

**Shelby County
Board of Zoning Appeals**

December 14, 2021 at 7:00 PM

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MEETING AGENDA

Shelby County Board of Zoning Appeals December 14, 2021, 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the November 9, 2021 meeting.

OLD BUSINESS

BZA 21-36 – EDWARD MARLOW: DEVELOPMENT STANDARDS VARIANCE. Located at 6509 N London Rd, Fairland, Moral Township.

BZA 21-34 – RICHARD CONOVER: DEVELOPMENT STANDARDS VARIANCES. Located at 413 E Edgewood Dr, Shelbyville, Addison Township.

NEW BUSINESS

BZA 21-40 – KIMBERLY JONES: DEVELOPMENT STANDARDS VARIANCE. Located at 6933 N 325 W, Fairland, Moral Township.

BZA 21-39 – UNITED ENERGY: DEVELOPMENT STANDARDS VARIANCES. Located at 11650 N Cooperative Dr, Fountaintown, Van Buren Township.

BZA 21-41 – DEBIE & TIM ENGLAND: DEVELOPMENT STANDARDS VARIANCES. Located at 949 W 1080 N, Fountaintown, Van Buren Township.

DISCUSSION

Approval of 2022 BZA Meeting Calendar

Hearing Officer Cases:

BZA 21-38 – KENNETH & BRITTANI WILLOUGHBY: DEVELOPMENT STANDARDS VARIANCE. Located at 4155 W PR 733 S, Shelbyville, Jackson Township. *Approved December 2, 2021.*

BZA 21-42 – ALEXA S KARMIRE & JOSH SOUTHWORTH: DEVELOPMENT STANDARDS VARIANCES. Located at 6531 W Boggstown Rd, Boggstown, Sugar Creek Township. *Approved December 13, 2021.*

ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, **January 11, 2022** at **7:00 PM**.

Property Details

Location: 6509 N London Rd, Fairland, Moral Township (Marlow Minor Subdivision, Lot 2).

Property Size: 1.03 acres.

Current Land Use: Single-Family Residential.

Zoning Classification:

R1 (Single-Family Residential)

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

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

Future Land Use per Comp Plan

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	R1	Single-Family Res.
South	R1	Single-Family Res.
East	A1	Cropland
West	A1	Cropland

Staff Report

Case Number: BZA 21-36
Case Name: Edward Marlow – Development Standards Variance

Request

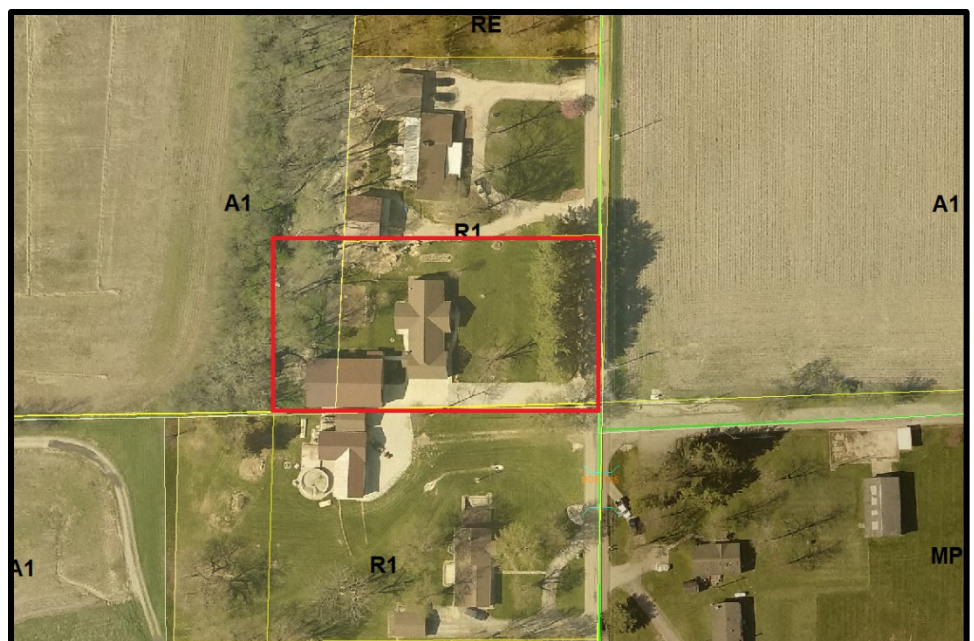
Variance of Development Standards to legally established a 2,560 sq. ft. barn and to allow for a 960 sq. ft. addition (the total square footage of all accessory structures on a lot cannot exceed 50% the square footage of the footprint of the residence).

Code Requirement

UDO Section 5.07 F 1 – *Maximum Size:* The total square footage of all enclosed accessory structures on a lot adjoining one or more lots in the RE, R1, R2, VR, M1, M2, MP, VM, IS, C1, C2, I1, I2, or HI Districts shall not exceed fifty percent (50%) of the footprint of the primary structure.

Purpose of Requirement: Limiting the size of residential accessory structures ensures that the residence remains the visual focal point of the property and discourages use of residential accessory buildings for commercial activities utilizing large trucks, large machinery, and/or large equipment.

Property Map



Case Description

- The petitioner constructed a 40' x 64' (2,560 sq. ft.) barn in 2019. The petitioner plans to add a 24' x 40' (960 sq. ft.) addition to the barn. The petitioner plans to use the addition to house chickens.
- The total square footage of the barn and addition would equal approximately 121% the footprint of the house. The property tax card provides the square footage of the house for the square footage calculation.
- The original barn constructed in 2019 required approval of a variance to exceed 50% the square footage of the footprint of the residence, however due to staff turnover the plan commission office incorrectly issue a permit without variance approval. Approval of the requested variance would legally establish the barn constructed in 2019 and allow for the addition.
- The adjoining 1-acre residential property to the north includes three accessory structures have a total area of 2,456 sq. ft. The adjoining 1.78-acre residential property to the south includes four accessory structures having a total area of 2,676 sq. ft. The owners of both properties have submitted letters in support of the variance request.
- The property includes evergreen trees in the front and rear yards which screen much of the barn from the road and adjacent agricultural property.

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: The plan commission office issued a building permit for the existing barn. Construction of the addition 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. Evergreen trees screen much of the barn from the 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: Adjacent residential properties include several accessory structures having a total square footage similar in size to the total square footage of the existing barn and addition, therefore approval of the variance would not alter the character of the neighborhood.

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 does not allow for an accessory structure similar in size to the total area of accessory structures on adjacent residential property.

Staff Recommendation

APPROVAL primarily because adjacent residential properties include several accessory structures having a total square footage similar in size to the total square footage of the existing barn and addition

Applicant/Owner Information

Applicant: Edward Marlow
6509 N London Rd.
Fairland, IN 46126

Owner: Richard, Edward, & Judy Marlow

DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT



Applicant: Edward Marlow

Case #: _____

Location: 6509 N London Rd

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.

Safe for public

2. **Adjacent Property:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

No

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

No

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

General Welfare: How does the request do no harm to the overall community of Shelby County? (ex. pollution, customer safety, road network safety, building code compliance, etc.)

Adjacent Property: How does the request do no harm to adjoining property and neighborhood? (ex. noise, odor, traffic generation, distance from property lines, appearance of property, etc.)

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



Property Details

Location: 413 E Edgewood Dr,
Shelbyville, Addison Township
(Edgewood, Lot 1).

Property Size: 1.03 acres.

Current Land Use: Single-Family
Residential.

Zoning Classification:

R1 (Single-Family Residential)

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

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

Future Land Use per Comp Plan

Incorporated Planning Area:

Single-Family Residential

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

	Zoning	Land Use
North	R1	Single-Family Res.
South	R1 (city)	Estate Res.
East	R1	Single-Family Res.
West	R1	Single-Family Res.

Staff Report

Case Number: BZA 21-34

Case Name: Richard Conover – Development
Standards Variances

Addendum – Dec. 14th, 2021 Meeting

At their Nov. 2nd, 2021 meeting the BZA voted 2-1 to deny this petition, resulting in an automatic continuance of the petition to the Dec 14th, 2021 due to lack of majority vote. The petitioner has altered his petition to move the proposed structure 5-feet further from the right-of-way of S Riley Hwy. The original petition also included an error regarding the size of the structure. Changes to the Staff Report to reflect the changes to the petition are striked-out and italicized.

Request

Variances of Development Standards to allow for an accessory structure.

1. In the front yard;
2. ~~Five (5)~~ Ten (10) feet from the right-of-way of S Riley Hwy (minimum 35-foot setback required).

