

Shelby County  
Board of Zoning Appeals

December 10, 2019 at 7:00 PM

# Table of Contents

Agenda .....	3
Summary of Cases.....	4
BZA 19-31 Viking Property & Land – Use Variance.....	6
Staff Report .....	6
Petitioner’s Findings of Fact .....	9
BZA 19-32 Sheila Smith – Development Standards Variances.....	10
Staff Report .....	10
Petitioner’s Findings of Fact .....	14
BZA 19-33 Cassandra Camp – Development Standards Variances.....	15
Staff Report .....	15
Petitioner’s Findings of Fact .....	18
Site Plan.....	19
BZA 19-34 C-Tech, Inc. – Development Standards Variances.....	20
Staff Report .....	20
Petitioner’s Findings of Fact .....	23
Site Plan.....	24
BZA 19-35 Douglas E. Brown – Development Standards Variances.....	25
Staff Report .....	25
Petitioner’s Findings of Fact .....	29
Statement of Intent .....	30
Site Plan.....	31
BZA 19-36 G. Todd & J. Ryan Marshall – Development Standards Variance.....	32
Staff Report .....	32
Petitioner’s Findings of Fact .....	34
Site Plan.....	35
V19-1 Patrick Black - Violation.....	36
2020 Meeting Calendar.....	42

# MEETING AGENDA

Shelby County Board of Zoning Appeals  
December 10, 2019, 7:00 P.M.

## CALL TO ORDER

## ROLL CALL

## APPROVAL OF MINUTES

Minutes from the October 8, 2019 meeting.

## OLD BUSINESS

None.

## NEW BUSINESS

BZA 19-31 – VIKING PROPERTY & LAND: USE VARIANCE

BZA 19-32 – SHEILA SMITH: DEVELOPMENT STANDARDS VARIANCES

BZA 19-33 – CASSANDRA CAMP: DEVELOPMENT STANDARDS VARIANCES

BZA 19-34 – C-TECH, INC.: DEVELOPMENT STANDARDS VARIANCES

BZA 19-35 – DOUGLAS E. BROWN: DEVELOPMENT STANDARDS VARIANCES

BZA 19-36 – G. TODD & J. RYAN MARSHALL: DEVELOPMENT STANDARDS  
VARIANCE

2020 BZA MEETING CALENDAR APPROVAL

## DISCUSSION

Patrick Black Violation

Tammy Shortridge Violation

## ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for  
Tuesday, January 14, 2019 at 7:00 PM.

# Summary of Cases

## *BZA 19-31 – VIKING PROPERTY & LAND*

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REQUEST: Variance of Use to legally establish a two-family dwelling in the A2 District. [Section 2.05]

LOCATION: Van Buren Township at 10132 N 150 E, Morristown

STAFF RECOMMENDATION: DENIAL because:

- The property resembles adjacent properties in size, dimensional orientation, and topography. Therefore, no condition unique to the property would justify the allowance of two dwelling units.
- The Plan identifies the Future Land Use of the property as Suburban Residential. The Plan does not recommend development of two-family dwellings in Suburban Residential areas.
- Approval of this variance could act as a precedent for similar future requests.
- The property is used as rental property. Typically, the BZA only approves variances for an additional dwelling when used by family members of the primary residence.

## *BZA 19-32 – SHEILA SMITH*

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REQUEST: Variance of Development Standards to allow for four (4) horses:

1. On a 5-acre lot (minimum lot area of 6-acres required) [Section 5.42 A 1]
2. In a pasture area less than 8-acres (minimum of two (2) fenced acres of pasture area per horse required) [Section 5.42 A 3 & 5.42 A 4]

LOCATION: Addison Township at 3256 E German Rd, Shelbyville.

STAFF RECOMMENDATION: APPROVAL primarily because several properties under five acres in the area include pasture area for horses. Therefore, the keeping of horses would not conflict with the character of the area.

Recommended Stipulations:

1. A maximum of two horses may be kept on the property after the current horses owned by the petitioner are no longer kept on the property.
2. Pasture area shall be restricted to the front yard.

## *BZA 19-33– CASSANDRA CAMP*

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REQUEST: Variances of Development Standards to allow for:

1. The first 10-feet directly in front of a new single-family home's garage to be gravel (pavement required) [Section 5.18 C]
2. No trees on a lot including a new single-family home (at least five deciduous trees required) [Section 5.45 A 3]

LOCATION: Nobel Township at 10726 S 275 E, Flat Rock.

STAFF RECOMMENDATION: APPROVAL primarily because driveway paving and lot planting requirements are intended to enhance aesthetic quality and maintain visual character among multiple



residences, generally in suburban or urban areas. Implementing these requirements would detract from the rural character of the property.

### ***BZA 19-34 – C-TECH, INC.***

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**REQUEST:** Variances of Development Standards to allow for:

3. Expansion of a stone parking lot (entire parking lot must be paved if expanded more than one time). [Section 5.60 B]
4. Stone loading berths (paved loading berths required). [Section 5.51 A 2]

**LOCATION:** Sugar Creek Township at 5300 W 100 N, Boggstown.

**STAFF RECOMMENDATION:** APPROVAL primarily because:

- The paved parking standard generally applies to properties in urban settings, where nuisances associated with gravel parking area such as dust and noise would impact adjacent industrial and commercial uses. The subject property is located in a rural setting where these nuisances should not impact the use and value of adjacent properties.
- Large trucks and equipment used by the business on a regular basis would damage a paved parking lot resulting in excessive parking lot maintenance.

### ***BZA 19-35 – DOUGLAS E. BROWN***

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**REQUEST:** Variances of Development Standards to allow for:

1. A lot approximately 80-feet wide and having approximately 80-feet of road frontage (160-foot minimum lot width a road frontage required) [Section 2.12]
2. A lot approximately 45-feet wide and having approximately 45-feet of road frontage (160-foot minimum lot width a road frontage required) [Section 2.12]

**LOCATION:** Jackson Township at 8020 S 600 W, Edinburgh

**STAFF RECOMMENDATION:** APPROVAL primarily because denial of the variance would cause a lot to remain land-locked without road frontage.

### ***BZA 19-36 – G. TODD & J. RYAN MARSHALL***

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**REQUEST:** Variance of Development Standards to allow for allow for a grain dryer 8-feet from the edge of pavement of E 675 N (minimum 50-foot setback from the proposed right-of-way or 75-foot setback from center of road required). [Section 2.12]

**LOCATION:** Union Township at 4970 E 675 N, Shelbyville

**STAFF RECOMMENDATION:** APPROVAL primarily because the size of the property limits the area available for expansion of an existing agricultural use.

