

**Shelby County  
Board of Zoning Appeals**

**June 8, 2021 at 7:00 PM**

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# MEETING AGENDA

## Shelby County Board of Zoning Appeals June 8, 2021, 7:00 P.M.

### CALL TO ORDER

### ROLL CALL

### APPROVAL OF MINUTES

Minutes from the May 11, 2021 meeting.

### OLD BUSINESS

**BZA 21-13 – LAURA NEWBY:** DEVELOPMENT STANDARDS VARIANCE. Located at 6894 W SR 44, Shelbyville, Hendricks Township.

### NEW BUSINESS

**BZA 21-20 – LOUIS N. HUDSON:** DEVELOPMENT STANDARDS VARIANCES. Located at 6435 E 1100 N, Morristown, Hanover Township.

**BZA 21-19 – ANDREW L MILBY:** DEVELOPMENT STANDARDS VARIANCES. Located at 4622 W 1120 N, New Palestine, Moral Township.

### DISCUSSION

#### HEARING OFFICER CASES:

**BZA 21-09 – AMANDA MITCHELL:** DEVELOPMENT STANDARDS VARIANCE. Located at 4068 W 700 S, Shelbyville, Jackson Township. *Approved April 14, 2021.*

**BZA 21-12 – RONALD L RHOADS:** DEVELOPMENT STANDARDS VARIANCE. Located at 4068 W 700 S, Shelbyville, Jackson Township. *Approved April 14, 2021.*

**BZA 21-14 – JAY & DIANN GRIFFITH:** DEVELOPMENT STANDARDS VARIANCE. Located at 5620 E 850 N, Shelbyville, Hanover Township. *Approved May 10, 2021.*

**BZA 21-16 – JARED LASITER:** DEVELOPMENT STANDARDS VARIANCE. Located at 7280 N Woodnotes Addition, Fairland, Moral Township. *Approved May 10, 2021.*

**BZA 21-17 – KEVIN M DURBIN:** DEVELOPMENT STANDARDS VARIANCE. Located at 4322 W 950 N, Fountaintown, Moral Township. *Approved May 27, 2021.*

**BZA 21-18 – COSSAIRT IRREVOCABLE TRUST:** DEVELOPMENT STANDARDS VARIANCE. Located at 123 W Boggstown Rd, Shelbyville, Addison Township. *Approved June 8, 2021.*

### ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, **July 13, 2021** at **7:00 PM.**

## Property Details

**Location:** 6894 W SR 44, Shelbyville, Hendricks Township.

**Property Size:** 4.3 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*

### Future Land Use per Comp Plan

#### Agriculture

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

### Surrounding Development

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

# Staff Report

**Case Number:** BZA 21-13

**Case Name:** Laura Newby – 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 intended residential density among properties within the zoning district.

## Property Map



## Case Description

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- The petitioner, her husband, and her son purchased the subject property in February of 2021. The real estate listing advertised the property as having a single-family residence and a barn including a one-bedroom apartment. The petitioner and her husband intended to live in the apartment and her son, and his family, intended to live in the main house.
- The petitioner plans to add an additional bedroom to the apartment.
- Staff found a building permit on file issued in 1989 for construction of the barn for use as a storage building, however, did not find a building permit for the apartment in the barn.
- The Health Department did not find a permit on file for a septic system to service the apartment. The Health Department has issued a permit for a septic system to service the apartment.
- Due to lack of a building permit, the Staff cannot verify that the apartment complies with current residential building code, or previous building code if the apartment was installed prior to adoption of the current code.
- The Plan Commission office currently requires approval of a variance, site plan, septic plans, a building permit, an electric permit, and a plumbing permit prior to construction of a dwelling unit within an accessory structure.

## 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: The general public would not have access to the apartment. The barn sits over 400-feet from the road and therefore use of the apartment in the barn would not appear conspicuous to the general public.

**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 apartment in the barn would not impact continued use of adjacent property for crop production. Approval of the variance would not result in the overall residential density of the area exceeding one dwelling for every five acres as recommended for the Agriculture land use designation by the Comprehensive Plan.

**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 prohibit use of an existing apartment within an accessory structure.

## Staff Recommendation

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Staff recommends **APPROVAL** because a strict application of the ordinance would prohibit use of an existing apartment and use of the apartment would not impact continued use of adjacent property for crop production.

