

**Shelby County
Board of Zoning Appeals**

August 8, 2023 at 7:00 PM

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MEETING AGENDA

Shelby County Board of Zoning Appeals August 8, 2023, 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the July 11, 2023 meeting.

OLD BUSINESS

None.

NEW BUSINESS

BZA 23-27 – DONNA L GRIFFEY: DEVELOPMENT STANDARDS VARIANCES. Located at 8289 S 500 W, Edinburgh, Jackson Township.

BZA 23-29 – ANNETTE & JIM PRATHER: DEVELOPMENT STANDARDS VARIANCES. Located at 8562 S Pleasure Valley Rd, Waldron, Nobel Township.

BZA 23-30 – JERRY W ROBINSON: SPECIAL EXCEPTION & DEVELOPMENT STANDARDS VARIANCES. Located at 566 W Mill Rd, Shelbyville, Marion Township.

V23-02 – DONALD M PITZER: ZONING VIOLATION. Located at 7398 W 700 N, Fairland, Moral Township.

DISCUSSION

APPROVED HEARING OFFICER CASES

BZA 23-28 – DAVID & SANDRA RUSH: DEVELOPMENT STANDARDS VARIANCES. Located at 1453 S 500 W, Shelbyville, Hendricks Township. *Approved July 27, 2023.*

ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, **September 12, 2023 at 7:00 PM.**

Property Details

Location: 8289 S 500 W, Edinburgh, Jackson Township. Griffey Simple Subdivision, Lot 1.

Property Size: 2.96-acres.

Current Land Use: Vacant.

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 Estate Residential

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

	Zoning	Land Use
North	RE	Vacant
South	RE	Estate Residential
East	A1/RE	Cropland / Estate Residential
West	RE	Estate Residential

Staff Report

Case Number: BZA 23-27
Case Name: Donna L Griffey – Development Standards Variances

Request

Variations of Development Standards to allow a new single-family residence:

1. Oriented greater than ten degrees (10) from the public street to which the building gains access;
2. With a one-care, attached garage (two-car attached garage required).

Code Requirement

UDO Section 5.11 A: *Facade:* The front facade of all primary structures shall not be oriented greater than ten degrees (10) from the public or private street to which the building gains primary access.

UDO Section 5.11 D 1: *Minimum Garage Capacity:* Minimum two-car, attached garage required for all single-family detached and two-family buildings.

Purpose of Requirements – Architectural design guidelines encourages consistency among development, protects and improves upon the aesthetic character of the community, and protects property values.

Property Map



Case Description

- The petitioner intends to construct a one-story, two-bedroom, single-family residence on a slab with a one-car attached garage.
- An existing driveway servicing the residential lot to the west would provide access to the new house. The driveway is included with the property to the west and the property owner has provided an access easement. The new home will face this driveway rather than the public road.
- The petitioner explained that the land slopes from south to north, rather than west to east. Therefore, fronting the home upon the driveway rather than the public road would require less earthwork around the foundation of the house.
- The surrounding area includes single-family residences in a variety of architectural styles, with and without attached garages. All homes in the area front upon the public road.
- Construction of the new home would require Site Plan approval prior to issuance of construction permits to ensure that the structure complies with all County codes. The Site Plan Committee includes the Planning Director, Building Inspector, and Health Department Environmental Technician.

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 new single-family residence would require Site Plan approval and construction permits, and the structure must comply with all building codes and sanitation requirements prior to final inspection.

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 surrounding area includes homes in a variety of architectural styles, with and without attached garages. A home not fronting upon the public road and with a one-car attached garage would not significantly conflict with the character of the area.

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 land slopes from south to north, rather than west to east. Therefore, fronting the home upon the driveway rather than the public road would require less earthwork around the foundation of the house. The relatively small size of the proposed home does not necessitate a two-car attached garage.

Staff Recommendation

APPROAL primarily because the land slopes from south to north, rather than west to east. Therefore, fronting the home upon the shared driveway rather than the public road would require less earthwork around the foundation of the house. The relatively small size of the proposed home does not necessitate a two-car attached garage.

Applicant/Owner Information

Applicant:	Donna L Griffey 8411 S 500 W Edinburgh, IN 46124	Owner:	Same
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**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: Donna Griffey

Case #: _____

Location: 8289 S. 500 W. Edinburgh IN 46124

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.

