

Shelby County
Board of Zoning Appeals

May 14, 2019 at 7:00 PM

Table of Contents

Agenda	3
BZA 19-11 Cody Lingerfelt - Development Standards Variance	5
Staff Report	5
Petitioner's Findings of Fact	8
Area & Zoning Map.....	9
Site Plan.....	10
BZA 19-12 Steven D Shepperd - Development Standards Variance	11
Staff Report	11
Petitioner's Findings of Fact	13
Area & Zoning Map.....	14
Site Plan.....	15
BZA 19-13 Patrick Lawson & Tansy Aaron-Walker - Special Exception.....	16
Staff Report	16
Petitioner's Findings of Fact	20
Area & Zoning Map.....	21
Site Plan.....	22
BZA 19-24 Michael Hardesty - Development Standards Variances.....	23
Staff Report	23
Petitioner's Findings of Fact	28
Area & Zoning Map.....	29
Site Plan.....	30
BZA 19-25 Stephen L Blair - Use & Development Standards Variances.....	31
Staff Report	31
Petitioner's Findings of Fact	35
Area & Zoning Map.....	37
Site Plan.....	38

MEETING AGENDA

Shelby County Board of Zoning Appeals
May 14, 2019, 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the April 9, 2019 meeting.

OLD BUSINESS

None.

NEW BUSINESS

BZA 19-11 – CODY LINGERFELT: DEVELOPMENT STANDARDS VARIANCE – To allow for a 1,200 sq. ft. barn (the total square footage of all accessory structures on a lot in an R1 (Single-Family Residential) District adjoining a lot in an R1 or higher intensity zoning district cannot exceed 50% the footprint of the residence). The property is located in Liberty Township at the address 713 E Middletown Rd, Waldron.

BZA 19-12 – STEVEN SHEPPERD: DEVELOPMENT STANDARDS VARIANCE – To allow for a 4,800 sq. ft. barn (the total square footage of all accessory structures on a lot cannot exceed 50% the footprint of the residence in the RE (Residential Estate) District). The property is located in Brandywine Township at the address 4583 N 400 W, Fairland.

BZA 19-13 – PATRICK LAWSON & TANSY AARON-WALKER: SPECIAL EXCPETION – To allow for construction of a new single-family dwelling in an AI (Agricultural) District. The property is located in Nobel Township at the approximately 5800 E River Rd, Waldron.

BZA 19-14 – MICHAEL HARDESTY: DEVELOPMENT STANDARDS VARIANCES – To allow for a 2,400 sq. ft. barn (the total square footage of all accessory structures on a lot in an VR (Village Residential) District adjoining a lot in an R1 or higher intensity zoning district cannot exceed 50% the footprint of the residence) and a gravel driveway (paved driveway required). The property is located in Brandywine Township at the address 206 W Clark Ln, Fairland.

BZA 19-15 – STEPHEN BLAIR: USE & DEVELOPMENT STANDARDS VARIANCE – To allow for the use of a recreational vehicle (and possibly a future manufactured home)

as primary living quarters in a VR (Village Residential) District and to allow for a fence exceeding 3-feet in height in a VR District.

DISCUSSION

None.

ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, June 11, 2019 at 7:00 PM.

Staff Report

CASE NUMBER: BZA 19-11
CASE NAME: CODY LINGERFELT – DEVELOPMENT STANDARDS VARIANCE

PROPERTY DESCRIPTION

Location: Liberty Township at the address 713 E Middletown Rd. Within the unincorporated community of Waldron.

Property Size: 1 acre.

Property Improvements: Single-family dwelling.

Surrounding Development: Single-family dwellings along the south side of Middletown Road, cropland along the north side of Middletown Rd, a small industrial building, and a school.

Zoning Classification: R1 (Single-Family Residential) – intended for low density single-family detached dwellings on large sized lots.

Comprehensive Plan Future Land Use: Agricultural Residential - Agricultural residential areas are intended to include only single-family homes. Accessory structures may also occur in these areas as long as adequate off-street parking is provided and the scale, function and design of the structures is compatible.

VARIANCE REQUEST

Variations of Development Standards - To allow for a 1,200 sq. ft. barn (the total square footage of all accessory structures on a lot in an R1 (Single-Family Residential) District adjoining a lot in an R1 or higher intensity zoning district cannot exceed 50% the footprint of the residence).

Limiting the size of accessory structures ensures that the residence remains the visual focal point of the property and also reduces the likelihood of use of a residential accessory structure for commercial purposes.

CASE DESCRIPTION

- The petitioner plans to construct a 30' X 40' barn.
- The square footage of the accessory structure would equal approximately 104% the square footage of the footprint of the house. The property does not include any additional detached accessory structures. The ordinance would not permit any accessory structure larger than 621 sq. ft.
- A small barn having a floor area of approximately 500 sq. ft. previously sat on the building site proposed for the new barn.
- Several properties in the surrounding area include accessory structures similar in size to the proposed barn.

- The UDO requires that accessory structures in the R1 District closely resemble the facade materials, roof pitch, and exterior colors of the house. Permits for accessory structures in the R1 District include a condition that the structure comply with these architectural requirements.

STAFF ANALYSIS OF FINDING OF FACTS – DEVELOPMENT STANDARDS VARIANCE

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

Staff Analysis: Construction of the accessory structure would require a building permit and the structure must comply with all building codes before passing a final inspection. The structure would sit over 100-feet from the public road.

State Requirement: The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

Staff Analysis: Development of the property with a large accessory structure would coincide with the existing development of the area and therefore the structure would have no apparent impact on the use and value of adjacent properties.

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: Several properties in the surrounding area include accessory structures exceeding 50% the square footage of the primary structure. A strict application of the Ordinance would prohibit development of the property in a similar manner as adjacent properties.

STAFF RECOMMENDATION

Staff recommends **approval** subject to substantial compliance with the site plan submitted with the board of zoning appeals application.

APPLICANT/OWNER INFORMATION

Applicant: Cody Lingerfelt
713 E Middletown Rd.
Waldron, IN 46182

Owner: Same

Proposed Building Site



Standing on driveway looking south.

**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.

Use to be a barn there
Neighbor has a decent size barn

Area & Zoning Map

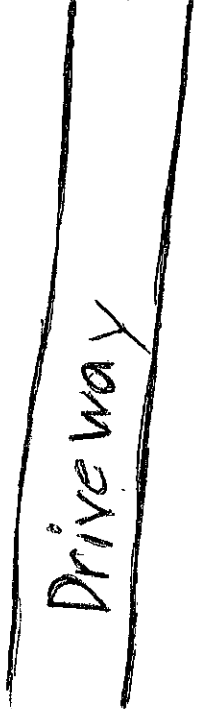
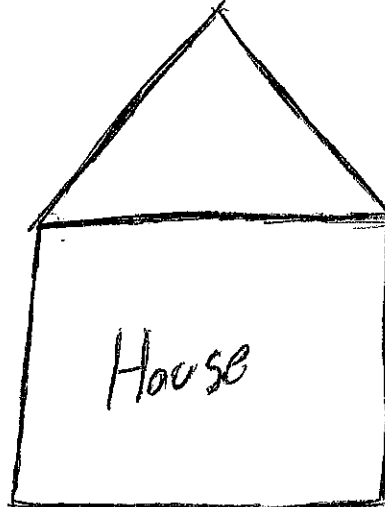


<p>OP Open Space and Parks A1 Conservation Agricultural A2 Agricultural A3 Intense Agricultural A4 Agricultural Commercial RE Residential Estate R1 Single-Family Residential R2 Single-Family Residential VR Village Residential M1 Multiple-Family Residential M2 Multiple-Family Residential MP Manufactured Home Park VM Village Mixed Use IS Institutional C1 Neighborhood Commercial C2 Highway Commercial I1 Low Intensity Industrial I2 High Intensity Industrial HI High Impact</p>	<p>Printed 05/09/2019</p>
--	--------------------------------

Middletown

Road

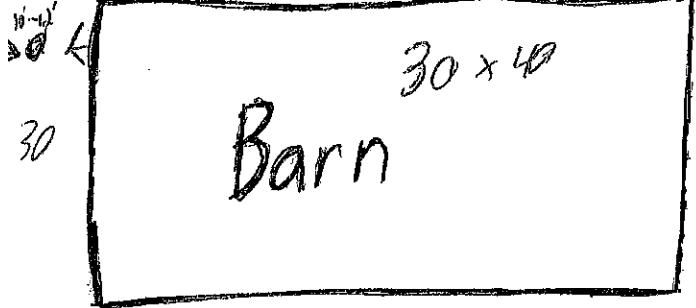
713 East
Middletown Rd
Waldron, IN
46182



100ft



40



30

40

Staff Report

CASE NUMBER: BZA 19-12
CASE NAME: STEVEN D SHEPPERD – DEVELOPMENT STANDARDS VARIANCE

PROPERTY DESCRIPTION

Location: Brandywine Township at the address 4583 N 400 W, Fairland. Within the Town of Fairland.

