

ORDINANCE NO 2020 - 1

**AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF SHELBY COUNTY, INDIANA, AMENDING THE SHELBY COUNTY UNIFIED DEVELOPMENT ORDINANCE - SPECIFICALLY ARTICLE 9: PROCESSES TO ADD SECTION 9.19 VARIANCE: HEARING OFFICER**

WHEREAS, the Board of Commissioners of Shelby County, Indiana recognize the need for orderly growth and development within Shelby County and those areas within its planning jurisdiction;

WHEREAS, Shelby County has an existing Unified Development Ordinance that regulates development within its jurisdictional areas;

WHEREAS, Shelby County desires to update its development regulations to meet current economic conditions, current trends, and to promote quality growth;

WHEREAS, Public Notice was given for at least one public hearing as required by Indiana Code 36-7-4-604; and

WHEREAS, the Shelby County Plan Commission has approved the amendment to the Unified Development Ordinance as required by Indiana Code 36-7-4-605.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of Shelby County, Indiana as follows:

SECTION 1: Amendment of the Article 9 of the Unified Development Ordinance of Shelby County to Add Section 9.19.

9.19 Variance: Hearing Officer

- A. Purpose and Intent: The Hearing Officer may vary the regulations of the Unified Development Ordinance for projects that meet the findings of fact set forth in this section. Variances may be a “development standards variance” granting relief from development standards such as height, bulk, area, landscaping, parking, etc.
- B. Unified Development Ordinance Regulations: All regulations of Article 9, Section 9.17 Variance shall apply to this section, except to the extent that provisions of this section impose a different requirement.
- C. Membership and Staff:
  - 1. The Plan Commission shall appoint two (2) hearing officers. One (1) of the hearing officers shall fulfill the duties of the hearing officer, and the

other hearing officer shall serve as an alternate in the event that the first is not available or has a conflict of interest.

2. The Hearing Officer shall be a resident of the jurisdictional area of the Plan Commission or of a municipality within the county and also an owner of real property located in whole or in part of the jurisdictional area of the Plan Commission. The Hearing Officer may not hold an elected office (as defined in IC 3-5-2-17); or any other appointed office, except as permitted by section IC 36-7-4-902, in municipal, county, or state government.
3. Duties of the Zoning Administrator: The Zoning Administrator shall provide technical assistant to the Hearing Officer. The Administrator shall be responsible for recording minutes of all Hearing Officer proceedings. The Administrator shall process applications for petitions, shall be responsible for the custody and preservation of the official file for each petition, shall establish the petition docket, and shall write the public notice for each petition. The Administrator is not required to write a Staff Report for Variance Hearing Officer Petitions.

D. Meeting Date: Each petition shall generally be heard (14) fourteen days after the date of submittal of an application and no later than the next regularly scheduled Board of Zoning Appeals Hearing.

E. Eligible Petitions:

1. The Hearing Officer may approve, approve with conditions or commitments, or deny only Development Standards Variances.
2. Dimensional Development Standards Variances approved by the Hearing Officer shall not deviate more than 50% from the Unified Development Ordinance requirement.
3. The Zoning Administrator may file a written objection to any petition and require transfer of any petition to the Board of Zoning Appeals.
4. Any condition or commitment imposed by the Variance Hearing Officer may only be modified or terminated by the Board of Zoning Appeals.

F. Transfer of Petitions: One or more of the following circumstances shall result in the transfer of a petition to the next regularly scheduled meeting of the Board of Zoning Appeals. Alternatively, the petitioner may withdraw the petition. New notice for transferred petitions is not required.

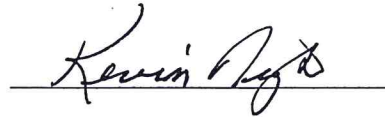
1. The Hearing Officer determines the issues involved warrant consideration by the Board or it appears likely that the decision of the hearing officer would be appealed to the Board.

2. The Zoning Administrator files a written objection to a petition because: The variance or conditional use sought would be injurious to the public health, safety, morals, and general welfare of the community; or the use or value of the area adjacent to the property included would be affected in a substantially adverse manner.
  3. The petitioner does not accept conditions or commitments specified by the Hearing Officer or Zoning Administrator.
  4. A person interested in the petition enters an oral or written objection to the petition prior to approval of the petition.
- G. Conduct and Procedure of Meetings: Meetings may be conducted in the same manner as meetings of the Board of Zoning Appeals. However, the Hearing Officer may alter the meeting procedure to expedite the hearing of petitions. The petitioner is not required to be present for the meeting.
- H. Decision: The Hearing Officer shall make findings of fact and take final action on applications not transferred to a meeting of the Board of Zoning Appeals. The Hearing Officer shall make the following findings of fact. Approval of findings may be in the form of a general statement.
1. The approval of the variance will not be injurious to the public health, safety, morals and general welfare of the community.
  2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
  3. The strict application of the terms of the ordinance will result in practical difficulties in the use of the property
- I. Appeals: A decision of the Hearing Officer may not be a basis for judicial review, but it may be appealed to the Board of Zoning Appeals.

SECTION 2: Effective Date. This ordinance shall be in full force and effect from and after its adoption by the Board of Commissioners of Shelby County, Indiana.

SECTION 3: Repealable Provisions. All ordinances and parts of ordinances in conflict with the specific amendment herein are hereby repealed.

ADOPTED this 10<sup>th</sup> day of February 2020 by a vote of 3 ayes and 0 nays of members of the Board of Commissioners of Shelby County, Indiana.



Kevin Nigh, President

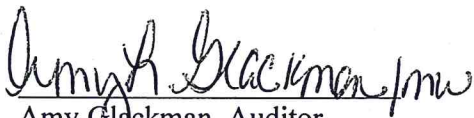


Don Parker, Member



Chris Ross, Member

ATTEST:



Amy Glackman, Auditor  
Shelby County, Indiana