

**Shelby County
Board of Zoning Appeals**

October 10, 2023 at 7:00 PM

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MEETING AGENDA

Shelby County Board of Zoning Appeals October 10, 2023, 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the September 12, 2023 meeting.

OLD BUSINESS

None.

NEW BUSINESS

BZA 23-38 – TRACEY GILLESPIE: DEVELOPMENT STANDARDS VARIANCES. Located at 8438 W 800 N, Fairland, Moral Township.

BZA 23-37 – LUKE TAYLOR: USE VARIANCE. Located at 1479 E Cedar Thorn Dr, Shelbyville, Addison Township.

DISCUSSION

APPROVED HEARING OFFICER CASES

BZA 23-35 – SANDRA K & DALE F WALKER: DEVELOPMENT STANDARDS VARIANCE. Located at 11898 N 200 W, Fountaintown, Van Buren Township. *Approved September 14, 2023.*

BZA 23-36 – KC WHITE: DEVELOPMENT STANDARDS VARIANCES. Located at 2084 E US HW 52, Morristown, Van Buren Township. *Approved September 14, 2023.*

ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, **November 4, 2023 at 7:00 PM.**

Property Details

Location: 8438 W 800 N, Fairland, Moral Township.

Property Size: +/- 12-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

VR (Village Residential)

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

Future Land Use per Comp Plan

Industrial - Focus Area #1- Northwest Corner

The purpose of this category is to provide for a full range of light and heavy industrial uses. Types of uses include manufacturing, processing, distribution and storage. The designation should accommodate a variety of industrial establishments which:

- Employ high environmental quality standards
- May function as an integral part of an overall development area
- Require large tracts of land because of their nature and function
- Have minimal impacts on adjacent uses

Surrounding Development

	Zoning	Land Use
North	RE	Estate Residential
South	VR	Single-Family Residential
East	RE	Estate Residential
West	A1/R1	Cropland / Single-Family Residential

Staff Report

Case Number: BZA 23-38

Case Name: Tracey Gillespie – Development Standards Variance

Request

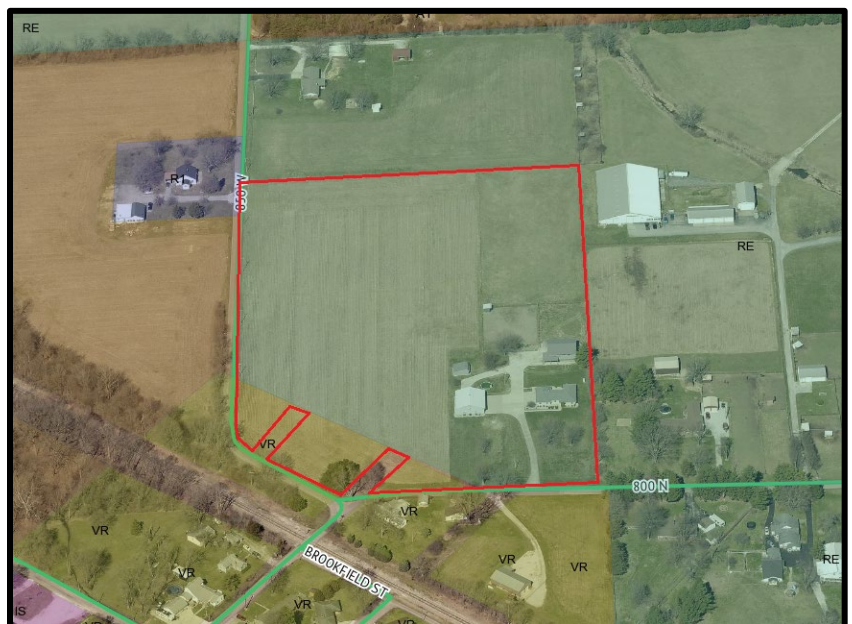
Variance of Development Standards to allow for an 8,400 sq. ft. addition to a barn (the total area of all accessory structures on a lot cannot exceed 2X the footprint of the house in the RE (Residential Estate) District).