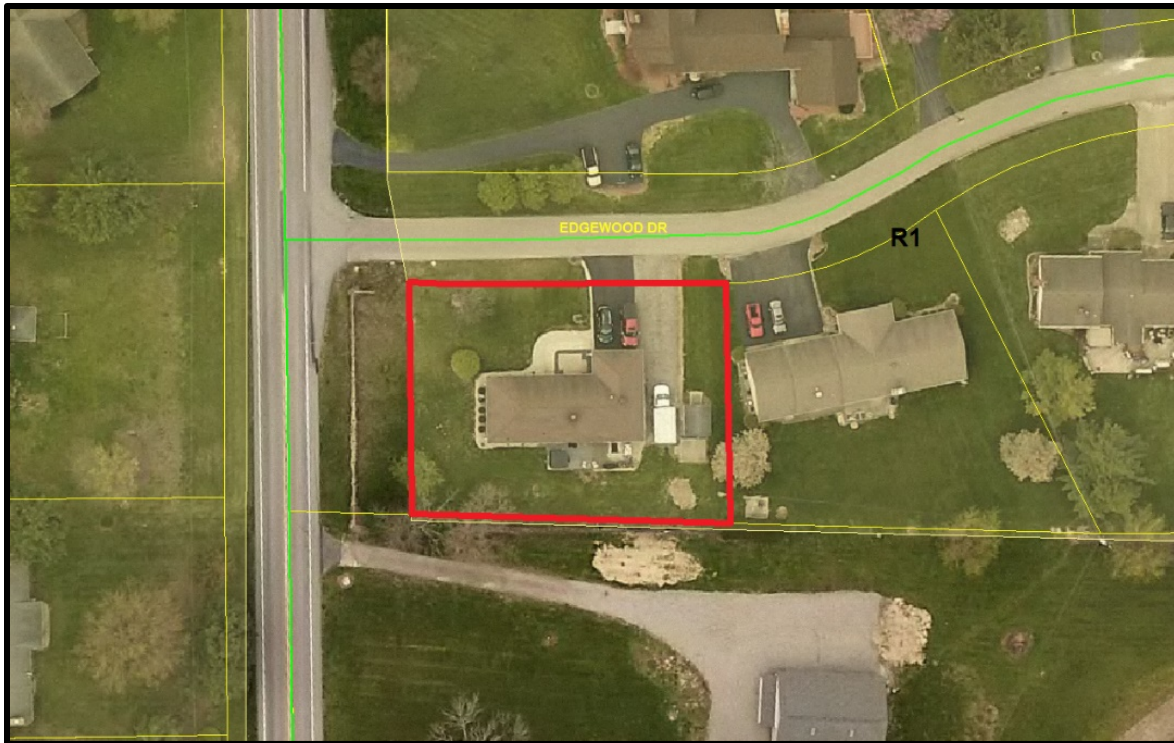
Code Requirement

UDO Section 5.04 C – Placement: *A permitted accessory structure shall not be placed in the front yard of any lot, unless placed 350 feet or greater from the front property line.*

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

Purpose of Requirements: Prohibiting the construction of accessory structures in the front yard maintains the primary structure as the visual focal point of the property. Front setback requirements allow for open space, ensure visibility along roadways, and reduce traffic hazards along roadways.

Property Map



Case Description

- The petitioner plans to construct a ~~24' x 40' (960 sq. ft.)~~ 26' x 40' (1,040 sq. ft.) detached garage.
- The house fronts upon Edgewood Dr. The garage would not project past the front building line of the house.
- The garage would sit in the yard fronting upon S Riley Hwy. The UDO defines this yard as a front yard because the yard adjoins a road right-of-way.
- The plat for the Edgewood subdivision dedicated a 50-foot half right-of-way for S Riley Hwy. The garage would sit ~~55-feet~~ 60-feet from the center and approximately ~~40-feet~~ 45-feet from the edge of pavement of S Riley Hwy.

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 garage 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 garage. The garage would sit approximately ~~40-feet~~ 45-feet from the edge of pavement of Riley Hwy, therefore it would not impact traffic visibility along the roadway.

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 structure would sit in the front yard that functions as the property's side yard and comply with the side-yard setback requirement, therefore the structure would not conflict with the orientation and placement of other accessory structures in the neighborhood.

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

Staff Analysis: The lot has less area available for placement of an accessory structure than other lots in the neighborhood due to the dedicated right-of-way along Riley Hwy. The house, driveway, and septic system prevent placement of the accessory structure on any other portion of the lot.

Staff Recommendation

APPROVAL primarily because the structure would sit in the front yard that functions as the property's side yard and comply with the side-yard setback requirement, therefore the structure would not conflict with the orientation and placement of other accessory structures in the neighborhood.

Applicant/Owner Information

Applicant:	Richard Conover 413 E Edgewood Dr Shelbyville, IN 46176	Owner:	Same
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View of property looking southeast from S Riley Hwy. (garage proposed behind bush)



Google Street View – July, 2018



**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: Richard Powers

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.

Just going to be a storage for a
boat and a garage.

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.

It will match the house & be even with
the front of the house.

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

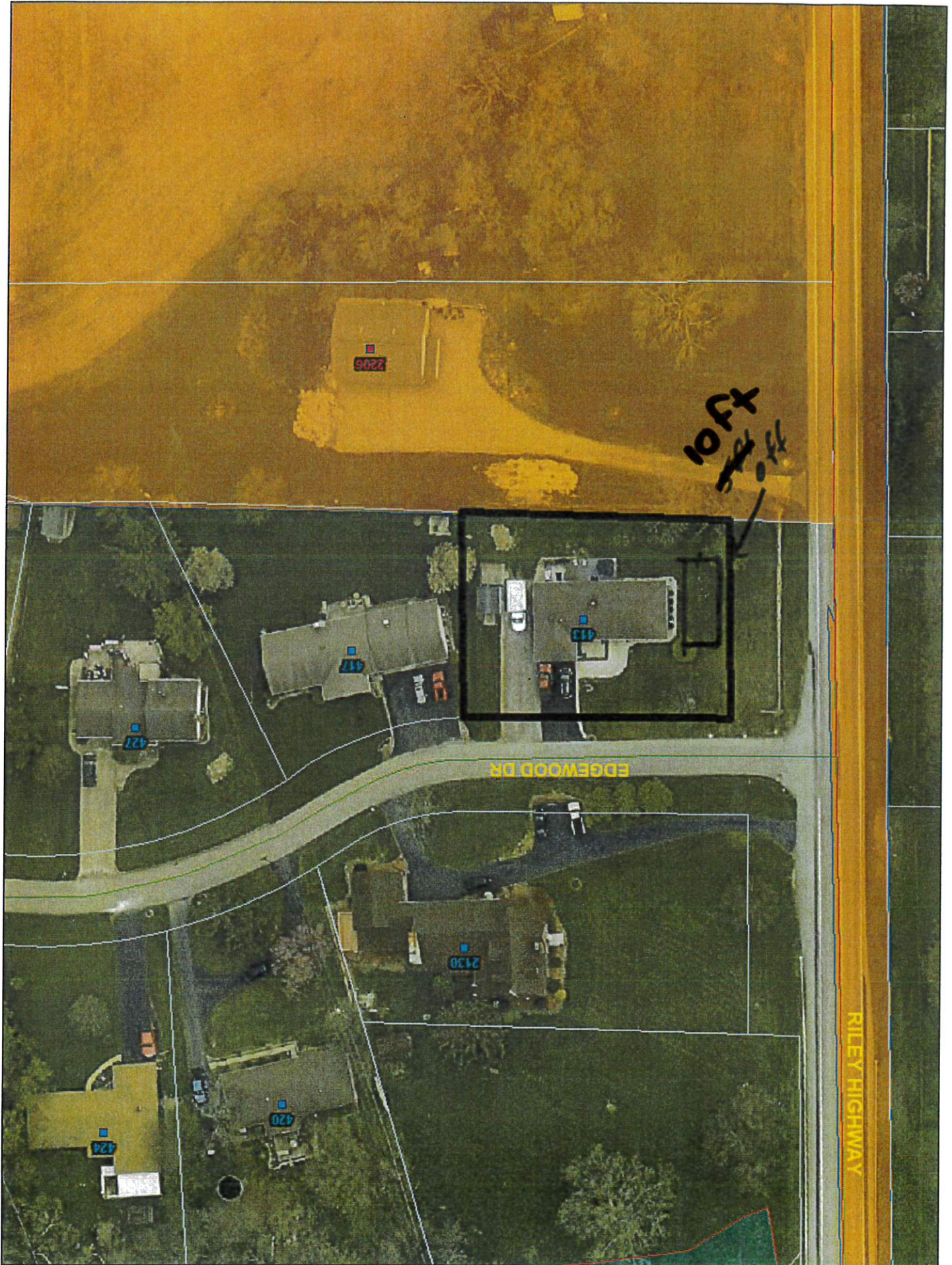
No the septic is in the rear of
the home

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: 6933 N 325 W, Fairland, Moral Township (Rural Manor, Lot 7).