# Staff Report

CASE NUMBER: BZA 19-31  
CASE NAME: VIKING PROPERTY & LAND – USE VARIANCE

## *CASE SUMMARY*

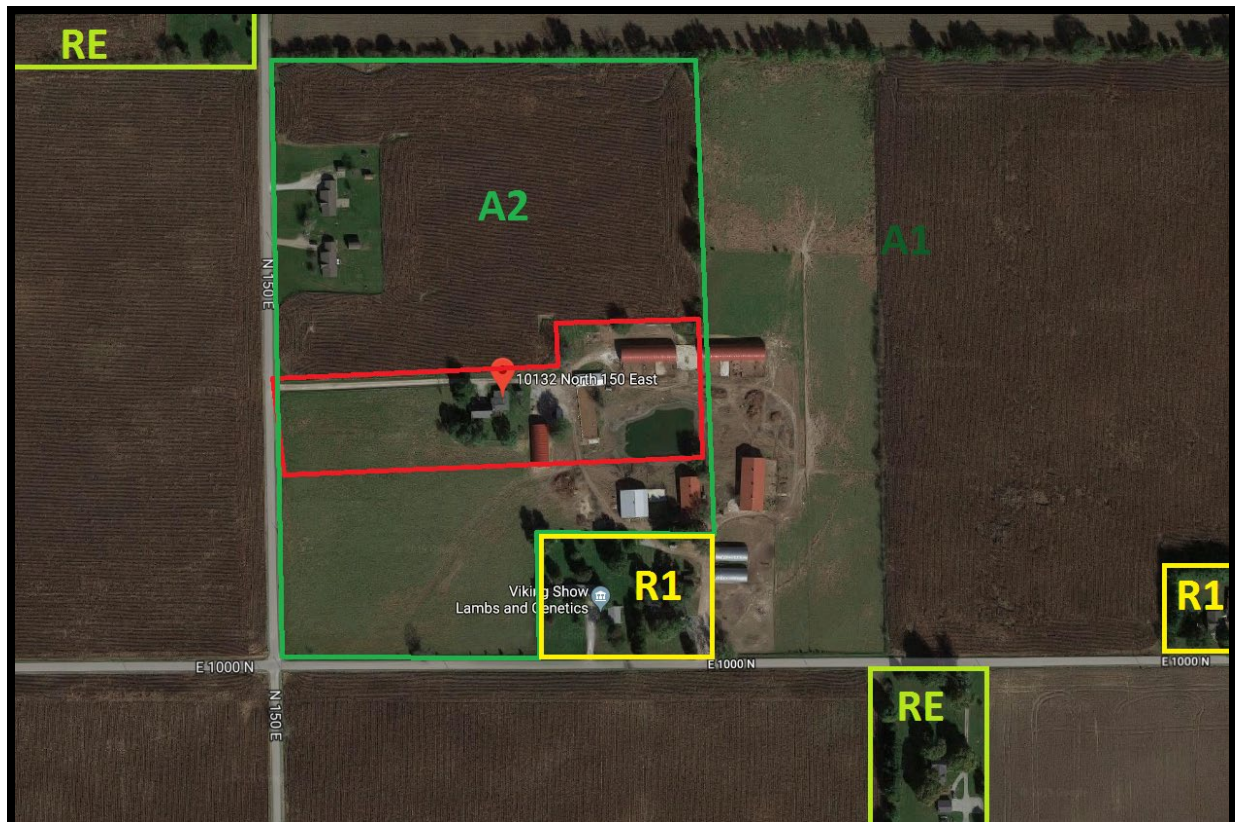
**REQUEST:** Variance of Use to legally establish a two-family dwelling (defined as a single-family, attached dwelling in the UDO) in the A2 District. [Section 2.05]

**STAFF RECOMMENDATION:** DENIAL because:

- The property resembles adjacent properties in size, dimensional orientation, and topography. Therefore, no condition unique to the property would justify the allowance of two dwelling units.
- The Plan identifies the Future Land Use of the property as Suburban Residential. The Plan does not recommend development of two-family dwellings in Suburban Residential areas.
- Approval of this variance could act as a precedent for similar future requests.
- The property is used as a rental property. Typically, the BZA only approves variances for an additional dwelling when used by family members of the primary residence.

## PROPERTY DESCRIPTION

Van Buren Township at 10132 N 150 E, Morristown



Property Size: 5.05 acres.

Zoning Classification: A2 (Agricultural) – Per the UDO the district is established for general agricultural areas and building associated with agricultural production. The BZA should protect the integrity of land and operations within the District.

Comprehensive Plan Future Land Use: 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.

#### CASE DESCRIPTION

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- In September of 2019, Staff received a complaint from a previous tenant regarding the existence of two rental units on the property. Staff sent a letter to the petitioner informing them that the existence of two dwelling units on the property would constitute a zoning violation.
- The petitioner stated that the house includes two units, each having an exterior entrance, kitchen, bathroom, bedrooms, and living area. However, the petitioner stated that one family currently rents both units.
- The UDO only permits Single-Family, Detached dwellings in the A2 District. The UDO defines a Single-Family, Detached dwelling as “a detached dwelling unit designed to be occupied by one family.” The UDO defines a Single-Family, Attached dwelling (or two-family dwelling) as “an attached residential dwelling unit designed to be occupied by two or three families.” The structure described by the petitioner is designed to be occupied by two families, even though one family currently occupies the entire structure.
- The petitioner stated that the house included two units when he purchased the property. Staff has not found a building permit or existing variance permitting two dwelling units on the property.
- The petitioner owns all adjacent residential properties and lists one of those properties as their home address.

#### STAFF ANALYSIS OF FINDING OF FACTS – USE VARIANCE

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**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 not generate traffic in excess of typical traffic in the area. The use would not pose any perceivable nuisance to the general public.

**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 owns all adjacent residential properties and does not believe approval of the request would affect those properties in an adverse manner.

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

Staff Analysis: The property resembles adjacent properties in size, dimensional orientation, and topography. Therefore, no condition unique to the property would justify the allowance of two dwelling units.

**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 continuation of a use that does not significantly impact the general public or adjoining properties.

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

Staff Analysis: Approval would interfere with the Plan because the Plan does not recommend development of two-family residences in Suburban Residential areas.

APPLICANT/OWNER INFORMATION

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Applicant: Viking Property & Land  
1634 E 1000 N  
Morristown, IN 46161

Owner: Same

**USE VARIANCE  
FINDINGS OF FACT**

Applicant: \_\_\_\_\_

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

Location: \_\_\_\_\_

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

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

*No*  
\_\_\_\_\_  
\_\_\_\_\_

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.

*yes*  
\_\_\_\_\_  
\_\_\_\_\_

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

*yes decrease my ability to utilize*  
\_\_\_\_\_  
\_\_\_\_\_

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

*No*  
\_\_\_\_\_  
\_\_\_\_\_

# Staff Report

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CASE NUMBER: BZA 19-32  
CASE NAME: SHEILA SMITH – DEVELOPMENT STANDARDS VARAINCE

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## ***CASE SUMMARY***

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**REQUEST:** Variance of Development Standards to allow for four (4) horses:

1. On a 5-acre lot (minimum lot area of 6-acres required) [Section 5.42 A 1]
2. In a pasture area less than 8-acres (minimum of two (2) fenced acres of pasture area per horse required) [Section 5.42 A 3 & 5.42 A 4]

**STAFF RECOMMENDATION:** APPROVAL primarily because several properties under five acres in the area include pasture area for horses. Therefore, the keeping of horses would not conflict with the character of the area.

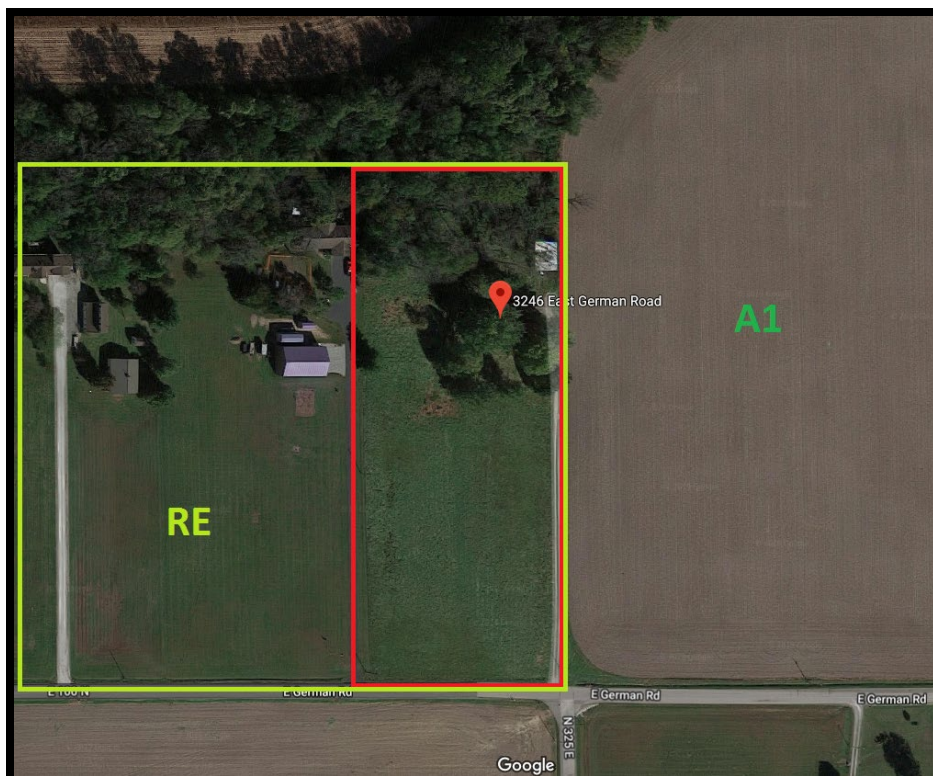
### **Recommended Stipulations:**

1. A maximum of two horses may be kept on the property after the current horses owned by the petitioner are no longer kept on the property.
2. Pasture area shall be restricted to the front yard.