Simple house build with no harm to 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.

Attractive 1 level house plan with side facing 500W Road
Front Facing easement drive. Adjacent property
will not be affected in adverse manner

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.

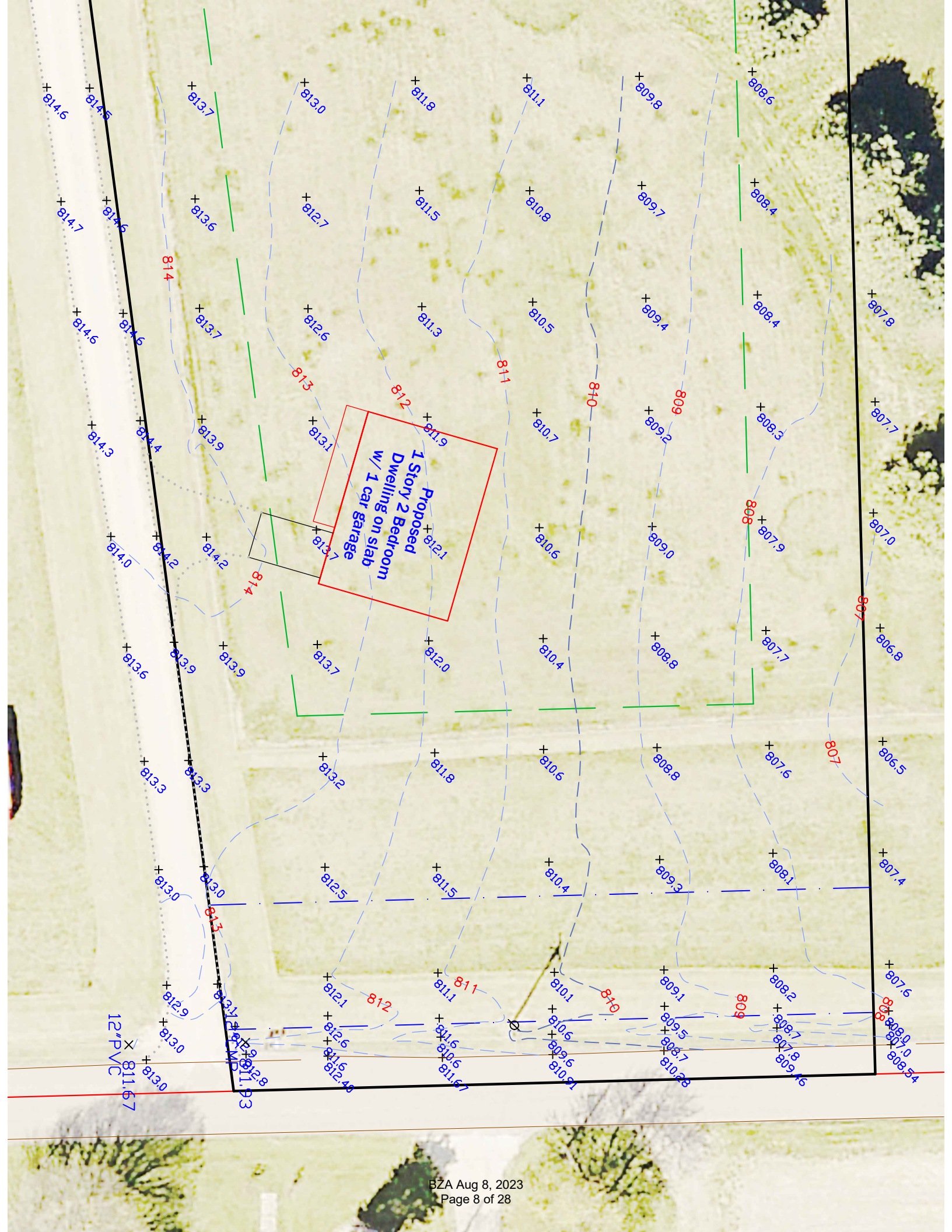
Garage will accommodate two vehicles. Due to site
topography, the setting is best served as presented

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.)



**Proposed
1 Story 2 Bedroom
Dwelling on slab
w/ 1 car garage**

12' PVC
X 811.67

X 812.8
X 811.93

Property Details

Location: 8562 S Pleasure Valley Rd, Waldron, Nobel Township. Pleasure Valley, Lots 3, 4, & 5.