Property Size: 0.54-acres.

Current Land Use: Single-Family Residential.

Zoning Classification:

R1 (Single-Family Residential)

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

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

Future Land Use per Comp Plan Agriculture

The purpose of this category is to provide for traditional agricultural practices (such as crop production and livestock grazing) and modern agricultural practices (such as agricultural research facilities and CAFOs). Rural home sites may also occur within this category, however, the emphasis should remain on agriculture. New residential subdivisions that remove prime farmland from production should be discouraged. The residential density of this category should be one lot for every five acres.

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

Staff Report

Case Number: BZA 21-40

Case Name: Kimberly Jones – Development Standards Variance

Request

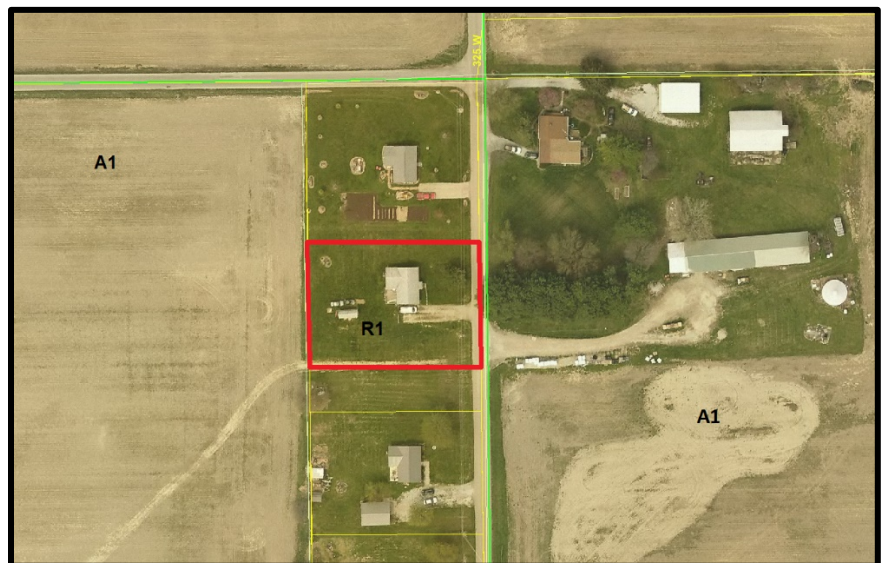
Variance of Development Standards to allow for a 1,440 sq. ft. barn exceeding 50% the square footage of the footprint of the residence.

Code Requirement

UDO Section 5.07 F 1: *Maximum Size:* The total square footage of all enclosed accessory structures on a lot adjoining one or more lots in the RE, R1, R2, VR, M1, M2, MP, VM, IS, C1, C2, I1, I2, or HI Districts shall not exceed fifty percent (50%) of the footprint of the primary structure.

Purpose of Requirement: Limiting the size of residential accessory structures ensures that the residence remains the visual focal point of the property and discourages use of residential accessory buildings for commercial activities utilizing large trucks, large machinery, and/or large equipment.

Property Map



Case Description

- The petitioner plans to construct a 30'x48 (1,400 sq. ft.) detached garage with 6'x'48 (288 sq. ft.) porch at the southwest corner of the property.
- The total square footage of the enclosed area of the structure would equal approximately 92% the footprint of the house. The property tax card provides the square footage of the house for the square footage calculation. Per the UDO, only enclosed areas of accessory structures apply toward the maximum square footage requirement.
- The petitioner has submitted a petition to the County Commissioners to vacate a platted public right-of-way adjoining the south property line. Addition of the vacated land to the property will allow the proposed garage to comply with the side yard setback requirement.
- One other property in the 8-lot Rural Manor development includes an accessory structure. The accessory structure sits on the adjoining property to the south of the subject property and per the property tax card has an area of 720 sq. ft.

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 detached garage 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: The property sits in an area relatively isolated from residential development. A large, detached garage would not conflict with the agricultural character of the area.

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

Staff Analysis: A strict application of the ordinance does not allow for an accessory structure that does not conflict with the character of the area.

Staff Recommendation

APPROVAL primarily because the property sits in an area relatively isolated from residential development. A large, detached garage would not conflict with the agricultural character of the area.

Applicant/Owner Information

Applicant:	Kimberly Jones 6933 N 325 W Fairland, IN 46126	Owner:	Kimberly Jones / Logan Jones Properties LLC 1345 Capstone Dr. Greenfield, IN 46140
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DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT

Applicant: Kimberly L. Jones

Case #: _____

Location: 6933 N 325W, FAIRLAND, IN 46126

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

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

A free standing structure on private property composed of solid material + wood manshaped would only add to the 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.

A structure without water or septic not used for business and only used for private purpose (personal garage) will not have a negative impact on surrounding land owners.

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.

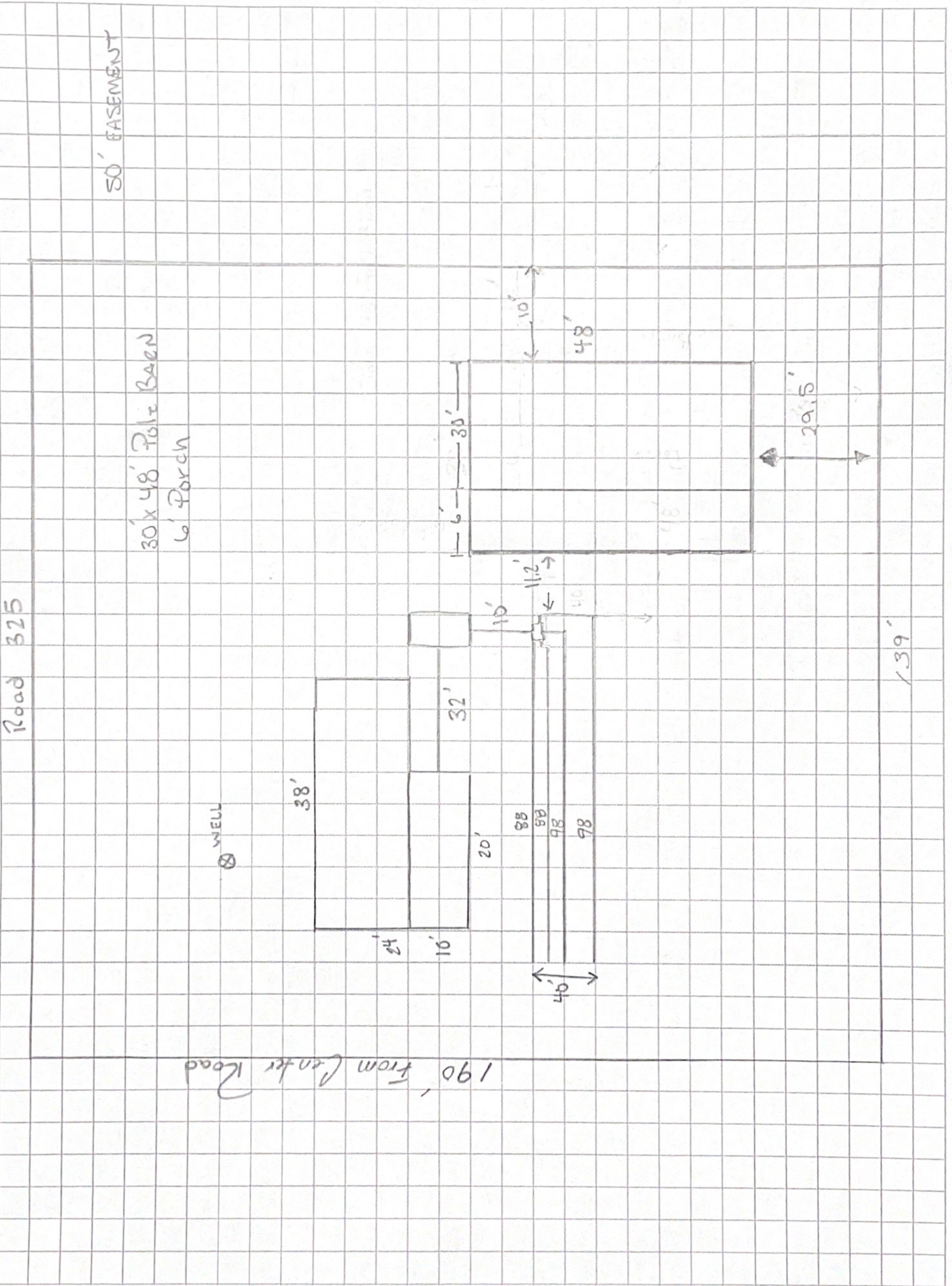
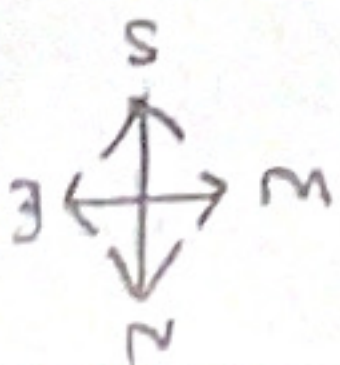
Proposed structure (personal garage) is no different than many out buildings already in existence in the immediate surrounding community.