Property Size: 2.26 acres.

Property Improvements: Single-family dwelling, shed, lean-to, detached garage, and barn.

Surrounding Development: Farm ground and a 5-acre residential lot to the south.

Zoning Classification: RE (Estate Residential) – intended to promote low-impact development in harmony with a natural setting.

Comprehensive Plan Future Land Use: Suburban Residential - includes single-family detached residences in neighborhoods.

VARIANCE REQUEST

Variance of Development Standards - To allow for a 4,800 sq. ft. barn (the total square footage of all accessory structures on a lot cannot exceed 50% the footprint of the residence in the RE (Residential Estate) District).

Limiting the size of accessory structures ensures that the residence remains the visual focal point of the property and also reduces the likelihood of use of a residential accessory structure for commercial purposes.

CASE DESCRIPTION

- The petitioner plans to construct a 60' X 80' barn.
- The square footage of the proposed barn and existing accessory structures would equal approximately 521% the square footage of the footprint of the house. The ordinance would not permit any additional accessory structures.

STAFF ANALYSIS OF FINDING OF FACTS – DEVELOPMENT STANDARDS VARIANCE

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

Staff Analysis: Construction of the barn would require a building permit and the structure must comply with all building codes before passing a final inspection. The structure would not appear conspicuous from the public road.

State Requirement: The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

Staff Analysis: The property adjoins farm ground on three sides and a tree line provides screening between the subject property and the adjoining residential property. Construction of the barn would not impact the continued use of the farm ground for agricultural purposes or have a significant aesthetic impact.

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 construction of a barn in an area used primarily of agricultural purposes and in harmony with the natural setting.

STAFF RECOMMENDATION

Staff recommends approval subject to substantial compliance with the site plan submitted with the board of zoning appeals application.

APPLICANT/OWNER INFORMATION

Applicant: Steven D. Shepperd
4583 N 400 W
Fairland, IN 46126

Owner: Same

Proposed Building Site



Looking north, view of subject property

**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: Steven D. Shepperd

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.

It not next to anyone else's 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 structures around it

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.

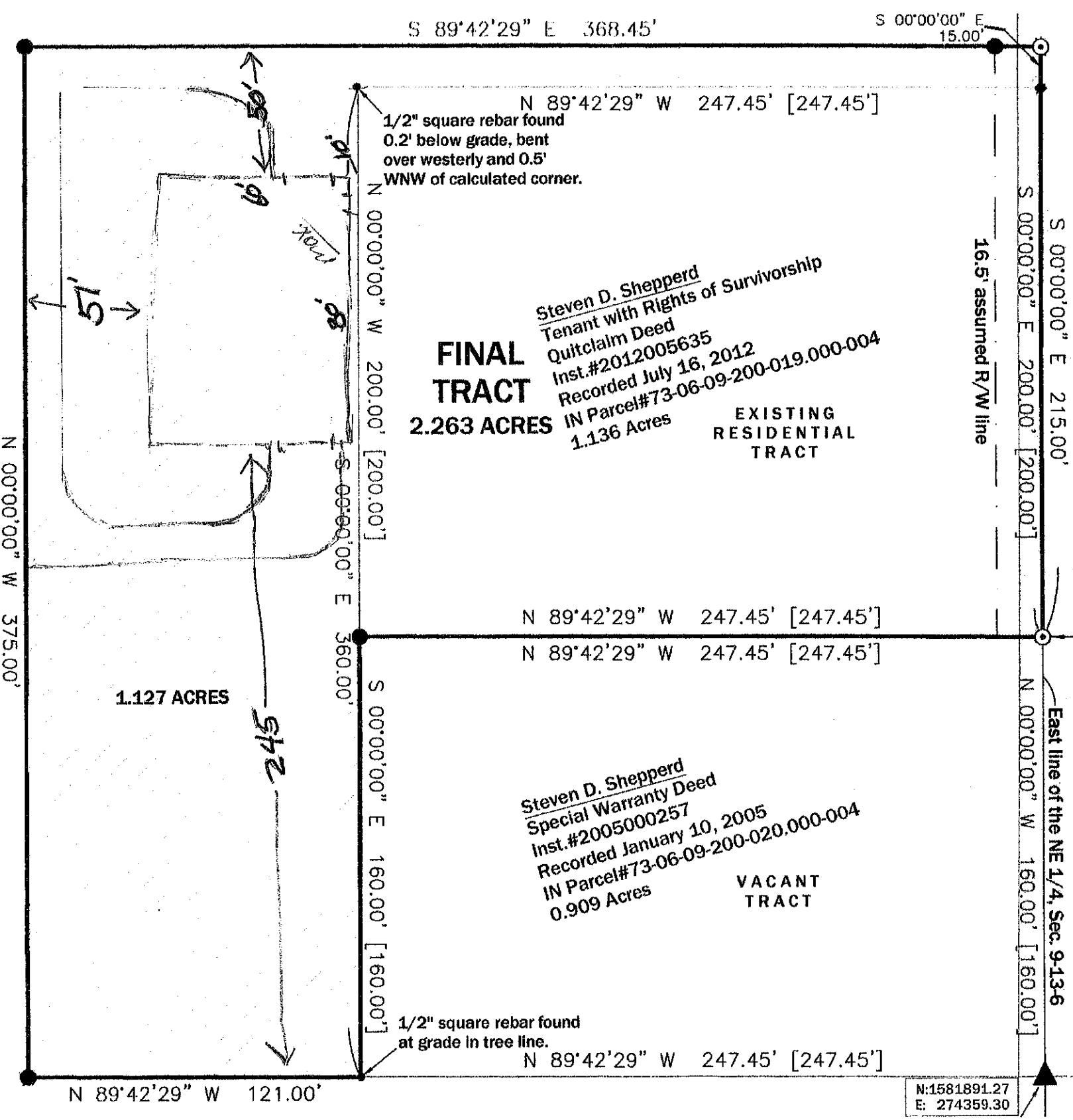
Surrounded by mostly farm land

Area & Zoning Map



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

Printed
05/09/2019



S 89°42'29" E 368.45'

S 00°00'00" E 15.00'

N 89°42'29" W 247.45' [247.45']

1/2" square rebar found
0.2' below grade, bent
over westerly and 0.5'
WNW of calculated corner.

FINAL TRACT
2.263 ACRES

Steven D. Shepperd
Tenant with Rights of Survivorship
Quitclaim Deed
Inst.#2012005635
Recorded July 16, 2012
IN Parcel#73-06-09-200-019.000-004
1.136 Acres

EXISTING RESIDENTIAL TRACT

16.5' assumed R/W line

S 00°00'00" E 215.00'

S 00°00'00" E 200.00' [200.00']

N 89°42'29" W 247.45' [247.45']

N 89°42'29" W 247.45' [247.45']

1.127 ACRES

Steven D. Shepperd
Special Warranty Deed
Inst.#2005000257
Recorded January 10, 2005
IN Parcel#73-06-09-200-020.000-004
0.909 Acres

VACANT TRACT

East line of the NE 1/4, Sec. 9-13-6

N 00°00'00" W 160.00' [160.00']

S 00°00'00" E 160.00' [160.00']

1/2" square rebar found
at grade in tree line.

N 89°42'29" W 247.45' [247.45']

N 89°42'29" W 121.00'

N:1581891.27
E: 274359.30

Staff Report

CASE NUMBER: BZA 19-13
CASE NAME: PATRICK LAWSON & TANSY AARON-WALKER – SPECIAL
EXCPEITION

PROPERTY DESCRIPTION

Location: Nobel Township at the approximate address 5800 E River Rd, Waldron.

