

**Shelby County
Board of Zoning Appeals**

December 8, 2020 at 7:00 PM

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MEETING AGENDA

Shelby County Board of Zoning Appeals
December 8, 2020, 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the November 10, 2020 meeting.

NEW BUSINESS

BZA 20-42 – CALI & BRITTANY ELLIOTT: DEVELOPMENT STANDARDS VARIANCE. Located west of and adjoining 5541 N 300 E, Shelbyville, Marion Township.

OLD BUSINESS

BZA 20-36 – DAVID EBERHART: DEVELOPMENT STANDARDS VARIANCE. Located at 7808 S 375 W, Shelbyville, Jackson Township.

BZA 20-38 – KENNETH ENGLE: DEVELOPMENT STANDARDS VARIANCE. Located at 4620 N 400 W, Fairland, Brandywine Township.

DISCUSSION

APPROVAL OF 2021 BZA MEETING CALENDAR

APPROVED HEARING OFFICER CASES

BZA 20-39 – ALICIA BARR / GCA INVESTING, LLC: DEVELOPMENT STANDARDS VARIANCE. Located at 7200 N Christopher Ln, Fairland (Carmarla Sec 3, Lot 51), Moral Township.

BZA 20-40 – ALICIA BARR / GCA INVESTING, LLC: DEVELOPMENT STANDARDS VARIANCES. Located at 7234 N Christopher Ln, Fairland (Carmarla Sec 3, Lot 53), Moral Township.

BZA 20-41 – JND CONSTRUCTION, INC: DEVELOPMENT STANDARDS VARIANCE. Located at 7234 N 306 W Burnside Ave, Fairland, Brandywine Township.

ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, **January 12, 2021** at **7:00 PM**.

Property Details

Location: West of and adjoining
5541 N 300 E, Shelbyville, Marion
Township.

Property Size: 4 acres.

Current Land Use: Vacant.

Zoning Classification:

A2 (Agricultural)

Intent: This district is established for general agricultural areas and buildings associated with agricultural production.

Future Land Use per Comp Plan

Agricultural

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

Surrounding Development

	Zoning	Land Use
North	A2	Cropland
South	A2	Cropland
East	R1	Single-Family Residential
West	A1	Cropland

Staff Report

Case Number: BZA 20-42

Case Name: Cali & Brittany Elliott – Use Variance

Request

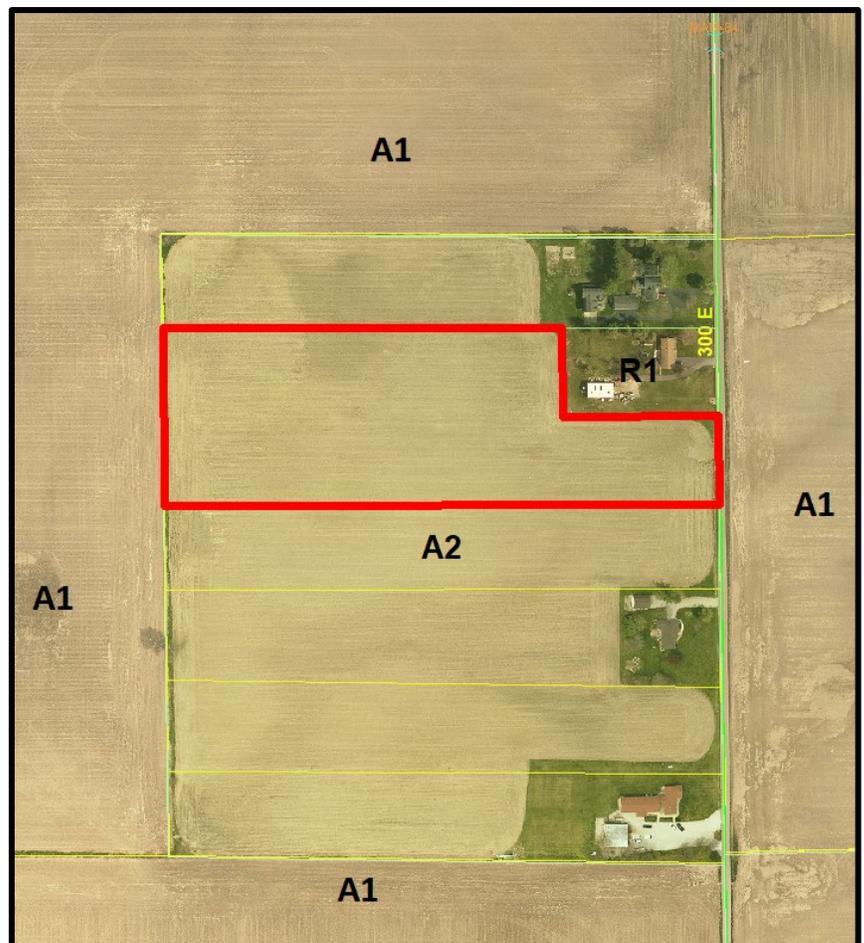
Variance of Use to allow for temporary occupancy of a recreational vehicle prior to construction of a new single-family dwelling.

