

**Shelby County  
Board of Zoning Appeals**

**October 11, 2022 at 7:00 PM**

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# MEETING AGENDA

## Shelby County Board of Zoning Appeals October 11, 2022, 7:00 P.M.

### CALL TO ORDER

### ROLL CALL

### APPROVAL OF MINUTES

Minutes from the September 13, 2022 meeting.

### BUSSINESS CONTINUED TO NOVEMBER 1, 2022

**BZA 22-31 – PANJAB GROUP, INC.:** USE & DEVELOPMENT STANDARDS VARIANCES. Located at 6925 S Carroll Rd, Indianapolis, Moral Township.

### OLD BUSSINESS

**BZA 22-35 – WILLIAM LEE & CAROL JEAN RITCHIE:** SPECIAL EXCEPTION & DEVELOPMENT STANDARDS VARIANCES. Located at 385 W Carey St, Fairland (previously 4771 W 400 N, Fairland), Brandywine Township.

### NEW BUSINESS

**BZA 22-38 – ALICIA BARR:** DEVELOPMENT STANDARDS VARIANCES. Located at 6679 N 400 W, Fairland, Moral Township.

**BZA 22-37 – BOBBY G BOLTON:** USE & DEVELOPMENT STANDARDS VARIANCES. Located at 8668 S 250 E, Flat Rock, Nobel Township.

**BZA 22-36 – RONNIE GEHRICH:** DEVELOPMENT STANDARDS VARIANCES. Located at 5701 N Brandywine Rd, Shelbyville, Brandywine Township.

**SPEEDWAY SOLAR LLC:** Approval of form of decommissioning surety bond and request to retain Stantec Consulting Services Inc. to provide the estimate of the net removal cost of an approved Commercial Solar Facility, per the Decommissioning Plan approved by the BZA as a stipulation of case BZA 19-01 – Speedway Solar LLC, approved on March 12, 2019.

**V21-08 – JOHN H & CYNTHIA S DEMARTINO:** ZONING VIOLATION – Request for extension to bring property into compliance. Located at 2027 W Washington Ave, Addison Township.

### DISCUSSION

None.

### ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, **November 1, 2022** at **7:00 PM**. **\*First Tuesday**

## Property Details

**Location:** 385 W Carey St, Fairland, Brandywine Township.

**Property Size:** 2.07-acres.

**Current Land Use:** Cropland.

### Zoning Classification:

VM (Village Mixed Use)

*Intent: This district is established for the mixed-use developments currently within small towns to allow them to expand into rural town centers that may offer a variety of housing, commercial and institutional amenities.*

*Development Standards: Pedestrian friendly development standards to help create rural town centers. Minimize light, noise, water, and air pollution.*

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

### Future Land Use per Comp Plan

Incorporated Planning Area – Town of Fairland

#### Focus Area #3- Fairland / I-74

1. *Work with Johnson County officials on a committed timeline for completing the C.R. 400 extension through to I-65.*
  2. *Develop a detailed planning study for desired land uses and development patterns surrounding Fairland and along the C.R. 400 corridor.*
  3. *Collaborate with Fairland on plans for transitioning the town to a standalone planning entity.*
  4. *Cooperate with the City of Shelbyville to study and implement future regional gateway treatments and corridor enhancements within this focus area.*
  5. *Encourage the extension of public water and sewer facilities to this area.*
- Continued on next page...*

# Staff Report

**Case Number:** BZA 22-35  
**Case Name:** William Lee & Carol Jean Ritchie –  
Special Exception & Development  
Standards Variances

## Request

**Special Exception** to allow a Type 3 Medium Intensity Retail establishment in the VM (Village Mixed Use) District.

**Variances of Development Standards** to allow for a commercial ground sign and commercial wall signs in the VM District.

## Code Requirement

**UDO Section 2.25 – VM District Intent, Permitted Uses, and Special Exception Uses.**

**UDO Section 5.73 – General Sign Standards**

### 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 prohibits commercial signs in the VM District to maintain the character of rural town centers.

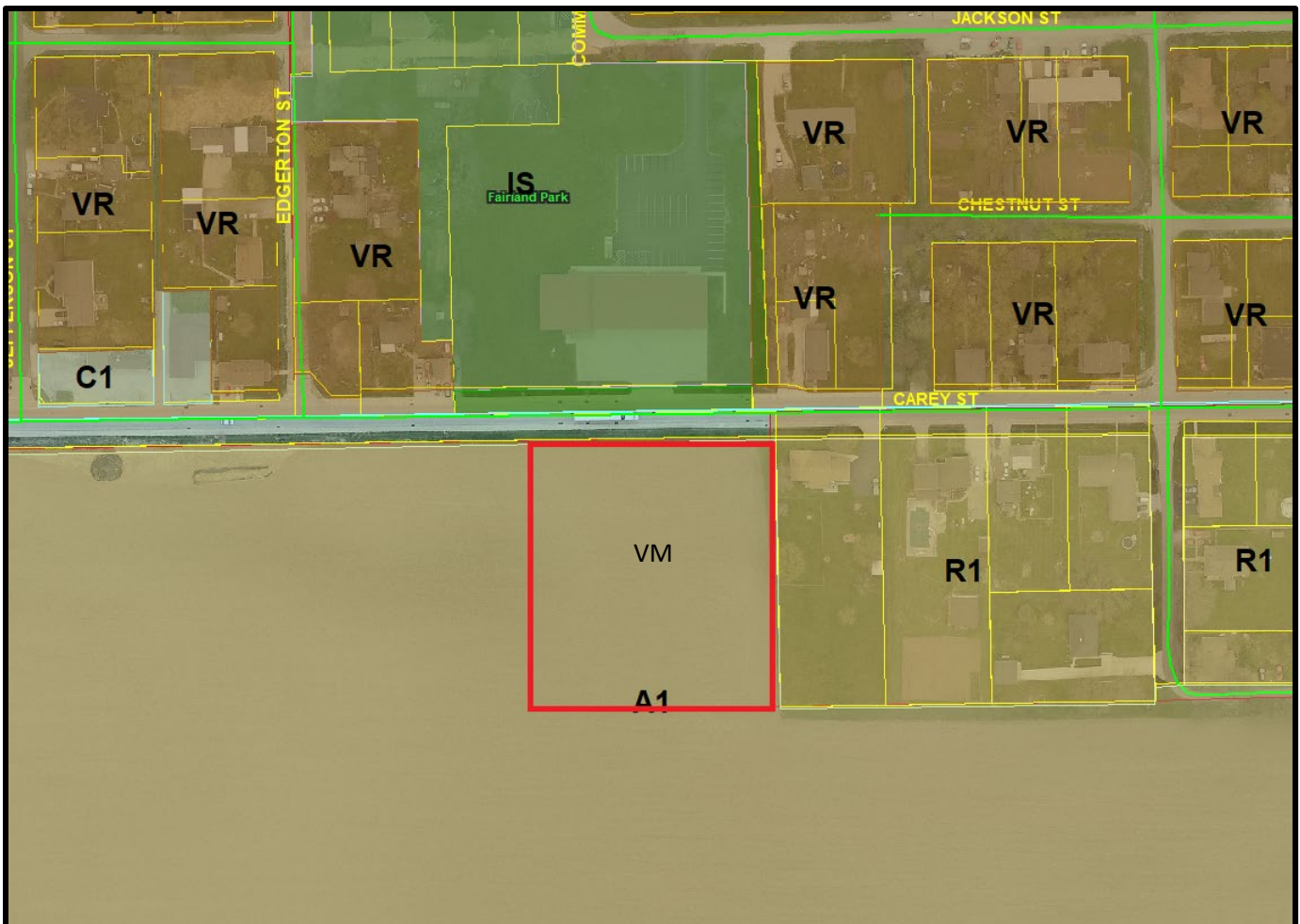
## Property Details

6. Take advantage of the opportunities associated with the floodplain and encourage floodplain mitigation in areas targeted for development.
7. Encourage compliance with and enforce property maintenance and design guidelines.

