

**Shelby County
Board of Zoning Appeals**

July 9, 2024, at 7:00 PM

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MEETING AGENDA

Shelby County Board of Zoning Appeals July 9, 2024, 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the May 14, 2024, meeting.

Minutes from the June 11, 2024, meeting.

OLD BUSINESS

BZA 24-23 – NATHAN D STICKFORD / SOS HAULING LLC: FINDINGS OF FACT

BZA 24-22 – LUKE SCHONFELD / BARNYARD PARTY PALS: FINDINGS OF FACT

BZA 24-24 – SPENCER ANDREWS: FINDINGS OF FACT

NEW BUSINESS

BZA 24-26 – RICHARD D MARLOW II: DEVELOPMENT STANDARDS VARIANCES. Located at 6465 N London Rd, Fairland, Moral Township.

BZA 24-27 – MICHAEL WASSON: DEVELOPMENT STANDARDS VARIANCE. Located at 7187 W 700 N, Fairland, Moral Township.

DISCUSSION

V23-14 – DANNY & MARIA RIGDON: ZONING VIOLATION. Update on progress to correct violation. Located at 5879 N PR 660 W, Fairland, Brandywine Township.

ADJOURNMENT

The next regular meeting of the Shelby County Board of Zoning Appeals is scheduled for Tuesday, **August 13, 2024, at 7:00 PM.**

Use & Development Standards Variances

FINDINGS OF FACT

Applicant: Nathan D Stickford / SOS Hauling LLC

Case #: BZA 24-23

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

USE VARIANCE

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

A local company will own the trucking and construction business and the business will provide jobs and a needed commercial service to the community. Development of the site for a trucking and construction business will not impact the overall appearance and economic vitality of the County because a landscaped berm and fence will screen outdoor storage from the I-74 corridor. Additionally, the trucking and construction business will not have a greater impact on the floodplain than local roads and agricultural facilities currently located in the floodplain.

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

Development of the site for a trucking and construction business will not impact the aesthetic quality of the area because a landscaped berm and fence will screen outdoor storage from adjacent properties. The site will not have an entrance onto Brandywine Rd. and traffic generated by the development will primarily use Michigan Rd to access I-74; and therefore, would not interfere with local residential traffic on Brandywine Rd.

3. The need for the variance arises from some condition peculiar to the property involved.

The property has convenient access to I-74, a large barn, and has historically included commercial uses which renders the property desirable for commercial use. The presence of the floodplain limits new on-site residential structural development.

4. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which variance is sought.

The property has convenient access to I-74, a large barn, and has historically included commercial uses which renders the property desirable for commercial use. The presence of the floodplain limits new on-site residential structural development.

5. The approval does not interfere substantially with the Comprehensive Plan.

The Plan recommends Parks, Open Space, & Conservation for the property due to the presence of a designated floodplain. The site will be elevated above existing grade to prevent low level flooding and will include a perimeter berm to contain floodwaters.

DEVELOPMENT STANDARDS VARIANCES

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

Outdoor storage of equipment, machinery, and aggregate and the presence of a dumpster will not impact the overall appearance and economic vitality of the County because a landscaped berm and fence will screen outdoor storage from the I-74 corridor. Signage would allow for identification of the facility.

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

Outdoor storage of equipment, machinery, and aggregate and the presence of a dumpster will not impact the aesthetic quality of the area because a landscaped berm and fence will screen outdoor storage from adjacent properties. Signage in compliance with dimensional and lighting standards applicable to commercial signage would not impose visual clutter harmful to surrounding properties.

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

A strict application of the ordinance would not allow for development of the site in a manner that would allow for operation of the trucking and construction business approved by the use variance.

Use & Development Standards Variances

FINDINGS OF FACT

Applicant: Luke Schonfeld / Barnyard Party Pals

Case #: BZA 24-22

Location: 8437 N 25 W, Fountaintown, Van Buren Township.

USE VARIANCE

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

The agritourism facility does not generate a significant amount of daily traffic and the property has nearby access to arterial roads to accommodate traffic generated by occasional special events. The keeping of up to fifty non-dangerous exotic and farm animals should not pose a threat to public health or safety because the petitioner has obtained an exhibitor license from the USDA, which would ensure adequate animal care and sanitation facilities. The Shelby County Health Department has reviewed the request and has indicated that it does not have any requirements for on-site sanitation for the facility.

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

Keeping up to fifty non-dangerous exotic and farm animals on the property would not impact adjacent property because the petitioner's USDA license allows the petitioner to keep up to fifty non-dangerous exotic and farm animals on the property. Any nuisance associated with commercial use of the property would not impact adjacent residential properties on a daily basis because the business only offers animal experiences during special events or by appointment.

