

**Shelby County
Board of Zoning Appeals**

November 12, 2024, at 7:00 PM

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MEETING AGENDA

Shelby County Board of Zoning Appeals November 12, 2024, 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the September 10, 2024, meeting.

OLD BUSINESS

None.

NEW BUSINESS

BZA 24-35 – JOSHUA KAUFMAN / TRAILER SALES OF INDIANA: DEVELOPMENT STANDARDS VARIANCE. Located at 4324 E SR 244, Shelbyville, Liberty Township.

BZA 24-37 – WESLEY TODD: DEVELOPMENT STANDARDS VARIANCE. Located at 6292 E Phares, Shelbyville, Union Township.

BZA 24-41 – MIKE & LISA DELANEY: DEVELOPMENT STANDARDS VARIANCE. Located north of and adjoining 11395 N 600 W, Fountaintown, Moral Township.

BZA 24-39 – ADAM MILLER / MILLER'S LAWN & LANDSCAPING: SPECIAL EXCEPTION. Located at 4580 W 300 N, Fairland, Brandywine Township.

DISCUSSION

V24-11 – RONALD & KIMBERLEY SRAFIN: ZONING VIOLATION. Located at 4694 W 1120 N New Palestine.

ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, **December 10, 2024, at 7:00 PM.**

Property Details

Location: 4324 E SR 244,
Shelbyville, Liberty Township.

Property Size: 9.06-acres.

Current Land Use: Trailer Sales.

Zoning Classification:

C2 (Highway Commercial)

Intent: This district is established for commercial uses that are closely related to the special needs of the traveling public, interstate commerce, trucking and, in general, vehicular traffic along interstates and major state highways.

Development Standards: Require quality time, place, and manner development standards to minimize impacts on adjacent properties while encouraging economic vitality. Minimize light, noise, water, and air pollution.

BZA: Be sensitive to aesthetics and the potential for light pollution, noise pollution, pedestrian safety, and vehicular safety.

Future Land Use per Comp Plan Estate Residential

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

Surrounding Development

	Zoning	Land Use
North	NA	I-74
South	A1/C2/IS	Cropland Single-Family Res. Religious Institution
East	NA	I-74
West	A1	Cropland

Staff Report

Case Number: BZA 24-35

Case Name: Joshua Kaufman / Trailer Sales of Indiana
Development Standards Variance

Request

Variance of Development Standards to legally establish a parking lot adjoining the right-of-way of SR 244.

Code Requirement

UDO Section 2.32 C2 Commercial District Development Standards:
Minimum Front Yard Setback: 40-feet for parking lot.

Purpose of Requirements: Properties in the C2 District typically adjoin major thoroughfares with high traffic volumes and speed limits. The 40-foot setback requirement for parking lots ensures that maneuvering and parked vehicles do not interfere with visibility or pose a hazard in the case of an accident along these roadways. The setback requirement also preserves area for future road expansion.

Property Map



Case Description

- The petitioner recently developed the property for use as a trailer sales business. Site development includes an office and sales building, outdoor trailer display areas, parking and maneuvering areas, and landscaping.
- The County Technical Advisory Committee reviewed and approved a Site Plan for the trailer sales business in August of 2023. The approved Site Plan shows the parking lot at the northwest corner of the building and not within the 40-foot front setback.
- The Plan Commission office requires verification of compliance with the approved Site Plan prior to issuance of a Final Certificate of Occupancy. In September of 2024, the Planning Director conducted the final site inspection and noted several deficiencies, including relocation of the parking lot to the front of the building, resulting in the parking lot encroaching into the 40-foot front setback.
- The petitioner has corrected all deficiencies noted by the Planning Director, other than relocation of the parking lot. The petitioner explained that he would prefer to keep the parking spaces at the front of the building near the front doorway.
- The parking spaces are located approximately 32-feet from the right-of-way of SR 244 and the drive aisle accessing the parking spaces adjoins the right-of-way. A curb, fence, and approximately 40-feet of lawn separate the drive aisle from the existing edge of pavement of SR 244.
- The Indiana Department of Transportation (INDOT) has verified that the State has abandoned all SR 244 right-of-way east of the I-74/SR 244 interchange. Therefore, INDOT had no comment on the variance request.