Code Requirement

UDO Section 2.05 A2 District Intent, Permitted Uses, and Special Exception Uses

Purpose of Requirement – Prohibition of RVs for occupancy in the A2 District protects the character of rural neighborhoods and surrounding property values.

Property Map



Case Description

- The petitioners plan to place an RV on the property to use as their dwelling while they construct a new single-family residence.
- The RV would sit over 90-feet from the property lines and over 200-feet from the public road.
- The RV would temporarily utilize the septic system installed for the new single-family residence. After completion of the residence, the petitioner will disconnect the RV from the septic system. The Health Department has reviewed and preliminary approved the septic system plans.

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 RV would sit in an inconspicuous location behind an adjoining residence and over 200-feet from the public road.

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

Staff Analysis: Placement of the RV on the property for a temporary period would not permanently impact surrounding properties.

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

Staff Analysis: A strict application of the ordinance would not allow for temporary occupancy of an RV in an inconspicuous location on the property while the petitioners construct a new single-family residence.

Staff Recommendation

APPROVAL primarily because approval of the variance would allow for temporary occupancy of an RV in an inconspicuous location on the property while the petitioners construct a new house.

Recommended Stipulation:

A single-family residence shall be constructed on the property and receive a certificate of occupancy by December 8, 2021 (one year from the date of approval).

Applicant/Owner Information

Applicant:	Cali & Brittany Elliott 15712 Greenleaf Bay St. Sun City Center, FL 33573	Owner:	Same
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**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.

The approval will do no harm to the community of Shelby County on all counts.

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 approval will do no harm to the adjacent property. Temporary living until home is built.

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 approval will result in a practical use of the property.

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

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

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

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

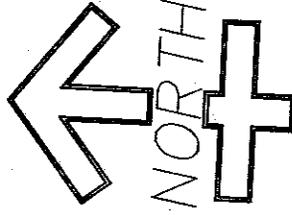
BENCHMARK:
STATE PLANE GRID., 1301 IN.E. Nad 83
E 311901ft. N 1566799ft
N 39° 36' 17.80" W 85° 43' 26.76"

