

**Shelby County
Board of Zoning Appeals**

September 8, 2020 at 7:00 PM

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MEETING AGENDA

Shelby County Board of Zoning Appeals
September 8, 2020, 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the July 14, 2020 meeting.

OLD BUSINESS

None

NEW BUSINESS

BZA 20-21 – PHILIP R. & PAULA A. HENRY: USE VARIANCE. Located at 8700 S SR 9, Flat Rock, Washington Township.

BZA 20-22 – MICHELLE PORTER: DEVELOPMENT STANDARDS VARIANCES. Located at 3333 E 875 S, Waldron, Nobel Township.

DISCUSSION

APPROVED HEARING OFFICER CASES

BZA 20-23 – ANTHONY ARMSTRONG: DEVELOPMENT STANDARDS VARIANCE. Located at 6069 E Michigan Rd, Waldron, Liberty Township.

ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, **October 13, 2020 at 7:00 PM.**

Property Details

Location: 8700 S SR 9, Flat Rock, Washington Township.

Property Size: 2.5 acres.

Current Land Use: Commercial.

Zoning Classification:

C1 (Neighborhood Commercial)

Intent: This district is established for the provision of small-scale retail goods and services required for regular or daily convenience of nearby neighborhoods and agricultural areas.

Future Land Use per Comp Plan Agricultural

The purpose of this category is to provide for traditional agricultural practices (such as crop production and livestock grazing) and modern agricultural practices (such as agricultural research facilities and CAFOs). Rural home sites may also occur within this category, however, the emphasis should remain on agriculture. New residential subdivisions that remove prime farmland from production should be discouraged. The residential density of this category should be one lot for every five acres.

Surrounding Development

	Zoning	Land Use
North	A1	Cropland
South	A2	Rural Residential / Multi-Family
East	RE	Rural Residential
West	A1	Cropland

Staff Report

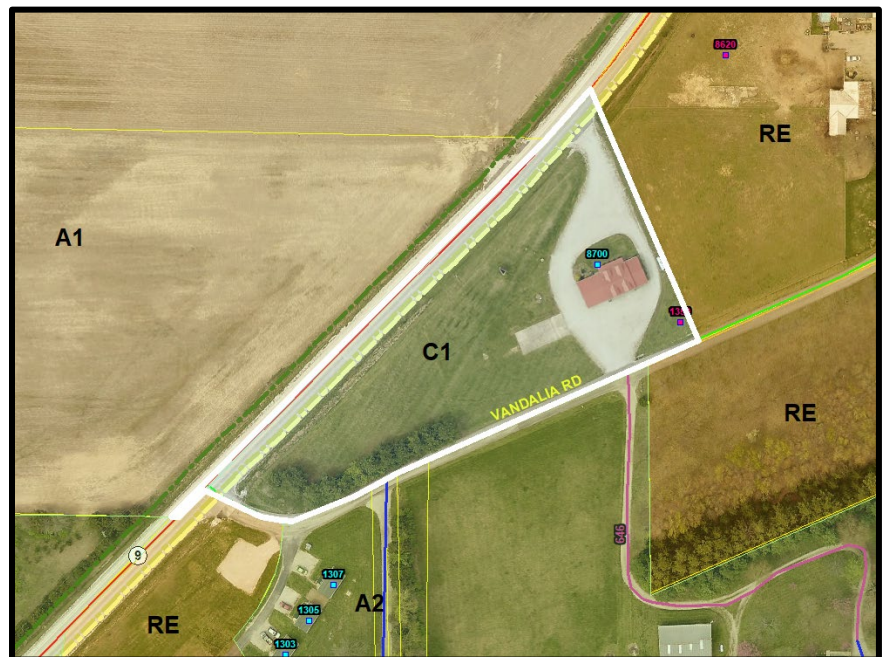
Case Number: BZA 20-21

Case Name: Philip R. & Paula A. Henry – Use Variance

Request

Variance of Use to allow for use of the property for single-family residential purposes in the C1 (Neighborhood Commercial) District.