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.)



Lot #7

Property Details

Location: 11650 N Cooperative Dr,
Fountaintown, Van Buren
Township.

Property Size: 2.11-acres.

Current Land Use: Commercial.

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 Commercial

The purpose of this category is to provide a full range of commercial, retail, office and service uses for residents, businesses, and visitors. This category includes commercial activities with direct contact with customers ranging from neighborhood convenience stores to regionally oriented specialty stores.

	Zoning	Land Use
North	C2	Vacant
South	C2	Commercial – Mini Barn & Roadside Sales
East	C2	Vacant Commercial
West	C2	Vacant

Staff Report

Case Number: BZA 21-39

Case Name: United Energy – Development Standards
Variances

Request

Variances of Development Standards:

- To allow for more than two primary signs.
- To allow for replacement of two ground signs with new ground signs each having:
 - an area of 80 sq. ft. (maximum area of 45 sq. ft. permitted)
 - a height of 8-feet (maximum height of 6-feet permitted)
- To legally establish an existing pole sign having:
 - an area of 70 sq. ft. (maximum area of 45 sq. ft. permitted)
 - a height of 12.5-feet (maximum height of 6-feet permitted)
- To legally establish an existing electronic message center pole sign having:
 - an area of 50 sq. ft. (maximum area of 45 sq. ft. permitted)
 - a height of 12-feet (maximum height of 6-feet permitted)
 - animated components (not permitted)

Code Requirement

UDO Section 5.75 B 2 – Quantity:

- Lots with frontage on a single public street that exceeds thirty (30) feet, but is less than 250 feet shall be permitted one (1) ground sign or one (1) pole sign.*
- Lots with frontage on a single public street that exceeds 250 feet shall be permitted one (1) additional ground sign or pole sign per 250 feet of additional frontage.*
- When a lot has frontage on more than one (1) public street, each street frontage shall be regulated independently.*

UDO Section 5.75 B 4 a iii – *Ground signs on lots with at least seventy-five (75) feet of frontage on a public street shall not exceed forty-five (45) square feet in area per side.*

UDO Section 5.75 B 4 c – *Ground Signs shall not exceed six (6) feet in height.*

UDO Section 5.73 E 1 – *Prohibited Signs: Animated Signs: Signs that gain attention through animation, including:*

- a. Signs that emit audible sound, odor, or visible matter.*
- b. LED or similar sign boards, except when LED elements are used for static messages.*
- c. Signs that have blinking, flashing, or fluttering lights or which have changing light intensity, brightness, or color, or give such illusion.*

Purpose of Requirements: Sign standards provide a balanced system of signage to facilitate communication between people and their environment and to avoid visual clutter that is potentially harmful to traffic safety, property values, community appearance, and the economic vitality of Shelby County. The UDO prohibits animated signs to protect the character of the neighborhoods, limit distraction to motorists, and to limit light and visual nuisance to adjacent property.

Property Map



Case Description

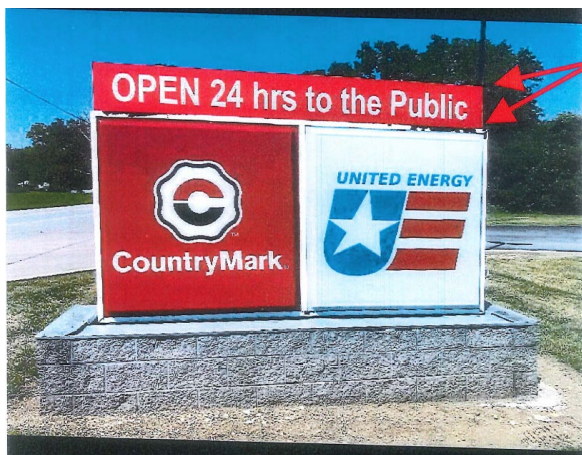
Case Overview

- The property was developed in 2009 for use as a vehicle fueling station.
- The property currently includes two ground signs, two pole signs, and various accessory signs. The County permitted the ground signs and accessory signs in 2009. Staff did not find any record of permits for the two pole signs. The two pole signs do not comply with ordinance requirements.
- Approval of the variance requests would allow for an increase in the size of the ground signs and would legally establish the pole signs.
- INDOT has proposed to improve the intersection of SR 9 and US 52. Preliminary plans include construction of a roundabout in the Spring of 2022 or 2023. Improvement of the intersection may necessitate relocation of the ground signs.
- The BZA has approved several development standards variances applicable to this property. These variances include:
 - BZA 09-19
 - To allow for 100-foot-wide entrance drives (maximum 30-feet permitted).
 - To allow entrance drives 83-feet from the intersection of Cooperative Dr. & US 9 (minimum of 150-foot separation required).
 - To eliminate the requirement for off-street parking.
 - To allow for a wooden dumpster enclosure (fence or wall enclosure required).
 - To allow for non-static LED sign boards on the gas-pump canopy (not permitted).
 - BZA 10-12
 - To allow for 73.25 sq. ft. of total wall signage on the gas pump canopy (maximum of 54 sq. ft. permitted).
 - To allow for two ground signs each having:
 - an area of 50 sq. ft. (maximum area of 45 sq. ft. permitted)
 - a height of 7-feet (maximum height of 6-feet permitted)
 - To allow for a sign on an accessory structure (not permitted).
 - BZA 14-02
 - To allow for replacement of required trees with shrubs. *note that the trees have not been replaced with shrubs.
- The County has relatively outdated and restrictive sign standards. The proposed ground signs do comply with the Marion County sign regulations adopted in 2019. The existing pole signs do not comply with Marion County sign regulations.

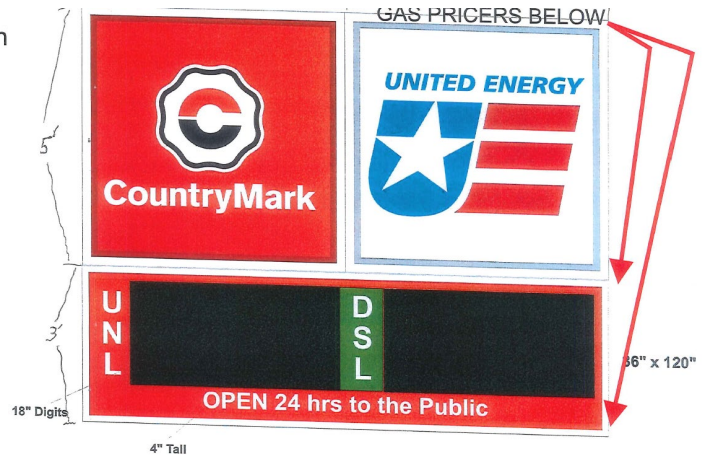
Replacement of Existing Ground Signs (Variance #2)

- The petitioner proposes to replace two existing 50 sq. ft., 7-foot-tall ground signs with two 80 sq. ft., 8-foot-tall ground signs.
- The new signs would sit in the same location as the existing signs.
- The additional size and height would accommodate an electronic changeable fuel price component. The existing signs do not include LED elements. The remaining sign message would match the existing sign message.
- The proposed signs require approval of a variance to exceed size and height requirements, however Staff has determined that the signs do not require approval of a variance for the changeable fuel price component because the sign message would not change at a regular interval as typical of animated signs.
- On October 5, 2010, the BZA approved a variance to allow the existing signs to exceed size and height requirements. No member of the public spoke in favor or in opposition to the petition. At that time, the petitioner had noted that a standard ground sign for the company utilizes two side-by-side 5 feet by 5 feet panels on a two-foot-tall base as requested in the variance application.
- The signs comply with the quantity, height, and area requirements for primary signs identified in the Marion County Sign Regulations.