### Surrounding Development

	Zoning	Land Use
North	IS	Fire Station
South	A1	Cropland
East	R1	Single-Family Res.
West	A1	Cropland

## Property Map

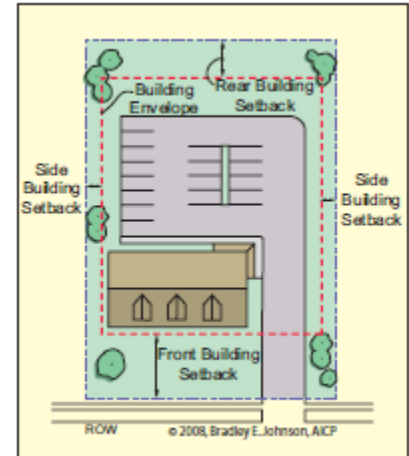


## Case Description

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- Proposed development includes a 11,000 sq. ft. retail / convenience store building, 16-space parking lot in front of the building, 24-space parking lot along the west side of the building, trash storage area, septic system, dry detention basin, wall sign, and ground sign. The petitioner indicated that they plan to install a sewer line with pump and valve to connect to public sanitary sewer when it becomes available.
- The petitioner has not disclosed an end user for the site. A summary of the Petitioner's Statement of Intent includes:
  - Hours of Operation: 8 AM – 10 PM, seven days a week.
  - Customers: Approximately 200 to 300 per day.
  - Deliveries: Semi-truck delivery twice a week. Daily box truck deliveries.
- The UDO defines Type 3 Retail, Medium Intensity Retail as *retail businesses that have a moderate impact on neighboring properties, traffic generation, and public safety. Example businesses include a: antique shop, apparel shop, art and craft supplies, book store, boutique, building supply store (small), convenience store (large), department store (small), drug store (large), fabric shop, furniture shop (small), garden shop, gift shop (large), grocery/supermarket (small), home electronics/appliance store (small), liquor sales, music/media shop, office supply store (small), party/event store (small), pawn shop, pet grooming/store, plant nursery, print shop/copy center, pro shop, quick cash/check cashing, shoe store/repair, sign shop, sporting goods (small), variety store (small) and video/DVD rental.*
- The Site Plan Committee, which consists of the Planning Director, Building Inspector, County Surveyor, Health Department Environmental Technician, and a representative from the Drainage Board would review a detailed site plan prior to issuing construction permits. USI Consultants, Inc would review the drainage plans to ensure the project design complies with the County's Drainage & Sediment Control Ordinance
- On August 23, 2022, the Plan Commission recommended approval of a rezoning of the property from A1 (Conservation Agricultural) to VM. The County Commissioners approved this rezoning on September 6, 2022. Approval of the rezoning included four stipulations:
  - Development of the site shall be consistent with the Site Plan submitted with the rezoning application. The Zoning Administrator shall have the discretion to require Plan Commission approval of any modification to the site plan.
  - A minimum six (6) foot tall opaque fence and six (6) evergreen trees shall be installed between the north parking lot and the property line. This landscaping shall be added in addition to the landscaping requirements indicated in the UDO.
  - All parking spaces shall be located in the rear yard, unless the building incorporates architectural standards in compliance with Section 5.13 of the Unified Development Ordinance.
  - The current and any future property owner shall abandon any septic system and connect to sanitary sewer at the time sanitary sewer becomes available within 100-feet of the property lines.

- The Town of Fairland requested that the petitioner install a fence along the entire east property line after approval of the rezoning. Staff has recommended installation of the fence as a stipulation of Special Exception approval.
- Staff recommended that the petitioner apply to rezone the property to VM rather than the C2 District, which would permit the use without Special Exception approval, because of the greater compatibility of the VM District with existing rural town centers. Specifically, the following statements of intent for the VM District included in the UDO support the chosen zoning district:
  - Use, Type and Intensity: Medium to high intensity commercial.
  - Application of District: Expansion of rural town centers.
  - Appropriate Adjacent Districts: A1, VR, R1
  - Plan Commission: Use this zoning district to create and expand rural town centers.



- The example development pattern for new development in the VM District included in the UDO shows the primary structure near the street and all parking in the rear yard.

## Staff Analysis of Findings of Fact

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### 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:

#### Purpose of the VM District:

- The UDO establishes the VM District to allow for expansion of rural town centers, which includes allowing medium to high intensity commercial uses.
- The UDO recommends pedestrian-friendly development in the VM District, and a sidewalk runs along the south side of Carey St. to allow for pedestrian access to the site.
- The UDO states: *Allow a special exception use (in the VM District) only when it is compatible with the surrounding residential areas.* area. Installation of a fence along the east property line would buffer aesthetic, light, and noise impacts from adjacent residential properties. Prohibiting Type 3 retail uses that could potentially attract crime and that tend to have later hours of operation would also limit impacts to adjacent residential properties.

Comprehensive Plan: The Future Land Use Map shows the property in the Town of Fairland Incorporated Planning Area. The Fairland Town Board has reviewed the petition as has expressed support for the development, however requested that the petitioner install a fence along the entire length of the east property line.

**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: The Site Plan Committee would review a detailed site plan prior issuance of construction permits to ensure that the development complies with all applicable local codes. The site has access to a public sidewalk and all utilities needed to support the development. Prohibiting Type 3 retail uses that could potentially attract crime to a rural town center would protect the general welfare of the community.

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

Staff Analysis: Carey Street includes a variety of residential, commercial, industrial, and institutional uses. Use of the property for Type 3 Retail would not conflict with the mixed-use character of the area. Installation of a fence along the east property line would buffer aesthetic, light, and noise impacts from adjacent residential properties.

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

Staff Analysis: The UDO states that the Mixed-Use District includes a variety of housing, commercial, and institutional amenities.

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

Staff Analysis: Approval of the Special Exception would allow for expansion of retail services within the Town of Fairland, which would encourage the retention of existing residents and attraction of new residents to 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: The signs would require sign permits and must comply with all sign placement and lighting requirements identified in the UDO.

**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 signs would require sign permits and must comply with all sign placement and lighting requirements identified in the UDO.

**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: A strict application of the ordinance would not allow for adequate business identification.

### Staff Recommendation

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Staff recommends **APPROVAL** primarily because the proposed use would allow for expansion of retail services within the Town of Fairland and because a strict application of the ordinance would not allow signs for adequate business identification. Staff recommends the following **stipulations**:



1. Use of the property for a pawn shop, quick cash/check cashing, and/or for retail generating its primary source of revenue from liquor sales shall be prohibited.
2. A minimum six (6) foot tall opaque fence and six (6) evergreen trees shall be installed along the entire length of the east property line. This landscaping shall be added in addition to the landscaping requirements indicated in the UDO.

*Applicant/Owner Information*

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Applicant: William Lee & Carol Jean Ritchie      Owner: Same  
501 N 425 W  
Shelbyville, IN 46176

Surveyor: Civil & Environmental Consultants, Inc.  
11 Municipal Drive, Suite 300  
Fishers, IN 46038

**STATEMENT OF INTENT (ONLY REQUIRED FOR VARAINCE 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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Days & Hours of Operation: \_\_\_\_\_

3. Maximum Number of Customers per Day/Week/Month: \_\_\_\_\_  
\_\_\_\_\_

4. Type and Frequency of Deliveries: \_\_\_\_\_

5. Description of any Outdoor Storage: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Description, Size, and Placement of any Signage: \_\_\_\_\_  
\_\_\_\_\_

7. Description of Waste Disposal: \_\_\_\_\_  
\_\_\_\_\_

8. Existing and/or Proposed Building and Site Improvements Pertaining to Proposed Use (ex. parking lot, landscaping, commercial upgrades to building, etc.): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Town of Fairland

P. O. Box 150

Fairland, IN 46126

[contactus@fairlandin.org](mailto:contactus@fairlandin.org)

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## Board Members

President – Jeremy Creech

Vice President – Jeremy Miller

Secretary –Rick Daily

Clerk-Treasurer – Shea Fink

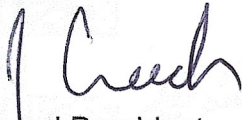
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September 7, 2022

Shelby County Plan Commission,

The Town has discussed the property layout for the retail space, and we are concerned about the residents to the east. With reference to the Wal-Mart in Shelbyville and bags blowing into the field to the east. We would ask you to consider extending the privacy fence along the entire east side to help mitigate this possible issue. This area will be a west to east wind situation. This would also help with light and noise impacts to the residents.