3. The need for the variance arises from some condition peculiar to the property involved.

Most residential properties in the County over five acres have the A2 zoning designation. The UDO allows agritourism facilities in the A2 District. The size of the property is a particular condition which warrants the grant of a variance.

4. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which variance is sought.

Most residential properties in the County over five acres have the A2 zoning designation. The UDO allows agritourism facilities in the A2 District. A strict application of the ordinance would not allow for use of a property similar in size to most properties in the A2 District for agritourism.

5. The approval does not interfere substantially with the Comprehensive Plan.

Approval of the variance would allow for an agritourism activity in an agricultural area as recommended by the Comprehensive Plan.

DEVELOPMENT STANDARDS VARIANCES

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

The keeping of up to fifty non-dangerous exotic and farm animals should not pose a threat to public health or safety because the petitioner has obtained an exhibitor license from the USDA, which would ensure adequate animal care and sanitation facilities. Signage would allow for identification of the facility. Gravel parking and maneuvering areas would not deviate from the agricultural character of the area or from typical parking areas associated with agritourism facilities.

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

Keeping up to fifty non-dangerous exotic and farm animals on the property would not impact adjacent property because the petitioner's USDA license allows the petitioner to keep up to fifty non-dangerous exotic and farm animals on the property. Signage in compliance with dimensional and lighting standards applicable to commercial signage would not impose visual clutter harmful to surrounding properties. Gravel parking and maneuvering areas would not deviate from the agricultural character of the area.

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

A strict application of the ordinance would not allow for operation of the agritourism use as approved by the use variance.

Special Exception & Development Standards Variances

FINDINGS OF FACT

Applicant: Spencer Andrews

Case #: BZA 24-24

Location: 10352 N 400 W, Fountaintown, Moral Township.

SPECIAL EXCEPTION

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

The UDO states that in the RE District: Allow a special exception use only when it is compatible with the surrounding residential areas. A home-based business which includes repair and outdoor storage of no more than four pull-behind trailers behind an existing barn and on an area of the property out of view of neighboring residential properties would not impact the residential character of the area.

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

The petitioner will obtain a Dealer's License from the State of Indiana prior to operation of the business. The proposed business operation would not produce traffic significantly exceeding existing traffic in the area.

3. The proposed special exception is in harmony with all adjacent land uses.

A home-based business which includes repair and outdoor storage of no more than four pull-behind trailers behind an existing barn and on an area of the property out of view of neighboring residential properties would not impact the residential character of the area.

4. The proposed special exception will not alter the character of the district.

The UDO states that the RE District is established for single-family detached dwellings in a rural or country setting. A small-scale home-based business does not conflict with the intended residential use within the district.

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

A home-based business which includes repair and outdoor storage of no more than four pull-behind trailers behind an existing barn and on an area of the property out of view of neighboring residential properties would not impact property values because the use would not impact the residential character of the area or cause any significant nuisance to adjacent residential properties.

DEVELOPMENT STANDARDS VARIANCES

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

The petitioner will obtain a Dealer's License from the State of Indiana prior to operation of the business. The proposed business operation would not produce traffic significantly exceeding existing traffic in the area.

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

A home-based business which includes a small business sign located over 200 feet from the road and which includes repair and outdoor storage of no more than four pull-behind trailers behind an existing barn and on an area of the property out of view of neighboring residential properties would not impact the residential character of the area.

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

A strict application of the ordinance would not allow for use of the property in a manner permitted by the Special Exception.

Property Details

Location: 6465 N London Rd,
Fairland, Moral Township.

Property Size: 1.78-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.

Surrounding Development

	Zoning	Land Use
North	R1	Single-Family Residential
South	R1	Single-Family Residential
East	MP	Mobile-Home Park
West	A1	Cropland

Staff Report

Case Number: BZA 24-26

Case Name: Richard D Marlow II – Development
Standards Variances

Request

Variations of Development Standards to allow for a 988 sq. ft. detached garage resulting in:

1. More than two accessory structures on the property;
2. The total area of accessory structures on the property exceeding 50% of the square footage of the footprint of the residence.