T.B.M.#1=
WOOD HUB NORTH PROPERTY AREA. ELEV.=831.70

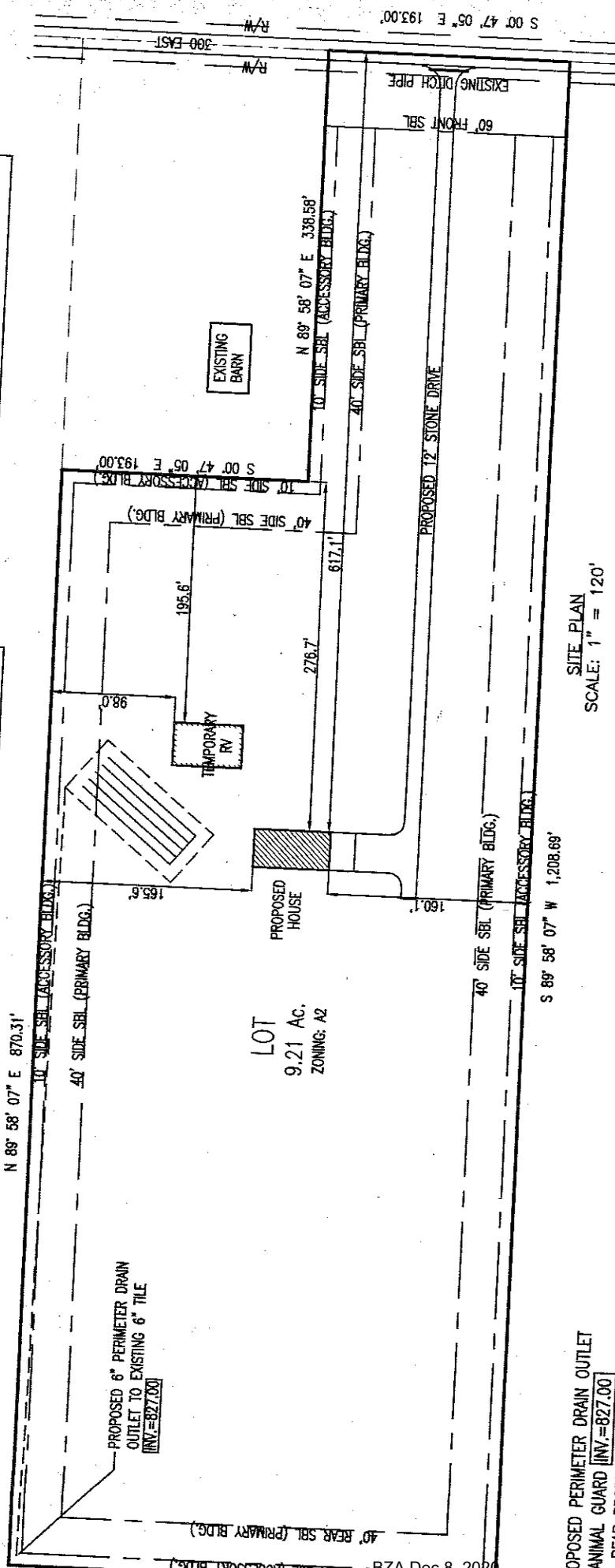
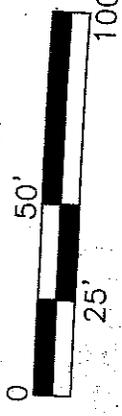
NOTE:
FINISH GRADE AROUND HOUSE SHOWN AT A SLOPE OF 6" IN
THE FIRST 10' FROM RESIDENCE AS PER STATE CODE.

APPROVED SEPTIC TANK DISTRIBUTOR
SHELBY COUNTY INDIANA
MARK CONCRETE PRODUCTS, INC
1125 MILLER AVENUE
SHELBYVILLE, IN 46176

CONVERSION	
.08 = 1"	
.17 = 2"	
.25 = 3"	
.33 = 4"	
.42 = 5"	
.50 = 6"	
.58 = 7"	
.67 = 8"	
.75 = 9"	
.83 = 10"	
.91 = 11"	
1.00 = 12"	



SCALE: 1" = 50'



SITE PLAN
SCALE: 1" = 120'

NOTE: PAVEMENT OF DRIVEWAY A MINIMUM
OF 20' FROM THE GARAGE.

NOTE: (5) DECIDUOUS TREES WITH AT LEAST
1 3/4-INCH DBH AT THE TIME OF PLANTING
SHALL BE PLANTED ON THE PROPERTY
PRIOR TO OCCUPATION OF THE RESIDENCE.

N 89° 58' 07" E 870.31'

S 89° 58' 07" W 1,208.69'

47' 05" E 193.00'

600'-6" SOLID PIPE

PROPOSED PERIMETER DRAIN OUTLET
w/ANIMAL GUARD (INV.=827.00)
REAR PROPERTY LINE 600'±

PROPOSED INFILTRATION BED
92' LENGTH, 7.5' SPACING
BETWEEN TO FOLLOW CONTOURS

PROPOSED "D" BOX

PROPOSED 1000 GAL.

Property Details

Location: 7808 S 375 W,
Shelbyville, Jackson Township.

Property Size: 80 acres.

Current Land Use: Estate
Residential / Agricultural.

Zoning Classification:

A1 (Conservation Agricultural)

Intent: This district is established for the protection of agricultural areas and buildings associated with agricultural production

Development Standards: Enact development standards to maximize protection of common agricultural practices.

Board of Zoning Appeals: Enact development standards to maximize protection of common agricultural practices.

Future Land Use per Comp Plan Suburban Residential

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

Surrounding Development

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

Staff Report

Case Number: BZA 20-36
Case Name: David Eberhart – Development
Standards Variance

Request

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

Code Requirement

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

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

Property Map



Case Description

- The petitioner plans to construct a 1,318 sq. ft. accessory structure having a 630 sq. ft. apartment and 688 sq. ft. garage.
- The petitioner plans to install a new septic system to accommodate the structure.
- The existing driveway will provide access to the structure.
- The Site Plan Committee, which consists of the Planning Director, Building Inspector, County Surveyor, Health Department Environmental Technician, and a representative from the Drainage Board has reviewed and approved a site plan for the structure.

