

**Shelby County  
Board of Zoning Appeals**

**March 8, 2022 at 7:00 PM**

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# MEETING AGENDA

## Shelby County Board of Zoning Appeals March 8, 2022, 7:00 P.M.

### CALL TO ORDER

### ROLL CALL

### ELECTION OF OFFICERS

### APPROVAL OF MINUTES

Minutes from the December 14, 2021 meeting.

Minutes from the February 8, 2022 meeting.

### OLD BUSINESS

None.

### NEW BUSINESS

**BZA 22-07 – JOSIE JONES:** DEVELOPMENT STANDARDS VARIANCE. Located at 2467 S 125 E, Shelbyville, Shelby Township.

**BZA 22-10 – DOLLAR GENERAL:** SPECIAL EXCEPTION & DEVELOPMENT STANDARDS VARIANCES. Located west of and adjoining 3075 W Old SR 252, Flat Rock, Washington Township.

**BZA 22-06 – RICHARD N SMITH:** DEVELOPMENT STANDARDS VARIANCES. Located at 4310 S Sugar Creek Rd, Franklin, Hendricks Township.

**BZA 22-09 – FRANK WOODS, JR:** SPECIAL EXCEPTION & DEVELOPMENT STANDARDS VARIANCE. Located at 4842 N Brandywine Rd, Shelbyville, Brandywine Township.

### DISCUSSION

None.

### ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, **April 12, 2022 at 7:00 PM.**

## Property Details

**Location:** 2467 S 125 E,  
 Shelbyville, Shelby Township.

**Property Size:** 1.6-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... Because Shelbyville has strong utility and infrastructure accessibility, a variety of these single-family residential types should make sense almost anywhere there is available infrastructure....

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

# Staff Report

**Case Number:** BZA 22-07

**Case Name:** Josie Jones – Development Standards Variance

## Request

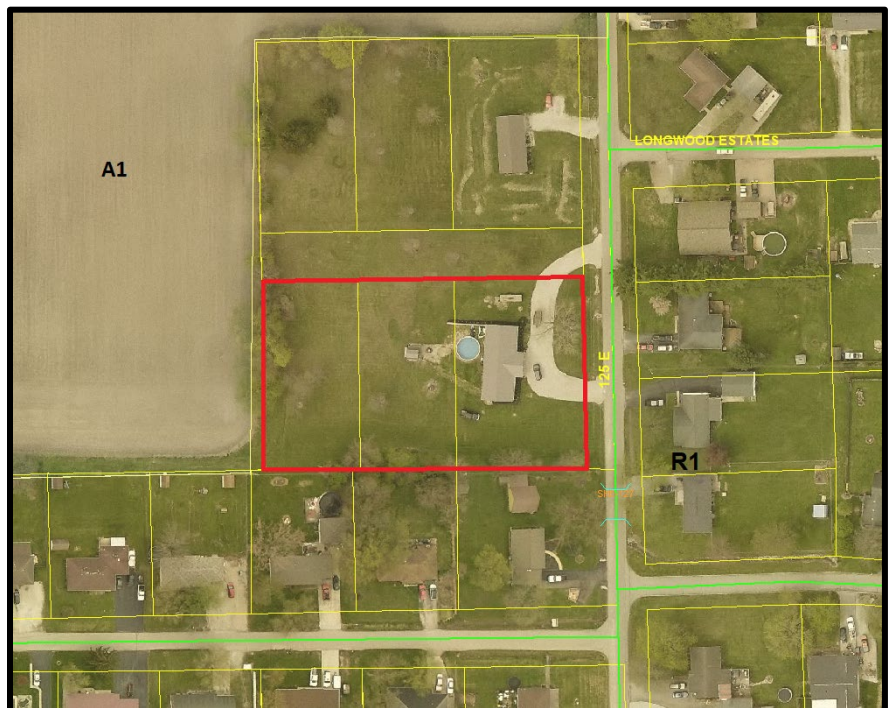
**Variance of Development Standards** to allow for a 4,160 sq. ft. accessory structure exceeding 50% the square footage of the footprint of the residence.

## 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

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- The petitioner plans to construct a 52'x80' (4,160 sq. ft.) accessory structure at the rear of the property.
- The square footage of the structure would equal approximately 1.5X the square footage of the footprint of the house. The property tax card provides the square footage of the house for the square footage calculation.
- The property consists of three tax parcels. The UDO allows designations of the parcels as one lot for building and zoning purposes.
- The property adjoins the Longwood Country Estates and Hazelwood neighborhoods. The property is significantly larger than most properties in these neighborhoods and trees screen the property from the adjoining properties to the south.

## Staff Analysis of Findings of Fact

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

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

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

Staff Analysis: The character of the property differs from adjacent higher-density residential development due to the size of the property and architectural design of the home. Construction of a large accessory structure would not alter the current character of the property and therefore would not impact the residential character of the adjacent neighborhoods. Additionally, existing trees would screen the structure from adjacent residential properties to the south and the house would screen the structure from adjacent residential properties to the east.

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 would not impact the character of the area.

## Staff Recommendation

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**APPROVAL** primarily because construction of a large accessory structure would not alter the current character of the property and therefore would not impact the residential character of the adjacent neighborhoods.

### *Applicant/Owner Information*

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Applicant:	Josie Jones 2467 S 125 E Shelbyville, IN 46176	Owner:	Same
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View of Property from 125 E, looking southwest