**Staff recommends the following stipulations:**

- 1. The accessory structure shall only be occupied by the petitioner and the petitioner's spouse.**
- 2. The Shelby County Building Inspector shall conduct a final inspection of the entire structure.**
- 3. Beginning in May of 2023, the petitioner shall provide notice to the Plan Commission office every other year regarding the continued need by the petitioner to occupy the accessory structure.**

*Applicant/Owner Information*

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Applicant:	Laura Newby 6894 W SR 44 Shelbyville, IN 46176	Owner:	Laura Newby, George Newby, & Kyler Adams
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View of barn with apartment from existing driveway



Zillow.com Real Estate Listing



**DEVELOPMENT STANDARDS VARIANCE  
FINDINGS OF FACT**

Applicant: Laura Newby  
Case #: \_\_\_\_\_  
Location: 6894 W. St Rd 44 Shellyville TN 37617

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.

yes  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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:** 6435 E 1100 N, Morristown, Hanover Township.

**Property Size:** 3.3 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

### Future Land Use per Comp Plan

#### Agriculture

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

### Surrounding Development

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

# Staff Report

**Case Number:** BZA 21-20

**Case Name:** Louis N. Hudson – Development Standards Variance

## Request

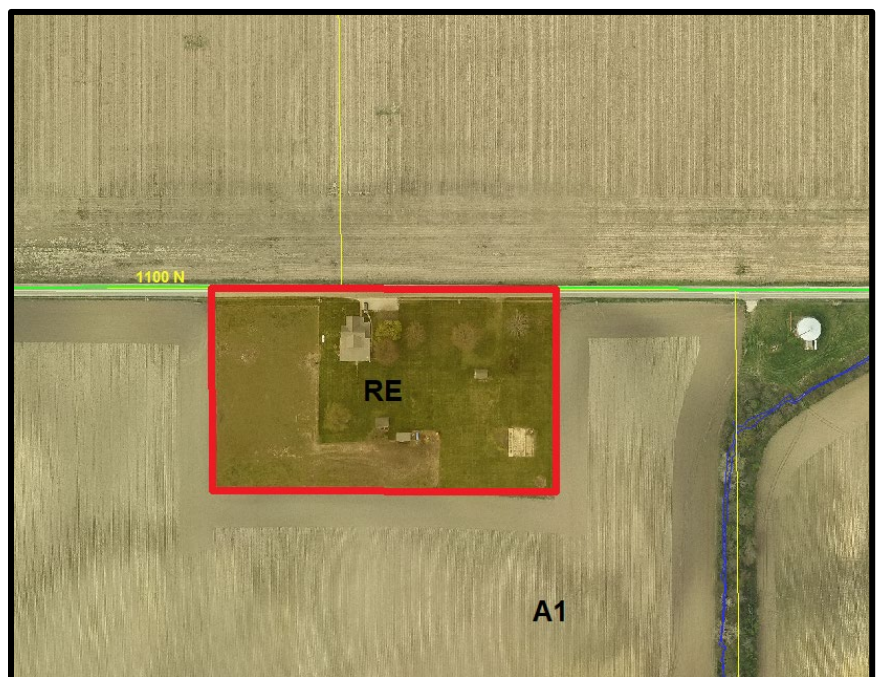
**Variance of Development Standards** to allow for construction of a 5,200 sq. ft. barn (the total area of all accessory structures on a lot cannot exceed 2X the footprint of the house in the RE (Residential Estate) District).

## Code Requirement

**UDO Section 5.06 D:** *Maximum Size:* The total area of all enclosed accessory structures on a lot shall not exceed two times (2X) 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, machinery, and/or equipment.

## Property Map





## Case Description

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- The petitioner plans to construct a 65' x 80' horse-riding building.
- The total square footage of the proposed horse-riding building and existing barn (constructed in 2020) would equal approximately 2.7X the square footage of the footprint of the house.
- The UDO does not permit the keeping for horses on property under 6-acres in the RE District. The petitioner stated that he has kept horses on the property for over forty years. The zoning ordinance in effect in the 1970s permitted riding stables in the zoning district assigned to the property at that time. Therefore, per the petitioner's statement, the keeping of horses on the property would qualify as a legal, non-conforming use and would not require approval of a variance from the minimum acreage requirements.

## 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 horse-riding building would require a building permit and the structure must comply with all building codes before passing a 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: Agricultural land used for crop production surrounds the property. A horse-riding barn would not impact the continued use of adjacent property for crop production or conflict with the agricultural character of the area.