Thank you,  
Jeremy Creech



Board President  
Town of Fairland  
317-374-3337  
[jcreech@fairlandin.org](mailto:jcreech@fairlandin.org)

**SPECIAL EXCEPTION  
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 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.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

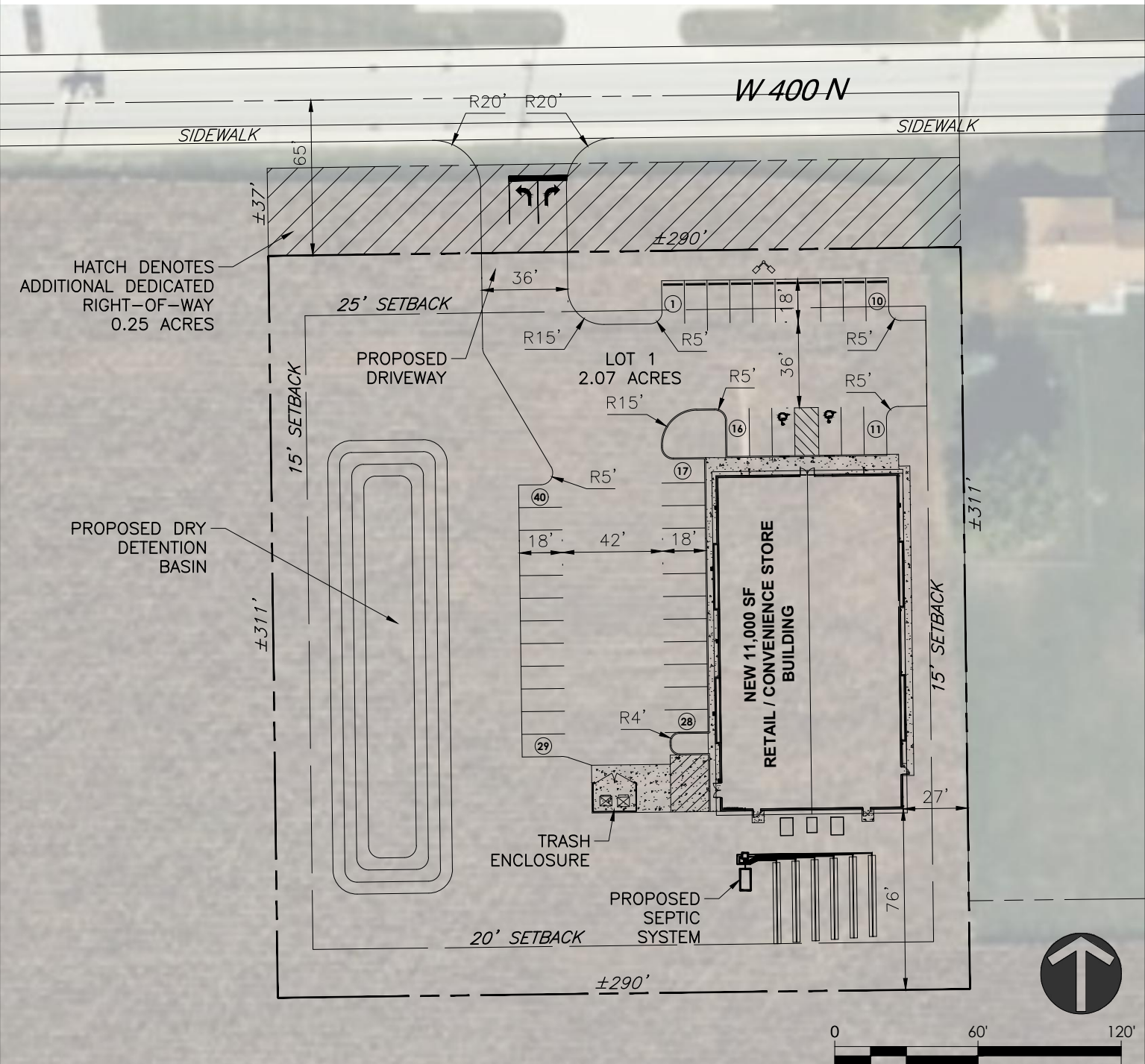
- 5. **Property Value:** The proposed special exception will not substantially impact property value in an adverse manner.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# PRELIMINARY SITE PLAN

CITY, STATE - ROAD  
FAIRLAND, INDIANA - W 400 N

PROTOTYPE:	DEVELOPER: BILL & CAROL RITCHIE	DESIGNER:	DATE:
BUILDING FT <sup>2</sup> : 11,000±	COMPANY:	COMPANY: CEC, INC.	08/21/2022
ACREAGE: 2.07	NAME:	NAME: KYLE BLANCK	-
PARKING SPACES: 40	TELEPHONE:	TELEPHONE: (317) 570-8800	-



## SITE SUMMARY

SCALE: 1" = 60'

SITE AREA:	2.07 ACRES	PARKING - REQUIRED:	37 SPACES	(1 SPACE PER 300 FT <sup>2</sup> FLOOR AREA)
SITE DIMENSIONS:	322' x 280'	PARKING - PROVIDED:	40 SPACES	
ZONING:	A, CONSERVATIVE AGRICULTURE (REZONE NECESSARY)	LANDSCAPING:	TREE REMOVAL AND REPLACEMENT, DETENTION, STREET TREES, INTERIOR, PARKING PERIMETER, PARKING INTERIOR, SCREEN MECHANICALS	
REZONE:	VM, VILLAGE MIXED USE-1	STORMWATER:	DRY DETENTION; POSSIBLE WATER QUALITY	
BUILDING SETBACKS:				
FRONT	25 FT			
SIDE	15 FT			
REAR	20 FT			
BUILDING AREA:	11,000 FT <sup>2</sup>			

## Property Details

**Location:** 6679 N 400 W, Fairland, Moral Township.

**Property Size:** 9.52-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.*

**Future Land Use per Comp Plan**  
Suburban Residential

*This purpose of this category is for the transition of land use from agricultural and estate residential uses to low to medium-density, single-family residential subdivisions as water and sewer facilities become available.*

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

# Staff Report

**Case Number:** BZA 22-38

**Case Name:** Alicia Barr – Development Standards  
Variances

## Request

**Variances of Development Standards** to allow for a Type 2 Home Bussiness (Real Estate Office):

1. On property where the operator of the bussiness does not reside.
2. Exceeding 25% of the square footage of the residential structure.

