

**Shelby County
Board of Zoning Appeals**

May 11, 2021 at 7:00 PM

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MEETING AGENDA

Shelby County Board of Zoning Appeals May 11, 2021, 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the April 13, 2021 meeting.

NEW BUSINESS

BZA 21-13 – LAURA NEWBY: DEVELOPMENT STANDARDS VARIANCE. Located at 6894 W SR 44, Shelbyville, Hendricks Township.

BZA 21-15 – JEFFERY LEGEAR: DEVELOPMENT STANDARDS VARIANCE. Located at 9536 N Louann Dr, Fairland, Moral Township.

OLD BUSINESS

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

DISCUSSION

V20-12 – Cory Family Trust Zoning Violation

ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, **June 8, 2021** at **7:00 PM**.

Property Details

Location: 6894 W SR 44, Shelbyville, Hendricks Township.

Property Size: 4.3 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	A1	Cropland
East	A1	Cropland
West	RE	Cropland

Staff Report

Case Number: BZA 21-13

Case Name: Laura Newby – Development Standards Variance

Request

Variance of Development Standards to allow for a dwelling unit within an accessory structure.

Code Requirement

UDO Section 5.04 D: *Prohibited for Occupancy:* A permitted accessory structure shall not be utilized for human occupancy.

Purpose of Requirement - Prohibiting occupancy of accessory structures maintains intended residential density among properties within the zoning district.

Property Map



Case Description

- The petitioner, her husband, and her son purchased the subject property in February of 2021. The real estate listing advertised the property as having a single-family residence and a barn including a one-bedroom apartment. The petitioner and her husband intended to live in the apartment and her son and his family intended to live in the main house.
- Staff found a building permit on file issued in 1989 for construction of the barn for use as a storage building, however, did not find a building permit for the apartment in the barn.
- The Health Department did not find a permit on file for a septic system to service the apartment. The Health Department will require installation of a new septic system for the apartment.
- Due to lack of a building permit, the Staff cannot verify that the apartment complies with current residential building code, or previous building code if the apartment was installed prior to adoption of the current code.
- The Plan Commission office currently requires approval of a variance, site plan, septic plans, a building permit, an electric permit, and a plumbing permit prior to construction of a dwelling unit within an accessory structure.

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 general public would not have access to the apartment. The barn sits over 400-feet from the road and therefore use of the apartment in the barn 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: Use of an apartment in the barn would not impact continued use of adjacent property for crop production. Approval of the variance would not result in the overall residential density of the area exceeding one dwelling for every five acres as recommended for the Agriculture land use designation by the Comprehensive Plan.

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 ordinance would prohibit use of an existing apartment within an accessory structure.

Staff Recommendation

Staff recommends **APPROVAL** because a strict application of the ordinance would prohibit use of an existing apartment and use of the apartment would not impact continued use of adjacent property for crop production.

Staff recommends the following stipulations:

1. The accessory structure shall only be occupied by the petitioner and the petitioner's spouse.
2. The accessory structure shall not be occupied until installation of a septic system approved by the County Health Department.
3. The accessory structure shall not be occupied until a final inspection of the dwelling unit is approved by the County Building Inspector. The petitioner shall pay a \$50 inspection fee.
4. Beginning in May of 2023, the petitioner shall provide notice to the Plan Commission office every other year regarding the continued need by the petitioner to occupy the accessory structure.

Applicant/Owner Information

Applicant: Laura Newby
6894 W SR 44
Shelbyville, IN 46176

Owner: Laura Newby, George Newby, & Kyler Adams

View of barn with apartment from existing driveway



Zillow.com Real Estate Listing

**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: Laura Newby
Case #: _____
Location: 6894 W. St Rd 44 Shellyville TN 37617

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.

yes

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: 9536 N Louann Dr,
Fairland, Moral Township.

Property Size: +/- 1-acre.

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

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	R1	Single-Family Res
South	R1	Single-Family Res
East	R1	Single-Family Res
West	R1	Single-Family Res