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

Staff Analysis: The Comprehensive Plan designates the future land use of the property as agriculture. A strict application of the ordinance would not allow construction of a building used for agricultural purposes.

## Staff Recommendation

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Staff recommends **APPROVAL** primarily because a horse-riding barn would not impact the continued use of adjacent property for crop production or conflict with the agricultural character of the area.

### *Applicant/Owner Information*

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Applicant:	Louis N. Hudson 6435 E 1100 N Morristown, IN 46161	Owner:	Same
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**DEVELOPMENT STANDARDS VARIANCE  
FINDINGS OF FACT**

Applicant: Louis M. Hudson  
Case #: \_\_\_\_\_  
Location: 6435 E 1100W Mooresburg, IN 46161

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, personal Hoese riding building.  
\_\_\_\_\_  
\_\_\_\_\_

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, The closest neighbor to the East is over 1/4 mile w/  
Grain bed storage creek with tree line blocking view no  
person to the South. West side no neighbors.  
\_\_\_\_\_  
\_\_\_\_\_

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, All open farm fields in all directions.  
\_\_\_\_\_  
\_\_\_\_\_

**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:** 4622 W 1120 N, New Palestine, Moral Township. Lakeview Estates Sec. 3, Lot 81.

**Property Size:** 0.75-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 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	R1	Single-Family Res.
East	R1	Single-Family Res.
West	R1	Single-Family Res.

# Staff Report

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**Case Number:** BZA 21-19  
**Case Name:** Andrew L Milby – Development Standards Variances

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## Request

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**Variations of Development Standards** to allow for construction of a 1,440 sq. ft. pole barn:

1. In the front yard;
2. Greater than 50% the square footage of the footprint of the house.

## Code Requirement

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**UDO Section 5.04 C: Placement:** A permitted accessory structure shall not be placed in the front yard of any lot.

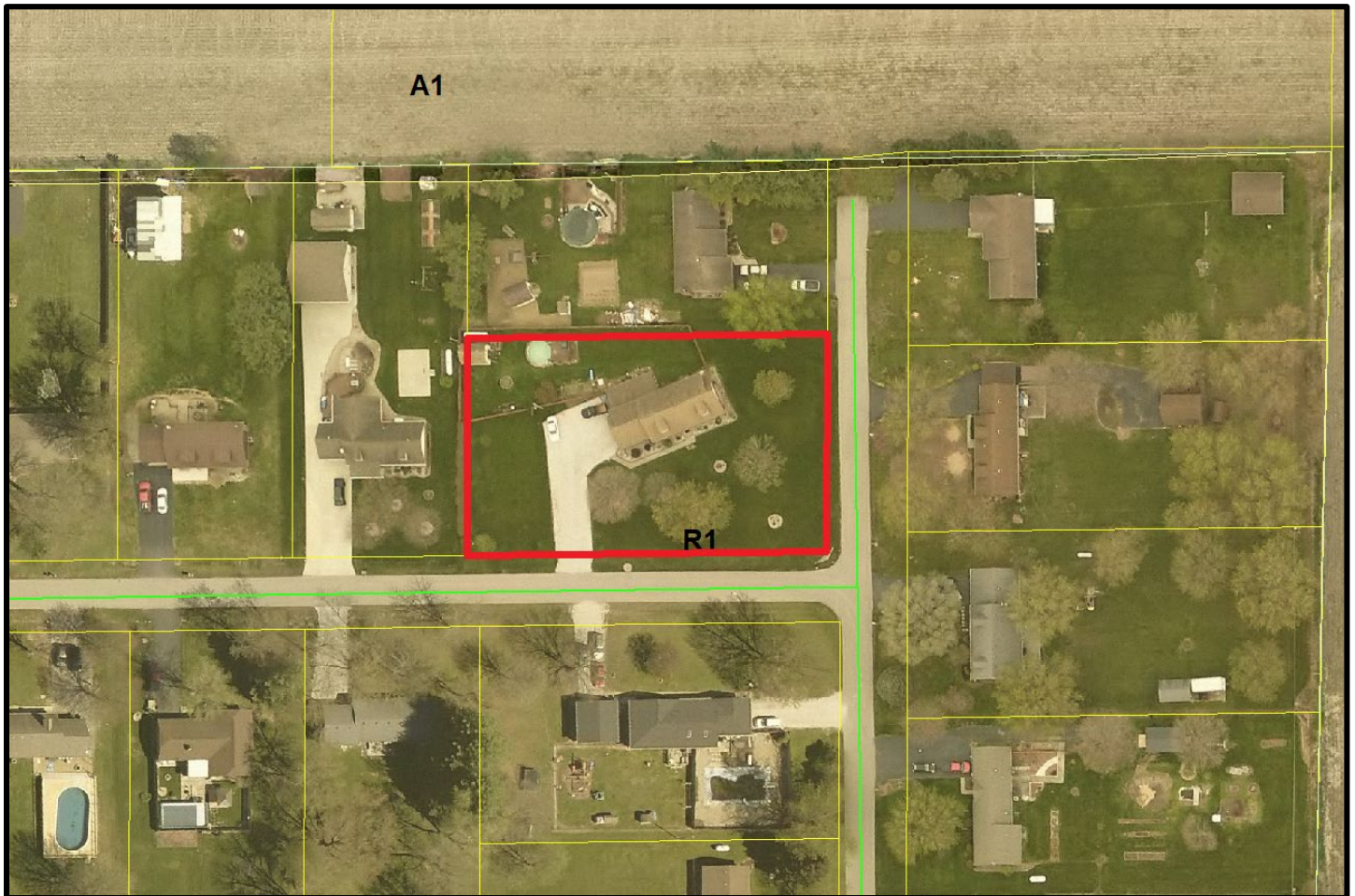
**UDO Section 5.07 F 1: Maximum Size:** The total square footage of all enclosed accessory structures on a lot adjoining one or more lots in the RE, R1, R2, VR, M1, M2, MP, VM, IS, C1, C2, I1, I2, or HI Districts shall not exceed fifty percent (50%) of the footprint of the primary structure.

