

**Shelby County
Board of Zoning Appeals**

April 13, 2021 at 7:00 PM

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MEETING AGENDA

Shelby County Board of Zoning Appeals April 13, 2021, 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the March 9, 2021 meeting.

OLD BUSINESS

None.

NEW BUSINESS

BZA 21-07 – DENNIS CHANEY: DEVELOPMENT STANDARDS VARIANCE. Located at 3114 E German Rd, Shelbyville, Addison Township.

BZA 21-08 – FAITH BAPTIST CHURCH: DEVELOPMENT STANDARDS VARIANCES. Located at 2759 E US 52, Morristown, Hanover Township.

BZA 21-10 – GUY NICHOLSON: DEVELOPMENT STANDARDS VARIANCES. Located at 2806 S Rosewood Dr, Shelbyville, Shelby Township. Longacres Sec. 2, Lot 43.

BZA 21-11 – SCOTT MULLINS & CYNTHIA GASTEL: DEVELOPMENT STANDARDS VARIANCES. Located at 8531 N 700 W, Fairland, Moral Township.

DISCUSSION

None.

ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, **May 11, 2021** at **7:00 PM**.

Property Details

Location: 3114 E German Rd,
Shelbyville, Addison Township.

Property Size: 4.84 acres.

Current Land Use: Estate Residential.

Zoning Classification:

RE (Residential Estate)

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

Development Standards: Promote low-impact development in harmony with a natural setting

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	A1	Cropland
South	R1	Single-Family Residential
East	RE	Estate Residential
West	RE	Estate Residential

Staff Report

Case Number: BZA 21-07

Case Name: Dennis Chaney – Development Standards
Variance

Request

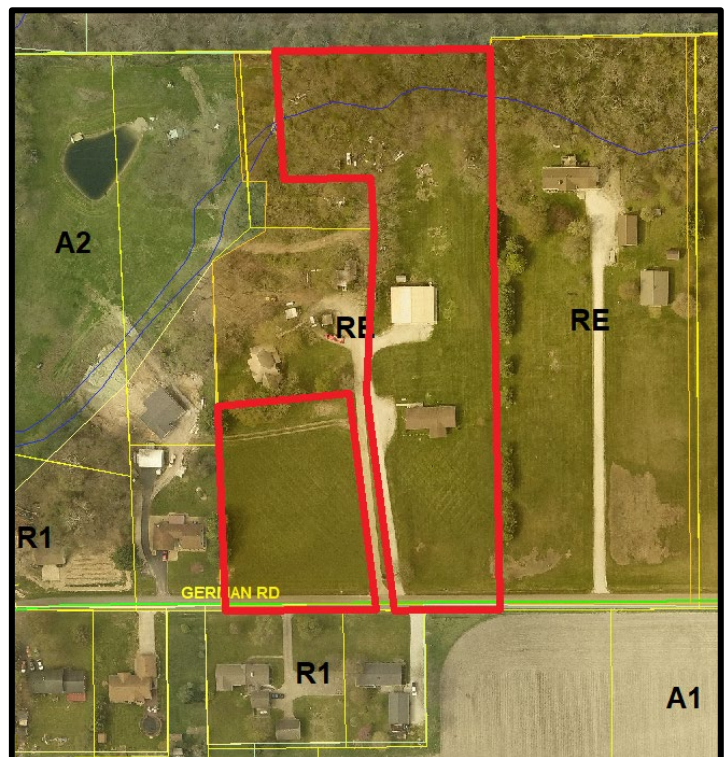
Variance of Development Standards to allow for construction of a 2,240 sq. ft. addition to a pole barn (the total area of all accessory structures on a lot cannot exceed 2X the footprint of the house in the RE (Residential Estate) District).

Code Requirement

UDO Section 5.06 D: *Maximum Size:* The total area of all enclosed accessory structures on a lot shall not exceed two times (2X) the footprint of the primary structure.

Purpose of Requirement - Limiting the 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, machinery, and/or equipment.

Property Map



Case Description

- The petitioner plans to construct a 40' x 56' addition to an existing pole barn to use for storage.
- The total square footage of the pole barn would equal approximately 2.5X the square footage of the footprint of the house.
- The petitioner plans to add the addition to the rear of the existing pole barn. The pole barn sits over 350-feet from the public road.

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 addition would require a building permit and the structure must comply with all building codes before passing a final inspection. The general public would not have access to the pole barn. The pole barn sits over 350-feet from the road and therefore would not appear conspicuous to the general 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: Construction of the addition would not significantly change the use or character of the property and therefore would not have a significant impact on adjacent property.

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 Comprehensive Plan designates the future land use of the property as agriculture. A strict application of the ordinance would not allow for a pole barn consistent with the size of other large pole barns in agricultural areas.

Staff Recommendation

Staff recommends **APPROVAL** primarily because construction of the addition would not significantly change the use or character of the property and therefore would not have a significant impact on adjacent property.

Applicant/Owner Information

Applicant:	Dennis Chaney 3114 E German Rd Shelbyville, IN 46176	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.

Adjoining As simple BARR

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.)

Shelby County Health Department

1600 E. State Rd. 44, Suite B, Shelbyville, Indiana 46176-1844

Phone (317) 392-6470 Fax (317) 392-6472

Property Owners

Name: Dennis Chaney Property Address: 3114 E German Rd

Township: Addison Section #: 26 Subdivision: _____ Lot #: _____

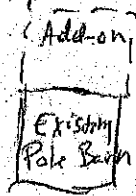
Description of Construction: 56' x 40' Pole Barn Add-on

Signature: [Signature] Printed Name: Dennis Chaney

No permanent structures within 10 ft of septic tank and field

Drawing/Plans

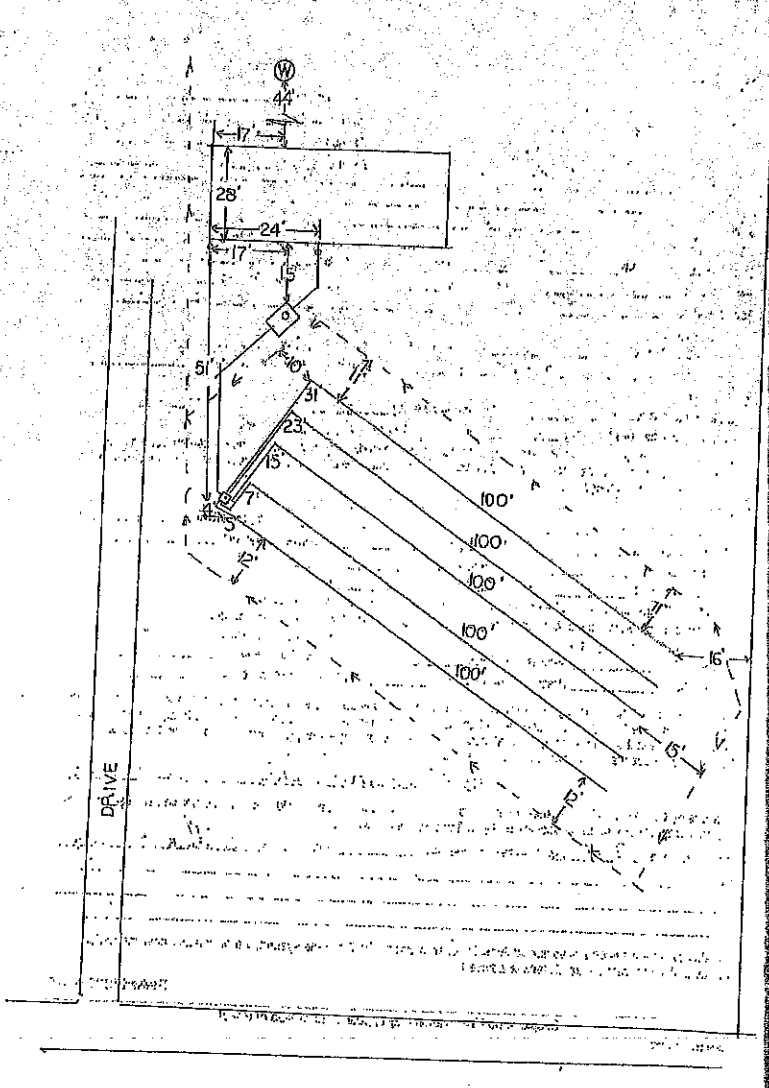
No Plumbing/Water in Building & Existing Bldg.