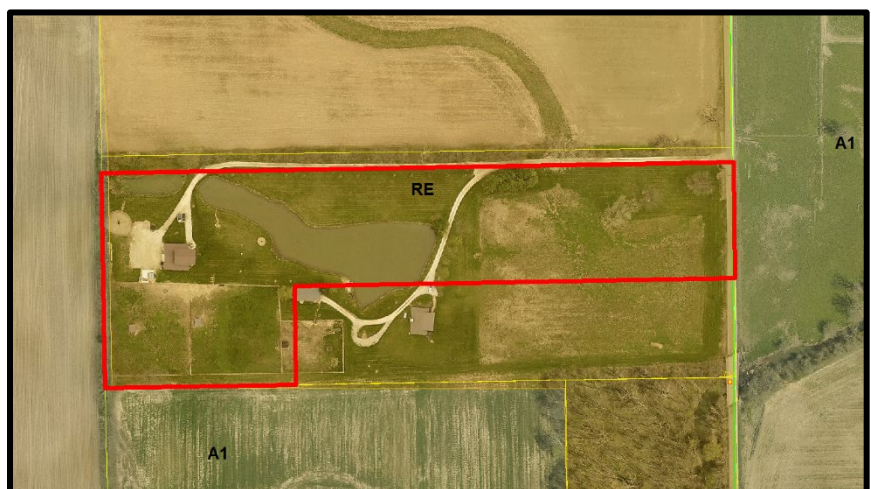
## Code Requirement

**UDO Section 5.34 B 1 – Residency:** *The operator of the Type 2 Home Business shall reside in the house.*

**UDO Section 5.34 D 1 b –** *The Type 2 Home Business shall not exceed twenty-five percent (25%) of the square footage of the primary structure.*

**Purpose of Requirements:** Home Business Standards allow and regulate home-based businesses that have minimal impact on the residential character of rural neighborhoods. Requiring the operator of the business to live in the home and limiting the portion of the structure dedicated to business activities maintains residential use as the primary use of properties including a home based bussiness.

## Property Map





## Case Description

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- The petitioner plans to convert the ground-level of an existing residential structure into a real estate office.
- The petitioner would operate the real estate office and the business would comply with all UDO standards applicable to Type 2 Home Business, other than the standards subject to the requested variances.
- The structure currently includes a horse boarding area on the ground level and living quarters on the top level. In 2013, the BZA approved a variance to allow for construction of the structure as a residence without a two-car attached garage and for the keeping of no more than ten horses on the property.
- The petitioner rents the second floor of the structure for residential use.
- The petitioner lives in the home on the adjoining property to the south.

## Staff Analysis of Findings of Fact

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

Staff Analysis: The proposed use would provide a real estate service to the community and the scale of the business would not generate traffic in greater volumes than typically present on CR 400 W.

**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 petitioner lives in the home on the adjoining residential property to the south and the proposed use would not impact continued use of remaining adjacent property for agricultural purposes.

**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: A strict application of the ordinance would not allow for conversion of the portion of the structure previously not used for residential purposes into another non-residential use.

## Staff Recommendation

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**APPROVAL** primarily because the petitioner lives in the home on the adjoining residential property to the south and the proposed use would not impact continued use of remaining adjacent property for agricultural purposes.

Staff recommends one **stipulation**: The home business shall be limited to a real estate office or other office use.

## Applicant/Owner Information

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Applicant:	Alicia Barr / Cattle Creek Farm LLC 6679 N 400 W Fairland, IN 46126	Owner:	Same
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**DEVELOPMENT STANDARDS VARIANCE  
FINDINGS OF FACT**

Applicant: Alicia Barr  
Case #: \_\_\_\_\_  
Location: 6679 N 400 W, FARLAND, 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.

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 strict application of the terms of the Shelby County Zoning Ordinance will result in a practical difficulty in the use of the property.

No, it will not.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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.)





6679 N 400 W,  
Fairland, IN 46126  
13 min drive - home

## Property Details

**Location:** 8668 S 250 E, Flat Rock, Nobel Township.

**Property Size:** 1-acre.

**Current Land Use:** Vacant.

### 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.*

*Development Standards: Promote low-impact development in harmony with a natural setting.*

### Future Land Use per Comp Plan Agriculture

*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	Estate Residential
South	A2	Estate Residential
East	A1	Estate Residential
West	R1	Single-Family Residential

# Staff Report

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**Case Number:** BZA 22-37  
**Case Name:** Bobby G. Bolton – Use & Development Standards Variances

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## Request

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**Variance of Use** to allow for placement of a manufactured home in the R1 (Single-Family Residential) District.

**Variances of Development Standards** to allow for a manufactured home:

1. Less than 1,600 sq. ft.;
2. With the front façade not facing the road to which the home gains access;

## Code Requirement

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**UDO Section 2.13** – R1 District Intent, Permitted Uses, and Special Exception Uses

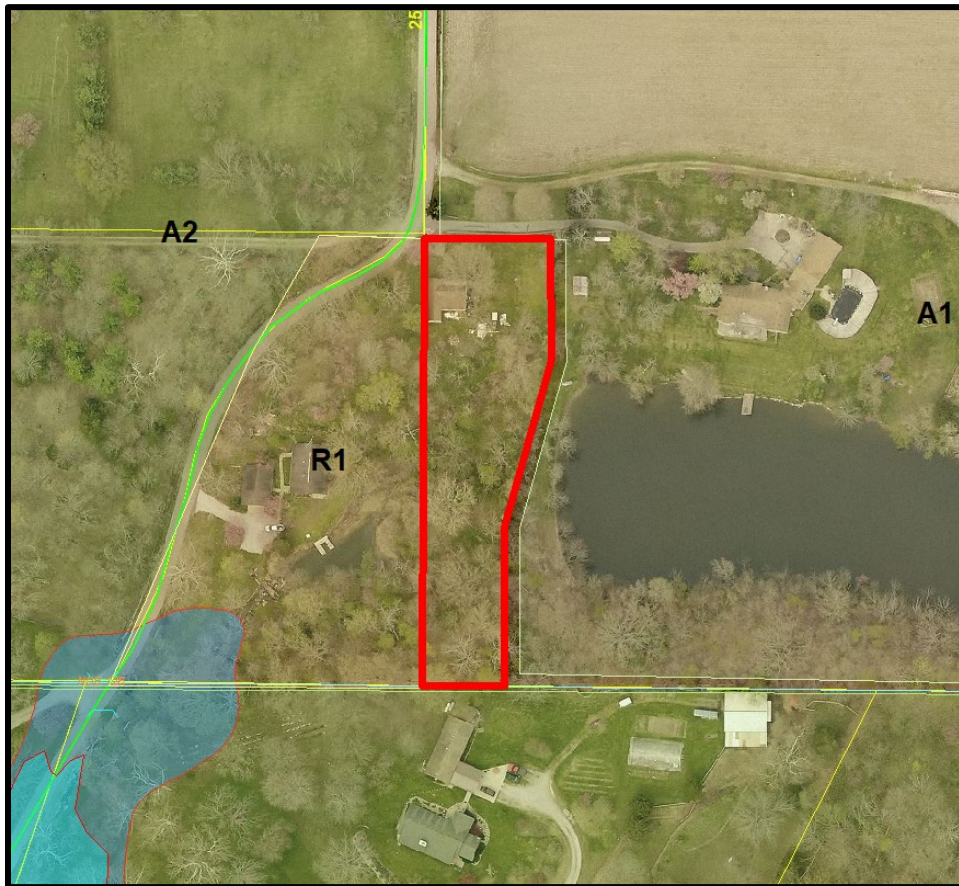
**UDO Section 2.14** – R1 District Development Standards: Minimum Dwelling Size: 1,600 sq. ft.

**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.

**Purpose of Requirement:** The aesthetic characteristics of manufactured homes differ from the aesthetic characteristics of modular and stick-built single-family homes. Therefore, prohibiting manufactured homes outside of manufactured and mobile home parks serves to protect the character of neighborhoods and surrounding property values. The minimum dwelling size requirement and front façade orientation requirement maintain aesthetic consistency between residential homes in medium to high density neighborhoods.