Property Size: 57.93 acres.

Property Improvements: Vacant.

Surrounding Development: Cropland. Two single-family residences and a graveyard to the south.

Zoning Classification: A1 (Conservation Agricultural) – Per the UDO the district is established for the protection of agricultural areas and buildings associated with agricultural production. The district is intended for low-intensity agricultural operations. When making decisions, the BZA should protect the integrity of land and operations within the District.

Comprehensive Plan Future Land Use: Agriculture

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

REQUEST

Special Exception- To allow for construction of a new single-family residence (new dwellings not permitted in the A1 District).

The ordinance does not allow new dwellings in the A1 District to protect prime agricultural land from development.

CASE DESCRIPTION

- The petitioners plan to construct a single-family residence, detached garage, and a barn.

- The proposed building site appears to be in an area designated as Prime Farmland if Drained by the USDA Soil Survey.
- Property owners typically create new residential lots in rural areas by rezoning the property to Residential Estate and creating a simple subdivision. However, the petitioners purchased the entire 57.93-acre tract and only plan to construct one house. Therefore, the zoning of the property has remained A1.

STAFF ANALYSIS OF FINDING OF FACTS – DEVELOPMENT STANDARDS VARIANCE

UDO Requirement: The proposed special exception is consistent with the purpose of the zoning district and the Shelby County Comprehensive Plan.

Staff Analysis: Development of the property with one single-family residence and associated accessory structures would not eliminate a significant amount of agricultural land and would not eliminate any significant natural areas.

UDO Requirement: The proposed special exception will not be injurious to the public health, safety, morals, and general welfare of the community.

Staff Analysis: Construction of the residence would require site plan approval, a building permit, and the structure must comply with all building codes before receiving a certificate of occupancy. The residence would not appear conspicuous from the public road.

UDO Requirement: The proposed special exception is in harmony with all adjacent land uses.

Staff Analysis: Development of the property with only one single-family residence and associated accessory structures would not alter the rural character of the area.

UDO Requirement: The proposed special exception will not alter the character of the district

Staff Analysis: Development of the property with only one single-family residence and associated accessory structures would not alter the rural character of the area.

UDO Requirement: The proposed special exception will not substantially impact property value in an adverse manner.

Staff Analysis: Development of the property with one single-family residence and associated accessory structures would not have any perceivable impact on property values.

STAFF RECOMMENDATION

Staff recommends approval subject to the following stipulation:

1. The single-family dwelling and associated accessory structures shall not be constructed on any land designated as Prime Farmland by the USDA Soil Survey.

APPLICANT/OWNER INFORMATION

Applicant: Patrick Lawson & Tansy Aaron-Walker

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

STAFF REPORT
19-13
MAY 14, 2019
PAGE 3 OF 4

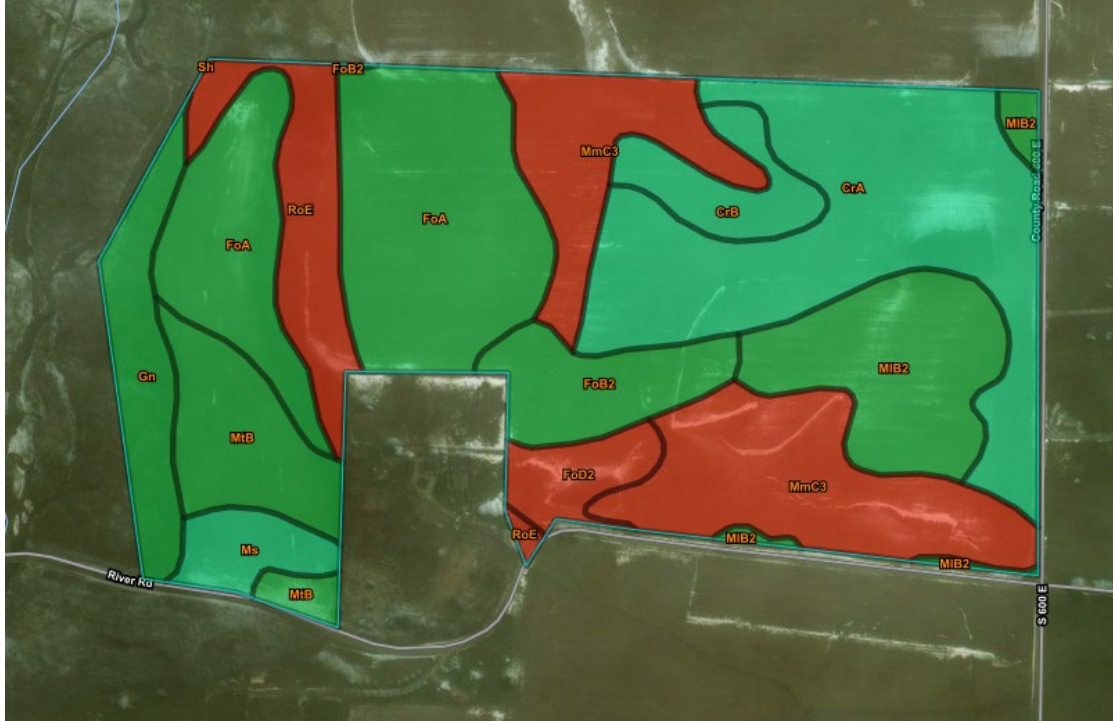
24 E Polk St.
Shelbyville, IN 46176

Applicant's Attorney: Peter G. DePrez
24 E Polk St.
Shelbyville. IN 46176

Owner: Jeffrey M & Pamela S Linder
642 N Senate Ave.
Indianapolis, IN 46202

USDA Soil Survey Maps

Prime Farmland



Green – Prime Farmland; Turquoise – Prime Farmland if Drained; Red – Not Prime Farmland

Development of Dwellings with Basements



Green – Not Limited; Yellow – Somewhat limited; Red – Very Limited

**SPECIAL EXCEPTION
FINDINGS OF FACT**

Applicant: Patrick Lawson & Tansy Arron-Walker

Case #: _____

Location: East River Road, Waldron, Indiana

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

1. **Comprehensive Plan:** The proposed special exception is consistent with the purpose of the zoning district and the Shelby County Comprehensive Plan.

a single family detached dwelling is specifically allowed under Section 2.03

2. **General Welfare:** The proposed special exception will not be injurious to the public health, safety, and general welfare of the community.

the use is consistent with the purposes of the Comprehensive Plan, allowed under the Unified Development Ordinance and meets the intent of an A1 designation

3. **Harmony:** The proposed special exception is in harmony with all adjacent land uses.

the surrounding and adjacent land uses are primarily agricultural with single family uses