Google Street View – November 2015



**DEVELOPMENT STANDARDS VARIANCE  
FINDINGS OF FACT**

Applicant: Josie Jones

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

Location: 24678 125E Shelbyville TN 37070

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

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

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

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

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

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

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

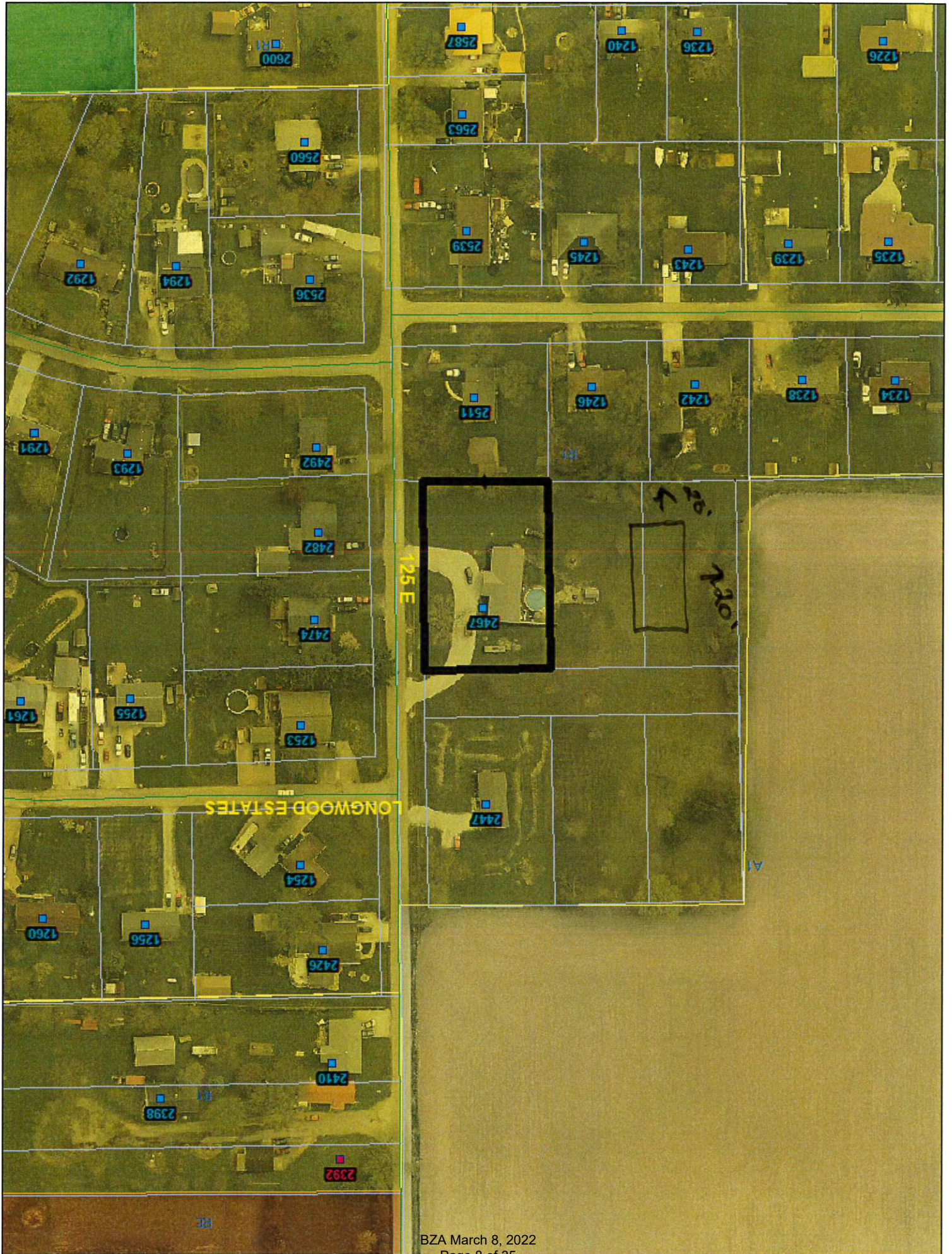
**The Board of Zoning Appeals may review the applicant's findings of fact to assist with their decision-making process. Please see below for general guidance related to completing the findings of fact:**

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

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

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







## Property Details

**Location:** West of and adjoining 3075 W Old SR 252, Flat Rock, Washington Township.

**Property Size:** 2.91-acres.

**Current Land Use:** Cropland.

### Zoning Classification:

VM (Village Mixed Use)

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

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

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

### Future Land Use per Comp Plan

#### 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	R1	Single-Family Res.
South	A1	Cropland
East	VR	Village Res.
West	A1	Agricultural Commercial

# Staff Report

**Case Number:** BZA 22-10

**Case Name:** Dollar General – Special Exception & Development Standards Variances

## Request

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

**Variances of Development Standards** to allow two commercial signs in the VM District (not permitted):

1. Ground sign having an area of 50 sq. ft. and a height of 9 ft.
2. Wall sign having an area of 150 sq. ft.

## Code Requirement

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

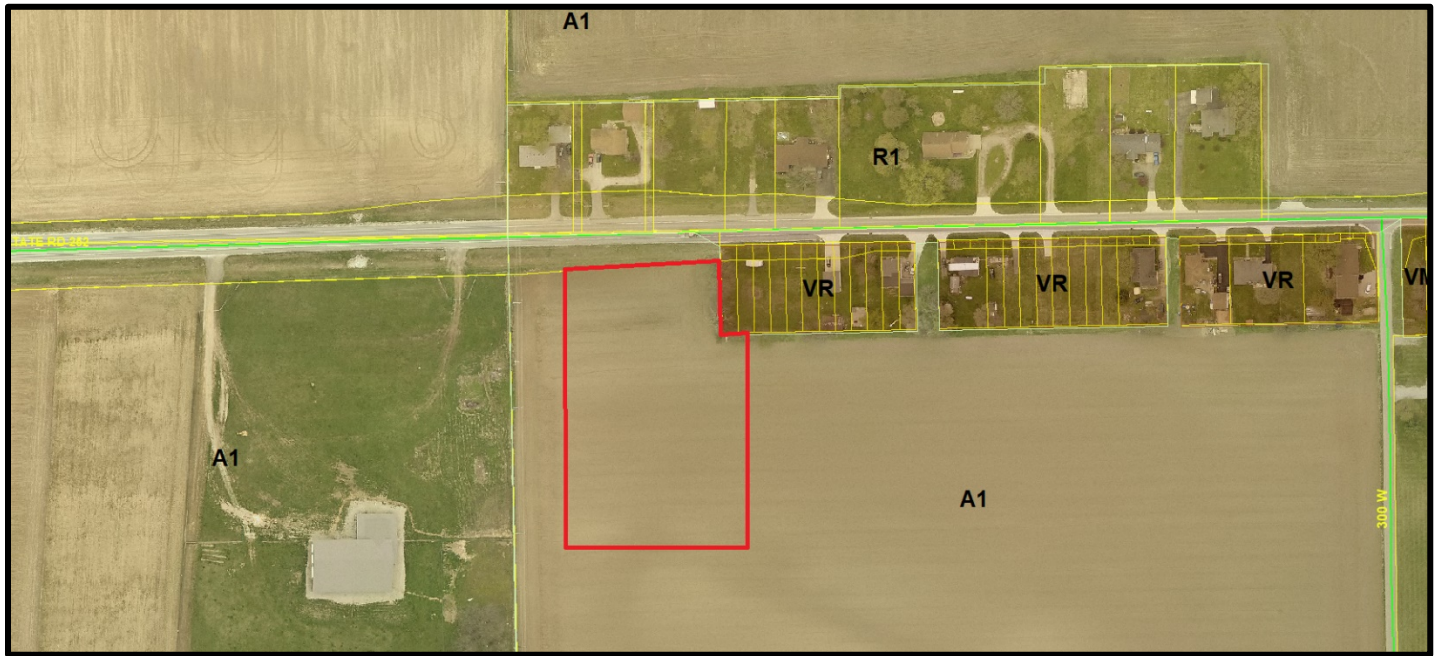
**UDO Section 5.73 – General Sign Standards**

### Purpose of Requirements:

The UDO designates Special Exception uses for each zoning district. Unlike a use variance, the petitioner does not have to prove that they cannot use or improve the property in a reasonable manner to obtain approval of a Special Exception. The petitioner must only prove that the design and use of the Special Exception would mitigate potential impacts to surrounding properties and to the character of the area, and that the proposed Special Exception is consistent with the intent of the zoning district and Comprehensive Plan.

