

**Shelby County
Board of Zoning Appeals**

April 14, 2020 at 7:00 PM

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MEETING AGENDA

Shelby County Board of Zoning Appeals
April 14, 2020, 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the March 10, 2020 meeting.

OLD BUSINESS

BZA 20-06 – KEVIN L SMITH: DEVELOPMENT STANDARDS VARIANCE. Located at 8835 W Range Rd & 8755 W Range Rd, Needham.

NEW BUSINESS

BZA 20-07 – WALDRON UNITED METHODIST CHURCH: DEVELOPMENT STANDARDS VARIANCE. Located at 202 W Washington St, Waldron.

BZA 20-08 – STEVE KERMODE: DEVELOPMENT STANDARDS VARIANCE. Located at 5371 N Brandywine Rd, Shelbyville.

BZA 20-09 – WILLIAM RAYMOND MUNGER JR: DEVELOPMENT STANDARDS VARIANCE. Located at 6743 N 150 E, Shelbyville.

DISCUSSION

None.

ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, **May 12, 2020 at 7:00 PM.**

Staff Report

CASE NUMBER: BZA 20-06
CASE NAME: KEVIN L SMITH - DEVELOPMENT STANDARDS VARIANCE

CASE SUMMARY

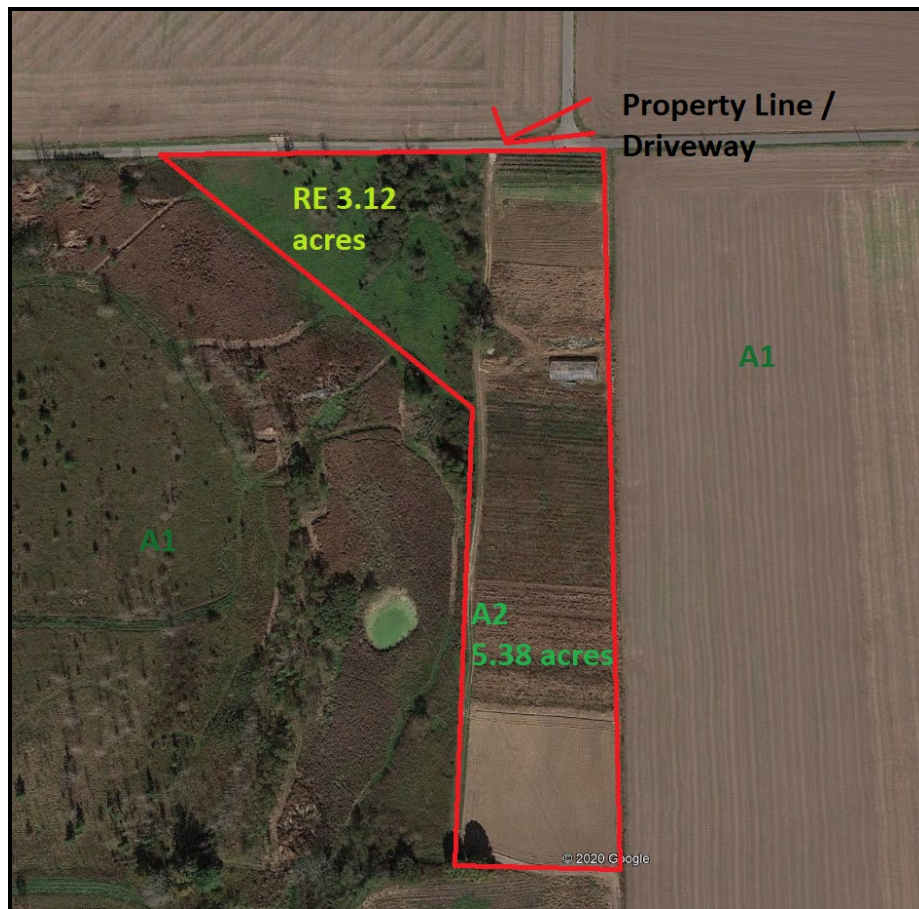
REQUEST: Variance of Development Standards to allow for installation of a residential driveway over a property line.