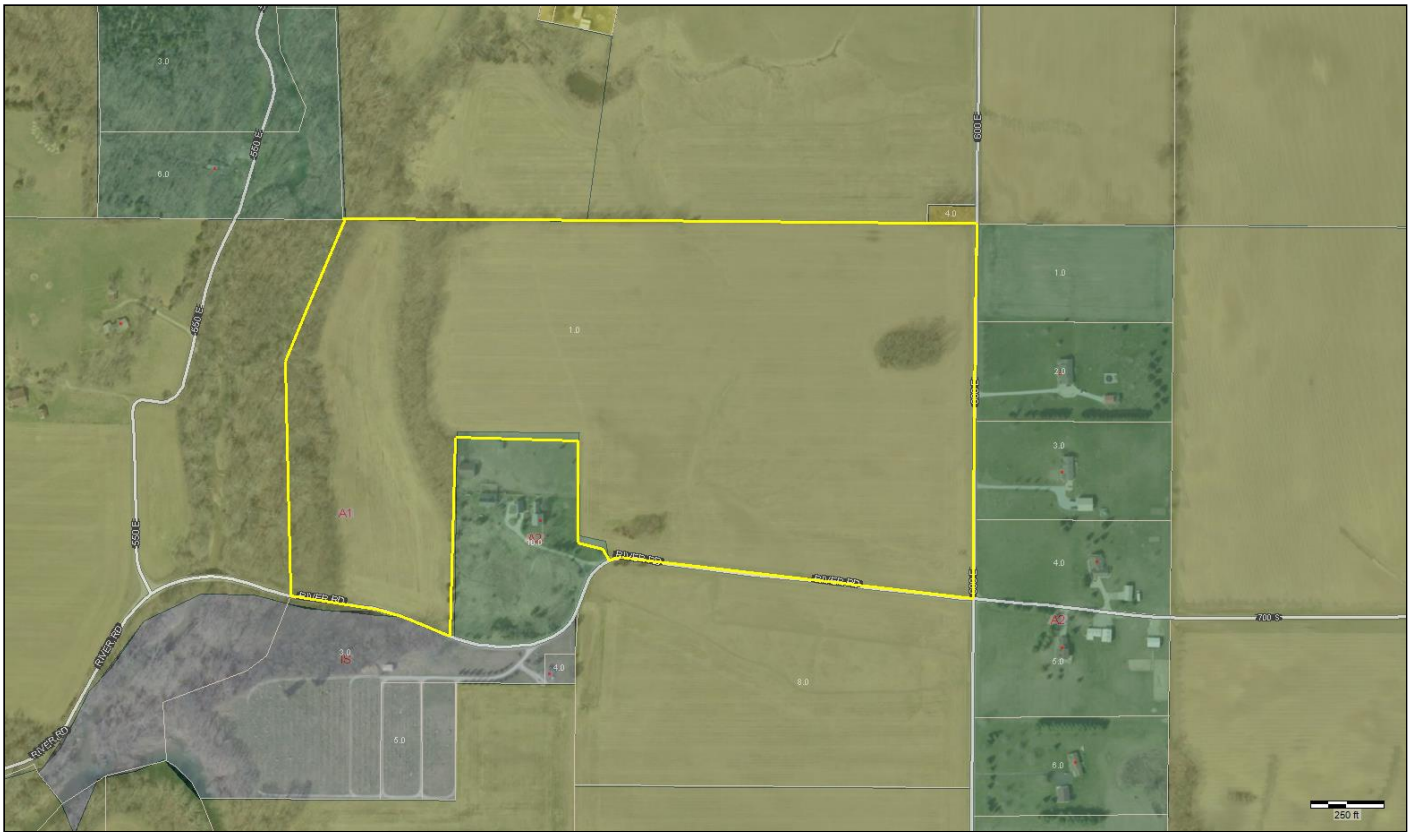
4. **Character of the District:** The proposed special exception will not alter the character of the district.

the special exception is within the uses that are encouraged for an A1 district and does not change the type of use that exists

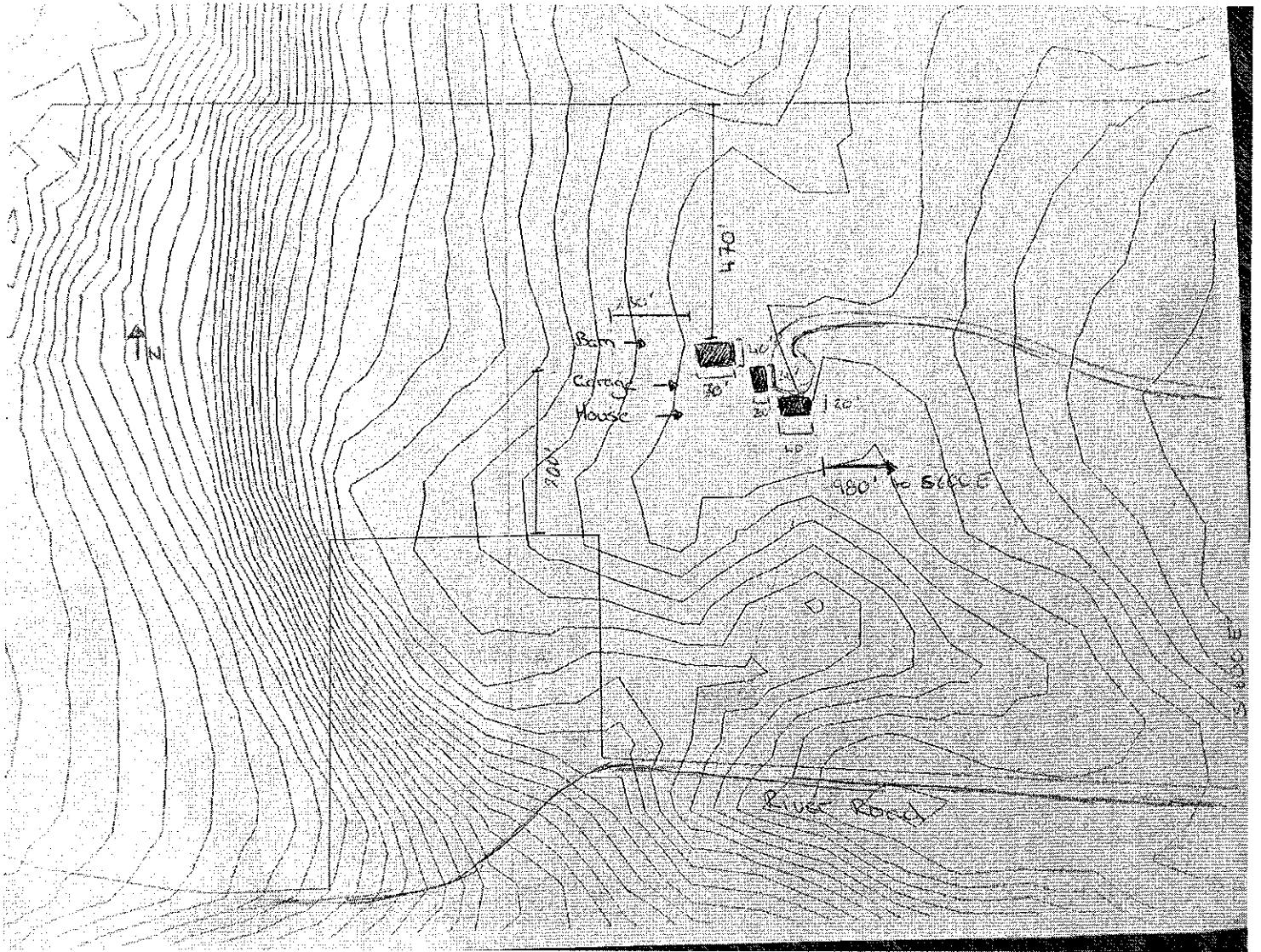
5. **Property Value:** The proposed special exception will not substantially impact property value in an adverse manner.

see previous answers above

Area & Zoning Map



<ul style="list-style-type: none"> OP Open Space and Parks A1 Conservation Agricultural A2 Agricultural A3 Intense Agricultural A4 Agricultural Commercial RE Residential Estate R1 Single-Family Residential R2 Single-Family Residential VR Village Residential M1 Multiple-Family Residential M2 Multiple-Family Residential MP Manufactured Home Park VM Village Mixed Use IS Institutional C1 Neighborhood Commercial C2 Highway Commercial I1 Low Intensity Industrial I2 High Intensity Industrial HI High Impact 	<p>Printed 05/09/2019</p>
---	-------------------------------



Staff Report

CASE NUMBER: BZA 19-14
CASE NAME: MICHAEL HARDESTY – DEVELOPMENT STANDARDS VARIANCES

PROPERTY DESCRIPTION

Location: Brandywine Township at the address 206 W Clark Ln, Fairland. Within the Town of Fairland.

Property Size: 0.86 acres.

Property Improvements: Vacant.

Surrounding Development: Single-family residential development at a density of approximately one dwelling per 0.33 acres. Also, a 1.14-acre single-family residential lot adjoining the north property line and a 5.09-acre single-family residential lot adjoining the east property line.

Zoning Classification: VR (Village Residential) – intended for medium to high-density single-family detached dwellings on small to medium sized lots. Flexible development standards to accommodate existing developments.

Comprehensive Plan Future Land Use: Suburban Residential - includes single-family detached residences in neighborhoods.

VARIANCE REQUEST

Variances of Development Standards to allow for:

1. Construction of 2400 sq. ft. barn (the total square footage of all accessory structures on a lot in an VR District adjoining a lot in an R1 or higher intensity zoning district cannot exceed 50% the footprint of the residence).
2. Gravel driveway (asphalt, concrete or other non-porous materials required for driveways in the VR District).