Existing Signs



Proposed Signs



Legally Establish an Existing Pole Sign (Variance #3)

- In 2012 the petitioner installed a 70 sq. ft., 12.5-foot-tall pole sign advertising a diesel exhaust fluid pump located on the north side of the parking lot.
- Staff inspected the property at the time of submittal of the variance application and noticed the sign. Staff requested that the petitioner remove the sign or add the sign to the variance application due to lack of permit and noncompliance with ordinance requirements.
- The sign would comply with the area requirement for incidental signs identified in the Marion County Sign Regulations, however the sign would exceed that code's maximum height requirement of 8-feet.



Legally Establish an Existing Electronic Message Center (EMC) Pole Sign (Variance #4)

- The petitioner has installed a 70 sq. ft., 12-foot-tall EMC pole sign at the southeast end of the parking lot facing the intersection of SR 9 and US 52. Aerial photography indicates that a sign has existed in this location since 2012.
- Staff inspected the property at the time of submittal of the variance application and noticed the sign. Staff requested that the petitioner remove the sign or add the sign to the variance application due to lack of permit and noncompliance with ordinance requirements.
- The EMC covers the entire sign face. The sign has motion-picture capabilities, and the sign message currently changes at second or minute intervals.
- The UDO prohibits all animated signs unless the LED portion of the sign displays only a static message.
- The *International Sign Association* provides recommendations for regulating EMC signs, which include:
 - The electronic message center portion of the sign shall not exceed the size of the current changeable copy message portion of the sign or 67% of the total sign face, whichever is less restrictive.
 - The content of the sign shall change no more than once every thirty seconds and shall transition by an instant change/slideshow effect or fade-in-fade-out effect.
 - The sign shall include a sensor or other device that automatically determines the ambient illumination and be programmed to automatically dim according to ambient light conditions.
- Addition of the EMC sign to the ground signs would place all three signs out of compliance with the maximum quantity and maximum total on-site sign area of 200 sq. ft. identified in the Marion County Sign Regulations, however the sign would comply with that code's maximum height requirement. The Marion County Sign regulations do not permit EMC signs with motion-picture capabilities.



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:

The proposed ground signs comply with all sign standards identified in nearby Marion County's recently adopted sign regulations; therefore, the proposed signs have an appropriate amount of area to convey business identification and gas-price information while not posing visual clutter harmful to traffic safety, property values, community appearance, or the economic vitality of Shelby County.

The existing pole sign sits near the rear property line and is not conspicuous when viewed from the public right-of-way, therefore the sign would not impact the general public.

The Marion County sign regulations would not permit the EMC and the EMC does not comply with the standards recommended by the *International Sign Association*. Therefore, the sign likely distracts motorists. Also, the location of the sign at a high-traffic intersection negatively impacts the overall appearance and economic vitality of the County.

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 proposed ground signs comply with all sign standards identified in nearby Marion County's recently adopted sign regulations; therefore, the proposed signs have an appropriate amount of area to convey business identification and gas-price information while not posing visual clutter harmful to the use and value of nearby properties.

The sign sits near the center of four properties owned by the petitioner. The sign would not impact adjacent properties not owned by the petitioner due to the distance between the sign and those property lines.

The Marion County sign regulations do not permit EMC signs with motion-picture capabilities and the sign does not comply with the standards recommended by the *International Sign Association*; therefore, the sign does pose a negative impact to the use and value of adjacent property.

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 ground signs comparable in size to ground signs located at fueling stations in nearby jurisdictions.

A strict application of the ordinance does not allow for a pole sign not conspicuous when viewed from the public right-of-way and adjacent property not owned by the petitioner.

The petitioner can adequately communicate messages related to the use of the property on the ground signs, therefore no practical difficulty exists that would justify allowing the EMC sign.

Staff Recommendation

The ground signs comply with all sign standards identified in nearby Marion County's recently adopted sign regulations; therefore, the signs have an appropriate amount of area to convey business identification and gas-price information while not posing visual clutter.

The pole sign is located at the center of four properties owned by the petitioner and not conspicuous when viewed from the right-of-way or properties not owned by the petitioner.

The Marion County sign regulations do not permit EMC signs with motion-picture capabilities and the sign does not comply with the standards recommended by the *International Sign Association*. The location of the sign at a high-traffic intersection negatively impacts the overall appearance and economic vitality of the County.

APPROVAL of variances #1 (more than two primary signs), #2 (two ground signs), and #3 (pole sign) with the following stipulations:

1. The property shall be limited to two primary signs
2. The EMC sign shall be removed by January 14, 2022.

DENIAL of variance #4 (EMC sign).

Applicant/Owner Information

Applicant:	Custom Sign & Engineering, Inc 5344 Vann Road Newburgh, IN 47630	Owner:	United Energy 5250 & US Hwy 36 #1000 Avon, IN 46123
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DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT

Applicant: Custom Sign & Engineering, INC

Case #: _____

Location: 11650 IN - 9, Fountaintown Indiana 46130

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.

The signs will have a neutral impact on the surrounding area as there are existing signs at the location where the larger signs will go.

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 surrounding area will have increased values due to the investment made at this location with the new image that will be installed.

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 larger sign is needed to be able to allow the location to install electronic fuel prices to the sign to allow customers to see fuel prices easily.

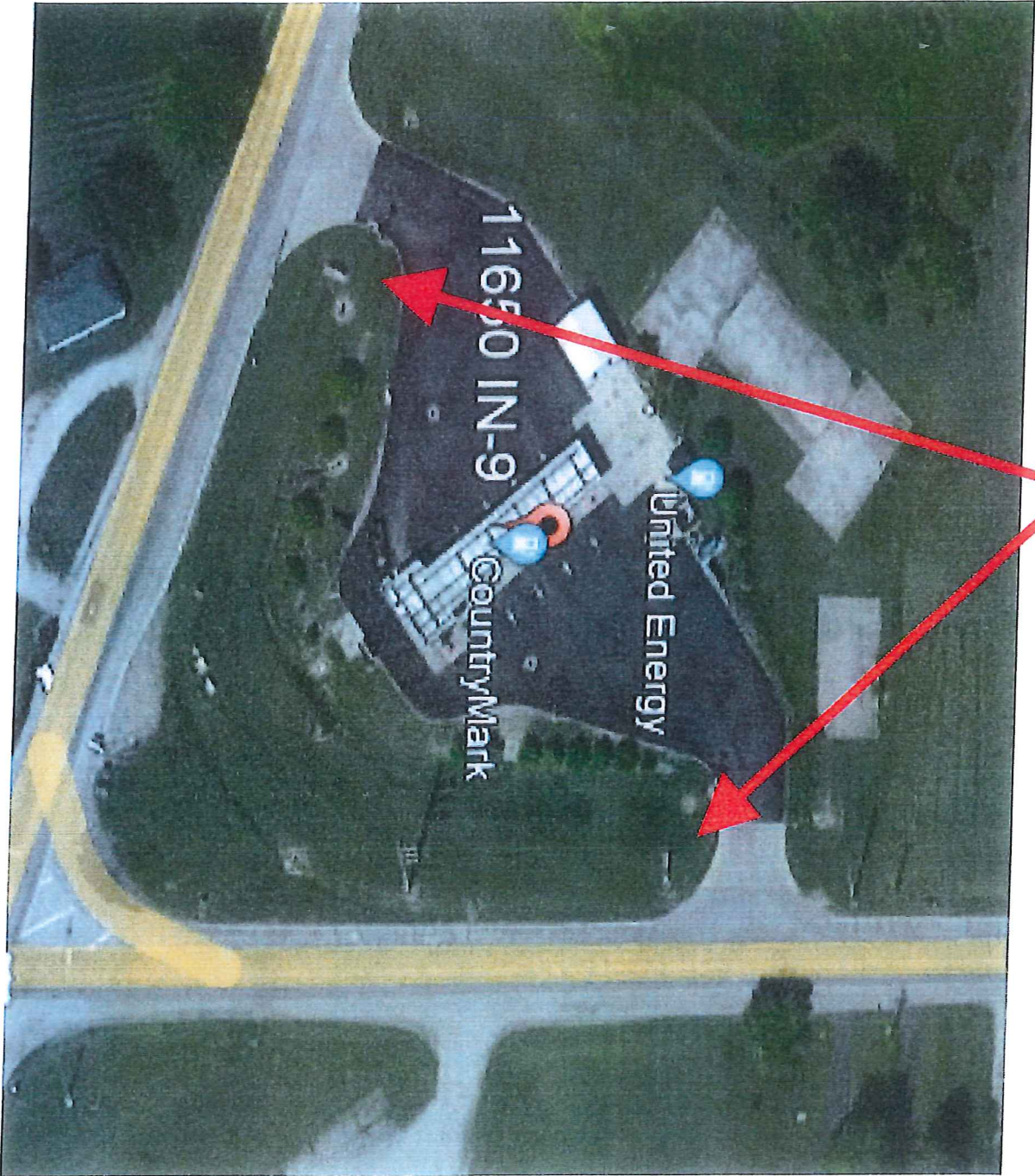
The Board of Zoning Appeals may review the applicant's findings of fact to assist with their decision-making process. Please see below for general guidance related to completing the findings of fact:

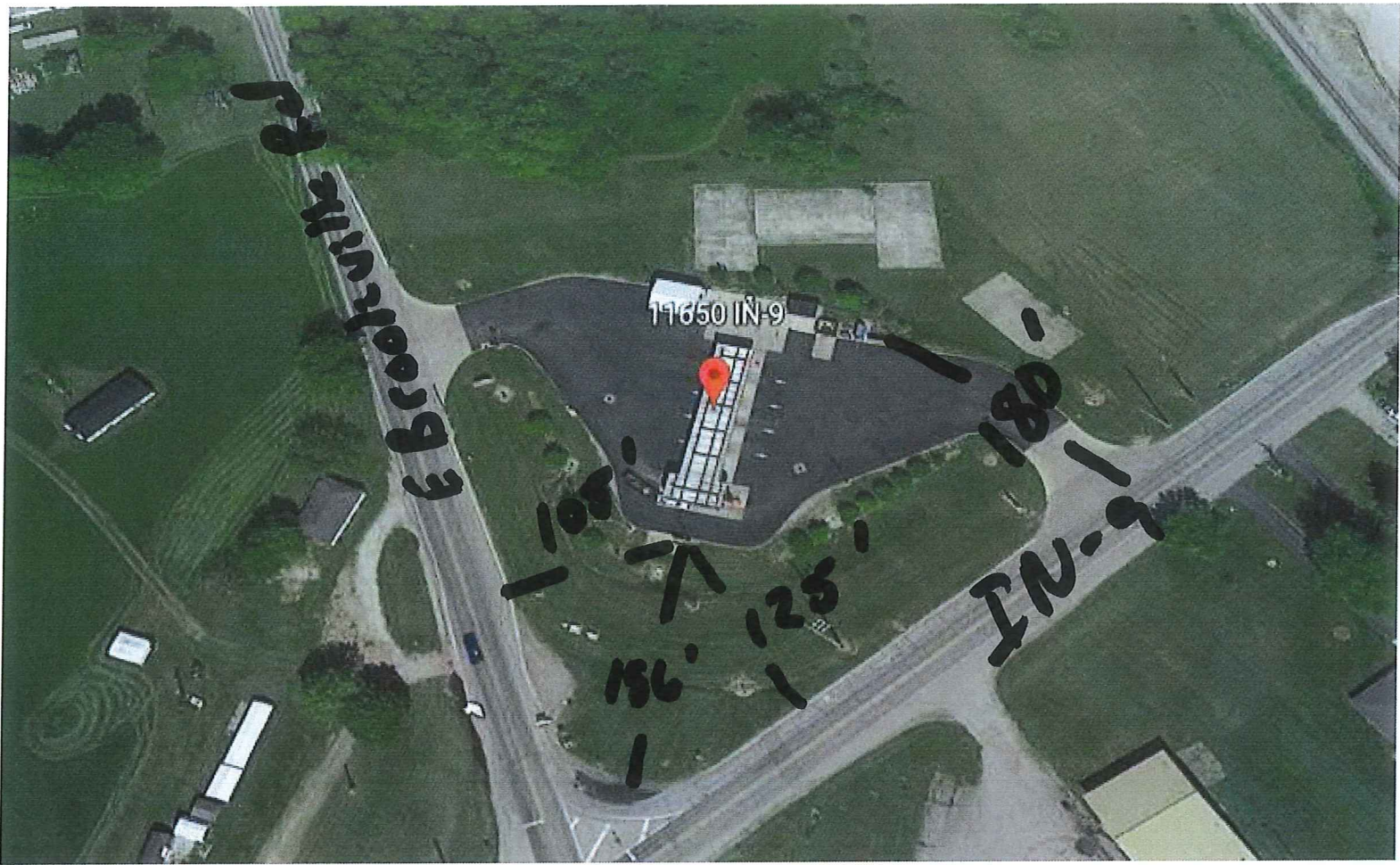
General Welfare: How does the request do no harm to the overall community of Shelby County? (ex. pollution, customer safety, road network safety, building code compliance, etc.)

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.)

sign locations





mess unit is 5'1" x 9'7"

E Brookville Rd to messunit 105'

Corner of E Brookville Rd & IN-9 156'

IN-9 to messunit 125'

DEF Sign is 5' x 170"

IN-9 to DEF Sign 180'

Property Details

Location: 949 W 1080 N,
Fountaintown, Van Buren
Township (Candlelight Village, Sec.
2, Lot 92).

Property Size: ~0.36-acres.

Current Land Use: Single-Family
Residential.

Zoning Classification:

R1 (Single-Family Residential)

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

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

Future Land Use per Comp Plan

Agriculture

The purpose of this category is to provide for traditional agricultural practices (such as crop production and livestock grazing) and modern agricultural practices (such as agricultural research facilities and CAFOs). Rural home sites may also occur within this category, however, the emphasis should remain on agriculture. New residential subdivisions that remove prime farmland from production should be discouraged. The residential density of this category should be one lot for every five acres.

	Zoning	Land Use
North	R1	Single-Family Res.
South	R1	Single-Family Res.
East	R1	Single-Family Res.
West	R1	Single-Family Res.

Staff Report

Case Number: BZA 21-41

Case Name: Debie & Tim England – Development
Standards Variances

Request

Variances of Development Standards to legally establish an 888 sq. ft. accessory structure:

1. In the front yard;
2. In the right-of-way of 1080 N (minimum 35-foot setback required);
3. Without a concrete floor and perimeter foundation.