### Purpose of Requirements

Prohibiting the construction of accessory structures in the front yard maintains the primary structure as the visual focal point of the property.

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

## Property Map



## Case Description

- The petitioner plans to construct a 30' x 48' pole barn.
- Approximately half of the pole barn would encroach past the front of the house.
- The area proposed for placement of the pole barn functions as a side yard due to the house fronting the corner of 1120 N & 460 W.
- The septic system restricts placement of the pole barn in the east side yard. An existing fenced area, shed, and pool limit placement of the pole barn in the rear yard. The area proposed for the barn would allow for convenient access to the barn from the existing driveway.
- The total square footage of the pole barn would equal approximately 65% the square footage of the footprint of the house.

- The pole barn would sit 18-feet from the west property line and 56-feet from the center of 1120 N. A row of shrubs along the west property line would screen the pole barn from the adjacent property to the west.

## 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 pole barn 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 pole barn.

**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 pole barn would only slightly deviate from the maximum size requirement, would encroach into the front yard rather than sitting entirely in the front yard, and would sit in the part of the front yard that functions as a side yard. Therefore, the pole barn would likely not appear conspicuous if constructed using facade materials matching the residence and constructed not to exceed the height of the residence. A row of shrubs along the west property line would screen the pole barn from the adjacent property to the west.

**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 septic system restricts placement of the pole barn in the east side yard. An existing fenced area, shed, and pool limit placement of the garage in the rear yard. The area proposed for the barn would allow for convenient access to the barn from the existing driveway.

## Staff Recommendation

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Staff recommends **APPROVAL** primarily because the pole barn would likely not appear conspicuous if constructed at the proposed location.

### Recommended Stipulations:

1. The materials used on the facade of the pole barn shall match the materials used on the residence. Matching materials would include red brick, beige vinyl, or a combination of the two materials.
2. The height of the pole barn shall not exceed the height of the residence.
3. The petitioner shall submit building elevations of the detached garage for approval by the Planning Director prior to obtaining a building permit.

### *Applicant/Owner Information*

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Applicant: Andrew L. Milby  
4622 W 1120 N  
New Palestine, IN 46163

Owner: Andrew L & Debra Kay Milby



### Approximate Location of Proposed Pole Barn



Staff Photograph – May 2021



View of road from front building line of proposed pole barn.



Staff Photograph – May 2021

View of property from corner of 1120 N & 460 W



Staff Photograph – May 2021

**DEVELOPMENT STANDARDS VARIANCE  
FINDINGS OF FACT**

Applicant: ANDREW L. MILBY

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

Location: 4622 W. 1120 N. NEW PALESTINE, IN. 46163

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

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

WILL NOT AFFECT 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.