Staff Report

Case Number: BZA 21-15

Case Name: Jeffery Legear – Development Standards
Variance

Request

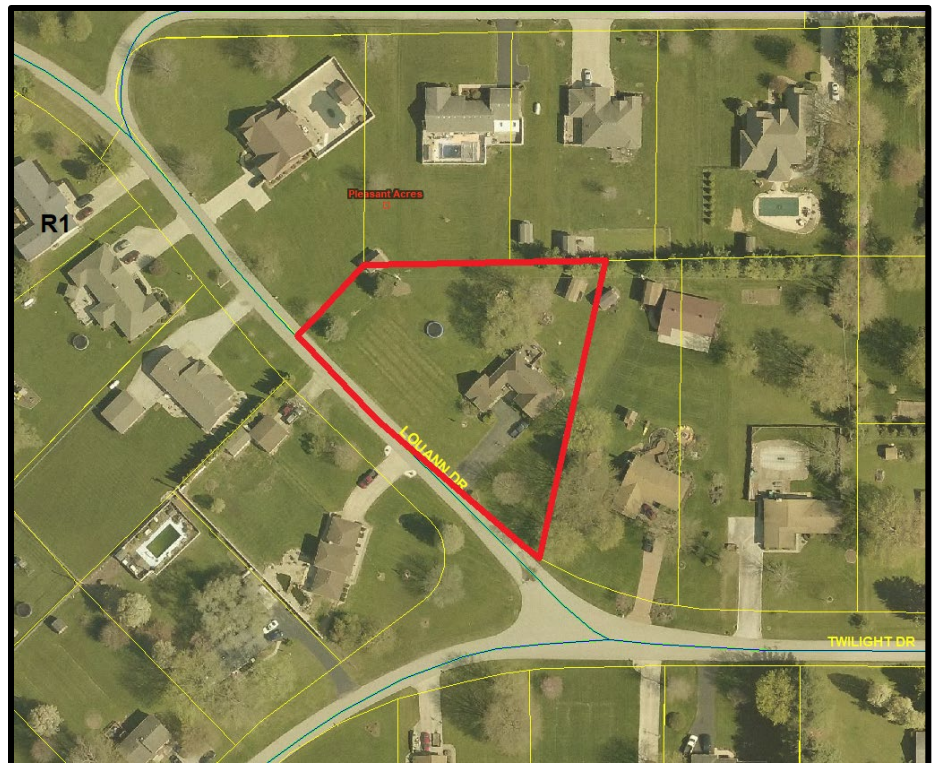
Variance of Development Standards to allow for an accessory structure in the front yard.

Code Requirement

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

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

Property Map



Case Description

- The petitioner plans to construct a 24' x 32' (768 sq. ft.) post-frame detached garage.
- The detached garage would sit at the southeast corner of the property adjacent to the driveway.
- The detached garage would project out in front of the attached garage approximately 10-feet.
- The detached garage would sit 35-feet from the edge of the road and at least 5-feet from the side property line.
- The septic system is located in the front yard north of the house. The well is located between the southeast side of the house and the property line.
- The neighborhood includes well-maintained medium-to-large size single-family residences on lots between a half an acre to an acre. Several properties in the neighborhood include detached garages in addition to a home with an attached garage. The property directly across the street from the subject property includes a detached garage in the front yard.

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 detached garage 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 detached 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: A detached garage in the front yard including facade materials matching the residence and not exceeding the height of the residence would have minimal impact on the aesthetic character of the neighborhood.

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: Trees along the northwest property line and the septic system prevent installation of a driveway to provide access to a detached garage in the northwest side yard or rear yard. The well prevents construction of the detached garage in the southeast side yard.

Staff Recommendation

Staff recommends **APPROVAL** primarily because trees along the northwest property line and the septic system prevent installation of a driveway to provide access to a detached garage in the northwest side yard or rear yard. Also, the well prevents construction of the detached garage in the southeast side yard.

Recommended Stipulations:

1. The materials used on the facade of the detached garage shall match the materials used on the residence.
2. The height of the detached garage shall not exceed the height of the residence.
3. The petitioner shall submit building elevations of the detached garage for approval by the Planning Director prior to obtaining a building permit.

Applicant/Owner Information

Applicant:	Jeffery Legear 9536 N Louann Dr Fairland, IN 46126	Owner:	Same
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Proposed Location of Garage



Staff Photograph – May 5, 2021

**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: Jeffery Legor

Case #: _____

Location: 9536 N Loran Dr Fairland IN 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 proposed detached garage will allow me to demolish old storage shed.
I see in no way it would cause injury to anyone.
There will still be over 35' distance to road from garage.

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.

I estimate that the proposed build will add value to home.
Detached garage will be same siding and roof color
as 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.