## Property Map

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## Case Description

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- The petitioner plans to place a manufactured home at the northeast corner of the property. The northwest corner of the property currently includes a single-family home destroyed by fire that the petitioner intends to demolish.
- The petitioner intends to utilize the existing well and septic system. The Shelby County Health Department has reviewed the variance application and stated: *The septic that was installed in 1991 was never approved. What they have drawn does not match what I drew up back then. I think a new septic should be installed. At the very least the soil needs to be tested to see if the existing septic field could be used.*
- The Technical Review / Site Plan Committee would review a detailed site plan which would include structure and property improvement layout, septic system design, and drainage design prior to issuing construction permits for the manufactured home.
- Surrounding residential properties include stick-built residential structures exhibiting a variety of architectural styles.
- The petitioner stated that they chose a manufactured home rather than a modular or stick-built home due to the lower cost of a manufactured home.



- The UDO only permits installation of manufactured homes in mobile home or manufactured home parks. Modular homes and stick-built homes are permitted in the R1 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:

	<b>Mobile Home</b>	<b>Manufactured Home</b>	<b>Modular Home</b>
<b>Certification</b>	Federal Manufactured Housing Construction and Safety Standards Law	Federal Mobile Home Construction and Safety Standards	State & local residential building code
<b>Dimensions</b>	At least 8-feet in width	Minimum of 23-feet in width for 60% of length	Any dimension
<b>Size</b>	Any size	Over 950 sq. ft.	Typically, larger than mobile and manufactured homes
<b>Foundation</b>	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

- Use variances expire at the time the property changes ownership. Therefore, the future owner of the property would be required to remove the manufactured home or obtain a new variance.

## Staff Analysis of Findings of Fact

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### Use Variance

- 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 manufactured home would require approval of a Site Plan by the Technical Review Committee and approval of Improvement Location, Building, Electric, Plumbing, and Septic permits. All zoning development standards that apply to modular and stick-built homes would apply to placement of the manufactured home.

- 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: Homes in the area vary in architectural style, therefore the home would not conflict with a specific architectural style established in the area.

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

Staff Analysis: The property is located in a neighborhood including homes in a variety of architectural styles; therefore, the home would not conflict with a specific architectural style established in the area.

**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 that would not conflict with the character of the area.

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

Staff Analysis: Approval of the variance would allow for replacement of a home destroyed by fire and therefore would not change the preexisting residential use of the property.

**Development Standards Variances**

**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 manufactured home would require approval of a Site Plan by the Technical Review Committee and approval of Improvement Location, Building, Electric, Plumbing, and Septic permits. All other zoning development standards that apply to modular and stick-built homes would apply to placement of the manufactured home.

**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: Approval of the variance would allow for replacement of a legal non-conforming home destroyed by fire that also did not comply with the minimum size requirement or orientation requirement.

**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: A strict application of the ordinance would not allow for replacement of a legal non-conforming home destroyed by fire that also did not comply with the minimum size requirement or orientation requirement.

**Staff Recommendation**

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**APPROVAL** primarily because the manufactured home would replace an aging home similar in size destroyed by fire.

*Applicant/Owner Information*

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Applicant:	Bobby G. Bolton	Owner:	Same
	8668 S 250 E		
	Flat Rock, IN 47234		

**Photograph of existing home per-fire, from Assessors records.**





**Photographs of surrounding homes from Assessors records.**



8652 S 250 E



8708 S 250 E



8665 S 250 E



2472 E VANDALIA RD



2530 E VANDALIA RD

**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.

No  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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.)



8668 S. 250 E.

Flat Rock, IN 47234

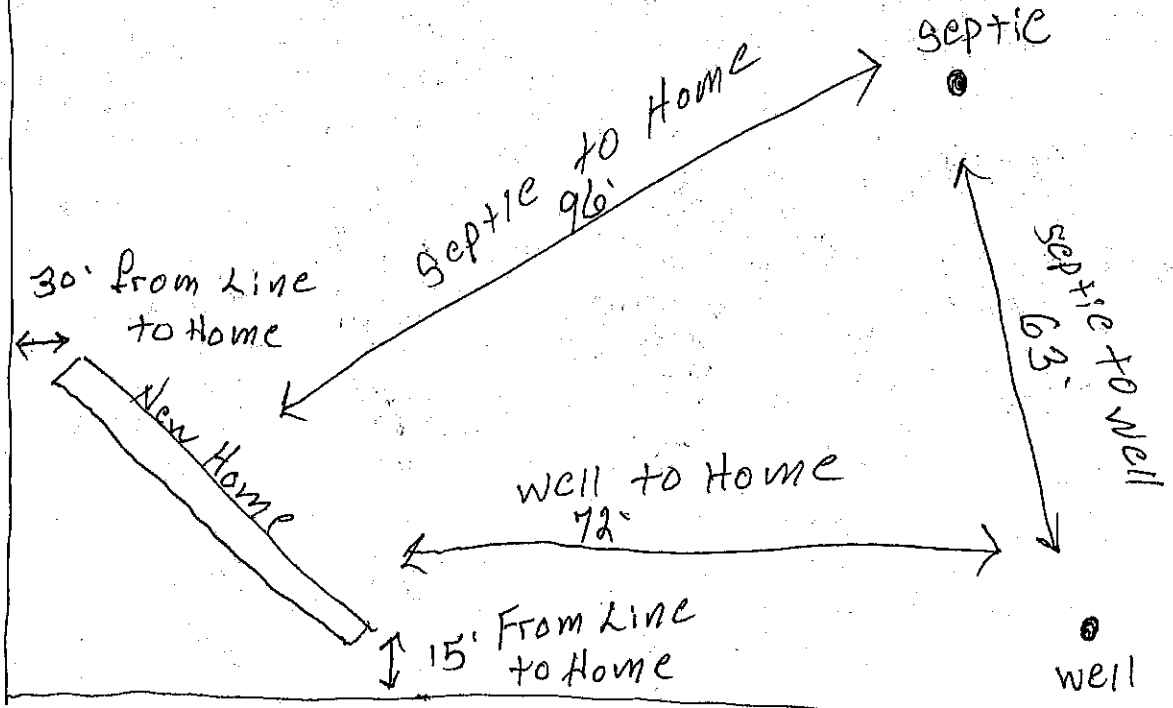
Bobby G. Bolton

Chad Bolton 8708 S 250 E  
Flat Rock TN 37724

old house was on top  
of septic. \*No longer  
house tore down



east



property line

line

North

## Property Details

**Location:** 5701 N Brandywine Rd,  
Shelbyville, Brandywine Township.  
Brandywine Farms, Lot 4.

**Property Size:** 1.64-acres.

**Current Land Use:** Residential  
(accessory structure)

### 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.*

*Development Standards: Promote low-impact development in harmony with a natural setting.*

### Future Land Use per Comp Plan

#### Agriculture

*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.*

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

# Staff Report

**Case Number:** BZA 22-36

**Case Name:** Ronnie Gehrich – Development Standards  
Variances

## Request

**Variances of Development Standards** to allow for conversion of a barn into a single-family residence:

1. Located Nineteen (19) feet from the front property line (minimum 35-foot setback required);
2. With the front façade not facing the road to which the home gains access;
3. Utilizing a gravel driveway.

## Code Requirement

**UDO Section 2.14 – Minimum Front Yard Setback: 35-feet.**

**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 5.19 C – Materials: Driveways shall consist of asphalt, concrete or other non-porous material approved by the Zoning Administrator. The Zoning Administrator may waive this requirement for property adjoining another property having a gravel driveway.**

### Purpose of Requirements:

Front setback requirements allow for open space, ensure visibility along roadways, and reduce traffic hazards along roadways.

The front façade orientation requirement maintains aesthetic consistency between residential homes in medium to high density neighborhoods.

The paved driveway requirement prevents migration of dust onto the public road and maintains aesthetic consistency between residential properties in medium to high density neighborhoods.