## **PROPERTY DESCRIPTION**

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Addison Township at 3246 E German Rd, Shelbyville



Property Size: 5 acres.

Zoning Classification: RE (Residential Estate) – Per the UDO the district is established for single-family detached dwellings in a rural or country setting.

Comprehensive Plan Future Land Use: 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.

#### INTENT OF ORDINANCE REQUIREMENT

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The minimum lot size requirement generally restricts the keeping of horses to properties used primarily for agricultural purposes.

A minimum pasturage area ensures that animals have adequate area for grazing; and maintains pasture areas with adequate vegetation so that properties with horses do not detract from the aesthetic and rural character of the area.

#### CASE DESCRIPTION

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- The petitioner plans to move four horses they currently own from Rush County to the subject property.
- Approximately 2.5 acres in the front yard would serve as pasture area.
- Staff researched typical recommended pasture area for horses and most sources recommend 1-acre to 1.5-acres per horse. The petitioner's request would provide for approximately ½-acre per horse.
- The petitioner has agreed to keep a maximum of two horses on the property after the current horses they own are no longer kept on the property.
- Several properties under five acres in the area include pasture area for horses (see photos below).

#### STAFF ANALYSIS OF FINDING OF FACTS – DEVELOPMENT STANDARDS VARIANCE

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

Staff Analysis: The keeping of four horses on private residential property would not have any foreseeable impact on the general public.

**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 pasture area would be located over one-hundred feet from the nearest residence. Therefore, any typical sounds or smell would not impact the use of nearby residential

property. Several properties under five acres in the area include pasture area for horses. Therefore, the keeping of horses would not conflict with the character of the area.

**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 prohibit an agricultural use typically found in rural residential areas.

APPLICANT/OWNER INFORMATION

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Applicant: Sheila Smith  
1840 S 850 E  
Franklin, IN 46131

Owner: Same





3857 E German Rd – 5.35 acres



1868 N 350 E – 5 acres



2023 E Old Rushville Rd – 5.01 acres

**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.

*Horses already in the Area*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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.)

## Staff Report

CASE NUMBER: BZA 19-33  
CASE NAME: CASSANDRA CAMP – DEVELOPMENT STANDARDS VARAINCES

### ***CASE SUMMARY***

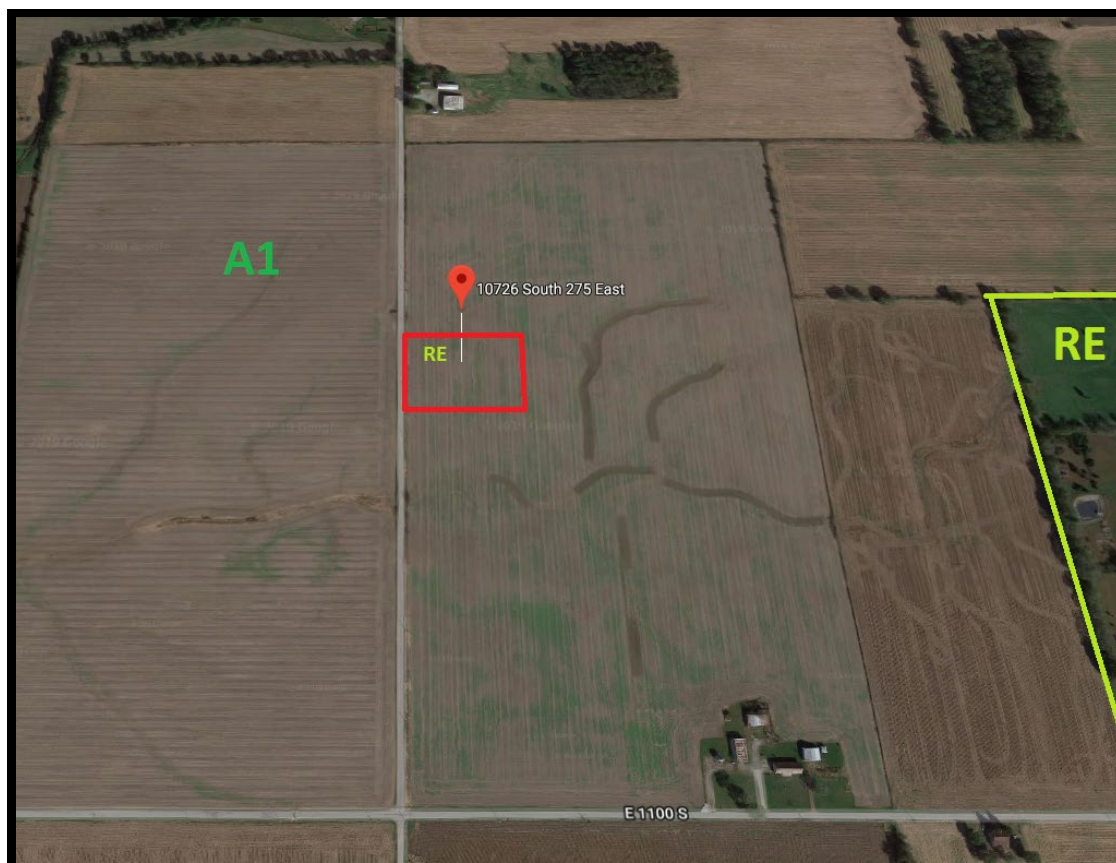
**REQUEST:** Variances of Development Standards to allow for:

1. The first 10-feet directly in front of a new single-family home's garage to be gravel (pavement required) [Section 5.18 C]
2. No trees on a lot including a new single-family home (at least five deciduous trees required) [Section 5.45 A 3]

**STAFF RECOMMENDATION:** APPROVAL primarily because driveway paving and lot planting requirements are intended to enhance aesthetic quality and maintain visual character among multiple residences, generally in suburban or urban areas. Implementing these requirements would detract from the rural character of the property.

### **PROPERTY DESCRIPTION**

Nobel Township at 10726 S 275 E, Flat Rock



Property Size: 3 acres.

Zoning Classification: RE (Residential Estate) – Per the UDO the district is established for single-family detached dwellings in a rural or country setting. Development standards should promote low-impact development in harmony with a natural setting.

Comprehensive Plan Future Land Use: 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.

#### PURPOSE OF UDO REQUIREMENT

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*5.18 DW-02: Agricultural Driveway Standards (A1, A2, A3, RE Districts) C. Materials: Asphalt, concrete, or other non-porous materials, or gravel shall be acceptable driveway surface materials. The first twenty (20) feet directly in front of a single-family home's garage shall be paved with asphalt, concrete or other non-porous material.*

A driveway apron smooths the transition between the driveway and the garage, helps to direct water away from the garage, and acts as a barrier against gravel and debris. The driveway apron also provides for additional paved parking area. A driveway apron requirement is intended to enhance aesthetic quality and maintain visual character among multiple residences, generally in suburban or urban areas.