Water/plumbing in building? Yes No

Adding Bedrooms? Yes No

Total Existing/Proposed Bedrooms 3



Inspection Date: 3-1-2021
AddOns&OtherBuildings 10/01/2020

Inspector: [Signature]
BZA April 13, 2021
Page 7 of 28

Approved/Disapproved

Property Details

Location: 2795 E US 52,
Morristown, Hanover Township.

Property Size: 10.31-acres.

Current Land Use: Vacant.

Zoning Classification:

IS (Institutional)

Intent: This district is established for institutional and municipal owned lands for public purpose and use.

Development Standards: Require quality time, place, and manner development standards to minimize impacts on adjacent residential properties while serving the needs of the overall community.

Future Land Use per Comp Plan

Suburban Residential

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

Surrounding Development

	Zoning	Land Use
North	I	Industrial (Morristown)
South	R1	Single-Family Residential
East	R1	Single-Family Residential
West	A1	Cropland

Staff Report

Case Number: BZA 21-08

Case Name: Faith Baptist Church – Development Standards
Variances

Request

Variances of Development Standards from landscaping standards applicable to new development, specifically to allow for:

1. Eighteen (18) street trees (27 trees required);
2. Zero (0) interior lot trees (10 trees required);
3. Five (5) trees and twenty-two (22) shrubs within the parking lot area (20 trees and 63 shrubs required).
4. Eighteen (18) trees along the east property line (36 trees required);
5. Twelve (12) trees along the west property line (24 trees required);
6. Eighteen (18) trees along the south property line (36 trees required);

Code Requirement

UDO Section 5.44 A 1 (Street Buffering Landscaping Standards) – Interstate and State Highways: One (1) canopy tree and one (1) ornamental or evergreen tree per sixty (60) lineal feet of frontage.

UDO Section 5.47 A 3 (Non-residential Lot Planting Landscaping Standards) – Lots Over 45,000 Square Feet: Four (4) deciduous trees plus one (1) deciduous tree for every 15,000 square feet above the initial 45,000 square feet. The absolute maximum number of trees required for any large lot shall be ten (10).

UDO Section 5.48 (Parking Lot Landscaping Standards)

A 1 – One (1) canopy tree per thirty-five (35) feet of parking lot perimeter planted within ten (10) feet of the parking lot edge.

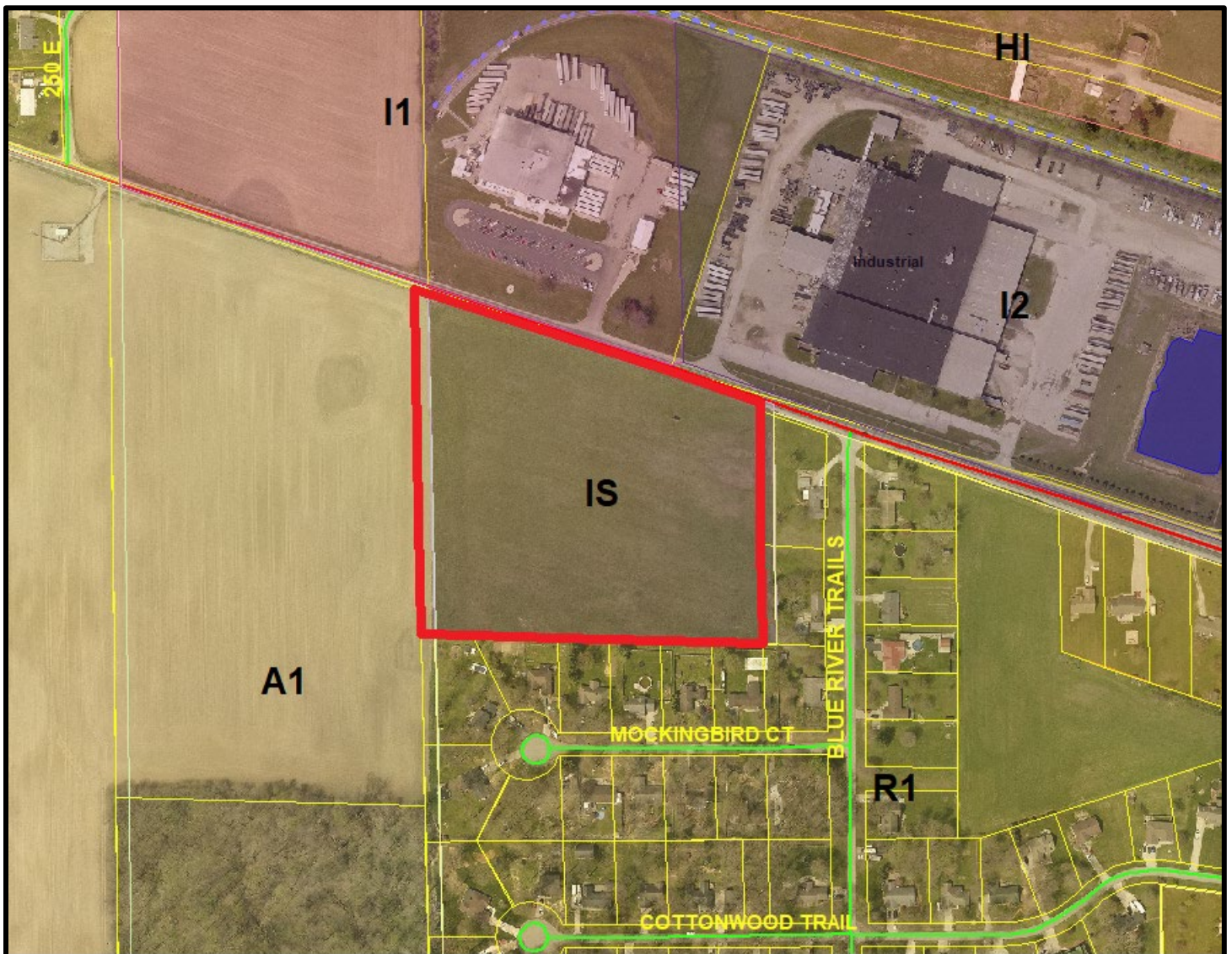
A 2 – One (1) shrub per ten (10) lineal feet of parking lot perimeter planted within five (5) feet of the parking lot edge. Minimum size at time of planting shall be eighteen (18) inches in height. A minimum of fifty percent (50%) of the shrubs shall be evergreen. The row of shrubs may have openings for pedestrian movement.