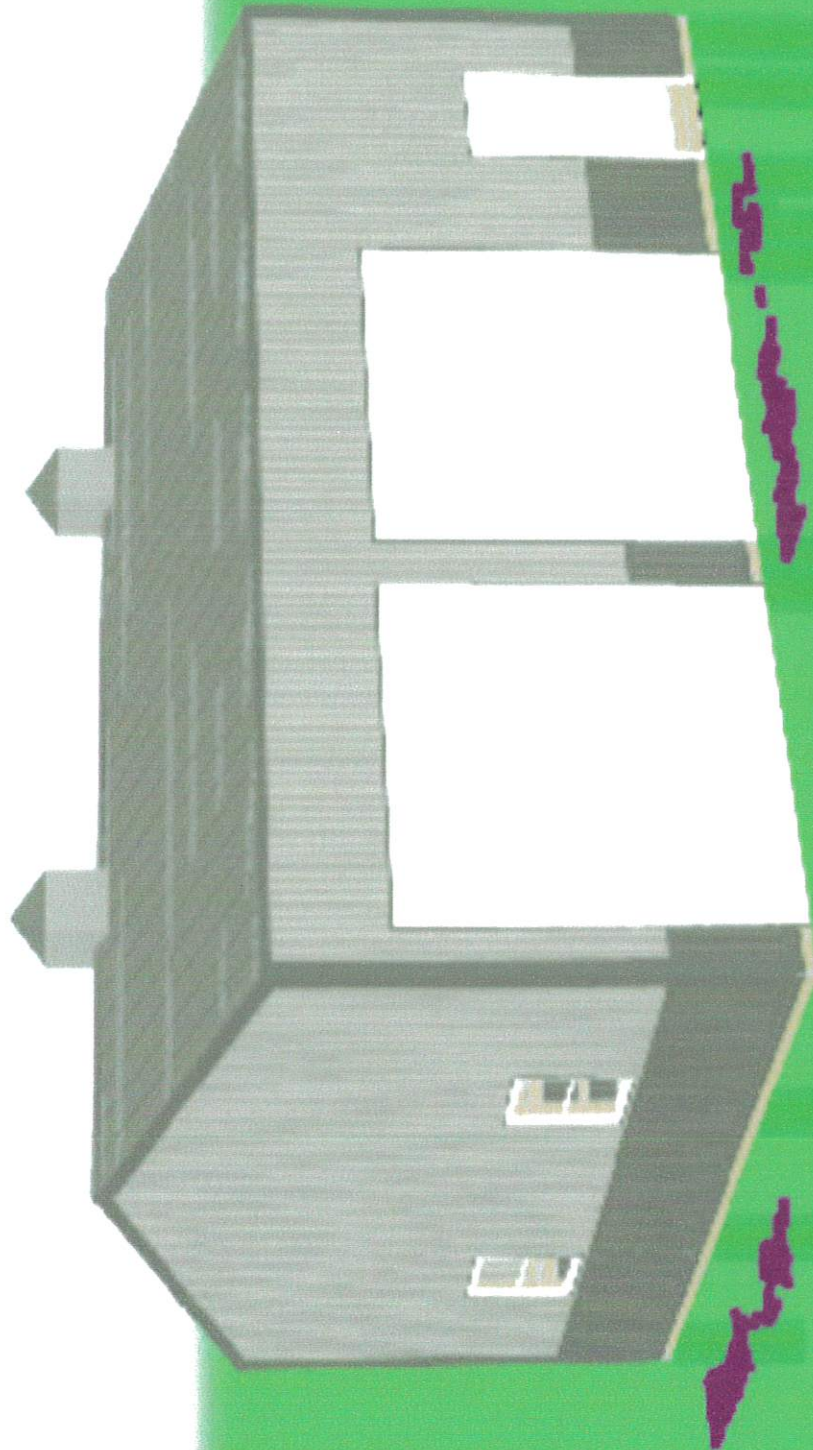
If I have to place garage in back yard then I would
have to drive over my leach field system to get to it.

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.)