*5.45 LA-03: Residential Lot Planting Landscaping Standards (RE, R1, R2, VR, M1 Districts) A. Quantity Requirements: 3: Lots Over 25,000 Square Feet: Three (3) deciduous trees plus one (1) additional deciduous tree per every 20,000 square feet over the initial 25,000 square feet. The maximum number of trees required in the yard planting area shall be five (5).*

Lot planting requirements serve to enhance aesthetic quality and maintain visual character among multiple residences, generally in suburban or urban areas.

#### CASE DESCRIPTION

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- The petitioner has placed an 1,800 sq. ft. single-family modular home on the property and is currently constructing a two-car attached garage.
- The property includes a gravel driveway. The petitioner plans to extend the gravel to the garage.
- The previous property owner used the entire property for crop production. Therefore, the property does not include any existing trees.
- The Plan Commission approved a rezoning and simple subdivision to allow for development of a single-family residence on the subject property in September of 2018. The petitioner obtained site plan approval for the residence in June of 2019 and all required permits in July of 2019.

#### STAFF ANALYSIS OF FINDING OF FACTS – DEVELOPMENT STANDARDS VARIANCE

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

Staff Analysis: Absence of a minimal amount of pavement and three trees on private residential property will not impact the general public.

**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: Absence of pavement and trees will not impact crop production on adjacent property.

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

Staff Analysis: The property lies within a rural area. A strict application of the Ordinance would detract from the rural character of the property.

#### APPLICANT/OWNER INFORMATION

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Applicant: Cassandra Camp  
2870 E 1100 S  
Flat Rock, IN 47234

Owner: Ryman & Cassandra Camp



View of property from road

**DEVELOPMENT STANDARDS VARIANCE  
FINDINGS OF FACT**

Applicant: Cassandra Camp

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.

By not having a paved (20x20) area outside of our garage or planting trees before we move, it affects no one in the community because we are surrounded by cornfields.

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.

Surrounded by cornfields. No neighbors have paved driveways.

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



We would like to keep the property as rural as possible. We also would like to protect the field tile, septic field & under ground power lines, & drainage from root problems in the future.

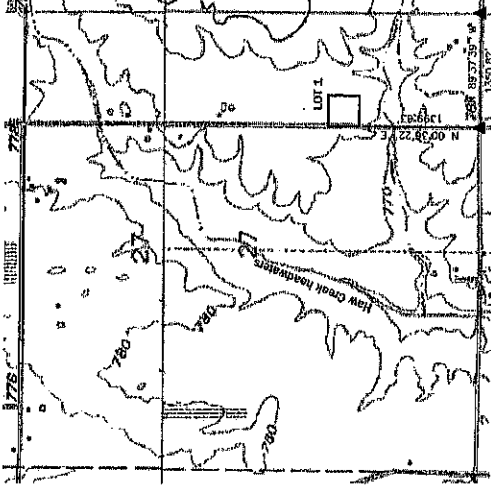
**The Board of Zoning Appeals may review the applicant's findings of fact to assist with their decision-making process. Please see below for general guidance related to completing the findings of fact:**

**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.)

 <p><b>SCOTT T. SUMNERFORD</b> LAND SURVEYING 3149 NORTH RILEY HIGHWAY SHELBYVILLE, IN 46176-9462 BUSINESS PHONE (317) 401-6050 Indiana Registered Surveyor No. 2980017</p>	<p>Proposed site plan for new dwelling. June 5, 2019 LAST DATE OF FIELDWORK June 11, 2019 REVISION DATE after change &amp; add notes June 13, 2019</p>	<p><b>CLIENT</b> Cassandra Camp 2870 E 1100 S Flat Rock, IN 47234</p> <p><b>PROJECT</b> Proposed site plan for new dwelling.</p>	<p><b>IMPROVEMENT LOCATION</b> <b>SITE PLAN</b></p> <p><b>JOB LOCATION</b> PART OF THE EAST HALF OF THE SOUTHEAST QUARTER, SECTION 27, TOWNSHIP 11 NORTH, RANGE 7 EAST, NOBLE TWP., SHELBY COUNTY, IN</p>	 <p><b>JOB NUMBER</b> 11N7E27-19-012</p> <p><b>SHEET</b> 1 OF 1</p>
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**LEGAL DESCRIPTION LOT 1**

Part of the east half of the southeast quarter of Section Twenty-seven (27), Township 11 North, Range 7 East, Noble Township, Shelby County, Indiana, being S 1/2 E 1/2 SE 1/4, 27-11-7E, SHELBY COUNTY, INDIANA, and being more particularly described as follows:

Commencing at the southeast corner of the southeast quarter of said section 27-11-7E, said point being marked by a steel chimelet post in the road bed; thence along the south line of the east half of said south quarter, North 89° 27' 39" West (bearing of bearing being State Plane Indiana East Zone) 1,350.82 feet to the southwest corner of said east half, said point marked by a stone; thence along the west line of said half, North 00° 35' 22" East 2,399.03 feet to a washer and maginal stake; S. Sumnerford 8900017 at the point of beginning of the herein described tract.

Thence continuing along said west line, North 00° 35' 22" East 361.50 feet to a washer and maginal stake; S. Sumnerford 9900017; thence South 89° 40' 35" East 361.50 feet; thence parallel with the west line of said half, South 00° 35' 22" West 361.50 feet; thence North 89° 40' 35" West 361.50 feet to the point of beginning, containing 3.000 acres.

Subject to all easements, restrictions and right-of-ways of record.

**CURRENT OWNER**  
Ryan D. and Cassandra S. Camp

**PROPERTY ADDRESS**  
Flat Rock, IN 47234

**PARCEL NUMBER**  
79-05-27-040-00-00-00-014

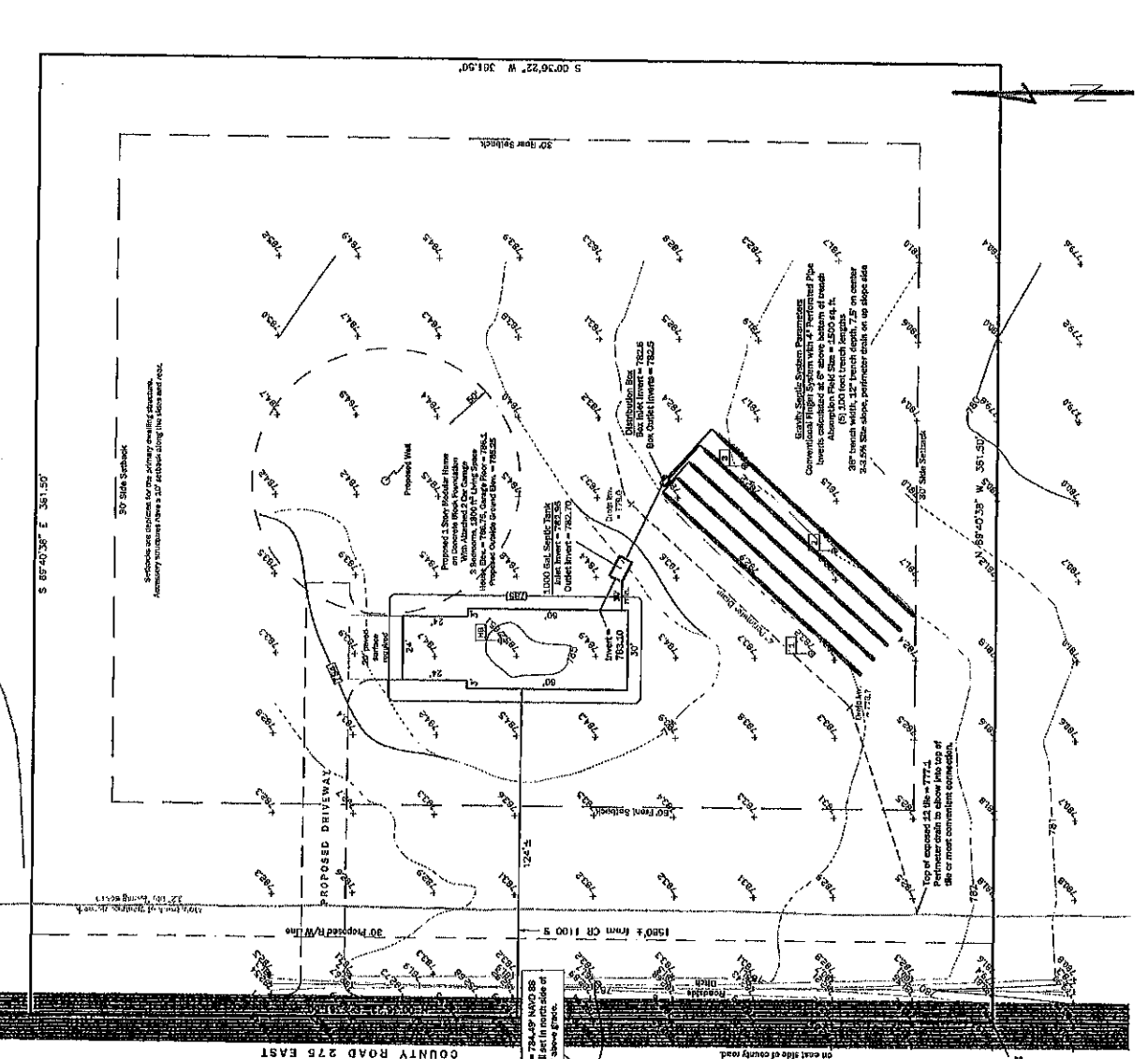
**CURRENT ZONING**  
RE Residential Estate