Limiting the size of accessory structures ensures that the residence remains the visual focal point of the property and also reduces the likelihood of use of a residential accessory structure for commercial purposes. Paved driveways reduce accumulation of dust on the public road and improve the aesthetic quality of residential neighborhoods.

CASE DESCRIPTION

- The petitioner recently purchased the subject property and plans to construct a 2,300 sq. ft. single-story house and a barn.
- The petitioner stated that both the house and the barn will have white metal siding.

- The petitioner stated that the barn will have a maximum 40' X 60' footprint. He stated that the barn would likely include an open-sided deck within this footprint. The UDO does not require that open sided structures apply toward the maximum square footage.
- At the maximum size, the square footage of the barn would equal approximately 104% the square footage of the footprint of the future house. The ordinance would not permit any accessory structure larger than 1,150 sq. ft.
- Existing trees on the subject property would provide a buffer between the barn and the adjoining residential lots to the southwest.
- Two adjoining properties include accessory structures similar in size to the proposed barn and one of these structures also has metal siding.
- The existing gravel driveway provides access to the subject property, the adjoining property to the east, and the adjoining property to the north. The petitioner owns the driveway and provides access to the other two properties by easement.
- The petitioner stated that family members own the properties directly south and directly east of the subject property.
- The UDO does not prevent development of the property for residential purposes. It only prevents the construction of the accessory structure at the size requested and use of a gravel driveway.

STAFF ANALYSIS OF FINDING OF FACTS – 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: Construction of the barn would require a building permit and the structure must comply with all building codes before passing a final inspection. The structure would not appear conspicuous from the public road.

State Requirement: The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

Staff Analysis: The barn at the proposed size would exceed the size of all residences and accessory structures in the immediate area and would sit very close to the property line. Therefore, the barn would be inconsistent with the character of the area may cast shadow on adjoining backyards.

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 prohibit development of the property for residential purposes or construction of a smaller accessory structure.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCE #1

Based on the Findings of Fact, Staff recommends denial. However, the Board may consider the following factors when making their decision:

- Family members of the petitioner own at least two of the adjoining properties.
- Existing trees would screen a portion of the barn from adjoining properties and the subject property is mostly not visible from the public road.
- Conditions of potential approval could include a decrease in size of the structure and/or relocation of the structure to another part of the property.

STAFF ANALYSIS OF FINDING OF FACTS – DEVELOPMENT STANDARDS VARIANCE #2

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

Staff Analysis: The driveway provides private access to three lots.

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 gravel driveway would be consistent with the unpaved surface of most other 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 prohibit use of an existing gravel driveway.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCE #2

Staff recommends **approval**.

APPLICANT/OWNER INFORMATION

Applicant: Michael Hardesty
2112 Poncianni Ave.
Shelbyville, IN 46176

Owner: Michael & Casandra H&W Hardesty
2112 Poncianni Ave.
Shelbyville, IN 46176



Approximate proposed location of house and barn.



View of the back yard of the property directly south from the subject property.



View of subject property from driveway

DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT

Applicant: Michael + Sandy Hordesty

Case #: _____

Location: West Clarke Lane Fairland, IN

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

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

Barn - This Building will serve as a barrier to adjacent properties
which will help with privacy. It will also serve as a storage building
for me and my family. Gravel lane, All the houses down
land scaping - we will add alot of extra trees. the lane have gravel.

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.

Barn - This building will not generate any extra traffic. will serve as
Storage + personal work space. No extra noise, all within zone
Landscaping - we will add plenty of privacy bearing trees.
Gravel lane - Shouldnt negatively impact anyone, future plans to Black top

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.

Barn - We want the option for the largest Barn we can afford. We have
positioned the plot plan to fit a 40x60, however that may not be
what we build. We just want the option.
Gravel lane. - this should fit the property and surrounding property just fine.
Land scaping - again, we plan on adding to the existing land scaping
for better privacy.

Area & Zoning Map



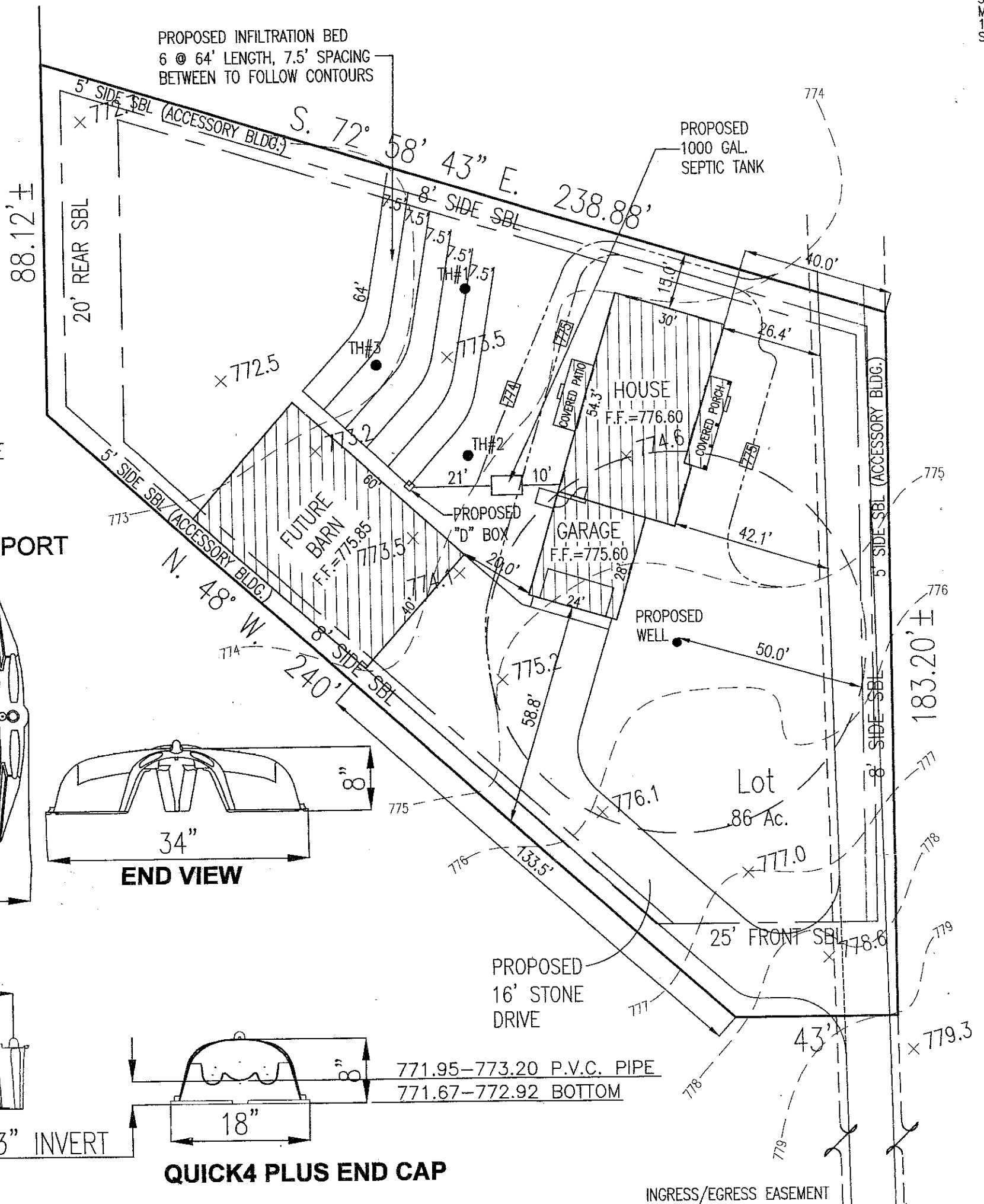
<p>OP Open Space and Parks A1 Conservation Agricultural A2 Agricultural A3 Intense Agricultural A4 Agricultural Commercial RE Residential Estate R1 Single-Family Residential R2 Single-Family Residential VR Village Residential M1 Multiple-Family Residential M2 Multiple-Family Residential MP Manufactured Home Park VM Village Mixed Use IS Institutional C1 Neighborhood Commercial C2 Highway Commercial I1 Low Intensity Industrial I2 High Intensity Industrial HI High Impact</p>	<p>Printed 05/09/2019</p>
--	--------------------------------