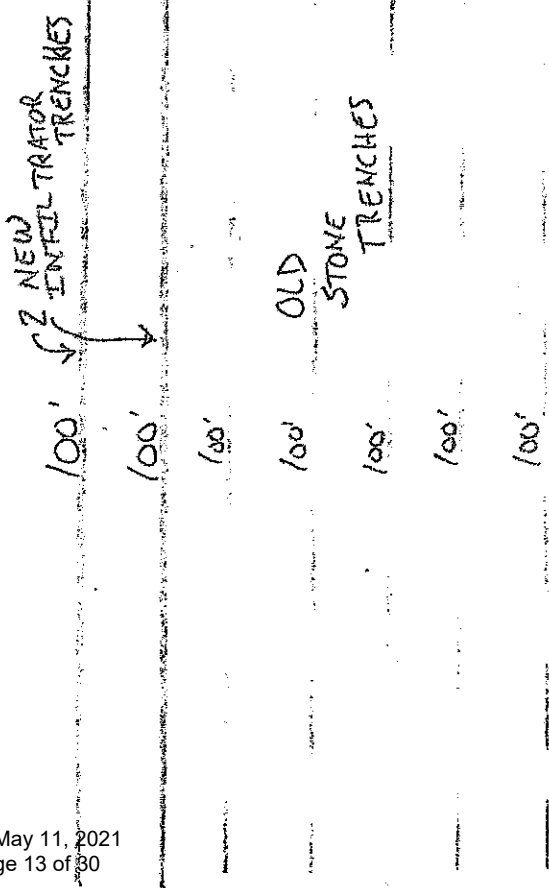
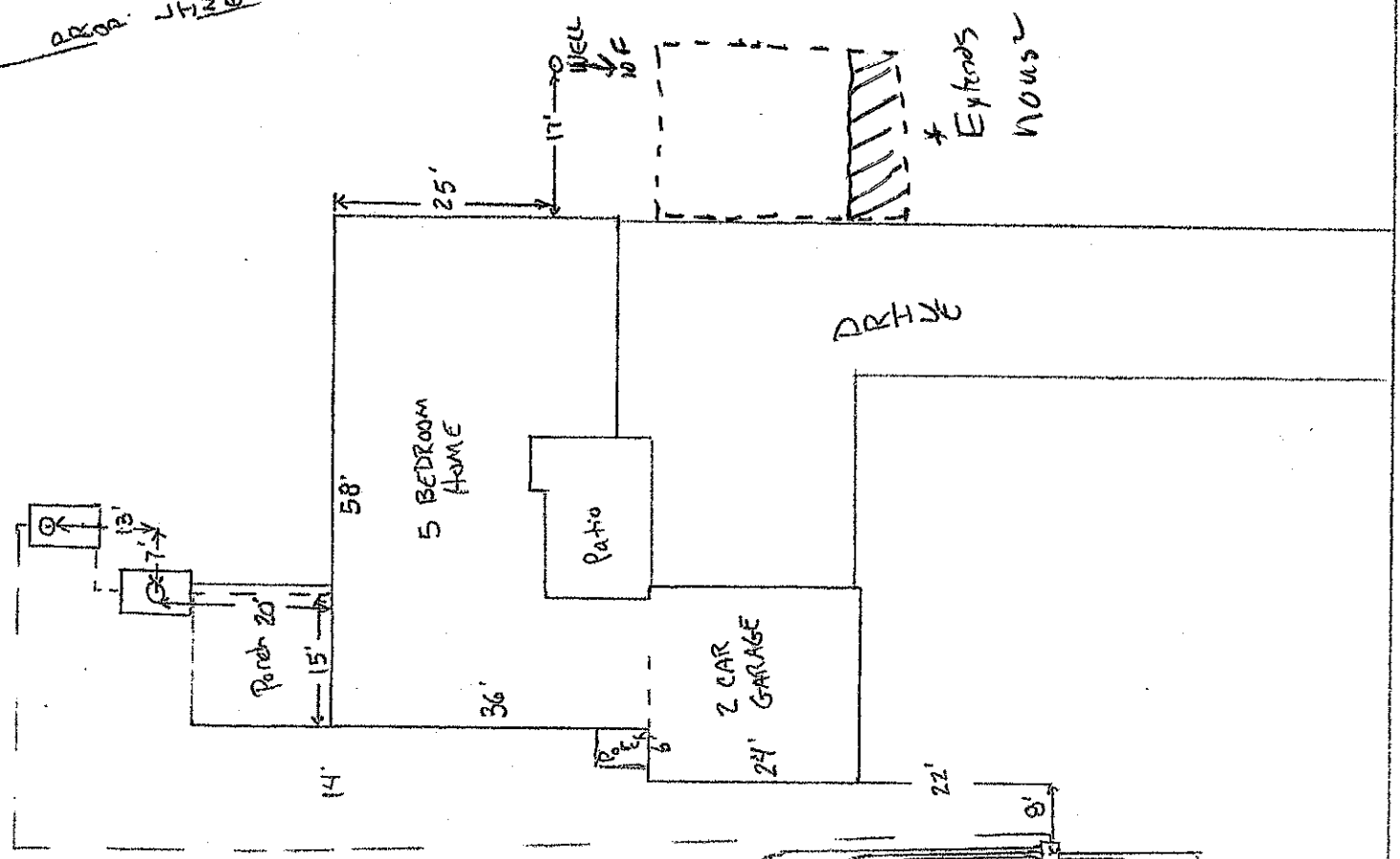
Adjacent Property: How does the request do no harm to adjoining property and neighborhood? (ex. noise, odor, traffic generation, distance from property lines, appearance of property, etc.)

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.)



Sitz Plan
 9536 W Louann Dr
 Fairland MD 46126

area JH3W



LOUANN DR.

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.