Code Requirement

UDO Section 5.06 D: Maximum Size: The total area of all enclosed accessory structures on a lot shall not exceed two times (2X) the footprint of the primary structure.

Purpose of Requirement - 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, machinery, and/or equipment.

Property Map



Case Description

- The petitioner plans to construct a 70' x 120' horse riding arena attached to an existing barn.
- The total square footage of the proposed horse-riding arena, two existing barns, and existing shed would equal approximately 5.5X the square footage of the footprint of the house. The property tax card provides the square footage of the house, existing barns, and existing shed for the square footage calculation.
- Several properties along the north side of CR W 800 N include large barns ranging in size from 1,000 sq. ft. to 8,000 sq. ft.
- In 2022, the petitioner obtained a variance to allow for three accessory structures on the property (a maximum of two accessory structures permitted in the RE District). This variance allowed the petitioner to construct the barn to be attached to the riding arena.
- The property consists of several tax parcels totaling approximately twelve (12) acres. Most properties in the County equal to or greater than five (5) acres and less than twenty (20) acres have the A2 (Agricultural) zoning designation. The UDO does not restrict the size of accessory structures in the A2 District.
- The petitioner indicated that the horse-riding arena would have four stalls, therefore they would keep no more than four horses on the property. The UDO permits the keeping of a maximum of one horse per two fenced acres in the RE District.

Staff Analysis of Findings of Fact

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

Staff Analysis: Construction of the horse-riding area would require a building permit and the structure must comply with all building codes before passing a 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: Several properties along the north side of CR W 800 N include large barns ranging in size from 1,000 sq. ft. to 8,000 sq. ft. Therefore, the number and size accessory structures would not 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 property consists of several tax parcels totaling approximately twelve (12) acres. Most properties in the County equal to or greater than five (5) acres and less than twenty (20) acres have the A2 (Agricultural) zoning designation. The UDO does not restrict the size of accessory structures in the A2 District.

Staff Recommendation

Staff recommends **APPROVAL** primarily because several properties along the north side of CR W 800 N included large barns ranging in size from 1,000 sq. ft. to 8,000 sq. ft. Therefore, the number and size of accessory structures on the property would not conflict with the character of the area.

Applicant/Owner Information

Applicant:	Tracey Gillespie 8438 W 800 N Fairland, IN 46126	Owner:	Tracey Gillespie & Alva Keen
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**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: Tracey Gillespie (+ A. Mark Keehn)
Case #: _____
Location: 8438 W. 800 N. , Fairland , IN 46126

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

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

This is a riding arena to allow us
to ride during inclement weather.
There is no commercial application intent.

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 arena will abut our neighbor's horse
pasture + shouldn't compromise their
land. The other sides abut our barn
+ pastures / fields.

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.