B 4 – Plant Materials: Each island or peninsula shall contain at least one (1) deciduous tree. One-half (1/2) of the trees planted in islands or peninsulas shall be canopy trees.

UDO Section 5.49 F (Buffer Yard Landscaping Standards) – Buffer Yard "B": One (1) canopy tree and two (2) ornamental or evergreen trees shall be planted for every sixty (60) feet of contiguous boundary with the adjacent lot. Each tree shall be planted within fifteen (15) feet of the property line, but no closer than five (5) feet to the property line.

Purpose of Requirements – The UDO includes landscaping standards to protect 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, buffer adjoining properties from higher-intensity uses, minimize storm runoff, and improve air quality.

Property Map



Case Description

- The petitioner has obtained Site Plan Approval, and Improvement Location Permit, and building permits for development of a church.
- The development plans include a 7,810 sq. ft. metal building having brick veneer on the front portion of the building, parking areas, and utility connections to Morristown water and sewer facilities.
- The County's Engineering Firm, USI, has approved the drainage plans. The site will drain to a dry detention area and outlet to a storm sewer on Blue River Trails through a drainage easement.
- The property currently does not include any trees, shrubs, or other landscaping features.

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: The industrial uses in the area include fewer street trees than proposed for the church site, therefore lack of required street trees would not alter the character of the area and therefore not impact the public traveling on US 52. Attendees of the church would only include parishioners and their guests; therefore, lack of required interior site landscaping would not impact the public. Lack of required landscape buffers could impact adjoining property but would have minimal impact on 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 industrial uses in the area include fewer street trees than proposed for the church site, therefore lack of required street trees would not alter the character of the area. The UDO requires interior lot landscaping in front of the building near the center of the property, therefore lack of required interior lot landscaping would have minimal aesthetic impact on adjacent properties. Lack of the required landscape buffer on the west property line would not impact the continued use of the adjacent property to the west for crop production. Lack of the required landscape buffer on the south and east property lines may not allow for adequate screening of facilities and activities occurring on site from homes located in the Blue River Trails Subdivision.

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: Churches generally have smaller-scale and less frequent on-site activities than other uses permitted in the Institutional District, such as schools, emergency services, and other governmental facilities. A reduction in landscaping requirements for a church would have minimal aesthetic impact.

Staff Recommendation

Staff recommends **APPROVAL** primarily because churches generally have smaller-scale and less frequent on-site activities than other uses permitted in the Institutional District. Therefore, a reduction in landscaping requirements for a church would have minimal impact on the public.

However, lack of the required landscape buffer on the south and east property lines may not allow for adequate screening of facilities and activities occurring on site from homes located in the Blue River Trails Subdivision.

Recommended Stipulation: Landscape Buffer 'B' shall be installed along the west and south property lines.

Applicant/Owner Information

Applicant:	Wayne Scott 11393 N Division Rd Fountaintown, IN 46130	Owner:	Faith Baptist Church P.O. Box 243 Morristown, IN 46161
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View from parking lot area, looking northwest at US 52 (Staff Photograph – March 2021)



View from parking lot area, looking northeast at US 52 (Staff Photograph – March 2021)



View from rear of proposed building, looking southwest at Blue River Trails (Staff Photograph – March 2021)



View from parking lot area, looking east at Blue River Trails (Staff Photograph – March 2021)



View from rear of
proposed building,
looking southeast
at Blue River Trails
(Staff Photograph – March
2021)

**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: Faith Baptist Church

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.

still a nice looking piece of 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.

no one's property will be damaged because of this request

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.

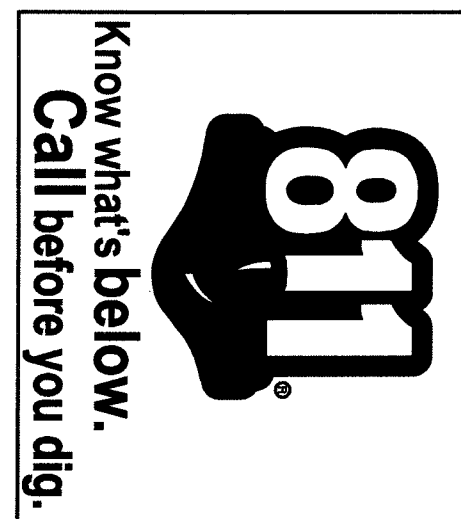
The use of the property will not affected negatively in any way.

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:

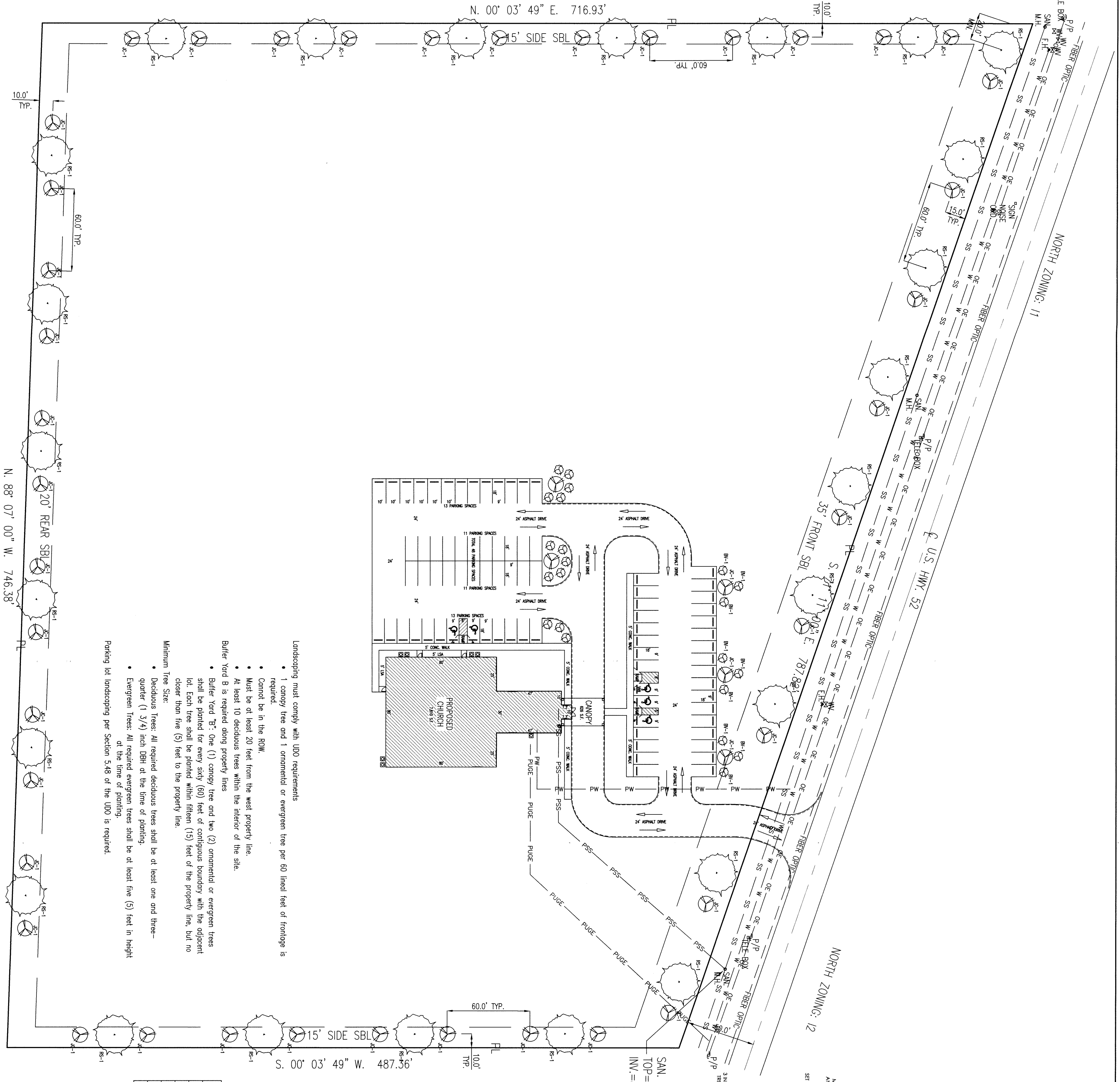
General Welfare: How does the request do no harm to the overall community of Shelby County? (ex. pollution, customer safety, road network safety, building code compliance, etc.)