## Property Map



## Case Description

- The petitioner plans to convert an existing metal sided pole barn into a three-bedroom single-family dwelling. The petitioner has not proposed any alterations to the exterior of the barn.
- Per Section 5.01 of the UDO, all land use changes established after the effective date of the ordinance are subject to all development standards of the applicable zoning district. Therefore, due to change in use of the structure, the standards applicable to new single-family residential development apply.
- Existing conditions necessitate the requested variances to allow for conversion of the barn. The barn currently sits within the front setback and the entrance to the barn faces north. The property currently includes a gravel driveway.

- The Technical Review / Site Plan Committee has reviewed a detailed site plan which includes structure and property improvement layout, septic system design, and drainage design. The Committee has approved the Site Plan contingent on variance approval.
- The property has access to Brandywine Road through an access easement on the adjoining property to the east. The perimeter drain would outlet at the northeast corner of the property.
- The property lies within the Brandywine Farms Subdivision, approved by the Plan Commission in November of 2002. The plat includes private covenants and restrictions, one which prohibits manufactured, modular, and mobile homes, however, does not explicitly prohibit pole barn style homes. The BZA does not have jurisdiction to enforce private covenants and restrictions, however, may consider private covenants and restrictions when making decisions.
- The UDO does not prohibit permanent pole barn style single-family residences. The Plan Commission office issued three permits for pole barn style single-family residences in the past year. These variance requests only apply to setback of the structure, orientation of the structure, and the driveway.

## Staff Analysis of Findings of Fact

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

Staff Analysis: The Technical Review Committee has approved a Site Plan for the development contingent on variance approval, and the structure must comply with all building codes before receiving a Certificate of Occupancy. A gravel driveway servicing one single-family residence would not result in the migration of a significant amount of dust onto 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: The UDO does not prohibit permanent pole barn style single-family residences. Homes in the vicinity orient to Brandywine Rd in varying directions due to the curvature of the road and the surrounding area includes both paved and gravel driveways, therefore the orientation of the building and driveway would not conflict with any specific development pattern established in the area. The front property line of the lot adjoins the side yard of an adjacent lot rather than a public road, and the structure would comply with the side yard setback requirement.

**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: A strict application of the ordinance would not allow for conversion of an existing barn into a single-family residence. The barn sits at the center of the lot which limits the area available for development of a new single-family home.



## Staff Recommendation

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**APPROVAL** primary because the UDO does not prohibit permanent pole barn style single-family residences, and the orientation of the building and gravel driveway would not conflict with any specific development pattern established in the area.

### *Applicant/Owner Information*

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Applicant:	Ronnie Gehrich 9541 N Louann Dr. Fairland, IN 46126	Owner:	Same
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### **View of existing barn and adjacent residence to the east from Brandywine Rd.**



Staff Photograph –October, 2022

**DEVELOPMENT STANDARDS VARIANCE  
FINDINGS OF FACT**

Applicant: Ronnie Gehrich

Case #: \_\_\_\_\_

Location: 5701 N. Brandywine Rd, Shelbyville, IN  
46176

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.

Correct  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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.

Correct  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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.

Yes  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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.)

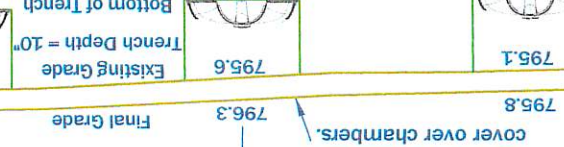
**Practical Difficulty:** This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain (ex. of practical difficulty: topography of property, location of septic system, consistency with nearby land uses, historical use of property, etc.)



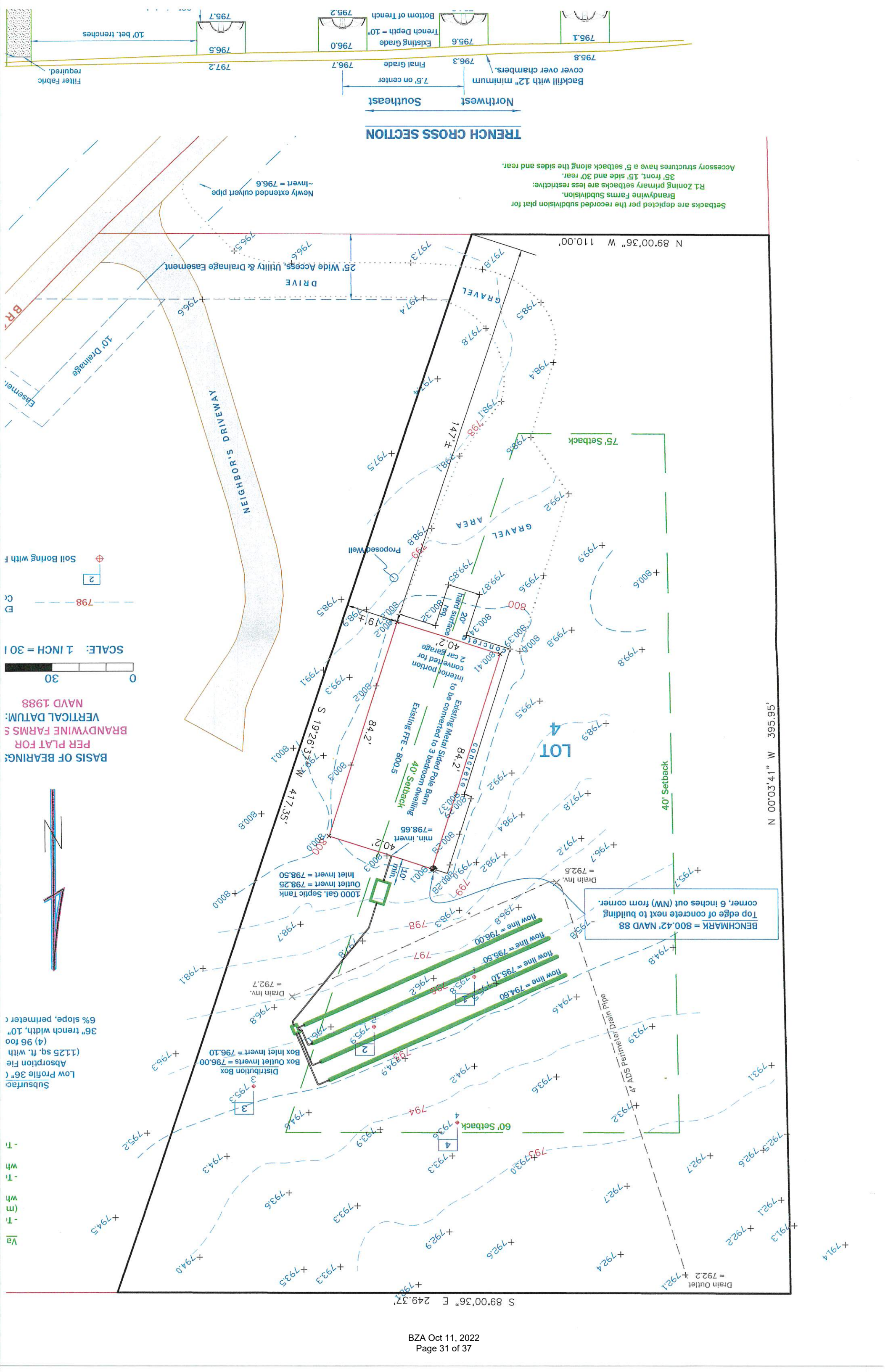
**TRENCH CROSS SECTION**

Northwest  
Southeast

Setbacks are depicted per the recorded subdivision plat for Brandywine Farms Subdivision. R1 Zoning primary setbacks are less restrictive: 35' front, 15' side and 30' rear. Accessory structures have a 5' setback along the sides and rear.



10' bet. trenches  
Filter Fabric required.



BENCHMARK = 800.42' NAVD 88  
Top edge of concrete next to building corner, 6 inches out (NW) from corner.