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

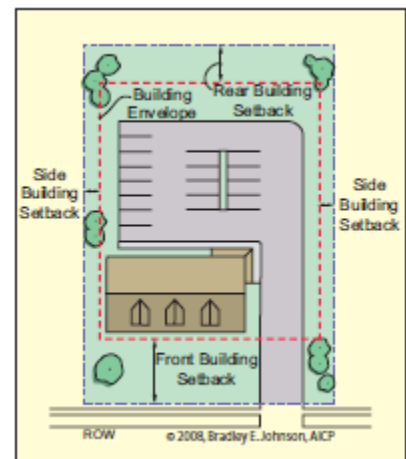
## Property Map



## Case Description

- Proposed development of the site includes a 10,640 sq. ft. retail building, parking lot in front of the building, truck delivery and outdoor trash storage area at the east side of the building, parking lot and property line landscaping, water well, septic system, wall sign, and ground sign.
- A summary of the Petitioner's Statement of Intent includes:
  - Sale of general retail items including everyday household products and grocery items.
  - Hours of Operation: 8 AM – 9 PM, seven days a week.
  - Customers: approximately 125 per day / 875 per week / 3802 per month.
  - Three product deliveries per week.
- The UDO defines Type 3 Retail, Medium Intensity Retail as *retail businesses that have a moderate impact on neighboring properties, traffic generation, and public safety. Example businesses include a: antique shop, apparel shop, art and craft supplies, book store, boutique, building supply store (small), convenience store (large), department store (small), drug store (large), fabric shop, furniture shop (small), garden shop, gift shop (large), grocery/supermarket (small), home electronics/appliance store (small), liquor sales, music/media shop, office supply store (small), party/event store (small), pawn shop, pet grooming/store, plant nursery, print shop/copy center, pro shop, quick cash/check cashing, shoe store/repair, sign shop, sporting goods (small), variety store (small) and video/DVD rental.*
- The property is located between the I-65/Old SR 252 interchange and SR 9/Old State Road 252 intersection, at the western limits of the unincorporated town of Flat Rock.

- Existing development in Flat Rock includes small-lot residential development, institutional uses, and varying intensities of commercial development. The physical design of development varies, and the town does not have a consistent development pattern.
- Old SR 252 includes a sidewalk along the south side of the road through the unincorporated town of Flat Rock. The sidewalk ends one-quarter mile from the subject property. The petitioner proposes to add a sidewalk within the right-of-way along Old SR 252 adjacent to the subject property as an extension to this sidewalk network.
- On February 22, 2022, the Plan Commission recommended approval of a rezoning of the property from A1 (Conservation Agricultural) to VM. The County Commissioners approved this rezoning on March 7, 2022. Approval of the rezoning included three stipulations:
  - Development of the site shall be consistent with the Site Plan submitted with the rezoning application. The Zoning Administrator shall have the discretion to require Plan Commission approval of any modification to the site plan.
  - A sidewalk shall be installed within the right-of-way of Old SR 252 in compliance with Section 7.21 of the Shelby County Unified Development Ordinance.
  - All parking spaces shall be located in the rear yard, unless the building incorporates architectural standards in compliance with Section 5.13 of the Unified Development Ordinance.
- Staff recommended that the petitioner apply to rezone the property to VM rather than the C2 District, which would permit the use without Special Exception approval, because of the greater compatibility of the VM District with existing rural town centers. Specifically, the following statements of intent for the VM District included in the UDO support the chosen zoning district:
  - Use, Type and Intensity: Medium to high intensity commercial.
  - Application of District: Expansion of rural town centers.
  - Appropriate Adjacent Districts: A1, VR, R1
  - Plan Commission: Use this zoning district to create and expand rural town centers.
- The example development pattern for new development in the VM District included in the UDO shows the primary structure near the street and all parking in the rear yard. However, standard architectural plans for Dollar General Stores do not include this design option.
- The size of the proposed signs would exceed the size limits for commercial signs permitted by the UDO in the IS (Institutional) and C1 (Neighborhood Commercial) Districts. Specifically:
  - Maximum ground sign area: 40 sq. ft. per side (50 sq. ft. per side proposed)
  - Maximum ground sign height: 6 ft. (9 ft. proposed)
  - Maximum wall sign area: 1 square foot per lineal foot of the use's façade width (maximum 140 sq. ft.) (150 sq. ft. proposed)





## Staff Analysis of Findings of Fact

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### Special Exception

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

Staff Analysis:

The UDO establishes the VM District to allow for expansion of rural town centers, which includes allowing medium to high intensity commercial uses. The UDO states: *Allow a special exception use (in the VM District) only when it is compatible with the surrounding residential areas.* The design of the site would mitigate noise and light impacts on adjacent residential properties. Specifically, the proposed development plan positions the building and parking lot on the west side of the property adjacent to a non-residential use and includes an opaque fence to buffer use of the entrance driveway from the residential property to the east.

The proposed use would provide a retail service within convenient driving distance of rural residential and agricultural properties located a significant distance away from retail centers in Shelbyville and Edinburgh.

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

Staff Analysis: The Site Plan Committee would review a detailed site plan prior issuance of construction permits to ensure that the development complies with all applicable local codes. The site has access to all utilities needed to support the development.

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

Staff Analysis: The design of the site would mitigate noise and light impacts on adjacent residential properties.

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

Staff Analysis: The physical design of each commercial development in nearby Flat Rock varies, therefore the proposed development would not conflict with an established development pattern.

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

Staff Analysis: The proposed use would improve the use and enjoyment of nearby residential properties by providing a retail service currently nonexistent in the area.

### Development Standards

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

Staff Analysis: The signs would require sign permits and must comply with all sign placement and lighting requirements identified in the UDO.

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

Staff Analysis: The signs would require sign permits and must comply with all sign placement and lighting requirements identified in the UDO.

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

Staff Analysis: A strict application of the ordinance would not allow for adequate business identification. Old SR 252 has a relatively large right-of-way, which necessitates placement of the signs further from the edge of pavement than typically required and therefore decreases visibility of the signs.

### Staff Recommendation

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Staff recommends **APPROVAL** primarily because (1) the design of the site would mitigate impacts to adjacent residential uses (2) the use would provide a retail service currently nonexistent in the area (3) a strict application of the ordinance would not allow signs for adequate business identification. Staff recommends the following **stipulation**:

1. Landscape Buffer Yard "C" as identified in the Unified Development Ordinance shall be installed along the property line adjoining property in the VR District.

### *Applicant/Owner Information*

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Applicant: Will McDonough - Paul Primavera & Associates  
301 E Chestnut St.  
Corydon, IN 47112

Owner: Eric D Robertson  
2740 W 1200 S  
Flat Rock, IN 47234

Surveyor: Will McDonough - Paul Primavera & Associates  
301 E Chestnut St.  
Corydon, IN 47112

**STATEMENT OF INTENT (ONLY REQUIRED FOR VARAINCE OF USE & SPECIAL EXCEPTION)**

Please answer the following questions (when applicable) pertaining to your request. If approved, the use would be limited to the information provided and expansion of the use would require new approval from the Board. The Board may also approve the use conditional on one or more amendments to the statement of intent.

1. Summary of Proposed Use and/or Business Activity: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

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

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

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

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

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



**SPECIAL EXCEPTION  
FINDINGS OF FACT**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**DEVELOPMENT STANDARDS VARIANCE  
FINDINGS OF FACT**

Applicant: Will McDonough

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

Location: 1130' West of the SR 252 and Union St

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 variances will not be injurious to the public health, safety, or to the general welfare of the community.

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

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

This use will not cause property values to be affected in an adverse manner.

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

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

The strict application of the terms of the Shelby County Zoning Ordinance will result in a practical difficulty in the use of the property by not allowing retail (type 3) without a special exception.