Code Requirement

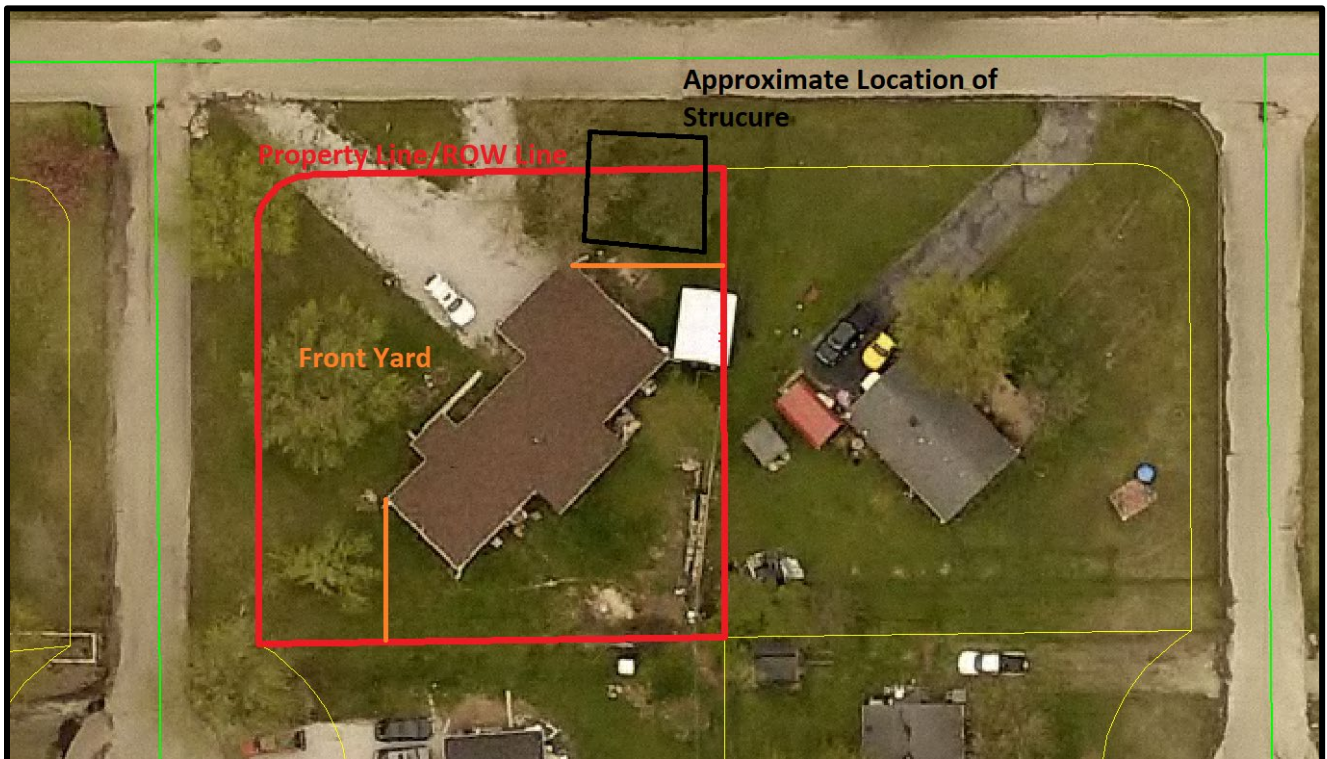
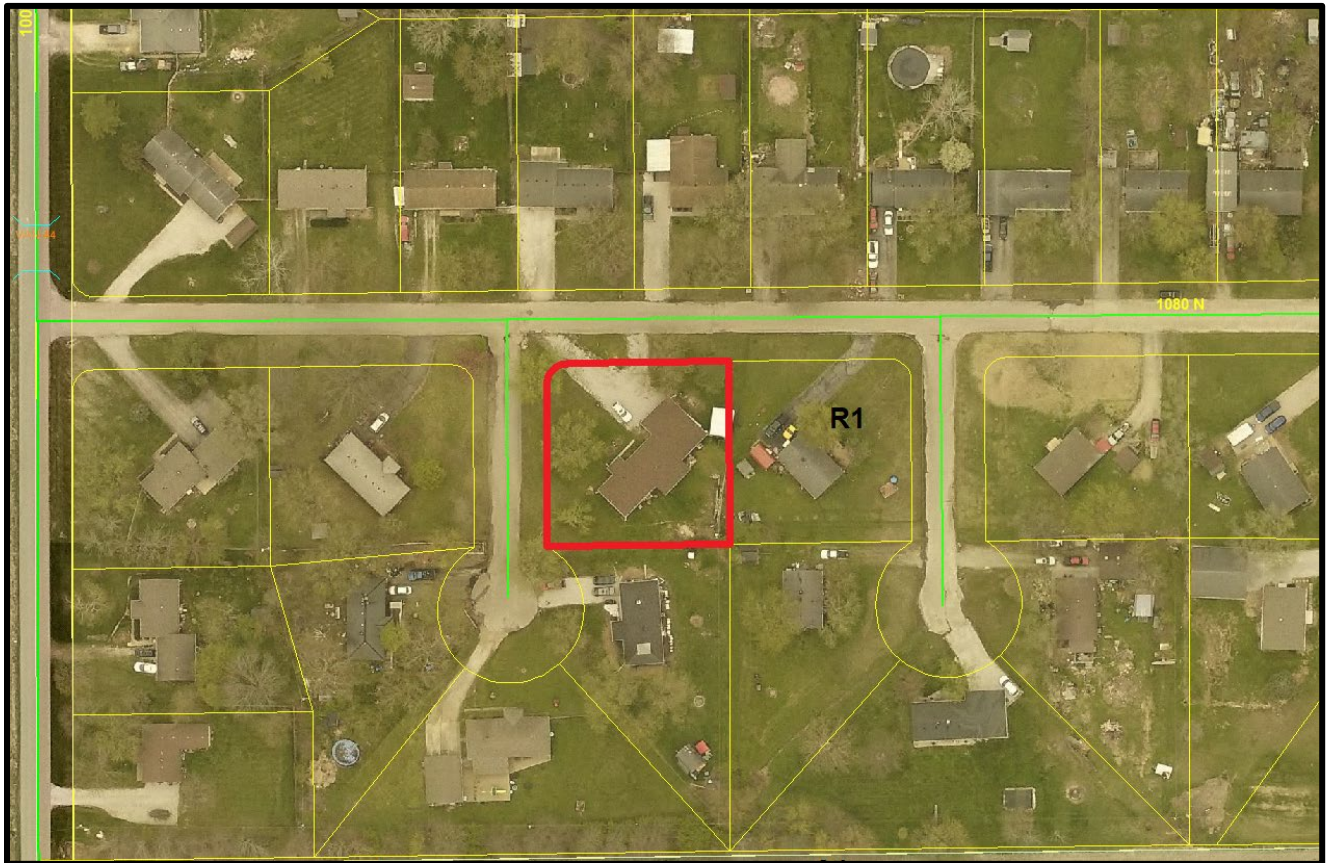
UDO Section 5.04 C – Placement: *A permitted accessory structure shall not be placed in the front yard of any lot, unless placed 350 feet or greater from the front property line*

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

UDO Section 5.07 E – Prohibited Types: *Post frame buildings are not permitted, unless it has a concrete floor and perimeter foundation.*

Purpose of Requirements: Prohibiting the construction of accessory structures in the front yard maintains the primary structure as the visual focal point of the property. Front setback requirements allow for open space, ensure visibility along roadways, and reduce traffic hazards along roadways. Prohibiting post frame buildings without a concrete floor and perimeter foundation protects the aesthetic quality and property values within residential neighborhoods.

Property Map



Case Description

- The petitioner obtained a permit from the Plan Commission office in September of 2021 to construct the subject structure. The site plan submitted with the application showed the structure as a 24'x37'x12' car port placed in-line with the front facade of the house (see permit site plan on following pages). The office Administrative Assistant obtained verbal confirmation from the petitioner that the structure would comply with setback requirements and not sit in the front yard.
- As constructed, the structure measures 24'x37'x17.1' and sits at an approximate 50-degree angle to the front facade of the house. The structure sits in the front yard and within the right-of-way of 1080 N, and therefore violates ordinance requirements.
- The petitioner may need approval from the County Commissioners to allow the structure within right-of-way owned by the County. At the time of writing of this Staff Report, Staff has not received an answer to this question from the Commissioners' attorney.
- Several owners of property along 1080 N contacted the Plan Commission office after completion of the structure to verify that the petitioner had obtained proper permits. After inspection of the site, Staff determined that the structure did not comply with the approved site plan. Staff notified the petitioner and recommended that they remove the structure due to concerns expressed by the neighbors. The petitioner chose instead to file an application for variance.
- The UDO does not permit buildings without concrete floors and a perimeter foundation in the R1 District. The Plan Commission office historically has not enforced this requirement when issuing permits. Due to the controversial nature of this petition, Staff has added a variance from this requirement to the requested variances.
- The septic system prevents placement of an accessory structure in the rear yard. The orientation of the house on the lot leaves very little space in the side yards for placement of accessory structures.
- Only four other properties along 1080 N include accessory structures. These structures are each about half the size of the subject structure. The owner of the corner lot located at 817 W 1080 N did obtain a variance to construct a barn in the front yard, however the barn complies with the front yard setback requirement.
- Staff has updated office policies to limit misplacement of structures in the future, such as requiring a more detailed site plan for properties in small-lot residential neighborhoods and visually verifying the placement of structures proposed near the front yard at the time of footing inspection.

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: Encroachment of the structure into the right-of-way could pose a traffic hazard and may impact visibility along the road for some motorists.

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 neighborhood includes very few accessory structures and no large accessory structures in front yards. The structure is very conspicuous when viewed from the entrance to the neighborhood. The alteration to neighborhood character impacts the enjoyment and potentially the value of surrounding property. Also, the structure particularly impacts the adjacent property to the east by blocking view of the road and surrounding properties from that property's front yard.

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

Staff Analysis: The orientation of the house on the lot and location of the septic system do limit the area available on the lot for placement of an accessory structure, however the petitioner could request a variance to allow for a smaller structure further from the road. Also, covered camper storage is not a typical use in small-lot residential neighborhoods.

Staff Recommendation

DENIAL primarily because the structure significantly alters the character of the neighborhood and blocks the view of the road and surrounding properties from the front yard of the adjacent property to the east.

Staff recommends that the Board determine a date for removal of the structure that can reasonably accommodate the petitioner's schedule.

Applicant/Owner Information

Applicant:	Debie England 949 W 1080 N Fountaintown, IN 46130	Owner:	Same
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DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT

Applicant: Tim England

Case #: _____

Location: 949 W. 1080 N. 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.

I Applied for a Building permit it was approved. I had building contractor to install a carport on my property. It has been on my property since 10/7/2021 and there has not been any accidents or injuries to anyone. So I don't see any public safety or public health issues.

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.

My Primary Residence on my Property. The structure in question does not affect values of any Property. It was built professionally to required codes.

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.

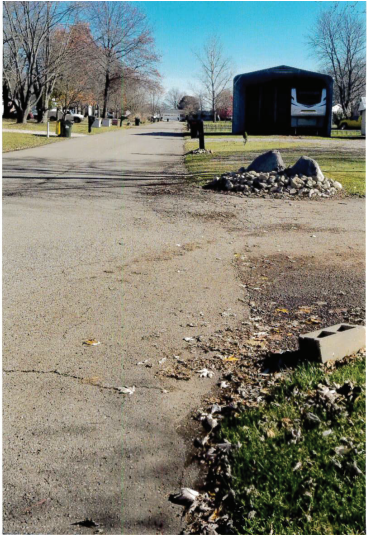
This location is the only option we have for carport. Due to property layout. It was clear of septic system. Property in rural area like structures are located in the area.