**FLOOD STATEMENT**  
The subject property does not lie within a Flood Hazard Area per the effective FIRM map Panel 13145C02601C, dated November 5, 2014. The proposed dwelling is a good distance from a tributary of Haw Creek and lies a good 17 feet above the flooding elevation per the Indiana DNR Floodplain Portal.

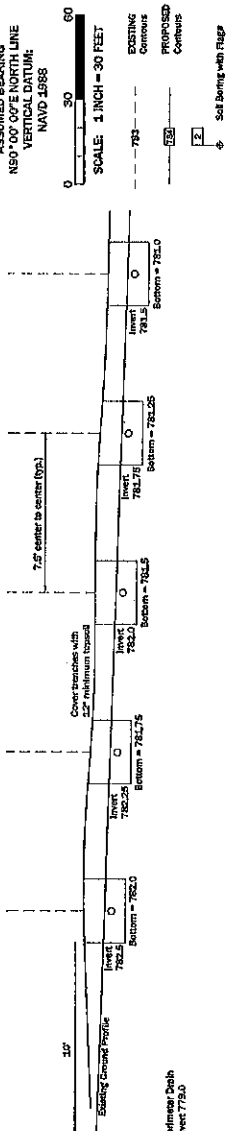
**SOIL SCIENTIST**  
Chemur Ridge Consulting, Inc.  
Dated 3/22/2019

**NOTES**

- Final grading shall provide a 6 inch drop in elevation 10 feet out around the exterior of the proposed dwelling.
- Any drainage tiles encountered/interrupted during the construction process shall be promptly repaired.
- Contractor shall provide erosion control measures as required per the Shelby County Storm Drainage, Erosion and Sediment Control Ordinance.
- Twenty foot paved surface required in front for garage and/or accessory barn to accommodate (2) 9'x15' parking spaces.
- Roof drains should be directed/ piped to avoid the septic absorption field area.
- Five deciduous trees with at least 2" DBH at the time of planting shall be planted on the property prior to occupation of the residence.
- Development of the site is subject to Section 5.87 of the Shelby County Unified Development Ordinance - Rural Residential Development Standards.
- Site plan complies with all state and local regulations and any requested changes or alterations must be first approved by the appropriate authority.



**TRENCH CROSS SECTION**



**BASES OF BEARINGS:**  
NSP 00° 00' NORTH LINE  
VERTICAL DATUM:  
NAVD 1983

**SCALE: 1 INCH = 30 FEET**

**EXISTING**  
Contours  
**PROPOSED**  
Contours

**SOIL BEING WASH**



# Staff Report

CASE NUMBER: BZA 19-34  
CASE NAME: C-TECH, INC – DEVELOPMENT STANDARDS VARAINCES

## CASE SUMMARY

REQUEST: Variances of Development Standards to allow for:

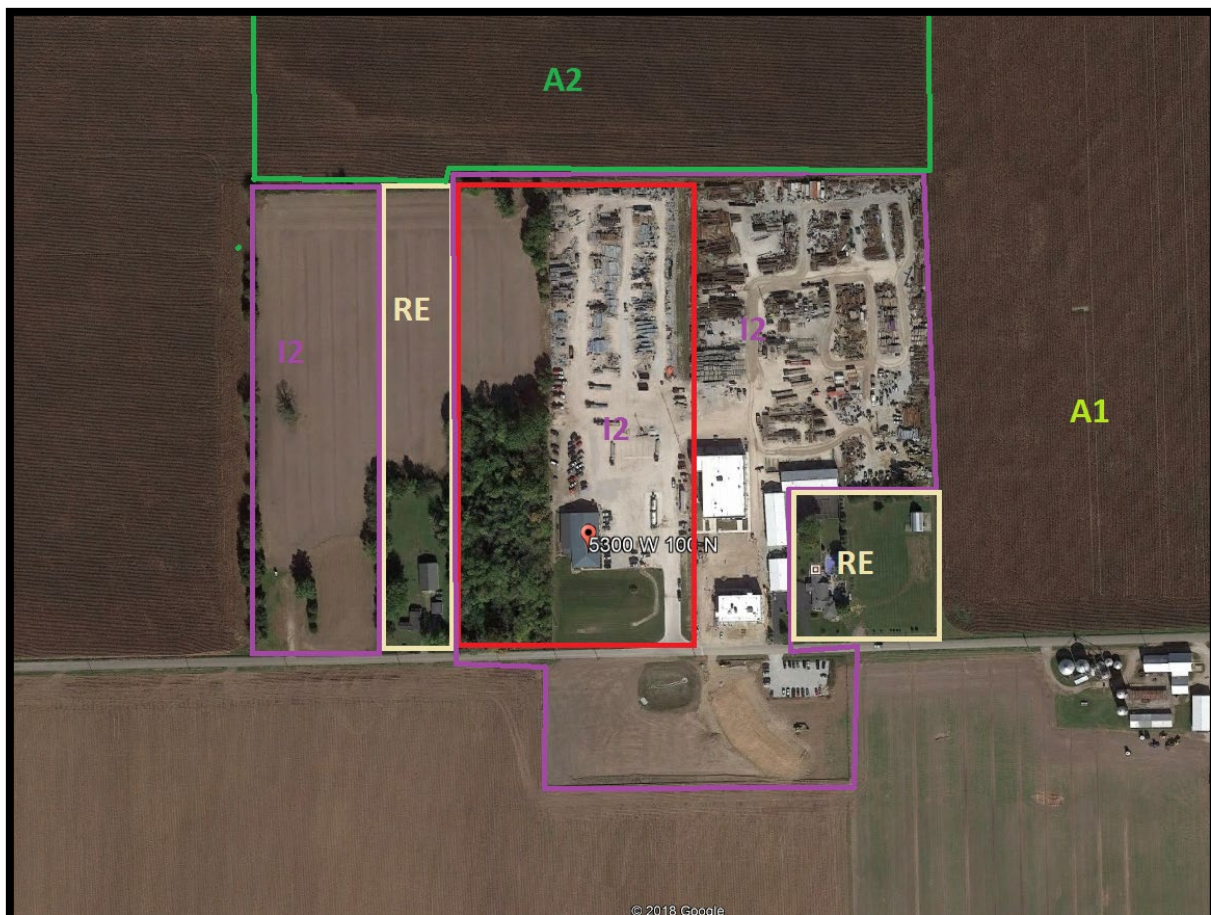
1. Expansion of a stone parking lot (entire parking lot must be paved if expanded more than one time). [Section 5.60 B]
2. Stone loading berths (paved loading berths required). [Section 5.51 A 2]

STAFF RECOMMENDATION: APPROVAL primarily because:

- The paved parking standard generally applies to properties in urban settings, where nuisances associated with gravel parking area such as dust and noise would impact adjacent industrial and commercial uses. The subject property lies within a rural setting where these nuisances should not impact the use and value of adjacent properties.
- Large trucks and equipment used by the business on a regular basis would damage a paved parking area, resulting in excessive parking lot maintenance.

