fence should have a smooth face on the outside matching the inside of the fence as the fence currently exists with no structural components showing.

Megan Hart made a motion that **the entire outside of the fence show no structural members by May 1, 2025**. Kevin Carson seconded the motion. The motion was approved 4-0.