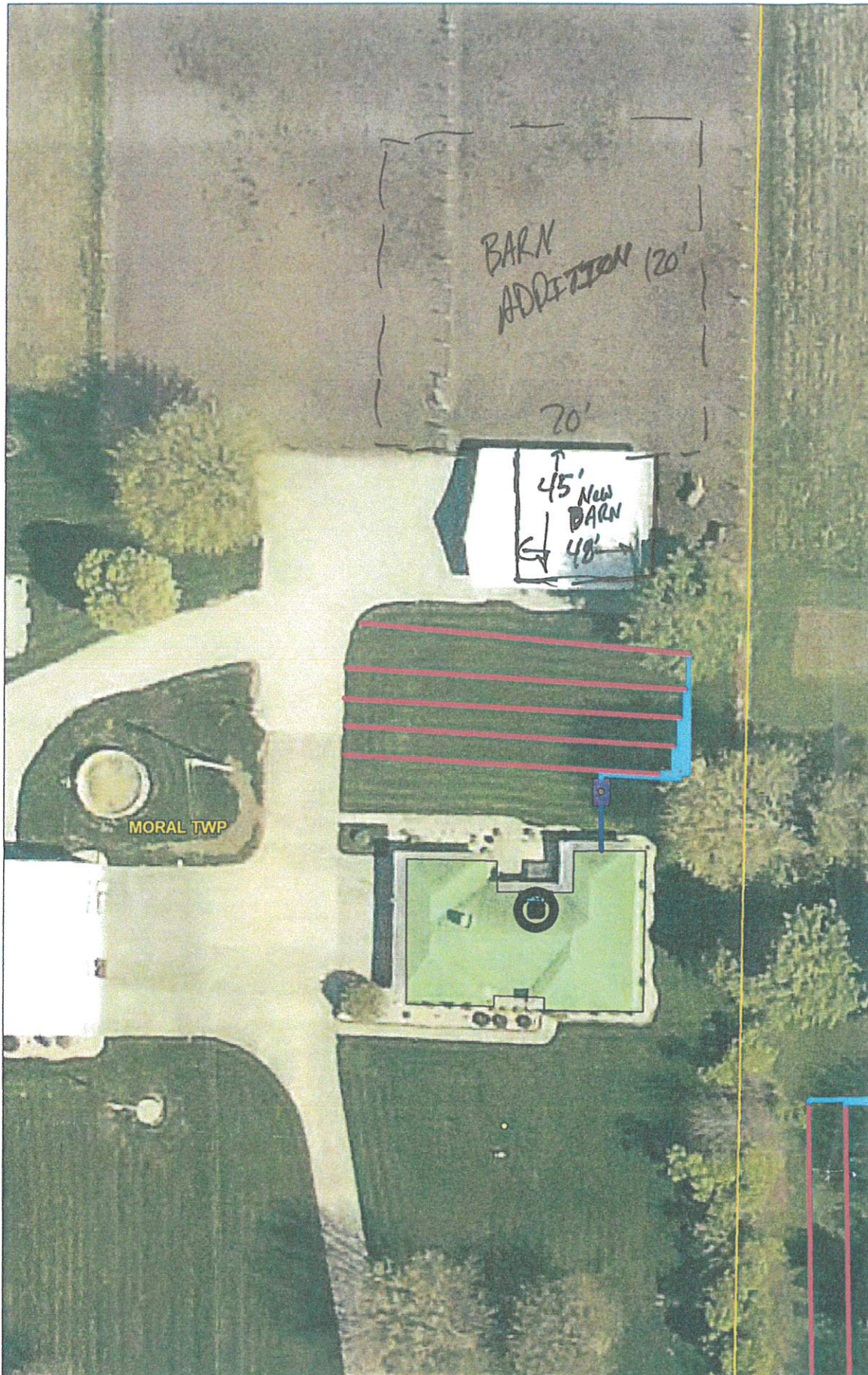
We are not aware of any negative impact on
others by building a small riding ring.

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.)



Fiber Optic Facilities COMPANY:

- Quest Fiberoptic
- Sprint Fiberoptic

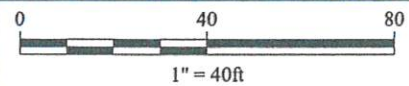
Addresses

Active:

- Yes

- Building
- Well
- Septic Tank
- Dosing Tank
- Risers
- Septic Bed
- Distribution Box
- Diverter Valve
- Clean Out
- Townships
- Parcels
- Sections
- Water(1)

- Residential Sewer
- Pressure Sewer
- Effluent Sewer
- Septic Trench
- Perimeter Drain
- Surface Drain
- Bartholomew Road
- Bartholomew Highway
- Edinburgh Highway
- Edinburgh Road
- Brown Co Road
- Brown Co Highway
- Greensburg Road
- Decatur Co Road
- Decatur Co Highway
- Hancock Roads
- Hancock Highway
- Johnson Roads
- Johnson Highway
- Marion Co Road
- Marion Co Highway
- Regional Roads
- Regional Highway
- Roads
- Highways
- Electrical Lines
- Shelby Co Fiber
- Address Range



Property Details

Location: 1479 E Cedar Thorn Dr,
Shelbyville, Addison Township.