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.)



WEST ZONING: A1



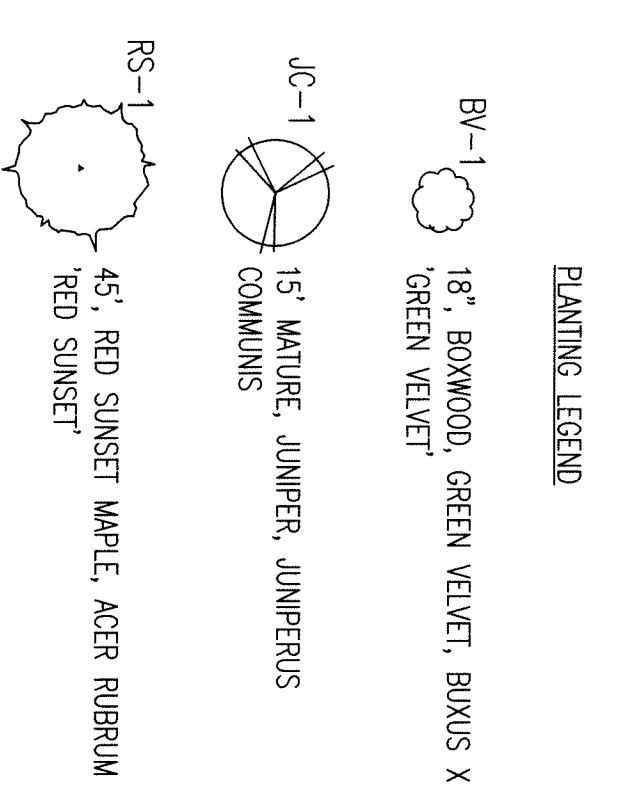
SOUTH ZONING: R1

PROPOSED LANDSCAPING PLAN

10.31 AC., ZONED: IS

- Landscaping must comply with UDO requirements
- 1 canopy tree and 1 ornamental or evergreen tree per 60' linear feet of frontage is required.
 - Cannot be in the ROW.
 - Must be at least 20 feet from the west property line.
 - At least 10 deciduous trees within the interior of the site.
- Buffer Yard B is required along property lines
- Buffer Yard B: One (1) canopy tree and two (2) ornamental or evergreen trees shall be planted for every sixty (60) feet of contiguous boundary with the adjacent lot. Each tree shall be planted within fifteen (15) feet of the property line but no closer than five (5) feet to the property line.
- Minimum Tree Size:
- Deciduous Trees: All required deciduous trees shall be at least one and three-quarter (1 3/4) inch DBH at the time of planting.
 - Evergreen Trees: All required evergreen trees shall be at least five (5) feet in height at the time of planting.
- Parking lot landscaping per Section 5.48 of the UDO is required.

EAST ZONING: R1

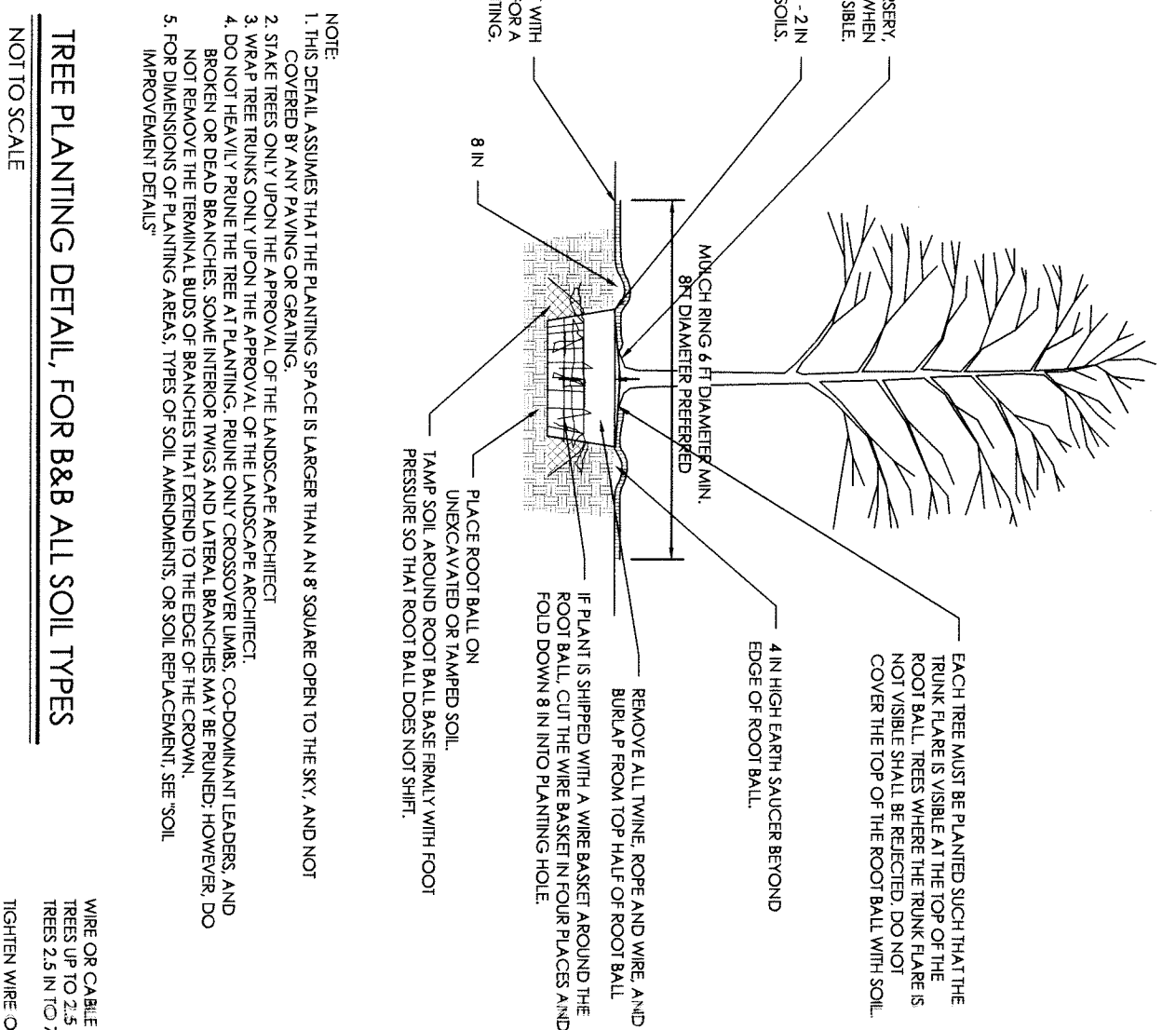


TREES AND SHRUBS MUST MEET SIZE REQUIREMENT EXPRESSED IN THE UNITED DEVELOPMENT ORDINANCE.