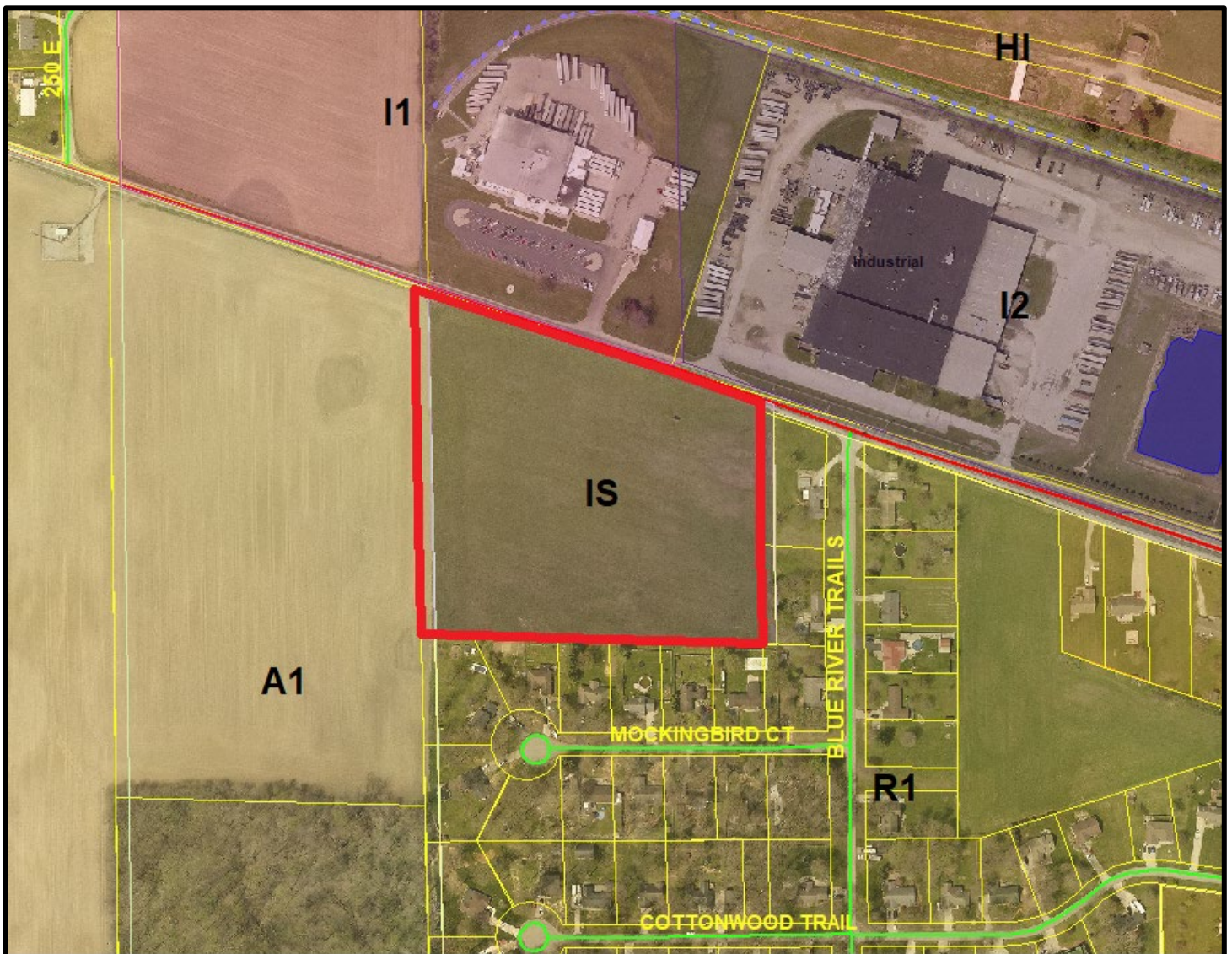
A 2 – One (1) shrub per ten (10) lineal feet of parking lot perimeter planted within five (5) feet of the parking lot edge. Minimum size at time of planting shall be eighteen (18) inches in height. A minimum of fifty percent (50%) of the shrubs shall be evergreen. The row of shrubs may have openings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

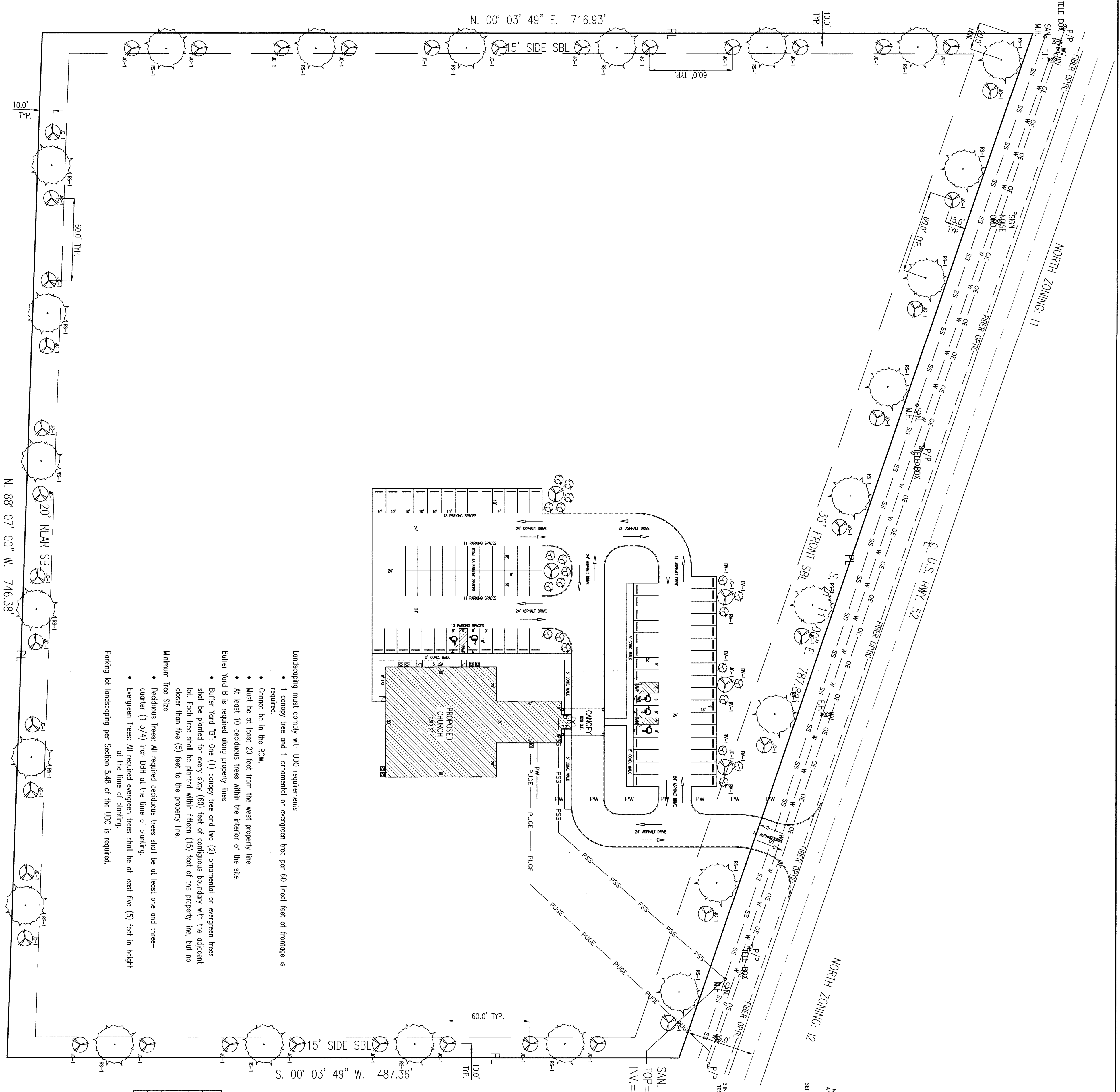
General Welfare: How does the request do no harm to the overall community of Shelby County? (ex. pollution, customer safety, road network safety, building code compliance, etc.)