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: Maneuvering and parked vehicles within the parking lot likely would not interfere with visibility along SR 244 or pose a hazard in the case of an accident along SR 244 because a curb, fence, and approximately 40-feet of lawn separate the parking lot from the existing edge of pavement of SR 244. The County does not currently plan to widen SR 244.

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: Location of the parking lot within the 40-foot setback would not deviate from the character of commercial properties in the area, which also include parking area within the 40-foot setback.

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 parking spaces at the front of the building near the front doorway, which would not interfere with visibility along SR 244 or pose a hazard in the case of an accident along SR 244.

Staff Recommendation

Staff recommends **APPROVAL** primarily because maneuvering and parked vehicles within the parking lot likely would not interfere with visibility along SR 244 or pose a hazard in the case of an accident along SR 244 because a curb, fence, and approximately 40-feet of lawn separate the parking lot from the existing edge of pavement of SR 244.

Staff recommends one **stipulation**:

1. The variance shall be rendered void if the portion of SR 244 adjacent to the property is widened.

Applicant/Owner Information

Applicant:	Joshua Kaufman 221 Arlington Dr. Batesville, IN 47006	Owner:	Kaufman Rentals LLC 577 Cid Rd Lexington, NC 27292
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View of parking lot in front of building in relation to the road



Staff Photograph – October 2024

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.

~~XXXXXX~~ The proposed layout is off the main road ~~is~~ and away from the entrance. Therefore, not meeting the setback in this instance is immaterial.

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 proposed parking lot layout does not in any way affect the neighbors adversely.

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.

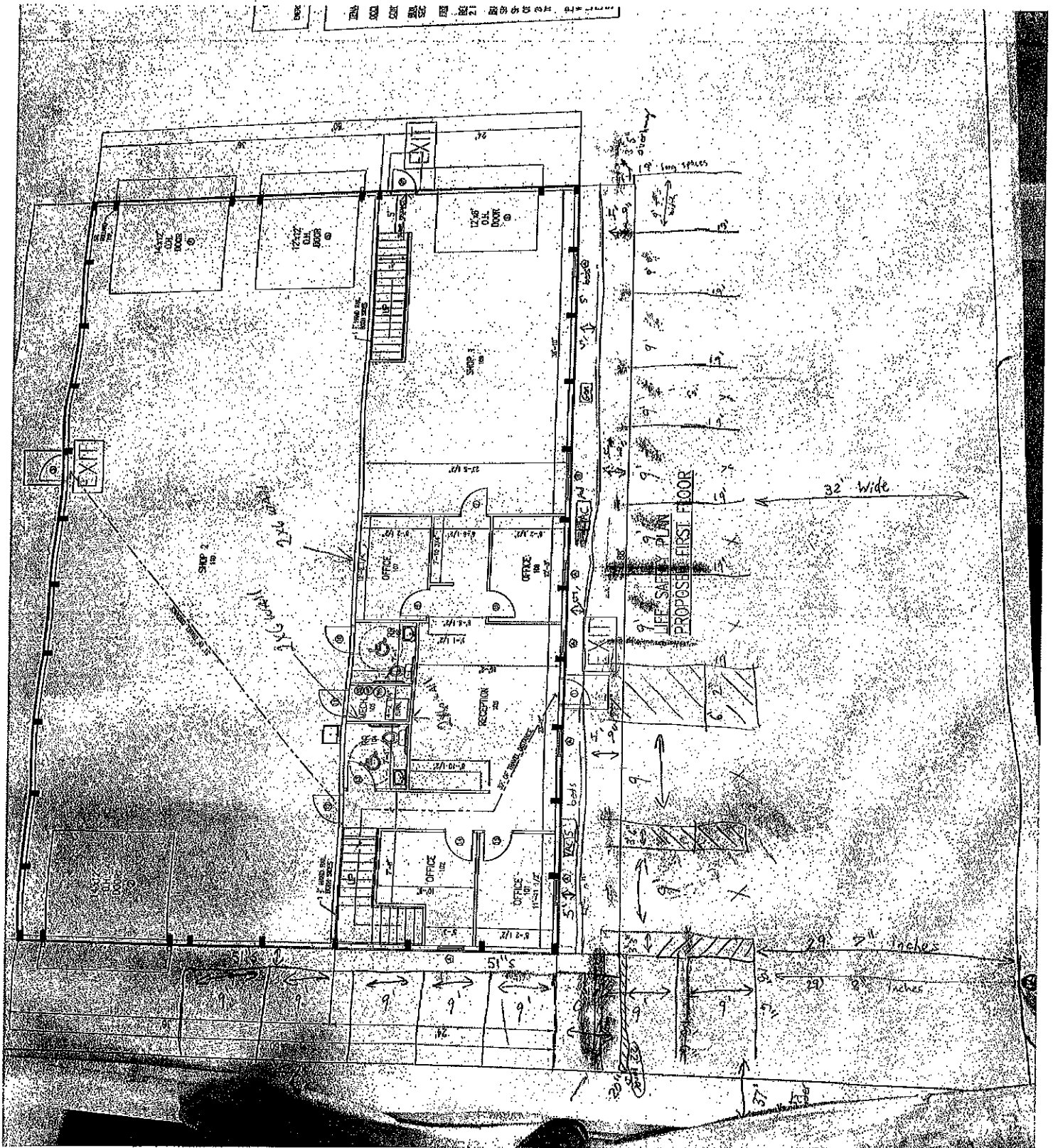
In ignorance the parking lot proposal is already an as built application.