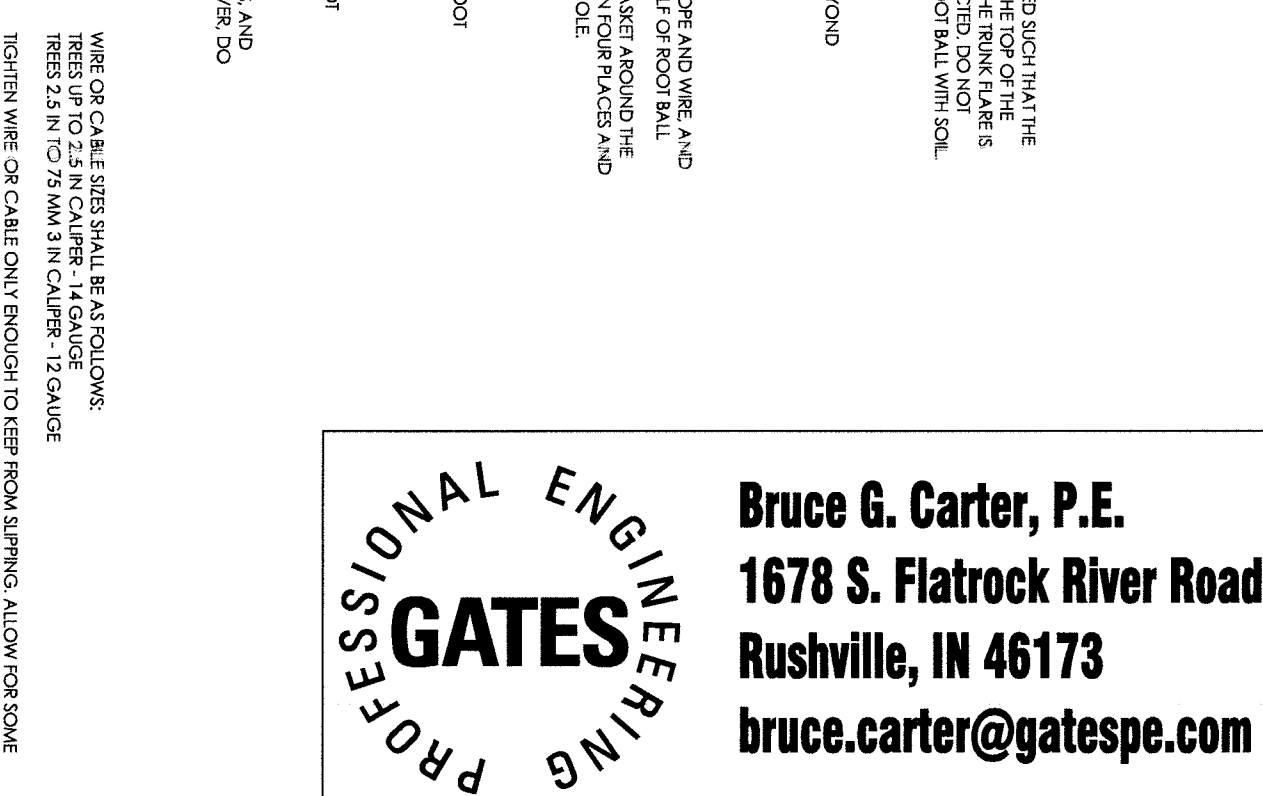
Key/ BOTANICAL NAME	COMMON NAME	PLANTING SIZE	UNITED SIZE	QTY.
BW-1 BOXUS X 'GREEN VELVET'	BOXWOOD, GREEN VELVET	15"-18"	48" HT./36" SPREAD	24
JC-1 JUNIPERUS COMMUNIS	JUNIPER	1 1/2" CAL.	15' HT./8" SPREAD	6
RS-1 ACER RUBRUM 'RED SUNSET'	RED SUNSET MAPLE	2.5"	45' HT./35" SPREAD	2

- NOTES:
1. FOR COMPLETE LAYOUT INFORMATION SEE CIVIL DRAWINGS.
 2. VERIFY UNDERGROUND UTILITY LOCATIONS PRIOR TO PLANT INSTALLATION.
 3. CONTRACTOR TO VERIFY QUANTITIES. NOTIFY LANDSCAPING ARCHITECT OF ANY DISCREPANCIES.
 4. CONTRACTOR TO VERIFY FIELD CONDITIONS. NOTIFY LANDSCAPE ARCHITECT OF ANY DISCREPANCIES BETWEEN DRAWINGS AND FIELD CONDITIONS.
 5. STAKE ALL TREES AND LARGE SHRUBS AS INDICATED BY INDUSTRY STANDARDS.
 6. ALL PLANT PLANT BEDS ARE TO BE SPADE EGED UNLESS NOTED OTHERWISE. PROVIDE STEEL EDGE BID ALTERNATE.
 7. ALL PLANT MASSES TO BE CONTAINED WITHIN MULCH BED.
 8. ALL GROUNDCOVER BEDS ARE TO BE MULCHED WITH 1" MIN. SHRUBS WITH 3" MIN. DEPTH WITH SHREDED HARDWOOD MULCH.
 9. CONTRACTOR TO REGRADE, REPAIR AND REPLANT ALL AREAS DISTURBED BY CONSTRUCTION, INCLUDING ANY OFF-PROPERTY AND OR OTHERWISE NOT INDICATED ON PLANS.
 10. ALL TURF AREAS ARE TO BE SODED, UNLESS NOTED.
 11. CONTRACTOR SHALL MAINTAIN POSITIVE DRAINAGE IN LAWN AND PLANTING BED AREAS.
 12. CONTRACTOR SHALL USE TREE & SHRUB DETAILS AS PLANTING GUIDELINES.
 13. PROVIDE LAWN IRRIGATION IN ALL LAWN AND PLANTING AREAS.
 14. LANDSCAPE PLAN AND COUNT TO BE ADJUSTED AND COORDINATED WITH TREE SAVE PLAN.

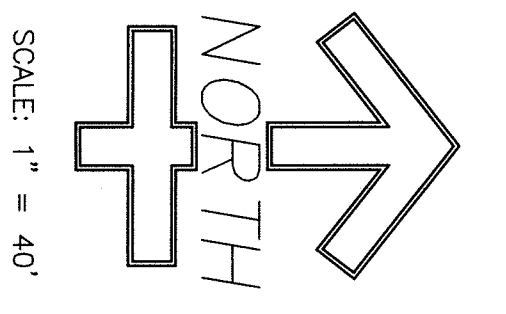
TREE PLANTING DETAIL FOR B&B ALL SOIL TYPES



TREE STAKING DETAIL, 3" CALIPER OR LESS



FLOOD INFO:
THE PROPOSED PROPERTY IS LOCATED IN A SPECIAL FLOOD HAZARD ZONE "X" AS PER FIRM MAP #18145C0065C EFFECTIVE DATE NOVEMBER 5, 2014. THE ACCURACY OF THIS FLOOD HAZARD STATEMENT SHOWN ON THIS PLOT PLAN IS SUBJECT TO MAP SCALE UNCERTAINTY AND TO ANY OTHER UNCERTAINTY IN LOCATION OR ELEVATION ON THE REFERENCED FLOOD INSURANCE RATE MAP.