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

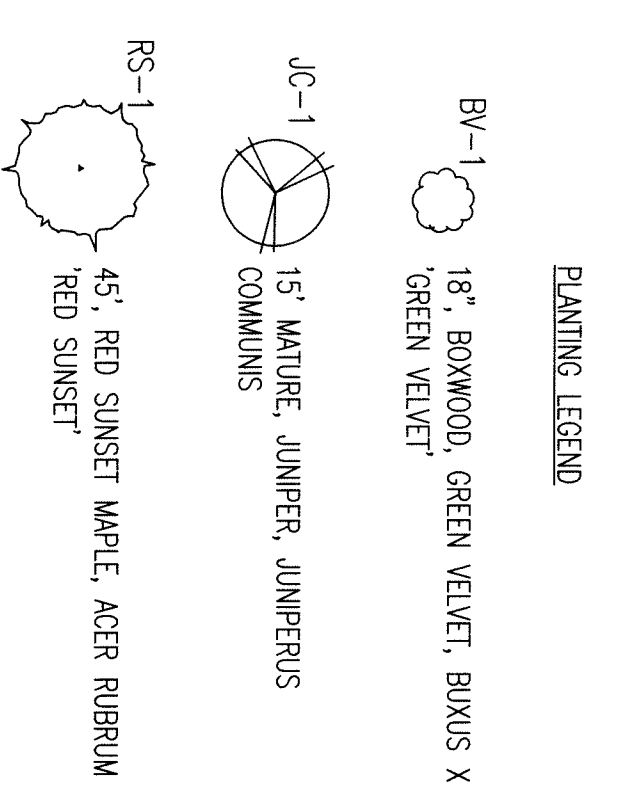


SOUTH ZONING: R1

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 lineal 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