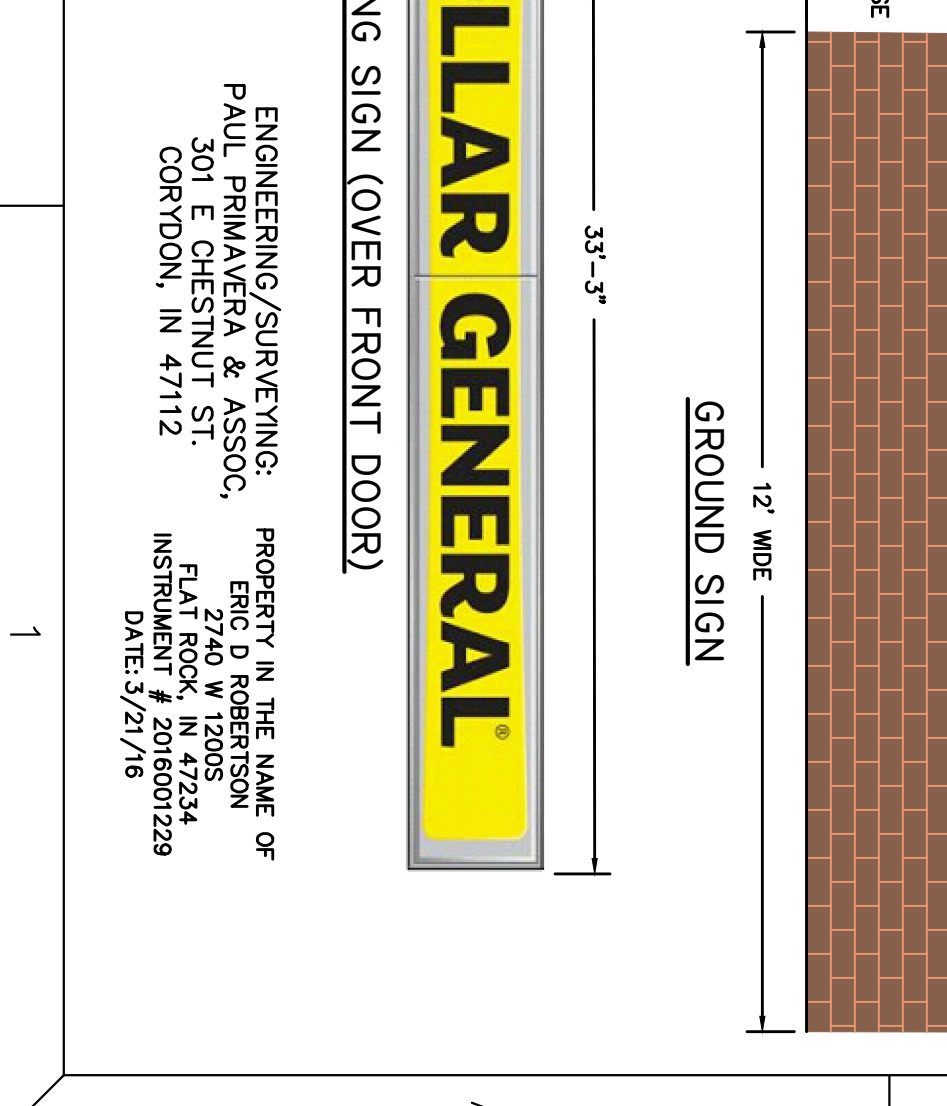
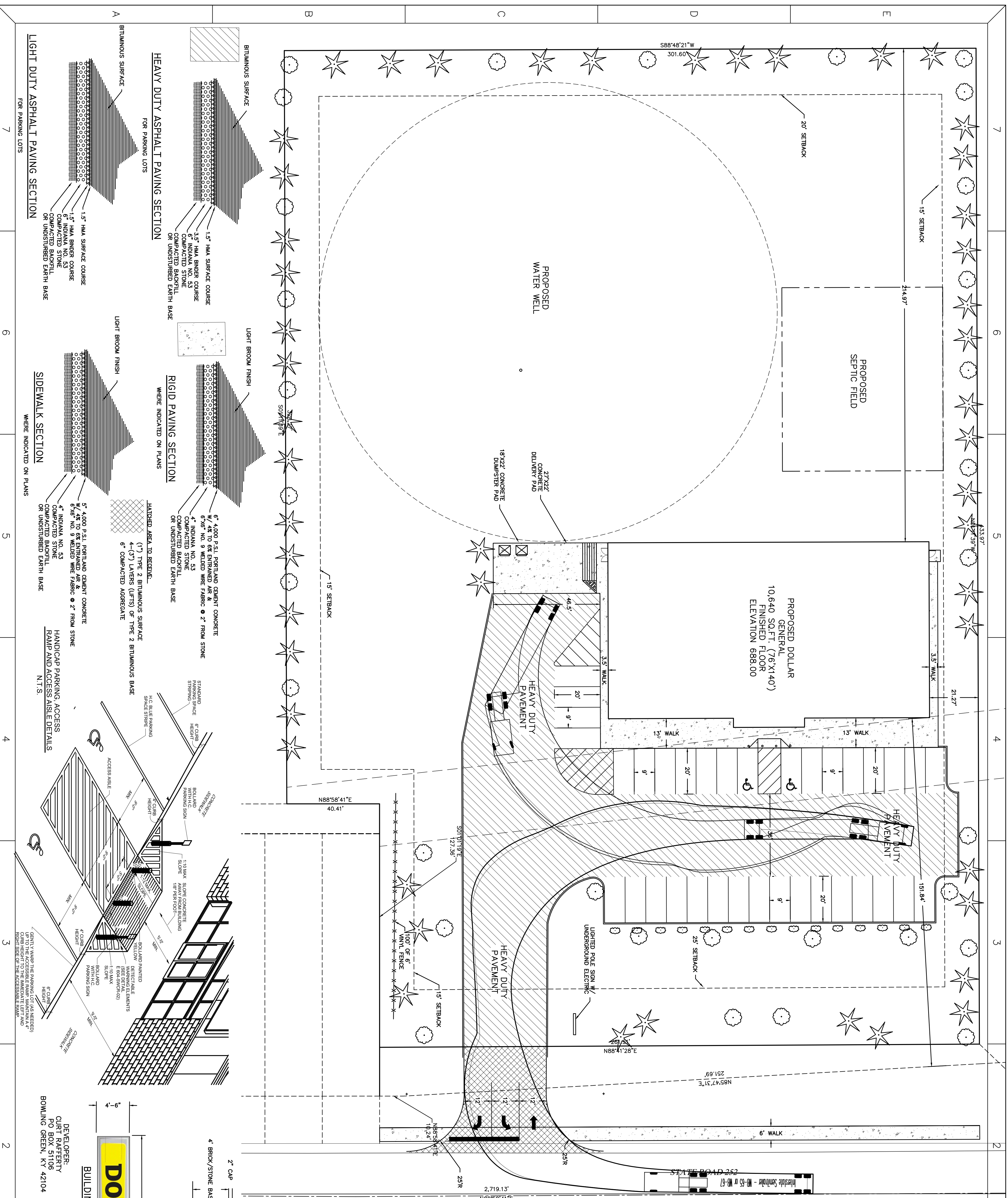
\_\_\_\_\_  
\_\_\_\_\_