Property Size: 0.49-acres.

Current Land Use: Single-Family Residential.

Zoning Classification:

VR (Residential Estate)

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

Development Standards: Flexible development standards to accommodate existing developments.

Future Land Use per Comp Plan

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.

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

Staff Report

Case Number: BZA 23-29

Case Name: Annette & Jim Prather – Development Standards Variances

Request

Variances of Development Standards to legally establish an existing 640 sq. ft. shed:

1. In the front yard;
2. Resulting in the total square footage of all accessory structures on the property exceeding ½ the square footage of the footprint of the residence;
3. Without a perimeter foundation.

Code Requirement

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.*

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

UDO Section 5.07 E – Prohibited Types: *Post frame buildings are not permitted, unless it has a concrete floor and perimeter foundation.*

Purpose of Requirements: 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. Prohibiting the construction of accessory structures in the front yard maintains the primary structure as the visual focal point of the property and protects viewsheds from neighboring properties. Accessory structure appearance standards protect the aesthetic quality and property values of medium-to-high density residential neighborhoods.

Property Map



Case Description

- In the summer of 2022, the petitioner purchased the subject property and placed the 640 sq. ft. portable shed approximately five feet from the private road without obtaining applicable permits and in violation of development standards. The petitioner indicated that they were advised that the County would not require permits due to location of the property on a private road. Staff has verified that the petitioner had obtained required permits for property they previously owned in northern Shelby County.
- The petitioner indicated that they downsized from their previous residence and placed the shed to use for storage of excess personal items.
- Staff received a complaint citing placement of the shed without a permit and hinderance of visibility from a neighboring driveway due to the location of the shed. On May 15, 2023 Staff sent the petitioner a violation letter and the petitioner promptly contacted Staff to inquire about options for corrective action.
- Staff granted the petitioner a two-month extension to apply for the variance to allow time for completion of a survey. The preliminary survey does show encroachment of the house, driveway, and septic system on the property to the southwest onto the petitioner's property. However, the civil courts rather than the BZA would address encroachment issues.
- Placement of the shed would have the greatest impact on the property to the southwest due to alteration of the viewshed from the front yard of the property and impact to driveway visibility. This property appears in general disrepair.
- The total square footage of the shed and existing detached garage would equal approximately 1.2X the square footage of the footprint of the house. The property tax card provides the square footage of the house and garage for the square footage calculation.

- Most of the property lies within a Federal Emergency Management Agency (FEMA) and IDNR (Indiana Department of Natural Resources) designated Special Flood Hazard Area. A portion of the shed lies within this mapped area, however a surveyor has certified that the natural grade elevation below the shed lies above the base flood elevation. Therefore, per the Unified Development Ordinance, floodplain regulations do not apply.
- Several other homes along Pleasure Valley Rd. include accessory structures in the front yard, likely due to all rear yards lying in the floodplain. Also, many of the properties appear to have accessory structures without concrete floors and/or perimeter foundations. However, few properties have accessory structures exceeding 50% the square footage of the primary 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: Location of the shed five feet from the edge of pavement of the road could pose a traffic hazard. However, the road is privately owned, has a relatively low speed limit, and several other structures and trees also lie within five feet of the road.

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: Several other homes along Pleasure Valley Rd. include accessory structures in the front yard and appear to have accessory structures without concrete floors and/or perimeter foundations, therefore the placement and design of the structure would not conflict with the character of the area. However, the shed does negatively impact the adjacent property to the southwest because it impedes the viewshed from the front yard of the property and impedes visibility of the driveway on the 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 subject property includes a detached garage similar in size to other accessory structures in the area that the petitioner can use for storage without grant of a variance.

Staff Recommendation

Staff recommends **DENIAL**.

The structure does not conflict with the character of the area and compliments the property; however, the shed does negatively impact the adjacent property to the southwest because it impedes the viewshed from the front yard of the property and impedes visibility of the driveway on the property.

Applicant/Owner Information

Applicant:	Annette & Jim Prather 8562 S Pleasure Valley Rd. Waldron, IN 46182	Owner:	Same
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**Storage Shed
(standing on subject property looking south)**



View of Shed and House on Adjacent Property to the Southwest



Storage Shed
(driving north on Pleasure Valley Rd.)



DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT

Applicant: ANNETTE AND JAMES PRATHER
Case #: _____
Location: 8562 S. PLEASURE VALLEY RD, WALDRON

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.

OUR SHEA CREATES NO "NEW" GENERAL WELFARE CONCERNS. IT DOES SIT NEAR THE ROAD, BUT PRIOR TO HAVING IT DELIVERED I REMOVED A VERY LARGE EVERGREEN TREE IN THE SAME LOCATION AND A SIX FOOT TALL PRIVACY FENCE THAT WAS BEHIND THE TREE.

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 ADJACENT PROPERTY HAS BEEN VACANT, IN DISARRAY, BEING TAKEN OVER BY NATURE, AND SHOULD BE CONDEMNED, NO "SUBSTANTIALLY" ADVERSE AS AFFECT IS POSSIBLE.

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 SHEA IS AESTHETICALLY PLEASING AND SERVES EXCELLENT USE OF THE PROPERTY. THE PREVIOUS OWNERS AND NEXT DOOR NEIGHBOR (THE JOHNSONS) STORED RUBBISH BEHIND THE PRIVACY FENCE IN THE PAST,

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.)

PLEASURE VALLEY Rd

8570 S PLEASURE VALLEY RD

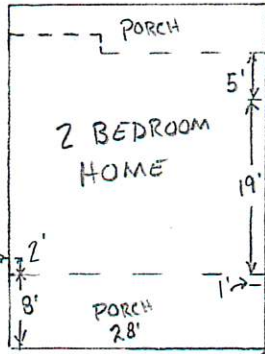
APP. PROP. LINE

SHED

DRIVE

2 CAR GARAGE

1"=20'

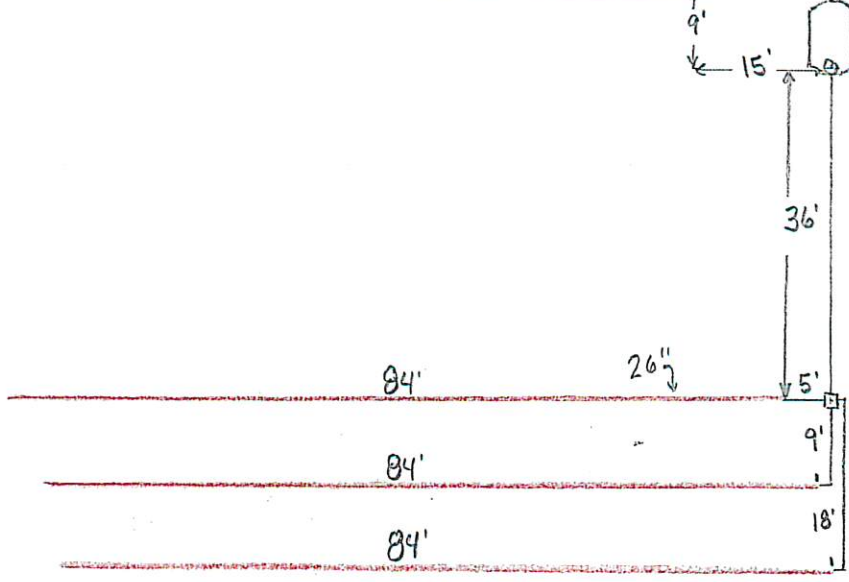


WELL X=6'

C.O.'s

8554 S. PLEASURE VALLEY RD

APP. PROP. LINE



FLAT ROCK RIVER

Property Details

Location: 566 W Mill Rd, Shelbyville, Marion Township.

Property Size: 2-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.

BZA: Allow a special exception use only when it is compatible with the surrounding residential areas.

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.

	Zoning	Land Use
North	A1	Cropland
South	RE	Estate Residential
East	A1	Cropland
West	A1	Cropland

Staff Report

Case Number: BZA 23-30

Case Name: Jerry W Robinson – Special Exception & Development Standards Variance

Request

Special Exception to allow a Type 3 Home Business (mechanical repair) in the RE (Residential Estate) District (only permitted in the A2 District).

Variance of Development Standards to allow unscreened outdoor storage of a minimal amount of equipment related to the home business.