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.)







Shelby County Health Department

1600 E. State Rd. 44, Suite B, Shelbyville, Indiana 46176-1844
Phone (317) 392-6470 Fax (317) 392-6472

Property Owners

Name: Debie England Property Address: 949 W. 1080 N.

Township: Van Buren Section #: _____ Subdivision: _____ Lot #: _____

Description of Construction: 24 x 37 x 12 Car Port

Signature: Debie England Printed Name: Debie England

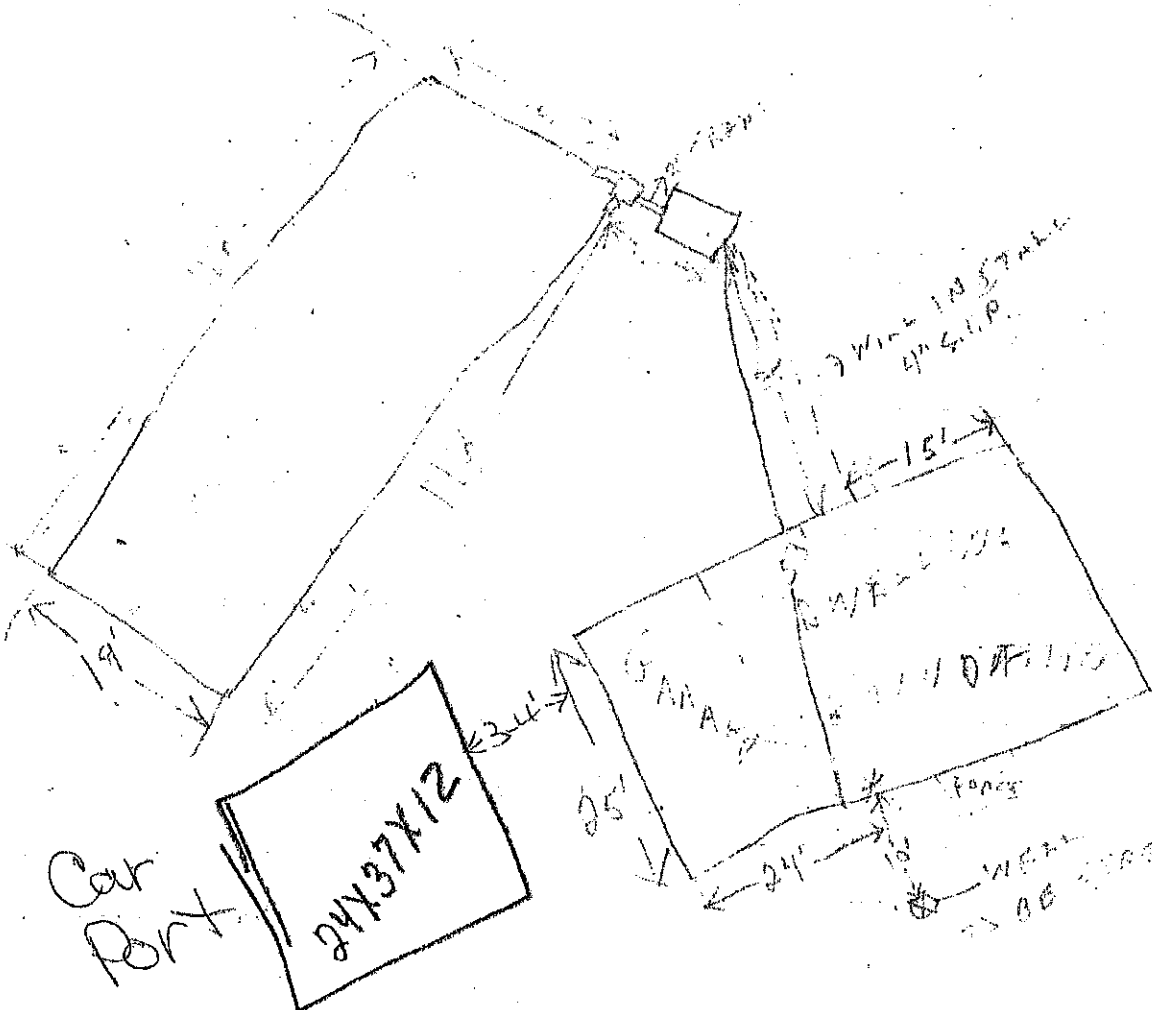
No permanent structures within 10 ft of septic tank and field

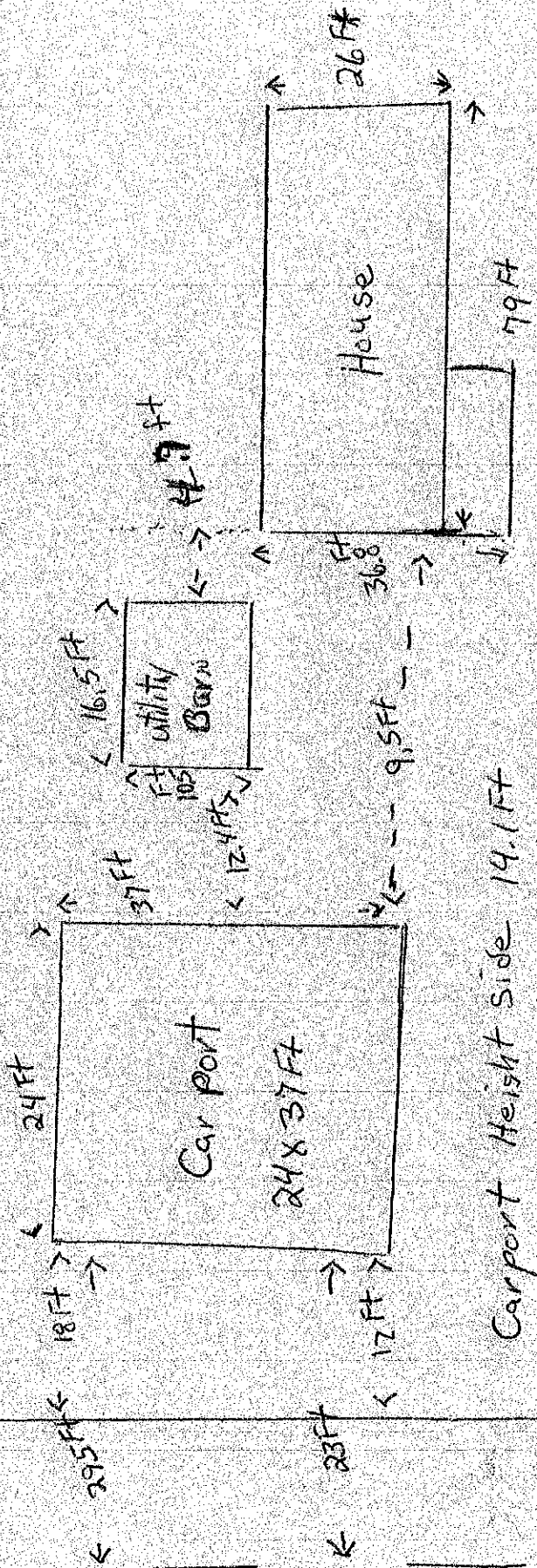
Drawing/Plans

Water/plumbing in building? Yes No

Adding Bedrooms? Yes No

Total Existing/Proposed Bedrooms _____





Carport Height side 14.1 Ft
 Center Height 17.1 Ft

949W-1080 N-Fountain town IN 46130

949W-1080N.

Street

Shelby County BZA

<u>BZA Scheduled Meetings</u>	<u>BZA Application Deadline</u>	<u>BZA Legal Notice Deadline</u>
January 11, 2022	December 21, 2022	January 1, 2022
February 8, 2022	January 18, 2022	January 29, 2022
March 8, 2022	February 15, 2022	February 26, 2022
April 12, 2022	March 22, 2022	April 2, 2022
May 10, 2022	April 19, 2022	May 1, 2022
June 14, 2022	May 24, 2022	June 4, 2022
July 12, 2022	June 21, 2022	July 2, 2022
August 9, 2022	July 19, 2022	July 30, 2022
September 13, 2022	August 23, 2022	September 3, 2022
October 11, 2022	September 20, 2022	October 1, 2022
November 8, 2022	October 18, 2022	October 29, 2022
December 13, 2022	November 22, 2022	December 3, 2022