STAFF RECOMMENDATION: APPROVAL primarily because the property owners have agreed to installation of the driveway over their property lines.

Recommended Stipulation: The petitioner shall record a shared access easement for the proposed driveway prior to obtaining a building permit.

PROPERTY DESCRIPTION

8835 & 8755 W Range Rd, Needham



Property Size:

- 8835 W Range Rd – 3.12
- 8755 W Range Rd – 5.38

Zoning Classification:

- 8835 W Range Rd – RE (Residential Estate) – Per the UDO, the district is established for single-family detached, medium to large sized homes on medium to large sized lots.
- 8755 W Range Rd – A2 (Agricultural) – Per the UDO, the district is established for general agricultural areas and buildings associated with agricultural production.

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

PURPOSE OF UDO REQUIREMENTS

Regulating the placement of driveways at a minimum distance from the property line mitigates impacts associated with the use of driveways on adjoining property, such as noise and dust.

CASE DESCRIPTION

- The petitioner has submitted a site development plan to construct a 2,256 sq. ft. single-family residence, septic system, and two driveways on the 3.12-acre parcel.
- An existing gravel road cut and dirt farm access pathway extends over the property line between the 3.12-acre parcel and 5.38-acre parcel. The petitioner plans to extend the road cut and culvert and add gravel to the dirt pathway to construct a driveway.
- The petitioner plans to enter the property using the driveway over the dirt path and exit the property using a new driveway constructed on the west side of the property. The petitioner cited visibility issues along Range Rd. as the reason for constructing two driveways.
- Staff visited the property on March 3, 2020. It does appear that a hill on Range Rd would affect visibility if entering the property through the new driveway.
- The owner of the 5.38-acre parcel may construct a house on the property in the future. Approval of this variance would allow him to use the shared driveway constructed over the property line.
- The existing access to the agricultural field does not qualify as a driveway per the UDO. The UDO requires that new single-family residences have access from a gravel driveway. New driveways must comply with the requirements of the UDO.

STAFF ANALYSIS OF FINDING OF FACTS – DEVELOPMENT STANDARDS VARIANCE

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

Staff Analysis: Installation of a driveway over a property line would not impact the general public.

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

Staff Analysis: The owners of both properties that include the driveway have signed the variance application and agree to using a shared driveway.

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

Staff Analysis: A strict application of the Ordinance would prohibit use of any existing road cut and would encourage unsafe use of a new driveway for entering the property.

APPLICANT/OWNER INFORMATION

Applicant: Kevin L. Smith
8025 S Franklin Rd.
Indianapolis, IN 46259

Owner: 8835 W Range Rd
Kevin L. Smith
8025 S Franklin Rd.
Indianapolis, IN 46259

8755 W Range Rd
Todd & Kathleen Jameson
8418 W Shelby 100 N
Needham, IN 46162



View of hill on Range Road from current dirt pathway

DEVELOPMENT STANDARDS VARIANCE
STATEMENTS OF FACT

Applicant: Kevin Smith

Case #: _____

Location: 9335 W. Range Rd Needham, 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.

There is already a farm lane on the east end of the property. The drive that goes through the property is necessary for safety. Blind spot because of hill is a problem.

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 will benefit both properties. It is very hard to turn in because the range road is narrow.

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 usable part of the property is very narrow.

Property Details

Location: 202 W Washington Street, Waldron

Property Size: ~1.0 acres

Current Land Use: Church

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.*

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.