SCALE: 1 INCH = 30 FEET  
VERTICAL DATUM: NAVD 1988  
BASIS OF BEARING: BRANDYWINE FARMS  
PER PLAT FOR BRANDYWINE FARMS  
SOIL BORING WITH F 2

Subsurface Low Profile 36" (1125 sq. ft. with Absorption Field) 36" trench width, 10" (4) 96 foot 6% slope, perimeter

# Shelby County BZA

**To:** Shelby County BZA

**From:** Desiree Calderella, Planning Director

**RE:** Speedway Solar – Approval of form of decommissioning surety bond and request to retain Stantec Consulting Services Inc. to provide the estimate of the net removal cost of an approved Commercial Solar Facility, per the Decommissioning Plan approved by the BZA as a stipulation of case BZA 19-01 – Speedway Solar LLC, approved on March 12, 2019.

## Background

On March 12, 2019 the Shelby County Board of Zoning Appeals approved Special Exception and Variance petition BZA 19-01, pertaining to several parcels north of E 500 N, south of E 850 N, and between N 500 W and N 980 W.

The approval allows for the development of a 199-megawatt Commercial Solar Energy System (CSES), covering approximately 1,800-acres and having a panel area of approximately 1,014 acres in the A1 (Conservation Agricultural) and A2 (Agricultural) Districts. The approval also allows for construction of the facility to begin up to four years from the date of BZA approval and allows the CSES to exceed the maximum lot coverage of 15% of the lot area.

The approval includes a stipulation that Speedway Solar agrees to comply with the terms of the Decommissioning Plan Agreement submitted to the BZA (with two minor changes requested by the BZA at the meeting).

## Decommissioning Plan

The approved decommissioning plan ensures removal of the entire solar facility after the end of its useful life. The Plan requires removal of all solar panels and underground conductors, demolition debris, fencing, and roads if the project does not produce electrical power for twelve (12) consecutive months. The Plan also requires that Speedway Solar provide a surety bond to the County equal to the value of the net removal cost, including reasonable adjustments for inflation.

25 W Polk St, Shelbyville, IN 46176  
T: 317-392-6338 W: <https://www.co.shelby.in.us/plan-commission/>



The Plan requires BZA approval of the form of the surety bond and the licensed professional engineer retained by Speedway Solar to determine the net removal cost.

Specifically, the Plan states:

*Company shall deliver to BZA a surety bond in a form and substance reasonably satisfactory to BZA (the "Restoration Fund") securing performance of the decommissioning obligations, which shall be equal to the estimated amount of removal costs of the Generating Units, if any, including reasonable professional fees related thereto and accounting for salvage value (the "Net Removal Cost"), shall be determined as follows:*

*The Company shall retain a licensed professional engineer with knowledge of the operation and decommissioning of solar projects (a "Professional Engineer") to provide an estimate of the Net Removal Cost, which Professional Engineer shall be subject to reasonable approval of the BZA.*

The Plan also indicates that if the parties cannot agree on an engineer, then each party shall select an engineer and the engineers thus selected shall select a third engineer to provide an estimate of the Net Removal Cost.

## Speedway Solar's Surety Bond Form and Selected Professional Engineer

Speedway Solar has submitted the form for the surety bond for review by the Plan Commission Attorney and BZA (attached to this memo). The Plan Commission Attorney will review the form and provide comments to the BZA before or at the meeting.

Speedway Solar has chosen Stantec Consulting Services Inc. to provide the estimate of the net removal cost. JoAnne J. Blank serves as the company's Senior Scientist and Project Manager. Speedway Solar has provided a Statement of Qualifications for Stantec and Ms. Blank (attached to this memo).

Representative from Speedway Solar and Stantec plan to attend the BZA meeting virtually to address any questions or concerns.

Note that County legal counsel has determined that this request is not a public hearing requiring public notice or comment. Public comment will be at the discretion of the BZA.

## Decommissioning Plans – Renewable Energy Projects Statement of Qualifications

Stantec Consulting Services Inc. (Stantec) has prepared hundreds of Decommissioning Plans (Plans) for renewable energy developments including wind, solar, and battery energy storage system (BESS) projects across the United States. The Plans are completed during the permitting and development stage of projects to assist clients with meeting regulatory requirements regarding future project decommissioning and the associated costs. The Plans are based on client's project-based technical information, research on construction costs and salvage values, and Stantec engineers' experience with managing construction projects throughout the U.S. and Canada.

### ***The Decommissioning Plan Team –***

Decommissioning plans at Stantec are completed by engineers and scientists with a broad understanding in the development, construction, and decommissioning of renewable energy projects. Their combined experience includes civil, structural, and electrical engineering; construction estimating and management; solar, wind and BESS project design, impact assessment, and permitting; and post-construction project support. Stantec has registered engineers that advise, review, and stamp decommissioning plans, if required, in most U.S. states.

### ***Decommissioning Plan Projects –***

The Central U.S. Decommissioning Team has completed over 200 Decommissioning Plans, in more than 25 states and 75 local jurisdictions. The Plans have been utilized to successfully permit solar, wind and BESS projects for development and construction.

### ***The Decommissioning Plan Document –***

Information utilized in preparing the Plans includes, but is not limited to the following:

- Project design criteria, project description and permit application documents
- Civil-Site overview drawings depicting road construction and linear footage, and cross-sections
- Foundation details:
- Turbines and transformers (wind)
- Inverter and racking foundations or piles (solar)
- BESS unit and inverter foundations (battery storage)
- Substation general design drawings, and foundation details, if available
- Operations and Maintenance (O&M) building drawings
- Transmission line details including pole type, quantity, and foundation details
- Collection system cable layout plan and depth
- Access road design, width and depth
- Turbine/solar/BESS equipment information: manufacturer specifications, weights and composition
- Estimated labor and equipment costs derived from RSMeans construction estimating software
- Historical analysis of salvage value of project components (generally based on five-year average due to market fluctuations)

A specific example of a decommissioning plan prepared by Stantec for an Indiana project is available at: [Stantec Decommissioning Plan \(Indiana\)](#). Stantec is pleased to provide further information or discuss your project decommissioning plan needs.

JoAnne serves as a Senior Scientist and Project Manager in the Energy Market Sector, specializing in feasibility, permitting and compliance of power and renewable energy projects across the United States. She has been involved in the design, assessment, and permitting of hundreds of wind and solar energy, battery storage, natural gas, and electrical transmission projects.

Her project and management experience includes federal, state, and local permitting, feasibility analyses, expert witness testimony, project siting, shadow/flicker analyses, sound studies, environmental permitting, NEPA documents (EA and EIS), CPCN and CA applications, FAA permits, decommissioning plans, Phase I site assessments, erosion control plans, geospatial information analysis and management, and post-construction compliance.

JoAnne's management experience with contractors, utilities, regulatory agencies, and energy developers has provided her with a broad understanding of the processes and requirements necessary for the successful development and compliance of energy projects.

## **EDUCATION**

Master of Science Atmospheric and Oceanic Sciences, University of Wisconsin, Madison, Wisconsin, 2000

Master of Science Environmental Monitoring, University of Wisconsin - Nelson Institute for Environmental Studies, Madison, Wisconsin, 2000

Bachelor of Science Atmospheric and Oceanic Sciences, University of Wisconsin, Madison, Wisconsin, 1996

Photovoltaics – Design and Siting, Northeast Wisconsin Technical College, Green Bay, Wisconsin, 2010

FERC Environmental Compliance Seminar, 2014

FERC Regulatory Overview and Guidance Seminar, 2014

## **PROJECT EXPERIENCE**

### **Wind, Solar and Other Renewable Energy**

Heartland Wind Energy, Gratiot County, Michigan (Project Manager) – 2019 to present

Currently managing the county and town permitting and support studies for Invenergy's proposed 201-MW wind farm. Support included four township and one county permit applications, shadow and sound studies, decommissioning plan and town hearing expert witness support.