Property Map



Case Description

- The petitioner plans to purchase the property and remodel the existing commercial structure into a single-family residence.
- Approval of this variance would allow for the remodel and future residential accessory structures.
- The current property owner requested that the petitioner apply for a variance rather than a rezoning to allow for sale of the property for commercial purposes if circumstances arise that prevent the petitioner from purchasing the property.

- The UDO states: *A use variance granted by the Board of Zoning Appeals may run with the land or applicant until such time as: a. The use of the variance ends, is vacated, or unused for three (3) months consecutively b. The property conforms with the Unified Development Ordinance as written; or, c. The property is sold.*
- Historic zoning maps indicate that the property obtained its commercial zoning designation between 2002 and 2008. The County Assessor’s property card indicates 1968 as the date of construction of the existing structure. Permit records indicate a remodel and addition to the structure in 2010. A women’s clothing boutique has most recently occupied the building.

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: Remodel of the building will require a building permit and review of the construction for compliance with residential building code. Therefore, approval of the variance would not negatively impact the public.

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

Staff Analysis: Use of the property for residential purposes would result in minimal change to the appearance of the property and would generate less traffic than commercial uses. Therefore, approval of the variance would not impact adjacent properties.

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

Staff Analysis: The surrounding area includes rural-residential development rather than commercial development.

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: A strict application of the ordinance would not allow for use of the property for purposes having less of an impact on adjacent residential development than uses permitted in the C1 District.

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

Staff Analysis: The agricultural future land use designation supports use of the property for rural-residential purposes.

Staff Recommendation

APPROVAL primarily because the surrounding area includes rural-residential development rather than commercial development.

Applicant/Owner Information

Applicant	Phillip R. & Paula A. Henry	Owner:	Stacey & Wayne Mundstock
	1411 Bush Way		2648 S Wynn Rd.
	Shelbyville, IN 46176		Okeana, OH 45053

**USE 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 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.

NO IT WILL NOT

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

NO IT WILL NOT

3. **Practical Difficulty:** The need for the variance arises from some condition particular to the property involved.

NO IT DOES NOT

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

I WILL NOT BE ABLE TO SELL THE PROPERTY

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

NO IT WILL NOT

Property Details

Location: 3333 E 875 S, Waldron, Nobel Township.

Property Size: 0.25 acres.

Current Land Use: Single-Family Residential.

Zoning Classification:

VR (Village Residential)

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

Use, Type, & Intensity: Medium to high density single-family detached dwellings on small to medium sized lots.

Application of District: Existing development in unincorporated villages. Very limited use in new development.

Development Standards: Flexible development standards to accommodate existing developments.

Future Land Use per Comp Plan

Agricultural

The purpose of this category is to provide for traditional agricultural practices (such as crop production and livestock grazing) and modern agricultural practices (such as agricultural research facilities and CAFOs). Rural home sites may also occur within this category, however, the emphasis should remain on agriculture. New residential subdivisions that remove prime farmland from production should be discouraged. The residential density of this category should be one lot for every five acres.

Surrounding Development

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

Staff Report

Case Number: BZA 20-22

Case Name: Michelle Porter – Development Standards Variances

Request

Variations of Development Standards to allow for a modular home:

1. With a floor area of 672 sq. ft. (minimum dwelling size of 900 sq. ft required in the VR District).
2. Dimension of 14' X 48' (minimum dimension of twenty-three (23) feet in width for at least sixty percent (60%) of the length required).
3. Not in compliance with architectural standards for dwellings in the VR District.
4. Located less than 15-feet from a delineated floodplain.

Code Requirement

UDO Section 2.18 – VR District Development Standards: Minimum Dwelling Size: 900 square feet.

UDO Section 11.02 – Definitions: Dwelling, Single-family Detached: A detached residential dwelling unit designed to be occupied by one (1) family. A single-family dwelling shall be at least twenty-three (23) feet wide for sixty percent (60%) of its length.