Surrounding Development

	Zoning	Land Use
North	VR	Village Residential
South	VR	Village Residential
East	VR	Village Residential
West	VM	Commercial

Staff Report

Case Number: BZA 20-07

Case Name: Waldron United Methodist Church -
 Development Standards Variance

Request

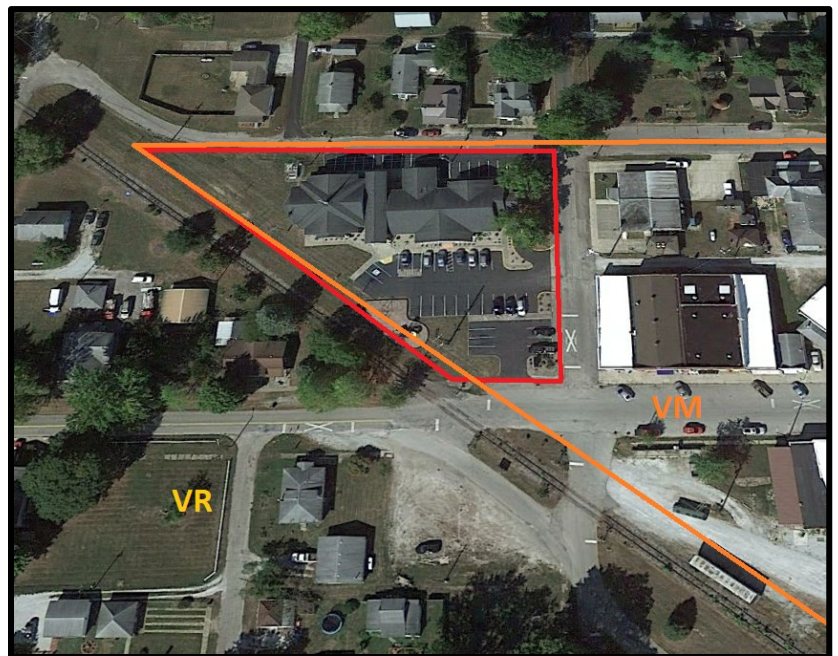
Variance of Development Standards to allow for an LED Sign utilizing a changing electric message center (only static messages permitted on LED Signs).

Code Requirement

UDO Section 5.73 E – Prohibited Signs: The signs listed in this section are prohibited. **1. Animated Signs:** Signs that gain attention through animation, including: **c. LED or similar sign boards, except LED elements that are used for static messages.**

Purpose of Requirement – The code 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

- The petitioner plans to replace an existing manual changeable letter sign with an electronic message center (EMC). The petitioner plans to use the existing brick sign base for the new sign.
- The EMC would measure 31" X 97" (~ 21 sq. ft.) and the non-changing portion of the sign would measure 24" X 97" (~16 sq. ft.), for a total sign area of ~37 sq. ft. The EMC portion of the sign would equate to 57% of the total sign area.
- The message of the sign would change once every 30 seconds. The sign would not utilize blinking, flashing, or other motion features.
- The property adjoins an area of Waldron primarily occupied by commercial uses, however residential properties south and west of the church would have a view of the sign.
- Staff has not located any other EMC signs in the town center of Waldron.
- The *International Sign Association* provides recommendations for regulating EMC signs. Staff has incorporated these recommendations into the stipulations of approval (see Staff recommendation).
- The UDO prohibits all animated signs, unless the LED portion of the sign displays only a static message. The UDO does not define 'static message.' Staff requested that the petitioner apply for a variance due to the relatively frequent change of message and to legally protect approval of the sign in the event that a member of the public raised a complaint.

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 sign should not pose a significant distraction to motorists due to the low speed limit in the area.

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 change of message at a 30-second interval by an instant change or fade-in/fade-out effect should not pose a potential visual nuisance to adjacent property in a manner greater than an EMC sign with a static message.

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 utilization of the typical EMC sign features.

Staff Recommendation

APPROVAL primarily because the change of message at a 30-second interval should not pose a potential visual nuisance to adjacent property in a manner greater than an EMC with a static message.

Recommended Stipulations:

1. 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.
2. 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.
3. 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.