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.)



Handwritten notes:

- Scrubbs
- Handwritten signature/initials

Property Details

Location: 6292 E Phares,
Shelbyville, Union Township.

Property Size: 6-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

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	A2	Estate Residential / Cropland
South	C2	Estate Residential
East	A2	Cropland
West	RE	Estate Residential

Staff Report

Case Number: BZA 24-37
Case Name: Wesley Todd – Development Standards Variance

Request

Variance of Development Standards to allow for a dwelling unit within an accessory structure.

Code Requirement

UDO Section 5.04 D – Prohibited for Occupancy: A permitted accessory structure shall not be utilized for human occupancy.

Purpose of Requirement – Prohibiting occupancy of accessory structures maintains the zoning district’s intended residential density among properties.

Property Map



Case Description

- The petitioner proposes to install a dwelling unit within a metal sided pole barn currently under construction. The dwelling unit would utilize an existing well and a new septic system. The barn sits 37-feet from the east side property line.
- The property currently includes a single-family residence occupied by the petitioner.

- The petitioner indicated that his mother and father, who have disabilities, intend to occupy the dwelling unit in order to have support from family members.
- The petitioner has obtained a permit for the pole barn. Addition of the dwelling unit would require site plan approval, a septic system permit, and a remodel permit. The Site Plan Committee includes the Planning Director, Building Inspector and Health Department Environmental Technician.

Staff Analysis of Findings of Fact

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

Staff Analysis: Addition of the dwelling unit would require a remodel permit and the dwelling must comply with all building codes and sanitation requirements prior to final inspection. Use of the dwelling by the petitioner's mother and father would not add significant traffic to 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 exterior appearance of the pole barn would not conflict with other accessory structures in the area. The property exceeds the size of most other residential properties in the neighborhood, therefore, the presence of two dwellings on the property would not deviate from the residential density of the area. Use of the barn as a residence should not pose a nuisance to adjacent property because the barn complies with the 30-foot setback requirement for single-family residences.