BENCHMARK:
STATE PLANE GRID.
N 39° 35' 25.86" W 85° 51' 53.35"

T.B.M.#1=

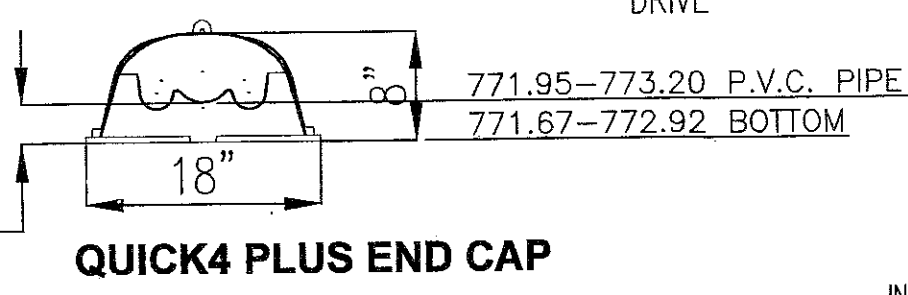
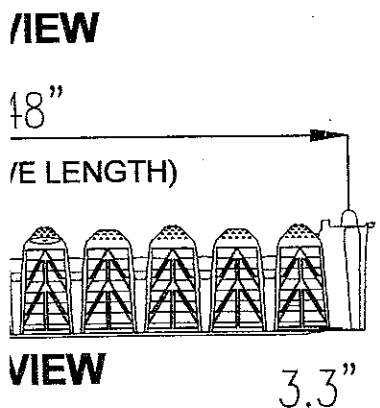
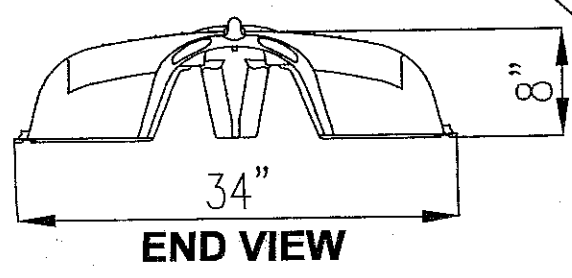
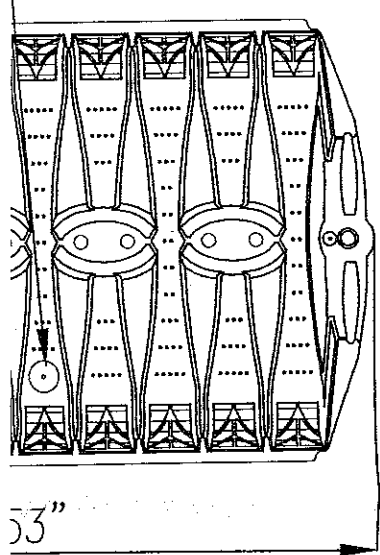
NOTE:
FINISH GRADE AROUND HOUSE SHOWN AT A SLOPE OF 6" IN
THE FIRST 10' FROM RESIDENCE AS PER STATE CODE.

APPROVED SEPT
SHELBY COI
MARK CONC
1125 MILLE
SHELBYVILLE

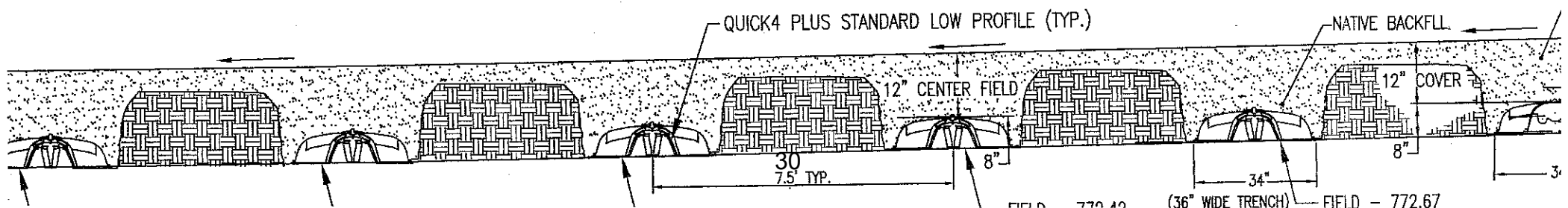
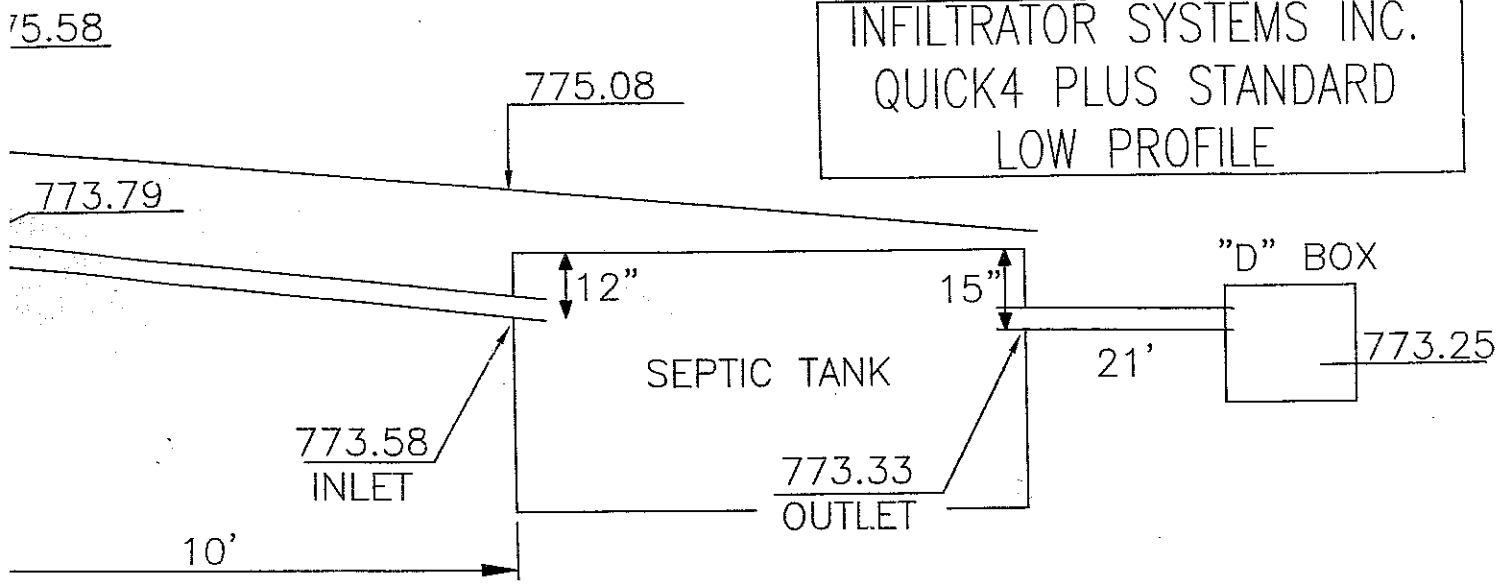


25% USED FOR
REQUIRED = 6X LINE
S.F. INSTALLED.

INSPECTION PORT



INFILTRATOR SYSTEMS INC.
QUICK4 PLUS STANDARD
LOW PROFILE



Staff Report

CASE NUMBER: BZA 19-15
CASE NAME: STEPHEN L. BLAIR – USE & DEVELOPMENT STANDARDS VARIANCE

PROPERTY DESCRIPTION

Location: Nobel Township at the address 3199 E 875 S, Waldron.

Property Size: Approximately 0.75 acres.

Property Improvements: Vacant.

Surrounding Development: Single-family residential development at a density of approximately one dwelling per 0.5-acres and wooded areas.

Zoning Classification: VR (Village Residential) – intended for medium to high-density single-family detached dwellings on small to medium sized lots. Flexible development standards to accommodate existing developments.