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 Site Plan Committee has reviewed and approved a site plan for the structure and the proposed structure must comply with all building codes and sanitation requirements prior to final inspection.

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

Staff Analysis: The proposed structure would sit on an 80-acre property over 200 feet from the public road. Due to the relatively isolated location of the structure, the structure would not impact 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 an independent affordable housing option for a person(s) on the same property as family members, for the purpose of obtaining extra income, security, companionship, and/or services.

Staff Recommendation

APPROVAL primarily because the relatively isolated location of the structure on an 80-acre parcel over 200 feet from the public road would likely not pose any impact to adjacent property.

Staff recommends the following stipulations:

1. **The variance shall expire when the structure is no longer needed by the intended occupant.**
2. **Beginning in November of 2022, the petitioner shall provide notice to the Plan Commission office every other year regarding the continued need of the dwelling by the intended occupant.**

Applicant/Owner Information

Applicant	David Eberhart 7806 S 375 W Shelbyville, IN 46176	Owner:	Eberhart Family Trust & Donna Eberhart 7806 S 375 W Shelbyville, IN 46176
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**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.

This is only a garage with a 500 sq foot
APT Attached. I see no issues with APT
Health or Safety.

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 closest neighbor will be over 1/2 mile away
we own all the surrounding land around the
property in question

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 see no issues in the practical difficulty
in use of the property. Property already has a home
gran dig & house or etc

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.)

TRUSTEES
 Trust, a life estate, 1% interest
 Trust, 99% interest
 Trust and Debra L. Eberhart as General Trustees

Michelle Eberhart

DRESS

46176

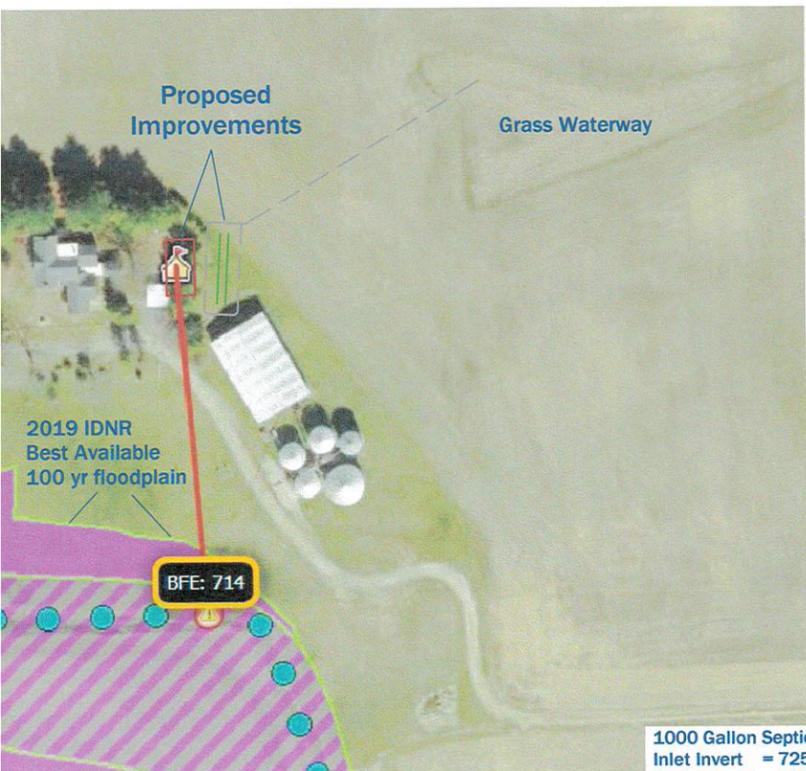
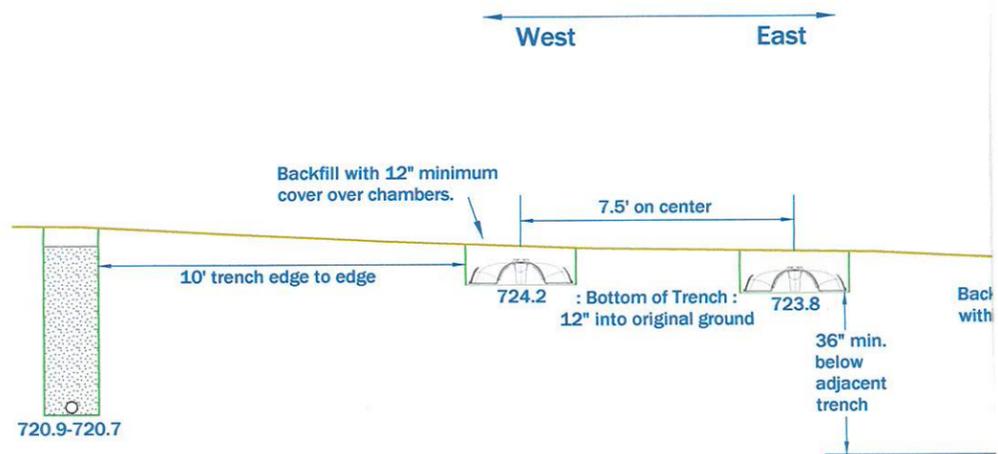
PER
 011.000-010