Point Beach Solar Energy Project, Wisconsin (Project Manager) – 2019-2021

Managed environmental services for a large utility-scale solar plant in Wisconsin. Services include environmental field studies, historic cultural resource assessments, state CPCN permitting, road study, decommissioning plan, EMF and additional support studies.

Two Creeks Solar Energy Project, Wisconsin (Project Manager) 2018-2021

Managed the environmental services for a large utility-scale solar plant in Wisconsin. Services include environmental field studies, historic cultural resource assessments, noise impact assessment, state CPCN permitting and additional support studies.

Grant County Solar Energy Project, Wisconsin (Project Manager) 2019 to present

Managed support services, including glint/glare, road condition and EMF studies for a large utility-scale solar plant in Wisconsin.

Crescent Wind Energy, Hilldale County, Michigan (Project Manager) 2018-2020

Managed the town permitting and support studies for Invenergy's proposed 166-MW wind farm. Support included three township permit applications, shadow and sound studies, decommissioning plan, and town hearing support.

# JoAnne J. Blank

Senior Associate; Senior Scientist and Project Manager

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## **Polaris Wind Energy, Gratiot County, Michigan (Project Manager) 2018-2019**

Managed the environmental permitting and support studies for Invenergy's proposed 168-MW wind farm. Support included Gratiot County permit application, shadow and sound studies, and decommissioning plan.

## **Decommissioning Plans – Solar and Wind Energy, U.S. (Project Manager) 2015 to present**

Managed the assessment and preparation of more than **200 decommissioning plans** for solar, wind, and battery energy storage projects. Scope includes describing triggering mechanisms, deconstruction methods and costs, potential revenues from salvaged equipment and land reclamation activities. Reports are used to support permitting efforts at local and state levels.

Projects located throughout the U.S., including but not limited to the states of Michigan, Illinois, Indiana, Ohio, Wisconsin, Massachusetts, Maryland, Connecticut, New York, Pennsylvania, Virginia, West Virginia, Georgia, Kentucky, Louisiana, Iowa, Kansas, Missouri, Nebraska, South Dakota, Colorado, New Mexico, Oklahoma, Texas, Utah, and California.

## **Acoustic and Shadow Assessments – Wind and Solar Energy (Project or Task Manager) 2011 to present**

Extensive experience in the management, modelling and analysis of potential sound and shadow impacts at wind and solar sites in the U.S. Assisted clients in analyzing and designing proposed renewable energy sites to demonstrate regulatory compliance and obtain permits.

Projects include:

Illinois (10 projects); Iowa (24 projects); Michigan (8 projects); Wisconsin (18 projects); Ohio (6 projects); West Virginia (3 projects); Nebraska (2 projects); New York (3 projects); Indiana (2 projects); South Dakota; Kansas; Kentucky; Wyoming; and Missouri.

## **Pine River Wind Energy, Isabella and Gratiot Counties, Michigan (Project Manager) 2017-2018**

Managed the environmental permitting and support studies for Invenergy's proposed 161-megawatt wind farm. Support included the Pine River and Coe Township permit applications, shadow and sound modeling, and decommissioning plan.

## **Pleasant Ridge Wind Energy, Livingston County, Illinois (Project Manager) 2015-2018**

Managed the environmental permitting and support studies for Invenergy's proposed 230-megawatt wind farm. Support included the County permit application, expert witness testimony, shadow and sound models, water quality permits, cultural studies, stormwater permit, and decommissioning plan.

## **Apple Blossom Wind Farm, Huron County, Michigan (Task Manager) 2014-2017**

Task manager for development of the Geronimo Wind Energy 10,000-acre, 100-megawatt Apple Blossom Wind Farm. Managed the preparation and submission of the Huron County Permit Application, sound/noise modeling, shadow flicker analysis, and decommissioning plan.

## **Federal Energy Regulatory Commission (FERC) Experience – Natural Gas**

Northern Natural Gas – Federal and State Permitting, FERC Compliance Projects (Project Manager – over 100 projects) 2011 to present  
Project manager for more than 150 Northern Natural Gas FERC 2.55(a), 2.55(b) and automatic blanket authorization projects for facilities within the Midwestern and Southern United States. Projects have included procurement of the Federal, state and local permits necessary to provide compliance with the FERC's regulations.

**Annually Renewable Site Decommissioning Bond**

**BOND # \_\_\_\_\_**

KNOW ALL MEN BY THESE PRESENTS: That Speedway Solar, LLC (hereinafter called the "Principal"), and \_\_\_\_\_ (hereinafter called the "Surety"), are held and firmly bound unto the Shelby County, Indiana Board of Zoning Appeals (hereinafter called the "Obligee"), in the full and just sum of \_\_\_\_\_ (\$ \_\_\_\_\_), the payment of which sum, well and truly to be made, the said Principal and Surety bind themselves, and each of their heirs, administrators, executors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal was granted special exception and variance petitions BZA 19-01 by the Obligee on March 12, 2019 for the construction of the Commercial Solar Energy System (CSES) in Shelby County, Indiana (hereinafter called the "Permit").

WHEREAS, pursuant to the Permit, Principal is required to maintain a decommissioning bond.

WHEREAS, the Obligee has agreed to accept a bond guaranteeing the decommissioning obligations of said Permit for a period of one year.

NOW, THEREFORE, THE CONDITIONS OF THE ABOVE OBLIGATION IS SUCH, that if the Principal shall well and truly perform each and every decommissioning obligation in said Permit at the time and in the manner specified during the term of this bond, and shall reimburse said Obligee for any loss which said Obligee may sustain by reason of failure or default on the part of said Principal, than this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is subject to the following conditions:

1. This bond is for the term beginning \_\_\_\_\_ and expiring \_\_\_\_\_. The bond will automatically renew for a one year period upon the expiration date set forth above and upon each anniversary of such date, unless at least thirty (30) days prior to such expiration date, or prior to any anniversary of such date, Surety provides written notice to both the Obligee and Principal of its intention to non-renew this bond. Neither non-renewal by the Surety, nor failure, nor inability of the Principal to file a replacement bond shall constitute a default by the Principal recoverable by the Obligee under this bond.
2. In the event of default by the Principal, Obligee shall deliver to Surety by certified mail, a written statement of the facts of such default, within thirty (30) days of the occurrence. In the event of default, the Surety will have the right and opportunity, at its sole discretion, to: a) cure the default; b) assume the remainder of the Permit and to perform or sublet same; c) or to tender to the Obligee funds sufficient to pay the cost of completion up to an amount not to exceed the penal sum of the bond. In no event shall the Surety be liable for fines, penalties, liquidated damages, or forfeitures assessed against the Principal.
3. No claim, action, suit or proceeding, except as hereinafter set forth, shall be had or maintained against the Surety on this instrument unless same be brought or instituted upon the Surety within one (1) year from termination or expiration of the bond term.
4. No right of action shall accrue on this bond to or for the use of any person or corporation other than the Obligee named herein or the heirs, executors, administrator or successors of Obligee.
5. The aggregate liability of the Surety is limited to the penal sum stated herein regardless of the number or amount of claims brought against this bond and regardless of the number of years this bond remains in force.
6. If any conflict or inconsistency exists between the Surety's obligations or undertakings as described in this bond and as described in the Permit, then the terms of this bond shall prevail.
7. The Obligee's acceptance of this bond and reliance upon it as security constitutes its acknowledgement and agreement as to the explicit terms stated herein under which it is offered and issued by the Surety.

Signed and sealed this \_\_\_ day of \_\_\_\_\_, 202\_.

PRINCIPAL: Speedway Solar, LLC  
\_\_\_\_\_  
(seal)

SURETY: \_\_\_\_\_  
\_\_\_\_\_

(seal) (Name & Title)