Applicant/Owner Information

Applicant	Cain Signs, LLC 6363 E SR 44 Glenwood, IN 46133	Owner:	Board of Trustees of Waldron United Methodist Church PO Box 25 Waldron, IN 46182
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DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT

Applicant: Cain Signs, LLC.
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.
Allowing the message to change at a reasonable interval, in order to inform patrons and attract new parishioners is the goal of the church with the proposed sign. Any changes in brightness or message interval can be adjusted with included software should any concerns be brought to the attention of the Church.
- 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 property is zoned commercial and there should be no residences affected by allowing this sign to have varying messages. The proposed sign would be in the same location that it currently sits and would only make the facility look more modern.
The sign won't make enough noise for anyone in residential areas to notice.
- 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.
It would be difficult to convey more than one message with a 24 static period. For example, if there was a function that the Church wished to promote, they would not be able to give appropriate details of the event on one message board. If an interested party wanted to attend said event, they may not have all of the information needed to do so, as they only recieved part of the message.

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.)

DAKTRONICS



WALLDRON

United Methodist Church

WELCOME FRIENDS

24"

31"

97"

56"x97" Overall size

Property Details

Location: 5371 N Brandywine Rd,
Shelbyville

Property Size: 5.97 acres

Current Land Use: Residential
storage

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 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	A1	Agricultural
South	RE	Residential Estate
East	RE	Residential Estate
West	RE	Residential Estate

Staff Report

Case Number: BZA 20-08
Case Name: Steve Kermode - Development
Standards Variance

Request

Variance of Development Standards to allow for three accessory structures (barns for storage) prior to construction of a single-family residence.

Code Requirement

UDO Section 5.06 (accessory structures standards for the RE district) B – *Timing of Installation:* Accessory structures shall not be permitted prior to the erection of a primary structure.

Purpose of Requirement – This requirement promotes consistent development of residential neighborhoods and discourages the use of accessory structures in a way that would ordinarily impose a nuisance upon occupants of the residential primary structure, and therefore potentially imposing a nuisance upon neighboring property.

Property Map



Case Description

- The property currently includes a 60' X 80' (3,200 sq. ft.) barn. The petitioner plans to construct two additional barns. He plans to construct a 40' x 40' (1,600 sq. ft.) barn in the near future and a 30' X 60' (1,800 sq. ft.) barn at a later date.
- The petitioner stated that he plans to use the 1,800 sq. ft. barn for storage of personal trailers and the 1,600 sq. ft. barn for storage of personal lawnmowers, golf carts, and ATVs.
- The petitioner currently stores trailers and related items outdoors east of the existing barn.
- The petitioner stated that he may construct a house on the property in the future.
- A tree line and mounding provide screening between the subject property and adjoining properties.
- The property utilizes a shared driveway with the adjacent property to the south.

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 barns would require a building permits and the structures must comply with all building codes before passing a final inspection. The general public would not have access to the structures.

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: Multiple accessory structures larger than accessory structures typically located on residential property could encourage use of the property for commercial purposes or for storage of commercial equipment. Commercial use of the property would conflict with the use and character of surrounding residential 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: The existing barn on the property has adequate space to store typical residential items.

Staff Recommendation

DENIAL primarily because multiple accessory structures larger than accessory structures typically located on residential property could encourage use of the property for commercial purposes or for storage of commercial equipment.

If the Board chooses to approve the variance, Staff recommends one or more of the following stipulations:

1. The variance shall expire at the time the property changes ownership.
2. The variance shall expire if construction of a house is not completed within two years.

3. The approval shall only allow for construction of one additional accessory structure.



Proposed Location for 40' X 40' Barn



Proposed Location for 30' X 60' Barn

Applicant/Owner Information

Applicant	Steve Kermode 5598 N Brandywine Rd. Shelbyville, IN 46176	Owner:	Same
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**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: STEVE KERMODE

Case #: _____

Location: 5371 N BRANDYWINE RD SHELBYVILLE IN 46176

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

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

STRUCTURE OF BUILDING WILL MEET THE BUILDING CODE COMPLIANCE.