## PROPERTY DESCRIPTION

Sugar Creek Township at 5300 W 100 N, Boggstown





Property Size: 12.884 acres.

Zoning Classification: I2 (High Intensity Industrial) – Per the UDO, the district is established for high intensity industrial uses and heavy manufacturing facilities. When making decisions, the BZA should be sensitive to the potential for light pollution, noise pollution, loading berth placement, pedestrian safety, and vehicular safety.

Comprehensive Plan Future Land Use: 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.

#### PURPOSE OF UDO REQUIREMENT

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Paved parking areas eliminate potential nuisances such as dust and noise caused by the movement of vehicles on gravel or dirt parking areas. Paved parking areas can also have defined parking spaces and drive aisles, allowing for safe and efficient movement of vehicles.

#### CASE DESCRIPTION

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- C-Tech, Inc is a highway materials contractor that has operated on the property since 1998.
- C-Tech expanded the current parking area to twice its original size around 2012.
- C-Tech plans to expand the business with construction of a 10,080 sq. ft. warehouse, stone parking and maneuvering area, and septic system at the northwest corner of the property.
- The Shelby County Planning Director, Building Inspector, Surveyor, and Drainage Board Representative reviewed the preliminary Site Plan for the project on October 31, 2019. The County representatives did not identify any issues with the drainage plans. The County Health Department will review the Site Plan after the State approves the septic system plans.

#### STAFF ANALYSIS OF FINDING OF FACTS – DEVELOPMENT STANDARDS VARIANCE

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

Staff Analysis: The general public does not typically access the site and an existing paved driveway apron prevents dust accumulation on the public road.

**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 paved parking standard generally applies to properties in urban settings, where nuisances associated with gravel parking areas such as dust and noise would impact adjacent industrial and commercial uses. The subject property lies within rural setting where

these nuisances should not impact the use and value of adjacent properties. An existing forested area would provide a buffer between the parking lot and adjacent residential property.

**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: Large trucks and equipment used by the business on a regular basis would damage a paved parking lot resulting in excessive parking lot maintenance.

APPLICANT/OWNER INFORMATION

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Applicant: David Wheeler  
5300 W 100 N  
Boggstown, IN 46110

Owner: C-Tech, Inc  
5300 W 100 N  
Boggstown, IN 46110

**DEVELOPMENT STANDARDS VARIANCE  
FINDINGS OF FACT**

Applicant: C-Tech INC

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

Location: 5300 W 100N Boggsstown IN. 46110

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

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

This project will not have a negative impact on public health, safety and welfare.

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.

This project should not have an adverse impact on adjacent property

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.

Big Trucks would tear up pavement.

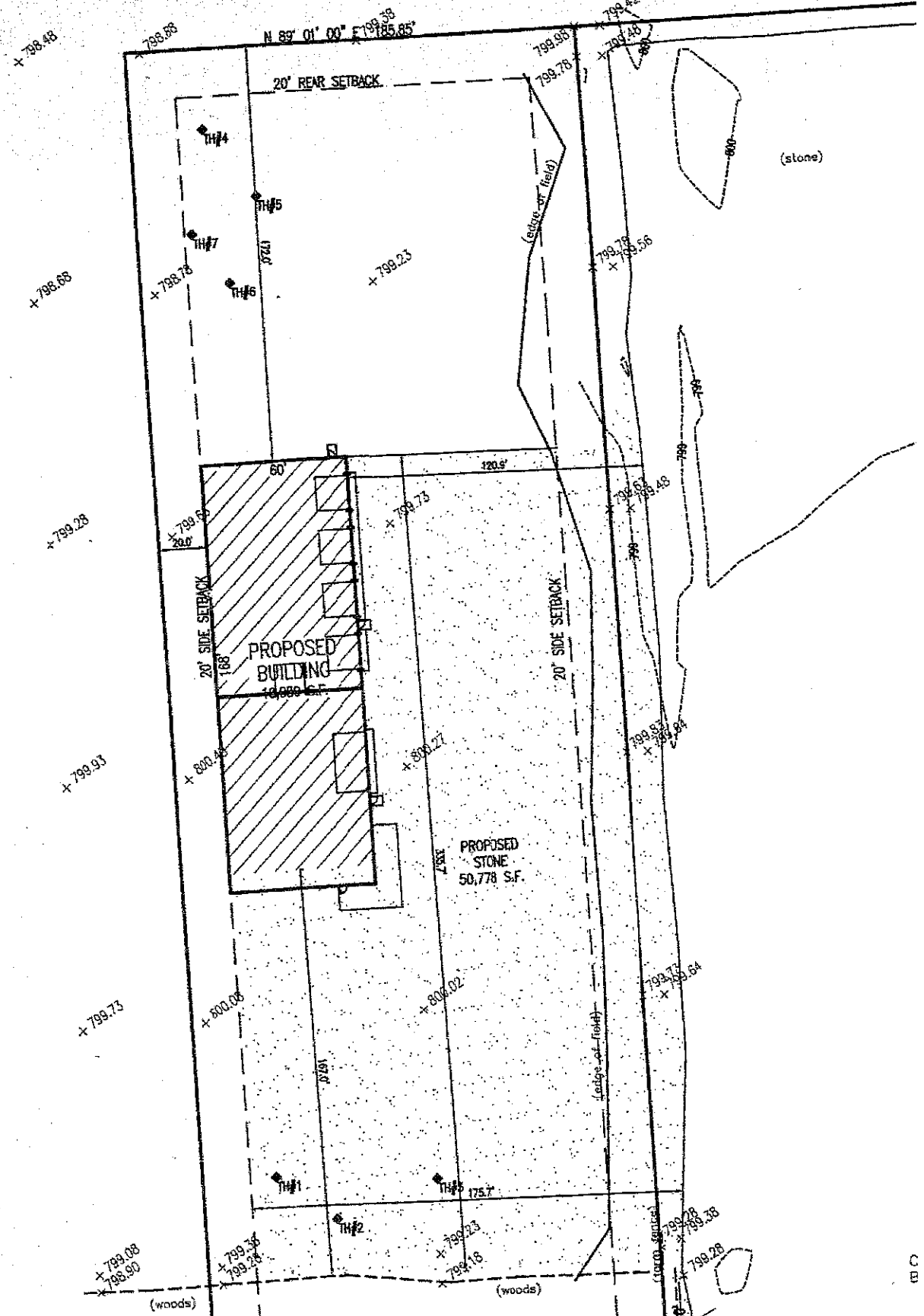
**The Board of Zoning Appeals may review the applicant's findings of fact to assist with their decision-making process. Please see below for general guidance related to completing the findings of fact:**

**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.)

(bean field)



(stone)

(stone)

4.604 AC.

PROPERTY LINE N 01° 16' 49" W 1,079.60'

EXIST. SWALE TO DETENTION POND

(propane tank)

(timbers)

1-story metal 9,196 Sq FFE: 799.