CURRENT ZONING
 A1 Conservation Agricultural

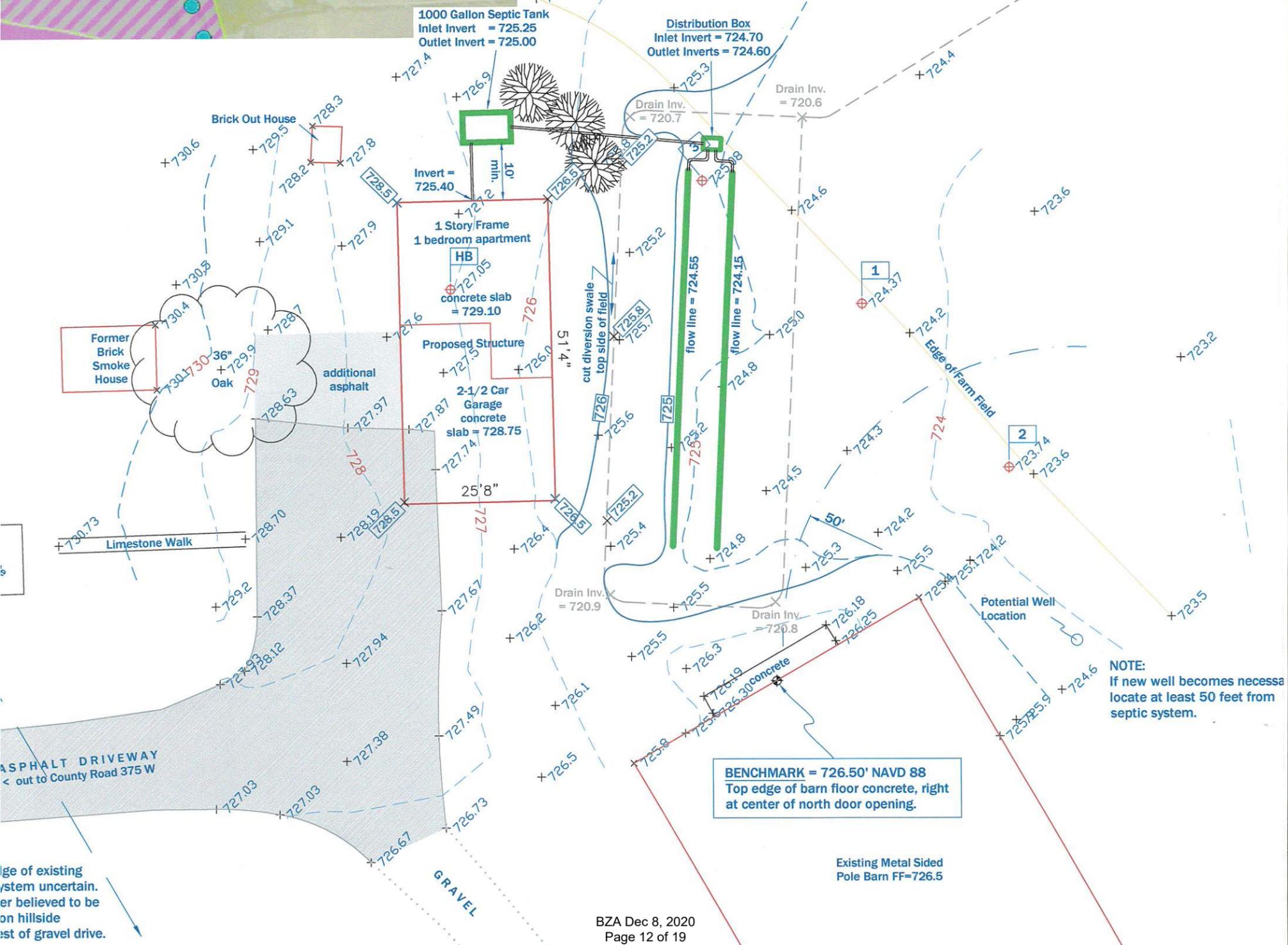
MENT
 The subject farm, in the northeast and southeast corners, that
 special flood hazard area per effective FEMA Flood Insurance Rate
 number 18145C0190C and within a Zone A. A 100 year flood
 location from the nearest flooding stream being an unnamed
 creek. This being from the 2019 best available data and coming
 south of the existing driveway. See Portal aerial map.