PROFESSIONAL ENGINEERING
GATES
Bruce G. Carter, P.E.
1678 S. Flatrock River Road
Rushville, IN 46173
bruce.carter@gatespe.com



<p>SHEET NAME PROPOSED LANDSCAPING PLAN</p> <p>PROJECT NAME FAITH BAPTIST CHURCH 2795 E. US 52 MORRISTOWN, IN 46163</p>	<p>CHECKED TN</p> <p>CERT. I</p> <p>SCALE 1"=40'</p> <p>DRAWN RC</p>	<p>REVISION PER COUNTY REVIEW - 9/17/20</p>	<p>DATE 9/24/20</p>
	<p>DATE: AUG. 26, 2020</p> <p>PROJECT NO.: 18030</p> <p>SHEET NO. C106</p>		

Property Details

Location: 2806 S Rosewood Dr,
Shelbyville, Shelby Township.
Longacres Sec. 2, Lot 43 & north
part of Lot 44.

Property Size: +/- 0.56-acres.

Current Land Use: Single-Family
Residential.

Zoning Classification:

R1 (Single-Family Residential)

*Intent: This 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.*

Future Land Use per Comp Plan

Incorporated Planning Area /
Single-Family Residential
*Single-family residential can indicate a
few varieties of densities including
high, medium, and low densities...
Because Shelbyville has strong utility
and infrastructure accessibility, a
variety of these single-family
residential types should make sense
almost anywhere there is available
infrastructure....*

Surrounding Development

	Zoning	Land Use
North	R1	Single-Family Res.
South	R1	Single-Family Res.
East	R1	Single-Family Res.
West	R1	Single-Family Res.

Staff Report

Case Number: BZA 21-10
Case Name: Guy Nicholson – Development Standards
Variances

Request

Variances of Development Standards to allow for construction of a 960 sq. ft. pole structure:

1. Four (4) feet from the front property line (minimum 35-foot front setback required);
2. In the front yard;
3. Greater than 50% the square footage of the footprint of the house.

Code Requirement

UDO Section 2.14: *Minimum Front Yard Setback: 35 feet*

UDO Section 5.04 C: *Placement: A permitted accessory structure shall not be placed in the front yard of any lot.*

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

Front setback requirements allow for open space, maintain consistency of development in neighborhoods, ensure visibility along roadways, and reduce traffic hazards along roadways.

Prohibiting the construction of accessory structures in the front yard maintains the primary structure as the visual focal point of the property.

Limiting the 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.

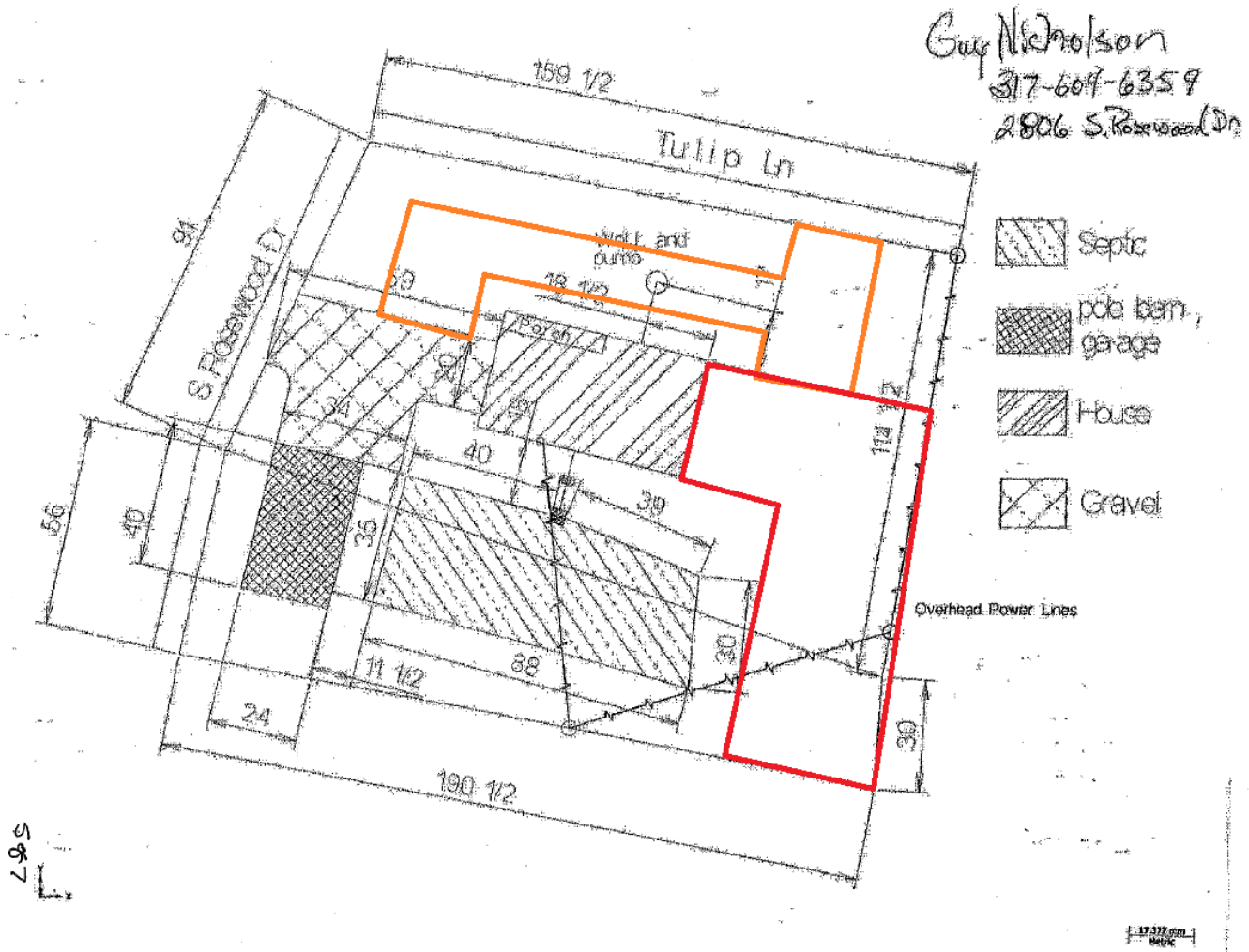
Property Map



Case Description

- The petitioner plans to construct a 24' x 50' post-building garage. The petitioner stated the structure would have a concrete floor and closely resemble the house.
- The total square footage of the garage would equal approximately 55% the square footage of the footprint of the house.
- The area proposed for placement of the garage functions as the rear yard of the property due to the house fronting upon Tulip Ln.

- The septic system prevents location of the garage any further from the road on the south side of the house. Location of the garage in the side yard on the east side of the house or the rear yard would necessitate a new driveway cut off Tulip Ln. or extension of the existing driveway around the front of the house.



Ordinance requirements and the septic system currently limit construction of garage to the area in red. Options to extend driveway depicted by area in orange.

Staff Analysis of Findings of Fact

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

Staff Analysis: Placement of the garage 4-feet from the street should not pose a hazard to traffic due to generally low traffic speeds on dead-end residential streets. Placement of the garage would not necessitate an additional driveway cut onto the public street. Construction of the garage 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 garage.