Property Size: 1.16-acres.

Current Land Use: Recreational.

Zoning Classification:

R1 (Single-Family Residential)

Intent: This district is established for single-family detached, medium to large sized homes on medium to large sized lots.

Future Land Use per Comp Plan

Incorporated Planning Area:

Single-Family Residential

Single-family residential can indicate a few varieties of densities including high, medium and low densities.

	Zoning	Land Use
North	RE	Estate Residential
South	R1	Single-Family Residential
East	R1	Single-Family Residential
West	R1	Single-Family Residential

Staff Report

Case Number: BZA 23-37

Case Name: Luke Taylor – Use Variance

Request

Variance of Use to allow for private recreational use as the primary use of property in the R1 (Single-Family Residential) District.

Code Requirement

UDO Section 2.14 R1 District Intent, Permitted Uses, and Special Exception Uses

The UDO does not list recreational use as a permitted use of property in the R1 District. However, the UDO does list single-family residence as a permitted use in the R1 District, therefore recreational use associated with a single-family residence would be permitted in the R1 District. The UDO prohibits occupation of recreational vehicles outside of recreational vehicle parks regardless of primary use of property.

Purpose of Requirement: Prohibiting private recreational use in the R1 District without the presence of a single-family residence discourages prolonged recreational use of property and property maintenance inconsistent with the character of residential neighborhoods.

Property Map



Case Description

- The petitioner intends to use the property as a personal nature retreat and for occasional camping.
- Proposed property improvements include a gravel access driveway, walking path, picnic shelter, fire pit, mini barn, swing, and possible natural pool.
- The property shares a private road with three residential lots. Three residential lots under 2-acres adjoin the subject property.
- Soil borings previously taken on the property indicate that the lot cannot accommodate drainage for a septic system. The Shelby County Health Department indicated that additional soil borings would likely not yield an alternate result and that the owner would need to obtain an easement on adjacent property to drain a septic system. Therefore, absent grant of a drainage easement, the property cannot be developed for residential purposes.
- In June of 2023 the Shelby County Code Compliance Board received a complaint regarding tall grass and weeds on the property. The Code Compliance Officer issued the petitioner a citation for grass and weeds exceeding a height of ten (10) inches, and the petitioner appealed this citation due to his intent to establish the property as an Indiana Department of Natural Resource (IDNR) Certified Natural Wildlife Habitat. DNR informed the Board that a Natural Wildlife Habitat designation does not supersede local ordinance. On September 27, 2023 the Board ordered the property mowed.
- Approval of the requested variance would allow the petitioner to use the property for recreational purposes, however, would not exempt the petitioner from maintaining the grass and weeds below a height of ten (10) inches.
- Use variances expire at the time the property changes ownership. Therefore, the future owner of the property would need to obtain a new variance to use the property for recreational purposes.

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: Private recreational use of a relatively small piece of property would pose no safety, traffic, or environmental impacts.

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: Adjacent property owners would have purchased their properties with the understanding that the subject property would either remain vacant or be developed as a single-family residential lot. Additionally, the Comprehensive Plan does not support change in use of the property to recreation or open space. Aspects of the proposed recreational use not typically associated with residential recreation, such as camping and building of campfires, may also pose a nuisance to adjacent residential properties.

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

Staff Analysis: Soil borings previously taken on the property indicate that the lot cannot accommodate drainage for a septic system. The Shelby County Health Department indicated that additional soil borings would likely not yield an alternate result and that the owner would need to obtain an easement on adjacent property to drain a septic system. Therefore, absent grant of a drainage easement, the property cannot be developed for residential purposes.