T
 Consulting (John Bowen)
 2020

TRENCH CROSS SECTION



Subsurface Gravity System
 Low Profile 36" Chambers by Infiltrator
 Absorption Field Size = 500 sq. ft.
 (375 sq. ft. with 25% reduction method)
 (2) 64 foot trench lengths
 36" trench width, 12" trench depth, 7.5' on center
 1 - 2.5% site slope, surrounding perimeter drain required.



Property Details

Location: 4620 N 400 W, Fairland, Brandywine Township.

Property Size: 4 acres.

Current Land Use: Vacant.

Zoning Classification:

RE (Residential Estate)

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

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

Future Land Use per Comp Plan

Suburban Residential

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

Surrounding Development

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

Staff Report

Case Number: BZA 20-38

Case Name: Kenneth Engle – Development Standards Variance

Request

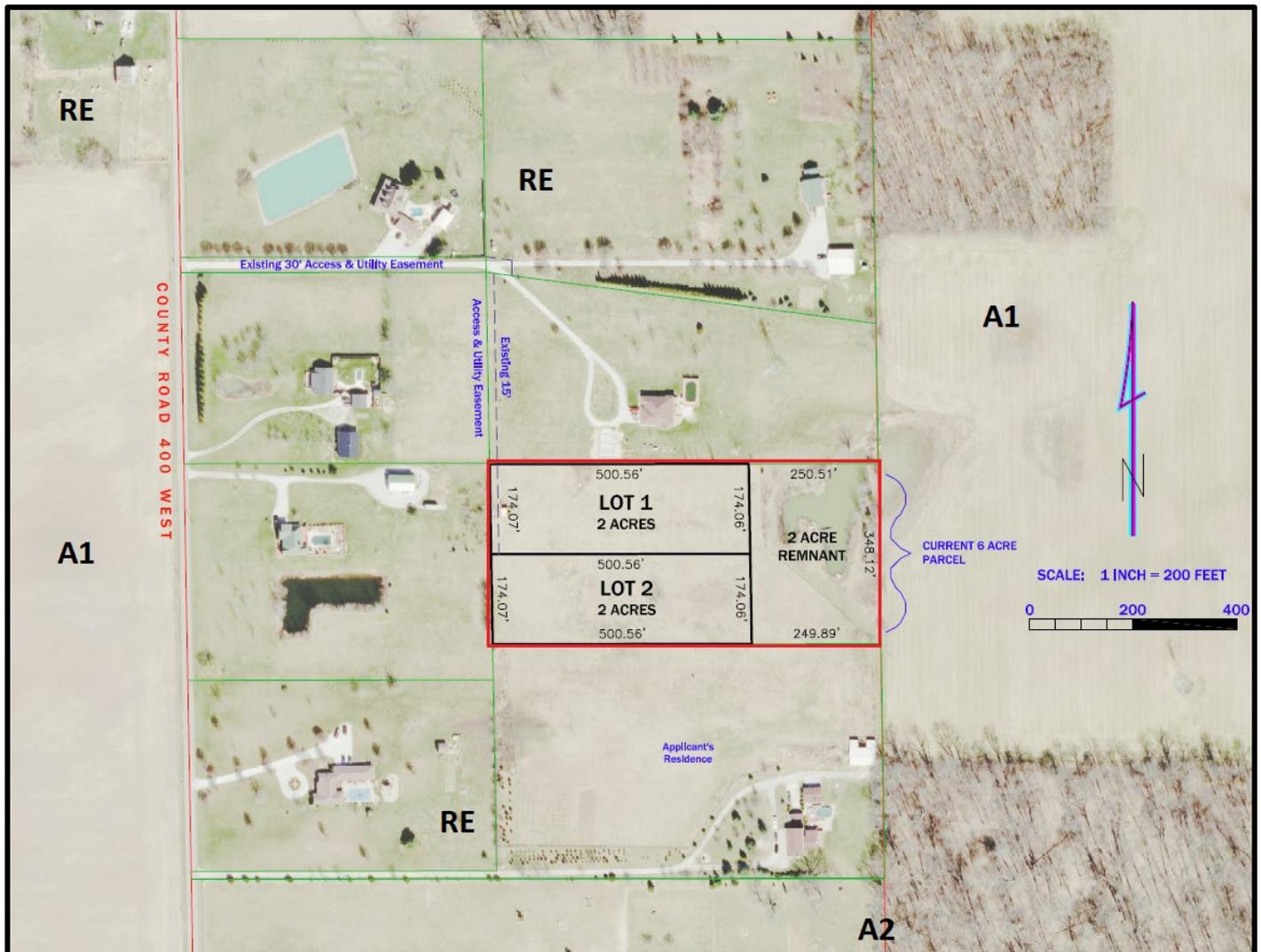
Variance of Development Standards for allow for two new single-family residential lots without road frontage (minimum of 160-feet of frontage required).