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 area proposed for placement of the garage functions as the rear yard of the property due to the house fronting upon Tulip Ln. Placement of the garage is consistent with setback requirements from side and rear property lines. An existing tree would provide a buffer between the garage and the adjacent property's front yard. Construction of a garage in a rear yard does not deviate from the typical character of residential properties in the County having accessory structures. The garage does not significantly deviate from the size 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: The septic system prevents location of the garage any further from the road on the south side of the house. Location of the garage in the side yard on the east side of the house or the rear yard would necessitate a new driveway cut off Tulip Ln. or extension of the existing driveway around the front of the house.

Staff Recommendation

Staff recommends **APPROVAL** primarily because the septic system limits placement of the garage in the rear yard.

Applicant/Owner Information

Applicant:	Guy Nicholson 2806 S Rosewood Dr. Shelbyville, IN 46176	Owner:	Guy & Cheryl Nicholson
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View of property from intersection of Rosewood Dr. & Tulip Ln (Staff Photograph – March 2021)



Area proposed for placement of the garage (Staff Photograph – March 2021)



**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: Guy Nicholson

Case #: _____

Location: 2806 S. Rosewood Dr. 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.

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, it will be a modern and new building. Closely resembling the primary house.

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.)

Guy Nicholson

317-604-6359

2806 S. Rosewood Dr



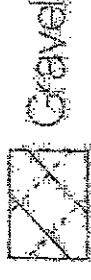
Septic



Pole barn,
garage

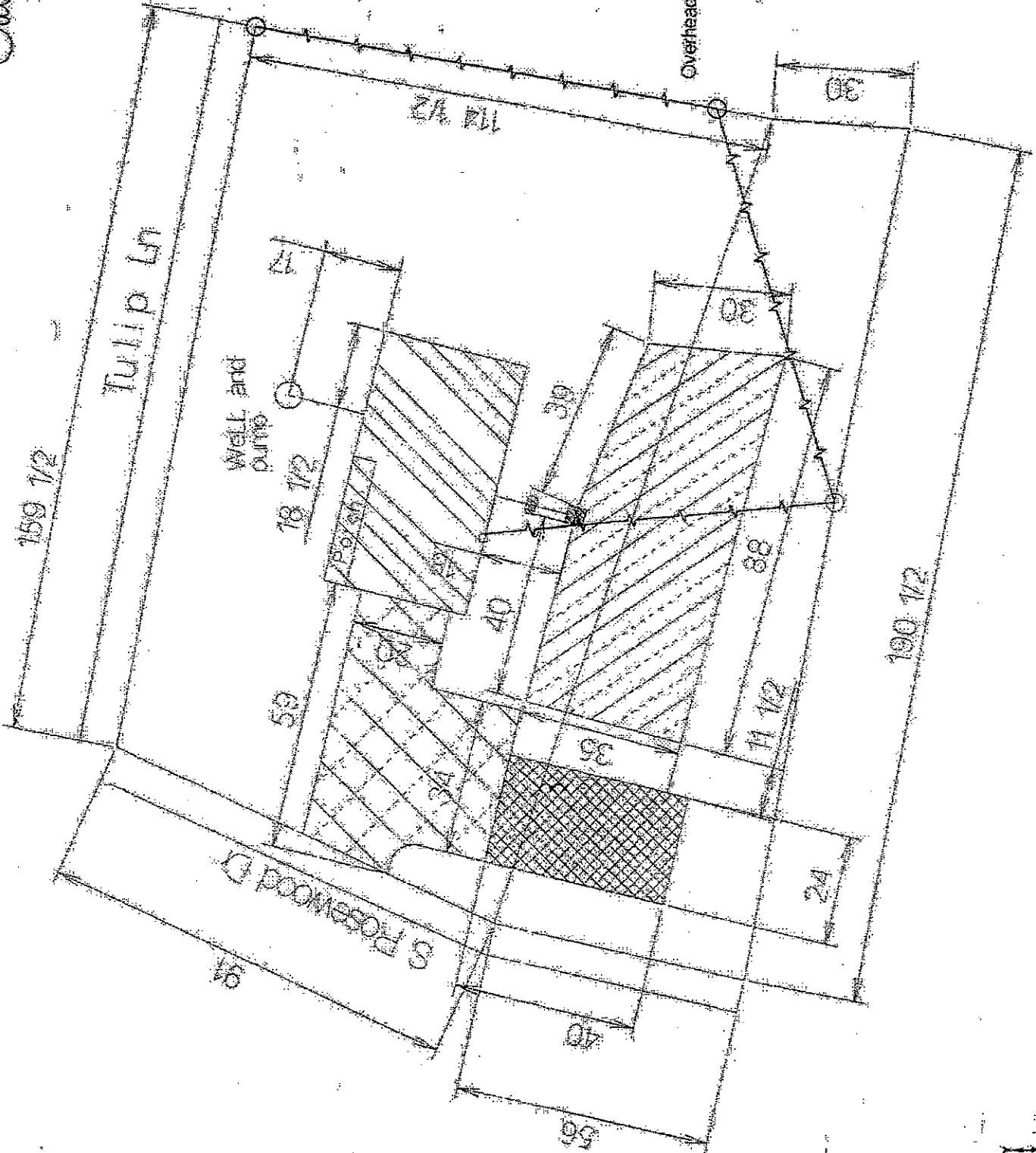


House



Gravel

Overhead Power Lines



1:10 2/2 2004

587

Property Details

Location: 8531 N 700 W, Fairland, Moral Township.

Property Size: 5.33-acres.

Current Land Use: Agricultural.

Zoning Classification:

A1 (Conservation Agricultural)

***Intent:** This district is established for the protection of 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 the Conservation Agricultural District.*

Future Land Use per Comp Plan

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

Surrounding Development

	Zoning	Land Use
North	A1	Multi-Family Res.
South	R1	Estate Res.
East	IS/RE	Fire Department / Single-Family Res.
West	A1	Agricultural

Staff Report

Case Number: BZA 21-11
Case Name: Scott Mullins & Cynthia Gastel –
Development Standards Variances

Request

Variances of Development Standards to legally establish:

1. The keeping of more than five (5) horses per acre.
2. Use of less than 1-acre of pasture area per horse.
3. A stable located less than 150-feet to the nearest residence and less than 40-feet from the property line.

Code Requirement

UDO Section K-07 A 2: ***Maximum number of horses:** Five (5) horses per acre of lot size. Maximum seventy-five (75) horses.*