Comprehensive Plan Future Land Use: Agricultural Residential - Agricultural residential areas are intended to include only single-family homes. Generally, these areas are served by individual wells and septic systems except in the case of agricultural residential located adjacent to some rural town centers where the extension of utilities is more feasible. Agricultural residential developments should be designed to be compatible with their natural and agricultural surroundings.

VARIANCE REQUEST

1. Variance of Use - to allow for the use of a recreational vehicle (RV), and possibly a future manufactured home, as primary living quarters in a VR (Village Residential) District (permanent occupancy of an RV not permitted in any zoning district; temporary occupation of an RV only permitted in the OP (Open Space & Parks District)).
2. Variance of Development Standards - to allow for a fence exceeding 3-feet in height in a VR District.

Prohibiting the use of an RV as permanent living quarters in residential districts ensures that a dwelling unit of relatively low value does not impact the character of the neighborhood or pose a negative effect on surrounding property values. The implementation of fence standards promotes neighborliness, visibility, and aesthetic quality consistent with each zoning district.

CASE DESCRIPTION

- The petitioner plans to use the RV as his permanent residence. The petitioner stated that he may replace the RV with a manufactured home at a future date.
- The petitioner also stated that he plans to construct a privacy fence.

- A private road (E 875 S) provides access to the subject property and to several residences north of the subject property. The petitioner stated that he does not plan to access the property from the south using S 310 E.
- The Shelby County Health Department will not issue a septic permit for the property due to the quality of the soil. The USGS Soil Survey also rates the soils as Very Limited for absorption of effluent and for construction and maintenance of a septic system.
- The Health Department has also requested that the petitioner cap the existing well due to the lack of a wastewater disposal system.
- The petitioner stated that he plans to use a composting toilet and grey water tank as water and sanitary facilities.

STAFF ANALYSIS OF FINDING OF FACTS - USE 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 RV would not have access to a permitted septic system. The County does not currently permit any other type of private sanitary facilities and therefore cannot ensure that the method of sanitary disposal will not have a negative impact on the environment or public health.

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 permanent placement of an RV for use as living quarters in a residential neighborhood could have a negative impact on surrounding property values.

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

Staff Analysis: The property lies within a single-family residential neighborhood established prior to current septic system regulations and the current septic system regulations prohibit development of the property in a similar manner. Therefore, approval of a variance would allow for residential use of the property.

4 State Requirement: The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which variance is sought.

Staff Analysis: The property lies within a single-family residential neighborhood established prior to current septic system regulations and the current septic system regulations prohibit development of the property in a similar manner. Therefore, approval of a variance would allow for residential use of the property.

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

Staff Analysis: The proposal would interfere with the provisions identified in the Plan for agricultural residential areas because the proposed use is not a single-family residence, would not utilize a septic system, and would not be compatible with the natural setting.

STAFF ANALYSIS OF FINDING OF FACTS – DEVELOPMENT STANDARDS VARIANCE

Staff recommends that the Board dismiss this variance if the Board chooses to deny the use variance.

STAFF RECOMMENDATION

In Staff's opinion, the proposal does not meet findings of fact 1, 2, and 5. Approval of the proposal may also set a precedent for similar approvals in the future. Therefore, Staff recommends denial.

APPLICANT/OWNER INFORMATION

Applicant: Stephen L. Blair
3309 W 800 S
Greensburg, IN 47240

Owner: Same



View of adjoining property to the north.

Proposed Location for RV



View of subject property looking south

USE VARIANCE
FINDINGS OF FACT



Applicant: Stephen L. Blair

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 Use Variance. Using the lines provided, please explain how your request meets each of these criteria.

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

This variance will not be injurious to anything or anyone.

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

The use of this property will not affect any adjacent property

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

The ~~purpose~~ reason for a trailer is to keep the land as pure as possible.

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

The reason for a trailer is to keep the land as pure as possible

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

It's not going to interfere it is going to be used as Residential.

DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT

Applicant: Stephen L. Blair

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.

Property will be upgraded from a wooded lot to an eye appealing addition to the community - keeping neighbors, health & privacy in mind.

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.

Any changes made will be to our property only and will not affect adjacent properties.

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.

It's a privacy fence.

Area & Zoning Map



<p>OP Open Space and Parks A1 Conservation Agricultural A2 Agricultural A3 Intense Agricultural A4 Agricultural Commercial RE Residential Estate R1 Single-Family Residential R2 Single-Family Residential VR Village Residential M1 Multiple-Family Residential M2 Multiple-Family Residential MP Manufactured Home Park VM Village Mixed Use IS Institutional C1 Neighborhood Commercial C2 Highway Commercial I1 Low Intensity Industrial I2 High Intensity Industrial HI High Impact</p>	<p>Printed 05/09/2019</p>
--	--------------------------------

Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

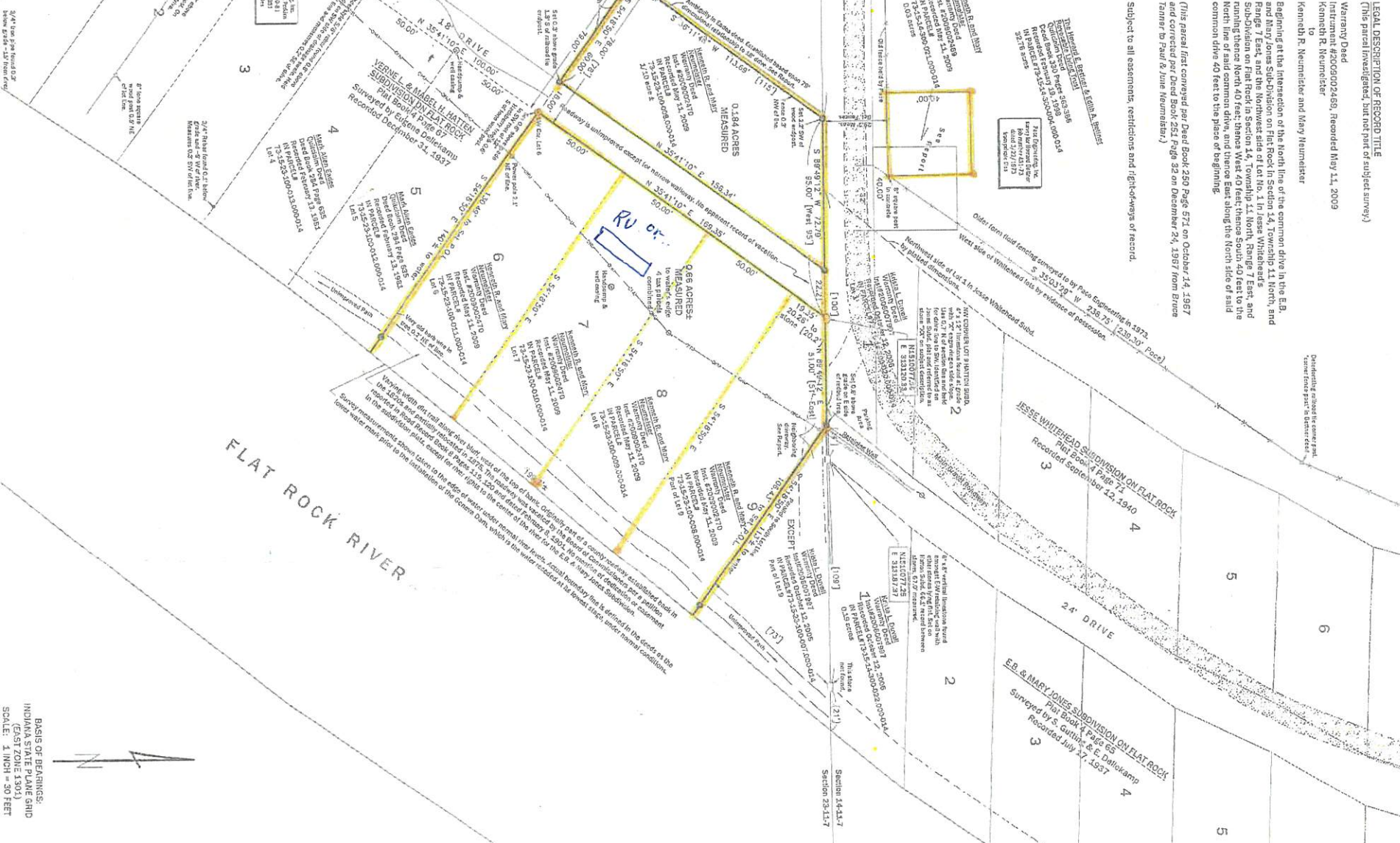
LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister

LEGAL DESCRIPTION OF RECORD TITLE
(This parcel investigated, but not part of subject survey.)
Warreny Deed
Instrument #200902410, Recorded May 11, 2009
Kenneth R. Neumeister
Kenneth R. Neumeister and Mary Neumeister



SUPPLEMENTARY REPORT

The subject reference survey was requested for the purpose of determining and marking up the boundaries of recent property owned by the client. This survey covers 5 different parcels along with one other parcel not specifically surveyed but investigated on paper. The vacant property is up for potential sale.