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 an independent, affordable housing option for senior citizens on the same property as family members.

Staff Recommendation

APPROVAL primarily because the property exceeds the size of most other residential properties in the neighborhood, therefore, the presence of two dwellings on the property would not deviate from the residential density of the area.

Staff recommends the following stipulations to ensure that the living quarters do not become a dwelling unit used independently from the main house:

- 1. The area of the structure dedicated toward living space shall not exceed 900 sq. ft. (this excludes garage and storage areas).**
- 2. The dwelling unit shall not be rented and shall only be used by the petitioner's mother and father.**
- 3. The variance shall expire when the current property owner no longer owns the property or when the dwelling unit is no longer occupied by the petitioner's mother and father.**

4. Beginning in November of 2025, the petitioner shall provide notice to the Plan Commission office every other year regarding the status of property ownership and need for the dwelling by the petitioner’s mother and father.

Applicant/Owner Information

Applicant	Wesley Todd 6292 E Phares Ave. Shelbyville, IN 46176	Owner:	Wesley & Amy Todd
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View of pole barn from rear yard of neighboring property to the east



Staff Photograph – October 2024

**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.

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.

3. **Practical Difficulty:** The strict application of the terms of the Shelby County Zoning Ordinance will result in a practical difficulty in the use of the property.

The 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.)

Property Details

Location: North of and adjoining 11395 N 600 W, Fountaintown, Moral Township. Lot 1, Arnold Simple Subdivision.

Property Size: 3-acres.

Current Land Use: Vacant.

Zoning Classification:

RE (Residential Estate)

Intent: This district is established for single-family detached dwellings in a rural or country setting.

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

Future Land Use per Comp Plan

Parks, Open Space, & Conservation

The purpose of this category is to provide for passive and active recreational activities, permanent preservation of significant natural areas, and preservation of natural features within clustered developments. This category applies to public and private lands.

	Zoning	Land Use
North	RE	Estate Residential
South	RE	Agriculture
East	A2	Agriculture
West	RE	Estate Residential

Staff Report

Case Number: BZA 24-41

Case Name: Mike & Lisa Delaney – Development Standards Variance

Request

Variance of Development Standards to allow for construction of a 1,920 sq. ft. pole barn prior to construction of a single-family home.

Code Requirement

UDO Section 5.06 B: *Timing of Installation:* Accessory structures shall not be permitted prior to the erection of a primary structure. However, they may be built and completed simultaneously.

Purpose of Requirement: Prohibiting construction of an accessory structure prior to a single-family home protects the character of residential neighborhoods and discourages use of accessory buildings for activities that would generally pose a nuisance to a home located on the lot.

Property Map



Case Description

- The petitioner plans to construct a 40'x48' pole barn approximately 350-feet from the road and 10-feet from the south property line.
- The petitioner indicated that he plans to build a home on the property within the next year.

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 accessory structure would require a building permit, and the structure must comply with all building codes before passing a final inspection. The public would not have access to the structure.

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: Temporary use of an accessory structure on the property without the presence of a single-family residence would not pose any long-term impact to the neighborhood. The adjacent property to the south also includes a barn without the presence of a single-family residence.

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 temporary use of the property for indoor storage of residential items.

Staff Recommendation

APPROVAL primarily because temporary use of an accessory structure on the property without the presence of a single-family residence would not pose any long-term impact to the neighborhood. The adjacent property to the south also includes a barn without the presence of a single-family residence

Staff recommends the following **stipulation**:

1. The variance shall be rendered void if a single-family residence is not constructed and granted a final certificate of occupancy by November 12, 2026.

Applicant/Owner Information

Applicant:	Mike & Lisa Delaney 3640 S Applegate Dr. New Palestine, IN 46163	Owner:	Same
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**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: MIKE & LISA DELANEY

Case #: _____

Location: 11133 N 600W FOUNTAINTOWN, IN

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 HARM TO THE COMMUNITY

2. **Adjacent Property:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
NO ADJACENT PROPERTIES ARE LARGELY LAND WITH HOMES AND POLE BARN AS OURS WILL BE.