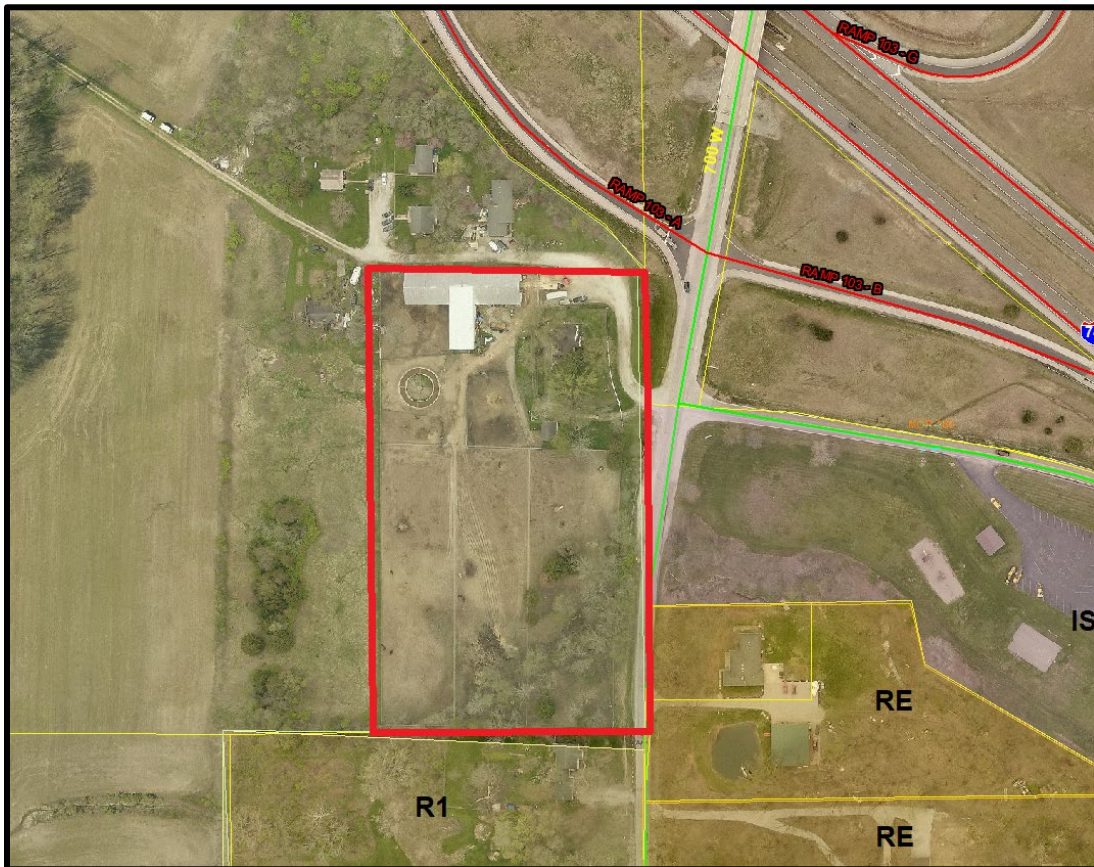
UDO Section K-07 A 4: ***Setbacks:** A stable shall be permitted within the setbacks applicable to a primary structure in the subject zoning district and must be a minimum one hundred (150) feet from the nearest residence.*

UDO Section K-07 A 5: ***Pasture turnout of stabled horses:** Stabled horses in pasture areas are required to meet all requirements of the Pastured Farm Animals standards, other than the minimum lot area.*

***UDO Section 5.41 B:** **Maximum Animal Units:** One (1) animal unit per fenced acre. (1 horse = 1 animal unit).*

Purpose of Requirements – The UDO includes keeping of animals standards to maintain the character of rural areas and mitigate nuisances to neighboring properties related to animals, such as noise and odor. Specifically, limiting the number of horses on property helps maintain vegetative groundcover consistent with rural areas.

Property Map



Case Description

- Clients of the petitioner keep their thoroughbred horses on the property to participate in the Indiana Racing and Breeding program. The Indiana Horse Racing Commission Standardbred Breed Development program designates the property as an Indiana Breed Development Farm.
- The petitioner stated that they also reside in the house on the property.
- The petitioner's description of farm operations includes:
 - Maximum of twenty-one (21) horses on the property at any one time. Fewer horses in non-breeding season during the summer.
 - Horse barn having thirty-one (31) stalls
 - Each horse has a separate stall. Horses stay in stalls at night.
 - Animal waste is stored in a dumpster on the south side of the horse barn. CGS Advanced Waste removes waste from the dumpster every 21 to 30 days.
- Tax records list the date of construction of the horse barn as 1983. The petitioner stated that previous owners have used the property for boarding of horses since the 1970s.

- Historical aerial photography shows horse facilities on the property during several years between 1998 and present day. However, the aerial photography also shows much more vegetative cover than present day, which suggests that historically the property may not have housed as many horses.
- Staff received a complaint regarding the keeping of horses on fewer acres than permitted. When Staff contacted the petitioner, the petitioner explained that the property had remained vacant for about a year prior to their purchase of the property. Per the UDO, loss of legal non-conforming status ' or grandfathering' occurs if a use is discontinued for six or more months.
- The UDO includes Keeping of Animals standards to limit impacts of the keeping of animals on the public and adjacent property, rather than to protect the welfare of animals. However, animal control did conduct an animal welfare check in early 2021 and found no violations.
- A similar horse farm is located approximately a half-mile north of the property. This property includes 24-acres, with 10-acres dedicated to pasturing of horses. However, the stable has a floor area five times greater than the area of the barn on the subject property.

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: Animal waste is stored in a dumpster on the south side of the horse barn. CGS Advanced Waste removes waste every 21 to 30 days. Therefore, use of the property for keeping of twenty-one horses should not pose an environmental impact. The keeping of twenty-one horses on five acres does limit vegetative ground cover on the property which deviates from the character of other agricultural properties in the County. This poses an aesthetic impact to motorists on N 700 W.

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: Horses only utilize the pasture area during the day and generally stay at the north end of the pasture area which does not adjoin any residential properties. The use of the property for keeping of twenty-one horses would not impact adjacent agricultural uses.

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: A strict application of the UDO would not allow for use of the property consistent with the historical use of the property.

Staff Recommendation

Staff recommends **APPROVAL** primarily because a strict application of the UDO would not allow for use of the property consistent with the historical use of the property. Staff recommends the following **stipulations** to limit potential environmental impacts and aesthetic impacts related to lack of ground cover.

1. No more than twenty-one (21) horses shall be kept on the property at any one time.

- 2. Animal waste shall be stored in a dumpster on the south side of the horse barn and stored waste shall be completely removed from the property a minimum of every thirty (30) days.**
- 3. At least eight (8) evenly spaced evergreen trees shall be installed along the inside of the fence adjacent to N 700 W. The trees shall be installed by August 13, 2021 and maintained until use of the property conforms to the provisions of the Unified Development Ordinance.**

Applicant/Owner Information

Applicant:	Scott Mullins & Cynthia Gastel 8531 N 700 W Fairland, IN 46126	Owner:	George & Linda Comminos 11232 S Rockwell St. Chicago, IL 60655
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Standing at center of property looking south (Staff Photograph – March 2021)



Waste storage (Staff Photograph – March 2021)



**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: Scott Mullins and Cynthia Gastel

Case #: _____

Location: 8531 N 700 W Fairland Indiana 46126

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

1. **General Welfare:** The approval will not be injurious to the public health, safety, and general welfare of the community.
The approval is in no way injurious to the public health, safety and general welfare of the community.

Our boarding farm is completely and safely fenced. All horses have their own stalls and no horses are outside overnight.

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.

Our boarding farm has no adverse affect on the area adjacent to the property.

All of the buildings on the property are pre established and predate the neighboring houses.

Upgrades to our property include a white picket fence and landscaping including many flowers in the summer.

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.

We purchased this property as an already existing horse boarding farm. In not being able to utilize the farm as it was advertised would be a great hardship to not only ourselves but to our clients that have sent their

thoroughbred horses here in order to participate in the Indiana racing and breeding program. We are committed to the Indiana racing and breeding program fully

and are using the already existing barn and land to do so. This was an already existing boarding stable formerly known as Sugar Creek Stables.

It has been used for a boarding stable since it was built in the 1970s and we continue to use it in exactly the same manner.

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.)