**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.)

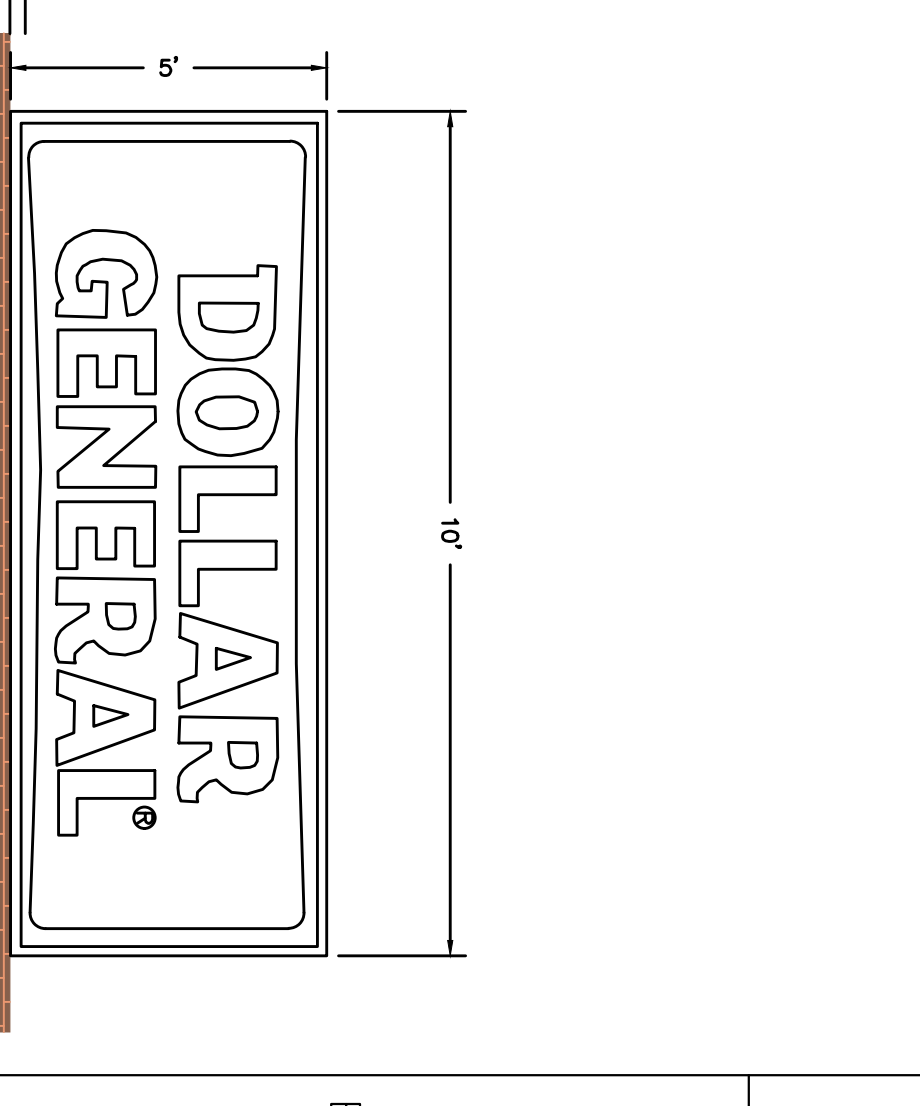


**DOLLAR GENERAL**  
BUILDING SIGN (OVER FRONT DOOR)

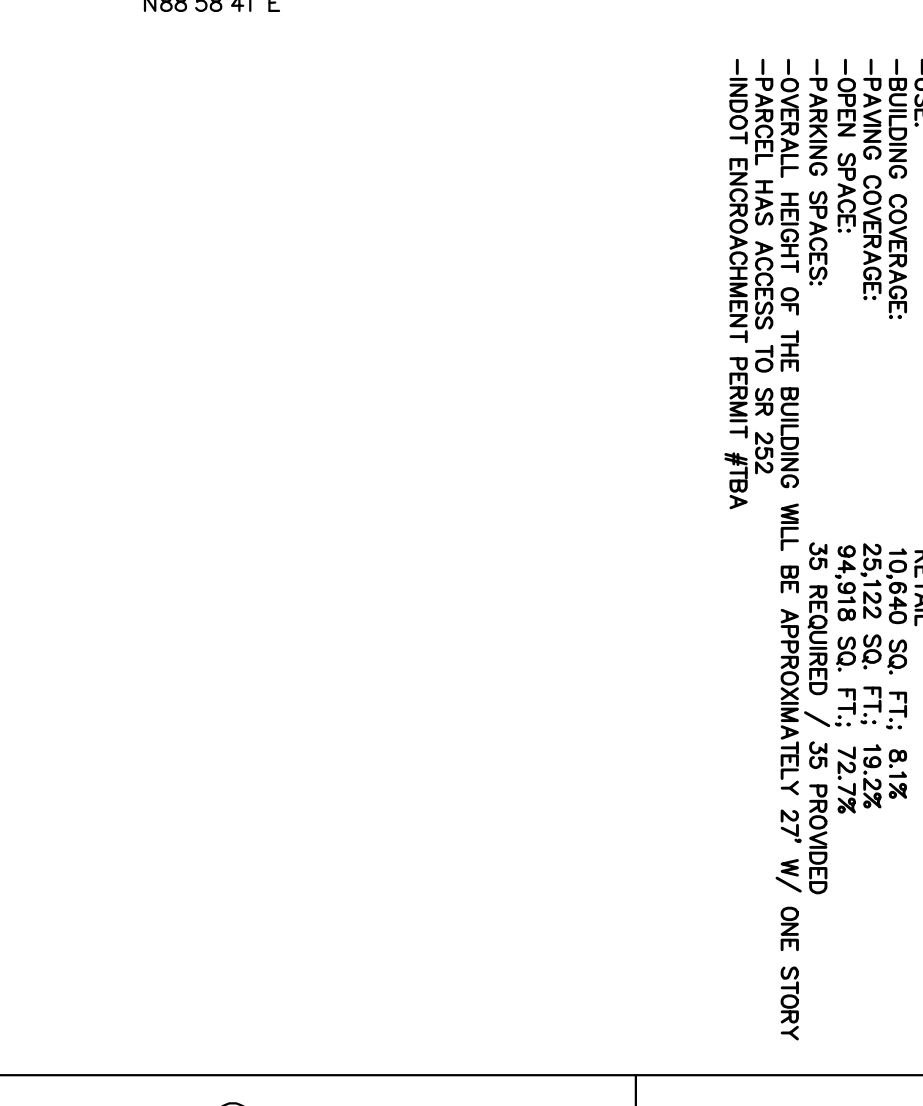
DEVELOPER:  
CURT RAFFERTY  
PO BOX 51106  
BOWLING GREEN, KY 42104

ENGINEERING/SURVEYING:  
PAUL PRIMAVERA & ASSOC.  
301 E. CHESTNUT ST.  
CORYDON, IN 47112  
DATE: 5/21/16

PROPERTY IN THE NAME OF:  
ERIC D. ROBERTSON  
2740 W. 1200S  
FLA. INSTRUMENT NO. 2016007229  
DATE: 5/21/16



HEAVY DUTY ASPHALT PAVING SECTION FOR PARKING LOTS  
BITUMINOUS SURFACE  
LIGHT BROOM FINISH  
RIGID PAVING SECTION WHERE INDICATED ON PLANS  
SIDEWALK SECTION WHERE INDICATED ON PLANS



VICINITY MAP

SITE SUMMARY:  
- SITE AREA: 3.00 ACERS  
- ZONING: AGRICULTURAL (AG), PROP. VILLAGE MIXED (VM0)  
- BUILDING COVERAGE: 10,640 SQ. FT.; 8.1%  
- PAVING COVERAGE: 29,122 SQ. FT.; 19.2%  
- PAVING SPACES: 75 PROVIDED  
- OVERALL HEIGHT OF THE BUILDING WILL BE APPROXIMATELY 27' W/ ONE STORY  
- ROAD ENCROACHMENT PERMIT #18A