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.
NOT THAT WE ARE AWARE OF.

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.)

6.35 1/4 sec. [2648.20' Kuhn survey] (S

421.85' Deed/Kuhn

9" round concrete monument in metal form found 0.5' below grade with center pebble marker in top and measuring 0.3' north of line and 17' from corner.

Proposed 50' Half R/W per Shelby Co. Thoroughfare Pla

447'00" E 597'
402'35" E 601'

approx 33 ft from road

LOT 1
3.000 ACRES

House 40x50

444'42" W 650'
444'42" E 650'

LOT 2
3.521 ACRES

Gap in Title, see report.

1-1/4" Iron Pipe found 0.5' above grade measuring 0.1' north of line and 535.68' from/northeast corner in road.

40x48 pole barn

Jonna M. Arnold
Quitclaim Deed
Inst. #2007006224
Recorded August 20, 2007
IN PARCEL #73-02-06-400-0018-00000113
6.52 Acres

CREEK

disturb no till structures zone.
75' primary building setback from creek.

21'25" E 20'

1'15" E 1'

Property Details

Location: 4580 W 300 N, Fairland, Brandywine Township.

Property Size: 5.46-acres.

Current Land Use: Estate Residential & Landscaping & Lawn Care Business.

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.

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

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.

Surrounding Development

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

Staff Report

Case Number: BZA 24-39

Case Name: Adam Miller / Miller's Lawn & Landscaping – Special Exception

Request

Special Exception to allow a Type 3 Home Business (landscaping and lawn care service) in the RE (Residential Estate) District.

Code Requirement

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

Purpose of Requirement: 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. Special Exception approval transfers with the property if the property changes ownership.

Property Map



Case Description

- The petitioner recently relocated his landscaping and lawn care service to the property due to an issue with his lease at his previous business location.
- At the beginning of October 2024, the Planning Director received a complaint regarding relocation of the business to the subject property. The Planning Director notified the petitioner of the violation, and the petitioner promptly applied for a Special Exception.
- The petitioner currently uses the rear portion of the property for equipment storage and employee parking related to the landscaping and lawn care service.
- Site development related to the business includes a 40'x60' pole barn, gravel parking and outdoor storage area, a gravel driveway, and alteration to land grade. This development is located at least 300-feet from the closest neighboring residential structure.
- The petitioner also resides on the property.
- Summary of the petitioner's business description:
 - Hours of Operation: 8AM – 5PM, Monday – Friday.
 - Customers: No direct retail sales, therefore, no customers visit the site.
 - Employees: Nine. Employee vehicles parked on-site during the day.
 - Signage: No signage.
 - Waste Disposal: Eight cubic yard dumpster emptied on weekly basis.

- **Outdoor Storage**
 - Currently the property includes outdoor storage of trucks, trailers, equipment, and employee vehicles on a gravel surface at the rear of property.
 - The UDO limits outdoor storage of products, materials, supplies, waste, and scrap related to a Type 3 Home Business to a fully enclosed fenced area not to exceed 8-feet in height and 1,000 sq. ft. in area.
 - The UDO allows for outdoor parking and storage of up to fourteen (14) vehicles on property including a Type 3 Home Business, which includes any vehicles related to residential use of the property. The UDO defines a vehicle as: any passenger vehicle, truck, tractor, tractor-trailer, truck-trailer, trailer, boat, recreational vehicle, semitrailer, or any other vehicle propelled or drawn by mechanical power.
 - Current business operations comply with all standards for Type 3 Home Businesses, other than lack of screened outdoor storage areas and the presence of more than fourteen (14) vehicles on the property.
- Most properties in the County over five acres and not located within rural residential tract subdivisions have the A2 (Agricultural) zoning designation. The UDO allows Type 3 Home Businesses in the A2 District without approval of a Special Exception from the BZA.
- The County does not require Drainage Review and Site Plan Approval by the Technical Advisory Committee for Home Businesses. The County Surveyor and Drainage Board, or civil courts, address any drainage issues resulting from use of residential property.