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: Absent grant of a drainage easement, the property cannot be developed for residential purposes.

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

Staff Analysis: The property lies within the City of Shelbyville's Incorporated Planning Area. City planning staff provided the following comments: The specific request seems to have very minimal impact on the Community at large and that's why we don't have an objection. From some of the details in your staff report, it sounds like long-term compliance could be an issue, so if this does move forward, a number of conditions might help keep it in check. They describe a recreational site for "occasional camping", so it might be helpful to put limitations on how often RVs or campers can be out there, so it doesn't turn into a lot where they park the camper year round.

Staff Recommendation

DENIAL

Staff has determined that the request complies with Findings of Fact # 1, 3, 4, & 5, however does not comply with Findings of Fact #2. Specifically, the use and value of the area adjacent to the property included in the variance will be affected in a substantially adverse manner because adjacent property owners would have purchased their properties with the understanding that the subject property would either remain vacant or be developed as a single-family residential lot. Additionally, the Comprehensive Plan does not support change in use of the property to recreation or open space. Aspects of the proposed recreational use not typically associated with residential recreation, such as camping and building of campfires, may also pose a nuisance to adjacent residential properties.

If the Board chooses to approve the request, Staff recommends the following stipulations:

- 1. Grass and weeds shall be maintained below a height of ten (10) inches.**
- 2. Camping shall be prohibited.**

Applicant/Owner Information

Applicant:	Luke Taylor	Owner:	Same
	329 N Ritter Ave.		
	Indianapolis, IN 46219		

View of Property and Surrounding Development to the Southwest



Code Compliance Officer Photograph – July 25, 2023

View of Property and Surrounding Development to the Southeast



Code Compliance Officer Photograph – September 20, 2023

Desiree Calderella

From: Adam Rude <arude@cityofshelbyvillein.com>
Sent: Monday, October 2, 2023 9:13 AM
To: Desiree Calderella
Cc: Allan Henderson
Subject: Re: 1749 Cedar Thorn Dr

Sorry, it would have been more accurate to say that the specific request seems to have very minimal impact on the Community at large and that's why we don't have an objection. From some of the details in your staff report, it sounds like long-term compliance could be an issue, so if this does move forward, a number of conditions might help keep it in check. They describe a recreational site for "occasional camping", so it might be helpful to put limitations on how often RVs or campers can be out there, so it doesn't turn into a lot where they park the camper year round.



Adam Rude, AICP
Director, Planning and Building Department

T: 317-392-5102 x 306 | M: 317-512-0090
E: arude@cityofshelbyvillein.com | W: www.cityofshelbyvillein.com
A: 44 W. Washington Street, Shelbyville, IN, 46176
[Need to Schedule A Meeting With Me?](#)

Desiree Calderella

From: William Pursley <wpursley@shelbyhealthindiana.com>
Sent: Thursday, September 14, 2023 1:06 PM
To: Desiree Calderella
Subject: 1479 E Cedar Thorn Dr
Attachments: GIS1479ECedarThornDr.pdf

Hello Desiree

I have looked at this property again. Based upon the location of the soil borings, drainage on this lot is not going to work. It will need an easement to drain to a lower elevation.

The owner may want to talk with the North driveway owner (Gregg Steele) and the West lot owner (Russell Brandenburger) for a drainage easement.

To the south is Jean Teal (she owns 3 lots). May be able to get easements from her.

If no easements can be agreed upon then that will make this lot an unbuildable lot. More testing could be done but it is not looking very good.

William Pursley
Environmental Technician
Shelby County Health Department
20 W Polk St, Suite 202
Shelbyville, IN 46176
(317) 392-6470

1479 E Cedar Thorn Rezoning Essay

The purpose of this short essay is to persuade you that our property, 1479 E Cedar Thorn Dr, is a great candidate for Personal Recreational use variance. First, I will describe the property; second, I will describe our vision for the property; Third, I will make our case.