Revision	Date	Description	By
7:			
6:			
5:			
4:			
3:			
2:			
1:			

**PAUL PRIMAVERA & ASSOC.**  
- ENGINEERS & LAND SURVEYORS -  
301 E. CHESTNUT STREET  
P.O. BOX 123  
CORYDON, IN 47112  
TEL: (812) 738-4124 FAX: (812) 738-6740

**DOLLAR GENERAL**  
BY: CURT RAFFERTY  
STATE ROAD 252  
FLAT ROCK, IN (SHELBY CO.)  
SITE PLAN

DATE: 01/17/2022  
DRAWN BY: WDM  
CHECKED BY: JMC  
JOB NO.: 21-15334  
FILE: 15334\_SITE.dwg  
DRAWING NO.: C-101



## Property Details

**Location:** 4310 S Sugar Creek Rd,  
Franklin, Hendricks Township.

**Property Size:** 1.5-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	A1	Cropland
South	A2	Cropland
East	RE	Cropland
West	RE	Cropland

# Staff Report

**Case Number:** BZA 22-06

**Case Name:** Richard N Smith – Development Standards  
Variances

## Request

**Variances of Development Standards** to allow for a 1,600 sq. ft. accessory structure:

1. In a Special Flood Hazard Area below the Flood Protection Grade (FPG);
2. In a Special Flood Hazard Area on a lot over one-half acre;
3. In the front yard.

## Code Requirement

**UDO Section 5.20 E 2 b:** *Residential Structures: New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided.*

**UDO Section 5.20 F 4 d:** *Variances to the Provisions for Flood Hazard Reduction of Article 5.30, Section E.2., may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.*

**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.*

**Purpose of Floodplain Elevation Requirement:** The UDO requires elevation of accessory structures over 400 sq. ft. to two (2) feet above the Base Flood Elevation (BFE) (FPG is defined as 2-feet above the BFE) for the purposes of:

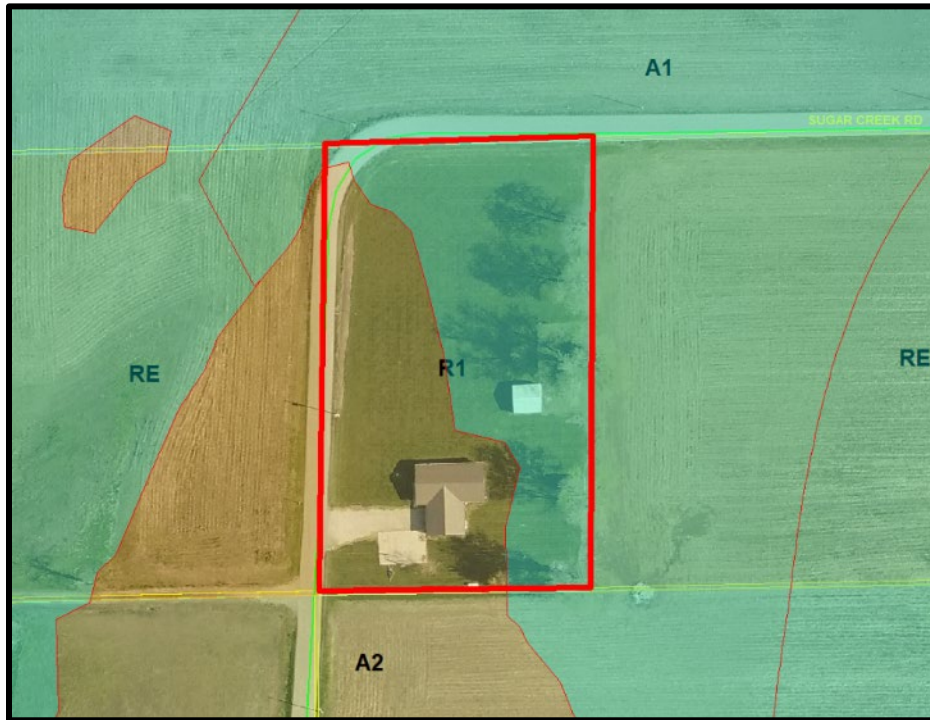
- Allowing openings in structures at the BFE to allow for entry and exit of floodwaters or for allowing installation of fill to divert floodwaters around the structure. These design standards avert the cumulative effect of obstructions in floodplains, which includes increase in flood heights and velocities. Limiting increased flood heights and velocities protects the community by:
  1. Protecting human life and health.
  2. Minimizing expenditure of public money for costly flood control projects.
  3. Minimizing the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
  4. Minimizing prolonged business interruptions.
  5. Minimizing damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
  6. Maintaining a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.
- Protecting utilities and finished components of structures from flood damage.
- Making federal flood insurance available for structures and their contents in the County by fulfilling the requirements of the National Flood Insurance Program. **Granting of variance requests could jeopardize the County's participation in the National Flood Insurance Program.** The National Flood Insurance Program offers a federally backed insurance alternative to homeowners and businesses to meet the escalating costs of repairing flood damage to buildings and their contents.

**Purpose of Floodplain Lot Size Restriction:** Lots over one-half acre generally have area available to either locate a structure out of the floodplain, elevate a structure from a higher elevation on the lot, or to elevate the structure on a portion of the lot that will not cause adverse drainage impacts to adjoining properties.

**Purpose of Front Yard Requirement:** Prohibiting the construction of accessory structures in the front yard maintains the primary structure as the visual focal point of the property.

## Property Map

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## Case Description

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- The petitioner plans to place a 1,600 sq. ft. accessory structure on a prepared building pad northeast of the house.
- The structure would not lie within a Federal Emergency Management Agency (FEMA) designated Flood Hazard Area, however, would encroach upon a Special Flood Hazard Approximate Fringe Area designated by the Indiana Department of Natural Resources (IDNR). IDNR has completed modeling and detailed studies using recent LiDAR data to produce the State Best Available Data Maps. Mortgage companies typically do not require flood insurance for structures located outside of a FEMA designated Flood Hazard Area.
- Flood Fringe Areas have a one percent (1%) chance of flood at or exceeding the base flood level each year. IDNR considers land in this area to have a high flood risk and recommends flood insurance.
- All development within the IDNR Flood Fringe Area is subject to the Flood Hazard Area regulations of the UDO.
- IDNR data provides an approximate ground level elevation at the building site of 700.9 feet. The petitioner may have increased this elevation by installation of the building pad. IDNR provides an approximate base flood elevation of 702 feet. Therefore, the UDO requires the petitioner to elevate the floor of the structure approximately 3 feet above existing grade.
- Elevating a structure in compliance with the UDO would involve elevation of the structure using exterior walls with flood vents, elevation on pillars, or elevation using the placement of fill. A registered surveyor would need to



complete an Elevation Certificate at the end of the project verifying that the structure sits two feet or above the base flood elevation.

- In accordance with the UDO, when approving a variance from floodplain development standards, the BZA shall consider all technical evaluations, all relevant factors, all standards specified in other sections of the UDO, and;
  1. The danger of life and property due to flooding or erosion damage.
  2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  3. The importance of the services provided by the proposed facility to the community.
  4. The necessity of the facility to a waterfront location, where applicable.
  5. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
  6. The compatibility of the proposed use with existing and anticipated development,
  7. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
  8. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  9. The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.