Code Requirement

UDO Section 2.12 RE District Development Standards – Minimum Lot Frontage: 160 feet

Purpose of Requirement – Lot frontage ensures that newly developed properties have fee-simple, legal access. Properties without frontage and only accessed by easement risk loss of access in the event of a dispute over an established access easement. Visitors, delivery services, or emergency vehicles may also have trouble finding the access to a property without road frontage. Also, development of lots without frontage generally occur behind another developed lot or lot eligible for development, which can impact privacy enjoyed within the adjoining lot's rear yard.

Property Map



Case Description

- The petitioner plans to subdivide the 6-acre property into two, 2-acre building lots and a 2-acre remainder tract.
- The petitioner stated that his children plan to build homes on the new building lots, each home exceeding 1,800 sq. ft. and \$400,000 in value.
- The petitioner stated that he does not plan to develop the remainder tract. The remainder tract currently includes a pond that extends onto the adjoining properties to the north and east.
- Access
 - The site plan submitted with the variance application indicates that an existing access and utility easement through four adjoining properties to the north would provide access to the two building lots.

- A driveway currently exists through part of the easement, however additional driveway material would need to be installed within the easement on adjoining property to provide access to the two new building lots.
 - The petitioner does not plan to extend the access easement to the remaining tract and does not plan to develop the tract.
 - The petitioner stated that he would assist in maintaining the section of driveway through the adjoining lots.
- In the 1990s a previous property owner subdivided the property along with several other adjacent tracts having access to 400 W utilizing the 5-acre platting exemption rule in effect prior to 1999. Private restrictive covenants apply to at least three of these tracts, prohibiting further subdivision of the properties. At the time of the writing of this Staff Report, Staff had not found any restrictive covenants that apply to the subject property. The County cannot legally enforce covenants, however the BZA can take covenants into consideration when making decisions.
 - If the BZA chooses to approve the variance, the petitioner would submit an application for Simple Subdivision to the Plan Commission. The proposed subdivision would comply with all standards of the UDO with approval of a variance from the road frontage requirement, therefore the Plan Commission would have the legal obligation to approve the subdivision.
 - Development of the building lots would require Site Plan Approval from the County Technical Review Committee (TAC). The TAC includes the Planning Director, Building Inspector, Health Department Environmental Technician, County Surveyor, and a representative from the Drainage Board. These entities would review the plans to ensure compliance with applicable regulations, including review of the proposed drainage facilities.
 - This variance request *only applies to road frontage*. If the property had frontage along 400 W, the property would comply with all zoning and subdivision requirements and the petitioner could build two single-family residences on the property without BZA approval.

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: Access to the property defined at the intersection of the shared driveway and public road using signage, mailboxes, and/or other identification markers would assist visitors, delivery services, or emergency vehicles with locating the property.

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: Use of an easement entirely upon property owned by the petitioner to access the lots would not impact adjoining property. Landscape buffers installed along the north and west property lines of proposed Lot 1 would provide for privacy between the property and adjoining properties.

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 subdivision of a legally established parent tract into lots in compliance with current minimum lot size requirements and for subdivision of property in a manner consistent with the future Suburban Residential land use recommendation of the Comprehensive Plan.