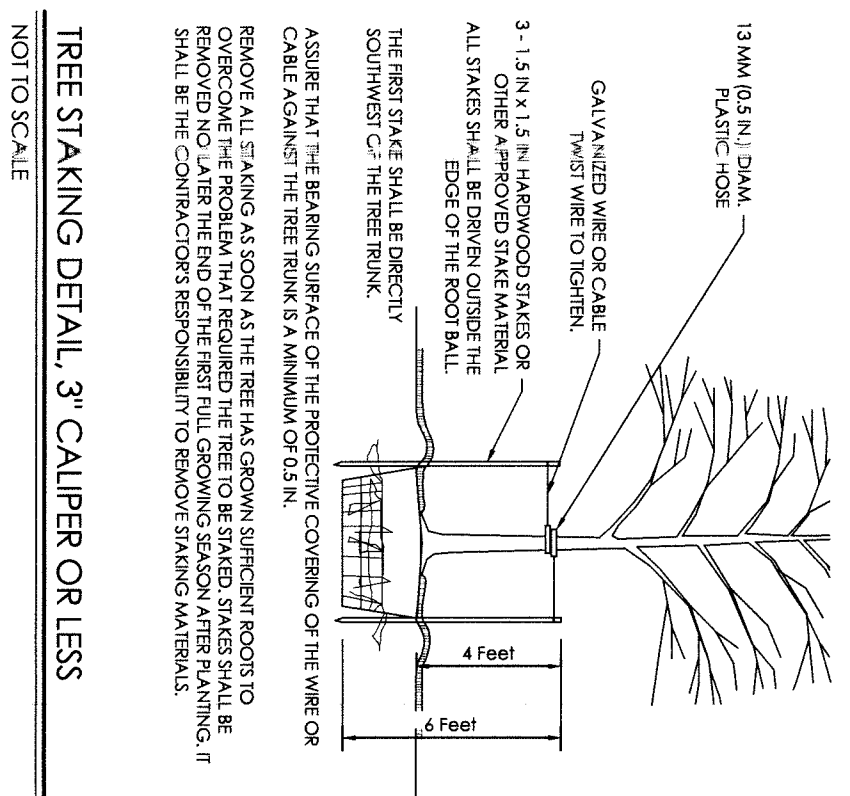
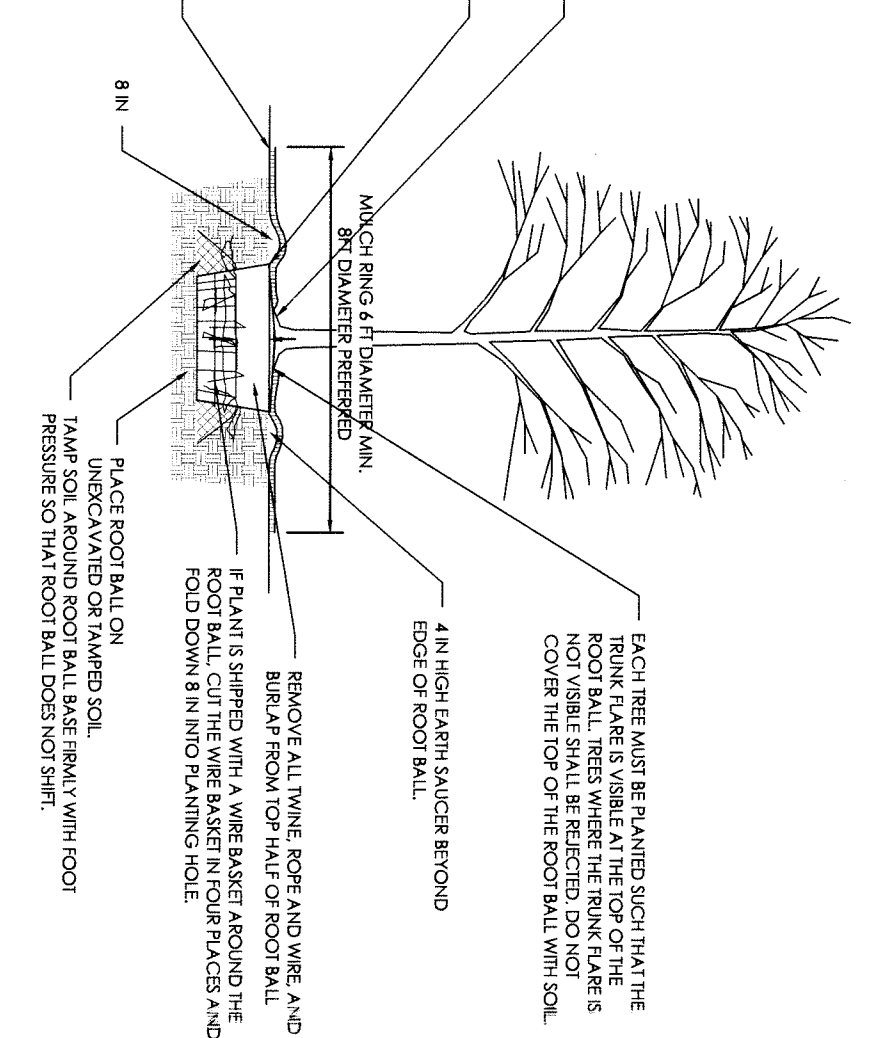
TREES AND SHRUBS MUST MEET SIZE REQUIREMENT EXPRESSED IN THE UNITED DEVELOPMENT ORDINANCE.

PLANT SCHEDULE - TREES/SHRUBS				
Key	BOTANICAL NAME	COMMON NAME	PLANTING SIZE	UNITARY SIZE
BR	BOXUS X 'GREEN VELVET'	BOXWOOD, GREEN VELVET	15'-18"	48" HT./36" SPREAD
JC	JUNIPERUS COMMUNIS	JUNIPER	1 1/2" CAL.	15' HT./8" SPREAD
RS	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.

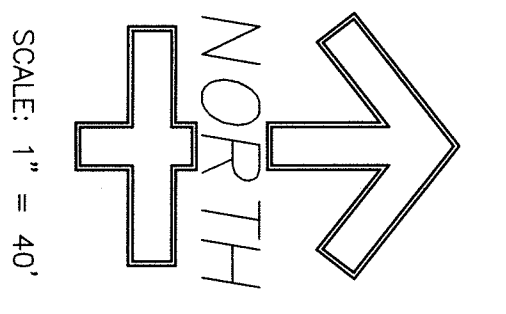
NOTE: SITE PLANTING SHALL BE PLANTED IN ACCORDANCE WITH THE FOLLOWING REQUIREMENTS:

1. TREE TRUNKS SHALL BE PROTECTED FROM DAMAGE BY ANY PAVING OR GRASSING.
2. STAKE TREES ONLY FROM THE APPROVAL OF THE LANDSCAPE ARCHITECT.
3. STAKE TREES WITH 1/2" GALVANIZED STEEL STAKES AND 1/2" GALVANIZED WIRE OR CABLE.
4. DO NOT TRAVEL THROUGH THE TREE AT PLANTING. TRUCKS AND OTHER VEHICLES SHALL NOT BE ALLOWED TO DRIVE OVER THE TREE TRUNKS.
5. REMOVAL OF PLANTING AREAS, TYPES OF SOIL AMENDMENTS, OR SOIL REPLACEMENT, SEE SOIL ANALYSIS REPORT.