(conc)

(stone)

(net station)

(septic mot)

## Staff Report

CASE NUMBER: BZA 19-35  
CASE NAME: DOUGLAS E BROWN – DEVELOPMENT STANDARDS VARAINCES

### CASE SUMMARY

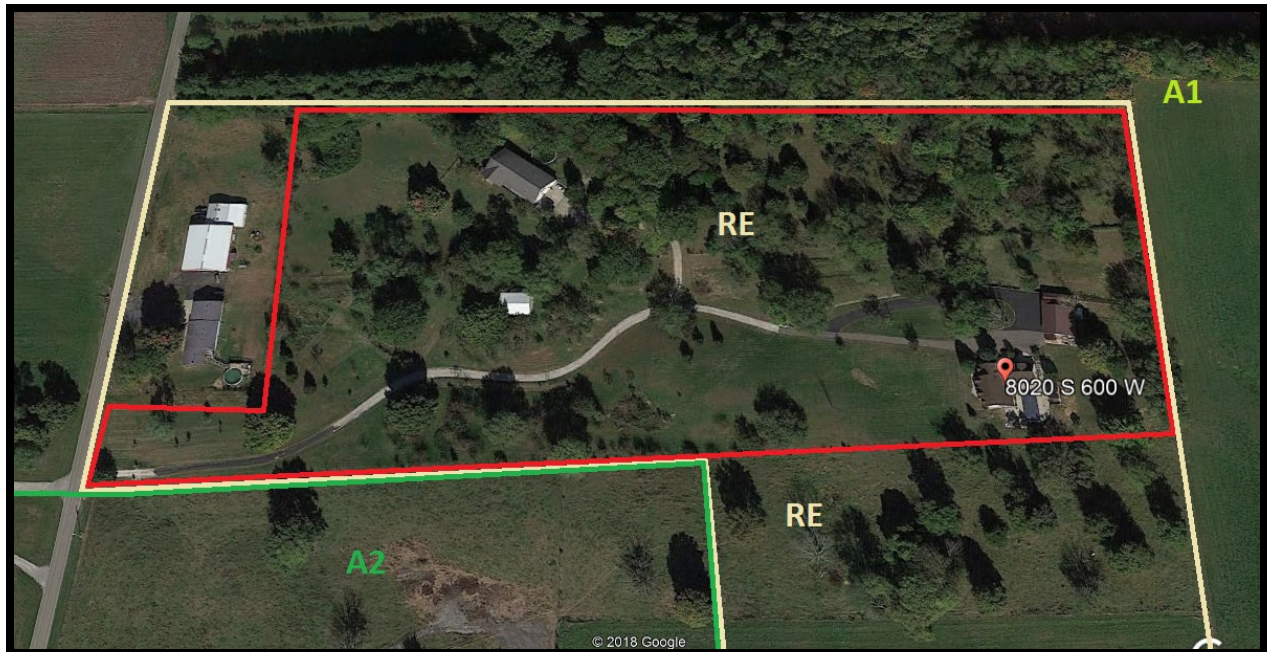
REQUEST: Variances of Development Standards to allow for:

1. A lot approximately 80-feet wide and having approximately 80-feet of road frontage (160-foot minimum lot width a road frontage required) [Section 2.12]
2. A lot approximately 45-feet wide and having approximately 45-feet of road frontage (160-foot minimum lot width a road frontage required) [Section 2.12]

STAFF RECOMMENDATION: APPROVAL primarily because denial of the variance would cause a lot to remain land-locked without road frontage.

### PROPERTY DESCRIPTION

Jackson Township at 8020 S 600 W, Edinburgh



Property Size: 15.79 acres.

Zoning Classification: RE (Residential Estate) – Per the UDO the district is established for single-family detached dwellings in a rural or country setting.

Comprehensive Plan Future Land Use: 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.

#### PURPOSE OF UDO REQUIREMENT

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The minimum road frontage requirement discourages the creation of 'flag lots.' Flag lots can cause confusion for future property owners in locating property lines and may pose a difficulty for visitors or emergency vehicles in locating the house from the public road.

#### CASE DESCRIPTION

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- The petitioner, who owns the southern lot, plans to sell a one-acre of his lot that adjoins the public road to the owner of the northern lot (see below).
- The transfer of property would allow the owner of the northern lot to construct a new driveway on property under his ownership. Both lots currently share a driveway.
- The petitioner indicated that he believes individual access to each lot would increase the value of the property.
- The new driveway would require an access permit from the County Highway Department. The new driveway would comply with all requirements of the UDO.
- Staff generally considers all lots created prior to adoption of the current UDO as legal, non-conforming lots 'grandfathered'. Both lots currently do not comply with the 160-foot road frontage requirement for properties in the RE District. Transfer of the property would reduce the road frontage of the southern lot, therefore bringing it further out of compliance with the UDO. Per the UDO, increasing a non-conformity results in the loss of legal-nonconforming status. Therefore, a variance from the road frontage requirement is required.

Current Lot Configuration





### Proposed Lot Configuration



#### STAFF ANALYSIS OF FINDING OF FACTS – DEVELOPMENT STANDARDS VARIANCE

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

Staff Analysis: A new driveway would require an access permit from the County Highway Department. The new driveway would comply with all requirements of the UDO.

**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 indicated that he believes individual access to each lot would increase the value of the property. A new driveway would require an access permit from the County Highway Department. The new driveway would comply with all requirements of the UDO.

**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 prevent the northern lot from gaining road frontage.

#### APPLICANT/OWNER INFORMATION

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Applicant: Douglas E Brown  
8020 S 600 W  
Edinburgh, IN 46124

SHELBY COUNTY PLAN COMMISSION  
SHELBY COUNTY, INDIANA  
25 W POLK STREET  
SHELBYVILLE, IN 46176

STAFF REPORT  
19-35  
DECEMBER 10, 2019  
PAGE 4 OF 4

Owner: Douglas E Brown & Stefani M Martin  
8020 S 600 W  
Edinburgh, IN 46124

Lewis Leroy Palmeter  
8014 S 600 W  
Edinburgh, IN 46124



**DEVELOPMENT STANDARDS VARIANCE  
FINDINGS OF FACT**

Applicant: Douglas E Brown

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

Location: 8020S 600 W Edinburgh IN 46124

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.

nothing to my knowledge

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.

nothing to my knowledge

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.

Indeed, it will, the 90' side front  
Minimum cannot be met.

See appeal letter w/ this 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.)

To Whom This Concerns ... Shelby County Court Departments.  
20191107

Property owner, myself, 8020S 600W, purchased 3.97 acres in 2015. That 3.97 acre property is set back behind a 4.23 acre tract which frontage is 123' on 600W. That 4.23 acres tract was my only access point to my 3.97 acres and at the time the 4.23 acres was under several large liens. It took me almost 3 years to get all that settled. Once I did, I bought it. I now have 8.2 acres.

All this time, property owner adjacent to me to the North and just West of me (8014S 600W) uses the same driveway as I do. That driveway has been used by him for many years, at least since 1997, when he and a friend bought a larger original acreage together. Parts of that larger parcel have been sold twice. I am the second owner of that partial parcel. Now that I own the 8.2 acres, I want to sell 1 acre back to him, namely almost the front half of the 4.23 acres that touches 600W so that he can have his own driveway access and I have my own access.

Shelby County code shows a required 90' footage front onto any major county road when selling property. I only have 123' frontage as it is. What I am asking the county is by pass that ruling, common sense request it, and me sell a 45' frontage to that one acre.