Staff Recommendation

APPROVAL primarily because a strict application of the ordinance would not allow for subdivision of a legally established parent tract not currently used for agricultural production into lots in compliance with current minimum lot size requirements. However, the Board should include stipulations on approval to address property access visibility to and to mitigate impacts to adjacent properties.

Recommended Stipulations:

1. Access to the property shall be clearly defined at the intersection of the shared driveway and public road using signage, mailboxes, and/or other identification markers.
2. The two-acre remnant, as indicated on the site plan submitted with the variance application, shall be combined with the property to the south and not be an individual building lot.
3. Access to Lot 1 and Lot 2, as indicated on the site plan submitted with the variance application, shall be provided through a new easement completely upon the petitioner's adjacent property to the south.
4. Lot 1, as indicated on the site plan submitted with the variance application, shall install Buffer Yard 'A' (One (1) canopy tree and one (1) ornamental or evergreen tree shall be planted for every seventy (70) feet of contiguous boundary with the adjacent lot. Each tree shall be planted within twenty (20) feet of the property line, but no closer than five (5) feet to the property line) along the north and west property lines prior to construction of a single-family residence.

Applicant/Owner Information

Applicant	Kenneth Engle P.O. Box 431 Fairland, IN 46126	Owner:	Kenneth & Pamela Engle
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To Our Neighbors,

I would like to take a moment to clear up some questions about what we are attempting to achieve with Lot #7. We are wanting to divide the property in order to give our two sons a place to build and raise their families and hopefully take care of their mother and myself when we get older. This is an existing building lot that was platted in 2000, I believe, just for this purpose. When your children are 2 and 5 years old, they do not really have a plan at that age. We are looking at only purposing 2 lots and leaving the remainder as set aside due to the pond being almost an acre in size.

We are looking at building a minimum 1800 sq ft each with a value of \$400K. We have prints from local homes that we have seen and we can provide, one in Center Grove and the other on the Brandywine School road on the way to Greenwood and Worthsville Road. We plan on setting them back on the property to the east for views of the pond and distance from neighbors.

Speaking of the pond, there was a concern about drainage mentioned. The pond currently takes on any surface water as that is what it was constructed for as it was a naturally low area. It has a spillway that is connected to a tile. The only time that I witnessed the water level reach the spillway was in June of 2008 when we had 5" of rain in an hour and it rained for 3 days. This was the same system that flooded downtown Franklin and Columbus Regional Hospital. All surface water and downspouts would be directed to that area.

We would obviously assist in maintaining the section of drive from the County Road to where our Right of Way meets the Harmeyer and Sweets driveways.

Please let me know if there are any other concerns you might have and we can work through them I am sure. You can reach me @ 317-430-0311 or kenny@myawesomebasement.com.

Thank You,

Kenny Engle

**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: Kenneth Engle

Case #: _____

Location: 6 acre parcel #73-06-10-100-009,000-004, north side of
4620 N 400 W

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 splitting of the existing parcel is being done to
property already zoned and setup for residential
purposes.

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.

Surrounding parcels are already part of the original
development started in the late 90s.

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 6 acre parcel was bought with the intention of
further residential purpose. It is interior to any
available roads, except for the original easement.
Subdivision request will be for children of applicant.

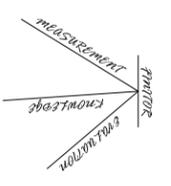
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Adjacent Property: How does the request do no harm to adjoining property and neighborhood? (ex. noise, odor, traffic generation, distance from property lines, appearance of property, etc.)

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.)

SCOTT T. SUMERFORD
LAND SURVEYING
 3149 NORTH RILEY HIGHWAY
 SHELBYVILLE, IN 46176-9462
 BUSINESS PHONE (317) 401-6050
 Indiana Registered Surveyor No. 29800017



CLIENT
 Kenneth Engle
 P.O. Box 431
 Fairland, IN 46126

PROJECT
 Requesting a waiver for lot frontage requirement in RE Residential Estate zoning.

DRAWING DATE
 October 27, 2020
BZA Dec 8, 2020
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PROPOSED
 SUBDIVISION OF 6 ACRE TRACT

JOB LOCATION
 PART OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 13 NORTH, RANGE 6 EAST, BRANDYWINE TWP., SHELBY COUNTY, INDIANA



JOB NUMBER
13N6E10-20-067
 ORIGINAL DRAWING SIZE 11x17
 SHEET 1 OF 1