UDO Section 5.12 - Residential and Neighborhood Commercial Architectural Standards.

UDO Section 5.68 H 1 f – Floodplain: All structures shall be set back from the delineated boundary of a floodplain a minimum of fifteen (15) feet.

Purpose of Requirements – Prohibiting homes under 900 sq. ft. and less than 23-feet wide and implementing architectural standards for development in unincorporated villages serves to protect the aesthetic character of neighborhoods and surrounding property values. The required setback from a delineated floodplain encourages placement of structures outside of saturated areas and protects structures from potential flooding.

Property Map



Case Description

- The County Assessor's property card indicates that the property currently includes a 524 sq. ft. single-family residence constructed in 1940. The petitioner plans to remove this residence and place a 14' X 48' modular home on the property.
- The modular home would sit in the same location on the property as the existing house.
- The proposed modular home would have a log-cabin style exterior and include a living room, kitchen, bathroom, closet, two bedrooms, and a porch.
- The Health Department has approved utilization of the existing septic-system for the new modular home.

- The neighborhood consists primarily of single-family residences under 900 sq. ft. originally used as part-time secondary or ‘vacation’ homes.
- GIS data indicates that the modular home would sit approximately 80-feet from the edge of the river and approximately 20-feet above the elevation at the waterline.
- The modular home would *not* be located in a Special Flood Hazard area as identified on FEMA FIRM maps or IDNR Best Available Data Maps, and therefore would not be required to meet standards for structures in Special Flood Hazard Areas (i.e. elevation, floodproofing, etc.).
- The UDO permits modular homes in the VR District, however, does not permit manufactured or mobile homes in the VR District. Mobile homes, manufactured homes, and modular homes are constructed, in part, off-site, however building code classifies each dwelling as a different type of construction. Primary differences include:

	Mobile Home	Manufacture Home	Modular Home
Certification	Federal Manufactured Housing Construction and Safety Standards Law	Federal Mobile Home Construction and Safety Standards	State & local residential building code
Dimensions	At least 8-feet in width	Minimum of 23-feet in width for 60% of length	Any dimension
Size	Any size	Over 950 sq. ft.	Typically, larger than mobile and manufactured homes
Foundation	May be tied with perimeter skirting	Must be on a permanent foundation in accordance with state & local residential building code	Must be on a permanent foundation in accordance with one- & two-family building code

- Placement of the modular home would require site plan approval and building, plumbing, and electric permits.

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: Placement of the modular home would require a building permit and review of the construction for compliance with building codes. The Health Department has approved utilization of the existing septic-system for the new modular home. The modular home would not be located in a Special Flood Hazard area as identified on FEMA FIRM maps or IDNR Best Available Data Maps, and therefore would not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, or cause fraud or victimization of the public.

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

Staff Analysis: The neighborhood includes homes under 900 sq. ft. constructed utilizing various architectural styles. The proposed modular home would not conflict with the size of surrounding homes or the eclectic character of the neighborhood. The modular home would not be located in a Special Flood Hazard area as identified on FEMA FIRM maps or IDNR Best Available Data Maps, and therefore placement of the home would not result in increased flood heights resulting in damage to nearby properties.

3. State Requirement: The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in use of the property.

Staff Analysis: Much of the property lies within a Special Flood Hazard area as identified on FEMA FIRM maps, limiting the area available for construction of a single-family home in compliance with the structure size and architectural standards identified in the Ordinance.

Staff Recommendation

APPROVAL primarily because much of the property lies within a Special Flood Hazard area as identified on FEMA FIRM maps, limiting the area available for construction of a single-family home in compliance with the structure size and architectural standards identified in the Ordinance.

Recommended Stipulations:

1. The approval shall only allow for the modular home as show on the building plans submitted with the variance application.
2. The modular home shall encroach into the FIRM delineated floodplain.