Staff Analysis of Findings of Fact

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

Staff Analysis: The UDO states that in the RE District: *Allow a special exception use only when it is compatible with the surrounding residential areas.* The outdoor storage of equipment and employee parking would not conflict with the character of the adjacent residential neighborhood to the east if limited to one acre at the northwest corner of the property and screened from adjacent residential properties. Proposed on-site business operations only include movement of vehicles during business hours, which would not result in a significant amount of noise affecting the use and enjoyment of adjacent residential properties. Additionally, the relatively large size of the property and distance of proposed business operations from adjacent residential uses would limit potential impacts of the business to the neighborhood. Approval of the Special Exception would allow for a home business in an area planned for residential development by the Comprehensive Plan.

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 proposed business operation would not pose an environmental hazard and would not generate traffic significantly exceeding existing traffic in the area.

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

Staff Analysis: The outdoor storage of equipment and employee parking would not conflict with the character of the adjacent residential neighborhood to the east if limited to one acre at the northwest corner of the property and screened from adjacent residential properties. Proposed on-site business operations only include movement of

vehicles during business hours, which would not result in a significant amount of noise affecting the use and enjoyment of adjacent residential properties. Additionally, the relatively large size of the property and distance of proposed business operations from adjacent residential uses would limit any impacts of the business to the neighborhood.

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

Staff Analysis: The outdoor storage of equipment and employee parking would not conflict with the character of the adjacent residential neighborhood to the east if limited to one acre at the northwest corner of the property and screened from adjacent residential properties.

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

Staff Analysis: Operation of the business in compliance with the stipulations recommended by Staff would not alter the character of the area or pose a significant impact to the adjacent residential neighborhood, therefore the business would not substantially impact property value in an adverse manner.

Staff Recommendation

Staff recommends **APPROVAL** because outdoor storage of equipment and employee parking would not conflict with the character of the adjacent residential neighborhood to the east if limited to one acre at the northwest corner of the property and screened from adjacent residential properties. Proposed on-site business operations only include movement of vehicles during business hours, which would not result in a significant amount of noise affecting the use and enjoyment of adjacent residential properties. Additionally, the relatively large size of the property and distance of proposed business operations from adjacent residential uses would limit potential impacts of the business to the neighborhood.