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.

STRUCTURES WILL SET 100 FEET OF PROPERTY LINE
APPEARANCE OF NEW STRUCTURES WILL MATCH EXISTING BUILDING

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.

STRUCTURES WILL BE CONSISTENCY WITH NEARBY LAND USES.



Property Details

Location: South and adjacent to 6743 N 150 E, Shelbyville

Property Size: 4.00 acres

Current Land Use: Agricultural

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

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 Residential
South	A1	Agricultural
East	A1	Agricultural
West	A1	Agricultural

Staff Report

Case Number: BZA 20-09
Case Name: William Raymond Munger Jr -
 Development Standards Variance

Request

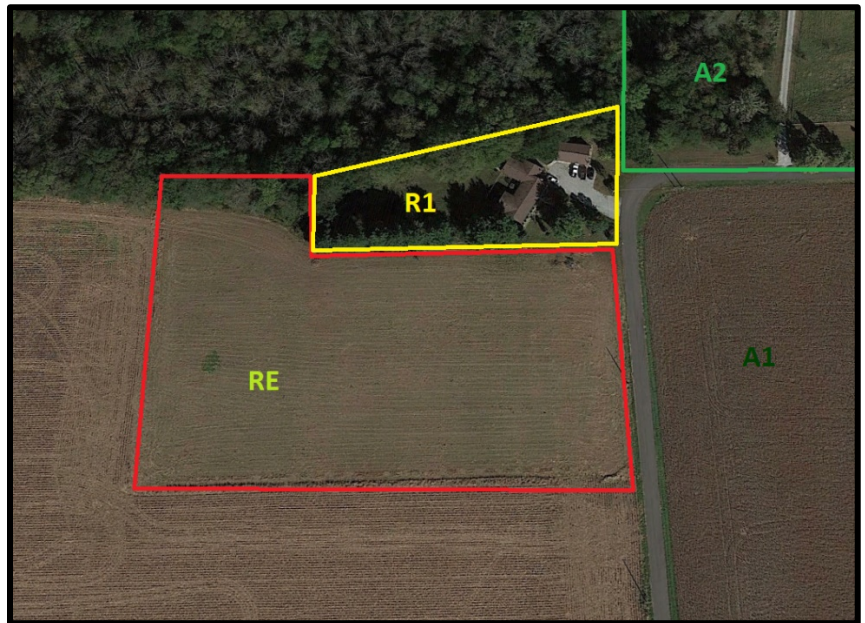
Variance of Development Standards to allow for a new single-family residence without a two-car, attached garage.

Code Requirement

UDO Section 5.11 (architectural standards for the RE district) D 1 – Minimum Garage Capacity: Minimum two-car, attached garage required for all single-family detached and two-family buildings.

Purpose of Requirement – Homes having a two-car attached garage generally are larger and higher in value than homes without an attached garage. Therefore, this requirement serves to enhance visual character, quality of life, and property values throughout the County.

Property Map



Case Description

- The petitioner plan to construct a 44' X 72' (3,168 sq. ft.) pole-building style single-family home.
- The petitioner does not plan to construct a detached garage; therefore, vehicles would be parked in the driveway.
- The two homes in the immediate vicinity of the subject property do not have attached garages.

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 house would be comparable in size to most new homes in the County. Therefore, construction of the home without an attached garage would not impact the visual character, quality of life, or property values throughout 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 two homes in the immediate vicinity of the subject property do not have attached garages. Therefore, construction of the home without an attached garage would not change the 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 would not allow for development of the property consistent with the character of surrounding development.

Staff Recommendation

APPROVAL primarily because the two homes in the immediate vicinity of the subject property also do not have attached garages.

Applicant/Owner Information

Applicant	William Raymond Munger Jr. 1702 S West St Shelbyville, IN 46176	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.

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

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

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

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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.)