Code Requirement

UDO Section 5.07 C: Maximum Number: Up to two (2) accessory structures (not including pools, decks and open-sided gazebos) shall be permitted on a 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: Limiting the number and 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 26'x38' (988 sq. ft.) detached garage.
- The petitioner indicated that the garage would match the existing structures on the property in color and appearance.
- The garage would sit directly in front of an existing detached garage next to the house.
- The property currently includes a single-family residence, 1,728 sq. ft. detached garage, 480 sq. ft. detached garage, and 468 sq. ft. shed.
- The square footage of the garage plus the existing accessory structures on the property would equal approximately 2.3X the square footage of the footprint of the house. The property tax card provides the square footage of the house and existing accessory structures for the square footage calculation.
- Two adjacent properties to the north include accessory structures with a total area exceeding 50% of the square footage of the footprint of the residence located on the lot.
- In 2021, the owner of the immediately adjacent property to the north applied for a variance to legally establish a 2,560 sq. ft. barn and allow for a 960 sq. ft. addition to the barn, resulting in the barn equaling approximately 1.2X the square footage of the footprint of the house. The Board approved the variance citing consistency of the exterior materials on the barn with the house and limited view of the barn from the road.

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 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: Two adjacent properties to the north include accessory structures with a total area exceeding 50% of the square footage of the footprint of the residence located on the lot. Therefore, the addition of the garage to the property would not conflict with existing accessory structure development in the neighborhood.

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 the addition of a garage to the property that would not conflict with existing accessory structure development in the neighborhood.

Staff Recommendation

Staff recommends **APPROVAL** primarily because two adjacent properties to the north include accessory structures with a total area exceeding 50% of the square footage of the footprint of the residence located on the lot. Therefore, the addition of the garage to the property would not conflict with existing accessory structure development in the neighborhood.

Applicant/Owner Information

Applicant:	Richard D Marlow II 6465 N London Rd Fairland, IN 46126	Owner:	Same
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**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: Richard D. Marlow II

Case #: _____

Location: 6465. N. London Rd. Fairland, IN. 46126

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

1. **General Welfare:** The approval will not be injurious to the public health, safety, and general welfare of the community.
Construction would meet standard building construction codes.
No interferences with power utilities or underground utilities.
No obstructions with views of roadway or other.

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.
Garage construction would be within required property lines.
Garage would match existing property structures in color and appearance.

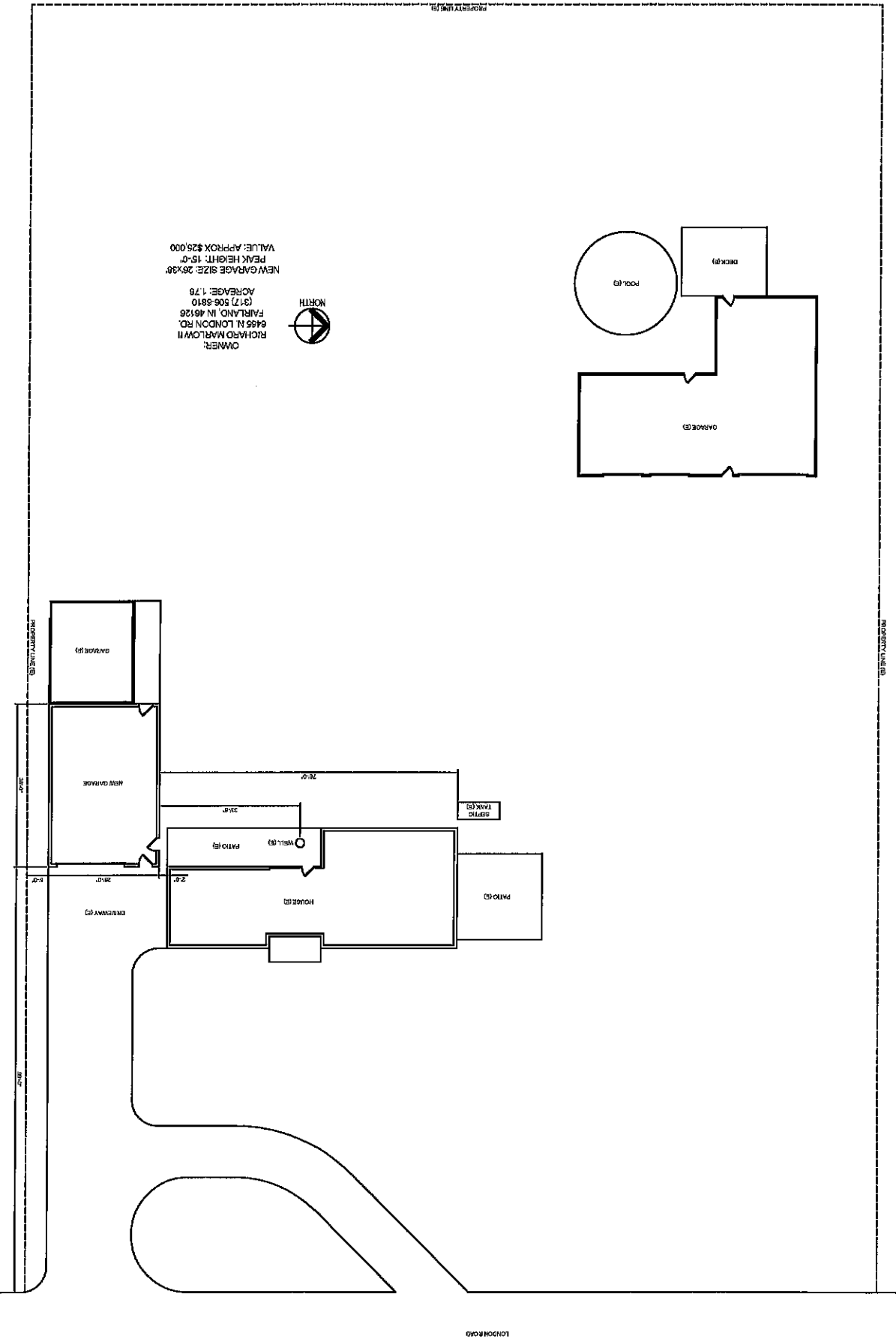
3. **Practical Difficulty:** The strict application of the terms of the Shelby County Zoning Ordinance will result in a practical difficulty in the use of the property.
Clear of septic and leach field, well & all other.
Runoff will follow all other to swale that passes thru property.
Will not restrict access to any adjacent access to property of others.
Plan will not restrict access to power on property or neighboring properties.