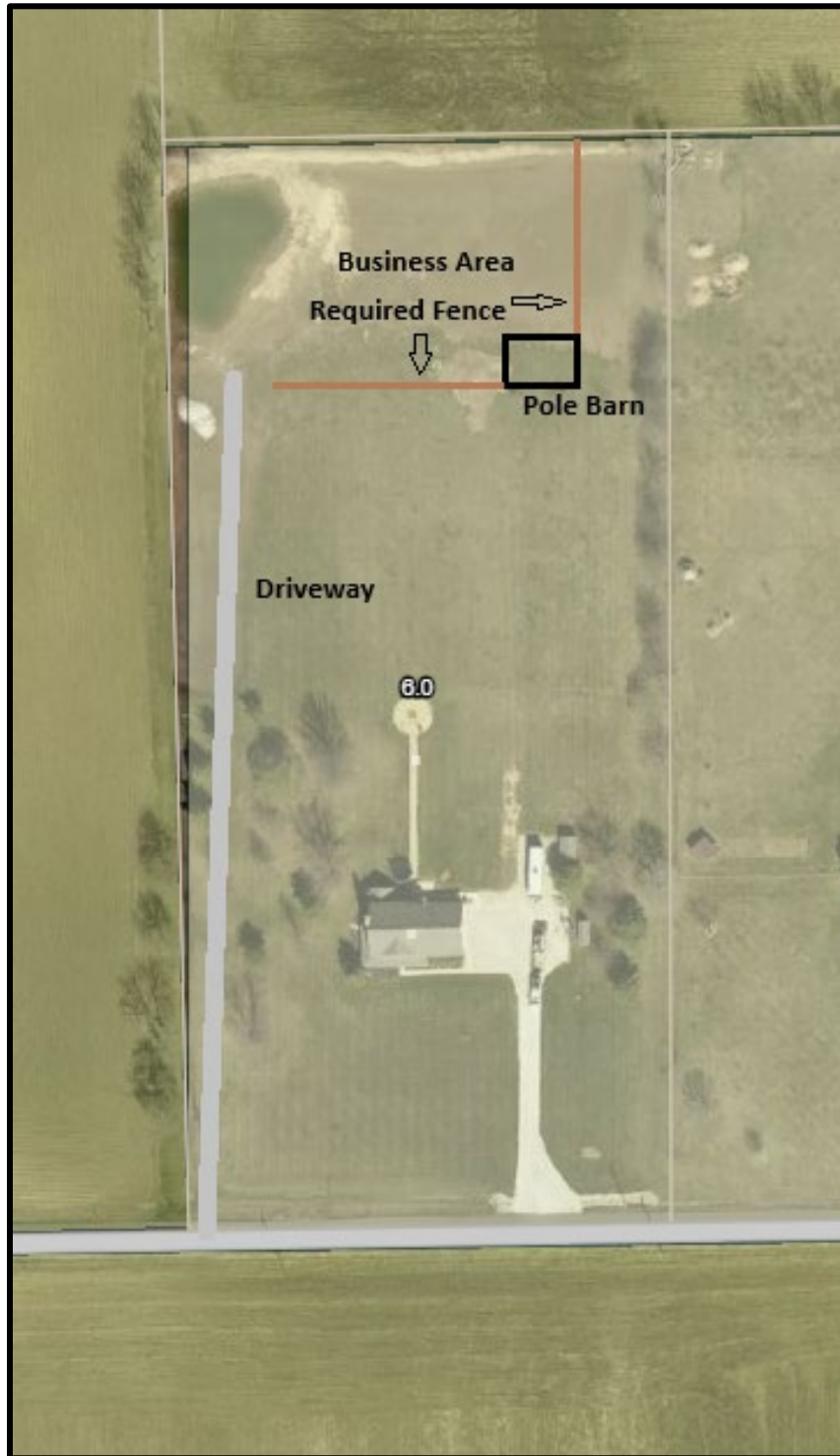
Staff recommends the following **stipulations**:

1. Operation of the business shall comply with Section 5.35 HB-03: Type 3 Home Business Standards of the Unified Development Ordinance. The business shall be brought into compliance with these standards by January 12, 2025. (i.e. materials stored within a fully enclosed fenced area not to exceed 8-feet in height and 1,000 sq. ft. in area and outdoor parking and storage of no more than fourteen vehicles).
2. Business operations shall be limited to the Statement of Intent submitted with the Special Exception application.
3. All business operations, site development related to the business (excluding the driveway), employee parking, and outdoor storage of trucks, trailers, and equipment shall not be permitted closer to CR 300 N than the existing pole barn or closer to the east property line than the existing pole barn. An 8-foot-tall wooden or vinyl privacy fence shall be constructed along the edge of the east and south side of the business area as shown on the site plan included in the Staff Report. The fence shall be installed by January 12, 2025.