In accordance with Title 865, Article 1, Chapter 13, of the Indiana Administrative Code, the following report explains the history of location applied in relating the lines and corners of the surveyed property and discusses the surveyor's opinion of the cause and amount of uncertainty in those lines and corners because of the following:

A) Availability and condition of reference monuments.
The subject parcels are a subdivision of the subject property in the northeast quarter of section 23-1-7. Another metes and bounds description line just across the common drive, over in the southwest quarter of section 14-1-7. The section line between sections 14 and 23 is defined by the corner perpetuated by the county surveyor as depicted. There is some variation noted in the old corners between the plat subdivisions, but no history was found for a sixteenth corner between the quarter corners and therefore the section line was held fully straight across the river.

The Verna and Mabel Hatten Subdivision was platted in 1937 by Eugene Dalkowski. There are no writings or legal descriptions across the bank of the river that establish the original monumentation. The original 48 foot drive was re-established from a stone found near the northwest corner of Lot 9. The subject metes and bounds and a stone referenced by Pace Engineering at the southwest corner of Lot 1. Since the double 'XX' stone at the southwest of Lot 1 was not dug up, the pins from the Pace survey were best fit. The pins were held at the 50 foot round dimension from the various pins and the lot lines were held at 90 degree angle per the original plan. No pin was necessarily held as an original. This balanced scenario indicates measurements from found survey monuments typically within 0.3 feet or less over.

The easement boundary line of the subject property is described to the low water mark of the Flat Rock River on the west side, being that line prior to the original construction of the Geneva Conservation Dam built to the south. The low water mark is defined as the line to which a body of water recedes to at its lowest stage. For the purposes of this survey the edge of the existing water line was located and was done at a time when the water was not unusually high.

The only visible occupation along the platted portion of the subject property was a short remnant of antique concrete block fence near the southwest corner of Lot 6 and old ribbon style bar wire on an 18 inch high, near the south corner of Lot 5. The western and southern portion of the unplatted tract was also fenced with the same original double line fence as depicted.

There is general evidence of a vehicular driveway to the Krista Duval property across the southerly corner of the subject property. There was no easement discovered in the record documents. In fact the original triangular parcel from Verna and Mabel Hatten specifically denied an ingress and egress easement back in 1939. See the record title description caption. There is the possibility of an easement being acquired through the process of prescription. In Indiana that requirement is 20 years or more of continuous occupation along with certain other actions by the dominant. Historical pins were present for 20 years or more to corroborate the history of the Duval drive. Testimony from other parties past the present would be required to prove or disprove prescription rights.

B) Description of possession lines.
The client's parents acquired the subject property in 1984 per Deed Record 241-381. The first part of the legal description is Lots 6 thru 9. The first conveyance of these lots occurred in July of 1943 from the Hattens to Frank, Lawrence, and Raymond Fox per Deed Record 164-81. The conveyance included all of Lot 6 and did not mention the portion of the subject property conveyed previously in September of 1938. This 1943 deed is the only deed of record for the subject property at 178-26. The second part of the deed of Lot 6 and reverses around counterclockwise. While the description runs south to the western extension of the south line of Lot 6, it then travels 78 feet east to the southwest corner of Lot 6. The description language then calls parallel to the west line of Lot 6, but in reality the 78 feet places the closing call directly along the west line of Lot 6. There are two reasons why this was not seen in the intended description sounds. The unplatted parcels to the southwest owned by Mark Eades are described in the same manner, but to the 18 foot drive across the subject property, even though it is now demolished and overgrown with trees.

C) Clarity or ambiguity of record descriptions.
The client's parents acquired another parcel in 1967 per Deed Record 290-571 and 251-323. The 40 foot by 40 foot parcel is described with cardinal directions from the intersection of the northwest side of Lot 1 of the Jesse Whitehead Subdivision and the north line of the 24 foot common drive. This parcel was obtained from Simon Hatten who owned the farm. The parcel of the Whitehead Subdivision. This was supposedly required to be originally from the subdivision and the Jesse Whitehead and Mabel Hatten. In relation to the parcel, there is a north bank of the Flat Rock River, a meandering survey line running just to the west of the bank and 2 stone monuments on the south line of section 24. One of these stones was removed from the survey being at the southerly end of the 24 foot common drive. The other stone being 21 feet from the river bank was not found and was probably destroyed with the construction of a concrete dock area. The land from the river bank was not found and was probably destroyed with the construction of a concrete dock area. The land from the river bank was not found and was probably destroyed with the construction of a concrete dock area. The land from the river bank was not found and was probably destroyed with the construction of a concrete dock area.

There is a discrepancy in legal descriptions between the subject property and the Mark Eades property to the northwest. The Eades description appeared originally in Deed Record 202-48, recorded June 25, 1951, and was from the deed of record to John and Mabel Eades. The description is referring to the nearest original and holds the error was made, but due to few controlling mathematical measures by the surveyor to interpret Eades' site, in reviewing senior rights, the Eades property was conveyed first, then about a month later, the Hattens conveyed the subject unplatted tract to the Fox family per Deed Record 202-439 on July 23, 1954. It is assumed that surveying of some sort was being done at the same time to set off the Hatten property northwest of the subdivision. Even though the Eades tract would take senior/junior precedence over the Fox tract, the described calls of the Fox property are closer in proximity and more certain in evidence. There is also a dimension discrepancy of the distance from the 35 foot drive, northwest to the common line in the Hatten description calls this to be 78 feet whereas the Eades description refers to it as 79 feet. The Fox description more closely matches the old line of occupation and was the occupied line shown.

D) Relative positional accuracy of measurements.
The lines and corners retraced or established by this survey have been executed meeting Title 865, Indiana Administrative Code 13-2-1 and held under a Suburban Survey classification with a relative positional accuracy of 0.33 feet + 100 ppm.

SURVEY CERTIFICATION
I hereby certify that this survey was performed under my direct supervision and to the best of my knowledge and belief was executed to minimum standards of precision as contained in Rule 12, of the 865, Article 1, of the Indiana Administrative Code.
DATE: February 04, 2017

Signed: _____

SCOTT T. SUMERFORD
LAND SURVEYING
3149 NORTH RILEY HIGHWAY
SHELBYVILLE, IN 46176-9462
BUSINESS PHONE (317) 401-6050
Indiana Registered Surveyor No. 29800017
Copyright © 2017 by Scott T. Sumerford
This document is only considered an original copy if an inked seal and original signature is affixed.

LAST DATE OF FIELDWORK February 6, 2017
CERTIFICATION DATE February xx, 2017
NOTES/REVISIONS NONE TO DATE
I AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN THE NECESSARY CARE TO BE TRUE AND CORRECT IN THIS DOCUMENT, UNLESS OTHERWISE INDICATED.
NAME: Scott T. Sumerford
Prepared by: Scott T. Sumerford

CLIENT
Kenneth R. Neumeister
2802 Arden Cove
Fort Wayne, IN 46814
PROJECT
Boundary survey on vacant property along the Flat Rock River off County Road 300 E.

INDIANA TITLE 865
BOUNDARY SURVEY
JOB LOCATION
LOTS 6, 7 & 8 PART LOT 9 OF HATTEN SUBDIVISION AND PART OF THE NW 1/4 SECTION 23 AND PART OF THE NW 1/4 SECTION 23 TOWNSHIP 11 NORTH, RANGE 7 EAST, NOBLETOWNSHIP, SHELBY COUNTY, IN