## Staff Analysis of Findings of Fact

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### Floodplain Development Standards Variance:

#### **1. UDO Requirement: A showing of good and sufficient cause.**

Staff Analysis: Per FEMA variance criteria guidance, good and sufficient cause deals solely with unique site-specific physical characteristics of the property. No physical characteristic of the property would prevent elevation of the structure. Additionally, the property includes adequate area outside of the Special Flood Hazard Area for placement of the structure.

#### **2. UDO Requirement: A determination that failure to grant the variance would result in exceptional hardship.**

Staff Analysis: Due to lack of sufficient cause to grant the variance, no hardship exists.

#### **3. UDO Requirement: A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.**

#### Staff Analysis:

Per FEMA variance criteria guidance, granting of a single variance most significantly impacts public safety in the event emergency service personnel need to rescue occupants from a habitable non-elevated structure during a flood. However, the cumulative effect of multiple variances would likely increase flood heights and velocities.

Per FEMA variance criteria guidance, granting of variances from elevation requirements for accessory structures often results in abandonment of non-elevated structures damaged during a flood event, thereby creating a public nuisance and the potential public expense of removing the structure. Flood-damaged structures should be promptly repaired or removed.

Per FEMA variance criteria guidance, fraud or victimization of the public occurs when an unsuspecting buyer purchases a property including a structure granted a variance. The current property owner should notify any future purchaser of the property of the granted variance.

#### **4. UDO Requirement: The variance is the minimum action necessary to afford relief.**

Staff Analysis: Due to lack of sufficient cause to grant the variance, no action is necessary to afford relief.

#### **Development Standards Variance:**

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

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

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

Staff Analysis: Approval of the variance would not impact continued use of adjoining property for crop production.

#### **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 placement of an accessory structure on the property outside the floodplain.

#### **Staff Recommendation**

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**DENIAL** of the **Floodplain Development Variances** primarily because the property includes adequate area outside of the Special Flood Hazard Area for placement of the structure.

If the Board chooses to approve the variances, Staff recommends the following **stipulations** to limit impacts to the floodplain and community:

1. If damaged by flood, the structure shall be restored to its previous condition or removed within three months from the date of the flood damage.
2. The petitioner shall notify any purchaser of the property of the granted variance.

3. The structure shall be firmly anchored to prevent flotation, constructed of flood resistant materials, and service facilities such as electrical and heating equipment shall be elevated above the FPG.
4. Use of the structure shall be limited to storage of maintenance equipment related to the residence or property.

**APPROVAL** of the **Development Standards Variance** primarily because the floodplain restricts placement of the structure in the rear yard.

*Applicant/Owner Information*

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Applicant:	Richard N Smith 4310 S Sugar Creek Rd. Franklin, IN 46131	Owner:	Richard N & Susan Smith
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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.

*NO*

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

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

*NO*

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

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

*NO*

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

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

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

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

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







## Property Details

**Location:** 4842 N Brandywine Rd,  
Shelbyville, Brandywine Township.

**Property Size:** 5.9-acres.

**Current Land Use:** Estate Residential.

### Zoning Classification:

RE (Residential Estate)

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

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

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

### 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.*

### Surrounding Development

	Zoning	Land Use
North	R1/A2	Single-Family Residential
South	RE	Estate Residential
East	RE/A1	Estate Residential / Cropland
West	R1/A2	Church

# Staff Report

**Case Number:** BZA 22-09

**Case Name:** Frank Woods, Jr. – Special Exception & Development Standards Variance

## Request

**Special Exception** to allow a Type 3 Home Business (automobile repair) in the RE (Residential Estate District).

**Variance of Development Standards** to allow outdoor storage of items related to the home business within an enclosed fenced area exceeding 1,000 sq. ft., within the front yard setback, and located forward the accessory structure used for the home business.

## Code Requirement

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

**UDO Section 5.35 E 4 b – No outdoor storage of products, materials, supplies, waste, scrap, or the like shall be permitted unless fully within an opaque fence enclosure with gate tall enough to screen the outdoor storage. Fences used for screening shall not exceed eight (8) feet in height. The fenced enclosure shall not exceed 1,000 square feet in area and shall meet all setback requirements for an accessory structure. A fenced enclosure for outdoor storage shall not be located forward of the accessory structure used for the Type 3 Home Business.**

### Purpose of Requirements:

The UDO designates Special Exception uses for each zoning district. Unlike a use variance, the petitioner does not have to prove that they cannot use or improve the property in a reasonable manner to obtain approval of a Special Exception. The petitioner must only prove that the design and use of the Special Exception would mitigate potential impacts to surrounding properties and to the character of the area, and that the proposed Special Exception is consistent with the intent of the zoning district and Comprehensive Plan.

The UDO regulates the size and positioning of outdoor storage areas related to Type 3 home businesses to limit evidence of use of residential property for commercial purposes, thereby protecting the character of rural residential areas.

## Property Map



## Case Description

- The petitioner operates an automobile repair business on the property. The petitioner also resides on the property. A summary of the Petitioner's Statement of Intent includes:
  - Automobile repair within an existing barn.
  - Outdoor storage of no more than ten (10) vehicles within a proposed 8-foot tall, opaque fenced enclosure surrounding the barn. Vehicles may include operable vehicles awaiting repair and operable business vehicles.
  - Hours of Operation: 8 AM – 7 PM, seven days a week.
  - Delivery of vehicles once per week.
  - No on-site customers.
  - No signage.

- Staff received a complaint regarding operation of a business on the property in September of 2021. At the time of the violation inspection, Staff observed outdoor storage of vehicles in disrepair, flatbed trailers, trucks with business decals, semi-trailers, and miscellaneous business equipment (the petitioner has removed many of these items). Staff sent the petitioner a violation letter requesting that the petitioner address the violation. The petitioner chose to apply for a variance. Staff granted the petitioner an extension to apply for the variance to allow the petitioner additional time to correct a floodplain issue related to the barn.
- The Plan Commission office issued building, electric, and floodplain permits for the 3,150 sq. ft. barn in 2017. The permit application listed use of the property as *field/residential* and the proposed use of the barn as *storage, parking, workshop*.
- The property lies within a FEMA (Federal Emergency Management Agency) designated Special Flood Hazard Area - FIRM panel number 18145C0102C, effective on 11/05/2014.
  - The property lies outside of the designated Floodway, therefore use and development of the property does not require a floodplain permit from the Indiana Department of Natural Resources.
  - Construction of the proposed fence would require a Floodplain Development Permit from the County. Construction of the fence would comply with all County Floodplain Standards.
  - The County issued a Floodplain Development Permit for the existing barn in 2017, however the County did not receive the required Elevation Certificate upon completion of the structure verifying that the structure sits at or above the flood protection grade listed on the permit application. The petitioner has hired a surveyor to complete the Elevation Certificate.

## Staff Analysis of Findings of Fact

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### Special Exception

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

Staff Analysis:

The UDO establishes the RE District to allow for single-family dwellings and low-impact development in harmony with the natural setting. The UDO states: *Allow a special exception use (in the RE District) only when it is compatible with the surrounding residential areas.* The proposed use would deviate from the character of surrounding residential uses due to the large enclosed fenced area and due to the delivery of vehicles. The proposed use would also generate noise exceeding noise typically present in a residential area.