Applicant/Owner Information

Applicant	Michelle Porter	Owner:	Same
	3333 E 875 S		
	Waldron, IN 46182		

Existing House

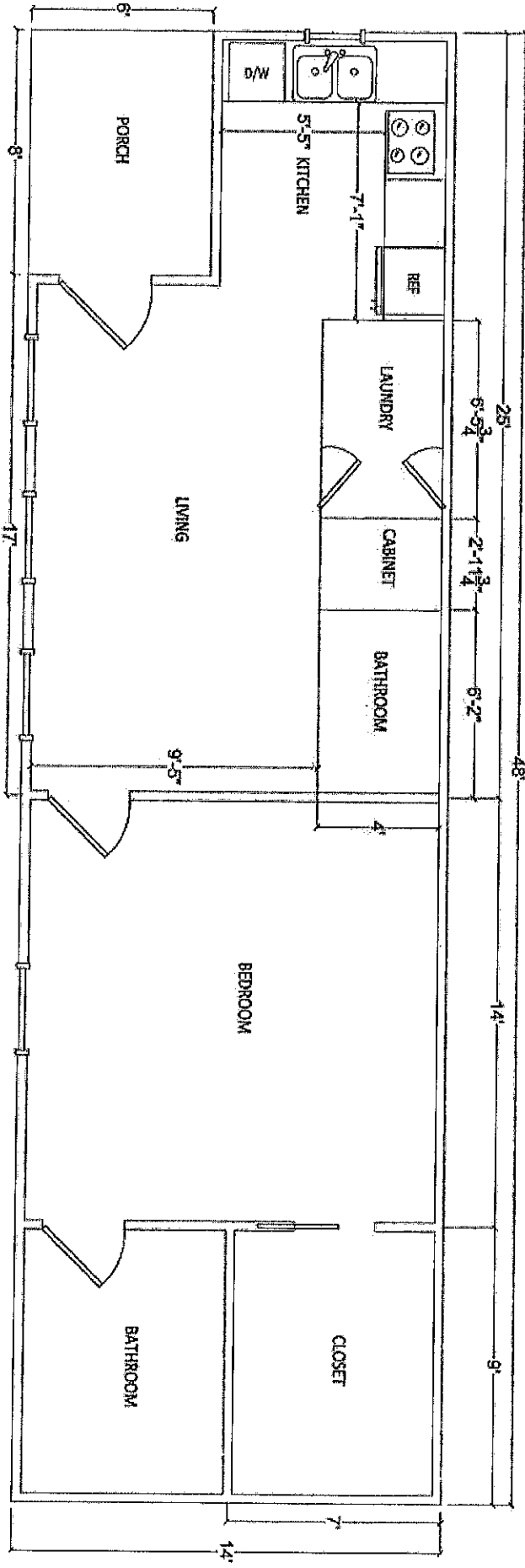


Proposed Manufactured Home



Houses in the Neighborhood

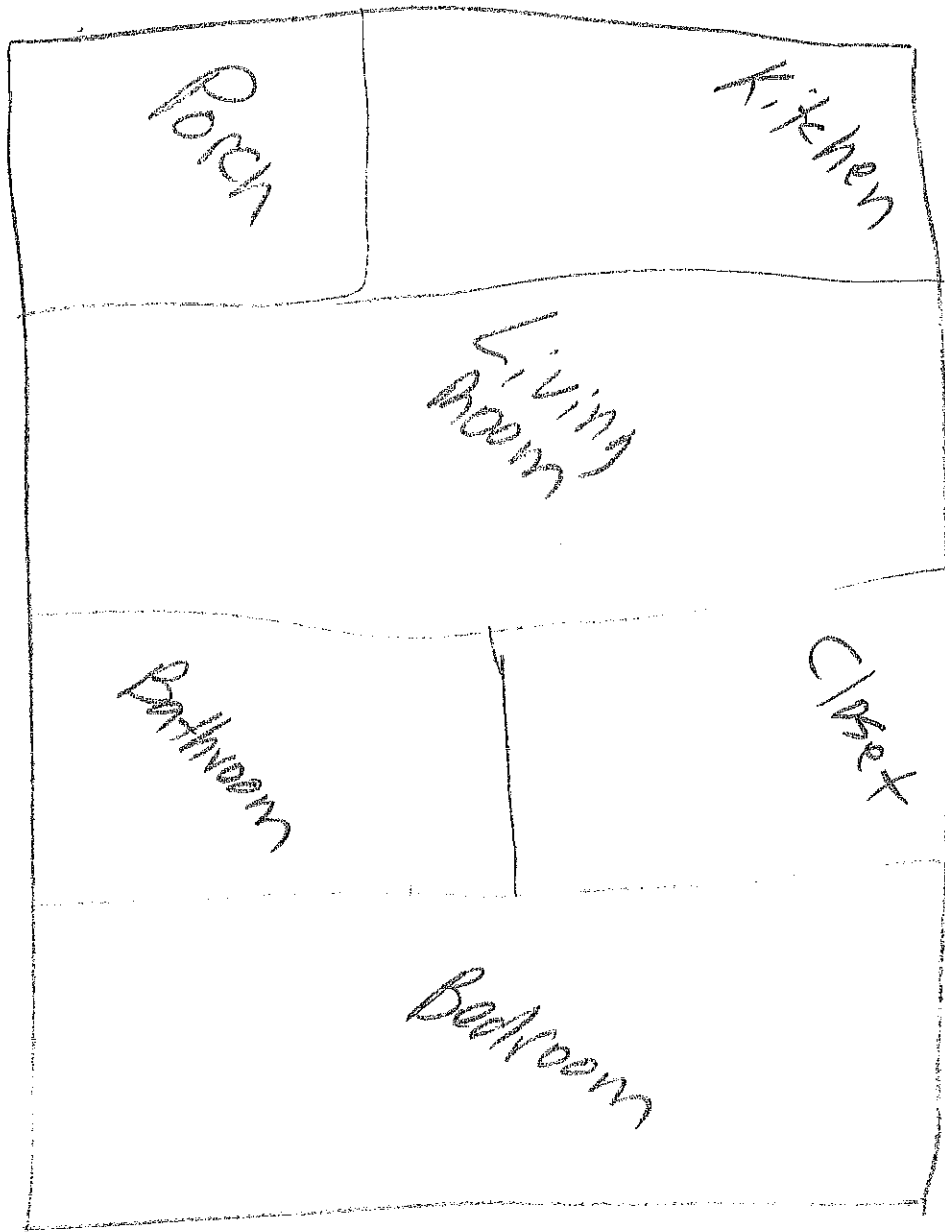




14' X 48' EIK 1 Bedroom 1 Bath
 Includes Laundry Room

Miller
Property

875 SOUTH



Flat Rock River

Door
Row
side

Current location
of existing
house

Harold
Miller

**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: Michelle Poster

Case #: _____

Location: 3333 East 875 South Waldron In 46182

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.

Teasing down old house replace with
new Deer run cabin

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.

My house now approx 14X45
New home 14X48

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.

New home will be in exact same spot up
on a foundation, almost same size

**USE VARIANCE
FINDINGS OF FACT**

Applicant: Michelle Poster

Case #: _____

Location: 3333 East 875 South Waldron In 46182

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.
Tear down old house replace with new
Deer Run Cabin

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.
My house now is approx. 14x45
New home is 14x48

3. **Practical Difficulty:** The need for the variance arises from some condition particular to the property involved.
New home will be in exact same spot
up on a foundation almost same size

4. **Unnecessary Hardship:** The strict application of the terms of the Shelby County Unified Development Ordinance will constitute an unnecessary hardship as they are applied to the property for which the variance is sought.
Replace old house with new

5. **Comprehensive Plan:** The granting of the variance does not interfere substantially with the Comprehensive Plan.
It does not, replacing old house with
new