Applicant/Owner Information

Applicant:	Adam Miller 4580 W 300 N Fairland, IN 46126	Owner:	Same
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Site Plan



View of Employee Parking from CR 300 N



Staff Photograph – October 2024

View of Closest Residential Property in Relation to Current Business Area

Trees along
Property
Line

Neighboring
House



Staff Photograph – October 2024

Home Business Standards (HB)

5.35 HB-03: Type 3 Home Business Standards

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

A1 **A2** **A3**

The following standards apply:

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

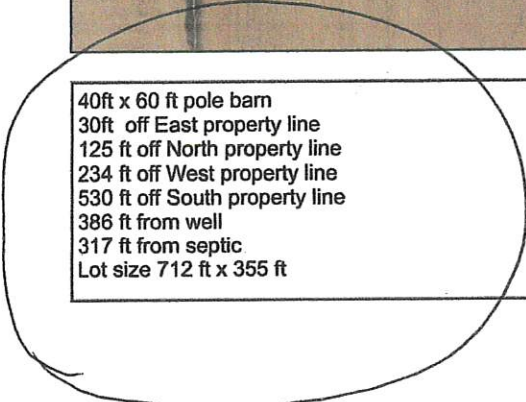
Home Business Standards (HB)

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

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: Lawn and landscaping business for equipment storage. Business does not offer retail side.
2. Days & Hours of Operation: Mon - Fri 8am - 5pm
3. Maximum Number of Customers per Day/Week/Month: Does not offer retail side therefore customers do not visit location.
4. Type and Frequency of Deliveries: No deliveries are made as we are a landscaping business.
5. Description of any Outdoor Storage: Trucks, trailers, and equipment
6. Description, Size, and Placement of any Signage: No signage will be placed on building.
7. Description of Waste Disposal: 8 cubic yard dumpster which gets emptied on weekly basis.
8. Existing and/or Proposed Building and Site Improvements Pertaining to Proposed Use (ex. parking lot, landscaping, commercial upgrades to building, etc.): Current building is a 40 by 60 pool barn. Parking lot and drive is already established. No commercial upgrades is needed. Landscaping and fencing around building at a later time.



40ft x 60 ft pole barn
 30ft off East property line
 125 ft off North property line
 234 ft off West property line
 530 ft off South property line
 386 ft from well
 317 ft from septic
 Lot size 712 ft x 355 ft

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 12/12/2023

The purpose of this map is to display the geographic location of a variety of data sources frequently updated from local government and other agencies. Neither WTH Technology nor the agencies providing this data make any warranty concerning its accuracy or merchantability. And no part of it should be used as a legal description or document.

Zoning Violation

Case Number: V24-17
Property Owner: Anthony & Emma Jean Stewart
Location: 657 N 350 W, Shelbyville, Brandywine Township

Potential Violation

Construction of a fence with the structural face facing outward.

Section 5.23 C 1 - Presentation: Fences and walls shall present the non-structural face outward, except when used for containment of pastured animals.

Case History

- Staff received a complaint regarding the construction of a fence with the structural face facing outward.
- Staff sent the property owner a violation letter and the property owner promptly contacted the Planning Department.
- The property owner explained that they had added an extension to an existing fence which has its structural face facing outward. Staff explained that the existing fence qualifies as a legal-nonconforming 'grandfathered' structure due to construction of the fence prior to the current UDO, however, the petitioner would need to remove the new portion of the fence or request a variance from the BZA.
- The property owner chose to add paneling to the structural side of the fence as a method to convert the fence into a shadow box design which does not have a structural face. The property owner explained that removal and reconstruction of the fence would pose an economic hardship. The property owner did not inform Staff of their plan to alter the fence until after they had installed the paneling.
- The property owner maintains that conversion of the fence into a shadow box design corrects the violation. The complainant maintains that the fence has a structural face facing outwards with fence paneling attached, which does not correct the violation.

BZA Decision

Staff requests that the BZA review the evidence and determine if alteration of the fence corrects the zoning violation. If the Board determines that the fence alteration does not correct the violation, Staff requests that the Board provide direction to Staff regarding enforcement action.

View of fence, showing subject property on the left and neighboring property of the right



View of fence from neighboring property



Typical Shadow Box Fence Design