Code Requirement

UDO Section 2.11 – RE District Intent, Permitted Uses, and Special Exception Uses.

UDO Section 5.35 (Type 3 Home Business Standards) E 4 b – No outdoor storage of products, materials, supplies, waste, scrap, or the like shall be permitted unless fully within an opaque fence enclosure with gate tall enough to screen the outdoor storage. Fences used for screening shall not exceed eight (8) feet in height. The fenced enclosure shall not exceed 1,000 square feet in area and shall meet all setback requirements for an accessory structure. A fenced enclosure for outdoor storage shall not be located forward of the accessory structure used for the Type 3 Home Business.

Purpose of Requirements:

The UDO designates Special Exception uses for each zoning district. Unlike a use variance, the petitioner does not have to prove that they cannot use or improve the property in a reasonable manner to obtain approval of a Special Exception. The petitioner must only prove that the design and use of the Special Exception would mitigate potential impacts to surrounding properties and to the character of the area, and that the proposed Special Exception is consistent with the intent of the zoning district and Comprehensive Plan.

The UDO regulates the size and positioning of outdoor storage areas related to Type 3 home businesses to limit evidence of use of residential property for commercial purposes, thereby protecting the character of rural residential areas.

Property Map



Case Description

- The petitioner currently operates a mechanical repair shop in the barn on the property. The petitioner also resides on the property.
- In July of 2023, the Shelby County Recycling District Code Compliance Officer received a complaint regarding the outdoor storage of waste, scrap materials, and inoperable vehicles. After investigation, the Code Compliance Officer determined that the property included equipment related to an on-site business and notified the petitioner that he would need to contact the Plan Commission to legally establish the business use. The petitioner promptly applied for a variance.
- The petitioner is currently in the process of cleaning up the property to bring the property into compliance with the Nuisance Ordinance enforced by the Code Compliance Officer. The petitioner indicated that he would store any materials related to the business along the north side of the barn.
- Historical aerial photography shows vehicles and equipment stored on the property over the past ten years.

- The property lies within a Federal Emergency Management Agency (FEMA) designated Special Flood Hazard Area, however, does not lie within an Indiana Department of Natural Resources (IDNR) designated Best Available Data Special Flood Hazard Area. Therefore, the property has a reduced risk of flooding. The UDO does not require a permit for storage of equipment in the Special Flood Hazard Area or impose any regulations regarding the storage of equipment.
- One adjacent residential property has clear visibility of the property. The house on the subject property and mature trees screen much of the rear yard from the public road.

Staff Analysis of Findings of Fact

Special Exception

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

Staff Analysis: The UDO establishes the RE District to allow for single-family dwellings and low-impact development in harmony with the natural setting. The UDO states: *Allow a special exception use (in the RE District) only when it is compatible with the surrounding residential areas.* Operation of a mechanical repair shop indoors with outdoor storage located north of the barn would not have any significant aesthetic or nuisance impact on the one adjacent residential property to the south. The Comprehensive Plan designates the property for Parks, Open Space, & Conservation due to presence of the FEMA Special Flood Hazard Area, however IDNR best available data shows the property outside the floodplain. Use of property including a rural homesite for a Type 3 Home Business would not conflict with the Comprehensive Plan agricultural future land use recommendation for surrounding areas.

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

Staff Analysis: Operation of an indoor mechanical repair shop by the homeowner and without employees would not impact traffic patterns or pose an environmental hazard.

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

Staff Analysis: Operation of a mechanical repair shop by the homeowner and without employees, and with outdoor storage located north of the barn would not have any significant aesthetic or nuisance impact on the one adjacent residential property to the south or conflict with the agricultural character of the area.

4. UDO Requirement: The proposed special exception will not alter the character of the district; and

Staff Analysis: Operation of a mechanical repair shop by the homeowner and without employees, and with outdoor storage located north of the barn would not have any significant aesthetic or nuisance impact on the one adjacent residential property to the south or conflict with the agricultural character of the area.

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

Staff Analysis: Operation of a mechanical repair shop by the homeowner and without employees, and with outdoor storage located north of the barn would not have any significant aesthetic or nuisance impact on the one adjacent residential property to the south or conflict with the agricultural character of the area.

Development Standards

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

Staff Analysis: Outdoor storage of equipment and materials north of the barn would not be visible from the public road.