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>DATE 9/24/20</p>
		<p>REVISION PER COUNTY REVIEW - 9/17/20</p>
<p>DATE: AUG. 26, 2020</p> <p>PROJECT NO.: 18030</p> <p>SHEET NO. C106</p>	<p>SPACE and SITES, LLC BUILDING DESIGN, PLANNING 6 East Taylor St. Shelbyville, IN 46176 PH 317.392.4444 FAX 317.392.0709 www.spaceandsites.com e-mail: spaceandsites@sbcglobal.net</p>	

Zoning Violation

Case Number: V20-12
Property Owner: Cory Family Trust
Location: 10897 N 150 E, Morristown

Suspected Violation

Use of a pole barn permitted as an agricultural structure (or a recreational vehicle within the pole barn) as a dwelling unit.

Section 5.57 (A) (3) – Use: Parked or stored vehicles shall not be occupied or used for living, sleeping, or housekeeping purposes.

Section 11.02 Defined Words - Dwelling: A building or structure or portion thereof, **conforming to all requirements applicable to the district in which it is located, all Building Codes**, and that is used exclusively for residential occupancy, including single family attached dwelling units, single-family detached dwelling unit, and multiple-family dwelling units, but excluding hotels, motels, and boarding houses.

Evidence of Violation

Photographs taken by Staff and neighboring property owners of items stored on the property typically associated with residential uses, such as laundry, garden tools, a satellite dish, children’s outdoor play equipment, etc.

Mail delivery to the barn.

Case History

April 2019 – The Plan Commission office issued an Improvement Location Permit for a Storage Barn for Agriculture. The 9-1-1 Addressing Coordinator issued an address for the barn, however stated in the addressing letter to the postmaster that mail delivery would not be anticipated at the location.

2020 – The Morristown Post Office informed the 9-1-1 Addressing Coordinator that they had begun mail delivery to the property.

December 2020 – Staff received a complaint and photographs from a neighboring property owner showing evidence of persons using the property for residential purposes (see Exhibit 1). Staff sent a violation letter to the property owner.

January 2021 – The property owner contacted Staff and explained that he had sold the property on contract. He explained that the new owners store recreational vehicles in the barn and use the barn for agricultural purposes, however, they do not stay at the property overnight. Staff closed the violation based on the owner’s statement (see Exhibit 2).

March 2021 – Staff received additional complaints from adjacent property owners. Due to the conflicting information received from the adjacent property owners and the subject property owner, and lack of direct evidence confirming or refuting the statements, Staff decided to request that both parties attend a BZA hearing to present their cases (see Exhibit 3).

May 2021 – Staff conducted a final inspection before the BZA hearing. The property included items typically associated with residential uses (see Exhibit 5).

BZA Decision

Staff requests that the BZA review the evidence presented by both parties and determine if the property violates the provisions of the Unified Development Ordinance. If the Board determines a violation exists, Staff requests that the Board provide direction to Staff regarding enforcement action.

Exhibit 1



Exhibit 1

Exhibit 2

Shelby County Plan Commission

25 West Polk Street, Room 201

Shelbyville, Indiana 46176

(317) 392-6338

Planning Director

Desiree Calderella, AICP

January 21, 2021

Cory Family Trust
1499 E 850 N
Morristown, IN 46161

RE: Zoning Violation Case V20-12

Mr. Cory,

Per our conversation on the week of January 4, 2021, you stated that the recreational vehicles stored on property you have sold on contract located at 10897 N 150 E, Morristown are not temporarily or permanently occupied or used for living, sleeping, or housekeeping purposes. Per this statement, the Plan Commission has deemed violation case V20-12 resolved and will impose no fines. The resolution of this violation does not prevent issuance of a new violation if evidence arises indicating occupancy of the recreational vehicles.

Sincerely,



Desiree Calderella, AICP
Planning Director
Shelby County Plan Commission

Exhibit 3

Shelby County Plan Commission

25 West Polk Street, Room 201
Shelbyville, Indiana 46176
(317) 392-6338

Planning Director
Desiree Calderella, AICP

April 8, 2021

Cory Family Trust
1499 E 850 N
Morristown, IN 46161

RE: Zoning Violation Case V20-12

Mr. Cory,

The office of the Plan Commission has continued to receive complaints regarding property you have sold on contract located at 10897 N 150 E, Morrilltown. The complaints regard occupation of a barn on the property not permitted as a dwelling unit.

Staff has inspected the property and believes enough evidence exists to issue a formal zoning violation, however given your statement in January of 2021 that no one resides on the property Staff has decided to forward your case to the Shelby County Board of Zoning Appeals to determine if a violation exists and to determine any necessary enforcement action.

The Board of Zoning Appeals will review your case on Tuesday, May 11, 2021, at 7:00 P.M. in Conference Room 208A of the Shelby County Courthouse Annex Building, 25 West Polk Street, Shelbyville, Indiana. I suggest that you attend this meeting to provide any testimony to the Board.

Sincerely,



Desiree Calderella, AICP
Planning Director
Shelby County Plan Commission

Exhibit 4