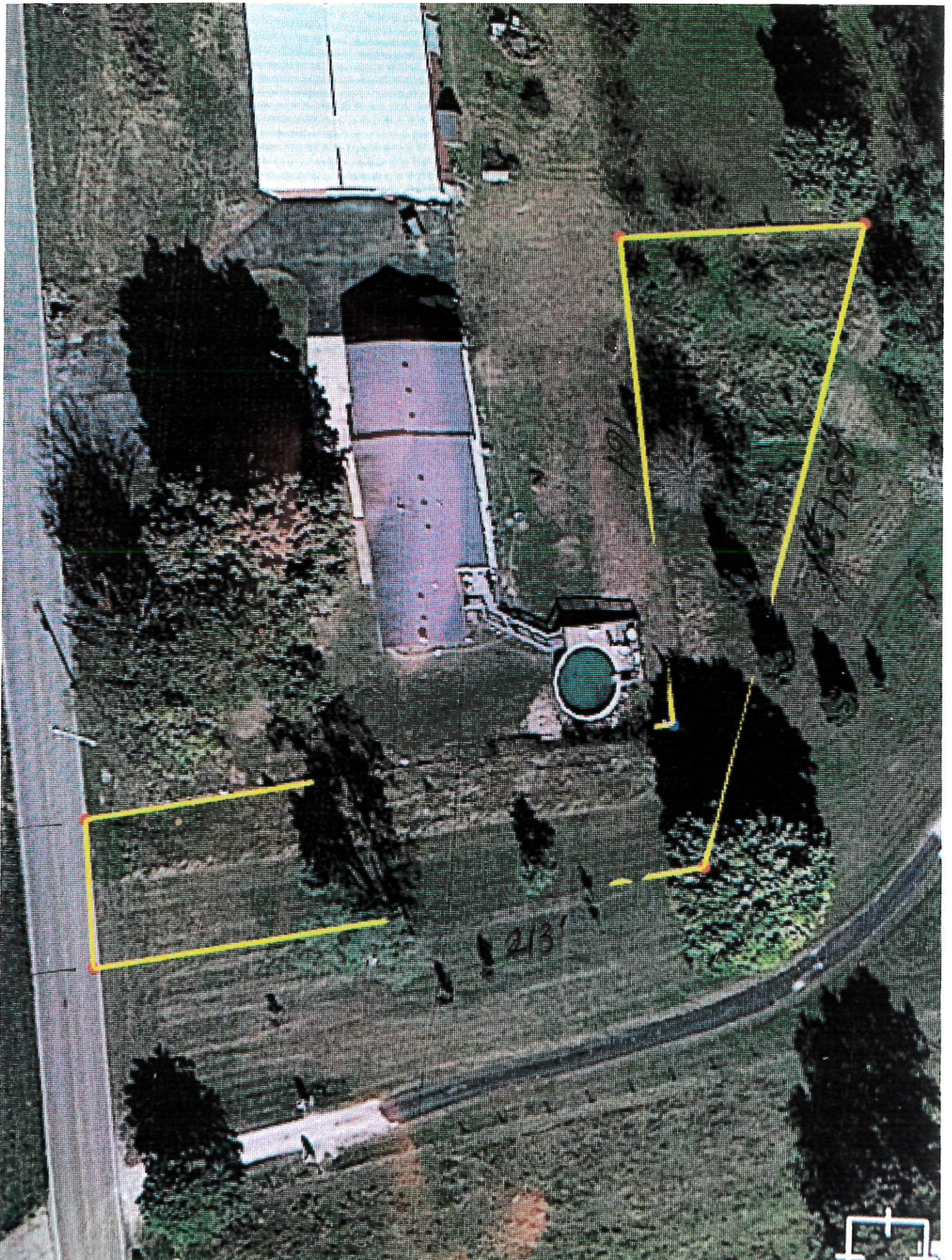
Here is the reason for the 45' frontage request. There are basically two trees; one tree is actually a set of trees; 3 trees, 70' Chinese Maples all growing within 4' of each other in a triangle form. The other tree sits back about is a 60' Beech tree set straight back from them about 75'. Problem is, a 60' frontage and extended back would put the property line right down the middle of all 4 trees!

All the homeowner of 8014S desires is enough property footage to have his own driveway and gets him off my property at the same time. Both of us sharing the same drive is not good for our home values. I request county to give me allowance to sell a 45' frontage by releasing the county regulation of a 90' frontage in my case. PLEASE.

See site pictures attached.

Douglas E. Brown  
8020S 600W  
Edinburgh, IN 46124  
910-574-7575





APPRX 45'

213'

107'



## Staff Report

CASE NUMBER: BZA 19-36  
CASE NAME: G. TODD & J. RYAN MARSHALL - DEVELOPMENT STANDARDS  
VARAINCE

### *CASE SUMMARY*

**REQUEST:** Variance of Development Standards to allow for allow for a grain dryer 8-feet from the edge of pavement of E 675 N (minimum 50-foot setback from the proposed right-of-way or 75-foot setback from center of road required). [Section 2.12]

**STAFF RECOMMENDATION:** APPROVAL primarily because the size of the property limits the area available for expansion of an existing agricultural use.

### PROPERTY DESCRIPTION

Union Township at 4970 E 675 N, Shelbyville



Property Size: 2.6 acres.

Zoning Classification: RE (Residential Estate) – Per the UDO the district is established for single-family detached dwellings in a rural or country setting.

Comprehensive Plan Future Land Use: 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.

#### PURPOSE OF UDO REQUIREMENT

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The setback from public road right-of-way provides for open space, prevents traffic hazards due to structures constructed too close to the road, and provides area for future acquisition of right-of-way.

#### CASE DESCRIPTION

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- The petitioners plan to expand the current grain facility on the property with an additional grain dryer constructed on a concrete pad.
- The petitioners have indicated that the layout of the current facility necessitates placement of the new grain dryer in the proposed location.
- County Road E 675 N provides access to three residential properties and dead-ends approximately ½- mile from N 500 E.

#### STAFF ANALYSIS OF FINDING OF FACTS – DEVELOPMENT STANDARDS VARIANCE

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

Staff Analysis: Due to the low traffic volume on a dead-end road, the grain dryer would not present a perceivable impact to traffic safety.

**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 petitioners own all adjacent residential properties and do not believe approval of the request would affect those properties in an adverse manner.

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

Staff Analysis: The size of the property limits the area available for expansion of an existing agricultural use.

#### APPLICANT/OWNER INFORMATION

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Applicant: G. Todd & J. Ryan Marshall  
6886 N 500 E  
Shelbyville, IN 46176

Attorney: N. Gregg Graham  
51 W Mechanic St.  
Shelbyville, IN 46176

Owner: Same

**DEVELOPMENT STANDARDS VARIANCE**  
**FINDINGS OF FACT**

Applicant: G. Todd Marshall and J. Ryan Marshall

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

Location: 4000 Bk of N 675 E, 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.  
will not impact the neighborhood of any degree

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

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.

all adjacent property is owned by applicant's family farm and is in addition to  
existing grain facility

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

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 order for the additional dryer to function in the current grain facility, it must be  
placed in the proposed location near the county road

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





12' x 35' concrete pad  
dryer 8' x 30'

## **V19-1 Patrick Black**

**Current Agreement:** Mr. Black will remove at least three cars per month from the property until all remaining cars are behind fence. The Planning Director will allow some flexibility if he contacts her ahead of time with a legitimate reason for a delay in moving the cars.

**Problem:** No cars removed between May & September. After threat of fine, four vehicles were removed in October.

**Mr. Black's Request:** To amend the agreement to allow for more flexibility in the number of cars removed each month.

**Staff Recommendation:** To grant Mr. Black permission to store cars behind evergreen trees and a privacy fence extended across the driveway with opaque gate and along the west property line. Fence must be at least 6-feet tall and solid-panel wood. Provide a deadline for him to get this accomplished. The current agreement should remain in place for any cars stored outside of the fence after the fence is completed.





**New Fence**

**Existing Fence**





May





June





August





Septmeber



October



**Shelby County BZA**

<b><u>BZA Scheduled Meetings</u></b>	<b><u>BZA Application Deadline</u></b>	<b><u>BZA Legal Notice Deadline</u></b>
January 14, 2019	December 31, 2019	January 4, 2020
February 11, 2019	January 28, 2020	February 2, 2020
March 10, 2019	February 25, 2020	April 30, 2020
April 14, 2019	March 31, 2020	April 4, 2020
May 12, 2019	April 28, 2020	May 22, 2020
June 9, 2019	May 26, 2020	May 29, 2020
July 14, 2019	June 30, 2020	July 4, 2020
August 11, 2019	July 28, 2020	August 2, 2020
September 15, 2019	September 1, 2020	September 5, 2020
October 13, 2019	September 29, 2020	October 3, 2020
November 10, 2019	October 27, 2020	October 30, 2020
December 15, 2019	November 30, 2020	December 5, 2020