1479 E Cedar Thorn Dr, "The Property," sits on a gravel road off of Knightstown Road North of Shelbyville. Very close to the Big Blue River, and surrounded by forest, we see deer, turkey, and more wildlife regularly. Gunfire can regularly be heard from the nearby Shelbyville Fraternal Order of Police retreat.

The property is bordered by hedges and a fence on several sides, and lined with established Maple and Poplar trees. Internally, there is a meadow with mowed trails with fruit, nut, and berry trees/shrubs planted along them. The trails are for enjoying nature, exercise, and lead to features such as a firepit stocked with wood grown and cut on site. Marginal areas near the gravel drive and between neighboring properties are kept trimmed and free of overgrowth.

Our vision from the beginning has been to grow the Property into a "food forest" retreat, a place to tend and enjoy nature. You see, our normal residence sits on one third of an acre of land on the Eastside of Indianapolis. We are all too happy to spend our free time and vacations in Shelby County to build the Property into a natural retreat of our own. We want to enhance the park-like feel - picnic tables under a shelter that also collects rainwater; tire swing; Maybe even a natural pool in the future.

When we purchased the property, no house was able to be built on it because ground saturation quality issues prohibited a septic system. While that is still the case, our efforts are meant to improve the soil and give the land a good purpose. In the two years that we have owned the property, our vision has already drastically improved the health of the landscape.

We have the support of Bridget Sargant, the Indiana DNR Wildlife Biologist for District 8, including Shelby County. The property is also registered as a Certified Wildlife Habitat with the National Wildlife Federation, meaning it provides essential elements to wildlife, such as food, water, and cover.

In conclusion - The geographical location of the Property within the Big Blue River corridor, it's proximity to the F.O.P. retreat, the impossibility of residential use, our positive vision, and two years of progress make 1479 E Cedar Thorn Dr an excellent candidate for a use variance. We request that 1479 E Cedar Thorn Dr be given a Personal Recreational use variance.

STATEMENT OF INTENT (ONLY REQUIRED FOR VARIANCE OF USE & SPECIAL EXCEPTION)

Please answer the following questions (when applicable) pertaining to your request. If approved, the use would be limited to the information provided and expansion of the use would require new approval from the Board. The Board may also approve the use conditional on one or more amendments to the statement of intent.

1. Summary of Proposed Use and/or Business Activity: Personal Recreational - Food forest retreat

2. Days & Hours of Operation: N/A

3. Maximum Number of Customers per Day/Week/Month: N/A

4. Type and Frequency of Deliveries: N/A

5. Description of any Outdoor Storage: No outdoor storage, maybe firewood pile

6. Description, Size, and Placement of any Signage: N/A

7. Description of Waste Disposal: Trash can, cleared regularly by owner.

8. Existing and/or Proposed Building and Site Improvements Pertaining to Proposed Use (ex. parking lot, landscaping, commercial upgrades to building, etc.): Proposed ~ 10'x10' picnic shelter, expansion of gravel access drive.

**USE VARIANCE
FINDINGS OF FACT**

Applicant: Luke Taylor
Case #: _____
Location: 329 N Ritter Ave.

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.
We will be stewarding a natural, park-like food forest for our family. Also good for learning and exercise.
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.
Natural beauty will enhance the value of nearby properties. Set in the Big Blue River corridor, near Shelby County F.O.P. retreat, fence and hedges surround.
3. **Practical Difficulty:** The need for the variance arises from some condition particular to the property involved.
No house can be built because of poor ground saturation quality. Meadows break tall grass ordinance.
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.
We want to steward meadows with paths cut, and fruit/nut trees/plants planted inbetween. Many are planted already. We want to camp occasionally.
5. **Comprehensive Plan:** The granting of the variance does not interfere substantially with the Comprehensive Plan.
Our plan aligns with NRSTRATEGIES 1.1-1.4, 2.1-2.3. In particular, NRSTRATEGY 1.4, "Work with landowners..."