The Comprehensive Plan designates the property for use as Parks, Open Space, and Conservation due to presence of floodplain on the property and encourages protection of the floodplain from additional development. In the event of a flood, automobile fluids and scrap would contaminate surface water and groundwater.

**2. UDO Requirement: The proposed special exception will not be injurious to the public health, safety, morals and general welfare of the community.**



Staff Analysis: The property is highly visible from the I-74 corridor. Therefore, presence of a use deviating from the character of the area would negatively impact the overall appearance and economic vitality of the County.

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

Staff Analysis: The proposed use would deviate from the character of surrounding residential uses due to the large enclosed fenced area and due to the delivery of vehicles.

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

Staff Analysis: The proposed use would deviate from the character of surrounding residential uses due to the large enclosed fenced area and due to the delivery of vehicles.

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

Staff Analysis: The proposed use could substantially impact property values due to inconsistency with the character of the area and noise impacts.

### Development Standards

- 1. State Requirement: The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**
- 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.**
- 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: Staff recommends denial of the Special Exception; therefore, Findings of Fact for Development Standards are moot.

### Staff Recommendation

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Staff recommends **DENIAL** primarily due to inconsistency of the use with surrounding residential development, visibility of the property from the I-74 corridor, and impacts to groundwater and surface water posed by an automobile repair use in the floodplain.

If the Board chooses to approve the petition, Staff recommends the following **stipulations** to limit impacts to surrounding properties and the aesthetic quality of the I-74 corridor:

1. All automobile repairs shall occur inside the existing barn.
2. All vehicles, other than vehicles associated with residential use of the property, shall be parked and stored indoors or within the proposed enclosed fenced area. Vehicles associated with residential use of the property shall be parked and stored indoors, within the enclosed fenced area, or on a hard surface or gravel area on the north half of the property.
3. Hours of Operation shall be limited to 8AM to 7PM.

4. The property shall not include any signage related to the business.
5. Customers shall not visit the site.
6. No more than one (1) vehicle awaiting repair shall be delivered to the site per week.
7. Landscape Buffer Yard "B" as identified in the Unified Development Ordinance shall be installed along the northwest and southwest sides of the proposed fence.
8. Operation of the business shall comply with Section 5.35 HB-03: Type 3 Home Business Standards of the Unified Development Ordinance, unless the other stipulations of Special Exception approval are more restrictive, than the other stipulations of Special Exception approval shall apply.

*Applicant/Owner Information*

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Applicant:	Frank Woods, Jr. 4842 N Brandywine Rd. Shelbyville, IN 46176	Owner:	Frank Woods, Jr. & Lauren A Woods
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Attorney:	Christopher L. Isom, Brand and Morelock 6 West South Street Greenfield, IN 46140
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### View of property from church parking lot to the west



Staff Photograph – March, 2022

### View of property from Michigan Rd.



Staff Photograph – March, 2022

**STATEMENT OF INTENT (ONLY REQUIRED FOR VARAINCE OF USE & SPECIAL EXCEPTION)**

Please answer the following questions (when applicable) pertaining to your request. If approved, the use would be limited to the information provided and expansion of the use would require new approval from the Board. The Board may also approve the use conditional on one or more amendments to the statement of intent.

1. Summary of Proposed Use and/or Business Activity: Petitioner proposes to conduct an automobile repair business within a barn on his property. All work to be done within barn. Petitioner will pull vehicles (all of which will be operable) into the barn for repair.  
A few vehicles will be outside of the barn awaiting repair - but no more than 10 at any time.
  
2. Days & Hours of Operation: M-Sun, 8a.m.-7p.m. (on occasion during these hours, no regular hours).
  
3. Maximum Number of Customers per Day/Week/Month: 0
  
4. Type and Frequency of Deliveries: Petitioner may bring vehicles in approximately once per week, on his own truck. No outside deliveries.
  
5. Description of any Outdoor Storage: A few vehicles may be stored temporarily behind a the fence which will be surrounding the barn. All vehicles will be operable and all storage temporary. In addition, Petitioner has a couple of work vehicles, used in the operation of his businesses, which may be parked behind the fence temporarily, on occaslon. No more than 10 total vehicles outdoors.
  
6. Description, Size, and Placement of any Signage: No signage is being requested.
  
7. Description of Waste Disposal: Petitioner's business includes minimal waste. Waste associated with vehicle repair would be disposed of off-site, by transport to one of Petitioners businesses which provide the same services.
  
8. Existing and/or Proposed Building and Site Improvements Pertaining to Proposed Use (ex. parking lot, landscaping, commercial upgrades to building, etc.): The building is existing, and Petitioner would propose a fence as described in the site plan, if the variances requested, which relate to the fence, are approved.



**SPECIAL EXCEPTION  
FINDINGS OF FACT**

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

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

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

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

1. **Comprehensive Plan:** The proposed special exception is consistent with the purpose of the zoning district and the Shelby County Comprehensive Plan.  
Petitioner's property is an an area designated as agricultural. He has built a barn, and would enclose the barn with an attractive fence  
in order to shield from any signs of business operation. The majority of his property is used as a residence  
and as grazing land for animals. The barn is harmonious with neighboring properties and will not appear to be a business.
2. **General Welfare:** The proposed special exception will not be injurious to the public health, safety, and general welfare of the community.  
Petitioner's business will not be noticeable to the community. In order to ensure this is true even for  
temporary parking of vehicles awaiting repair, Petitioner will construct a fence surrounding the barn. The barn is  
more than 450 feet from any other home, and is bordered to the south by I-74.
3. **Harmony:** The proposed special exception is in harmony with all adjacent land uses.  
Petitioner's property is surrounded by other properties which contain large barns. Several neighbors park  
semi trailers in their drives, and conduct businesses on their properties.  
Petitioner's business will be far less noticeable than the surrounding businesses.
4. **Character of the District:** The proposed special exception will not alter the character of the district.  
Petitioner's business will not be noticeable to the public or alter the rural nature of the area, as it  
will be conducted inside an existing barn and surrounded by a privacy fence.
5. **Property Value:** The proposed special exception will not substantially impact property value in an adverse manner.  
Petitioner has spent hundreds of thousands of dollars to build a very attractive barn,  
and plans to build an equally attractive fence if approved. Petitioner will install  
substantial landscaping to shield his own property from I-74.

**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. Petitioner's proposed fence would surround an existing barn, and would be built in order to shield the public from any sign of a business use in the barn, which would occasionally be present as a result of a minimal number of operable vehicles being parked outside of the barn awaiting repair. No more than 10 total vehicles at any time, including vehicles operated by Petitioner.

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. Petitioner's existing barn is high quality and attractive, and fits well with the surrounding properties. The proposed fence would be intended to protect any surrounding landowners from view of any parked vehicles or any sign of a business operation.

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. Petitioner proposes a business use, and the Shelby County Zoning Ordinance contemplates a privacy fence to shield from neighbors and indicates that fencing shall comply with Article 5, Sec. 35 when the fence is part of a Type 3 Home Business. In order to comply, where vehicles, including Petitioner's semi truck, are to be pulled around a barn into a bay for storage or working on the vehicles, Petitioner must build a fence around the barn. Must be sufficient height in front to screen.

**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.)





Imagery ©2021 IndianaMap Framework Data, Maxar Technologies, Map data ©2021 Google 50 ft

Front: 29' to road centerline  
15'6" to road