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.)



OWNER:
 RICHARD MARLOW II
 6455 N. LONDON RD.
 FAIRLAND, IN 46126
 (317) 506-8810
 ACREAGE: 1.78
 NEW GARAGE SIZE: 26'x36'
 PEAK HEIGHT: 15'-0"
 VALUE: APPROX \$25,000



Property Details

Location: 7187 W 700 N, Fairland, Moral Township.

Property Size: 1.02-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
 Suburban Residential

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

Surrounding Development

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

Staff Report

Case Number: BZA 24-27
Case Name: Michael Wasson – Development Standards Variance

Request

Variance of Development Standards to allow for a 960 sq. ft. pole barn resulting in the total area of accessory structures on the property exceeding 50% of 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 Requirements: 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 24'x40' (960 sq. ft.) pole barn to use as a shelter house associated with a new swimming pool.
- The property currently includes a single-family residence and a 1,200 sq. ft. pole barn with 800 sq. ft. lean-to.
- The square footage of the proposed pole barn and enclosed area of the existing barn would equal approximately 1.18X the square footage of the footprint of the house. The property tax card provides the square footage of the house and existing barn for the square footage calculation.
- Adjacent properties to the east and west include accessory structures with a total area exceeding 50% of the square footage of the footprint of the residence located on the lot. However, these properties are larger than the subject property and therefore have zoning designations which allow for larger accessory structures.

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 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 surrounding area includes lots of various sizes with various types and sizes of accessory structures. Therefore, the pole barn would not conflict with the diverse residential character of the area.

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 construction of a pole barn that does not conflict with the diverse residential character of the area.

Staff Recommendation

Staff recommends **APPROVAL** primarily because the surrounding area includes lots of various sizes with various types and sizes of accessory structures. Therefore, the pole barn would not conflict with the diverse residential character of the area.

Applicant/Owner Information

Applicant:	Michael Wasson	Owner:	Same
	7187 W 700 N		
	Fairland, IN 46126		

**DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: Michael Wasson

Case #: _____

Location: 7187 W. 700 N.

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

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

This is for Private use only

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

It will have no adverse effect on any neighbors in any way shape or form

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 code says its too big but its basically gonna be a shelter that I can close and lock for family

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.)

317-696-0296

Shelby County Health Department

20 W Polk Street, Suite 202, Shelbyville, Indiana 46176

Phone (317) 392-6470 Email Shelby_health@hotmail.com

Property Owners

Name: Mike Wasson Property Address: 7187 W 700 North

Township: Moral Section #: 36 Subdivision: _____ Lot #: _____

Description of Construction: 24' x 40' Pole Barn & 30' Diameter Above Ground Pool

Signature: [Signature] Printed Name: Michael S. Wasson

No permanent structures within 10 ft of septic tank and field

Drawing/Plans

No Water/Plumbing
IN Pole Barn

Water/plumbing
in building?

Yes No

Adding Bedrooms?

Yes No

Total Existing/Proposed
Bedrooms

2

House Built 1960

No Septic Permit Found



Inspection Date: 6/13/2024

Inspector: Will Krinsky

Approved/Disapproved

AddOns&OtherBuildings 01/05/2023