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: Outdoor storage of equipment and materials north of the barn would not be visible from adjacent residential 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: Erection of a fence would not serve to screen equipment from any adjacent residential properties or the road.

Staff Recommendation

APPROVAL primarily because operation of a mechanical repair shop by the homeowner and without employees, and with outdoor storage located north of the barn would not pose any significant aesthetic or nuisance impacts.

Staff recommends the following stipulations:

1. Operation of the business shall comply with Section 5.35 HB-03: Type 3 Home Business Standards of the Unified Development Ordinance, other than Section 5.35 E 4 b.
2. The business shall only be operated by the property owner and shall not have any additional employees.
3. Outdoor storage of products, materials, supplies, waste, scrap, or the like shall only be permitted north of the barn in an area not to exceed 1,000 sq. ft. as shown on the map below:



Applicant/Owner Information

Applicant:	Jerry W Robinson 566 W Mill Rd. Shelbyville, IN 46176	Owner:	Jerry L & Jerry W Robinson
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View of Barn & Storage Area Behind Barn (7/27/23)



Materials Stored Outdoors on Property (7/27/23)



Home Business Standards (HB)

5.35 HB-03: Type 3 Home Business Standards

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

A1 **A2** **A3**

The following standards apply:

- A. Permits: All Type 3 Home Businesses shall obtain a Land Use Certificate.
- B. Permissible Home Businesses:
 - 1. Permitted: The Type 3 Home Business shall be limited to woodworking, small engine repair, lawn service, assembly of products, automobile repair, welding, contracting business, landscaping business, light manufacturing or a similar use as determined by the Zoning Administrator. Use of the property or home for permitted agricultural land uses shall not be considered a Type 3 Home Business.
 - 2. Prohibited: The Type 3 Home Business shall not include any kind of direct retail sales.
 - 3. Discretion: Businesses not specifically listed above shall be interpreted by the Zoning Administrator as to whether the business is permitted as a home business or not.
- C. Personnel:
 - 1. Residency: The operator of the Type 3 Home Business shall reside in the house.
 - 2. Employees: Up to ten (10) employees may be employed by and work on site.
- D. Operations:
 - 1. Nuisance: The Type 3 Home Business shall not generate offensive noise, vibration, smoke, odors, dust, heat, glare, or electrical disturbances.
 - 2. Hours: The hours of operation of the Type 3 Home Business shall not interfere with the use and enjoyment of the rural area in which it is located.
- E. Design:
 - 1. Primary Structure:
 - a. The office component of the Type 3 Home Business may be operated in the primary structure (the home).
 - b. The Type 3 Home Business shall not exceed five percent (5%) of the square footage of the primary structure.
 - c. There shall be no evidence of the Type 3 Home Business from alterations to the exterior of the residence. However, the character of the property may show minimum evidence of its business use, including: exterior storage of materials, vehicles or equipment used in the Type 3 Home Business.
 - 2. Accessory Structure:
 - a. The Type 3 Home Business shall be primarily conducted within an accessory structure
 - b. The Type 3 Home Business may consume one hundred percent (100%) of the square footage of the accessory structure.
 - 3. Parking and Loading:
 - a. All off-street parking or loading facilities shall meet the requirements of the applicable zoning district.
 - b. No part of a minimum required yard shall be used for off-street parking or loading purposes.
 - c. There shall be no more than fourteen (14) operable vehicles parked on the site at any time, including the vehicles used by residents of the home.

Home Business Standards (HB)

4. Outdoor Storage:
 - a. No commercial vehicles shall be parked or stored outside between 9:00 p.m. and 5:00 a.m. unless parked or stored behind the accessory structure use for the Type 3 Home Business.
 - b. No outdoor storage of products, materials, supplies, waste, scrap, or the like shall be permitted unless fully within an opaque fence enclosure with gate tall enough to screen the outdoor storage. Fences used for screening shall not exceed eight (8) feet in height. The fenced enclosure shall not exceed 1,000 square feet in area and shall meet all setback requirements for an accessory structure. A fenced enclosure for outdoor storage shall not be located forward of the accessory structure used for the Type 3 Home Business.
5. Signs: One (1) wall sign is permitted on the accessory structure and it shall not exceed ten (10) square feet in sign area. The wall sign shall be fully located within ten (10) feet above ground level. Materials shall be aesthetically compatible and complementary to the accessory structure, specifically to make sure the sign is subtle and consistent with residential and neighborhood character. No special lighting shall be permitted to illuminate the sign.