THERE IS AMPLE DISTANCE FROM PROPERTY LINE AND ROAD.  
\_\_\_\_\_  
\_\_\_\_\_

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 PRACTICAL DIFFICULTY  
\_\_\_\_\_  
\_\_\_\_\_

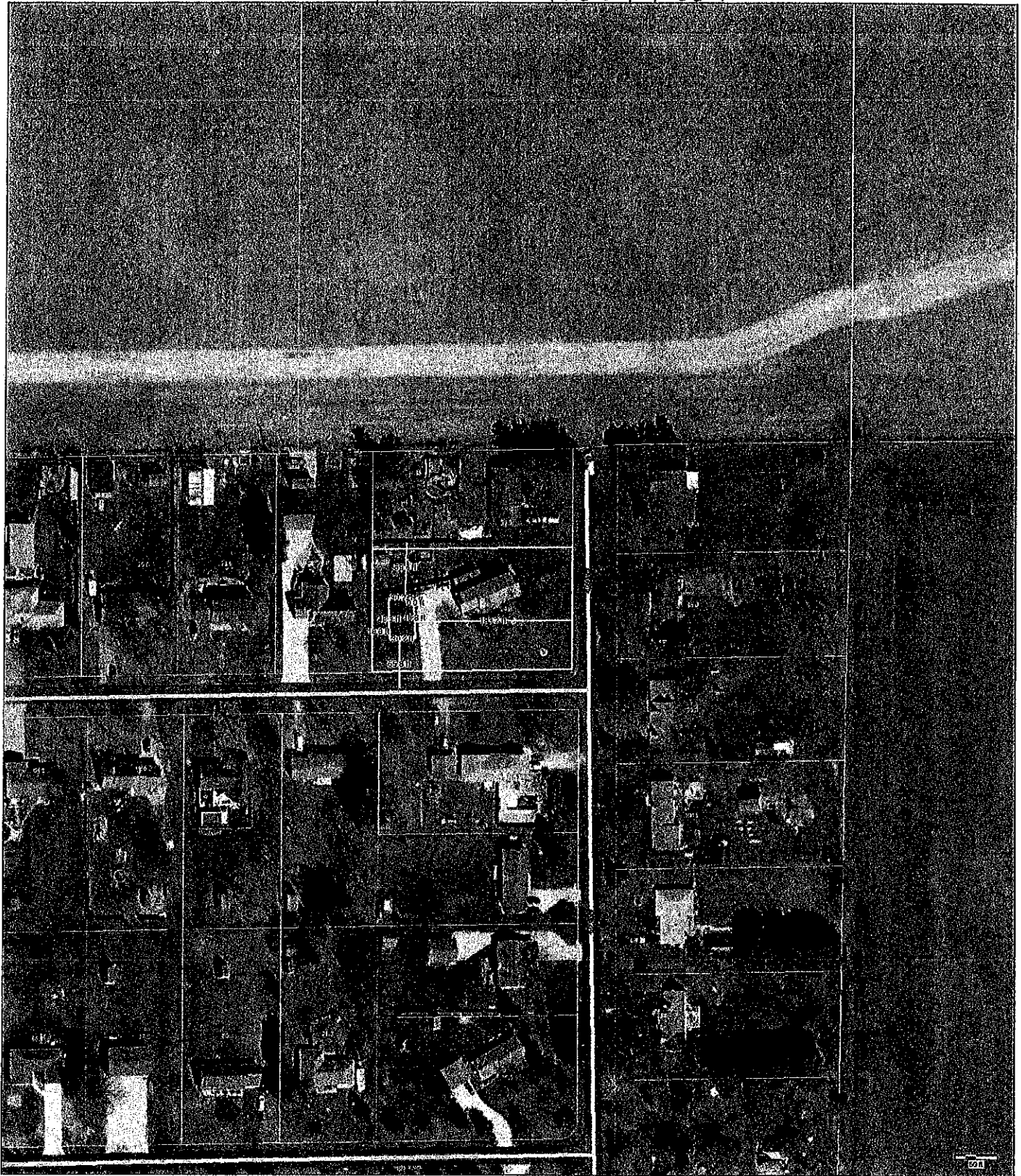
**The Board of Zoning Appeals may review the applicant's findings of fact to assist with their decision-making process. Please see below for general guidance related to completing the findings of fact:**

**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.)

4622 W1/20N New Palestine IN



611

Printed  
05/03/2021

Setback  
N | S | E | W  
90 | 56 | 189 | 18

Septic  
102'