**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: _____

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.

Its on my private 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.

Im not CAUSING A NUISANCE to my neighbors

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.

Im not able to park vehicles on my property
to be repaired & I not able to store parts ~~and~~
for disposal.

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.)



Outdoor storage behind building →

Mechanic Shop

06

Area to be cleaned up ↙

Zoning Violation

Case Number: V23-02
Property Owner: Donald M Pitzer
Location: 7398 W 700 N, Fairland, Moral Township.

Violation

A fence in the front yard on property in the VR (Village Residential) District exceeding three (3) feet in height. Note that the ordinance defines the area of the property between the front of the house and the edge of the road as the front yard.

Section 5.23 F - Maximum Height for Walls & Fences

Violation Photographs



Case History

February 27, 2023 – Staff received a complaint regarding the installation of a lattice fence.

March 14, 2023 – Staff inspected the property and noted the lattice fence and a wood fence in violation of the maximum height requirement. Staff assumed that the complainant owned the wooden fence, therefore placed the violation of hold.

May 8, 2023 – The complainant notified Staff that the property owner in violation owned both fences.

May 15, 2023 – Staff sent the property owner a violation letter. The property owner contacted Staff and stated that he would not remove the fence. Staff informed him that she would forward his case to the BZA.

June 13, 2023 – Staff provided the BZA with an overview of the violation at their June meeting, and asked the Board if they would like to pursue enforcement action. They requested that Staff send the property owner a letter informing him that the BZA would consider further enforcement action at their next meeting.

July 3, 2023 – Staff sent the property owner a letter notifying him of hearing of the violation case before the BZA on July 11, 2023.

July 11, 2023 – The BZA continued the case to the September meeting due to a delay in delivery of the certified letter notify the property owner of the meeting.

July 13, 2023 – The property owner received the certified letter and contacted Staff. The property owner again stated that he would not remove the fence. Staff notified the property owner that the BZA had continued his case to their August 8th meeting.

BZA Decision

Staff requests that the Board provide direction to Staff regarding enforcement action.

Shelby County Plan Commission

25 West Polk Street, Room 201

Shelbyville, Indiana 46176

(317) 392-6338

Planning Director

Desiree Calderella, AICP

NOTICE OF ZONING VIOLATION

via certified mail # 7020 1290 0002 0297 1963

V23-02

May 15, 2023

Donald M Pitzer
7398 W 700 N
Fairland, IN 46126

The Shelby County Plan Commission observed a violation of the Shelby County Unified Development Ordinance on property you own at 7398 W 700 N, Fairland. With this letter, the Shelby County Plan Commission, which is charged with enforcing the ordinance, requests that you correct the violation. The specific terms of the violation are detailed here:

1. **Location of violation:** 7398 W 700 N, Fairland
2. **Specific description of violation:** A fence in the front yard on property in the VR (Village Residential) District exceeding three (3) feet in height. Note that the ordinance defines the area of the property between the front of the house and the edge of the road as the front yard.
3. **Specific portion of ordinance violated:** Section 5.23 F - Maximum Height for Walls & Fences
4. **Options for corrective action:**
 - a. Lower height of fence.
 - b. Remove fence. A land use petition seeking to reinstall the fence at the previous height may be filed after correction of the violation.
 - c. Appeal the issuance of this violation to a public hearing of the Shelby County Board of Zoning Appeals.

Corrective action listed above shall be taken by **June 5, 2023**. Failure to take corrective action by June 5, 2023 will result in a **fine of \$50**. If corrective action is not taken by June 5, 2023, the Plan Commission will issue ongoing additional **finest each day up to \$7,500**, which if unpaid will attach as a lien to your property. The Plan Commission may employ any other legal remedy permitted by the Unified Development Ordinance.

If merited, I will work with you on a short extension to bring the property into compliance. If you wish to discuss any other aspect of your case, please call me at (317) 392-6338 or email me at dcalderella@co.shelby.in.us.

Sincerely,



Desiree Calderella, AICP
Planning Director
Shelby County Plan Commission